

REPORT ON KANSAS
LEGISLATIVE INTERIM STUDIES
to the
1978 LEGISLATURE

SPECIAL COMMITTEE ON CORRECTIONS

50067

With the Legislative Coordinating Council
February, 1978

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REPORT AND RECOMMENDATIONS
of the
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ACQUISITIONS

RE: PROPOSAL NO. 14 - CORRECTIONAL PROGRAMS
AND FACILITIES*

The Special Committee on Corrections was directed by the Legislative Coordinating Council to conduct a "study of the state's correctional programs and facilities, including the feasibility of starting community-based programs or developing new physical facilities, such as the proposed medium security prison."

Background

Past Legislative Studies

The issue of corrections and the Kansas penal system has been a topic for study by several legislative committees in past years. The major recent studies include the following:

1. Report and Recommendations of the Kansas Legislative Council: The Charitable, Benevolent, Penal, and Corrections Institutions of the State, 1962.

2. Report and Recommendations of the Kansas Legislative Council on the Kansas Penal System, December 21, 1966.

3. Report and Recommendations of the Kansas Legislative Council: A Final Report Relating to the Kansas Correctional-Vocational Training Center, the State Plan for Juveniles, and Institutional Building Programs, Proposal No. 57, December 10, 1970.

4. Report and Recommendations of the Special Committee on Penal Reform, December, 1972.

5. Report on Kansas Legislative Interim Studies to the 1974 Legislature: State Institutional Programs, Proposal No. 1, November, 1973.

* H.B. 3110, H.B. 3111, H.B. 3112, H.B. 3118, H.B. 3119, H.B. 3122, H.B. 3127, H.B. 3128, H.B. 3129, H.B. 3130, H.B. 3131, H.B. 3133, H.B. 3134, and H.C.R. 5061 accompany this report.

6. Report on Kansas Legislative Interim Studies to the 1977 Legislature: Institutions, Proposal No. 25, December, 1976.

While each of these studies made recommendations concerning various aspects of corrections and the Kansas penal system, the 1972 study by the Special Committee on Penal Reform is of major importance since it culminated in the enactment of 1973 S.B. 72, the so-called "Penal Reform Act," which effected a number of major policy changes relating to the state correctional system. This legislation is now found at K.S.A. 75-5201 et seq., and is summarized later in this report.

Recent Corrections Activity in Kansas

Eight-Year Master Plan. The 1975 Legislature allocated \$20,000 from the State General Fund, along with \$180,000 of federal (LEAA) funds, for a facility, management, and program study. The result of this appropriation was the Department of Corrections Eight-Year Master Plan (commonly known as the Touche Ross report). Among the various recommendations contained in the Eight-Year Master Plan were the following concerning the facilities of the Department of Corrections (DOC):

A) Kansas State Penitentiary (KSP)

1) Primary Plan

- a) Renovate cellhouses;
- b) construct 50-bed outside dormitory;
- c) construct new administration building;
- d) construct a new gymnasium;
- e) convert A and T unit to a chapel and infirmary;
- f) construct additional industries facilities;

- g) construct new power plant; and
- h) reduce population to 450.

2) Secondary Plans

- a) The principal difference is attributed to higher populations: 600 for Plan A and 700 for Plan B;
- b) both plans eliminate the gymnasium and administration building;
- c) plan B requires continued use of A and T Building;
- d) both plans call for less extensive cellhouse renovation; and
- e) both plans eliminate new power plant.

B) Kansas State Industrial Reformatory (KSIR)

1) Primary Plan

- a) Renovation of four cellhouses to accommodate 100 inmates each;
- b) provide new classroom and vocational space;
- c) construct a new outside industries building;
- d) renovate the health care facility;
- e) upgrade kitchen and dining facilities;
- f) construct gymnasium addition;
- g) convert old storehouse to a chapel; and

- h) reduce population to 450.
- 2) Secondary Plans
 - a) Plan A provides for 600 inmates and Plan B 700 inmates;
 - b) severely reduce cellhouse renovation; and
 - c) reduce or eliminate other renovations.
- C) Kansas Correctional Institution for Women (KCIW)
 - 1) Primary Plan
 - a) Upgrade existing inmate housing;
 - b) construct a new program-educational building;
 - c) upgrade administration building; and
 - d) maximum planned capacity of 100.
 - 2) Secondary Plans
 - a) reduce inmate housing improvements; and
 - b) reduce or eliminate other renovations.
- D) Kansas Reception and Diagnostic Center (KRDC)
 - 1) Primary Plan
 - a) Construct a new center housing 200 offenders of both sexes; and
 - b) construct a 50-bed mental health unit.

2) Secondary Plans

- a) Both Secondary Plans A and B are identical to the Primary Plan.

E) New Institution

- 1) Primary Plan - Construct a new facility for housing 400 inmates.
- 2) Secondary Plan calls for construction of support facilities to accommodate 400 inmates but limit Phase I to housing units for 200 inmates.

F) Honor Camps

1) Primary Plan

- a) Construct a new inmate housing unit at the Toronto Honor Camp; and
- b) develop a new camp in Western Kansas to accommodate 50 inmates.

- 2) Both secondary plans are identical to the primary plan.

Cost estimates contained in the Master Plan indicated total facilities' costs of \$81.6 million for the primary plan; \$48.5 million for secondary plan A; and \$25.6 million for secondary plan B.

Project Development Plan - 77. In his message to the Legislature on March 16, 1976, Governor Bennett requested the sum of \$92,000 to develop a plan for a long-range building program for the Department of Corrections. The result of this appropriation was the Project Development Plan - 77 (commonly known as the Schaefer report). The Development Plan

recommended six construction projects and also mentioned a modified plan. These recommendations are summarized below:

A) Individual Projects

1) New 400-Man Medium Security Facility

- a) To house a portion of the population presently at KSP and KSIR as well as new medium custody offenders
- b) Initial construction would house 200 offenders
- c) Phase I cost: \$13.6 million
Phase II cost: 2.6 million
Total cost: 16.2 million

2) 100-Man Minimum Security Facility at KSIR

- a) To alleviate overcrowding and provide adequate housing for minimum security offenders at KSIR
- b) Total Cost: \$2.5 million

3) 100-Man Minimum Security Facility at KSP

- a) To expand the minimum security space available at KSP
- b) Total cost: \$2.5 million

4) 128-Man Maximum Security Facility at KRDC

- a) To provide additional space in order to reduce the existing backlog at KRDC
- b) Total cost: \$6.3 million

5) New Administration Building at KSP

- a) To provide ample visiting space for offenders and to replace a decrepit and potentially dangerous building
- b) Total cost: \$2.1 million

6) Cellhouse Renovation at KSP and KSIR

- a) Alteration and renovation to meet both environmental and program standards of contemporary corrections philosophy

b) Costs at KSP

1) Cellhouse A - Maximum custody	\$1.5 million
2) Cellhouse B - Medium custody	1.2 million
3) Cellhouse C - Medium custody	1.2 million
4) Cellhouse D - Maximum custody	1.4 million
5) Total	5.3 million

a) Costs at KSIR

1) Cellhouse A - Medium custody	\$ 891,000
2) Cellhouse B - Medium custody	925,000
3) Cellhouse C - Medium custody	902,500
4) Cellhouse D - Maximum custody	2,085,000
5) Total	4.8 million

B) Conclusion

1) Project Development Plan embodies six major projects at a total cost of \$39.91 million to be expended over a six-year period

a) The plan would provide new housing for 728 inmates and renovated housing for 1,043 inmates

b) Results in a net gain in system capacity of 43 beds

2) Modified Plan

a) Construct an additional 400-bed facility, for a total of two new 400-bed facilities

b) Phase out KSP

c) Renovate KSIR

d) New facility at KRDC

e) Results in a net gain in system capacity of 80 beds

3) Total costs

a) Project Development Plan: \$39.91 million

b) Modified Plan: 46.00 million

1977 Session. During the 1977 Session, the Governor recommended: a) \$520,000 for preliminary and final planning for a new 400-bed medium security institution to be constructed on state-owned land adjacent to the Osawatomie State Hospital; and b) \$133,000 for preliminary and final planning for a new 100-bed minimum security facility at

Kansas State Industrial Reformatory. The 1977 Legislature chose not to fund these two recommendations.

1977 Special Committee. Against this background of consultants' studies, appropriations, and budget requests, the Legislative Coordinating Council appointed a Special Committee to conduct a legislative study of Kansas correctional programs and facilities in order to determine the existing needs and future direction of corrections in Kansas. The 1977 Special Committee on Corrections was composed of seven legislative members and a seven-member lay advisory committee. Members of the lay advisory committee included a sociology professor from Kansas University, a district court judge, a representative of Catholic Social Services, a former warden with the U.S. Bureau of Prisons, a probation officer who is also an ex-convict, an insurance broker, and an attorney. The Committee met frequently during the period of May to December, 1977, and submits the following report and recommendations for consideration by the 1978 Kansas Legislature.

The Kansas Correctional System

Reorganization of the Kansas Penal System

The "Penal Reform Act" (S.B. 72) effected a number of major policy changes with regard to the corrections system in Kansas. The Act abolished the Office of Director of Penal Institutions and created a Department of Corrections (DOC) under a Secretary of Corrections, appointed by the Governor with the advice and consent of the Senate.

Major policy decisions reflected in S.B. 72 included clarification of the authority of the Secretary of Corrections and the Kansas Adult Authority (KAA). The Secretary was given sole responsibility for an inmate sentenced to his custody during the time the inmate is within the correctional system. The Secretary is also responsible for the supervision of persons on probation or parole. Probation and parole officers were

transferred from the employ of the Board of Probation and Parole to the Secretary. The KAA, which was successor to the State Board of Probation and Parole, is assigned responsibility for granting and revoking paroles and for final release from parole.

An important provision of S.B. 72 is recognition of a system of security status and the privilege of an inmate to be transferred progressively from one security status to a lesser security status, depending on his degree of rehabilitation. The Secretary is required to establish rules and regulations governing progress from one level of status to another.

The intent of this legislation, as stated in K.S.A. 75-5201, is to establish a:

policy of treatment of persons convicted of felonies in this state by placing maximum emphasis on rehabilitation of each such person while in the custody of the state or under the jurisdiction of the courts of the state, consistent with the interests and safety of the public, so that a maximum of persons so convicted may be returned to private life in the communities of the state with improved work habits, education, mental and physical health and attitudes necessary to become and remain useful and self-reliant citizens.

The legislation also created a 15-member Citizens' Advisory Board to the Secretary of Corrections to make recommendations to the Secretary concerning the planning, operation, and facilities of the correctional system. The Citizens' Advisory Board (CAB) also appoints an Ombudsman for Corrections who is statutorily authorized to investigate any misfeasance or discrepancy in administration or any unreasonable treatment of any inmates and to direct complaints and grievances to the Secretary of Corrections for his consideration.

The Penal Reform Act became effective on July 1, 1974.

DOC Institutions

Existing institutions under the jurisdiction of the Department of Corrections include the following facilities:

1. Kansas State Penitentiary (KSP). This institution, constructed in 1864, is designated as a maximum security facility: data indicated that the current inmate population is 45 percent maximum security status, 40 percent medium security status, and 15 percent minimum security status. The capacity of KSP was set by the Schaefer report at 778, although average inmate populations have ranged from 2,034 in 1936, to 636 in 1975, and on May 20, 1977, the KSP population was 931.

2. Kansas State Industrial Reformatory (KSIR). This institution, built in 1895, houses a more youthful population than does KSP: most inmates at KSIR were admitted between the ages of 18 and 26 and the median age is between 21 and 22. The inmate security status at KSIR was indicated to be 15 percent maximum security, 60 percent medium security, and 25 percent minimum security; although KSIR is termed a maximum security facility. The capacity of the institution was set at 692 by the Schaefer report, although average inmate populations have ranged from 900 in 1966, to 514 in 1974, and on May 20, 1977, the KSIR population was 867.

3. Kansas Correctional Institution for Women (KCIW). Established in 1917, KCIW houses female felons and those female misdemeanants designated by the sentencing court. The institution is designated as a medium security facility with a capacity of 100 inmates. Average inmate populations have ranged from 100 in 1966, to 55 in 1971, and on May 20, 1977, the population was 86 inmates.

4. Kansas State Reception and Diagnostic Center (KRDC). Opened in 1961, KRDC was given the primary task of evaluating male felony offenders sentenced by the district courts. Since 1962, over 9,000 individuals have been evaluated at the institution. In FY 1977, KRDC staff conducted 1,572 evaluations. The average length of stay at the facility is 28 days. The capacity of KRDC, a maximum security facility,

was indicated by Touche Ross to be 100 inmates. In 1966 the average inmate population was 125; in 1967, 85; and, on May 20, 1977, the KRDC population was 119.

5. Kansas Correctional-Vocational Training Center (KCVTC). Opened in January, 1975, KCVTC is designed to offer concentrated vocational and educational opportunities to youthful offenders being committed for the first time. The design capacity of the facility is 180 inmates. The average population in 1975 was 28; in 1976, 135; and, on May 20, 1977, KRDC was housing 162 inmates. The institution is designated as a minimum security facility.

6. Toronto Honor Camp. Various honor camps have existed in Kansas since 1960; however, only the Toronto Honor Camp is now being utilized. The camp is designed for a capacity of 50 inmates who must be extremely low-risk offenders, capable of functioning in a minimum security facility. The honor camp serves as a pre-release program in which the inmates are assigned to do work for the Kansas Park and Resources Authority at the Fall River reservoir, Toronto reservoir, and Elk City reservoir. The camp normally has about 50 inmates.

In addition to responsibility for the above institutions, DOC also operates work release programs in Wichita, Topeka, and Hutchinson, and a prison industries program at both KSP and KSIR.

Table I indicates the average inmate population at Kansas corrections institutions for the period 1964 to 1977. Table II indicates the estimated FY 1978 operating cost per inmate of the Department of Corrections and the per inmate cost of probation and parole supervision services provided by the Department.

TABLE I

AVERAGE INMATE POPULATION AT KANSAS
CORRECTIONS INSTITUTIONS
1964-1977

<u>FY</u>	<u>KSP</u>	<u>KCIW</u>	<u>KSIR</u>	<u>KRDC</u>	<u>KCVTC</u>	<u>Honor Camps</u>	<u>Work Release</u> (a)	<u>Total</u>
1964	1,802	83	873	101	—	(b)	—	2,859
1965	1,726	96	894	131	—	(b)	—	2,817
1966	1,700	100	900	125	—	(b)	—	2,825
1967	1,526	70	725	85	—	72	—	2,478
1968	1,458	64	616	101	—	58	—	2,297
1969	1,434	69	584	99	—	66	—	2,252
1970	1,269	63	554	100	—	69	—	2,055
1971	1,120	55	630	102	—	77	—	1,984
1972	968	67	666	116	—	74	—	1,891
1973	862	57	561	111	—	73	—	1,664
1974	667	50	514	111	—	73	—	1,415
1975	636	75	598	121	28	52	—	1,510
1976	706	79	698	118	135	51	13	1,800
1977	846	82	798	114	131	50	47	2,068
<u>Actual Count</u>								
5-20-77	931	86	867	119	143	49	41	2,236
6-30-77	952	94	847	103	133	51	51	2,231
11-30-77	966	90	857	123	132	47	45	2,260

a) At separate facility, i.e., Topeka, Wichita, and Hutchinson.

b) Carried as part of KSIR population.

SOURCE: Kansas Biennial Reports for 1970, 1972, 1974, and 1976; Governor's Budget Report for various years; information supplied by the Department of Corrections.

TABLE II

KANSAS DEPARTMENT OF CORRECTIONS
ESTIMATED FY 1978 OPERATING COST PER INMATE

	Per Inmate		Direct Cost	Indirect Cost ^a	Total
	Annual	Daily			
KSIR	\$7,143.53	\$19.57	\$ 5,738,975	\$333,030	\$ 6,072,005
Toronto	8,007.24	21.94	380,772	19,590	400,362
KSP	8,156.65	22.35	7,182,509	362,396	7,544,905
Wichita Work Release	11,058.85	30.30	640,023	23,508	663,531
KCIW	12,916.52	35.38	1,252,472 ^b	39,180	1,291,652
KCVTC	13,562.16	37.15	2,107,258 ^b	62,688	2,169,945
KRDC	16,716.36 ^c	45.80	2,040,570	48,975	2,089,545
TOTAL	\$8,912.75	\$24.42	\$19,342,579	\$889,367	\$20,231,946

PER INMATE COST OF PROBATION AND PAROLE SUPERVISION

\$ 420.00 \$ 1.15 \$ 1,171,710 \$161,648^d \$ 1,333,358

- ^a Includes allocation of indirect cost for operation of the Department of Corrections central management services based upon average inmate population.
- ^b Includes \$155,555 financed through Department of Social and Rehabilitation Services for counseling services.
- ^c Cost per evaluation would be \$1,492.53 based on 1,400 projected evaluations.
- ^d Includes cost of Kansas Adult Authority.

SOURCE: Kansas Department of Corrections

Committee Activity

General Deliberations

The Special Committee on Corrections held 22 days of meetings during the course of this study. The Committee reviewed numerous materials prepared by staff; conferred with various personnel of the Kansas corrections system, including the Department of Corrections, Kansas Adult Authority, staff of the various institutions, the Citizens' Advisory Board, and the Ombudsman; and, in an effort to obtain as many different viewpoints as possible, the Committee held public hearings during which all interested individuals were permitted to make recommendations concerning the future of corrections in Kansas. In addition, the Committee toured all of the major corrections institutions in Kansas on one or more occasions, including the federal penitentiary at Leavenworth.

The Committee also spent three days in Minnesota as guests of the Minnesota Department of Corrections. During this time, the Committee met with numerous corrections personnel, legislators, local officials, and court personnel in Minnesota to assess the operation of the Minnesota Community Corrections Act. The Committee also toured various community corrections facilities in Minnesota, as well as the Minnesota State Prison at Stillwater.

The Committee received testimony and comments from a number of leading authorities in the field of corrections, both from Kansas and throughout the nation. The Committee also reviewed both the Eight-Year Master Plan and the Project Development Plan-77 with the consultants who developed the documents, as well as with key staff of the Department of Corrections. Finally, the Committee reviewed various staff memoranda on many of the issues raised during the course of the study.

Minnesota Community Corrections Act

Since it appears to be the foremost example of the community corrections approach, the Committee devoted

much time to an analysis of the Minnesota Community Corrections Act. As noted above, the Committee also spent three days in Minnesota for a first-hand assessment of the operation of this legislation. Additionally, the Committee conferred with the Minnesota Commissioner of Corrections and the Assistant Commissioner for Community Services both in Minnesota and at a regular meeting in Topeka.

In 1973, the Minnesota Legislature passed the Community Corrections Act (M.S. 401.01-401.16) in an effort to make corrections more "rational, comprehensive and efficient." A recent publication by the Minnesota Department of Corrections, Community Corrections Act: A Status Report, summarizes the Act in the following manner:

1) Purpose of the Act

The purpose of the Act is to promote efficiency and economy in the use of correctional dollars and to develop and maintain community programs and resources while effectively protecting society. Based on the assumption that the local community can provide better service to many offenders, the Act calls for the transfer of the major responsibility for providing client service for all but serious offenders to the local units of government.

2) Corrections Advisory Board

Basic to the Act is the requirement that participating counties must establish a Corrections Advisory Board. This Board is to be composed of representatives of law enforcement, prosecution and defense attorneys, judiciary, education, corrections, ethnic minorities, social welfare services, and lay citizens. If two or more counties come together for purposes of implementing a joint Community Corrections Program membership is shared among the counties at the discretion of the

joint county boards. The Advisory Board is actively involved in the development of a local Comprehensive Plan and in reviewing the progress being made. In addition, the Board is expected to provide the coordination which is needed to make an expanded community corrections system a reality.

3) Comprehensive Plan

The local Comprehensive Plan defines correctional needs and identifies the programs and services designed to meet these needs. This Plan is developed by the Corrections Advisory Board and the task forces appointed by this Board and approved by the County Board of Commissioners.

4) Equalization Subsidy

Upon approval of the Comprehensive Plan by the State Department of Corrections, local counties are eligible for a state financial subsidy. The formula used to determine the amount of subsidy for which each county is eligible uses per capita income, per capita taxable value, per capita expenditures for correctional purposes, and percent of county population between the ages of 6 and 30. This formula is designed to reflect correctional needs and the ability of the county to pay.

5) Local Administrative Structure

The Act provides counties with the authority to determine and establish the administrative structure best suited to the efficient delivery of correctional services. Counties thus have the freedom to determine the particular administrative structure most suited to the local condition.

6) Commitment Costs

Once under the Act counties will be charged for the use of state institutions for all adults whose commitment offense carries a statutory maximum of 5 years or less and for all juveniles. In both instances charges will be made only for offenders committed to the state after a county(s) has joined the Act.

7) Information Systems, Evaluation, and Training

An amount equivalent to 5% of the subsidy received must be spent on the development of an adequate information system and on evaluation. An additional 5% is required to provide training to all relevant personnel. The purpose of these requirements is to assure that the progress of the local corrections system will be monitored and appropriately modified and that the necessary staff development will occur.

Counties may choose to join the Act either singly or as a group. The Act contains two limitations in this regard: (1) the county or counties must have a population of 30,000 or more; and (2) multi-county units must be geographically located within the boundaries established by another law, the Regional Development Act.

The stated purposes of the Community Corrections Act were the following:

- 1) To transfer responsibility for correctional services for all but serious offenders to local units of government.
- 2) To reduce commitments to state adult penal facilities and juvenile training schools through financial assistance designed to induce the development of additional sentencing alternatives at the local level.

- 3) To improve coordination among criminal justice components at the local level.
- 4) To promote the development of comprehensive corrections planning at the local level.

