

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by Representative Robert H. Miller at \_\_\_\_\_  
Chairperson

1:30 a.m./p.m. on January 25, 1984 in room 526S of the Capitol.

All members were present except:

Committee staff present:

Russ Mills, Research Department  
Mary Torrence, Revisor's Office

Conferees appearing before the committee:

The meeting was called to order by Chairman Miller.

Representative Barr made a motion, seconded by Representative Eckert, to approve the minutes of the January 24 meeting. The motion carried.

HB2616 - Correctional institutions, examination and confinement of male and female persons, reception and diagnostic center mission changed.  
Re Proposal No. 9, 12, & 13

Representative Fuller made a motion, seconded by Representative Smith, that HB2616 be removed from the table. The motion carried.

Representative Fuller made a motion, seconded by Representative Eckert, that a substitute bill be offered which includes Sec. 4 of HB2616. The motion carried.

Representative Fuller explained that she and Representative Hensley had met with the Secretary of Corrections and that he was agreement with this substitute.

Representative Hensley made a motion, seconded by Representative Sughrue, that Substitute for HB2616 be passed favorably and sent directly to the Committee of the Whole. The motion carried.

SB233 - Memorial grave markers for deceased legislators

Representative Sughrue made a motion, seconded by Representative Ediger, to pass SB233 favorably. The motion was defeated.

HB2376 - Distribution of statute books to members of legislature

Representative Fuller made a motion, seconded by Representative Eckert, to update the Supp. sites to 1983 and to then pass the bill out of committee favorably. The motion carried.

HB2636 - Solicitation of funds by state officers, employees, candidates or spouses, penalties  
Re Proposal No. 54

Representative Matlack made a motion, seconded by Representative Murphy, to report HB2636 adversely. The motion carried.

CONTINUATION SHEET

Minutes of the F&SA Committee on January 25, 19 84

HB2637 - Restrictions on legislator's contracting with the state

Representative Peterson made a motion, seconded by Representative Ramirez, that HB2637 be reported adversely. The motion carries.

HB2638 - Relatives of state personnel, acceptance of gifts and solicitations; Re. Proposal 54

Representative Aylward made a motion, seconded by Representative Peterson, that HB2638 be reported adversely. The motion carried.

HB2665 - State occupational regulatory agencies authorizing costs of hearing

Representative Vancrum made a motion, seconded by Representative Barr, to amend HB2665 to give the board the discretion of having informal negotiations. (See attached amendment A) The motion carried.

Representative Murphy made a motion, seconded by Representative Patterson, to amend HB2665 to set the limit that can be recovered by the board to \$150. (See attached amendment B) The motion failed.

Representative Hensley made a motion, seconded by Representative Matlack, to amend HB2665 to set the limit that can be recovered by the board to \$250. The motion failed.

Representative Vancrum made a motion, seconded by Representative Ramirez, to report HB2665 favorably as amended.

Representative Matlack made a substitute motion, seconded by Representative Sughrue, to table the bill. A division was called; the motion carried.

Chairman Miller explained a bill which the Department of Corrections has asked that the committee introduce. This bill would give the Department of Corrections access to parole records housed with the Adult authority. Attach-E

Representative Matlack made a motion, seconded by Representative Murphy, that this bill be introduced. The motion carried.

Chairman Miller explained a bill relating to raising the drinking age for off premise consumption. (See attachment C)

Representative Vancrum made a motion, seconded by Representative Eckert, to introduce the bill to raise the drinking age for off premise consumption. The motion carried.

Chairman Miller explained a bill which would prohibit "drink & drown" and "all you can drink" nights. (See attachment D)

Representative Hensley made a motion, seconded by Representative Aylward, to introduce the "drink & drown" bill. The motion carried.

The meeting was adjourned.

