

Approved: 1/21/94
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Vice-Chairperson Tim Emert at 10:00 a.m. on January 19, 1994 in Room 514-S of the Capitol.

All members were present except: Senator Moran (excused).

Committee staff present: Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Darlene Thomas, Committee Secretary

Conferees appearing before the committee:

Carolyn Hill, Kansas Department of Social and Rehabilitation Services
Jolene M. Grabill, Executive Director, The Corporation For Change
John Badger, Kansas Department of Social and Rehabilitation Services
Jamie Corkhill, Kansas Department of Social and Rehabilitation Services
Orville E. Johnson, 2401 Bradbury, Topeka, Kansas

Others attending: See attached list

SB400--Amend Kansas juvenile offenders code; relating to certain out-of-home placements.

Carolyn Hill, Kansas Department of Social and Rehabilitation Services appeared in support of SB400 (Attachment No. 1). She said this bill would amend the juvenile offender code to require a court to determine reasonable efforts have been made to prevent or eliminate the need for out-of-home placement or an emergency exists threatening the safety of the juvenile offender and required the offender's immediate removal.

Ms. Hill was asked how SB400 would affect restrictions in the federal law regarding the confidentiality of juveniles issue. She stated she did not feel there would be any affect, however, they would like the opportunity to confirm this with their federal staff.

Jolene M. Grabill, Executive Director, The Corporation For Change appeared before the Committee in support of SB400 (Attachment No. 2). Ms Grabill recommended SB400 be held until the confidentiality issue could be determined. She recommended the following changes to comply with federal law:

Section 1, Sub-Section (1) Reasonable efforts have been made to prevent or eliminate the need for out-of-home placement or an emergency exists ~~threatening the safety of the juvenile offender and requiring juvenile offender's immediate removal, and~~ *such that reasonable efforts are not possible or are contrary to the best interests of the child, and*

Section 1, Sub-Section (2) ~~Out of home placement is in the best interests of the juvenile offender.~~
Continuation in the home is contrary to the welfare of the child.
"Court and SRS shall work together to revise judicial forms to fully comply with state and federal law."

Jim Clark, Kansas County and District Attorneys Association addressed the Committee in regard to Line 19 of SB400 and recommended it be reworded to reflect public safety. Mr. Clark was asked to submit wording to reflect his concern. Senator Ranson requested a conferee from the juvenile court system on this issue.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S Statehouse, at 10:00 a.m. on January 19, 1994.

Vice-Chairman Emert announced Kansas Department of Social and Rehabilitation Services had invited the Committee to attend a one-hour session on January 20 with Dr. David Hawkins from the University of Washington, a nationally recognized expert on youth problems, who would present an overview of a comprehensive approach to reducing adolescent problem behaviors.

Vice-Chairman Emert called to the attention of the Committee, Briefing Materials for House Judiciary Committee (Attachment No. 3) that Gary Stotts, Secretary, Department of Corrections had made available to each committee member.

SB465--relating to the probate code; providing for payment to the secretary of social and rehabilitation services under certain circumstances.

John Badger, Department of Social and Rehabilitation Services appeared in support of SB465 (Attachment No. 4). Mr. Badger answered questions from the Committee.

Brian Vazques, attorney for Kansas Department of Social and Rehabilitation answered questions from Committee concerning probate procedure in regard to priorities for access to the estate of the deceased. He said this bill would expand the agency's estate recovery program.

Vice-Chairman Emert closed hearings on SB465. The bill would be worked at a later date.

SB464--relating to enforcement of support; income withholding.

Jamie Corkhill, Kansas Department of Social and Rehabilitation Services appeared in support of SB464 (Attachment No. 5). She said this bill would amend the income withholding and interstate income withholding acts to insure compliance with state plan requirements under Title IV-D.

Orville E. Johnson, 2401 Bradbury, Topeka, Kansas appeared as an opponent to SB464 (Attachment No. 6).

Vice-Chairman Emert closed hearings on SB464.

Due to time constraints, SB466 will be brought before the Committee at a later date.

Meeting adjourned at 11:00 a.m.

The next meeting is scheduled for January 20, 1994.

GUEST LIST

COMMITTEE: Senate Judiciary Committee

DATE: 1/19/94

[illegible]

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Donna L. Whiteman, Secretary

Senate Judiciary Committee
Testimony on Senate Bill 400

January 19, 1994

SRS Mission Statement

"The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities and benefits of full citizenship by creating conditions and opportunities for change, by advocating for human dignity and worth, and by providing care, safety and support in collaboration with others."

TITLE

AN ACT amending the Kansas juvenile offenders code; relating to certain out-of-home placements; amending K.S.A. 1992 Supp. 38-1664 and repealing the existing section.

Mr. Chairman, I am pleased to provide you with this testimony in support of Senate Bill 400 which requires a court to determine reasonable efforts have been made to prevent or eliminate the need for out-of-home placement or an emergency exists threatening the safety of the juvenile offender and requiring the offender's immediate removal. Periodic hearings are required for juvenile offenders placed outside their homes. These changes would result in more youth being eligible for Title IV-E reimbursement.

PURPOSE

There are two primary purposes for this bill, one fiscal and one in support of the SRS Family Agenda for Children and Families. Passage of S.B. 400 will allow the department to receive federal financial participation through Title IV-E for juvenile offenders who are otherwise eligible but do not meet the requirement for a judicial determination reasonable efforts were made to prevent or eliminate the need for out of home placement. The additional revenue will provide for improved services.

The proposed amendment supports the goals of the SRS Family Agenda for Children and Families by ensuring a judicial review to identify youth who can be provided services in their own communities and homes. Youth who require out-of-home placement for their safety or the safety of the public will still receive appropriate placement services.

BACKGROUND

Juvenile offenders in the custody of the Department and in out-of-home care have not been included in claims for Title IV-E match for the cost of care as they did not meet the eligibility requirement of a judicial determination of reasonable efforts to avoid out-of-home placement. The juvenile code does not require such judicial finding. The proposed change would require the court to determine (1) if reasonable efforts have been made to prevent or eliminate the need for out of home placement of the offender or that an emergency exists

Senate Judiciary
1/19/94
attachment 1

threatening the safety of the offender, and (2) if out of home placement is in the best interest of the offender.

EFFECT OF PASSAGE

The requested changes in the Kansas Juvenile Offender's Code would enable offenders receiving community-based services to be eligible for Title IV-E funding when they meet the eligibility criteria. Currently, Juvenile offenders do not qualify for any federal funding, forcing the use of all state general funds to meet their needs, including staff costs. The Department recently completed a study of a representative sample of juvenile offender cases and found 40 percent would clearly have been eligible for IV-E funding if the statutes had mandated judicial review. This compares to approximately 15 percent who are now eligible, primarily due to dual adjudication as a juvenile offender and a child in need of care. The annualized increase in revenue is conservatively estimated at \$1.2 million which could be used to enhance the quantity and type of services available to juvenile offenders.

The reasonable efforts requirement of this bill is modeled after similar requirement in the Child in Need of Care (CINC) code. The bill does not, however, extend any of the requirements of the CINC code to juvenile offenders nor does it in any way limit the department in providing services to habilitate juvenile offenders or protect the public.

RECOMMENDATION

The Department of Social and Rehabilitation Services recommends favorable consideration of S.B. 400.

Donna L. Whiteman
Secretary
Department of Social and
Rehabilitation Services

(913) 296-3271

THE CORPORATION FOR CHANGE

A Partnership for Investing in The Future of Kansas Children and Families

Testimony Before the Senate Judiciary Committee

Senate Bill 400
January 19, 1994

by Jolene M. Grabill, Executive Director

The Corporation for Change is a non-profit corporation organized by the State of Kansas to coordinate and implement reform of children's services in Kansas. To accomplish this mission, the Corporation builds partnerships between government, business, parents, children's advocacy and service groups to develop a comprehensive and coordinated strategy for investing in the future of Kansas children and families. Our major role is to see connections, test out what works and what doesn't work, experiment with new strategies, and to develop the consensus to reinvest our resources in more comprehensive strategies that do achieve the outcomes we all desire for children and families.

I appear today to support SB 400 and to briefly explain the need for this bill. Over the course of the past year, the Corporation for Change has been involved in a detailed analysis of state spending on services to children and families. The goal of that effort is to define a program and fiscal strategy for reforming children's services which will, in fact, achieve the outcomes for children and families we all desire. That fiscal strategy, then, will inevitably shift our spending emphasis to preventive, community-based, family-focused, decategorized services for children and families in Kansas.

As a first step in that process, we must be sure that the money now spent on children is put to the best possible use. In some cases, the state of Kansas now spends state general funds on programs and services which could be financed with federal funds. It logically follows, then, that if the state has to provide either maintenance or administrative services anyway to juvenile offenders who are also eligible under Title IVE of the Social Security Act (foster care), and if the IVE eligibility of the child in questions make federal funds available to pay for those services, the state should claim a reimbursement under Title IVE and free up the existing state general fund expenditures for other uses. Although this shift might require some changes in reporting techniques, it is largely a change in the way the state claims reimbursements.