When the legislation was enacted in 1973, the Minnesota Legislature appropriated \$1.5 million to begin implementation of the Act. Expenditures for recent years under the legislation are as follows:

FY 1975	\$1,517,000
FY 1976	2,200,000
FY 1977 (Est.)	6,300,000

The approved budget for the 1978-79 biennium is \$15,637,000. The continuing and rapid growth in program costs is attributed to additional counties coming under the Act. The major factor contributing to the increase in funding for the current biennium is the planned participation of Hennepin County (Minneapolis) on January 1, 1978. The agency master plan projects expenditures for FY 1981 at \$11.8 million, after deduction of charges to the counties for institutional use. This projected expenditure level assumes participation in the program by a substantial number of additional counties.

The subsidy formula serves both as an incentive to encourage counties to participate under the Act and as a financial disincentive to force counties to reduce the number of offenders sent to state correctional institutions. The formula is intended to recognize both a county's correctional needs and its ability to pay. The formula consists of four factors:

- 1) Per capita income,
- 2) Per capita taxable value,
- 3) Per capita expenditure for correctional purposes, and

4) Percent of population aged 6 through 30.

An informative publication by the Council of State Governments* emphasizes the importance of the subsidy in the following summary of the Minnesota Community Corrections Act:

At the heart of the CCA is a subsidy that enables participating jurisdictions to finance the new county-based activities. The counties' subsidies are based on a four-part formula that distributes the available funds to participating counties equitably on the basis of fiscal need. The costs for certain commitments to state institutions are deducted from the subsidy. Participating counties must create a corrections advisory board which is charged with preparing a comprehensive plan for the expenditure of the subsidy. The plan is reviewed and approved by the county commissioners, who retain ultimate authority for the expenditure of the funds, and then is submitted for final approval by the State. The role of the State Department of Corrections is minimal: review the plan, monitor expenditures to see that they are in conformity with the spending called for in the plan, calculate quarterly subsidy payments after deductions are made for commitments to state institutions, and provide technical assistance to counties when needed.

* Dick Howard and Michael D. Kannensohn, A State Supported Local Corrections System: The Minnesota Experience, The Council of State Governments, February, 1977. (Copies of this publication are available in the Kansas Legislative Research Department.)

Des Moines Community Corrections Program

The Committee also had an extensive discussion with the Director of the Department of Court Services (5th Judicial District), Des Moines, Iowa. The Des Moines Community Corrections Program was named an "Exemplary Project" by the National Institute of Law Enforcement and Criminal Justice (LEAA).

The Des Moines Community Corrections Program initially began in 1964 as an attempt to enhance the quality of justice, to keep offenders in the community, and to reduce the jail population so that a new jail would not have to be constructed. In 1972 the program was expanded to cover the entire 5th Judicial District (16 counties), and in 1973 the Legislature passed enabling legislation authorizing similar programs in other judicial districts. In 1977 the Iowa Legislature mandated the program throughout the state and appropriated \$6.9 million to implement a statewide community corrections program.

The Des Moines program contains four components: (1) Pretrial Release (ROR); (2) Supervised Release; (3) Probation/Presentence Investigation; and (4) a Community Correctional Facility.

The pretrial release component is a typical release-on-own-recognizance program. Under this program approximately 1,800 to 2,000 persons are released on their own recognizance each year. Between 1.5 percent to 3 percent of those released fail to appear at the trial. During the pretrial period, approximately 7 to 8 percent of those released are rearrested for different charges. Approximately 93 percent of those apprehended are released prior to trial and, of this number, 83 percent are released on their own recognizance. The interview sheets used to select persons suitable for ROR are kept confidential and not released even to the prosecuting attorney, defense attorney, or the judge.

The second component of the program — Supervised Release — is used for those defendants who do not qualify for ROR. This type of release is actually a "pretrial probation."

If the supervised release staff believes that the defendant can function in this program, he is recommended for release into the custody of the supervised release staff. If the court approves the release, the defendant is assigned a counselor and is given vocational, psychological, and educational evaluations, and a treatment plan is developed. The defendants are usually assigned to special programs for alcoholism, drug treatment, employment counseling, etc. The Iowa statutes permit the board of county commissioners to designate any facility as a jail. Thus, these defendants may be assigned to a treatment program although it is classified as a jail for legal purposes.

The third component of the program — Probation/Pre-sentence Investigation — is the most traditional element in the Des Moines program. The presentence investigation function is designed to provide the court with an objective report about the defendant and make recommendations as to which sentencing option appears most appropriate for the defendant. Responsibility for full probation supervision of both felons and misdemeanants was transferred in 1977 to the Department of Court Services.

The fourth component of this program is a Community Correctional Facility which is located in a renovated barracks in Fort Des Moines. This facility is by statute a jail and is used to house sentenced offenders for the duration of their sentence. The facility has a capacity of 53, 85 percent of whom are felony convictions. The program also contains a smaller facility with a capacity of 30 for female felons. The average stay for males is 104 days; for women the average stay is 7 months. The female facility was formerly a sorority house at Drake University and is presently leased by the Department of Court Services. Under this legislation, local units can only remodel existing facilities; they are not authorized to purchase or construct new facilities for use as community corrections centers.

As noted above, the 1977 Iowa Legislature enacted legislation (Senate File 112) which requires that each judicial district in the state develop and maintain community corrections programs.

Recommendations of Various Conferees

During the course of this study, the Special Committee on Corrections heard testimony from a wide variety of conferees interested in the future of the Kansas corrections system. Much of that testimony is summarized below.

Department of Corrections. The Department of Corrections stated that the need to achieve a balanced corrections system and develop a variety of institutions can be fulfilled through implementation of four priorities:

- 1) Construction of a new 400-bed medium security institution and construction of a new 100-bed outside dormitory at KSIR;
- 2) renovation of existing housing units;
- 3) expansion of the community corrections program; and
- 4) improvement of the DOC salary plan.

Representatives of DOC stated that the problem of staff recruitment and retention within the Department must be resolved; that an ideal corrections system would consist of maximum, medium, and minimum security institutions, as well as a community corrections program; that the existing prison industries program should be enhanced through expansion of both sales and production and that the present statute should be amended to permit the sale of these goods to a wider market; that standardized presentence investigation forms should be mandated statewide; that the work release program should be expanded; and that there is a need to upgrade jail facilities throughout the state. The DOC strongly urged that the proposed new medium security facility be constructed.

Citizens' Advisory Board and Ombudsman. The Citizens' Advisory Board and the Ombudsman for Corrections noted the following critical needs of the Kansas corrections system:

- 1) Remedy the high staff turnover rate, especially at KSP and KSIR, and provide better training of staff;
- 2) improve the internal security of present institutions to protect inmates from one another, especially since there is an increase in the number of inmates seeking protective custody;
- 3) develop meaningful statistics of DOC operations for the purposes of planning and identifying problem areas;
- 4) develop resources for emotionally-disturbed inmates, such as counseling and treatment;
- 5) increase efforts to encourage development and utilization of volunteer organizations and individuals who can provide services to inmates and ex-offenders;
- 6) develop programs to recruit and retain persons for medical and dental staff positions;
- 7) develop a variety of programs for inmates, such as GED and realistic vocational training; and
- 8) establish programs to counteract the long-term debilitating effects of the A and T Building at KSP.

The Ombudsman for Corrections stated that his office should have jurisdiction for complaints arising because of actions of the Kansas Adult Authority; that the Ombudsman function would be enhanced if the office were granted subpoena power and the right of privileged communications; that the rules and regulations of DOC should be formalized and subject to legislative review as are the regulations of other state agencies; and that the need exists for some mechanism

to reimburse staff and inmates in a timely manner for the loss or destruction of personal property due to actions taken in the line of duty. The Ombudsman also stated that inmates should not be housed in substandard facilities and that treatment programs for mentally ill inmates were needed at all institutions.

National Council on Crime and Delinquency. The President of the National Council on Crime and Delinquency (NCCD) recommended that no new detention or penal institutions be built before alternatives to incarceration are fully provided for.

American Foundation, Inc. The Director of the Institute of Corrections, American Foundation, Inc., recommended that Kansas shift emphasis from a construction program to the development of community corrections programs.

Menninger Foundation. Dr. Karl A. Menninger stated that alternatives to incarceration should be developed; that those offenders who require incarceration should be treated in a humane manner; and that the use of restitution should be emphasized as an alternative to incarceration.

National Moratorium on Prison Construction. The Coordinator of the National Moratorium on Prison Construction stated that no new prison construction should be undertaken until all alternatives have been exhausted.

League of Women Voters of Kansas. The League of Women Voters of Kansas expressed support for the development of alternatives to incarceration, community corrections, and renovation and rehabilitation programs within existing institutions before any new construction is approved. The League also recommended:

- 1) That 1977 S.B. 292, concerning community-based corrections, with several amendments, be enacted;
- 2) that mandatory presentence investigations be conducted for all convicted felons and misdemeanants;

- 3) that the statute which requires women misdemeanants to serve time at KCIW be repealed and that women be provided the same opportunities as men in work release programs, halfway houses, and other programs;
- 4) that KCVTC not be restricted to first-time offenders;
- 5) that the prison industries program provide relevant work experiences and teach good work habits, with adequate pay, for all inmates willing and able to work;
- 6) that legislation be enacted to permit prison industries to contract with private firms, to sell goods on the open market, and to establish an advisory committee of business, industry, and labor representatives to assist in the management of the industries program;
- 7) that the mentally ill and severely retarded be removed from corrections facilities and transferred to state mental hospitals;
- 8) that the rules and regulations of DOC be subject to review by the Legislature; and
- 9) that work release or pre-release centers be used for all inmates coming out of prison.

Citizens for Justice Coalition. The Citizens for Justice Coalition recommended that the state mandate presentence investigations for all convicted felons, to be conducted in the community; that the state establish the capability for utilizing local medical and mental health resources and use KRDC as a back-up; that the state evaluate the presentence investigation program and the local mental health resources for at least one year; that a sound industry program, related to real-life jobs, be established in which inmates would be paid decent wages; and that the state establish a statewide uniform probation system.

Kansas Catholic Conference. The Kansas Catholic Conference expressed general support for community corrections programs and opposition to the construction of a new medium security prison.

National Association of Social Workers. The Kansas Chapter of the National Association of Social Workers urged that greater efforts be made to develop and expand community alternatives to incarceration.

Johnson County District Attorney. A representative of the Johnson County District Attorney's office recommended a two-tiered approach to community corrections in Kansas: Phase 1 being the construction of three 75- to 100-bed minimum security facilities to be located in Kansas City, Topeka, and Wichita; and Phase 2 being the implementation of satellite community residence and work-release centers in various locales adjacent to the three major facilities.

Kansas District Judges Association. The President of the Kansas District Judges Association, while noting that the Association had not taken a position on the issue of community corrections, expressed numerous reservations regarding the establishment of a community corrections program in Kansas and expressed support for the construction of a new prison facility to permit humane incarceration.

Other Recommendations. Other conferees suggested that state funds be made available to halfway houses which are providing services to state parolees; that community corrections programs should be voluntary, rather than mandatory; that planning and public education programs should be established prior to the implementation of community corrections programs in Kansas; that excessive, and often needless, court referrals to Larned State Hospital for investigations and evaluations should be eliminated; that community corrections programs must include a strong planning effort at the local level; that prison industries programs should utilize the services of an advisory committee composed of business, industry, and labor representatives; and that greater emphasis should be placed on the training of volunteers to work in corrections.

Conclusions and Recommendations

The Special Committee on Corrections believes that the following recommendations will provide a new direction for the future of the Kansas corrections system, will establish a more humane and more enlightened corrections system capable of responding to the needs of both the state and the local communities, will enhance the quality of justice while coping with the increasing problem of crime, and will accomplish these objectives in a fiscally sound fashion, cognizant of the limited financial resources available both to the state and to local communities. These recommendations are made after detailed study of the problems of corrections in Kansas and the nation, following extensive hearings and informational sessions, and on the basis of in-depth discussions and deliberation by all members of the Committee. The Committee believes that these recommendations, taken as a package of needed legislation, will improve the Kansas corrections system and, at the same time, maintain the financial integrity of both the state and local units of government.

Medium Security Prison

The Committee recommends that the proposed new medium security prison not be constructed. Given the projected decreases in inmate populations and the high-risk age groups, current corrections trends and innovations throughout the nation, and the costs of new prison construction, the Committee believes that the construction of the proposed prison would not be in the best interests of the State of Kansas. The Committee makes this recommendation both as a result of its lengthy study of corrections during the interim and also in light of its conclusion that, if the various other recommendations of the Committee are implemented, the need for such a proposed facility will be further obviated.

Community Corrections Programs

The Committee believes that legislation should be enacted to encourage the development of community

corrections programs in Kansas. The Committee has viewed first-hand the operation of such programs in Minnesota and also has received detailed information on similar programs in other states, including Iowa, Missouri, and Oregon. The Committee believes that community corrections programs can meet some of the needs of the criminal justice system, consistent with the interests of public safety, and serve as an alternative to both incarceration and new prison construction. The appended legislation, H.B. 3112, has been drafted to encourage the implementation of community corrections programs in Kansas. The bill is patterned after the Minnesota Community Corrections Act, with several modifications to meet the specific needs of Kansas.

Pilot Projects. Even though this legislation will have statewide application, the Committee recommends that the state not attempt to implement community corrections programs on a widespread basis during the first year. Rather, the Committee recommends that up to four pilot projects be developed in order to permit the Legislature to observe the operation of the legislation and later make any necessary adjustments, prior to implementation of the act on a statewide basis. Ideally, the pilot projects should be located in areas with varying characteristics, i.e., one project in a heavily urban area, one in a rural area, and one in an area with a mixed urban and rural population. The fourth pilot project could also be located in one of the types of areas noted above. The Committee recommends that an appropriation of \$1,635,000 be approved to fund these pilot projects. This amount should be adequate to begin implementation of the act on a pilot basis.

The Committee urges the Department of Corrections to seek federal (LEAA) funds to finance the pilot projects. However, if such funds are not available, state funds should be appropriated to begin implementation of community correctional programs in Kansas.

Per Capita Dollar Amount. During its discussion of this bill, the Committee chose to use a figure of \$5 as the per capita dollar figure for the grant formula. This figure was chosen largely because it approximates the amount used in the

Minnesota formula. Table III indicates the dollar amount of grants which could be received by selected counties and judicial districts using the recommended formula factors and the \$5 per capita figure. The data presented in this table assume statewide participation by various counties; the data also do not reflect any deductions which would be made for commitments to state institutions. However, given the Committee's recommendation regarding probation services, the \$5 figure can undoubtedly be reduced to a more modest sum, depending upon the level of financing needed to improve probation services across the state. The Committee makes no recommendation regarding a dollar amount to be used as the per capita figure, pending a determination of the level of funding necessary to upgrade probation services.

TABLE III

APPROXIMATE FORMULA ALLOCATIONS TO SELECTED COUNTIES

	Population ^a	Personal Income ^b	Weightings			Allocation @ \$5.00
			Adjusted Valuation ^c	Risk Population ^d	Crime Rate ^e	
Sedgwick	342,403	.877	1.412	1.121	1.614	\$2,150,291
Johnson	243,938	.808	1.066	.962	1.098	1,200,175
Wyandotte	186,560	.966	2.209	1.059	2.011	1,456,101
Shawnee	174,819	1.002	1.649	.957	1.299	1,072,515
Reno	65,276	1.057	1.038	.943	1.158	342,373
Douglas	60,592	1.189	1.282	1.324	.937	358,402
Leavenworth	51,267	1.080	1.917	1.076	1.000	325,033
Saline	49,948	1.039	1.252	1.009	1.050	271,717
Montgomery	43,010	1.226	1.664	.809	.785	241,071
Riley	41,799	.795	1.809	2.128	1.328	316,627
Butler	40,909	1.433	1.062	.941	.748	213,954
Crawford	37,991	1.254	1.651	.974	.774	220,918
Barton	36,289	1.077	.827	.846	.627	153,140
Cowley	35,125	1.183	1.084	.924	.651	168,776
Lyon	32,841	1.002	1.257	1.201	1.176	190,314
Judicial District No. 25	44,306	.968	.518	.865	.777	173,236

a Population of Kansas, Kansas State Board of Agriculture, January 1, 1976.

b Governor's Economic Report, January 1, 1977.

c Statistical Abstract of Property Valuation, January 1, 1977.

d U.S. Bureau of Census, 1970.

e Total offenses reported to law enforcement agencies, Crime in Kansas, Kansas Bureau of Investigation, 1975.

Summary of the Community Corrections Act. A summary of the major provisions of H.B. 3112, which would enact the "Kansas Community Corrections Act," appears below.

Section 1. Short title - "Community Corrections Act."

Section 2. This section authorizes the Secretary of Corrections to make grants to counties for the development, implementation, operation, and improvement of community correctional services.

Section 3. The following counties may qualify for grants under the Act by creating a Corrections Advisory Board and developing a comprehensive plan, to be approved by the Secretary of Corrections, for the development of community correctional services:

- 1) Any county which has a population of 30,000 or more;
- 2) any group of counties which has a total population of 20,000 or more;
- 3) any four or more counties, regardless of population; or
- 4) any county with a population of less than 30,000 authorized by the Secretary of Corrections.

In organizing multi-county groupings, counties are not permitted to cross judicial district lines. Provision is also made for all counties within a judicial district to come under the Act should one or more counties within the district propose to qualify for grants, both at the time of initial organization and at any time thereafter. Subject to agreements between cooperating counties, the boards of county commissioners retain all authority for the expenditure of funds, including grants under the Act, and for the implementation and operation of the comprehensive plan. The board of county

commissioners of each county must review and approve the comprehensive plan prior to its submission to the Secretary for approval.

Section 4. The Secretary is also authorized to pay a county or counties an amount up to 10 percent of the maximum quarterly grant for which they are eligible to assist in the expenses incurred by Corrections Advisory Board members in developing a comprehensive plan.

Section 5. The Secretary of Corrections is authorized to adopt rules and regulations necessary for the implementation and administration of the Act and to provide technical assistance to counties and Corrections Advisory Boards.

Section 6. Any county or group of counties electing to come under the Act may, through their boards of county commissioners, or administrative bodies established by cooperating counties:

- 1) Acquire, through purchase, lease, transfer of control, or other lawful means, the lands, buildings, and equipment necessary to such purposes;
- 2) enter into contracts;
- 3) determine and establish the administrative structure best suited to the administration and delivery of correctional services;
- 4) employ a director and other personnel;
- 5) make grants, in accordance with the comprehensive plan, to not-for-profit corporations for the development, operation, and improvement of correctional services; and
- 6) accept funds from any lawful source, including federal funds.

Section 7. No county would be eligible for grants under the Act until its comprehensive plan has been approved by the Secretary of Corrections. The Secretary, through rules and regulations, is authorized to establish standards for the operation of community correctional services and to annually review the comprehensive plans submitted by participating counties. The Secretary is also authorized to suspend all or a portion of any grant to counties which are found not to be in substantial compliance with the minimum operating standards.

Section 8. This section designates the membership of the Corrections Advisory Boards which must be established under the Act. The membership of each Corrections Advisory Board would be as follows:

- 1) One sheriff and one chief of police;
- 2) a county or district attorney;
- 3) a district court judge;
- 4) an educational professional appointed by the board(s) of county commissioners;
- 5) a representative appointed by the Secretary of Social and Rehabilitation Services;
- 6) three members appointed by the board or boards of county commissioners acting together; and
- 7) three members appointed by certain cities with the county or group of cooperating counties.

If possible, the members appointed by the counties and cities shall be representative of one or more of the following: (1) parole or probation officers; (2) public or private social service agencies; (3) ex-offenders; (4) the health care professions; and (5) the general public. At least two members

of each board must be representative of ethnic minorities and no more than two-thirds of each board could be members of the same sex.

Section 9. Appointive members of each Corrections Advisory Board would serve terms of two years and each board would elect its own officers. Proceedings of the boards would be subject to the Kansas Open Meetings Act (K.S.A. 75-4317 to 75-4320).

Section 10. Corrections Advisory Boards would be required to actively participate in the formulation of the comprehensive plan for the development, implementation, and operation of correctional services in the county or group of participating counties and make formal recommendations to the board or boards of county commissioners concerning the comprehensive plan.

Section 11. Any comprehensive plan could include the purchase of selected correctional services from the state by contract. The Secretary of Corrections would deduct the cost of these purchased services from the grant due to the county or counties.

Section 12. The grant formula used in determining the amount of the grant to each participating county would be calculated for each county using the following factors:

- 1) Per capita income.
- 2) Per capita taxable valuation.
- 3) Crimes per one thousand population.
- 4) Percent of county population 5 through 29 years of age.

The crimes per one thousand data would be determined from the most recent compilation of Kansas crime statistics by the Kansas Bureau of Investigation. The percent of county population aged 5 through 29 would be determined by the Division of State Planning and Research.

In the case of counties receiving grants for the first time under the Act, the counties would receive 70 percent of the grants for which they are eligible the first year; 80 percent of the grant the second year; 90 percent of the grant the third year; and 100 percent of the grant the fourth and following years. (This provision is intended to eliminate the "windfall" problems experienced by several counties in Minnesota.)

Section 13. The comprehensive plan submitted to the Secretary of Corrections for approval must include those items prescribed by rules and regulations adopted by the Secretary. In addition, each participating county or group of counties would be required to develop a procedure for the review, by the Corrections Advisory Board and the boards of county commissioners, of new program applications and other matters to be included under the comprehensive plan.

Section 14. The Secretary of Corrections would determine the amount of expenditures for correctional services of each county applying for a grant during the calendar year immediately preceding the year in which the county will receive its first grant. Each county receiving a grant under the Act would be required to make expenditures, in an amount equal to or exceeding the amount spent during the base year, from funds other than grants under the Act. If a county failed to continue its local correctional expenditure effort, the grant for the next year would be reduced by an amount equal to the amount the county failed to make its required amount of local expenditure.