0045 half, cross-examine witnesses, and examine such evidence as  
 0046 may be produced against the accused. The accused shall be  
 0047 entitled, on application to the board, to the issuance of subpoe-  
 0048 nas to compel the attendance of witnesses on the accused's  
 0049 behalf. The board, or any member thereof, may issue subpoenas  
 0050 to compel the attendance of witnesses and the production of  
 0051 documents, and may administer oaths, take testimony, hear  
 0052 proofs and receive exhibits in evidence in connection with or  
 0053 upon hearing under this act. In case of disobedience to a sub-  
 0054 poena the board may invoke the aid of any court of competent  
 0055 jurisdiction of this state in requiring the attendance and testi-  
 0056 mony of witnesses and the production of documentary evidence.  
 0057 The board shall not be bound by technical rules of evidence. A  
 0058 stenographic record of the hearing shall be kept and transcript  
 0059 thereof filed with the board. The decision of the board shall be  
 0060 by majority vote thereof.

The board and the registrant or certificate or permit holder may enter into a stipulation which shall be binding upon the board and the registrant or certificate or permit holder, and the board may enter its enforcement order based upon the stipulation without the necessity of filing any formal charges or holding any hearing in the proceeding.

0061 ~~If the order of the board is adverse to the registrant, certifi-~~  
 0062 ~~cate or permit holder, the costs of any hearing before the board~~  
 0063 ~~in such matter shall be charged to the registrant, certificate or~~  
 0064 ~~permit holder as in ordinary civil actions in the district court. In~~  
 0065 ~~all other cases the costs of the hearing shall be paid by the~~  
 0066 ~~board. All costs accrued at the instance of the board, when it is~~  
 0067 ~~the successful party, and which the attorney general certifies~~  
 0068 ~~cannot be collected from the registrant, certificate or permit~~  
 0069 ~~holder shall be paid out of any available moneys appropriated~~  
 0070 ~~to the board.~~

If the board revokes, suspends or refuses to renew any registration, certificate or permit, the board may charge the costs of any formal disciplinary

0071 Sec. 2. K.S.A. 47-831 is hereby amended to read as follows:  
 0072 47-831. (a) A hearing shall be held no sooner than ~~twenty (20)~~ 20  
 0073 days after written notice to a licensed veterinarian of a complaint  
 0074 against such veterinarian under K.S.A. 47-830 and amendments  
 0075 thereto or, in the case of a person whose application for license is  
 0076 denied, no sooner than ~~ten (10)~~ 10 days after receipt by the board  
 0077 of a written request for a hearing. Notice of the time and place of  
 0078 the hearing, along with a copy of the complaint filed, shall be  
 0079 served on the licensee at least ~~twenty (20)~~ 20 days before the  
 0080 hearing. Such notice may be served by any sheriff or constable or  
 0081 by any person specially appointed by the secretary-treasurer of

Atch. A

0045 half, cross-examine witnesses, and examine such evidence as  
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 0052 proofs and receive exhibits in evidence in connection with or  
 0053 upon hearing under this act. In case of disobedience to a sub-  
 0054 poena the board may invoke the aid of any court of competent  
 0055 jurisdiction of this state in requiring the attendance and testi-  
 0056 mony of witnesses and the production of documentary evidence.  
 0057 The board shall not be bound by technical rules of evidence. A  
 0058 stenographic record of the hearing shall be kept and transcript  
 0059 thereof filed with the board. The decision of the board shall be  
 0060 by majority vote thereof.