We have discussed this statutory change over the past year and received encouragement to move ahead both from our partners at SRS and our partners at OJA.. The goal of any statutory change on this point is to come as closely as possible into compliance with the federal language that allows IV-E claiming while also satisfying the policy desired in Kansas. To that end, I suggest the following changes in the bill beginning on line 17:

EXECUTIVE DIRECTOR
Jolene M. Grabill

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Sec. Donna Whiteman
Dept. of Social &
Rehab. Services
Topeka

Senate Judiciary
1/19/94
attachment 2

(1) Reasonable efforts have been made to prevent or eliminate the need for out-of-home placement or an emergency exists ~~threatening the safety of the juvenile offender and requiring juvenile offender's immediate removal, and~~ *such that reasonable efforts are not possible or are contrary to the best interests of the child, and*

(2) ~~Out of home placement is in the best interests of the juvenile offender.~~ *Continuation in the home is contrary to the welfare of the child.*

Furthermore, it is not just important the determinations in (1) and (2) be made, but they also must be reflected in the written court order. To that end, I suggest adding a statement that the *"Court and SRS shall work together to revise judicial forms to fully comply with state and federal law."*

In summary, I do encourage the committee to support the bill and would ask your consideration of the changes we suggest. However, I would like to ask the committee to delay any action on this bill until the confidentiality issues can be worked through with all our affected partners. The State Court/Education/SRS Liaison Committee, chaired by Shawnee County Judge Dan Mitchell, has agreed to work through confidentiality questions for the Corporation. That body meets this Friday the 21st, and if you agree, I would like to have them address the confidentiality issue at that time and allow me to bring their findings back to you next week.



KANSAS DEPARTMENT OF CORRECTIONS

JOAN FINNEY, GOVERNOR

GARY STOTTS, SECRETARY

LONDON STATE OFFICE BUILDING — 900 SW JACKSON
TOPEKA, KANSAS — 66612-1284
913-296-3317

MEMORANDUM

To: Senator Jerry Moran, Chair
Senate Judiciary Committee

From: Gary Stotts
Secretary of Corrections

Subject: Briefing Materials for House Judiciary Committee

Date: January 18, 1994

Enclosed please find copies of sentencing guidelines briefing materials prepared for my presentation today before the House Judiciary Committee. The department also is working on a more comprehensive report on guidelines implementation which we hope to complete within the next month. If you or members of your committee have questions about any of the attached materials, please let me know.



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Senate Judiciary
1/19/94
attachment 3

**Kansas Department of Corrections - Retroactivity Status Report
Implementation Through January 14, 1994**

A. Retroactive Conversion Pool: Offenders For Whom Sentencing Guidelines Reports Were Mailed Prior to Statutory Deadline of December 1, 1993:

Total number of offenders for whom reports were mailed prior to December 1, 1993	2,292
Of those, 1,619 offenders had been released through January 14, 1994:	
....by retroactivity	1,301
....by parole	271
....by other release mechanisms	47
Number remaining for whom reports have been mailed but who have not been released as of January 14, 1994:	673

Table 1. Number of Offenders For Whom Reports Have Been Mailed and Who Have Been Released Through January 14 -- by Severity Level and Type of Release

		Release Type			
<u>Severity Level</u>		<u>Parole</u>	<u>Retro</u>	<u>Other</u>	<u>Total</u>
Non-Drug					
5		12	61	0	73
6		2	15	1	18
7		70	454	9	533
8		51	179	6	236
9		111	465	20	596
10		12	31	6	49
	Subtotal - Non-drug	258	1,205	42	1,505
Drug					
3		1	7	1	9
4		12	89	4	105
	Subtotal - Drug	13	96	5	114
	TOTAL	271	1,301	47	1,619

**Kansas Department of Corrections - Retroactivity Status Report
Implementation Through January 14, 1994**

A. Retroactive Conversion Pool...continued

Table 2. Offenders For Whom Reports Have Been Mailed But Who Have Not Been Released as of January 14, 1994 -- by Severity Level

<u>Severity Level</u>	<u>Total</u>
Non-Drug	
5	136
6	18
7	261
8	80
9	90
10	9
Subtotal Non-Drug	<u>594</u>
Drug	
3	14
4	65
Subtotal Drug	<u>79</u>
TOTAL	673

Table 3. Offenders For Whom Reports Have Been Mailed But Who Have Not Yet Been Released as of January 14, 1994 -- by KDOC Sentence Conversion Dates

<u>KDOC Conversion Date</u>	<u>Number of Offenders</u>
Past sentence conversion date (hearing process not complete)	156
January - June 1994	247
July - December 1994	137
1995 and later	133
TOTAL	673

**Kansas Department of Corrections - Retroactivity Status Report
Implementation Through January 14, 1994**

B. Ongoing Retroactive Conversion Process: Offenders For Whom Sentencing Guidelines Reports Have Been or Will Be Mailed After December 1, 1993:

Number of offenders for whom reports were mailed after
December 1, 1993 104

....of which four offenders have been released, including

- 1 Severity Level 6 released under retroactivity
- 1 Severity Level 7 released by parole
- 1 Severity Level 9 released under retroactivity
- 1 Severity Level 9 released by parole

Number of offenders in the inmate population who are
eligible for sentence conversion but whose
reports have not yet been mailed as of January 14 143

Table 4. Offenders For Whom Reports Have Been Mailed But Who Have Not Been Released as of January 14, 1994 -- by Severity Level

<u>Severity Level</u>	<u>Total</u>
Non-Drug	
5	3
6	2
7	34
8	18
9	31
10	1
Subtotal Non-Drug	89
Drug	
3	1
4	10
Subtotal Drug	11
TOTAL	100

**Kansas Department of Corrections - Retroactivity Status Report
Implementation Through January 14, 1994**

B. Ongoing Retroactive Conversion Process...continued

Table 5. Offenders For Whom Reports Have Been Mailed But Who Have Not Been Released as of January 14, 1994 -- by KDOC Sentence Conversion Dates

<u>Sentence Conversion Dates</u>	<u>Number of Offenders</u>
Past sentence conversion date (hearing process not complete)	69
1994	
January - June	19
July - December	8
1995	4
TOTAL	100

OFFENDERS RELEASED ON PAROLE OR POST-RELEASE SUPERVISION FROM 07 01 1993 THRU 01 14 1994

MOST SERIOUS OFFENSE	FEL CLS	TOTAL	POST- RELEASE	PAROLE
PERSON CRIMES				
ABUSE OF A CHILD	D	2	1	1
ABUSE OF A CHILD (ATTEMPT)	E	1	1	0
AGG ASSAULT LAW ENFORCE OFF	C	9	1	8
AGG ASSAULT LAW ENFORCE OFF (ATTEMPT)	D	2	1	1
AGG BAT AGNST A LAW ENFOR OFF	B	4	0	4
AGG BAT AGNST A LAW ENFOR OFF (ATTEMPT)	C	1	1	0
AGG INT WITH PARENTAL CUSTODY	D	1	0	1
AGG VEHICULAR HOMICIDE	E	4	1	3
AGG VEHICULAR HOMICIDE-D.U.I.	D	2	1	1
AGGRAVATED ARSON	B	2	0	2
AGGRAVATED ARSON (ATTEMPT)	C	1	1	0
AGGRAVATED ASSAULT	D	84	50	34
AGGRAVATED ASSAULT (ATTEMPT)	E	23	17	6
AGGRAVATED BATTERY	C	62	27	35
AGGRAVATED BATTERY (ATTEMPT)	D	28	24	4
AGGRAVATED BATTERY (CONSPIRACY)	E	3	1	2
AGGRAVATED BURGLARY	C	21	6	15
AGGRAVATED BURGLARY (ATTEMPT)	D	9	9	0
AGGRAVATED BURGLARY (CONSPIRACY)	E	1	1	0
AGGRAVATED ESCAPE FROM CUSTODY	E	7	3	4
AGGRAVATED KIDNAPPING	A	1	0	1
AGGRAVATED ROBBERY	B	67	1	66
AGGRAVATED ROBBERY (ATTEMPT)	C	8	3	5
AGGRAVATED ROBBERY (CONSPIRACY)	E	1	1	0
BATT KDOC EMPLOYEE	E	1	1	0
BLACKMAIL	E	1	0	1
DISCHARGE FIREARM OCCUPD BLDNG	D	1	1	0
DISCHARGE FIREARM UNOCC BLDNG	E	1	1	0
INTERFER WITH PARENTAL CUSTODY	E	1	0	1
INVOLUNTARY MANSLAUGHTER	D	8	5	3
KIDNAPPING	B	8	0	8
KIDNAPPING (ATTEMPT)	C	3	2	1
MURDER 1ST	A	1	0	1
MURDER 1ST (SOLICITATION)	D	2	0	2
MURDER 2ND	B	3	0	3
NONSUPPORT OF A CHILD	E	7	6	1
ROBBERY	C	101	19	82
ROBBERY (ATTEMPT)	D	39	24	15
ROBBERY (CONSPIRACY)	E	5	2	3
TERRORISTIC THREAT	E	29	23	6
VOLUNTARY MANSLAUGHTER	C	5	0	5
SUB-TOTAL		560	235	325
SEX CRIMES				
AGG INDECENT SOL OF A CHILD	E	4	3	1
AGGRAVATED INCEST	D	12	10	2
AGGRAVATED INCEST (ATTEMPT)	E	2	2	0
AGGRAVATED SEXUAL BATTERY	D	22	13	9
AGGRAVATED SEXUAL BATTERY (ATTEMPT)	E	7	6	1
AGGRAVATED SODOMY (ATTEMPT)	C	1	0	1