Section 15. Each county receiving grants under the Act would be charged for:

1. The per diem costs to the State General Fund for persons from the county who are committed to the Secretary of Corrections for confinement after the county comes under the Act. However, no charge would be made for those persons convicted of Class A, Class B, and Class C felonies.

2. The per diem costs to the State General Fund for those juveniles committed to the Secretary of Social and Rehabilitation Services or to any SRS institution.

In no case would the amount charged to a county exceed the amount of the grant for which the county is eligible. All such charges would be deducted from the county's grant and would be charges against the county of commitment.

Section 16. Grants would be paid on a quarterly basis and each county would be required to submit quarterly statements detailing the amounts expended and costs incurred for correctional services.

Section 17. Counties would be permitted to withdraw from participation under the Act, after due notice to the Secretary of Corrections.

Section 18. The Secretary of Corrections and any county not participating under the Act would be authorized to contract for correctional services from any counties which are participating under the Act.

Section 19. Counties electing not to come under this Act would remain eligible for any other state subsidy, grant, or assistance otherwise provided by law.

Section 20. The Act would take effect upon its publication in the official state paper.

Monitoring Committee. The Committee also recommends that the Legislative Coordinating Council appoint a legislative committee to monitor and oversee the implementation of the proposed Community Corrections Act as well as the implementation of the other recommendations made as a result of this study. The Committee believes that the Legislature, through this monitoring committee, should take an active part in the implementation of these recommendations and the adoption of the new policies recommended in this

report. The monitoring committee should be authorized to make recommendations and present legislation to the Legislature in areas affecting the Kansas corrections system, including adjustments to the proposed Community Corrections Act, capital improvements, and other aspects of corrections.

Probation and Parole Services

The Committee recommends that all probation services be transferred to the district courts and that the parole function remain the responsibility of the Department of Corrections. H.B. 3122 would effect this transfer.

Current System. At present, probation services are diffused in Kansas:

1. The Department of Corrections provides probation services to 99 counties for adult felony cases.
2. Probation services for adult felons, adult misdemeanants, and juveniles are provided in five judicial districts by local personnel.
3. Juvenile probation is provided through the courts in almost all counties, and adult misdemeanor probation is provided through the courts in many districts.
4. Parole services to all counties are provided through the Department of Corrections.

The court system is moving in the opposite direction from the concept provided under the proposed Community Corrections Act. In other words, the court system is state controlled with community-based services. An Attorney General's opinion contends that court employees are state employees regardless of whether the county pays them, because the state has authority to "hire and fire" court employees. Proposal No. 73 (Ways and Means - B)

recommended that a district court personnel plan be implemented and controlled by the Supreme Court. All probation services employees are included under the plan. State financing is to be phased in through a county rebate to the state and all employees will be paid directly by the state.

The Ways and Means - B Committee in its recommendations to the Legislative Coordinating Council requested that the question of whether or not counties can be required to pay salary costs of state employees be researched by Legislative Counsel. Additional concerns about probation and parole services must also be considered. The Kansas Juvenile Probation officers, in testimony before the Ways and Means - B Committee, indicated that the quality of probation services varies dramatically among judicial districts at present. The group favored a district court personnel system because it would set standards for education and experience.

Alternatives. There were two alternatives which the Committee considered:

1. Take probation and parole services out of the court and Department of Corrections control and make it a responsibility of the counties. The limitation of this proposal is that counties not wanting to enter into the Act would not have such services.
2. Keep probation as a function of the court; transfer to the court the present probation services offered by the Department of Corrections; and keep the parole function with the Department of Corrections. The main disadvantage to this system is that services would not be under community control and no funds for improvement would be available unless the Legislature appropriated additional funds to the courts.

Recommendation. The Committee has concluded that the second alternative listed above would be preferable since

it would provide control over the system without a disruption in services. Although some positions would be transferred from the Department of Corrections to the Unified Judicial Department, it should be noted that under this system, the state would have to appropriate some additional funds to the judiciary for adult felony probation services in FY 1977. In addition, future years' appropriations for probation services will probably increase if probation services are to be improved. The Committee believes that the transfer of all probation services to the district courts will permit, and even encourage, the Community Corrections Act to function in an efficient manner and, at the same time, result in a greatly improved quality of service by probation officers since they will be under the personnel plan controlled by the Supreme Court. It is anticipated that the personnel plan will include specific education and experience requirements and will have the effect of upgrading probation services throughout the state.

The Committee also believes that the parole function is an appropriate responsibility of the Department of Corrections. Inmates released from DOC institutions are more properly the responsibility of the Department than of the sentencing court. The Committee recommendation would leave the parole function with the Department of Corrections. House Bill No. 3122 would effect these recommendations. The transfer would become effective on January 1, 1979.

Work Release and Educational Release Programs

The Committee believes that the work release program should be expanded so that the maximum number of inmates may benefit from this very useful program which permits inmates to develop good work habits, to earn money to reimburse the state and provide family support, and to re-establish community and family ties. At present, work release programs are operating only in Topeka, Wichita, and Hutchinson. DOC has proposed a new work release center for the Kansas City area.

The Committee recommends that the three existing programs be continued and that new programs be developed in the Kansas City area and that an additional work release center be constructed to serve the Wichita area. The Department of Corrections has also requested expansion of the work release program on a contractual basis with the following agencies: the Southeast Regional Correctional Center in Fort Scott, a Saline County Work Release Center, the Topeka Halfway House, and an alcoholism program in Atchison. The Committee endorses these requests and urges that the work release program be expanded on a timely basis. Cost estimates indicated that a total of \$538,000 would finance both the contracted programs and the new Wichita program. The Committee recommends that the requested amount be appropriated in order that an increased number of inmates may benefit from the work release program prior to their final release from the institution. Expansion of this program will not only ease the population problem at the institutions but will also assist inmates in the transition from incarceration to community life by providing a useful work experience in a structured environment.

H.B. 3118, which is recommended by the Committee, will authorize the Secretary of Corrections to contract with qualified persons, private corporations, or organizations and local governmental agencies to provide facilities, programs, and services for work and educational release programs. The bill also authorizes the Secretary to establish educational release programs for inmates. This specific grant of authority regarding work release and educational release programs should permit the Secretary to utilize any present facilities, as well as any new facilities or programs which may be established as a result of the Community Corrections Act.

Kansas Adult Authority

The Committee also recommends that the Kansas Adult Authority:

1. Be composed of five members, four appointed by the Governor and one appointed by the Secretary of Corrections, with all appointments subject to the advice and consent of the Senate. (At present, the KAA is composed of five members appointed by the Governor, subject to the advice and consent of the Senate.)

2. Become a full-time, rather than a part-time, board.

3. Be required to develop written procedures, through rules and regulations, concerning the granting of paroles.

4. Be required to notify inmates in writing of the reasons for which a parole was not granted.

H.B. 3111 would effect these recommendations. The Committee believes that the Kansas Adult Authority plays an integral role in the Kansas correctional system and that these recommendations will grant the Secretary of Corrections more input into the parole process, make the KAA a more efficient and responsive board, and establish firm written policies regarding the granting of paroles and the refusal to grant a parole. Adoption of these written policies through rule and regulation will also permit legislative review of the policies so adopted.

Capital Improvements

KSP and KSIR. The Committee recommends that cellhouse renovation projects be undertaken at both Kansas State Penitentiary and at Kansas State Industrial Reformatory. The recommended projects are intended to renovate housing facilities which are sorely in need of upgrading and improved maintenance, to unitize the housing facilities and make the population size more manageable, and to bring the housing units up to a humane standard for those inmates who require incarceration. Cost estimates provided to the Committee indicated total costs for these projects to be \$7.06 million, to be expended over the period FY 1979 through FY 1982.

KRDC. The Committee recommends that the capital improvements requested by the Kansas Reception and

Diagnostic Center in its FY 1979 budget request be approved. The requested appropriation totals some \$9,100 and would make several improvements to the institution which are needed to provide a suitable living environment for both inmates and staff. The requested \$9,100 would be used to replace floor covering in the food service area; for the installation of storm windows on the Administration Building, hospital, and the honor dorm; and for air-conditioning units for the hospital.

Honor Camps. The Committee believes that the honor camps program is a very important part of the corrections system for those inmates who can function in a minimum security facility or are soon to be released back into society. The Committee recommends that the existing Toronto Honor Camp be continued and that three new honor camps be constructed as soon as possible. The Committee recommends that the three new honor camps be designed for at least 55 inmates each and that they be located at Clinton, Tuttle Creek, and El Dorado Reservoirs. Cost estimates presented to the Committee indicated a total cost for the three camps of \$3.165 million. H.B. 3119 would make the necessary appropriation.

KSIR Outside Dormitory. The Committee believes that the need for a new 100-bed outside dormitory has not been conclusively demonstrated. In addition, implementation of the other recommendations made by the Committee may reduce or eliminate the need for such a facility. Therefore, the Committee recommends that the monitoring committee mentioned above consider this issue at a later date to determine whether the need exists for such a facility, given the expected impact of the proposed Community Corrections Act and the other recommendations contained in this report.

Funding. The Committee recommends that these capital improvement projects be funded in the following manner:

- 1) To the extent possible, by federal revenue sharing funds;

- 2) by any available funds in the Correctional Institutions Building Fund; and
- 3) by moneys appropriated from the State General Fund.

The Committee also recommends if, in the future, moneys are not available to fund these recommendations, that a statewide property tax levy of .1 mill be made for the Correctional Institutions Building Fund. This .1 mill would be an additional levy since the .1 mill currently levied for the fund will revert to the Institutions Building Fund in FY 1979. This would make the total state property tax levy 1.6 mills instead of 1.5 mills.

Inmate Labor. The Committee has viewed the results of inmate labor at the U.S. Penitentiary in Leavenworth, at Minnesota State Prison, and, to some extent, at the Kansas State Industrial Reformatory. The Committee believes that, with proper supervision, inmate labor can be effectively utilized to curb construction costs and, at the same time, to ameliorate the present problem of inmate idleness. Information was presented that construction costs (excluding the cost of materials) can be reduced by as much as 40 to 50 percent through the utilization of inmate labor. The Committee strongly recommends that inmate labor be used to the maximum extent feasible on the capital improvements projects recommended above. The use of inmate labor will serve to control the costs of the projects and, perhaps equally as important, reduce the level of inmate idleness at KSP and KSIR.

Renovation Timetable. The Committee recommends that the renovation projects be implemented according to the following schedule:

<u>FY</u>	<u>KSP/KSIR (In Millions)</u>	<u>Honor Camps (In Millions)</u>
1978	—	\$ 1.065
1979	\$ 3.536	2.100
1980	1.324	—
1981	1.116	—
1982	1.087	—
TOTAL	<u>\$ 7.063</u>	<u>\$ 3.165</u>

Given the amount of planning and study already done by the two consultants' studies mentioned earlier, there should be no need for the timelag normally associated with preliminary planning for capital improvements projects. The similarities between the projects recommended by the Committee and those mentioned in the consultants' studies should also permit the relatively prompt initiation of these renovations. H.B. 3128 would make the necessary appropriation.

The Committee also recommends that, during the renovation projects, inmates be "doubled-up" in existing facilities. While this procedure may cause temporary inconvenience and administrative problems, the action will permit the projects to proceed on a feasible basis.

The Committee believes that, even in light of recent court decisions concerning the rights of inmates, it is most unlikely that legal actions would be sustained against the state because of this temporary doubling-up of inmates, given the reason for the procedure.

Prison Industries

The Committee believes that the prison industries program should be enhanced and expanded. The Committee recommends H.B. 3133 which would authorize the prison industry program to sell goods on the open market within the state, permit the Secretary of Corrections to lease space to private industry for industry programs within the walls, and establish an industries advisory committee. The Committee

believes that expansion of the prison industries program will serve to reduce the level of inmate idleness and provide inmates with a work habit experience and a knowledge of job skills. Testimony by DOC staff indicated that the rate of inmate idleness at both KSP and KSIR was 21 percent of the total inmate population, or roughly 400 inmates with no assigned tasks or programming. This high level of inmate idleness constitutes a severe management problem and is the source of many of the assaults and other undesirable activities which occur within the institutions. Expansion of the prison industries program will have a positive effect on institutional life by reducing the number of inmates who are literally "serving time."

Staff of the Department of Corrections have requested legislative authorization to broaden the market for prison-made goods: the market is now narrowly limited to only governmental agencies. The Committee concurs that the market must be broadened in order that the industries program may develop its full potential for both providing suitable jobs for inmates and generating revenues so that the program is not forced to rely on general fund moneys for continuation or expansion.

The Committee also recommends that inmates working in the program be paid the highest compensation possible, in light of budgetary and financial constraints. The current inmate wage, which ranges from 30¢ to 90¢ per day, is not viewed as a realistic wage by the Committee. While the Committee does not necessarily advocate that inmates be paid at least the federal minimum wage, which is the case for a number of inmates in the Minnesota system, the Committee believes that a more reasonable wage structure should be implemented. Finally, the Committee recommends that the Department of Corrections establish a goal of no inmate idleness within the institutions. Expansion of the prison industries program should assist the Department in achieving this goal.

H.B. 3133 would direct the Secretary of Corrections to appoint an Industries Advisory Committee from persons engaged in private sector labor and industry. The Industries

Advisory Committee would be composed of 15 members who would advise the Secretary on engineering, manufacturing, marketing, finance, and labor in the operation of the correctional industries. Members would be paid subsistence allowances, mileage, and other expenses as provided in K.S.A. 75-3223.

H.B. 3133 also authorizes the Secretary of Corrections to lease one or more buildings or portions thereof on the grounds of any correctional institution for a term of not to exceed 20 years. The facilities could be leased to a private corporation for the purpose of establishing and operating a business enterprise for the manufacture of goods, wares, or merchandise, or any other business or commercial enterprise deemed by the Secretary to be consistent with the proper training and rehabilitation of inmates. Subject to the approval of the Secretary, any enterprise operated under this bill could employ selected inmates of the correctional institution upon whose grounds it operates. Money received from these leases would be credited to the correctional industries account. For all purposes under state law, no inmate would be deemed to be an employee of the state or any state agency. The Secretary would be required to establish programs and prescribe procedures for withdrawing amounts from the compensation paid to inmates, from all sources, for: (1) victim restitution programs; (2) payments for support of the inmate's family and dependents; (3) reimbursement of the state for per diem expenses for confining and rehabilitating the inmate; and (4) payment of reasonable amounts into a savings account for disbursement to the inmate upon release.

The Secretary would also be authorized to sell prison-made goods to the federal government, any state agency or local governmental agency, or to any person within the state, and, to the extent not prohibited by federal law, to other states.

The Committee also recommends legislation to establish a tax credit for private industries in order to encourage the development for additional prison industries programs.

H.B. 3134 would enact the "Prison Business Investment Credit Act of 1978." Under the Act, any taxpayer who establishes a prison business facility on land under the control of the Secretary of Corrections pursuant to a written lease would be allowed a Kansas income tax credit for the taxable year during which commencement of commercial operations occurs at the prison business facility and for each of the nine succeeding taxable years. No credit would be allowed unless the number of inmate employees employed at the prison business facility equals or exceeds five for the taxable year for which the credit is claimed. The credit allowed could be up to a maximum of 50 percent of the taxpayer's prison business facility income and would be computed on the basis of \$50 for each inmate employee and \$50 for each \$100,000 of prison business facility investment. A taxpayer would be entitled to defer the commencement of the ten-year period during which such credit is allowed to any taxable year not later than the third taxable year following the taxable year in which commencement of commercial operations at the prison business facility occurs. The Secretary of Revenue would prescribe rules and regulations to carry out the Act. The provisions of the Act would apply to all taxable years commencing after December 31, 1978.

Pretrial Diversion

The Committee recommends that H.B. 3130 be enacted to establish a pretrial diversion procedure to be used by county and district attorneys.

Pretrial diversion is the procedure of postponing prosecution, either temporarily or permanently, at any point in the judicial process from the point at which the accused is charged until adjudication. The purpose of diversion is to offer the offender an alternative method of rehabilitation other than incarceration or probation, which will bring about the offender's future compliance with the law. The Committee has examined the pretrial diversion approach and believes that such a program should be available in Kansas to reduce the number of persons committed to institutions, in those cases where diversion would be in the interests of justice and of

benefit to the defendant and the community. Pretrial diversion programs are functioning in the States of Oregon and California (for several drug possession offenses) and in some local jurisdictions including San Jose, California (for young property offenders); Flint, Michigan; Phoenix, Arizona (for drunk drivers); Charlotte, N.C. (for public inebriates); and Columbus, Ohio (for persons involved in family or neighborhood disputes).

The Committee believes that a pretrial diversion mechanism should be available in Kansas to be used, in some cases, as an alternative to the traditional dispositions of incarceration or probation. The major provisions of H.B. 3130, which is styled after the 1977 Oregon enactment, are summarized below.

Section 1. Definition section.

- a) "District attorney" - a district attorney or county attorney.
- b) "Complaint" - complaint, indictment, or information.
- c) "Diversion" - referral of a defendant in a criminal case to a supervised performance program prior to adjudication.
- d) "Diversion agreement" - the specification of formal terms and conditions which a defendant must fulfill in order to have the charges against him or her dismissed.

Section 2. If it appears to the district attorney that diversion would be in the interests of justice and of benefit to the defendant and the community, the district attorney could propose a diversion agreement to the defendant. The district attorney could propose such an agreement at any time (1) after a complaint has been filed charging a defendant with commission of a crime and prior to conviction thereof; and (2) after the district attorney has considered the factors listed in Section 3. Each district attorney would be required to adopt written policies and guidelines for the implementation of a diversion program.

Each defendant would have to be informed in writing of the diversion program and the policies and guidelines adopted. The district attorney could require the defendant to provide information regarding prior criminal charges, education, work experience and training, family, residence, medical history, and other information relating to the diversion program. At the diversion conference with the district attorney, the defendant would have to be present and would have the right to be represented by counsel.

Section 3. In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the district attorney would be required to consider at least the following factors:

- a) The nature of the crime charged and the circumstances surrounding it;
- b) any special characteristics or circumstances of the offender;
- c) whether the defendant is a first-time offender and if the offender has previously participated in diversion, according to the certification of the judicial administrator;
- d) whether there is a probability that the defendant will cooperate with and benefit from diversion;
- e) whether the available diversion program is appropriate to the needs of the offender;
- f) the impact upon the community of the diversion of the defendant;
- g) recommendations, if any, of the involved law enforcement agency;
- h) recommendations, if any, of the victim;
- i) provisions for restitution; and

- j) any mitigating circumstances.

Section 4. The diversion agreement would provide that, if the defendant fulfills the obligations of the program as determined by the district attorney, the district attorney would act to have the criminal charges filed against the defendant dismissed with prejudice. The diversion agreement would have to include a specific waiver of all rights to a speedy trial and the agreement could include payment of restitution, residence in a specified facility, maintenance of employment, and participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventive guidance and other rehabilitative services.

If a diversion agreement is offered by the district attorney and accepted by the defendant, the agreement would be filed with the district court and the district court would stay further proceedings on the complaint. If the defendant declines to accept diversion, the district court would resume the criminal proceedings on the complaint.

Section 5. No defendant would be required to enter any plea as a condition for diversion and no statements made by the defendant or counsel in any diversion conference or other discussion would be admissible as evidence in criminal proceedings on crimes charged in the original complaint. Except for sentencing proceedings, the following would not be admissible as evidence in criminal proceedings which are resumed under Section 6: (a) participation in a diversion program; (b) the facts of such participation; or (c) the diversion agreement entered into.

Section 6. If the district attorney finds that the defendant has failed to fulfill the terms of the diversion agreement, the district attorney would inform the district court of such finding. The district court, after finding that the defendant has failed to fulfill the agreement at a hearing thereon, would resume the criminal proceedings on the complaint. If the district attorney finds that the defendant has fulfilled the terms of the diversion agreement, the district

attorney would inform the district court of such finding. The district court would dismiss with prejudice the criminal charges filed against the defendant. A record of the fact that an individual has participated in diversion would be sent to and kept by the Judicial Administrator. This record would be made available, upon request, to any district attorney who subsequently considers diversion of such person.

Section 7. Effective date - upon publication in the statute book.

Presentence Investigations

The Committee recommends legislation to mandate that presentence investigations be conducted for all convicted felons. The Committee believes that the information compiled as a result of the presentence investigation will be of great utility both to the sentencing court and also to the Department of Corrections, should the offender be sentenced to the custody of the Secretary of Corrections. The investigations will provide both the courts and the Department with needed information concerning the offender's background, social history, past criminal activities, if any, medical and psychological data, and other relevant factors which may be used to effect a knowledgeable disposition of the case or to develop a suitable program of treatment, rehabilitation, or incarceration for the offender.

H.B. 3127 would require that presentence investigations be conducted for all convicted felons, unless the court finds that adequate and current information is available in a previous presentence investigation report or from other sources. The court could request that a presentence investigation be conducted for convicted misdemeanants, although such investigations are not mandated by the bill. In all cases, presentence investigation reports would be in the form, and contain the information, prescribed by rules and regulations of the Secretary of Corrections. The reports could also contain such other information as may be prescribed by the court. The reports could be prepared by resources available within the judicial district, by the Kansas State Reception and Diagnostic

Center, or by the State Security Hospital at Larned. If a defendant is committed to the custody of the Secretary of Corrections, the presentence investigation report would be sent to the Secretary and to the director of the correctional institution to which the defendant is conveyed.

H.B. 3127 also amends K.S.A. 1977 Supp. 21-4610 to include, among the conditions of probation or suspension of sentence that a court may impose, requirements that the defendant:

- 1) Reside in a residential facility located in the community and participate in educational, counseling, work, and other correctional or rehabilitative programs;
- 2) perform community or public service work for local governmental agencies, private nonprofit corporations, or charitable or social service organizations; or
- 3) perform services under a system of day fines whereby the defendant is required to satisfy monetary fines or costs or reparation or restitution obligations by performing services for a period of days determined by the court on the basis of ability to pay, standard of living, support obligations, and other factors.

