

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman John Vratil at 9:34 a.m. on February 12, 2003, in Room 123-S of the Capitol.

All members were present.

Committee staff present: Mike Heim, Kansas Legislative Research Department  
Lisa Montgomery, Office of the Revisor of Statutes  
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Judge Ernest Johnson, Chairperson Kansas Sentencing Commission and  
29<sup>th</sup> Judicial District, Wyandotte County  
Barb Tombs, Executive Director, Kansas Sentencing Commission  
Paul Morrison, District Attorney, Johnson County and Vice Chairman of the  
Kansas Sentencing Commission  
Dan Hermes, Kansas Alcohol and Drug Service Providers Association  
Sonny Scroggins, National Action Network  
Stuart Little, Kansas Community Corrections Association (written only)  
Roger Werholtz, Secretary of Corrections  
Diana Collins, President, Kansas Association of Court Services Officers  
Capt. Bob Hinshaw, Sedgwick County Sheriff's Department  
Tom Drees, Ellis County Attorney  
Brenda Jordan, Assistant Riley County Attorney  
Kyle Smith, Kansas Bureau of Investigation  
Doug Murphy, Quad County Drug Task Force (written only)

Others attending: see attached list

Chairman Vratil announced that the hearing on **SB 111** would be postponed until next February 18.

**SB 123 - Drug convictions; possession is a level D4 classification; mandatory drug treatment; border boxes on D4 replaced with probation boxes**

The Chair opened the hearing on **SB 123**. Judge Johnson, Chairman of the Kansas Sentencing Commission (KSC), testified in support of **SB 123**. He summarized the bill saying the legislature could free up prison beds by requiring drug treatment for the drug possession offender rather than incarceration. He stated that the treatment component was the linchpin of the proposal, and KSC members were unanimous that they could not support any modification to the bill that compromises the treatment requirement. (Attachment 1)

Conferee Tombs testified in support of **SB 123**, and explained the prison population projections, and what this bill would do to better utilize the state's correctional facilities for the serious and violent offenders who pose a significant threat to public safety. Ms. Tombs briefly touched on the cost benefit to the state with the enactment of this proposed legislation. Her written testimony detailed the costs and benefits.

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(Attachment 2)

Conferee Morrison testified in support of **SB 123**, and talked about our prison system that housed primarily property offenders to a system that houses primarily violent offenders. He said that the percentage of the inmate population who are drug offenders has increased from 15% in 1993 to 22% today. He added that many of these offenders are in prison strictly for drug usage and have no history of any other type of criminal offense. He stated that **SB 123** would effect this narrow class of drug offenders, and they will be required to go through drug treatment, supervision by probation or community corrections as well as the use of intermediate sanctions to encourage compliance with the rules that we all have to live by. (Attachment 3)

Conferee Hermes spoke in favor of **SB 123**, and supported the recommended Alternative Sentencing Policy for drug offenders. (Attachment 4)

Conferee Scroggins testified in support of **SB 123**, and stated that the National Action Network endorses the Kansas Sentencing Commissions recommendations for treating rather than incarcerating drug offenders. (Attachment 5)

Stuart Little, Kansas Community Corrections Association (KCCA), submitted written testimony in favor of **SB 123**. He said that KCCA supports enhanced drug treatment for substance abusing offenders as defined within this proposed legislation. (Attachment 6)

The Chair called upon the neutral conferee, Roger Werholtz. He spoke on several areas of major impact on the Department of Corrections including admissions to prison and the size of the inmate population, implementation of the provider certification program, implementation of sentence modifications for eligible offenders in the existing inmate population, and grants to community corrections. He stated that implementation of the added responsibilities will require additional resources for the department, estimated at three FTE's. Mr. Werholz explained in his detailed written testimony the service requirements to be provided to the target population by drug abuse treatment programs which this bill places the responsibility on the Department of Corrections. He also shared two other options of adding additional beds, which were not in his written testimony, at Winfield and Norton. He expressed a concern with the implementation date which is upon publication in the Kansas Register, and would be impossible to meet. He also offered several possible amendments (Attachment 7), and called attention to the fiscal note on this proposed bill. (Attachment 8)

The Chairman called upon the first opponent, Diana Collins. She expressed her concerns regarding the proposed bill which included the increased number of offenders put under the supervision by not only Court Services, but also Community Corrections. She said the bill did not include the funding for additional officers for either Court Services or Community Corrections. She added that Court Services Officers members were also concerned about funding of appropriate treatment programs and public safety. (Attachment 9)

Captain Robert Hinshaw, Sedgwick County Sheriff's Department, testified before the Committee in opposition of **SB 123**. He expressed concerns that may affect many counties which were inmate

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population and the cost of inmate housing. He said that the proposed non-prison sanction holds the promise of overwhelming a local jail's ability to house inmates in a safe and efficient manner. He talked about the current population numbers within the county jails, and that they are having to pay other counties to house the overflow of inmates. (Attachment 10)

Conferee Drees testified in opposition to **SB 123**, and encouraged the legislature to ensure that treatment facilities are available as well as funding before passing this proposed bill. He stated that the retroactive provisions would wreak havoc on the state-wide judicial system. He asked the Committee to eliminate the retroactive provision. Mr. Drees included with his written testimony an outline of concerns regarding the language in **SB 123**. (Attachment 11)

Brenda Jordan, Asst. Riley County Attorney, appeared before the Committee in opposition of **SB 123**. She said that passage of this bill would in effect eliminate the existence of consequences for continuing to use drugs, and eliminates the incentive for successful treatment. She explained that the people being sent to prison for convictions of 65-4160 and 65-4162 are those that have failed at treatment already, and that the retroactivity provision of the bill would be releasing those who have failed at the treatment that was ordered by the Court. She asked that the severity level be left alone. (Attachment 12)

Doug Murphy submitted written testimony in opposition to **SB 123** on behalf of the Kansas Peace Officers Association and the Quad County Drug Task Force. (Attachment 13)

Kyle Smith testified in opposition to **SB 123** on behalf of the Kansas Bureau of Investigation and the Kansas Peace Officer's Association. Mr. Smith's main point was lack of funding for this proposed legislation which would be dumping hundreds of drug abusers and traffickers out of the prisons and into the local communities while providing no additional community service workers, probation officers, community corrections officers, treatment professionals or law enforcement officers to deal with this criminal flood. He attached an outline of the proposed bill to his written testimony which details the concerns law enforcement has with this bill. (Attachment 14)

After Committee questions and discussion, the Chair closed the hearing on **SB 123**.

The meeting adjourned at 10:38 a.m. The next schedule meeting is February 13, 2003.