OFFENDERS RELEASED ON PAROLE OR POST-RELEASE SUPERVISION FROM 07 01 1993 THRU 01 14 1994

MOST SERIOUS OFFENSE	FEL CLS	TOTAL	POST- RELEASE	PAROLE
ENTICEMENT OF A CHILD	D	2	2	0
ENTICEMENT OF A CHILD (ATTEMPT)	E	1	1	0
INCEST	E	1	1	0
INDECENT LIB WITH A CHILD	C	21	4	17
INDECENT LIB WITH A CHILD (ATTEMPT)	D	13	10	3
RAPE	B	3	0	3
RAPE	C	1	0	1
RAPE (ATTEMPT)	C	3	0	3
SUB-TOTAL		93	52	41
DRUG CRIMES				
ARRANGING DRUG SALES-COMM FAC	D	7	2	5
ARRANGING DRUG SALES-COMM FAC (ATTEMPT)	E	1	0	1
MF/POS/DI OP,OP O NAR DR (2ND)	B	2	0	2
MF,PO,DI,SA COMP W QUAL NARC (ATTEMPT)	E	1	1	0
MF,POS,DST OPI,OPI,OR NAR DR	C	173	56	117
MF,POS,DST OPI,OPI,OR NAR DR (ATTEMPT)	D	61	20	41
MF,POS,DST OPI,OPI,OR NAR DR (CONSPIRACY)	E	28	9	19
MF,PS,AD,DB,SA DE,ST,HA O STRD	C	59	8	51
MF,PS,AD,DB,SA DE,ST,HA O STRD (ATTEMPT)	D	16	0	16
MF,PS,AD,DB,SA DE,ST,HA O STRD (CONSPIRACY)	E	7	0	7
PO DE,ST,HA O STRD	D	16	6	10
PO DE,ST,HA O STRD (ATTEMPT)	E	1	0	1
PO DE,ST,HA O STRD (CONSPIRACY)	E	2	0	2
PO,SL,SA OPI,NAR,STIM	C	1	0	1
SUB-TOTAL		375	102	273
PROPERTY CRIMES				
ARSON	C	30	26	4
ARSON (ATTEMPT)	D	9	8	1
ARSON (CONSPIRACY)	E	2	2	0
BURGLARY	D	534	350	184
BURGLARY	E	64	45	19
BURGLARY (ATTEMPT)	E	65	52	13
BURGLARY (CONSPIRACY)	E	1	0	1
CRI DAM PROP (\$500 - \$50,000)	E	18	13	5
CRI DAM TO PROP (\$150 OR MORE)	E	10	5	5
FORGERY	D	19	14	5
FORGERY	E	134	71	63
G A WORTH CHECK (\$150 OR MORE)	E	5	3	2
G A WORTH CHECK (\$50 OR MORE)	E	1	1	0
G A WORTH CHECK (\$500-\$50,000)	E	8	6	2
HAB G A WRTHLS CK (\$150 & +)	E	1	1	0
HAB G A WRTHLS CK (\$500 & +)	E	2	1	1
HAB GIVING WORTHLESS CHECKS	D	1	1	0
MAKING A FALSE WRITING	D	11	5	6
MAKING A FALSE WRITING (ATTEMPT)	E	1	0	1
ODOMETER TAMPERING	E	1	0	1
POSSESSION OF BURGLARY TOOLS	E	5	3	2
THEFT (\$100 OR MORE)	D	55	33	22

01/18/94

KANSAS DEPARTMENT OF CORRECTIONS

PGM-PARTB4

PAGE 3

OFFENDERS RELEASED ON PAROLE OR POST-RELEASE SUPERVISION FROM 07 01 1993 THRU 01 14 1994

MOST SERIOUS OFFENSE	FEL CLS	TOTAL	POST- RELEASE	PAROLE
THEFT (\$100 OR MORE) (ATTEMPT)	E	1	0	1
THEFT (\$100 OR MORE) (CONSPIRACY)	E	1	1	0
THEFT (\$150 OR MORE)	E	68	45	23
THEFT (\$150 OR MORE) (ATTEMPT)	E	3	0	3
THEFT (\$150 OR MORE) (CONSPIRACY)	E	1	0	1
THEFT (\$50,000 OR MORE)	D	1	1	0
THEFT (\$50,000 OR MORE) (ATTEMPT)	E	5	4	1
THEFT (\$50,000 OR MORE) (CONSPIRACY)	E	2	2	0
THEFT (\$500 THRU \$50,000)	E	190	137	53
THEFT OF SER (\$100 OR MORE)	D	1	1	0
TRAF IN CONTRA IN A PENAL INST	E	1	0	1
UNLAW U CC (\$500 - \$50,000)	E	4	4	0
SUB-TOTAL		1255	835	420
OTHER CRIMES				
AGG JUVENILE DELINQUENCY	E	2	2	0
AGGRAVATED FAILURE TO APPEAR	E	13	10	3
AGGRAVATED FALSE IMPERSONATION	E	2	2	0
AGGRAVATED WEAPONS VIOLATION	E	1	1	0
AID A FEL OR PER CHAR AS A FEL	E	3	3	0
CON TO THE MIS/DEP OF A CHILD	E	1	0	1
DRV W LIC CAN'D, SUSP'D, REV'D	E	33	27	6
HAB VIO; UNL OPE OF VE W PROH	E	34	24	10
OB LEG PRO OR OF DU (FEL CASE)	E	6	5	1
SE/MA/PU/POS/CAR UNLAW FIREARM	E	3	3	0
TAXATION MARI/CONT SUB PENALTY	U	5	3	2
UNLAW POSSESSION OF FIREARMS	D	19	14	5
SUB-TOTAL		122	94	28
TOTAL		2405	1318	1087

/18/94

KANSAS DEPARTMENT OF CORRECTIONS

PGM-PARTB4

PAGE 1

OFFENDERS RELEASED ON PAROLE OR POST-RELEASE SUPERVISION FROM 07 01 1992 THRU 06 30 1993

MOST SERIOUS OFFENSE	FEL CLS	TOTAL	POST- RELEASE	PAROLE
PERSON CRIMES				
ABUSE OF A CHILD	D	7	0	7
AGG ASSAULT LAW ENFORCE OFF	C	14	0	14
AGG ASSAULT LAW ENFORCE OFF (ATTEMPT)	D	3	0	3
AGG BAT AGNST A LAW ENFOR OFF (ATTEMPT)	C	1	0	1
AGG INT WITH PARENTAL CUSTODY	D	1	0	1
AGG INT WITH PARENTAL CUSTODY	E	1	0	1
AGG INTIMIDATON WITNESS/VICTIM	E	1	0	1
AGG VEHICULAR HOMICIDE	E	2	0	2
AGG VEHICULAR HOMICIDE-D.U.I.	D	4	0	4
AGGRAVATED ARSON	B	5	0	5
AGGRAVATED ARSON (ATTEMPT)	C	1	0	1
AGGRAVATED ASSAULT	D	77	0	77
AGGRAVATED ASSAULT (ATTEMPT)	E	22	0	22
AGGRAVATED ASSAULT (CONSPIRACY)	E	1	0	1
AGGRAVATED BATTERY	C	105	0	105
AGGRAVATED BATTERY (ATTEMPT)	D	32	0	32
AGGRAVATED BATTERY (CONSPIRACY)	E	4	0	4
AGGRAVATED BURGLARY	C	57	0	57
AGGRAVATED BURGLARY (ATTEMPT)	D	13	0	13
AGGRAVATED BURGLARY (CONSPIRACY)	E	1	0	1
AGGRAVATED ESCAPE FROM CUSTODY	E	7	0	7
AGGRAVATED KIDNAPPING	A	3	0	3
AGGRAVATED ROBBERY	B	193	0	193
AGGRAVATED ROBBERY (ATTEMPT)	C	15	0	15
AGGRAVATED ROBBERY (CONSPIRACY)	E	1	0	1
INTERFER WITH PARENTAL CUSTODY	E	1	0	1
INVOLUNTARY MANSLAUGHTER	D	12	0	12
KIDNAPPING	B	23	0	23
KIDNAPPING (ATTEMPT)	C	6	0	6
MURDER 1ST	A	10	0	10
MURDER 1ST (ATTEMPT)	B	1	0	1
MURDER 2ND	B	22	0	22
MURDER 2ND (ATTEMPT)	C	1	0	1
NONSUPPORT OF A CHILD	E	8	0	8
NONSUPPORT OF A CHILD (ATTEMPT)	E	1	0	1
ROBBERY	C	161	0	161
ROBBERY (ATTEMPT)	D	40	0	40
ROBBERY (CONSPIRACY)	E	4	0	4
TERRORISTIC THREAT	E	23	0	23
VOLUNTARY MANSLAUGHTER	C	22	0	22
VOLUNTARY MANSLAUGHTER (ATTEMPT)	D	1	0	1
SUB-TOTAL		907	0	907
SEX CRIMES				
AGG INDECENT SOL OF A CHILD	E	3	0	3
AGGRAVATED INCEST	D	10	0	10
AGGRAVATED INCEST (ATTEMPT)	E	1	0	1
AGGRAVATED SEXUAL BATTERY	D	34	0	34
AGGRAVATED SEXUAL BATTERY (ATTEMPT)	E	11	0	11
AGGRAVATED SODOMY	B	12	0	12