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 0062 *cate or permit holder, the costs of any hearing before the board*  
 0063 *in such matter shall be charged to the registrant, certificate or*  
 0064 *permit holder as in ordinary civil actions in the district court. In*  
 0065 *all other cases the costs of the hearing shall be paid by the*  
 0066 *board. All costs accrued at the instance of the board, when it is*  
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 0076 denied, no sooner than ~~ten (10)~~ 10 days after receipt by the board  
 0077 of a written request for a hearing. Notice of the time and place of  
 0078 the hearing, along with a copy of the complaint filed, shall be  
 0079 served on the licensee at least ~~twenty (20)~~ 20 days before the  
 0080 hearing. Such notice may be served by any sheriff or constable or  
 0081 by any person specially appointed by the secretary-treasurer of

, not in excess of \$150,

and the remaining costs shall be paid by the board

, all

(and the same changes in sections 2-11)

Atch. B

C. (S)

AN ACT relating to cereal malt beverages; concerning the age for consumption and other acts relating thereto; amending K.S.A. 21-3610a, 41-2615, 41-2701 and 41-2708 and K.S.A. 1983 Supp. 8-260, 8-1327, 41-2704 and 41-2721 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1983 Supp. 8-260 is hereby amended to read as follows: 8-260. (a) It shall be unlawful for any person, for any purpose, to:

(1) Display or cause or permit to be displayed or have in possession any canceled, revoked, suspended, fictitious or fraudulently altered driver's license.

(2) Lend any driver's license to any other person or knowingly permit the use thereof by another.

(3) Display or represent as the person's own, any driver's license not issued to the person.

(4) Fail or refuse to surrender to the division upon its lawful demand any driver's license which has been suspended, revoked, or canceled.

(5) Use a false or fictitious name in any application for a driver's license, or any renewal or duplicate thereof, or knowingly conceal a material fact, or otherwise commit a fraud in any such application.

(6) Permit any unlawful use of a driver's license issued to the person.

(7) Photograph, photostat, duplicate or in any way reproduce any driver's license or facsimile thereof in such a manner that it could be mistaken for a valid driver's license or display or have in possession any such photograph, photostat,

Atch. 2

duplicate, reproduction or facsimile unless authorized by law.

(8) Display or possess any photograph, photostat, duplicate or facsimile of a driver's license unless authorized by law.

(b) Violation of any provision of subsection (a) is a class B misdemeanor.

(c) It shall be unlawful for any person to:

(1) Lend any driver's license to or knowingly permit the use of any driver's license by any person under 21 years old for use in the purchase of any alcoholic liquor.

~~{2}--Lend--any--driver's--license--to--or--knowingly--permit--the--use--of--any--driver's--license--by--a--person--under--18--years--old--for--use--in--the--purchase--of--any~~ or cereal malt beverage.

~~{3}~~ (2) Lend any driver's license, nondriver's identification card or other form of identification to aid another person in wrongfully obtaining a driver's license or duplicate or substitute driver's license.

(d) Violation of any provision of subsection (c) is a class A misdemeanor.

Sec. 2. K.S.A. 1983 Supp. 8-1327 is hereby amended to read as follows: 8-1327. (a) It shall be unlawful for any person, for any purpose, to:

(1) Display, cause or permit to be displayed, or have in possession, any canceled, fictitious, fraudulently altered or fraudulently obtained identification card.

(2) Lend any identification card to any other person or knowingly permit the use thereof by another.

(3) Display or represent any identification card not issued to the person as being the person's card.

(4) Permit any unlawful use of an identification card issued to the person.

(5) Do any act forbidden or fail to perform any act required by this act.

(6) Display or possess any photograph, photostat, duplicate, reproduction or facsimile of an identification card unless authorized by the provisions of this act.

(b) Violation of any provision of subsection (a) is a class B misdemeanor.

(c) It shall be unlawful for any person to:

(1) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years old for use in the purchase of any alcoholic liquor.

~~(2) Lend any identification card to or knowingly permit the use of any identification card by any person under 18 years old for use in the purchase of any or~~ cereal malt beverage.

~~(3)~~ (2) Lend any identification card, driver's license or other form of identification to aid another person in obtaining an identification card or duplicate identification card.

(d) Violation of any provision of subsection (c) is a class A misdemeanor.

Sec. 3. K.S.A. 21-3610a is hereby amended to read as follows: 21-3610a. (a) Furnishing cereal malt beverage to a minor is buying for or selling, giving or furnishing, whether directly or indirectly, any cereal malt beverage to any person under ~~18 years of age~~ the legal age for consumption of cereal malt beverage.

