

Landon State Office Building
900 SW Jackson, 4th Floor
Topeka, KS 66612



Phone: (785) 296-3317
Fax: (785) 296-0014
Email: kdocpub@doc.ks.gov
www.doc.ks.gov

Ray Roberts, Secretary
Libby Keogh, Director

Sam Brownback, Governor

Testimony on HB 2170
To Chairman King
The Senate Judiciary Committee

By
Director of the Office of Victim Services
Kansas Department of Corrections

Chairman King, Vice Chair Smith and Honorable Members of the Committee:

I am Libby Keogh, Director of the Office Victim Services for the Kansas Department of Corrections (KDOC). I want to thank Representative King for being receptive to the introduction of this bill and for providing this opportunity to submit written testimony.

HB 2170 provides a series of recommendations developed by the Council of State Governments during a collaborative process called the Justice Reinvestment Initiative involving Kansas stakeholders, including myself, as a representative of the crime victim community. The overall intent of additions to this bill is to increase public safety while reducing the cost of corrections to taxpayers. As a representative for those most impacted by crime, I offer support for all proposals contained within the bill with the exception of the elimination of language that addresses enhanced collection of restitution from offenders sentenced to the custody of the Secretary of Corrections. As Director of the Office of Victim Services for the Kansas Department of Corrections, **I respectfully request an amendment to HB 2170 to “Increase victim restitution collection from prisoners by requiring DOC to collect 25 percent of all inmate deposits and accounts instead of collecting the current 5 percent on just wages earned via work release.”**

The final Justice Reinvestment Workgroup meeting took place on December 7, 2012. During this meeting, the Council of State Governments presented recommendations to be considered for drafting legislation. The second recommendation is what I now request as an amendment to HB 2170. Workgroup members voted at the conclusion of the meeting to accept all policy recommendations, as they stood.

A revised document outlining final recommendations resulting from the work of the Council and the Justice Reinvestment Initiative workgroup was distributed on January 25, 2013. The revised recommendations no longer included an increase in victim restitution collection from prisoners by requiring DOC to collect 25% of inmate deposits and accounts. Instead, the recommendation was modified to read: “Create a task force to study ways to make the crime victim restitution collection process more efficient and effective,” and all modifications to restitution collection were eliminated from the drafted bill entirely. As a workgroup member, this is not what I agreed to put forth for consideration by the Legislature.

From the point of conviction, crime victims of offenders sentenced to KDOC custody only receive financial restitution from their offender if he/she is eligible to participate in a work release program or if he/she voluntarily elects to pay restitution. In FY12, there was an average daily population of 306 inmates in the work release programs generating a total annual disbursement of \$72,282 to crime victims. At best, this equates to approximately \$236 per victim, for less than 300 crime victims, over the span of one year. While not all crime victims elect to receive services, the Office of Victim Services assisted nearly 9,000 crime victims during the last fiscal year. We assist crime victims seeking to obtain restitution at an inexcusably low rate.

The primary objection to enhanced restitution collection within Kansas prisons pertains to a belief that reductions in commissary expenditures by inmates will negatively impact the pool of funds available for institutional programming aimed at risk reduction as current practice provides for a percentage of mark-up from inmate canteen purchases to fund KDOC programs. In theory, if inmates have less money to spend on canteen purchases, less money will be available to fund programs. However, it is quite likely that when the inmates who are spending money at the canteen need more from family and friends, more will be sent.

In FY 2012, total income for all inmates, deposits and work earnings combined, equaled almost \$22 million. Deducting room and board expenses from the total inmate assets leaves a balance of \$17.5 million yet canteen expenditures for the same group of inmates totaled only 10.5 million leaving over \$7 million in available funds; funds which could be distributed, in part, to the crime victims whose lives were impacted by crime without impacting offender programming and leaving significant balance for other outstanding financial obligations.