01/18/94

KANSAS DEPARTMENT OF CORRECTIONS

PGM-PARTB4

PAGE 2

OFFENDERS RELEASED ON PAROLE OR POST-RELEASE SUPERVISION FROM 07 01 1992 THRU 06 30 1993

MOST SERIOUS OFFENSE		FEL CLS	TOTAL	POST- RELEASE	PAROLE
AGGRAVATED SODOMY	(ATTEMPT)	C	5	0	5
ENTICEMENT OF A CHILD		D	4	0	4
INDECENT LIB WITH A CHILD		C	56	0	56
INDECENT LIB WITH A CHILD	(ATTEMPT)	D	10	0	10
INDECENT LIB WITH A CHILD	(CONSPIRACY)	E	1	0	1
RAPE		B	27	0	27
RAPE		C	3	0	3
RAPE	(ATTEMPT)	C	7	0	7
SUB-TOTAL			184	0	184
DRUG CRIMES					
ARRANGING DRUG SALES-COMM FAC		D	2	0	2
ARRANGING DRUG SALES-COMM FAC	(ATTEMPT)	E	1	0	1
CUL,PS,AD,SA-DE,ST,HA O STRD		C	1	0	1
CUL,PS,AD,SA-DE,ST,HA O STRD	(ATTEMPT)	D	1	0	1
DR SALE 1,000 FT SCHOOL PROP	(ATTEMPT)	C	1	0	1
MF/POS/DI OP,OP O NAR DR (2ND)		B	6	0	6
MF/POS/DI OP,OP O NAR DR (2ND)	(ATTEMPT)	C	1	0	1
MF,POS,DST OPI,OPI,OR NAR DR		C	205	0	205
MF,POS,DST OPI,OPI,OR NAR DR	(ATTEMPT)	D	77	0	77
MF,POS,DST OPI,OPI,OR NAR DR	(CONSPIRACY)	E	36	0	36
MF,PS,AD,DB,SA DE,ST,HA O STRD		C	118	0	118
MF,PS,AD,DB,SA DE,ST,HA O STRD	(ATTEMPT)	D	15	0	15
MF,PS,AD,DB,SA DE,ST,HA O STRD	(CONSPIRACY)	E	6	0	6
OB PRE-ONLY DR/FR MEANS/RESALE	(ATTEMPT)	D	1	0	1
OB PRE-ONLY DRUG/FRAUD MEANS		E	1	0	1
PO DE,ST,HA O STRD		D	15	0	15
PO DE,ST,HA O STRD	(ATTEMPT)	E	5	0	5
PO DE,ST,HA O STRD	(CONSPIRACY)	E	8	0	8
PO,PS,AD,DB-DE,ST,HA O STRD	(ATTEMPT)	E	1	0	1
PO,SL,SA OPI,NAR,STIM		C	1	0	1
PO,SL,SA OPI,NAR,STIM	(ATTEMPT)	D	2	0	2
SUB-TOTAL			504	0	504
PROPERTY CRIMES					
ARSON		C	27	0	27
ARSON	(ATTEMPT)	D	6	0	6
BURGLARY		D	525	0	525
BURGLARY		E	40	0	40
BURGLARY	(ATTEMPT)	E	54	0	54
BURGLARY	(CONSPIRACY)	E	4	0	4
CRI DAM TO PROP (\$100 OR MORE)		E	1	0	1
CRI DAM TO PROP (\$150 OR MORE)		E	16	0	16
FORGERY		D	21	0	21
FORGERY		E	107	0	107
FORGERY	(ATTEMPT)	E	1	0	1
G A WORTH CHECK (\$150 OR MORE)		E	9	0	9
G A WORTH CHECK (\$50 OR MORE)		E	2	0	2
HAB G A WRTHLS CK (\$150 & +)		E	1	0	1
HAB G A WRTHLS CK (\$500 & +)		E	2	0	2

1/18/94

KANSAS DEPARTMENT OF CORRECTIONS

PGM-PARTB4

PAGE 3

OFFENDERS RELEASED ON PAROLE OR POST-RELEASE SUPERVISION FROM 07 01 1992 THRU 06 30 1993

MOST SERIOUS OFFENSE	FEL CLS	TOTAL	POST- RELEASE	PAROLE
HAB GIVING WORTHLESS CHECKS	D	2	0	2
ILLEG DISPOSITION O ASSISTANCE	E	1	0	1
MAKING A FALSE WRITING	D	14	0	14
MAKING A FALSE WRITING (ATTEMPT)	E	1	0	1
THEFT (\$100 OR MORE)	D	54	0	54
THEFT (\$100 OR MORE) (ATTEMPT)	E	1	0	1
THEFT (\$150 OR MORE)	E	79	0	79
THEFT (\$150 OR MORE) (ATTEMPT)	E	2	0	2
THEFT (\$150 OR MORE) (CONSPIRACY)	E	1	0	1
UNLAW USE FINAN CDS (\$150 & +)	E	3	0	3
SUB-TOTAL		974	0	974
OTHER CRIMES				
AGG JUVENILE DELINQUENCY	E	3	0	3
AGGRAVATED FAILURE TO APPEAR	E	7	0	7
AGGRAVATED FALSE IMPERSONATION	E	3	0	3
AGGRAVATED WEAPONS VIOLATION	E	3	0	3
AID A FEL OR PER CHAR AS A FEL	E	1	0	1
CON TO THE MIS/DEP OF A CHILD	E	1	0	1
DRV W LIC CAN'D, SUSP'D, REV'D	E	23	0	23
FRAUDULENT LOTTERY TICKET	D	2	0	2
HAB VIO; UNL OPE OF VE W PROH	E	27	0	27
OB LEG PRO OR OF DU (FEL CASE)	E	10	0	10
PERJURY (MADE IN A FEL TRIAL)	D	1	0	1
SE/MA/PU/POS/CAR UNLAW FIREARM	E	1	0	1
TAXATION MARI/CONT SUB PENALTY	U	1	0	1
UNLAW POSSESSION OF EXPLOSIVES	D	1	0	1
UNLAW POSSESSION OF FIREARMS	D	13	0	13
UNLAW POSSESSION OF FIREARMS (ATTEMPT)	E	2	0	2
SUB-TOTAL		99	0	99
TOTAL		2668	0	2668

01/18/94

KANSAS DEPARTMENT OF CORRECTIONS

PGM-PARTB4

PAGE 1

3-12

OFFENDERS RELEASED ON PAROLE OR POST-RELEASE SUPERVISION FROM 07 01 1991 THRU 06 30 1992

MOST SERIOUS OFFENSE	FEL CLS	TOTAL	POST- RELEASE	PAROLE
PERSON CRIMES				
ABUSE OF A CHILD	D	3	0	3
ABUSE OF A CHILD (ATTEMPT)	E	1	0	1
AGG ASSAULT LAW ENFORCE OFF	C	11	0	11
AGG ASSAULT LAW ENFORCE OFF (ATTEMPT)	D	1	0	1
AGG ASSAULT LAW ENFORCE OFF (CONSPIRACY)	E	1	0	1
AGG BAT AGNST A LAW ENFOR OFF	B	2	0	2
AGG INT WITH PARENTAL CUSTODY (ATTEMPT)	E	1	0	1
AGG VEHICULAR HOMICIDE	E	4	0	4
AGG VEHICULAR HOMICIDE-D.U.I.	D	2	0	2
AGGRAVATED ARSON	B	4	0	4
AGGRAVATED ARSON (ATTEMPT)	C	1	0	1
AGGRAVATED ASSAULT	D	55	0	55
AGGRAVATED ASSAULT (ATTEMPT)	E	13	0	13
AGGRAVATED BATTERY	C	66	0	66
AGGRAVATED BATTERY (ATTEMPT)	D	9	0	9
AGGRAVATED BATTERY (CONSPIRACY)	E	1	0	1
AGGRAVATED BURGLARY	C	43	0	43
AGGRAVATED BURGLARY (ATTEMPT)	D	9	0	9
AGGRAVATED BURGLARY (CONSPIRACY)	E	2	0	2
AGGRAVATED ESCAPE FROM CUSTODY	E	5	0	5
AGGRAVATED KIDNAPPING	A	3	0	3
AGGRAVATED ROBBERY	B	170	0	170
AGGRAVATED ROBBERY (ATTEMPT)	C	11	0	11
AGGRAVATED ROBBERY (CONSPIRACY)	E	1	0	1
FURNISH ALCOHOLIC BEV TO MINOR	E	1	0	1
INVOLUNTARY MANSLAUGHTER	D	8	0	8
INVOLUNTARY MANSLAUGHTER	E	1	0	1
KIDNAPPING	B	16	0	16
KIDNAPPING (ATTEMPT)	C	2	0	2
MURDER 1ST	A	2	0	2
MURDER 1ST (ATTEMPT)	B	1	0	1
MURDER 1ST (CONSPIRACY)	C	1	0	1
MURDER 1ST (SOLICITATION)	D	1	0	1
MURDER 2ND	B	15	0	15
MURDER 2ND (ATTEMPT)	C	1	0	1
NONSUPPORT OF A CHILD	E	7	0	7
ROBBERY	C	116	0	116
ROBBERY (ATTEMPT)	D	23	0	23
ROBBERY (CONSPIRACY)	E	3	0	3
TERRORISTIC THREAT	E	14	0	14
VOLUNTARY MANSLAUGHTER	C	19	0	19
VOLUNTARY MANSLAUGHTER (ATTEMPT)	D	1	0	1
SUB-TOTAL		651	0	651
SEX CRIMES				
AGGRAVATED INCEST	D	5	0	5
AGGRAVATED INCEST (ATTEMPT)	E	2	0	2
AGGRAVATED SEXUAL BATTERY	D	22	0	22
AGGRAVATED SEXUAL BATTERY (ATTEMPT)	E	3	0	3
AGGRAVATED SODOMY	B	11	0	11