(b) Furnishing cereal malt beverage to a minor is a class B misdemeanor.

(c) This section shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward.

(d) As used in this section, "cereal malt beverage" ~~has the meaning~~ and "legal age for consumption of cereal malt beverage" have the meanings provided by K.S.A. 41-2701 and amendments thereto.

(e) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 4. K.S.A. 41-2615 is hereby amended to read as follows: 41-2615. (a) No club licensed hereunder under this act shall knowingly or unknowingly permit the consumption of alcoholic liquor ~~or cereal malt beverage~~ on its premises by a

minor and. No minor shall consume or attempt to consume any alcoholic liquor ~~or cereal-malt-beverage~~ while ~~in-or-upon~~ on the premises of a club licensed hereunder ~~or-as-prohibited-by-K.S.A. 41-715-and-any-amendments-thereto~~ under this act.

(b) No club licensed under this act shall knowingly or unknowingly permit the consumption of cereal malt beverage on its premises by a person under the legal age for consumption of cereal malt beverage. No person under the legal age for consumption of cereal malt beverage shall consume or attempt to consume any cereal malt beverage while in or on the premises of a club licensed under this act.

(c) The owner of any club, or any officer or any employee thereof, who shall--permit permits the consumption of alcoholic liquor or cereal malt beverage on the premises of the club ~~by--a minor--shall-be-deemed~~ in violation of this section is guilty of a misdemeanor and upon conviction shall be subject to the same penalty as prescribed by K.S.A. 41-715 and amendments thereto for violation of that section.

Sec. 5. K.S.A. 41-2701 is hereby amended to read as follows: 41-2701. As used in this act unless the context otherwise requires:

(a) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than ~~three--and--two-tenths-percent-(3.2%)~~ 3.2% alcohol by weight.

(b) "Director" means the director of alcoholic beverage control of the department of revenue.

(c) "Legal age for consumption of cereal malt beverage" means:

(1) With respect to the sale, furnishing, giving, purchase, possession or consumption of cereal malt beverages on premises licensed to sell those beverages only for consumption on the premises, 18 years of age; and

(2) in all other cases, 21 years of age.

(d) "Person" means any individual, firm, partnership, corporation or association.

~~(d)~~ (e) "Retailer" means any person who sells or offers for sale any cereal malt beverage for use or consumption and not for resale in any form.

~~(e)~~ (f) "Place of business" ~~shall-mean~~ means any place at which cereal malt beverages are sold.

~~(f)~~ (g) "Wholesaler or distributor" shall mean individuals, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this act, to persons, copartnerships, corporations and associations authorized by this act to sell cereal malt beverages at retail.

Sec. 6. K.S.A. 1983 Supp. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of this act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) Except as provided by subsection (g), no cereal malt beverages may be sold:

(1) Between the hours of 12:00 midnight and 6:00 a.m.;

(2) on Sunday; or

(3) on the day of any national, state, county or city elections, including primary elections, during the hours the polls are open, within the political area in which such election is being held.

(c) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises are also currently licensed as a club under a license issued by the director.

(d) Each place of business shall be open to the public and to the police at all times during business hours, except that a premises licensed as a club under a license issued by the

director shall be open to the police and not to the public.

(e) No licensee shall permit a person under ~~18-years-of-age~~ the legal age for consumption of cereal malt beverage to consume, purchase or possess any cereal malt beverage in or about a place of business.

(f) No person shall have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club by the director.

(g) Cereal malt beverages may be sold on premises which are both licensed pursuant to the acts contained in article 27 of chapter 41 of the Kansas Statutes Annotated and licensed as a club by the director at any time when alcoholic liquor is allowed by law to be served on the premises.