KCIW/KRDC Evaluations

The Committee recommends legislation to permit evaluations of females sentenced to the Secretary of Corrections to be conducted at KCIW or another appropriate state or local facility. The Committee finds that no valid reason exists to require that female offenders be sent to the Kansas Correctional Institution for Women for evaluation when other state or local facilities may be available to conduct the evaluation. H.B. 3118, which was discussed earlier in the section dealing with work release, would also amend K.S.A. 75-5229 to permit female offenders to be given a scientific evaluation at either

KCIW, another appropriate state institution other than another correctional institution, or at a local governmental or private facility which has been approved by the Secretary of Corrections for these purposes.

H.B. 3118 also amends K.S.A. 75-5262 to grant the director of the Kansas State Reception and Diagnostic Center the authority to determine the length of stay of an inmate at the Center, up to a maximum of 60 days.

"MAP" Parole Process

The Committee recommends legislation to authorize a parole process similar to the Minnesota "Mutual Agreement Programming" (MAP) concept. The Committee believes that this approach will serve to provide the Kansas Adult Authority with more flexibility in the parole process and increase the efficiency and humanity of prisoner rehabilitative programs and the parole review process. H.B. 3131 would establish a Mutual Agreement Programming (MAP) approach for use by the Kansas Adult Authority (KAA).

Under the MAP concept as established in the bill, the Secretary of Corrections (or a representative such as the director of the institution), the KAA, as well as the prisoner agree to a three-way contractual commitment. The prisoner must assume responsibility for planning (with prison staff) and successfully completing an individually-tailored rehabilitative program to obtain parole release at a mutually agreed upon date. The KAA must establish a firm parole date and honor it if the inmate fulfills the explicit criteria for release.

Within 60 days after the court loses jurisdiction, the inmate eligible for MAP would see the KAA. At the meeting the KAA will assign two dates. The first date would be an "upper limit" date: the guaranteed parole hearing date upon non-participation in MAP, or upon non-completion of a MAP contract but with absence of major misconduct convictions in the institution. The other date is a "lower limit" date, which is the earliest parole release date upon completion of a MAP contract. The lower limit date would be a date nine months earlier than the upper limit date.

The Kansas Adult Authority would adopt rules and regulations prescribing procedures and eligibility criteria for mutual agreement programming. The inmate would actively participate with staff of the Department of Corrections in planning and developing a rehabilitation program to be set forth in the agreement. The offering of such a contract would be solely determined by the Kansas Adult Authority, after consultation with the Secretary of Corrections.

DOC/KAA Regulations

The Committee recommends legislation to require that the rules and regulations of the Department of Corrections and the Kansas Adult Authority be adopted in accordance with the regulations filing statute and be subject to legislative review. Similar legislation has been introduced in recent years and the Committee finds no compelling reason for continuing the present exemption which permits the Department of Corrections and the Kansas Adult Authority to adopt rules and regulations without public hearings thereon, without publication thereof, and without legislative review of the adopted rules and regulations.

H.B. 3110 would implement this recommendation. Under this bill, the Secretary of Corrections and the Kansas Adult Authority would be required to file with the Revisor of Statutes, prior to July 1, 1978, a complete compilation of all rules and regulations of the Department and the Authority. On July 1, 1978, all previous rules and regulations of the two agencies would be null and void except for those rules and regulations filed between the effective date of this act (official state paper) and July 1, 1978. On and after July 1, 1978, all rules and regulations of the agencies would have to be filed in accordance with K.S.A. 77-415 through 77-436, in the same manner as most other state agencies.

The bill also adds new language to K.S.A. 77-421 which provides that the Kansas Adult Authority, the Secretary of Corrections, and the director of any state correctional institution may, but are not required to, give notice or an opportunity to be heard to any inmate in the custody of the

Secretary of Corrections with regard to the adoption of any rule and regulation.

Release-on-Recognizance (ROR)
and Supervised Release

The Committee recommends legislation to authorize the establishment of release-on-recognizance and supervised release programs similar to the Des Moines programs described earlier in this report. H.B. 3129 would permit the establishment of release-on-recognizance (ROR) and supervised release programs in the state. These programs will permit the pretrial release of those selected individuals who are unable to post money bond but who have stable roots in the community indicating that they will appear at trial and that their release will not jeopardize public safety. H.B. 3129 would authorize each district court to establish, operate, and coordinate ROR and supervised release programs which would be administered by probation officers and other personnel of the district court.

ROR programs would consist of initial interviews with detainees to obtain information and on objective analysis related to the likelihood that the persons will appear in court if released. Among other criteria, the following factors would be determined for each person interviewed under the ROR program:

- 1) Length of residence in the local community;
- 2) nature and extent of local family ties;
- 3) time in the local area;
- 4) stability of employment; and
- 5) extent of prior criminal history.

Supervised release programs would consist of extensive interviews with defendants who have been denied release on personal recognizance to select those defendants who are

likely to appear in court when required, are likely to cooperate with and benefit from supervised release, and are willing to actively participate in the supervised release program. The following persons would not be eligible for supervised release:

- 1) Defendants who are not residents of Kansas;
- 2) persons who are the subject of specific detainer orders of other state or federal law enforcement agencies; and
- 3) persons who are in need of physical or mental care or treatment, including treatment for any chemical dependency or intoxication.

Probation officers would submit, in proper cases, recommendations to the court for supervised release of defendants. If the court orders the release of the defendant with the condition of specific participation in a supervised release program, the probation officer would prepare for the defendant's signature a written agreement containing: (a) an acknowledgement of the relationship between the supervised release program and the defendant; (b) the details of the conditions of release; and (c) a statement of the consequences of any breach of the agreement by the defendant. The supervised release program would include appropriate programs for diagnostic testing, education and skills training, employment, and counseling. Each defendant under supervised release would be closely supervised by a probation officer.

For the purposes of operating ROR and supervised release programs, each district court would be authorized to contract for services and facilities and to receive property by gifts, devises, and bequests. Each district court would, to the extent feasible, arrange for utilization of existing local facilities and treatment and service resources, including job training, education, psychiatric and marriage counseling, and alcohol and drug abuse treatment and counseling. Each district court could approve the development of such resources by its own staff only if the necessary resources are otherwise unavailable to the court. Each district court would be

authorized to use the services of volunteers for such programs and to solicit local financial support from public, private, and charitable sources.

Juvenile Study Resolution

The Committee recommends, through H.C.R. 5061, that the Legislative Coordinating Council appoint a legislative committee during the 1978 interim to study public and private facilities and programs for the care, treatment, or detention of juveniles under the Kansas Juvenile Code and such other matters as the Legislative Coordinating Council may specify. This action is requested since the Committee did not have time enough to devote to a study of both adult and juvenile corrections.

Correctional Information System

The Committee recognizes the importance and difficulty of collecting data in the field of corrections and recommends that the Department of Corrections continue its efforts to develop and implement a Kansas Comprehensive Correctional Information System.

February 15, 1978

Respectfully submitted,

Rep. Patrick J. Hurley,
Chairperson,
Special Committee on
Corrections

Sen. Paul Hess,
Vice-Chairperson
Sen. Jim Parrish
Sen. Wint Winter
Rep. Arthur Douville
Rep. Phil Martin
Rep. Jack Rodrock

Dr. William Arnold
Judge Michael Barbara
Sister Dolores Brinkel
Mr. Loren Daggett
Mr. Bill Larson
Mr. Perry Proffitt
Mr. Miles Stevens

HOUSE BILL No. 3110

By Special Committee on Corrections

Re Proposal No. 14

1-26

0015 AN ACT concerning administrative rules and regulations of the
0016 department of corrections and the Kansas adult authority;
0017 amending K.S.A. 77-415 and 77-421 and repealing the existing
0018 sections.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 New Section 1. (a) Prior to July 1, 1978, and, except as other-
0021 wise provided by this section, in accordance with the provisions
0022 of K.S.A. 77-416 and 77-418, and amendments thereto: (1) The
0023 secretary of corrections shall prepare and file with the revisor of
0024 statutes a complete compilation of all rules and regulations of the
0025 secretary of corrections and the directors of the state correctional
0026 institutions, and (2) the Kansas adult authority shall prepare and
0027 file with the revisor of statutes a complete compilation of all rules
0028 and regulations of the Kansas adult authority. The rules and
0029 regulations compiled and filed under this subsection (a) shall not
0030 be required to be accompanied by fiscal or financial effect or
0031 impact statements under K.S.A. 77-416, and amendments thereto.

0032 (b) Until July 1, 1978, all rules and regulations of the secre-
0033 tary of corrections, the directors of the state correctional institu-
0034 tions and the Kansas adult authority which are in force and effect
0035 on the effective date of this act shall continue in full force and
0036 effect and may be amended, revived or revoked in the manner
0037 provided by law. On July 1, 1978, all rules and regulations of the
0038 secretary of corrections, the directors of the state correctional
0039 institutions and the Kansas adult authority in force and effect
0040 prior to said date shall be null and void.

0041 (c) On July 1, 1978, the rules and regulations of the secretary
0042 of corrections, the directors of the state correctional institutions

0043 and the Kansas adult authority which are compiled and filed with
0044 the revisor of statutes on or before said date in accordance with
0045 this section shall take effect and be in force and shall be the duly
0046 adopted temporary rules and regulations of the secretary of cor-
0047 rections, the directors of the state correctional institutions and the
0048 Kansas adult authority, respectively. Such temporary rules and
0049 regulations shall be numbered in accordance with the numbering
0050 arrangement approved by the revisor of statutes for temporary
0051 rules and regulations but shall not be published by the revisor of
0052 statutes. On and after July 1, 1978, all temporary and permanent
0053 rules and regulations of the secretary of corrections, the directors
0054 of the state correctional institutions and the Kansas adult author-
0055 ity shall be subject to all of the provisions of K.S.A. 77-415 to
0056 77-436, inclusive, and amendments thereto.

0057 Sec. 2. On and after July 1, 1978, K.S.A. 77-415 is hereby
0058 amended to read as follows: 77-415. As used in this act, unless the
0059 context clearly requires otherwise:

0060 (1) "State agency" means any officer, department, bureau,
0061 division, board, authority, agency, commission, or institution of
0062 this state, except the judicial and the legislative branches, which
0063 is authorized by law to promulgate rules and regulations con-
0064 cerning the administration, enforcement or interpretation of any
0065 law of this state.

0066 (2) "Person" means firm, association, organization, partner-
0067 ship, business trust, corporation or company.

0068 (3) "Board" means the state rules and regulations board es-
0069 tablished under the provisions of K.S.A. 77-423 and any amend-
0070 ments thereto.

0071 (4) "Rule and regulation," "rule," "regulation" and words of
0072 like effect mean a standard, statement of policy or general order,
0073 including amendments or revocations thereof, of general appli-
0074 cation and having the effect of law, issued or adopted by a state
0075 agency to implement or interpret legislation enforced or admin-
0076 istered by such state agency or to govern the organization or
0077 procedure of such state agency. Every rule and regulation
0078 adopted by a state agency to govern its enforcement or adminis-
0079 tration of legislation shall be adopted by the state agency and

0080 filed as a rule and regulation as provided in this act. The fact that
0081 a statement of policy or an interpretation of a statute is made in
0082 the decision of a case or in a state agency decision upon or
0083 disposition of a particular matter as applied to a specific set of
0084 facts does not render the same a rule or regulation within the
0085 meaning of the foregoing definition, nor shall it constitute spe-
0086 cific adoption thereof by the state agency so as to be required to
0087 be filed. A rule and regulation as herein defined shall not include
0088 any rule and regulation which: (a) Relates to the internal man-
0089 agement or organization of the agency and does not affect private
0090 rights or interest; (b) is an order directed to specifically named
0091 persons or to a group which does not constitute a general class
0092 and the order is served on the person or persons to whom it is
0093 directed by appropriate means. The fact that the named person
0094 serves a group of unnamed persons who will be affected does not
0095 make such an order a rule or regulation; (c) relates to the use of
0096 highways and is made known to the public by means of signs or
0097 signals; (d) relates to the construction and maintenance of high-
0098 ways or bridges or the laying out or relocation of a highway; (e)
0099 relates to the curriculum of public educational institutions or to
0100 the administration, conduct, discipline, or graduation of students
0101 from such institutions; ~~(f) relates to the management, discipline,~~
0102 ~~or release of persons committed to penal or correctional institu-~~
0103 ~~tions or persons who are placed on probation;~~ (f) relates to the
0104 use of facilities by public libraries; ~~(h)~~ (g) relates to military or
0105 naval affairs; ~~(i)~~ (h) relates to the form and content of reports,
0106 records, or accounts of state, county, or municipal officers, insti-
0107 tutions, or agencies; ~~(j)~~ (i) relates to expenditures by state agencies
0108 the purchase of materials, equipment, or supplies by or for state
0109 agencies, or the printing or duplicating of materials for state
0110 agencies; ~~(k)~~ (j) establishes personnel standards, job classifica-
0111 tions, or job ranges for state employees who are in the classified
0112 civil service; ~~(l)~~ (k) fixes or approves rates, prices, or charges, or
0113 rates, joint rates, fares, tolls, charges, rules, regulations, classifi-
0114 cations or schedules of common carriers or public utilities subject
0115 to the jurisdiction of the state corporation commission, except
0116 when a statute specifically requires the same to be fixed by a rule

0117 or regulation; ~~(m)~~ (l) determines the valuation of securities held
0118 by insurance companies; ~~(n)~~ (m) is a statistical plan relating to the
0119 administration of rate regulation laws applicable to casualty
0120 insurance or to fire and allied lines insurance; ~~(o)~~ (n) is a form, the
0121 content or substantive requirements of which are prescribed by
0122 regulation or statute; ~~(p)~~ (o) relates to the exploration for or to the
0123 production, conservation or sale of crude oil or natural gas, or to
0124 the injection of air, gas, water or other fluid under pressure into
0125 oil or gas producing sands, strata or formations for the purpose of
0126 recovering the oil and gas contained therein, or to the disposal of
0127 oil-field or gas-field brines, mineralized waters and wastes; or ~~(q)~~
0128 (p) is a pamphlet or other explanatory material not intended or
0129 designed as interpretation of legislation enforced or adopted by a
0130 state agency but is merely informational in nature.

0131 Sec. 3. K.S.A. 77-421 is hereby amended to read as follows:
0132 77-421. (a) Prior to the adoption of any permanent rule and
0133 regulation or any temporary rule and regulation which is required
0134 to be adopted as a temporary rule and regulation in order to
0135 comply with the requirements of the statute authorizing the same
0136 and after any such rule and regulation has been approved by the
0137 secretary of administration and the attorney general, the adopting
0138 state agency shall give at least fifteen (15) days' notice of its
0139 intended action to all parties of interest known to the state
0140 agency, to all persons making timely request to the state agency
0141 and to the revisor of statutes. The parties to be noticed, in each
0142 case, shall be subject to the approval of the attorney general. The
0143 notice shall be mailed to the revisor of statutes and to all parties
0144 so approved and shall contain a statement of the terms, or the
0145 substance of the proposed rules and regulations or a description
0146 of the subjects and issues involved. Such notice shall state the
0147 time and place of the public hearing to be held thereon and the
0148 manner in which interested parties may present their views
0149 thereon. Such notice shall be accompanied by a copy of the fiscal
0150 or financial impact statement applicable to all proposed rules and
0151 regulations which will be considered at such public hearing. On
0152 the date of the hearing, all interested parties shall be given
0153 reasonable opportunity to present their views or arguments on

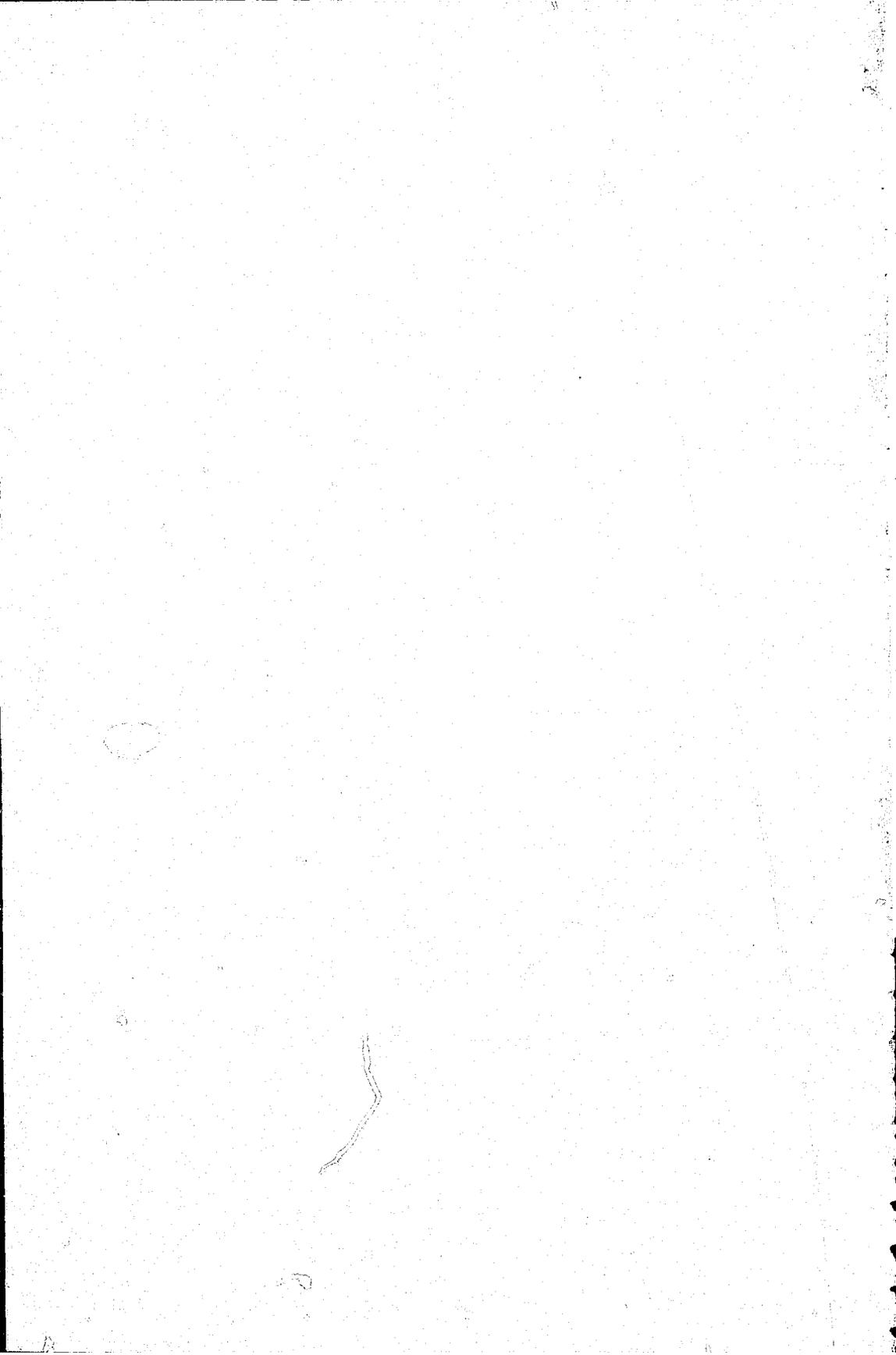
0154 adoption of the rule and regulation, either orally or in writing.
0155 When requested to do so, the state agency shall prepare a concise
0156 statement of the principal reasons for adopting the rule and
0157 regulation or amendment thereto. The failure of any party to
0158 receive notice of a hearing on a proposed rule and regulation shall
0159 not invalidate any such rule and regulation subsequently
0160 adopted. Whenever a state agency is required by any other statute
0161 to give notice and hold a hearing before adopting, amending,
0162 reviving, or revoking a rule and regulation, the state agency may,
0163 in lieu of following the requirements or statutory procedure set
0164 out in such other law, give notice and hold hearings on proposed
0165 rules and regulations in the manner prescribed by this act. *Not-*
0166 *withstanding the other provisions of this section, the Kansas adult*
0167 *authority, the secretary of corrections and the director of any state*
0168 *correctional institution may, but shall not be required to, give*
0169 *notice or an opportunity to be heard to any inmate in the custody*
0170 *of the secretary of corrections with regard to the adoption of any*
0171 *rule and regulation.*

0172 (b) No rule and regulation shall be adopted except at a meet-
0173 ing which is open to the public; and, notwithstanding any other
0174 provision of law to the contrary, no rule and regulation shall be
0175 adopted unless it shall receive approval by roll call vote of a
0176 majority of the total membership of the adopting board, commis-
0177 sion, authority or other similar body.