01/18/94

KANSAS DEPARTMENT OF CORRECTIONS

PGM-PARTB4

PAGE 2

3-13

OFFENDERS RELEASED ON PAROLE OR POST-RELEASE SUPERVISION FROM 07 01 1991 THRU 06 30 1992

MOST SERIOUS OFFENSE		FEL CLS	TOTAL	POST- RELEASE	PAROLE
AGGRAVATED SODOMY	(ATTEMPT)	C	1	0	1
ENTICEMENT OF A CHILD		D	4	0	4
INDECENT LIB WITH A CHILD		C	47	0	47
INDECENT LIB WITH A CHILD	(ATTEMPT)	D	6	0	6
RAPE		B	21	0	21
RAPE		C	1	0	1
RAPE	(ATTEMPT)	C	8	0	8
SUB-TOTAL			131	0	131
DRUG CRIMES					
MF/POS/DI OP,OP O NAR DR (2ND)		B	6	0	6
MF,POS,DST OPI,OPI,OR NAR DR		C	143	0	143
MF,POS,DST OPI,OPI,OR NAR DR	(ATTEMPT)	D	43	0	43
MF,POS,DST OPI,OPI,OR NAR DR	(CONSPIRACY)	E	21	0	21
MF,PS,AD,DB,SA DE,ST,HA O STRD		C	103	0	103
MF,PS,AD,DB,SA DE,ST,HA O STRD	(ATTEMPT)	D	10	0	10
MF,PS,AD,DB,SA DE,ST,HA O STRD	(CONSPIRACY)	E	8	0	8
MF,PS,AD,DB,SA DE,ST,HA O STRD	(SOLICITATION)	E	1	0	1
PO DE,ST,HA O STRD		D	27	0	27
PO DE,ST,HA O STRD	(ATTEMPT)	E	1	0	1
PO DE,ST,HA O STRD	(CONSPIRACY)	E	2	0	2
SUB-TOTAL			365	0	365
PROPERTY CRIMES					
ARSON		C	22	0	22
ARSON	(ATTEMPT)	D	6	0	6
ARSON	(CONSPIRACY)	E	2	0	2
BURGLARY		D	423	0	423
BURGLARY		E	23	0	23
BURGLARY	(ATTEMPT)	E	55	0	55
BURGLARY	(CONSPIRACY)	E	2	0	2
CRI DAM TO PROP (\$100 OR MORE)		E	2	0	2
CRI DAM TO PROP (\$150 OR MORE)		E	21	0	21
DESTROY A WRITTEN INSTRUMENT		E	1	0	1
FORGERY		D	20	0	20
FORGERY		E	92	0	92
FRAUD/CHTNG OBTAINING ACCOMM		E	1	0	1
G A WORTH CHECK (\$150 OR MORE)		E	8	0	8
G A WORTH CHECK (\$50 OR MORE)		E	3	0	3
HAB G A WRTHLS CK (\$150 & +)		E	3	0	3
HAB G A WRTHLS CK (\$500 & +)		E	4	0	4
HAB GIVING WORTHLESS CHECKS		D	2	0	2
IMPAIR A SEC INT (\$150 OR +)		E	1	0	1
MAKING A FALSE WRITING		D	8	0	8
MAKING A FALSE WRITING	(ATTEMPT)	E	2	0	2
POSSESSION OF BURGLARY TOOLS		E	4	0	4
THEFT (\$100 OR MORE)		D	60	0	60
THEFT (\$100 OR MORE)	(ATTEMPT)	E	2	0	2
THEFT (\$150 OR MORE)		E	84	0	84
THEFT (\$150 OR MORE)	(ATTEMPT)	E	3	0	3

01/18/94

KANSAS DEPARTMENT OF CORRECTIONS

PGM-PARTB4

PAGE

3

B-14

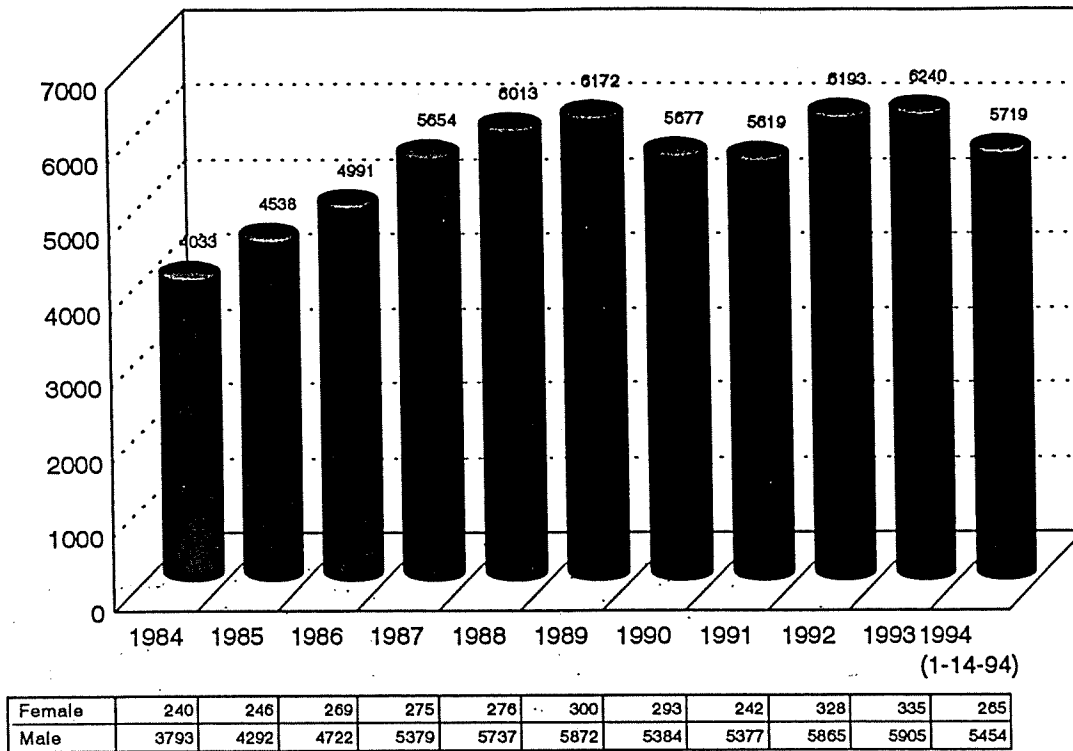
OFFENDERS RELEASED ON PAROLE OR POST-RELEASE SUPERVISION FROM 07 01 1991 THRU 06 30 1992

MOST SERIOUS OFFENSE	FEL CLS	TOTAL	POST- RELEASE	PAROLE
THEFT OF SER (\$150 OR MORE) (ATTEMPT)	E	1	0	1
TRAF IN CONTRA IN A PENAL INST	E	2	0	2
UNLAW USE FINAN CDS (\$150 & +)	E	5	0	5
SUB-TOTAL		862	0	862
OTHER CRIMES				
AGG JUVENILE DELINQUENCY	E	1	0	1
AGGRAVATED FAILURE TO APPEAR	E	5	0	5
AGGRAVATED FALSE IMPERSONATION	E	1	0	1
AID A FEL OR PER CHAR AS A FEL	E	3	0	3
DRV W LIC CAN'D, SUSP'D, REV'D	E	16	0	16
FRAUDULENT LOTTERY TICKET	D	1	0	1
HAB VIO; UNL OPE OF VE W PROH	E	15	0	15
OB LEG PRO OR OF DU (FEL CASE)	E	3	0	3
PERJURY (MADE IN A FEL TRIAL)	D	1	0	1
SE/MA/PU/POS/CAR UNLAW FIREARM	E	2	0	2
TAXATION MARI/CONT SUB PENALTY	U	3	0	3
UNLAW POSSESSION OF FIREARMS	D	13	0	13
UNLAW POSSESSION OF FIREARMS (ATTEMPT)	E	1	0	1
VEHICLE ID NUMBER OFFENSE	E	1	0	1
VIOL OF KANSAS SECURITIES ACT	U	1	0	1
SUB-TOTAL		67	0	67
TOTAL		2076	0	2076