Sec. 7. K.S.A. 41-2708 is hereby amended to read as follows: 41-2708. (a) The board of county commissioners or the governing body of any city, upon five ~~(5)~~ days' notice to the persons holding such a license, shall revoke or suspend such the license for any one of the following reasons: ~~(a)~~-if-a

(1) The licensee has fraudulently obtained the license by giving false information in the application therefor;

~~(b)~~--if (2) the licensee has violated any of the provisions of this act or any rule or regulations made by the board or the city as the case may be;

~~(c)~~--if (3) the licensee has become ineligible to obtain a license in this act;

~~(d)~~ (4) drunkenness of the ~~person--holding--such--license~~ licensee or permitting any intoxicated person to remain in such place the licensee's place of business;

~~(e)~~ (5) the sale of cereal malt beverages to ~~those--under~~ the-age-of-eighteen-(18)-years any person under the legal age for consumption of cereal malt beverage;

~~(f)~~ (6) the nonpayment of any license fees;

~~(g)~~--for (7) permitting any gambling in or upon such premises the licensee's place of business;

~~(h)~~--for (8) permitting any person to mix drinks with

materials purchased in said the place of business or brought in for ~~this~~ that purpose;

~~(i)~~ for (9) the employment of persons under ~~eighteen~~ ~~(18)~~ years-of-age the legal age for consumption of cereal malt beverage in dispensing cereal malt beverages on premises licensed to sell cereal malt beverages for consumption on the premises;

~~(j)~~ for (10) the employment of persons who have been adjudged guilty of felony or of any violation of the intoxicating liquor law; or

~~(k)~~ for (11) the sale or possession of, or for permitting any person to use or consume ~~upon-or-in-said~~ on the licensed premises, any alcoholic liquor as defined by ~~the--laws--of--the state--of--Kansas--relating-thereto:~~ Provided, That K.S.A. 41-102 and amendments thereto.

(b) The provisions of ~~the-foregoing-subsections-(h)-and-(i)~~ subsections (a)(8) and (11) shall not apply if ~~such~~ the place of business or premises are also currently licensed as a club under a license issued by the state director of alcoholic beverage control.

(c) Within ~~twenty~~ ~~(20)~~ 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending any ~~such~~ the license shall not suspend the order of revocation or suspension during the pendency of any such appeal. In case of the revocation of the license of any licensee, no new license shall be issued to ~~such-person-or~~ the former licensee or to any person acting for or on ~~his-or-her~~ the former licensee's behalf, for a period of six ~~(6)~~ months thereafter.

Sec. 8. K.S.A. 1983 Supp. 41-2721 is hereby amended to read as follows: 41-2721. (a) No person under ~~18-years-of-age~~ the legal age for consumption of cereal malt beverage shall:

(1) Claim to be ~~18-or-more-years-of-age~~ the legal age for consumption of cereal malt beverage for the purpose of obtaining

or attempting to obtain any cereal malt beverage from any person;

(2) purchase or attempt to purchase any cereal malt beverage from any person; or

(3) possess or consume any cereal malt beverage.

(b) Any person under 18 years of age who violates this section, upon adjudication thereof, ~~shall be deemed,~~ is a juvenile offender under the Kansas juvenile offenders code.

Any person 18 or more years of age who violates this section, upon conviction, is guilty of a class C misdemeanor.

(c) This section shall not apply to the possession and consumption of cereal malt beverage by a person under ~~18-years-of age--when--such~~ the legal age for consumption of cereal malt beverage when the possession and consumption is permitted, and such the beverage is furnished, by the person's parent or legal guardian.

(d) This section shall be part of and supplemental to article 27 of chapter 41 of the Kansas Statutes Annotated.