Even if an argument could be made that a loss in funding for risk reduction programs would result from this recommendation, causing recidivism to rise and in turn sending the cost of corrections upwards, I think we need to consider the following: The KDOC lost 84 percent of offender programs from FY 2000 to FY 2012 but during this time, we saw recidivism rates dramatically decrease. The most current recidivism rates are calculated using data from those offenders released in 2008. The data reflects a 33.7% recidivism rate for the most recent 36 month follow-up period. From FY 2000 to date, recidivism has decreased 67% for offenders who do not commit new crimes and 50.3% for offenders committing new crimes. This drastic reduction in recidivism occurred at the same time that funding for programs was cut and has not increased as program funding has remained historically low.

From my experience working with offenders both in prison and in the community as a parole officer, I would be remiss if I argued that programming is ineffective. Practical application demonstrates that programming positively impacts behavior change, but data does not support a direct correlation between offender programs and reduction in recidivism, which translates to increased costs.

Holding offenders accountable for payment of restitution can be just as rehabilitative as behavioral programming. Research exists in the practice of Restorative Justice to suggest that payment of restitution by offenders may be more impactful than incarceration. It allows the offender to express guilt in a concrete manner, affirms the offender's self-worth and provides the opportunity to "make things right". Restitution can play an important role in the offender's reintegration into their community and society at large by helping victims rebuild their lives. Implementing policy that promotes the collection of restitution only enhances the credibility of the criminal justice system.

Additionally, to support the request for an amendment to return the recommendation for increasing current collection rates, I want to point out that a number of other states have implemented laws requiring mandatory collection of restitution from inmates within a correctional facility with no negative impact. Some of the state

corrections systems which require collection from any source of inmate revenue include: Maine 25%, Montana 33%, Arizona 20-50%, California 50%, Wyoming 50%, Michigan 50%, Hawaii 25%, Iowa 20%, and Virginia 5-15%. This list is not comprehensive.

I would like to close my request with an example.

A KDOC inmate murdered his girlfriend's two year old daughter and severely battered her four year old daughter. The inmate and his girlfriend were at a motel when he started hitting both girls with his shoe, stomping on the two year old before he struck both girls with a chair. The inmate was mad that the girls kept moving so with one hand, he took one child by the feet, grabbed her arms with his other hand, pulled her hands over the top of her head and bent her backwards. The girl made a strange noise, gasped and went limp, her eyes rolling in the back of her head. When the child regained consciousness, she was unable to use her left hand. The child vomited and as the night went on, her breathing became labored. The couple left the motel with the child's mother attempting CPR on the child until she died. The mother of the children reported that she was very scared of her boyfriend, so much so, that she initially agreed to take blame for the murder of her child.

The offender was admitted to prison in 2006 and is scheduled to be released in 2022. The inmate has a restitution order in the amount of \$8,031.04. From January 1, 2012 to December 12, 2012, the inmate received \$2,420 in cash deposits from family members or friends. He received an additional \$144 in work earnings. The inmate spent \$2,076.15 in commissary purchases during this time period. He has paid nothing towards his restitution obligation. Withholding 25% of these assets would have resulted in a payment of \$641 to his crime victim.

The concern over the unintended consequence is negligible. The offender would have been able to spend \$153.15 less on canteen purchases, translating to fewer than \$25 in funding reduction for offender programing. Using this example as a standard and factoring that every inmate has a restitution order, which is not the case, at worst, it is my estimate that KDOC could face a total loss in program funding equivalent to only \$237,900 yet crime victims could have access to an estimated \$1.8 million to assist with the costs of medical bills, therapy, and other crime related expenses that, if not tended to, have the chance of resulting in even more criminal behavior, healthcare and social welfare system costs.

There is a need for action now with regards to enhancing the amount of restitution collected from offenders within KDOC. There has been no evidence presented to support further study or delay. I urge favorable consideration of an amendment to include into HB 2170 the proposal, as originally put forth by the Council of State Governments, to enhance restitution collection from inmates within the Kansas Department of Corrections to 25% of inmate deposits and earnings.

Respectfully submitted,



Libby Keogh, Director
Kansas Department of Corrections Office of Victim Services