0178 Sec. 4. K.S.A. 77-421 is hereby repealed.

0179 Sec. 5. On July 1, 1978, K.S.A. 77-415 is hereby repealed.

0180 Sec. 6. This act shall take effect and be in force from and after
0181 its publication in the official state paper.



HOUSE BILL No. 3111

By Special Committee on Corrections

Re Proposal No. 14

1-26

0015 AN ACT relating to the Kansas adult authority; membership;
0016 parole procedures and regulations; amending K.S.A. 22-3707
0017 and K.S.A. 1977 Supp. 22-3717 and repealing the existing
0018 sections.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. K.S.A. 22-3707 is hereby amended to read as fol-
0021 lows: 22-3707. (a) The Kansas adult authority shall consist of five
0022 (5) members ~~to~~. *Four (4) members shall be appointed by the*
0023 *governor with the advice and consent of the senate and one (1)*
0024 *member shall be appointed by the secretary of corrections with the*
0025 *advice and consent of the senate. After January 1, 1975, No more*
0026 *than three (3) members of such authority shall be members of the*
0027 *same political party. At least two (2) members shall be chosen*
0028 *from among the following: Psychiatrists, psychologists, sociolo-*
0029 *gists or persons licensed to practice medicine and surgery. At*
0030 *least one (1) member shall be a person admitted to practice law*
0031 *before the supreme court of Kansas. The term of office of the*
0032 *members of the authority shall be four (4) years. The secretary of*
0033 *corrections shall appoint a member for the office of the member*
0034 *whose term expires on June 30, 1978, and thereafter upon the*
0035 *expiration of the term of such office. In case of a vacancy in the*
0036 *membership of the authority occurring before the expiration of*
0037 *the term of office a successor shall be appointed in like manner as*
0038 *original appointments are made, for the remainder of the unex-*
0039 *pired term. Each member of the Kansas adult authority shall*
0040 *devote his or her full time to the duties of membership on the*
0041 *authority.*

0042 (b) Members serving on the state board of probation and

0043 parole on the effective date of this act shall be and remain the
0044 members of the authority created by this section and shall hold
0045 their respective offices until their terms expire and their respec-
0046 tive successors are appointed and qualified or until a vacancy
0047 occurs. Of the two (2) members added by this act, one (1) shall be
0048 appointed for an initial term of three (3) years and one (1) for a
0049 term of four (4) years, commencing July 1, 1974.

0050 (c) The governor may ~~not~~ remove any member of the authority
0051 ~~except appointed by the governor and the secretary of corrections~~
0052 ~~may remove the member appointed by the secretary,~~ for disabil-
0053 ity, inefficiency, neglect of duty or malfeasance in office. Before
0054 such removal, ~~he will the governor or the secretary of corrections,~~
0055 ~~as the case may be,~~ shall give the member a written copy of the
0056 charges against ~~him~~ ~~the member~~ and shall fix the time when ~~he~~
0057 ~~the member~~ can be heard in his or her defense at a public hearing,
0058 which shall not be less than ten (10) days thereafter. Upon
0059 removal, the ~~governor or the secretary of corrections, as the case~~
0060 ~~may be,~~ shall file in the office of the secretary of state a complete
0061 statement of all charges made against the member and the find-
0062 ings thereupon, with a complete record of the proceedings.

0063 Sec. 2. K.S.A. 1977 Supp. 22-3717 is hereby amended to read
0064 as follows: 22-3717. (1) The authority shall have power to release
0065 on parole those persons confined in institutions who are eligible
0066 for parole when, in the opinion of the authority, there is reason-
0067 able probability that such persons can be released without detri-
0068 ment to the community or to themselves.

0069 (2) After expiration of one hundred twenty (120) days from
0070 the date of sentence, the Kansas adult authority is hereby granted
0071 the authority to place upon intensive supervised parole any
0072 inmate classified in the lowest minimum security classification
0073 who has achieved such status under rules and regulations ~~pro-~~
0074 ~~mulgated~~ ~~adopted~~ by the secretary of corrections, except in the
0075 case where a death sentence or life imprisonment has been
0076 imposed as the minimum sentence or where the minimum sen-
0077 tence imposed aggregates more than fifteen (15) years, after
0078 deduction of work and good behavior credits. Persons confined
0079 in institutions shall be eligible for parole after fifteen (15) years if

0080 sentenced to life imprisonment or to a minimum term which,
0081 after deduction of work and good behavior credits, aggregates
0082 more than fifteen (15) years.

0083 (3) Within one year after the admission of each inmate and at
0084 such intervals thereafter as it may determine the authority shall
0085 consider all pertinent information regarding each inmate, in-
0086 cluding the circumstances of the offense of the inmate; the
0087 presentence report; the previous social history and criminal rec-
0088 ord of the inmate; the conduct, employment, and attitude of the
0089 inmate in prison; and the reports of such physical and mental
0090 examinations as have been made.

0091 (4) Before ordering the parole of any inmate, the authority
0092 shall have the inmate appear before it and shall interview the
0093 inmate unless impractical because of the inmate's physical or
0094 mental condition or absence from the institution. A parole shall
0095 be ordered only for the best interest of the inmate and not as an
0096 award of clemency. Parole shall not be considered a reduction of
0097 sentence or a pardon. An inmate shall be placed on parole only
0098 when the authority believes that the inmate is able and willing to
0099 fulfill the obligations of a law-abiding citizen or that the inmate
0100 should be released for hospitalization, deportation or to answer
0101 the warrant or other process of a court. Every inmate while on
0102 parole shall remain in the legal custody of the secretary of
0103 corrections and is subject to the orders of the secretary. *Whenever*
0104 *the authority formally considers placing an inmate on parole and*
0105 *does not grant the parole, the authority shall notify the inmate in*
0106 *writing of the reasons for not granting the parole.*

0107 (5) Any parolee may be placed on intensive supervised parole.
0108 Any such parolee shall have a direct meeting at least once each
0109 week with an intensive supervising parole officer. Such parolee
0110 may be removed from intensive supervised parole when it is
0111 determined by the secretary of corrections that such removal will
0112 not jeopardize public safety and will be beneficial to the interests
0113 of the parolee.

0114 (6) The authority ~~may~~ shall adopt rules and regulations not
0115 inconsistent with the law as it may deem proper or necessary in
0116 accordance with K.S.A. 77-415 et seq., and amendments thereto,

0117 with respect to the eligibility of inmates for parole, the conduct of
0118 parole hearings; ~~or~~ *and the* conditions to be imposed upon paro-
0119 lees. Whenever an order for parole is issued it shall recite the
0120 conditions thereof.

0121 (7) As used in this section, the term "minimum security" shall
0122 be defined by rules and regulations of the secretary of correc-
0123 tions.

0124 (8) Notwithstanding any other provision of this section, any
0125 person sentenced pursuant to K.S.A. ~~1976~~ 1977 Supp. 21-4618
0126 shall not be eligible for parole therefrom prior to serving the
0127 entire minimum sentence imposed, except that in the case of a
0128 person convicted of a class A felony and sentenced pursuant to
0129 K.S.A. ~~1976~~ 1977 Supp. 21-4618 shall not be eligible for parole
0130 prior to serving fifteen (15) years of the sentence imposed.

0131 Sec. 3. K.S.A. 22-3707 and K.S.A. 1977 Supp. 22-3717 are
0132 hereby repealed.

0133 Sec. 4. This act shall take effect and be in force from and after
0134 its publication in the statute book.

HOUSE BILL No. 3112

By Special Committee on Corrections

Re Proposal No. 14

1-26

0015 AN ACT relating to correctional services; enacting the commu-
0016 nity corrections act; concerning the development, implemen-
0017 tation, operation and improvement of community corrections
0018 services and programs; authorizing certain grants to counties;
0019 prescribing powers and duties for the secretary of corrections.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. This act shall be known and may be cited as the
0022 "community corrections act."

0023 Sec. 2. For the purposes of more effectively protecting soci-
0024 ety and promoting efficiency and economy in the delivery of
0025 correctional services, the secretary of corrections is hereby au-
0026 thorized to make grants to counties for the development, imple-
0027 mentation, operation and improvement of community correc-
0028 tional services including, but not limited to preventive or
0029 diversionary correctional programs, community corrections
0030 centers and facilities for the detention or confinement, care or
0031 treatment of adults convicted of crime or of juveniles being
0032 detained or adjudged delinquent, miscreant, wayward, traffic
0033 offender, truant or dependent and neglected under the Kansas
0034 juvenile code.

0035 Sec. 3. (a) Subject to the other provisions of this act, each
0036 county may qualify for grants under this act if: (1) It has a
0037 population of thirty thousand (30,000) or more;

0038 (2) it has entered into a cooperative agreement for the pur-
0039 poses of this act with one or two other counties and all such
0040 cooperating counties are located within a single judicial district
0041 and have a total population of twenty thousand (20,000) or more;

0042 (3) it has entered into a cooperative agreement for purposes of

0043 this act with three or more counties and all such cooperating
0044 counties are located within a single judicial district; or

0045 (4) it has a population of less than thirty thousand (30,000)
0046 and the secretary of corrections finds that the county is unable to
0047 enter into a cooperative agreement for purposes of this act with
0048 one or more counties to meet the conditions in subsection (a)(2) or
0049 (a)(3) above after a good faith effort to do so, but that it is able to
0050 adequately implement a comprehensive plan which will signifi-
0051 cantly improve or expand the correctional services described in
0052 section 2 in that county.

0053 (b) Each county which is eligible under subsection (a) to
0054 qualify for grants under this act, may qualify by itself or in
0055 cooperation with other counties to receive such grants by estab-
0056 lishing a corrections advisory board, in accordance with section
0057 8, and by adopting a comprehensive plan for the development,
0058 implementation, operation and improvement of the correctional
0059 services described in section 2 which has been approved by the
0060 secretary of corrections. In addition to such matters as are pre-
0061 scribed by rules and regulations of the secretary of corrections,
0062 the comprehensive plan shall provide for centralized administra-
0063 tion and control of the correctional services under the compre-
0064 hensive plan.

0065 (c) In any case where one or more counties which do not
0066 constitute an entire judicial district propose to enter into a coop-
0067 erative agreement to qualify for grants under this act, each of the
0068 other counties within the judicial district shall be given the
0069 opportunity to enter into such agreement with the proposing
0070 counties to qualify for such grants. In each such case, if a county
0071 elects to not become qualified for grants under this act, the board
0072 of county commissioners of that county shall adopt a resolution to
0073 that effect and send a copy of such resolution to the secretary of
0074 corrections. At any time thereafter and in accordance with rules
0075 and regulations of the secretary of corrections, the county may
0076 change such election and may enter into a cooperative agreement
0077 with the other counties in the judicial district to qualify for grants
0078 under this act.

0079 (d) In each case where a county later elects under subsection

0080 (c) to enter into a cooperative agreement with the other county or
0081 counties in its judicial district which have previously qualified
0082 for grants under this act, the corrections advisory board shall be
0083 reconstituted and the comprehensive plan shall be revised in
0084 order to include the additional county. Each comprehensive plan
0085 so revised shall be resubmitted for approval to the boards of
0086 county commissioners and to the secretary of corrections. Prior to
0087 such approval by the secretary of corrections, the previous com-
0088 prehensive plan shall be in effect and the county or counties
0089 which had previously qualified for grants under this act shall
0090 continue to be qualified to receive such grants with regard to the
0091 previous comprehensive plan in accordance with this act.

0092 (e) Subject to the requirements of centralized administration
0093 and control of correctional services under subsection (b) and the
0094 provisions of agreements between cooperating counties under
0095 subsection (f), the respective boards of county commissioners
0096 shall retain all authority for the expenditure of funds, including
0097 grants received under this act, and for the implementation of and
0098 the operations under the comprehensive plan approved by the
0099 secretary of corrections. The comprehensive plan shall be re-
0100 viewed and approved by the board of county commissioners of
0101 each county to which the plan pertains prior to submission to the
0102 secretary of corrections for approval.

0103 (f) The boards of county commissioners of two or more
0104 counties located within or constituting a single judicial district
0105 may enter into cooperative agreements to qualify their respective
0106 counties for grants under this act. Such counties shall cooperate
0107 and enter into such agreements for all purposes of this act in the
0108 manner prescribed by K.S.A. 12-2901 to 12-2907, inclusive, and
0109 amendments thereto, to the extent that said statutes do not con-
0110 flict with the provisions of this act. No group of counties entering
0111 into cooperative agreements for purposes of this act shall include
0112 any county located within another judicial district.

0113 Sec. 4. In order to assist a county or group of cooperating
0114 counties which has established a corrections advisory board but
0115 which does not have a comprehensive plan which has been
0116 approved by the secretary of corrections and which requires

0117 financial aid to defray all or part of the expenses incurred by
0118 corrections advisory board members in discharging their official
0119 duties pursuant to section 10, the secretary of corrections, upon
0120 receipt of resolutions by the board or boards of county commis-
0121 sioners, or the administrative authority established by cooperat-
0122 ing counties, certifying the need for and inability to pay such
0123 expenses, may pay quarterly to the county or counties an amount
0124 of not to exceed ten percent (10%) of the maximum quarterly
0125 grant payment for which the county would be qualified to receive
0126 under section 16 or, in the case of cooperating counties, ten
0127 percent (10%) of the total of the maximum quarterly grant pay-
0128 ments which the counties would be qualified to receive under
0129 section 16.

0130 Sec. 5. (a) In accordance with K.S.A. 77-415 *et seq.*, and
0131 amendments thereto, the secretary of corrections shall adopt rules
0132 and regulations necessary for the implementation and adminis-
0133 tration of this act and as prescribed by this act. The secretary of
0134 corrections shall provide consultation and technical assistance to
0135 counties and corrections advisory boards to aid them in the
0136 development of comprehensive plans under this act.

0137 (b) This act shall be administered by the secretary of correc-
0138 tions or by officers and employees of the department of correc-
0139 tions designated by the secretary to the extent that authority to do
0140 so is delegated by the secretary, except that the authority to adopt
0141 rules and regulations under this act shall not be delegated.

0142 Sec. 6. For the purposes of this act and to provide for the
0143 correctional services described in section 2, any county or group
0144 of cooperating counties electing to come within the provisions of
0145 this act, through their boards of county commissioners, or ad-
0146 ministrative bodies established by cooperating counties, may (1)
0147 acquire by any lawful means, including purchase, lease or
0148 transfer of custodial control, the lands, buildings and equipment
0149 necessary and incidental to such purposes; (2) enter into con-
0150 tracts, which are necessary and incidental to such purposes; (3)
0151 determine and establish the administrative structure best suited
0152 to the efficient administration and delivery of such correctional
0153 services; (4) employ a director and such other officers, employees,

0154 and agents as deemed necessary to carry out the provisions of this
0155 act; (5) make grants in accordance with the comprehensive plan
0156 of funds provided by grant payments under section 16 to cor-
0157 porations organized not for profit, for development, operation
0158 and improvement of such correctional services; and (6) use un-
0159 expended funds, accept gifts, grants and subsidies from any
0160 lawful source, and apply for, accept and expend federal funds.

0161 Sec. 7. (a) Except as provided in section 4, no county electing
0162 to come within the provisions of this act shall be qualified to
0163 receive grants under this act unless and until the comprehensive
0164 plan for such county or the group of counties with which such
0165 county is cooperating, is approved by the secretary of corrections.

0166 (b) The secretary of corrections shall adopt rules and regula-
0167 tions establishing additional requirements for receipt of grants
0168 under this act and standards for the operation of the correctional
0169 services described in section 2. In order to remain eligible for
0170 grants the county or group of cooperating counties shall substan-
0171 tially comply with the operating standards established by the
0172 secretary of corrections.

0173 (c) The secretary of corrections shall review annually the
0174 comprehensive plans submitted by a county or group of coop-
0175 erating counties and the facilities and programs operated under
0176 such plans. The secretary of corrections is authorized to examine
0177 books, records, facilities and programs for purposes of recom-
0178 mending needed changes or improvements.

0179 (d) When the secretary of corrections determines that there are
0180 reasonable grounds to believe that a county or group of coop-
0181 erating counties is not in substantial compliance with the min-
0182 imum operating standards adopted pursuant to this section, at
0183 least thirty (30) days notice shall be given the county or to each
0184 county in the group of cooperating counties and a hearing shall
0185 be held to ascertain whether there is substantial compliance or
0186 satisfactory progress being made toward compliance. If the sec-
0187 retary of corrections determines at such hearing that there is not
0188 substantial compliance or satisfactory progress being made
0189 toward compliance, the secretary of corrections may suspend all
0190 or a portion of any grant under this act until the required stan-

0191 dards of operation have been met.

0192 Sec. 8. (a) Subject to the other provisions of this section, each
0193 corrections advisory board established under this act shall consist
0194 of twelve (12) members, who shall be representative of law
0195 enforcement, prosecution, the judiciary, education, corrections,
0196 ethnic minorities, the social services, and the general public, and
0197 shall be appointed as follows:

0198 (1) The law enforcement representatives shall be: (A) The
0199 sheriff, or, if two or more counties are cooperating, the sheriff
0200 selected by the sheriffs of all such counties, or the designee of the
0201 sheriff so selected, and (B) the chief of police of the city with the
0202 largest population at the time the board is established, or, if two
0203 or more counties are cooperating, the chief of police selected by
0204 those chiefs of police who are each a chief of police of the city
0205 with the largest population of each such county at the time the
0206 board is established or, if two or more counties are cooperating,
0207 the chief of police, or the designee of the chief of police so
0208 selected;

0209 (2) the prosecution representative shall be either the county
0210 attorney or district attorney, or, if two or more counties are
0211 cooperating, a county attorney selected by the county attorneys of
0212 such counties, or the designee of such county attorney or district
0213 attorney;

0214 (3) the judiciary representative shall be the administrative
0215 judge of the district court for the judicial district containing the
0216 county or group of counties, or a judge of the district court for
0217 such judicial district designated by the administrative judge;

0218 (4) the education representative shall be an educational pro-
0219 fessional appointed by the board of county commissioners of the
0220 county or, if two or more counties are cooperating, by all the
0221 boards of county commissioners;

0222 (5) a representative designated by the secretary of social and
0223 rehabilitation services;

0224 (6) the board of county commissioners of the county shall
0225 appoint or, if two or more counties are cooperating, all the boards
0226 of county commissioners shall together appoint three additional
0227 members of the corrections advisory board; and

0228 (7) the remaining three members of the corrections advisory
0229 board shall be appointed by cities located within the county or
0230 group of cooperating counties as follows: (A) If there are three or
0231 more cities of the first class, the governing body of each of the
0232 three cities of the first class having the largest populations shall
0233 each appoint one member; (B) if there are two cities of the first
0234 class, the governing body of the larger city of the first class shall
0235 appoint two members and the governing body of the smaller city
0236 of the first class shall appoint one member; (C) if there is only one
0237 city of the first class, the governing body of such city shall
0238 appoint all three members; and (D) if there are no cities of the
0239 first class, the governing body of each of the three cities having
0240 the largest populations shall each appoint one member.

0241 (b) If possible, of the six members appointed by the boards of
0242 county commissioners in accordance with subsection (a)(6) and
0243 by the governing bodies of cities in accordance with subsection
0244 (a)(7), such members shall be representative of one or more of the
0245 following: (1) Parole or probation officers; (2) public or private
0246 social service agencies; (3) ex-offenders; (4) the health care pro-
0247 fessions; and (5) the general public.

0248 (c) At least two members of each corrections advisory board
0249 shall be representative of ethnic minorities and no more than
0250 two-thirds ($\frac{2}{3}$) of the members of each such board shall be
0251 members of the same sex.

0252 Sec. 9. (a) Members of a corrections advisory board ap-
0253 pointed in accordance with section 8 shall serve for terms of two
0254 years from and after the date of their appointment, unless the
0255 board is required to be reconstituted in accordance with subsec-
0256 tion (d) of section 3, and shall remain in office until their
0257 successors are duly appointed. All vacancies in a corrections
0258 advisory board shall be filled for the unexpired term in the
0259 manner that the position was originally filled. Each corrections
0260 advisory board shall elect its own officers.

0261 (b) All proceedings of the corrections advisory board and any
0262 committee or subcommittee of the board shall be open to the
0263 public in accordance with and subject to the provisions of K.S.A.
0264 75-4317 to 75-4320, inclusive, and acts amendatory thereto. All

0265 votes of members of the corrections advisory board shall be
0266 recorded and shall become matters of public record.

0267 (c) The corrections advisory board shall promulgate and im-
0268 plement rules concerning the conduct of proceedings and at-
0269 tendance of members at board meetings.

0270 Sec. 10. Corrections advisory boards established under the
0271 provisions of this act shall actively participate in the formulation
0272 of the comprehensive plan for the development, implementation
0273 and operation of the correctional services described in section 2
0274 in the county or group of cooperating counties, and shall make a
0275 formal recommendation to the board or boards of county com-
0276 missioners at least annually concerning the comprehensive plan
0277 and its implementation and operation during the ensuing year.

0278 Sec. 11. Any comprehensive plan submitted pursuant to this
0279 act may include the purchase of selected correctional services
0280 from the state by contract, including the temporary detention and
0281 confinement of adults convicted of crime or juveniles being
0282 detained or adjudged delinquent, miscreant, wayward, traffic
0283 offender, truant or dependent and neglected under the Kansas
0284 juvenile code, in an appropriate state institution or facility as
0285 otherwise provided by law. The secretary of corrections shall
0286 annually determine the costs of the purchase of services under
0287 this section and deduct them from the grant payable to the county
0288 or, in the case of cooperating counties, the grants payable to the
0289 counties. In no case shall the charges for correctional services
0290 under such contract with the state exceed in cost the amount of
0291 the grant the county is eligible or, in the case of cooperating
0292 counties, the total amount of the grants the counties are eligible to
0293 receive under this act.

0294 Sec. 12. (a) In accordance with this section, the secretary of
0295 corrections shall annually determine the amount of the grant for
0296 the next ensuing calendar year to each county which has qualified
0297 to receive grants under this act.

0298 (b) Each of the following factors shall be calculated for each
0299 county participating under this act:

0300 (1) Per capita income for the preceding calendar year;

0301 (2) per capita taxable valuation for the preceding calendar

0302 year;

0303 (3) crimes per one thousand (1,000) population; and

0304 (4) percent of county population aged five (5) through
0305 twenty-nine (29) years of age.

0306 (c) The crimes per one thousand (1,000) population of each
0307 county shall be determined from the most recent compilation of
0308 Kansas crime statistics by the Kansas bureau of investigation.

0309 (d) The percent of county population aged five (5) through
0310 twenty-nine (29) years of age of each county shall be determined
0311 by the division of planning and research of the department of
0312 administration.

0313 (e) After calculating the factors under subsection (b), the
0314 following factors shall be calculated for each county:

0315 (1) Each county's per capita income shall be divided into the
0316 one hundred five (105) county average;

0317 (2) each county's per capita taxable valuation shall be divided
0318 into the one hundred five (105) county average;

0319 (3) each county's number of crimes per one thousand (1,000)
0320 population shall be divided by the one hundred five (105) county
0321 average;

0322 (4) each county's percent of county population aged five (5)
0323 through twenty-nine (29) years of age shall be divided by the one
0324 hundred five (105) county average.