Sec. 9. K.S.A. 21-3610a, 41-2615, 41-2701 and 41-2708 and K.S.A. 1983 Supp. 8-260, 8-1327, 41-2704 and 41-2721 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

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AN ACT concerning alcohol beverages; limiting sales and dispensing thereof and providing penalties for violations; amending K.S.A. 41-2610 and K.S.A. 1983 Supp. 41-2704 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 41-2610 is hereby amended to read as follows: 41-2610. It shall be unlawful for a club licensee to:

(a) ~~To~~ Employ any person under the age of ~~twenty-one-(21)~~ 21 years in connection with the dispensing or serving of alcoholic liquor or the mixing of drinks containing alcoholic liquor.

(b) ~~To~~ Employ knowingly or continue in employment any person in connection with the dispensing or serving of alcoholic liquor or the mixing of drinks containing alcoholic liquor who has been adjudged guilty of a felony or of any crime involving a morals charge in this or any other state, or of the United States.

For the purposes of this subsection, the term "morals charge" shall include those charges involving prostitution; procuring any person; soliciting of a child under ~~eighteen-(18)~~ 18 for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; or crimes against nature.

(c) ~~To~~ Employ knowingly or to continue in employment any person in connection with the dispensing or serving of alcoholic liquor or mixing of drinks containing alcoholic liquor who has been adjudged guilty of a violation of any intoxicating liquor law of this or any other state, or of the United States, during the two year period immediately following such-adjudging the

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adjudication.

(d) ~~Te~~ Fail to maintain at the licensed premises a current list of all club members and their residence addresses.

(e) ~~Te~~ Refuse to allow the director or any of the director's authorized agents or any law enforcement officer to inspect the current list of the members of the club.

(f) ~~Te~~ Purchase alcoholic liquor from any person except from a person holding a valid license to sell alcoholic liquor at retail.

(g) Sell or dispense any alcoholic liquor or cereal malt beverage to any person for a price less than the cost of the liquor or beverage to the licensee, for no charge or in an unlimited quantity for a set price.

Sec. 2. K.S.A. 1983 Supp. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of this act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) Except as provided by subsection ~~(g)~~ (h), no cereal malt beverages may be sold:

(1) Between the hours of 12:00 midnight and 6:00 a.m.;

(2) on Sunday; or

(3) on the day of any national, state, county or city elections, including primary elections, during the hours the polls are open, within the political area in which such election is being held.

(c) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises are also currently licensed as a club under a license issued by the director.

(d) Each place of business shall be open to the public and to the police at all times during business hours, except that a

premises licensed as a club under a license issued by the director shall be open to the police and not to the public.

(e) No licensee shall permit a person under 18 years of age to consume, purchase or possess any cereal malt beverage in or about a place of business.

(f) No person shall have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club by the director.

(g) No licensee shall sell or dispense any cereal malt beverages for consumption on the licensed premises for a price less than the cost of the cereal malt beverage to the licensee, for no charge or in an unlimited quantity for a set price.

(h) Cereal malt beverages may be sold on premises which are both licensed pursuant to the acts contained in article 27 of chapter 41 of the Kansas Statutes Annotated and licensed as a club by the director at any time when alcoholic liquor is allowed by law to be served on the premises.

Sec. 3. K.S.A. 41-2610 and K.S.A. 1983 Supp. 41-2704 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

December 30, 1983

Subject: Confidentiality and disclosure of records on parolees.

**22-3711. Certain records privileged.**

The presentence report, the preparole report and the supervision history, obtained in the discharge of official duty by any member or employee of the authority, shall be privileged and shall not be disclosed directly or indirectly to anyone other than the authority, the judge, the attorney general, or others entitled to receive such information, except that the authority or court may in its discretion permit the inspection of the report or parts thereof by the defendant or ~~prisoner~~ or his attorney, or other person having a proper interest therein, whenever the best interest or welfare of a particular defendant or ~~prisoner~~ makes such action desirable or helpful.

or any employee of the department of corrections

secretary of corrections

inmate

inmate

History: L. 1970, ch. 129, § 22-3711; L. 1972, ch. 317, § 84; L. 1973, ch. 339, § 64, July 1, 1974.

Source or prior law:

62-2233.

*Atch. E*

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