Kansas Department of Corrections
Sentencing Guidelines Admissions Through January 14, 1994
By Type of Admission and Severity Level

<u>Severity Level</u>	<u>New Court Commit.</u>	<u>Violators-New Sentences</u>	<u>Total</u>
Non-Drug			
1	0	0	0
2	1	0	1
3	7	4	11
4	0	1	1
5	6	2	8
6	1	1	2
7	3	3	6
8	5	5	10
9	9	5	14
10	2	0	2
Subtotal Non-Drug	<u>34</u>	<u>21</u>	<u>55</u>
Drug			
1	0	0	0
2	1	1	2
3	2	2	4
4	1	3	4
Subtotal Drug	<u>4</u>	<u>6</u>	<u>10</u>
Off-Grid	<u>1</u>	<u>0</u>	<u>1</u>
TOTAL	39	27	66

Total Inmate Population: FY 1984 - 1993 and FY 1994 To-date

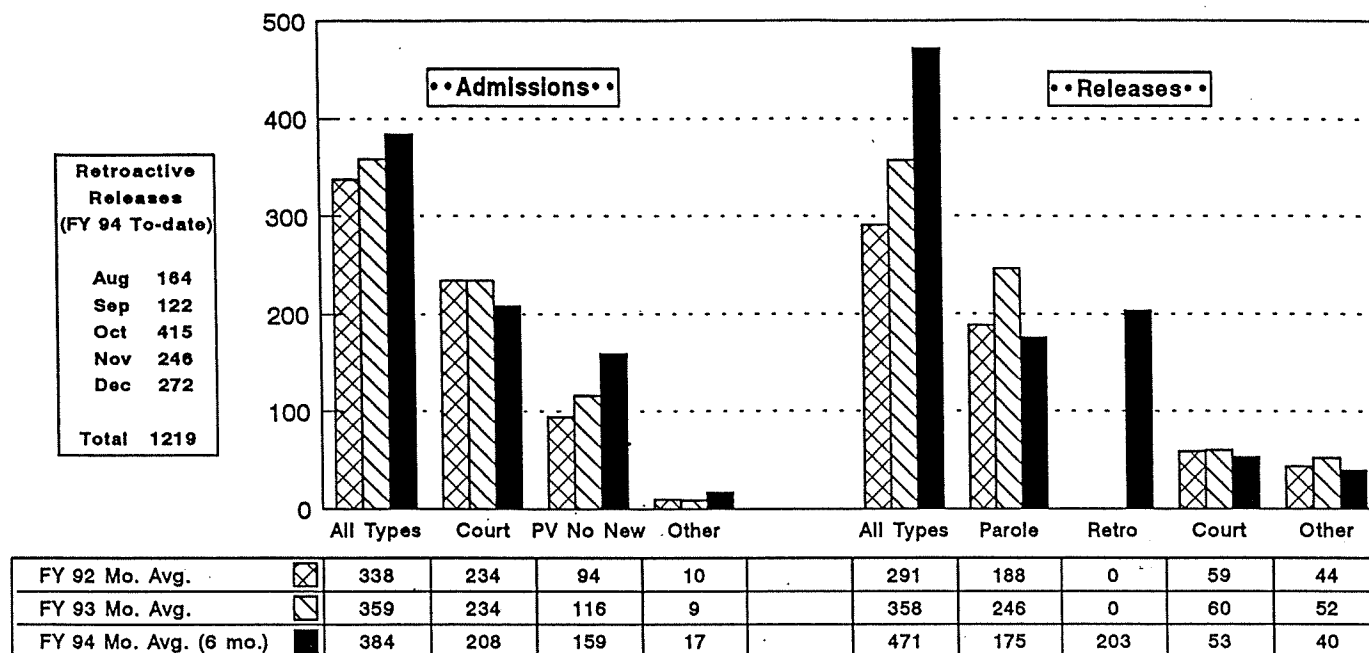


As of June 30 each year except 1994, which is as of January 14, 1994

- The inmate population grew steadily from FY 1984 to FY 1989, but dropped in FY 1990 and FY 1991. In FY 1992 the population grew again by 574 or 10% higher than at the end of FY 1991. There was little change from FY 1992 to FY 1993 (+1%), but a large decrease (8%) during the first six months of FY 1994 (through December, 1993).
- The decrease in the inmate population from FY 1989 to FY 1990 was related to the passage of Senate Bill 49, which enhanced good time provisions and resulted in "early" releases for a number of inmates.
- The decrease in inmate population during the first half of FY 1994 resulted primarily from a large number of offenders (1,219 through December, 1993) being released under the retroactive provisions of the Kansas Sentencing Guidelines Act, which took effect July 1, 1993.

Kansas Department of Corrections
January 18, 1994

Average Number of Admissions and Releases Per Month by Major Category: Comparison of FY 1992, FY 1993 and FY 1994 To-date (July-December, 1993)



*Figures reflect the monthly averages for the year for FY 92 and FY 93, but only the first six months for FY 94. The release category "Retro" consists of the releases stemming from the application of the retroactive provisions of the Kansas Sentencing Guidelines Act.

•• Admissions ••

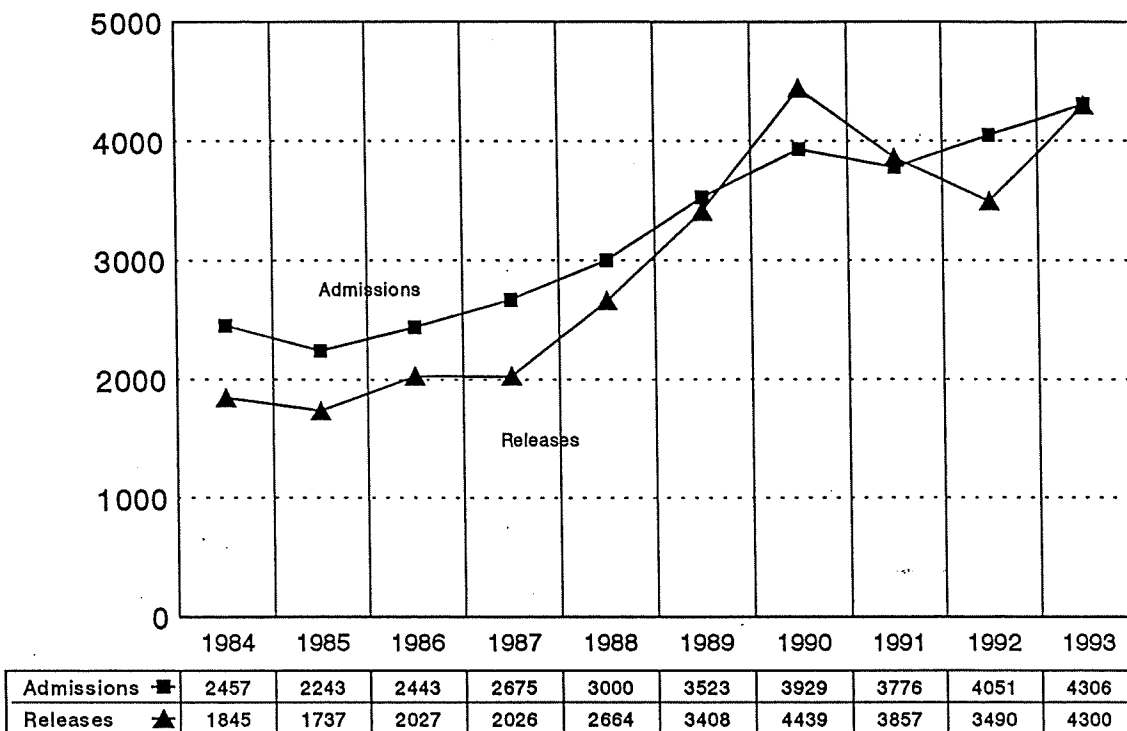
- All Types of Admissions - FY 94 to-date monthly average represents a moderate increase from FY 93 (7%) and from FY 92 (14%).
- Court Admissions - 11% lower in FY 94 to-date than in FY 93 or FY 92.
- Parole and Conditional Release Violators with No New sentence - dramatically higher in FY 94 to-date--37% higher than in FY 93 and 69% higher than in FY 92.

•• Releases ••

- All Types of Release - FY 94 to-date monthly average represents a large increase from FY 93 (32%) and from FY 92 (62%).
- Most of the increase in releases in FY 94 to-date was due to the 1,219 releases that resulted from the application of the retroactive provisions of the Kansas Sentencing Guidelines Act.