0325 (f) The factors calculated under subsection (e) for each county
0326 shall be totaled and divided by four (4). The quotient thus
0327 obtained is the computation factor for the county. Subject to
0328 subsection (g), the amount of the annual grant the county is
0329 eligible to receive under this act shall be determined by multi-
0330 plying the computation factor by the amount of the per capita
0331 appropriation as fixed by appropriation act and multiplying that
0332 product by the total county population. The county population
0333 under this subsection shall be according to the most recent
0334 enumeration by the state board of agriculture.

0335 (g) In all cases of counties becoming eligible for and receiv-
0336 ing grants for the first time under this act, the annual amount of
0337 the grant for each such county shall be as follows:

0338 (1) For the first calendar year, seventy percent (70%) of the

0339 amount determined under subsection (f);

0340 (2) for the second calendar year, eighty percent (80%) of the
0341 amount determined under subsection (f);

0342 (3) for the third calendar year, ninety percent (90%) of the
0343 amount determined under subsection (f); and

0344 (4) for the fourth calendar year and for each calendar year
0345 thereafter, one hundred percent (100%) of the amount determined
0346 under subsection (f).

0347 Sec. 13. (a) The comprehensive plan submitted to the secre-
0348 tary of corrections for approval shall include those items pre-
0349 scribed by rules and regulations adopted by the secretary, which
0350 may require the inclusion of the following: (1) A program for the
0351 detention, supervision and treatment of persons under pretrial
0352 detention or under commitment; (2) delivery of other correctional
0353 services defined in section 2; and (3) proposals for new facilities,
0354 programs and services, which proposals must include a statement
0355 of the need, purposes and objectives of the proposal and the
0356 administrative structure, staffing pattern, staff training, financ-
0357 ing, degree of community involvement and client participation
0358 which are planned for the proposal.

0359 (b) In addition to the foregoing requirements made by this
0360 section, each participating county or group of counties shall be
0361 required to develop and implement a procedure for the review by
0362 the corrections advisory board and the board or boards of county
0363 commissioners of new program applications and other matters
0364 proposed to be included under the comprehensive plan and for
0365 the manner in which corrections advisory board action shall be
0366 taken thereon. A description of this procedure shall be made
0367 available to members of the public upon request.

0368 Sec. 14. (a) Except as provided in section 4, each grant under
0369 this act shall be expended by the county receiving it for correc-
0370 tional services as described in section 2 in addition to the amount
0371 required to be expended by such county under this section. Each
0372 calendar year in which a county receives grant payments under
0373 section 16, the county shall make expenditures for correctional
0374 services as described in section 2 from any funds other than from
0375 grants under this act in an amount equal to or exceeding the

0376 amount of base year corrections expenditures as determined by
0377 the secretary of corrections under subsection (b).

0378 (b) The secretary of corrections shall audit and determine the
0379 amount of the expenditures for correctional services as described
0380 in section 2 of each county applying for a grant under this act
0381 during the calendar year immediately preceding the calendar year
0382 in which the county will receive its first grant payment under
0383 section 16. The amount so determined shall be the amount of base
0384 year corrections expenditures of the county.

0385 (c) In any case where a county receiving a grant does not make
0386 expenditures for correctional services from funds other than from
0387 grants under this act as required by this section, the grant to such
0388 county for the next ensuing calendar year shall be reduced by an
0389 amount equal to the amount by which such county failed to make
0390 such required amount of expenditures.

0391 (d) If a participating county does not expend the full amount
0392 of the grant received for any one year under the provisions of this
0393 act, the county shall retain the unexpended amount of the grant
0394 for expenditure for correctional services as described in section 2
0395 during any ensuing calendar year. The secretary of corrections
0396 shall reduce the grant for the ensuing calendar year by an amount
0397 equal to the amount of the previous year's grant which was not
0398 expended and was retained by the county, unless the secretary
0399 finds that the amount so retained is needed for and will be
0400 expended during the ensuing calendar year for expenditures
0401 under the applicable comprehensive plan.

0402 Sec. 15. (a) Each county receiving grants under this act shall
0403 be charged a sum determined by the secretary of corrections
0404 which shall be equal to the total of: (1) The per diem costs to the
0405 state general fund of confinement and rehabilitation of those
0406 persons who are committed to the secretary of corrections on and
0407 after the first day of the calendar quarter for which the county
0408 first receives grant payments under section 16, except that no
0409 charge shall be made for those persons convicted of a felony for
0410 which the maximum term of imprisonment which by statute is
0411 imposed or may be imposed equals or exceeds twenty (20) years;
0412 and

0413 (2) the per diem costs to the state general fund of the care and
0414 custody of those juveniles who are committed to the secretary of
0415 social and rehabilitation services or to any state institution or
0416 facility under the jurisdiction of said secretary on and after the
0417 first of the calendar quarter for which the county first receives
0418 grant payments under section 16.

0419 (b) In no case shall the amount charged for the total of such
0420 per diem costs exceed the amount of the grant which the county is
0421 eligible to receive under this act. The secretary of corrections
0422 shall determine such costs and deduct them from the amount of
0423 the grant payable to each such county. All such charges shall be a
0424 charge against the county of commitment.

0425 Sec. 16. (a) Upon compliance by a county or group of coun-
0426 ties with the requirements for receipt of the grants authorized by
0427 this act and approval of the comprehensive plan by the secretary
0428 of corrections, the secretary of corrections shall determine the
0429 amount of the annual grant to each such county and, commencing
0430 on the next ensuing calendar quarter after approval of the com-
0431 prehensive plan, shall proceed to pay such grant in equal quar-
0432 terly payments in accordance with and subject to this act, appli-
0433 cable rules and regulations, and the provisions of appropriations
0434 acts.

0435 (b) Within ten (10) days after the end of each calendar quarter,
0436 each county receiving quarterly grant payments under this act
0437 shall submit to the secretary of corrections certified statements
0438 detailing the amounts expended and costs incurred for the cor-
0439 rectional services described in section 2. Upon receipt of such
0440 certified statements, the secretary of corrections shall determine
0441 whether each such county is in compliance with the expenditure
0442 and operation standards prescribed under this act for such ser-
0443 vices and shall determine the quarterly payment amount each
0444 such county is entitled to receive after making any adjustments
0445 for reductions or charges as required by or in accordance with
0446 this act and applicable rules and regulations.

0447 (c) Quarterly grant payments for counties entitled thereto
0448 under this act shall be made upon warrants of the director of
0449 accounts and reports issued pursuant to vouchers approved by

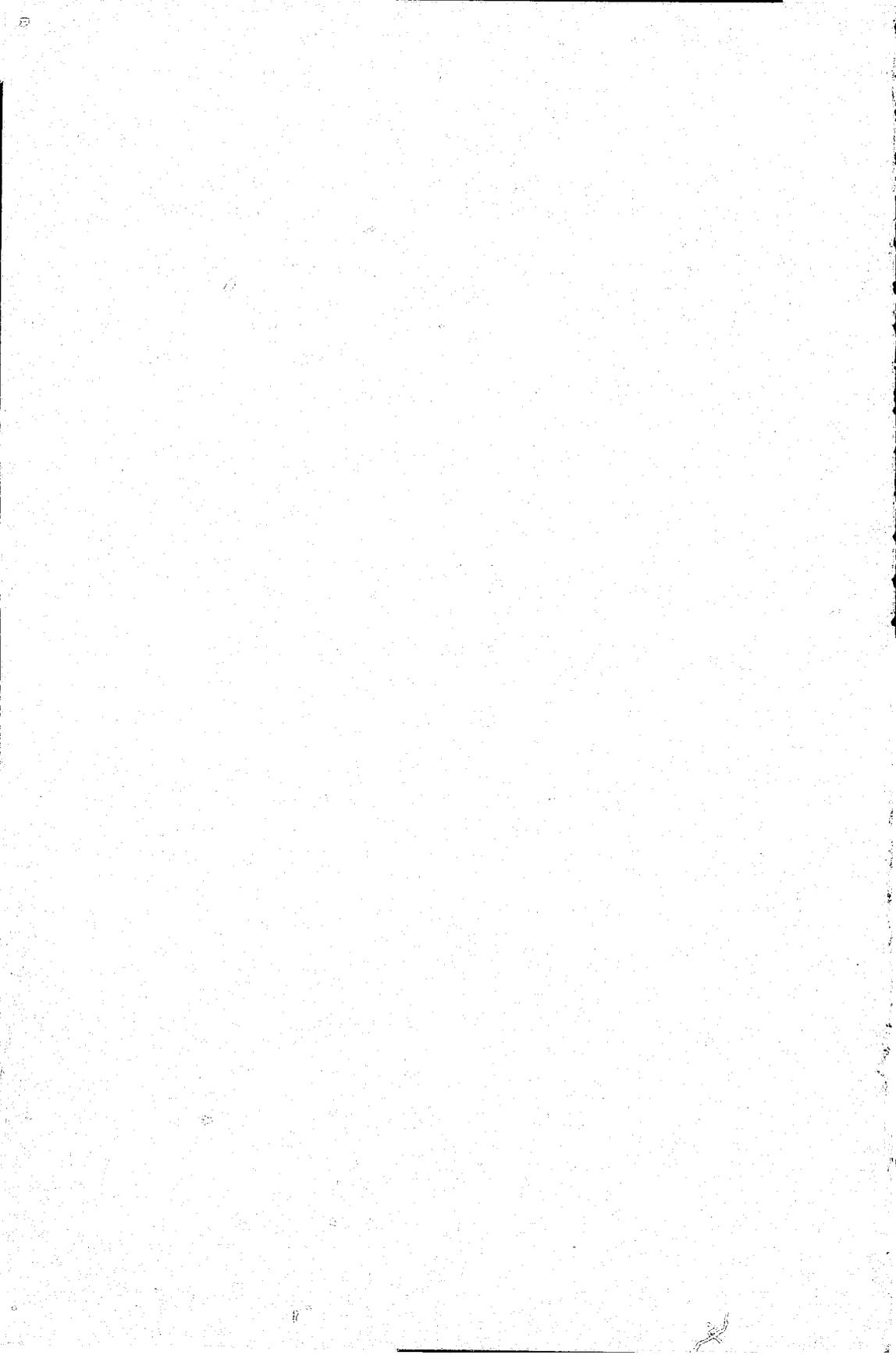
0450 the secretary of corrections or by a person or persons designated
0451 by the secretary of corrections to the county treasurers of such
0452 counties.

0453 Sec. 17. Within ten (10) days after the end of any calendar
0454 quarter, any county or any group of cooperating counties which is
0455 participating under this act, may withdraw from such participa-
0456 tion by resolution of the board or boards of county commissioners
0457 and shall notify the secretary of corrections of such resolution to
0458 withdraw from the grant program under this act. Any such with-
0459 drawal shall be effective for such county or for such group of
0460 counties on the last day of the next ensuing calendar quarter after
0461 the calendar quarter in which such notice was given.

0462 Sec. 18. The secretary of corrections and any county not
0463 receiving grants under this act may contract for any correctional
0464 services described in section 2 from any county or group of
0465 cooperating counties which are receiving grants under this act.

0466 Sec. 19. The failure of any county to elect to come within the
0467 provisions of this act shall not affect the eligibility of such county
0468 for any other state subsidy or grant or assistance otherwise pro-
0469 vided by law.

0470 Sec. 20. This act shall take effect and be in force from and
0471 after its publication in the official state paper.



HOUSE BILL No. 3118

By Special Committee on Corrections

Re Proposal No. 14

1-27

0015 AN ACT relating to the department of corrections; concerning
0016 evaluation of persons committed to the secretary of correc-
0017 tions; work release, educational release and other rehabilita-
0018 tion programs; amending K.S.A. 75-5210, 75-5229, 75-5262
0019 and 75-5667 and repealing the existing sections.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 75-5210 is hereby amended to read as fol-
0022 lows: 75-5210. (a) Persons committed to the institutional care of
0023 the secretary of corrections shall be dealt with humanely, with
0024 efforts directed to their rehabilitation and return to the commu-
0025 nity as safely and promptly as practicable. For these purposes, the
0026 secretary shall establish programs of classification and diagnosis,
0027 education, casework, *mental health*, counseling and psycho-ther-
0028 apy, *chemical dependency counseling and treatment, sexual of-*
0029 *fender counseling, prerelease programs which emphasize re-entry*
0030 *skills, adjustment counseling and job placement*, vocational
0031 training and guidance, work, library, physical education and
0032 other rehabilitation *and recreation* services; ~~he or she~~ *the secre-*
0033 *tary* may establish facilities for religious worship; and ~~he or she~~
0034 *the secretary* shall institute procedures for the study and classifi-
0035 cation of inmates. The secretary shall maintain a comprehensive
0036 record of the behavior of each inmate reflecting accomplishments
0037 and progress toward rehabilitation as well as charges of infrac-
0038 tions of rules and regulations, punishments imposed and medical
0039 inspections made.

0040 (b) Programs of work, education or training shall include a
0041 system of promotional rewards entitling inmates to progressive
0042 transfer from high security status to a lesser security status. The

0043 secretary shall have authority at any time to transfer an inmate
0044 from one level of status to another level of status. Inmates may
0045 apply to the secretary for such status privileges. The secretary
0046 shall promulgate standards relating to the transfer of an inmate
0047 from one status to another, and in promulgating such standards
0048 the secretary shall take into consideration progress made by the
0049 inmate toward attaining the educational, vocational and behav-
0050 ioral goals set by the secretary for the individual inmate.

0051 (c) The secretary, with the cooperation of the state health
0052 department, shall establish and prescribe standards for health,
0053 medical and dental services for each institution, including pre-
0054 ventive, diagnostic and therapeutic measures on both an outpa-
0055 tient and a hospital basis, for all types of patients. An inmate may
0056 be taken, when necessary, to a medical facility outside the insti-
0057 tution.

0058 (d) Under rules ~~prescribed~~ *and regulations adopted* by the
0059 secretary, directors of institutions may authorize visits, corre-
0060 spondence and communication, under reasonable conditions,
0061 between inmates and appropriate friends, relatives and others.

0062 (e) The secretary shall ~~promulgate~~ *adopt rules and regulations*
0063 under which inmates, as part of a program anticipating their
0064 release from minimum security status, may be granted temporary
0065 furloughs from a correctional institution or contract facility to
0066 visit their families or to be interviewed by prospective employers.

0067 (f) The secretary shall ~~prescribe~~ *adopt rules and regulations*
0068 for the maintenance of good order and discipline in the correc-
0069 tional institutions, including procedures for dealing with viola-
0070 tions. A copy of the rules *and regulations* shall be provided to
0071 each inmate.

0072 (g) Any inmate participating in work and educational release
0073 programs under the provisions of K.S.A. 75-5267, *as amended*,
0074 shall continue to be in the legal custody of the secretary of
0075 corrections, notwithstanding ~~his or her~~ *the inmate's* absence from
0076 a correctional institution by reason of employment, education or
0077 for any other purpose related to such work and educational
0078 release programs, and any employer or educator of that person
0079 shall be considered the representative or agent for the secretary.

0080 (h) The secretary shall establish administrative and fiscal
0081 procedures to permit the use of regional or community institu-
0082 tions, *local governmental or private facilities* or halfway houses
0083 for the placement of inmates released for the purposes of this act
0084 *and for the work and educational release programs under K.S.A.*
0085 *75-5267, as amended.*

0086 (i) The secretary may establish honor camps and select in-
0087 mates to be assigned to such camps.

0088 (j) The secretary may acquire, in the name of the state, by
0089 lease, purchase or contract additional facilities as may be needed
0090 for the housing of persons in his or her custody.

0091 (k) The secretary is hereby authorized to use any of the
0092 inmates assigned to his or her custody in the construction and
0093 repair of buildings or property on state owned or leased grounds.

0094 (l) *The secretary may contract with qualified persons, private*
0095 *corporations or organizations and local governmental agencies to*
0096 *provide facilities, programs and services for the work and educa-*
0097 *tional release programs under K.S.A. 75-5267, as amended, es-*
0098 *established for inmates in the legal custody of the secretary who are*
0099 *participating in such programs.*

0100 Sec. 2. K.S.A. 75-5229 is hereby amended to read as follows:
0101 75-5229. (a) Every female person, above the age of eighteen (18)
0102 years, who shall be convicted of any offense against the criminal
0103 laws of this state, punishable by imprisonment, shall be sen-
0104 tenced to the custody of the secretary of corrections, and the
0105 secretary shall designate as the place of confinement of such
0106 offender the Kansas correctional institution for women, unless
0107 the judge or court imposing such sentence shall fix the term of
0108 confinement at thirty (30) days or less in which case such con-
0109 finement may be in the county jail.

0110 (b) Every female person sentenced to the custody of the
0111 secretary of corrections shall be ~~provided~~ *given* a scientific ex-
0112 amination ~~at the Kansas correctional institution for women and~~
0113 *study and shall have a rehabilitation program planned and rec-*
0114 *ommended for such person, which examination, study and pro-*
0115 *gram shall be similar to the examination, study and program*
0116 *provided to male felons at the Kansas reception and diagnostic*

0117 center as provided in K.S.A. 75-5262, *as amended. At the direction*
0118 *of and in accordance with procedures prescribed by the secretary,*
0119 *such examination shall be given, such study shall be made and*
0120 *such rehabilitation program shall be prepared at the Kansas*
0121 *correctional institution for women or at another appropriate state*
0122 *institution in the manner prescribed in K.S.A. 75-5209, other than*
0123 *another correctional institution, or at a local governmental or*
0124 *private facility which has been approved by the secretary for these*
0125 *purposes.*

0126 Sec. 3. K.S.A. 75-5262 is hereby amended to read as follows:
0127 75-5262. (a) The primary function and purpose of the Kansas state
0128 reception and diagnostic center shall be to provide a thorough
0129 and scientific examination and study of all felony offenders of the
0130 male sex sentenced by the courts of this state to the custody of the
0131 secretary of corrections so that each such offender may be as-
0132 signed to a state correctional institution having the type of secur-
0133 ity (maximum, medium or minimum) and programs of education,
0134 employment or treatment designed to accomplish a maximum of
0135 rehabilitation for such offender. All such offenders shall be
0136 delivered to said center as provided in K.S.A. 75-5220, upon
0137 being sentenced by the court.

0138 (b) Each inmate so delivered to the *Kansas state reception and*
0139 *diagnostic* center shall be examined and studied and *shall have*
0140 *rehabilitation program planned and recommended for him. An*
0141 *inmate shall be held at the Kansas state reception and diagnostic*
0142 *center for a period not exceeding sixty (60) days except that as*
0143 *determined by the director of said center and an inmate may be*
0144 *held for a longer period of time at said center on order of the*
0145 *secretary. Upon the completion of the case study, diagnosis and*
0146 *report on an inmate, he the inmate shall be assigned to one of the*
0147 *state correctional institutions or facilities for confinement, which*
0148 *shall be selected as the secretary shall prescribe, based on the*
0149 *examination and study of the inmate, or he the inmate may be*
0150 *paroled or he may be assigned to one of the state hospitals for*
0151 *further treatment not exceeding sixty (60) days where an ultimate*
0152 *parole is indicated at the expiration of said additional time.*

0153 Sec. 4. K.S.A. 75-5267 is hereby amended to read as follows:

0154 75-5267. (a) The secretary of corrections is hereby authorized to
 0155 establish a work release program under which inmates committed
 0156 to the custody of the secretary may be granted the privilege of
 0157 leaving actual confinement for the following purposes:

0158 (a) (1) To travel to and from and visit at a specified place or
 0159 places for a period of not to exceed thirty (30) days for the
 0160 following purposes:

0161 (1) (A) To visit a member of the inmate's immediate family
 0162 who is in danger of death;

0163 (2) (B) to attend the funeral services or other last rites of a
 0164 member of the inmate's immediate family;

0165 (3) (C) to obtain health services otherwise not available to the
 0166 inmate at an institution operated by the state;

0167 (4) (D) to interview prospective employers;

0168 (5) (E) any other purpose consistent with the public interest.

0169 (b) (2) To work at paid employment or participate in a pro-
 0170 gram of job training, if:

0171 (1) (A) The rates of pay, hours and other conditions of em-
 0172 ployment will be substantially comparable to those afforded
 0173 others in the community for the performance of work of a similar
 0174 nature;

0175 (2) (B) such paid employment or job training will not result in
 0176 the significant displacement of employed workers in the com-
 0177 munity.

0178 (b) *The secretary of corrections is hereby authorized to es-*
 0179 *tablish educational release programs under which inmates com-*
 0180 *mitted to the custody of the secretary may be granted the privilege*
 0181 *of leaving actual confinement for the purposes of education or*
 0182 *training.*

0183 (c) The placement of any inmate in a community pursuant to
 0184 the provisions of ~~this~~ subsection (a) or subsection (b) shall be in
 0185 accordance with any applicable federal rules or regulations.

0186 (d) In areas where facilities, *programs and services* suitable
 0187 for these purposes are not available within the state correctional
 0188 system when needed, the secretary shall contract with the proper
 0189 authorities of political subdivisions of the state, with the federal
 0190 government, ~~or~~ with available ~~community-based~~ *community cor-*

0191 *rections centers or facilities funded by private sources, or with*
0192 *qualified individuals, private corporations or organizations for*
0193 *quartering inmates with such privileges in suitable confinement*
0194 *facilities; prisoners with such privileges and for programs and*
0195 *services for inmates in such facilities.*

0196 (e) Nothing in this act shall be construed to prevent inmates
0197 from working for and the products of their labor being disposed
0198 of by any state agency, local agency, federal government, or any
0199 other state or political subdivision thereof: *Provided, except that*
0200 *merchandise made by prisoners when said merchandise is for*
0201 *personal benefit of inmates, may be sold or exchanged within the*
0202 *confines of the institution subject to rules and regulations of the*
0203 *secretary.*

0204 Sec. 5. K.S.A. 75-5210, 75-5229, 75-5262 and 75-5267 are
0205 hereby repealed.

0206 Sec. 6. This act shall take effect and be in force from and after
0207 its publication in the statute book.

HOUSE BILL No. 3119

By Special Committee on Corrections

Re Proposal No. 14

1-27

0015 AN ACT making and concerning appropriations for the depart-
0016 ment of corrections for the fiscal years ending June 30, 1978,
0017 June 30, 1979, and June 30, 1980, to initiate and complete
0018 certain capital improvement projects; authorizing certain
0019 transfers, imposing certain restrictions and limitations, and
0020 directing or authorizing disbursements and acts incidental to
0021 the foregoing.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. For the fiscal years ending June 30, 1978, June 30,
0024 1979, and June 30, 1980, appropriations are hereby made, re-
0025 strictions and limitations are hereby imposed, and transfers,
0026 disbursements and acts incidental to the foregoing are hereby
0027 directed or authorized to initiate and complete certain capital
0028 improvement projects as provided in this act.

0029 Sec. 2.

0030 **DEPARTMENT OF CORRECTIONS**

0031 (a) The department of corrections is hereby authorized and
0032 directed to initiate and complete capital improvement projects for
0033 three honor camps with minimum capacities of at least fifty-five
0034 (55) inmates for each honor camp, subject to the restrictions and
0035 limitations imposed by this act. The department of corrections
0036 may enter into contracts for the purposes of planning, construct-
0037 ing and equipping such honor camps, but shall use inmate labor
0038 to construct such honor camps to the extent feasible in accord-
0039 ance with this act, as determined by the department of correc-
0040 tions. On or before June 30, 1979, the department of corrections
0041 shall complete the capital improvement project for the first honor
0042 camp. On or before June 30, 1980, the department of corrections

CONTINUED

1 OF 2

0043 shall complete the capital improvement projects for the second
0044 and third honor camps.

0045 (b) There is appropriated from the federal revenue sharing
0046 fund for the department of corrections for the capital improve-
0047 ment projects and for the fiscal years specified as follows:

Plan, design, construct and equip three honor camps	
For the fiscal year ending June 30, 1978.	\$1,065,000
<i>Provided, That any unencumbered balance in excess of \$100 as of</i>	
<i>June 30, 1978, is hereby reappropriated for the fiscal year</i>	
<i>ending June 30, 1979.</i>	
For the fiscal year ending June 30, 1979.	2,100,000

0058 Sec. 3. This act shall take effect and be in force from and after
0059 its publication in the official state paper.

HOUSE BILL No. 3122

By Special Committee on Corrections

Re Proposal No. 14

1-27

0015 AN ACT relating to crimes; concerning probation and parole
0016 officers; transferring certain functions and duties with regard
0017 to probation and parole; amending K.S.A. 75-5214 to 75-5217,
0018 inclusive, and 75-5285 and K.S.A. 1977 Supp. 21-4603 and
0019 38-814 and repealing the existing sections; also repealing
0020 K.S.A. 1977 Supp. 38-551.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 New Section 1. On and after January 1, 1979, the department
0023 of corrections shall cease its functions and duties with regard to
0024 providing probation officers for the supervision of persons
0025 placed on probation by the district courts of this state. On and
0026 after such date the department of corrections shall continue its
0027 functions and duties with regard to providing parole officers for
0028 felons placed on parole by the Kansas adult authority but shall
0029 not provide parole officers for the supervision of misdemeanants
0030 placed on parole by the district courts of this state.

0031 New Sec. 2. On and after January 1, 1979, all probation
0032 officers supervising adults and juveniles placed on probation by
0033 the district courts of this state and all parole officers supervising
0034 misdemeanants placed on parole by the district courts of this state
0035 shall be appointed by the district courts as provided by law. The
0036 supreme court shall prescribe the qualifications required of per-
0037 sons appointed as parole or probation officers of the district
0038 courts. The compensation of such officers shall be paid by the
0039 state either in accordance with a compensation plan adopted by
0040 the supreme court or as may be otherwise specifically provided
0041 by law.

0042 Sec. 3. K.S.A. 1977 Supp. 21-4603 is hereby amended to read

0043 as follows: 21-4603. (1) Whenever any person has been found
0044 guilty of a crime upon verdict or plea and a sentence of death is
0045 not imposed, the court may require that a presentence investiga-
0046 tion be conducted by the Kansas reception and diagnostic center.
0047 If such offender is sent to the Kansas reception and diagnostic
0048 center, the Kansas reception and diagnostic center may keep such
0049 person confined for a maximum of one hundred twenty (120)
0050 days or until the court calls for the return of such offender. The
0051 Kansas reception and diagnostic center shall compile a complete
0052 mental and physical evaluation of such offender and shall make
0053 its finding known to the court in the presentence report.

0054 (2) Whenever any person has been found guilty of a crime and
0055 a presentence report has been compiled and submitted to the
0056 court, the court may adjudge any of the following:

0057 (a) Commit the defendant to the custody of the secretary of
0058 corrections or, if confinement is for a term less than one (1) year,
0059 to jail for the confinement for the term provided by law;

0060 (b) Impose the fine applicable to the offense;

0061 (c) Release the defendant on probation;

0062 (d) Suspend the imposition of the sentence;

0063 (e) Impose any appropriate combination of (a), (b), (c) and (d).

0064 In imposing a fine the court may authorize the payment thereof
0065 in installments. In releasing a defendant on probation the court
0066 shall direct that said defendant be under the supervision of the
0067 ~~secretary of corrections or the~~ a district court probation ~~or parole~~
0068 ~~officer of the court or county.~~

0069 The court in committing a defendant to the custody of the
0070 secretary of corrections shall not fix a maximum term of confine-
0071 ment, but the maximum term provided by law shall apply in each
0072 case. In those cases where the law does not fix a maximum term of
0073 confinement for the crime for which the defendant was con-
0074 victed, the court shall fix the maximum term of such confinement.
0075 In all cases where the defendant is committed to the custody of
0076 the secretary of corrections, the court shall fix the minimum term
0077 within the limits provided by law.

0078 Any time within one hundred twenty (120) days after a sen-
0079 tence is imposed or within one hundred twenty (120) days after

0080 probation has been revoked, the court may modify such sentence
0081 or revocation of probation by directing that a less severe penalty
0082 be imposed in lieu of that originally adjudged within statutory
0083 limits. If an appeal is taken and determined adversely to the
0084 defendant, such sentence may be modified within one hundred
0085 twenty (120) days after the receipt by the clerk of the district court
0086 of the mandate from the supreme court or court of appeals. The
0087 court may reduce the minimum term of confinement at any time
0088 before the expiration thereof when such reduction is recom-
0089 mended by the secretary of corrections and the court is satisfied
0090 that the best interests of the public will not be jeopardized and
0091 that the welfare of the inmate will be served by such reduction.
0092 The power here conferred upon the court includes the power to
0093 reduce such minimum below the statutory limit on the minimum
0094 term prescribed for the crime of which the inmate has been
0095 convicted. The recommendation of the secretary of corrections
0096 and the order of reduction shall be made in open court.

0097 Dispositions which do not involve commitment to the custody
0098 of the secretary of corrections and commitments which are re-
0099 voked within one hundred twenty (120) days shall not entail the
0100 loss by the defendant of any civil rights.

0101 (3) At the time of committing an offender to the custody of the
0102 secretary of corrections the court shall submit to said officer
0103 recommendations on a program of rehabilitation for said of-
0104 fender, based on presentence reports, medical and psychiatric
0105 evaluations and any other information available. Such recom-
0106 mendations shall include desirable treatment for correction of
0107 physical deformities or disfigurement that may, if possible, be
0108 corrected by medical or surgical procedures or by prosthesis. The
0109 court may recommend further evaluation at the reception and
0110 diagnostic center, even though defendant was committed for
0111 presentence evaluation.

0112 (4) This section shall not deprive the court of any authority
0113 conferred by any other section of Kansas Statutes Annotated to
0114 decree a forfeiture of property, suspend or cancel a license,
0115 remove a person from office, or impose any other civil penalty as
0116 a result of conviction of crime.

0117 (5) An application for or acceptance of probation or sus-
0118 pended sentence shall not constitute an acquiescence in the
0119 judgment for purpose of appeal, and any convicted person may
0120 appeal from such conviction, as provided by law, without regard
0121 to whether such person has applied for probation or suspended
0122 sentence.

0123 Sec. 4. K.S.A. 1977 Supp. 38-814 is hereby amended to read
0124 as follows: 38-814. ~~The administrative judge of each judicial~~
0125 ~~district may appoint such~~ Juvenile probation officers and inves-
0126 ~~tigators as are necessary. Such probation officers and investiga-~~
0127 ~~tors shall receive such compensation, payable from the county, as~~
0128 ~~is prescribed by the judges of the district court, within the limits~~
0129 ~~of the budget for district court operations payable by the county.~~
0130 In addition to their compensation, such probation officers and
0131 investigators shall receive mileage at the rate prescribed pursuant
0132 to K.S.A. 75-3203a and amendments thereto for each mile actually
0133 and necessarily traveled in the performance of their duties, when
0134 such travel is authorized by a judge of the district court or such
0135 monthly car allowance as may be authorized by the administra-
0136 tive judge within the limits of the district court budget.

0137 Juvenile probation officers and investigators shall furnish the
0138 court with any information that may be obtained and render any
0139 assistance requested by the court in any proceeding pursuant to
0140 the juvenile code, which may be helpful to the court or the child.
0141 Under the direction of the court, a juvenile probation officer shall
0142 take possession and custody of any child under the court's juris-
0143 diction and make such arrangements for the temporary care of
0144 any child as directed by the court.

0145 Sec. 5. K.S.A. 75-5214 is hereby amended to read as follows:
0146 75-5214. The secretary of corrections shall appoint ~~probation and~~
0147 ~~parole officers~~ in a number sufficient to administer the provisions
0148 of this act. Such ~~probation and parole officers~~ shall be within the
0149 classified service of the Kansas civil service act. ~~All probation and~~
0150 ~~parole officers employed by the state director of probation and~~
0151 ~~parole with the approval of the board of probation and parole~~
0152 ~~under the provisions of K.S.A. 1972 Supp. 22-3713, immediately~~
0153 ~~prior to the effective date of this act shall be employed in the~~

0154 same or comparable positions by the secretary of corrections and
0155 shall retain all rights and status acquired under the provisions of
0156 the Kansas civil service act. Nothing contained in this section
0157 shall be construed to alter or change the retirement plan or
0158 retirement status of the employees who under the provisions of
0159 this section are placed under the control of the secretary. Probation
0160 and Parole officers shall have and exercise police powers to the
0161 same extent as other law enforcement officers and such powers
0162 may be exercised by them anywhere within the state. Probation
0163 and Parole officers shall, in addition to their regular compensa-
0164 tion, receive their actual and necessary traveling and other ex-
0165 penses incurred in the performance of their official duties.

0166 Sec. 6. K.S.A. 75-5215 is hereby amended to read as follows:
0167 75-5215. The secretary shall be responsible for such parole and
0168 probation investigations and supervision as may be requested by
0169 the courts or by the Kansas adult authority. The secretary shall
0170 divide the state into districts and assign probation and parole
0171 officers to serve in the various districts and courts, and shall
0172 obtain office quarters for staff in each district as may be neces-
0173 sary. He or she shall assign the secretarial, bookkeeping and
0174 accounting work to clerical employees, including receipt and
0175 disbursement of money. The secretary shall direct the work of the
0176 probation and parole officers and other employees assigned to
0177 him or her; shall formulate methods of investigation, supervision,
0178 record keeping and reports; shall conduct training courses for the
0179 staff; and shall seek to cooperate with all agencies, public and
0180 private, which are concerned with the treatment or welfare of
0181 persons on probation or parole.

0182 Sec. 7. K.S.A. 75-5216 is hereby amended to read as follows:
0183 75-5216. Probation and Parole officers shall investigate all per-
0184 sons felons referred to them for investigation by the secretary or
0185 by any court in which they are authorized to serve. They shall
0186 furnish to each person released under their supervision a written
0187 statement of the conditions of probation or parole and shall
0188 instruct him or her give instructions regarding these conditions.
0189 They shall keep informed of his or her the parolee's conduct and
0190 condition and use all suitable methods to aid and, encourage him

0191 ~~or her~~ and to bring about improvement in ~~his or her~~ *the parolee's*
0192 conduct and condition. ~~Probation and~~ Parole officers shall keep
0193 detailed records of their work; and shall make such reports in
0194 writing and perform such other duties as may be incidental to
0195 those above enumerated or as the ~~court~~ or secretary may require.
0196 They shall coordinate their work with that of social welfare
0197 agencies.

0198 Sec. 8. K.S.A. 75-5217 is hereby amended to read as follows:
0199 75-5217. At any time during release on parole or conditional
0200 release the secretary may issue a warrant for the arrest of a
0201 released inmate for violation of any of the conditions of release,
0202 or a notice to appear to answer to a charge of violation. Such
0203 notice shall be served personally upon the released inmate. The
0204 warrant shall authorize all officers named therein to deliver the
0205 released inmate to a place designated by the secretary. Any parole
0206 ~~or probation~~ officer may arrest such released inmate without a
0207 warrant, or may deputize any other officer with power of arrest to
0208 do so by giving such officer a written statement setting forth that
0209 the released inmate has, in the judgment of the parole ~~or proba-~~
0210 ~~tion~~ officer, violated the conditions of his or her release. The
0211 written statement delivered with the released inmate by the
0212 arresting officer to the official in charge of the institution or place
0213 to which the released inmate is brought for detention shall be
0214 sufficient warrant for detaining said inmate. After making an
0215 arrest the parole ~~or probation~~ officer shall present to the detaining
0216 authorities a similar statement of the circumstances of violation.
0217 Pending hearing, as hereinafter provided, upon any charge of
0218 violation the released inmate shall remain incarcerated in the
0219 institution.

0220 Upon such arrest and detention, the parole ~~or probation~~ officer
0221 shall immediately notify the secretary and shall submit in writing
0222 a report showing in what manner the released inmate had violated
0223 the conditions of release. Thereupon, or upon an arrest by war-
0224 rant as herein provided, the secretary shall cause the released
0225 inmate to be brought before the Kansas adult authority, its desig-
0226 nee or designees, for a hearing on the violation charged, under
0227 such rules and regulations as the authority may adopt. Relevant

0228 written statements made under oath shall be admitted and con-
0229 sidered by the authority, its designee or designees, along with
0230 other evidence presented at the hearing. If the violation is es-
0231 tablished to the satisfaction of the authority, the authority may
0232 continue or revoke the parole or conditional release, or enter such
0233 other order as the authority may see fit.

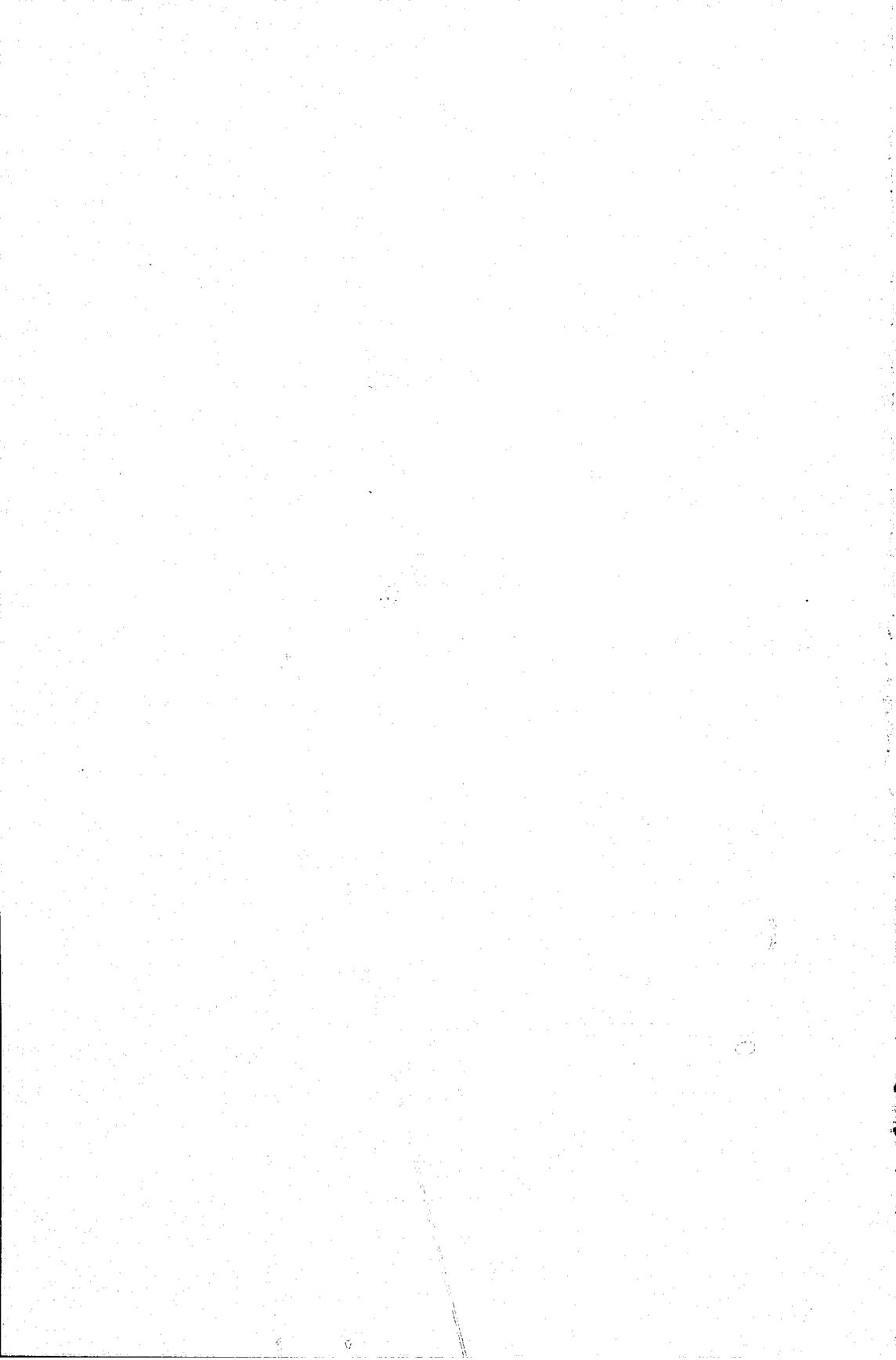
0234 A released inmate for whose return a warrant has been issued
0235 by the secretary shall, if it is found that the warrant cannot be
0236 served, be deemed to be a fugitive from justice or to have fled
0237 from justice. If it shall appear that such fugitive has violated the
0238 provisions of his or her release, the time from the violation of
0239 such provisions to the date of his or her arrest shall not be
0240 counted as time served under the sentence. The secretary may
0241 issue a warrant for the arrest of a released inmate for violation of
0242 any of the conditions of release and may direct that all reasonable
0243 means to serve the warrant and detain such fugitive be employed
0244 including but not limited to notifying the federal bureau of
0245 investigation of such violation and issuance of warrant and re-
0246 questing from the federal bureau of investigation any pertinent
0247 information it may possess concerning the whereabouts of such
0248 fugitive.

0249 Sec. 9. K.S.A. 75-5285 is hereby amended to read as follows:
0250 75-5285. (a) Whenever the board of probation and parole, or
0251 words of like effect, is referred to or designated by statute,
0252 contract or other document, such reference or designation shall
0253 be deemed to apply to the Kansas adult authority created by this
0254 act.

0255 (b) Whenever probation and parole officers under the juris-
0256 diction of the state board of probation and parole, or words of like
0257 effect, is referred to or designated by statute, contract or other
0258 document, such reference or designation shall be deemed to
0259 apply to ~~probation and~~ parole officers under the jurisdiction of
0260 the secretary of corrections.

0261 Sec. 10. K.S.A. 75-5214 to 75-5217, inclusive, and 75-5285
0262 and K.S.A. 1977 Supp. 21-4603, 38-551 and 38-814 are hereby
0263 repealed.

0264 Sec. 11. This act shall take effect and be in force from and
0265 after January 1, 1979 and its publication in the statute book.



HOUSE BILL No. 3127

By Special Committee on Corrections

Re Proposal No. 14

I-30

0015 AN ACT relating to crimes and punishments; concerning the
0016 disposition of persons convicted of crimes; presentence inves-
0017 tigation and reports; conditions of probation; amending
0018 K.S.A. 21-4604, 21-4605, 75-5218 and 75-5220 and K.S.A. 1977
0019 Supp. 21-4603 and 21-4610 and repealing the existing sections.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 1977 Supp. 21-4603 is hereby amended to
0022 read as follows: 21-4603. (1) Whenever any person has been
0023 found guilty of a crime upon verdict or plea and a sentence of
0024 death is not imposed and the court finds that an adequate pres-
0025 entence investigation cannot be conducted by resources available
0026 within the judicial district, the court may require that a present-
0027 ence investigation be conducted by the Kansas state reception
0028 and diagnostic center or by the state security hospital. If such
0029 offender is sent to the Kansas state reception and diagnostic
0030 center or the state security hospital for a presentence investigation
0031 under this section, the Kansas reception and diagnostic center
0032 such institution or hospital may keep such person confined for a
0033 maximum of one hundred twenty (120) days or until the court
0034 calls for the return of such offender. The Kansas state reception
0035 and diagnostic center or the state security hospital shall compile a
0036 complete mental and physical evaluation of such offender and
0037 shall make its finding known to the court in the presentence
0038 report.