Kansas Department of Corrections
January 18, 1994

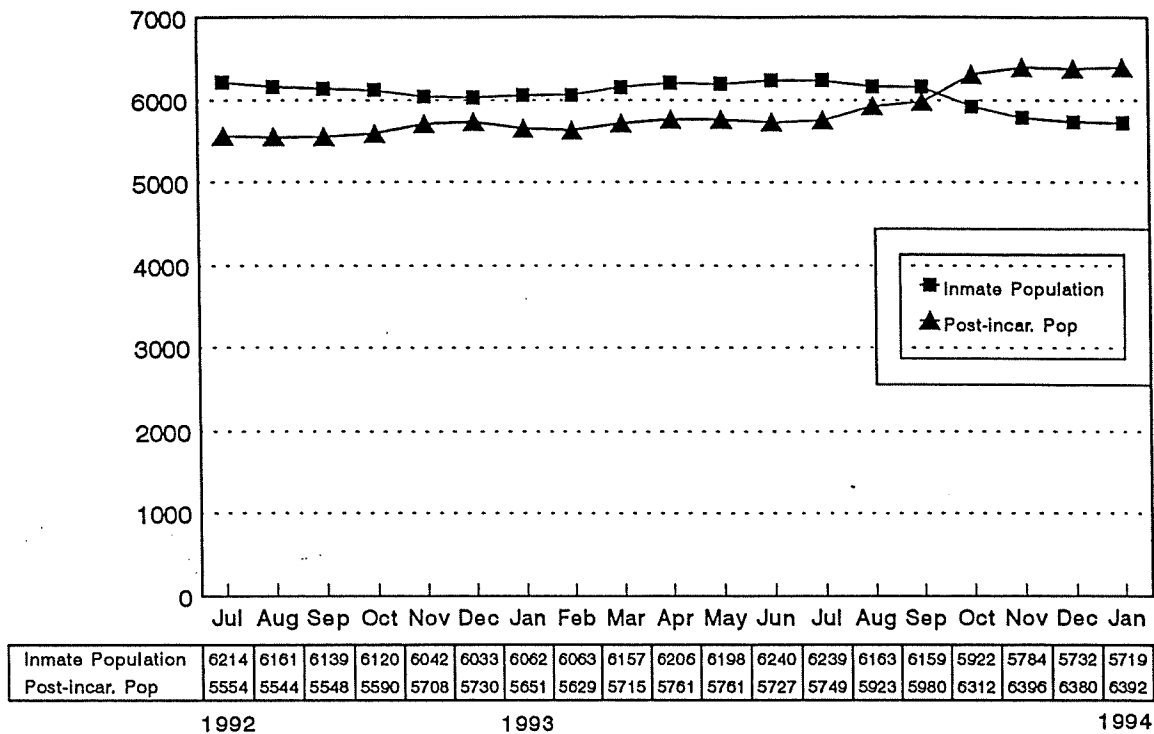
Yearly Admissions and Releases: Fiscal Years 1984 - 1993



- Admissions have outnumbered releases in eight of the ten years plotted on the graph; hence, the growth in the inmate population during the period.
- Admissions in FY 93 numbered 4,306 -- the highest yearly total on record. Primarily as a result of enhanced good time provisions of Senate Bill 49 (effective August 1, 1989), releases peaked in FY 90 at 4,439.

Kansas Department of Corrections
January 18, 1994

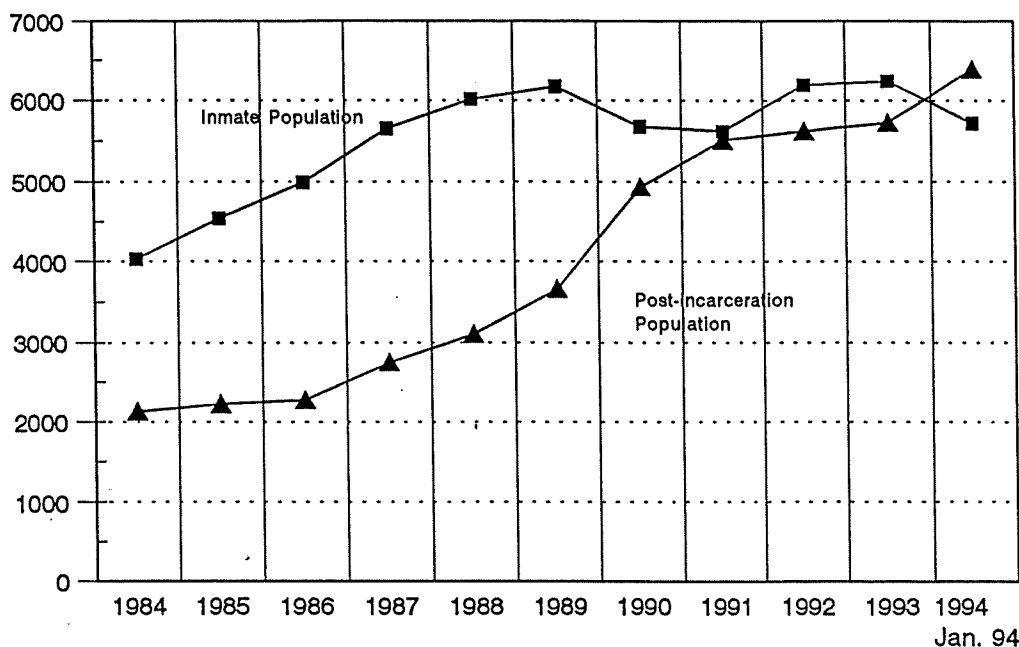
Month-end In-state Population and Post-incarceration Population
Under In-state Supervision: FY 1993 and FY 1994 (Through January 14, 1994)



*Figures reflect end-of-month population. June 30, 1992 figures were 6,193 (inmate) and 5621 (post-incarceration population under in-state supervision).

- During FY 1993, the inmate population increased by 47 (an average monthly increase of about 4) and the post-incarceration population under supervision in Kansas increased by 106 (an average monthly increase of 9).
- During the first six months of FY 1994, the inmate population decreased by 508 (an average decrease of 85 per month), while the post-incarceration population under in-state supervision grew by 653 (an average increase of 109 per month). The changes observed in FY 1994 coincide with the application of the retroactive provisions of the Kansas Sentencing Guidelines Act.

Year-end Inmate Population and Post-incarceration Population Under In-state Supervision: Fiscal Years 1984 - 1994 To-date*



*As of the end of the fiscal year (June 30), except 1994 which is as of January 14, 1994.

- As shown on the graph, from FY 1984 through FY 1993 the year-end inmate population was larger than the in-state post-incarceration supervision population. However, primarily as a function of the recent release of offenders under the retroactive provisions of the Kansas Sentencing Guidelines Act, the post-incarceration supervision population overtook the inmate population in size during the first six months of FY 1994, and as of December 31, 1993 outnumbered it by 648.
- Note that the term "post-incarceration supervision" is used to encompass the traditional "parole population," as well as offenders released under the retroactive provisions of the Kansas Sentencing Guidelines Act who are serving a designated period of supervised release.

Kansas Department of Corrections
January 18, 1994

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Donna L. Whiteman, Secretary

Senate Judiciary Committee
Testimony on Senate Bill 465

January 18, 1994

SRS Mission Statement

"The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities and benefits of full citizenship by creating conditions and opportunities for change, by advocating for human dignity and worth, and by providing care, safety and support in collaboration with others."

Mr. Chairman and members of the committee, thank you for this opportunity to address you on Senate Bill 465. The Department of Social and Rehabilitation Services requested this bill to amend K.S.A. 59-1507b by adding a new section authorizing the transfer of personal property in small estates of less than \$10,000 when a claim for medical assistance and a prescribed affidavit is presented by the Secretary of SRS or designee to the holder of the personal property. We support this bill.

Under current provisions of K.S.A. 39-709(g)(2), a claim for medical assistance can be established against the estate of a deceased recipient. This estate recovery program became effective on July 1, 1992. It presently affects persons who are 55 years of age or older or were institutionalized while on medical assistance. The program is based on federal law and regulations. With the passage of the Omnibus Budget Reconciliation Act of 1993 (OBRA 93), estate recovery is mandated for all states. In its first year of implementation, the Department successfully recovered almost \$200,000. The recoveries for the current fiscal year will be more than double the first year's amounts.

The estate recovery program provides a fair and equitable means by which the Department can partially or totally recover the amount of medical expenditures incurred while an individual was on assistance from the assets of the estate. It does not impact the person's current eligibility or coverage for services in any way. No claims or liens are filed prior to the recipient's death. Further, if there are surviving children who are disabled or under the age of 21, the Department will not proceed with a claim. If there is a surviving spouse, the recovery will occur only after the death of that spouse.

Under present procedure, SRS, as a creditor of an estate, can recoup monies through three main means: 1.) SRS can assert a claim in a probate case started by the family; 2.) SRS can initiate the probate process; and 3.) SRS can reach an agreement with the family on payment of the claim. The first two are predicated on sufficient assets to fund a probate action. If there are limited personal assets, it may not be cost-effective to take action since the administrative and legal costs of probate may exceed the value of the assets. In those small estates, there is usually no action taken and no monies recovered. If there are sufficient assets to cover the costs, action is taken but the amount of monies recovered would be reduced by those costs.

K.S.A. 59-1507b allows a spouse or heir to receive personal property in small estates (less than \$10,000) upon the presentation of a statutorily mandated affidavit of transfer. The affidavit requires an averment that all of the debts of the decedent have been or will be paid. The transfer is considered to be the equivalent of a transfer of property to an executor or administrator of an estate. This procedure is not available to creditors.

Senate Judiciary
1/19/94
attachment 4

The benefit of this proposal is two-fold. First, SRS would be allowed to recover from a broader range of estates. SRS must be cost-effective in our recoveries. If we can not recover more than the costs of recovery, we do not proceed. While this amount varies from case to case, the current "break-even" amount is approximately \$500. We could effectively recover from many smaller estates with this proposal and our recovery amounts would increase. Second, SRS can increase the amounts recovered by eliminating the costs of probate in certain cases. As noted above, starting probate involves certain costs. At present, those costs include publication costs, travel expenses, filing fees, staff time, etc. By allowing the Department to recover personal assets from estates via an affidavit, administrative costs would not be deducted for the recovery and the amounts recovered would increase.

This proposal is not an unfettered one. It is limited to estates of \$10,000 or less in total value. Recoveries by affidavit are limited to personal property. Further, under present policy, any monies recovered are used to satisfy any higher level creditor who has an outstanding debt with the deceased.

SRS believes this proposal will effectively allow the agency to enhance our recoveries and further assist the agency's estate recovery program.

DONNA L. WHITEMAN
SECRETARY
JANUARY 18, 1994

Department of Social and Rehabilitation Services
Donna L. Whiteman, Secretary

Before the Senate Judiciary Committee
January 19, 1994

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The SRS Mission Statement

The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities, and benefits of full citizenship by creating conditions and opportunities for change; by advocating for human dignity and worth; and by providing care, safety, and support in collaboration with others.

=====

Mr. Chairman and Members of the Committee, thank you for this opportunity to testify in support of Senate Bill 464, a bill relating to the Child Support Enforcement Program (CSE). SRS requested this measure amending the income withholding and interstate income withholding acts to insure compliance with state plan requirements under Title IV-D.

Background

The detailed income withholding requirements of federal law are aimed at assuring regular child support payments through payroll deductions. Although the Kansas income withholding laws meet nearly all federal requirements, there are some changes needed to insure we are in compliance. The needed changes are:

1. **Limit "good cause" grounds for denying an immediate income withholding order in a IV-D case.** The language added on page 4 (line 3) is taken from the federal regulation (45 CFR 303.100(b)(2)).
2. **Limit termination of income withholding before the support obligation ends.** The language added on page 5 (line 34) is taken from the federal regulation, 45 CFR 303.100(a)(7)(ii). It allows the court to terminate income withholding if it is the first termination and a written agreement for an alternative arrangement has been made.

Kansas law presently requires all past due support to be paid in full before the court may allow termination of a withholding order. Also, the withholding order must have been in place at least 12 months, regardless of the circumstances of the case. We believe the proposed change offers greater equity and flexibility, particularly in non IV-D cases, while insuring compliance with federal requirements.

3. **Delegate administrative activities in non IV-D cases (cases not administered by CSE).** Federal regulators have recently clarified the administrative requirements for non IV-D income withholding cases (45 CFR 303.100(g)). States may either delegate the administrative duties in non IV-D cases to an appropriate entity or, if the IV-D agency administers all withholding, allocate costs between IV-D and non IV-D cases.

In Kansas virtually all withholding payments in non IV-D cases are sent to a clerk of court or court trustee, credited to the account, and disbursed.

Senate Judiciary
1/19/94
attachment 5

Senate Judiciary Committee
SRS - Child Support Enforcement
January 19, 1994

The current structure meets federal standards for non IV-D cases, and the amendment on page 6 (line 26) states that this is the option Kansas has chosen. No new duties for the clerks of court or the district court trustees are contemplated. Unless a court trustee assumed the burden, the parties themselves or their attorneys would monitor payments and initiate legal actions.

4. **Make interstate income withholding available in non IV-D cases (cases not administered by CSE).** The federal requirement is found at 45 CFR 303.100(h). During the 1980's, states were permitted to limit interstate income withholding to IV-D cases. Although our interstate withholding act does not directly prohibit its use in non IV-D cases, it would be difficult to apply in a private case because of the current wording.

In the proposed amendments, the obligee (custodial parent) is generally designated as the person to take actions in non IV-D cases. The key changes are on page 7 (line 3), page 8 (line 17), page 9 (line 6), and page 10 (line 10).

The Office of Judicial Administration has suggested clarification of the language on page 8 (line 21), requiring documents to be filed by an attorney licensed to practice law in Kansas, to insure that individuals may file documents without an attorney. The attached balloon would make this change.

The bill also adds language clarifying that the interstate income withholding act creates no attorney-client relationship between a IV-D attorney and an individual party to the case (Page 7, line 24). This parallels 1993's changes to URESA (Uniform Reciprocal Enforcement of Support Act), and is meant to prevent attorney disqualifications due to conflicts.

Fiscal Impact

This measure is not expected to affect the revenues or operating costs of the Child Support Enforcement Program, the district court trustees or court clerks.

As noted earlier, the bill is intended to insure compliance with federal requirements. For reference, federal sanctions for failure to meet IV-D program requirements range from \$600,000 per year (1% of AFDC funding) to \$18,000,000 (all Title IV-D funding plus 5% of AFDC funding), with an ultimate penalty of \$85 million per year (all Title IV-D funding and all AFDC federal funding).

Thank you for this opportunity to testify in support of Senate Bill 464.

Donna L. Whiteman
296-3271

1 (B) the name and address of the obligor's employer or of any
 2 other source of income of the obligor derived in this state against
 3 which income withholding is sought; and

4 (C) the name and address of the agency or person to whom
 5 support payments collected by income withholding shall be trans-
 6 mitted.

7 (c) If the documentation received under subsection (a) does not
 8 conform to the requirements of subsection (b), the agency shall
 9 remedy any defect which it can without the assistance of the re-
 10 questing agency. If the agency is unable to make such corrections,
 11 the requesting agency shall immediately be notified of the necessary
 12 additions or corrections. In neither case shall the documentation be
 13 returned. The agency and court shall accept the documentation re-
 14 quired by subsections (a) and (b) even if it is not in the usual form
 15 required by state or local rules, so long as the substantive require-
 16 ments of these subsections are met.

17 (d) *An obligee not receiving services from any agency operating*
 18 *pursuant to title IV, part D, of the federal social security act (42*
 19 *U.S.C. § 651 et seq.), as amended, may file the documents specified*
 20 *in subsection (b) with the clerk of the court in which withholding*
 21 *is being sought. ~~The documents shall be filed by an attorney licensed~~*
 22 *to practice law in the state of Kansas.*

If the documents are filed by an attorney, they

or authorized in accordance with Supreme Court Rule 116.

23 ~~(d)~~ (e) A support order entered under subsection (a) or (d) shall
 24 be enforceable by income withholding against income derived in this
 25 state in the manner and with the effect as set forth in K.S.A. 1985
 26 Supp. 23-4,105 through 23-4,118 and 23-4,130 through 23-4,137 and
 27 amendments thereto. Entry of the order shall not confer jurisdiction
 28 on the courts of this state for any purpose other than income with-
 29 holding.

30 Sec. 6. K.S.A. 1993 Supp. 23-4,130 is hereby amended to read
 31 as follows: 23-4,130. (a) Except as provided in subsection (b), no
 32 later than 10 days after the date a support order is entered pursuant
 33 to K.S.A. 23-4,129 and amendments thereto, the agency or obligee
 34 shall serve upon the obligor a notice as provided for in subsection
 35 (h) of K.S.A. 23-4,107 and amendments thereto. The notice shall
 36 also advise the obligor that income withholding was requested on
 37 the basis of a support order of another jurisdiction. ~~As~~ When ap-
 38 propriate, the agency ~~shall then~~ or obligee shall file the affidavit
 39 provided for in subsection (d) of K.S.A. 23-4,107 and amendments
 40 thereto. If, in accordance with K.S.A. 23-4,110 and amendments
 41 thereto, the obligor contests the issuance of an income withholding
 42 order, the court must hold a hearing and render a decision within
 43 45 days of the date of service of the notice on the obligor.

5-3

TESTIMONY
of

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913-233-0212

January 19, 1994

Kansas Senate Judiciary Committee, Opponent of SB 464

Money, money, money! That is all that seems to matter to anyone. Over 80% of the nations prison inmates come from homes where they lacked the guidance and discipline of their natural father. Study after study has shown that a boy of any race or social status, who is lacking the love and nurturing of the natural father, is far more apt to get into trouble with the authorities, but all that the State and Federal government seems to consider is collecting child support anyway that they can.

For many men, including myself, withholding child support payment was the only lever that I had to enforce my visitation rights. Many drug and alcohol abusing dysfunctional women deny the fathers their "unalienable right" to see and nurture their children, AND the antiquated Court system still clings onto the "tender years doctrine" even though many women have been "liberated" from being tender, and men have become more sensitive. Kansas Courts would not think of putting a mother in jail for interfering with a court ordered visitation under the pretense that they don't want to take them away from their children, but they will put that same woman in jail for DWI, and that also takes her away from her children. THE FACT IS: FATHERS HAVE NO RIGHTS!

I am an opponent of Senate Bill 464 because it eliminates the only "tool" that many men have to get to see their children!

Undoubtedly, SB 464 will be passed, and rightly so, but would you also consider passing a bill to put some teeth in the law when it comes to ENFORCING VISITATION RIGHTS? MISSOURI HAS. Depriving visitation in Missouri can get you convicted of a class D felony, RSM 565.156 paragraph 5.

Senate Judiciary
1/19/94
attachment 6