0039 (2) Whenever any person has been found guilty of a crime and
0040 a presentence report has been compiled and submitted to the
0041 court, the court may adjudge any of the following:

0042 (a) Commit the defendant to the custody of the secretary of

0043 corrections or, if confinement is for a term less than one (1) year,
0044 to jail for the confinement for the term provided by law;

0045 (b) Impose the fine applicable to the offense;

0046 (c) Release the defendant on probation *subject to such condi-*
0047 *tions as the court may deem appropriate;*

0048 (d) Suspend the imposition of the sentence *subject to such*
0049 *conditions as the court may deem appropriate;*

0050 (e) Impose any appropriate combination of (a), (b), (c) and (d).

0051 In imposing a fine the court may authorize the payment thereof
0052 in installments. In releasing a defendant on probation the court
0053 shall direct that said defendant be under the supervision of the
0054 secretary of corrections or the probation or parole officer of the
0055 court ~~or county~~.

0056 The court in committing a defendant to the custody of the
0057 secretary of corrections shall not fix a maximum term of confine-
0058 ment, but the maximum term provided by law shall apply in each
0059 case. In those cases where the law does not fix a maximum term of
0060 confinement for the crime for which the defendant was con-
0061 victed, the court shall fix the maximum term of such confinement.
0062 In all cases where the defendant is committed to the custody of
0063 the secretary of corrections, the court shall fix the minimum term
0064 within the limits provided by law.

0065 Any time within one hundred twenty (120) days after a sen-
0066 tence is imposed or within one hundred twenty (120) days after
0067 probation has been revoked, the court may modify such sentence
0068 or revocation of probation by directing that a less severe penalty
0069 be imposed in lieu of that originally adjudged within statutory
0070 limits. If an appeal is taken and determined adversely to the
0071 defendant, such sentence may be modified within one hundred
0072 twenty (120) days after the receipt by the clerk of the district court
0073 of the mandate from the supreme court or court of appeals. The
0074 court may reduce the minimum term of confinement at any time
0075 before the expiration thereof when such reduction is recom-
0076 mended by the secretary of corrections and the court is satisfied
0077 that the best interests of the public will not be jeopardized and
0078 that the welfare of the inmate will be served by such reduction.
0079 The power here conferred upon the court includes the power to

0080 reduce such minimum below the statutory limit on the minimum
0081 term prescribed for the crime of which the inmate has been
0082 convicted. The recommendation of the secretary of corrections
0083 and the order of reduction shall be made in open court.

0084 Dispositions which do not involve commitment to the custody
0085 of the secretary of corrections and commitments which are re-
0086 voked within one hundred twenty (120) days shall not entail the
0087 loss by the defendant of any civil rights.

0088 (3) At the time of committing an offender to the custody of the
0089 secretary of corrections the court shall submit to said officer
0090 recommendations on a program of rehabilitation for said of-
0091 fender, based on presentence reports, medical and psychiatric
0092 evaluations and any other information available. Such recom-
0093 mendations shall include desirable treatment for correction of
0094 physical deformities or disfigurement that may, if possible, be
0095 corrected by medical or surgical procedures or by prosthesis. The
0096 court may recommend further evaluation at the *Kansas state*
0097 reception and diagnostic center, even though defendant was
0098 committed for presentence evaluation.

0099 (4) This section shall not deprive the court of any authority
0100 conferred by any other section of Kansas Statutes Annotated to
0101 decree a forfeiture of property, suspend or cancel a license,
0102 remove a person from office, or impose any other civil penalty as
0103 a result of conviction of crime.

0104 (5) An application for or acceptance of probation or sus-
0105 pended sentence shall not constitute an acquiescence in the
0106 judgment for purpose of appeal, and any convicted person may
0107 appeal from such conviction, as provided by law, without regard
0108 to whether such person has applied for probation or suspended
0109 sentence.

0110 Sec. 2. K.S.A. 21-4604 is hereby amended to read as follows:
0111 21-4604. (1) Whenever a defendant is convicted of a ~~crime or~~
0112 ~~offense~~ *misdemeanor*, the court before whom the conviction is
0113 had may request a presentence investigation by a probation
0114 officer. *Whenever a defendant is convicted of a felony, the court*
0115 *shall require that a presentence investigation be conducted by a*
0116 *probation officer or in accordance with K.S.A. 1977 Supp. 21-*

0117 4603, as amended, unless the court finds that adequate and
0118 current information is available in a previous presentence inves-
0119 tigation report or from other sources.

0120 (2) Whenever an investigation is requested, the probation
0121 officer shall promptly inquire into the circumstances of the
0122 offense; the attitude of the complainant or victim, and of the
0123 victim's immediate family, where possible, in cases of homicide;
0124 and the criminal record, social history, and present condition of
0125 the defendant. All local and state police agencies shall furnish to
0126 the ~~probation~~ officer *conducting the presentence investigation*
0127 such criminal records as ~~the probation~~ *said* officer may request.
0128 ~~Where in the opinion of the court it is desirable,~~ *The presentence*
0129 *investigation shall include a physical and mental examination of*
0130 *the defendant, unless the court finds that a physical examination*
0131 *or mental examination of the defendant is not necessary for an*
0132 *adequate presentence investigation. If a defendant is committed*
0133 *to any institution, the investigating agency shall send a report of*
0134 *its investigation to the institution at the time of commitment.*

0135 (3) *In all cases, presentence investigation reports shall be in*
0136 *the form and contain the information prescribed by rules and*
0137 *regulations of the secretary of corrections adopted in accordance*
0138 *with K.S.A. 77-415 et seq., and amendments thereto, and shall*
0139 *contain such other information as may be prescribed by the court.*

0140 Sec. 3. K.S.A. 21-4605 is hereby amended to read as follows:
0141 21-4605. (1) The judge shall make available the presentence
0142 report, any report that may be received from the diagnostic center
0143 *or the state security hospital*, and other diagnostic reports to the
0144 attorney for the state and to the counsel for the defendant when
0145 requested by them, or either of them. Such reports shall be part of
0146 the record but shall be sealed and opened only on order of the
0147 court.

0148 (2) If a defendant is committed ~~to a state institution or~~ to the
0149 custody of the secretary of corrections such reports shall be sent
0150 to the secretary of corrections and *in accordance with K.S.A.*
0151 *75-5220 and amendments thereto*, to the ~~superintendent of such~~
0152 *director of the state correctional institution to which the defendant*
0153 *is conveyed.*

0154 Sec. 4. K.S.A. 1977 Supp. 21-4610 is hereby amended to read
0155 as follows: 21-4610. ~~The Kansas adult authority may adopt gen-~~
0156 ~~eral rules and regulations concerning the conditions of probation~~
0157 ~~or suspension of sentence. The conditions shall apply in the~~
0158 ~~absence of any inconsistent conditions imposed by the court. (1)~~
0159 Nothing herein contained shall limit the authority of the court to
0160 impose or modify any general or specific conditions of probation
0161 or suspension of sentence.

0162 (2) The probation officer may recommend and by order duly
0163 entered by the court may impose and at any time may modify any
0164 conditions of probation or suspension of sentence. Due notice
0165 shall be given to the probation officer before any such conditions
0166 are modified and said officer shall be given an opportunity to be
0167 heard thereon. The court shall cause a copy of any such order to
0168 be delivered to the probation officer and the probationer.

0169 (3) The court may include among the conditions of probation
0170 or suspension of sentence the following and any other *conditions*
0171 that it deems proper:

0172 The defendant shall

0173 (a) Avoid injurious or vicious habits;

0174 (b) Avoid persons or places of disreputable or harmful char-
0175 acter;

0176 (c) Report to the probation officer as directed;

0177 (d) Permit the probation officer to visit said defendant at
0178 home or elsewhere;

0179 (e) Work faithfully at suitable employment insofar as possi-
0180 ble;

0181 (f) Remain within a specified area;

0182 (g) Pay a fine or costs, applicable to the offense, in one or
0183 several sums *and in the manner* as directed by the court;

0184 (h) Make reparation or restitution to the aggrieved party for
0185 the damage or loss caused by the offense in an amount *or in a*
0186 *manner* to be determined by the court;

0187 (i) Support said defendant's dependents;

0188 (j) Obey the laws of the United States, the state of Kansas or
0189 any other jurisdiction to whose laws said defendant may be
0190 subject;

0191 (k) Reimburse the aid to indigent defendants fund for counsel
 0192 and other defense service expenditures, in one or several sums as
 0193 directed by the court;

0194 (l) *Reside in a residential facility located in the community*
 0195 *and participate in educational, counseling, work and other cor-*
 0196 *rectional or rehabilitative programs;*

0197 (m) *Perform community or public service work for local gov-*
 0198 *ernmental agencies, private corporations organized not for profit,*
 0199 *or charitable or social service organizations performing services*
 0200 *for the community;*

0201 (n) *Perform services under a system of day fines whereby the*
 0202 *defendant is required to satisfy monetary fines or costs or repa-*
 0203 *ration or restitution obligations by performing services for a*
 0204 *period of days determined by the court on the basis of ability to*
 0205 *pay, standard of living, support obligations and other factors.*

0206 Sec. 5. K.S.A. 75-5218 is hereby amended to read as follows:
 0207 75-5218. (a) When any person is sentenced to the custody of the
 0208 secretary of corrections pursuant to the provisions of K.S.A. 1977
 0209 Supp. 21-4609, the clerk of the court ~~wherein said conviction was~~
 0210 ~~had~~ *which imposed such sentence* shall within three (3) days
 0211 notify the secretary of corrections.

0212 (b) *Together with the commitment to the custody of the secre-*
 0213 *tary of corrections, said clerk shall also deliver to the officer*
 0214 *having said offender in charge a record containing (1) a copy of*
 0215 *the indictment or information, (2) the verdict of the jury, (3) the*
 0216 *name and residence of the officer before whom the preliminary*
 0217 *trial was had, the judge presiding at the trial, and of the witnesses*
 0218 *sworn on said trial, together with the commitment to the Kansas*
 0219 ~~reception and diagnostic center, which~~ *and (4) a copy of all*
 0220 ~~presentence investigation reports and other diagnostic reports on~~
 0221 ~~the offender received by the district court, including any reports~~
 0222 ~~received from the Kansas state reception and diagnostic center or~~
 0223 ~~the state security hospital. This record shall be delivered to the~~
 0224 ~~officers conveying said offender to the Kansas state reception and~~
 0225 ~~diagnostic center or such other correctional institution prescribed~~
 0226 ~~by K.S.A. 75-5220, as amended, or by the secretary of corrections~~
 0227 ~~in accordance with said statute. Any female offender sentenced~~

0228 according to the provisions of K.S.A. 75-5229 shall not be com-
0229 mitted to the Kansas reception and diagnostic center but shall be
0230 conveyed directly to the Kansas correctional institution for
0231 women.

0232 Sec. 6. K.S.A. 75-5220 is hereby amended to read as follows:
0233 75-5220. (a) Within three (3) days of receipt of the notice provided
0234 for in K.S.A. 75-5218, *as amended*, the secretary shall notify the
0235 sheriff having such offender in his or her custody to convey said
0236 offender forthwith to the Kansas *state* reception and diagnostic
0237 center or if space is not available at such center, then to some
0238 other state correctional institution until space at the center is
0239 available, except that, in the case of first offenders who are
0240 conveyed to a state correctional institution other than the Kansas
0241 *state* reception and diagnostic center, such offenders shall be
0242 segregated from the inmates of such correctional institution who
0243 are not being held in custody at such institution pending transfer
0244 to the Kansas *state* reception and diagnostic center when space is
0245 available therein. Any offender conveyed to a state correctional
0246 institution pursuant to this section shall be accompanied by the
0247 record of such offender's trial and conviction as made up by the
0248 clerk. The expenses of any such conveyance shall be charged
0249 against and paid out of the general fund of the county whose
0250 sheriff shall convey said offender to the institution as herein
0251 provided.

0252 (b) Any female offender sentenced according to the provi-
0253 sions of K.S.A. 75-5229 shall not be conveyed to the Kansas
0254 reception and diagnostic center but shall be conveyed by the
0255 sheriff having such offender in his or her custody directly to the
0256 Kansas correctional institution for women. The expenses of such
0257 conveyance to the Kansas correctional institution for women shall
0258 be charged against and paid out of the general fund of the county
0259 whose sheriff shall convey such female offender to such institu-
0260 tion.

0261 (c) *Each offender conveyed to a state correctional institution*
0262 *pursuant to this section shall be accompanied by the record of*
0263 *such offender's trial and conviction as prepared by the clerk of the*
0264 *district court in accordance with K.S.A. 75-5218, as amended.*

0265 Sec. 7. K.S.A. 21-4604, 21-4605, 75-5218 and 75-5220 and
0266 K.S.A. 1977 Supp. 21-4603 and 21-4610 are hereby repealed.

0267 Sec. 8. This act shall take effect and be in force from and after
0268 its publication in the statute book.

HOUSE BILL No. 3128

By Special Committee on Corrections

Re Proposal No. 14

1-31

0016 AN ACT making and concerning appropriations for certain cor-
0017 rectional institutions for the fiscal years ending June 30, 1979,
0018 June 30, 1980, June 30, 1981, and June 30, 1982, to initiate and
0019 complete certain capital improvement projects; authorizing
0020 certain transfers, imposing certain restrictions and limitations,
0021 and directing or authorizing disbursements and acts incidental
0022 to the foregoing.

0023 *Be it enacted by the Legislature of the State of Kansas:*

0024 Section 1. For the fiscal years ending June 30, 1979, June 30,
0025 1980, June 30, 1981, and June 30, 1982, appropriations are hereby
0026 made, restrictions and limitations are hereby imposed, and
0027 transfers, disbursements and acts incidental to the foregoing are
0028 hereby directed or authorized to initiate and complete certain
0029 capital improvement projects as provided in this act.

0030 Sec. 2.

KANSAS STATE PENITENTIARY

0033 (a) The above agency is hereby authorized to initiate and
0034 complete capital improvement projects for renovation of outside
0035 dormitories I and II and cellhouses A, B, C and D, subject to the
0036 restrictions and limitations imposed by this section.

0037 (b) There is appropriated for the above agency from the fed-
0038 eral revenue sharing fund for the capital improvement projects
0039 and for the fiscal years specified as follows:

Electrical, heating, ventilation and plumbing renovation of outside dormitories I and II	
For the fiscal year ending June 30, 1979.....	\$325,000
Renovation of cellhouses A, B, C and D	
For the fiscal year ending June 30, 1979.....	1,388,000
For the fiscal year ending June 30, 1980.....	814,000
For the fiscal year ending June 30, 1981.....	560,000
For the fiscal year ending June 30, 1982.....	492,000

0055 Sec. 3.

KANSAS STATE INDUSTRIAL REFORMATORY

0058 (a) The above agency is hereby authorized to initiate and
0059 complete a capital improvement project for renovation of cell-
0060 houses A, B, C and D, subject to the restrictions and limitations
0061 imposed by this section.

0062 (b) There is appropriated for the above agency from the fed-
0063 eral revenue sharing fund for the capital improvement project and
0064 for the fiscal years specified as follows:

Renovation of cellhouses A, B, C and D	
For the fiscal year ending June 30, 1979.....	\$1,823,000
For the fiscal year ending June 30, 1980.....	510,000
For the fiscal year ending June 30, 1981.....	556,000
For the fiscal year ending June 30, 1982.....	595,000

0075 Sec. 4.

KANSAS STATE RECEPTION AND DIAGNOSTIC CENTER

0078 (a) The above agency is hereby authorized to initiate and
0079 complete the capital improvement projects described in this sec-
0080 tion, subject to the restrictions and limitations imposed by this
0081 section.

0082 (b) There is appropriated for the above agency from the fed-
0083 eral revenue sharing fund for the fiscal year ending June 30, 1979,
0084 for the capital improvement projects specified as follows:

Replace food service area floor covering	\$4,000
Acquire and install storm windows on administration building, hospital building and honor dormitory	2,100
Acquire and install hospital building air conditioning units	3,000
Total	<u>\$9,100</u>

0096 Sec. 5. This act shall take effect and be in force from and after
0097 July 1, 1978, and its publication in the statute book.

HOUSE BILL No. 3129

By Special Committee on Corrections

Re Proposal No. 14

1-31

0015 AN ACT relating to criminal procedure; authorizing certain re-
0016 lease on recognizance and supervised release programs and
0017 procedures; amending K.S.A. 1977 Supp. 22-2802 and repeal-
0018 ing the existing section.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 New Section 1. Each district court is hereby authorized to
0021 establish, operate and coordinate release on recognizance pro-
0022 grams and supervised release programs to provide services to the
0023 court and to persons who are to be charged or are charged with
0024 crimes or who have been convicted of crimes. Release on recog-
0025 nizance programs and supervised release programs shall be ad-
0026 ministered by probation officers and other personnel of the
0027 district court. Participation by defendants in such programs shall
0028 be on a voluntary basis. Nothing in sections 1 to 4, inclusive, shall
0029 affect the right of any person to seek or obtain release under
0030 K.S.A. 1977 Supp. 22-2802, as amended, regardless of participa-
0031 tion or nonparticipation in release on recognizance programs or
0032 supervised release programs.

0033 New Sec. 2. (a) Release on recognizance programs shall con-
0034 sist of initial interviews with persons who are being detained and
0035 are charged with crimes or who are being detained to be charged
0036 with crimes, to obtain information about certain basic criteria
0037 closely related to the likelihood that the persons will appear in
0038 court if released, an objective analysis of such information and
0039 submission of such information and analysis to the court regard-
0040 ing those persons who are recommended to be released on their
0041 personal recognizance under K.S.A. 1977 Supp. 22-2802, as
0042 amended.

0043 (b) Among other criteria, the following basic variables shall
0044 be determined for each person interviewed under a release on
0045 recognizance program in ascertaining the likelihood that the
0046 person will appear in court if released:

- 0047 (1) Length of residence in the local community;
- 0048 (2) nature and extent of local family ties;
- 0049 (3) time in the local area;
- 0050 (4) stability of employment; and
- 0051 (5) extent of prior criminal history.

0052 New Sec. 3. (a) Supervised release programs shall consist of
0053 extensive interviews with defendants who have been denied
0054 release on personal recognizance to select those defendants who
0055 under some form of supervised release are likely to appear in
0056 court when required, are likely to cooperate with and benefit
0057 from supervised release and are willing to actively participate
0058 therein. Defendants who are not residents of Kansas, who are the
0059 subject of specific detainer orders of other state or federal law
0060 enforcement agencies, or who are in need of physical or mental
0061 care or treatment, including care or treatment for any chemical
0062 dependency or intoxication, shall not be eligible for a recom-
0063 mendation for supervised release or to participate in such pro-
0064 gram hereunder.

0065 (b) Upon the basis of interviews and other available informa-
0066 tion, probation officers shall prepare and submit, in proper cases,
0067 recommendations to the court for supervised release of defend-
0068 ants, and shall include suggestions for appropriate conditions on
0069 the release of such defendants. If the court orders the release of
0070 the defendant with the condition of specific participation in the
0071 supervised released program, the probation officer shall prepare
0072 and the defendant shall sign a written agreement containing (1)
0073 an acknowledgment of the relationship between the supervised
0074 release program and the defendant, (2) the details of the condi-
0075 tions of release, and (3) a statement of the consequences of any
0076 breach of the agreement by the defendant.

0077 (c) The supervised release program for each defendant shall
0078 be compatible with all required court appearances and shall
0079 include appropriate programs for diagnostic testing, education

0080 and skills training, employment and counseling. Each defendant
0081 under supervised release shall be closely supervised by a proba-
0082 tion officer and may be terminated from the supervised release
0083 program by court order revoking the release order or by final
0084 disposition of the charges against the defendant.

0085 New Sec. 4. (a) For all purposes of release on recognizance
0086 programs and supervised release programs, each district court is
0087 authorized to contract for services and facilities and to receive
0088 property by gifts, devises and bequests and to sell or exchange
0089 any property so accepted and to use in any manner the proceeds
0090 or the property received in exchange.

0091 (b) Each district court establishing, operating or coordinating
0092 release on recognizance programs and supervised release pro-
0093 grams shall, to the extent feasible, arrange, by contract or on such
0094 alternative basis as may be mutually acceptable, for utilization of
0095 existing local facilities, treatment and service resources, includ-
0096 ing but not limited to employment, job training, general, special
0097 or remedial education, psychiatric and marriage counseling, and
0098 alcohol and drug abuse treatment and counseling. Each such
0099 district court shall approve the development and maintenance of
0100 such resources by its own staff only if the resources to be so
0101 developed and maintained are otherwise unavailable to the court
0102 within reasonable proximity to the community where these ser-
0103 vices are needed in connection with the release on recognizance
0104 programs or supervised release programs. Each such district
0105 court, to the extent feasible and advisable under the circum-
0106 stances, may use the services of volunteers for such programs and
0107 may solicit local financial support from public, private, charita-
0108 ble and benevolent sources therefor.

0109 Sec. 5. K.S.A. 1977 Supp. 22-2802 is hereby amended to read
0110 as follows: 22-2802. (1) Any person charged with a crime, other
0111 than a crime punishable by death where the proof is evident or
0112 the presumption is great, shall, at his or her first appearance
0113 before a magistrate, be ordered released pending preliminary
0114 examination or trial *on their personal recognizance, or upon the*
0115 *execution of an unsecured appearance bond in an amount speci-*
0116 *fied by the magistrate conditioned upon the appearance of such*

0117 person before the magistrate when ordered and, in the event of
0118 such person being bound over for a felony, in the district court at
0119 the next required day of court which occurs ten (10) or more days
0120 thereafter and to answer the charge against such person and from
0121 time to time thereafter as the court may require. *If the magistrate*
0122 *determines, in the exercise of discretion, that the above methods of*
0123 *release will not reasonably assure the appearance of the defend-*
0124 *ant as required, the magistrate may impose such, either in lieu of*
0125 *or in addition to the above methods of release, the first of the*
0126 *following additional conditions of release as that will reasonably*
0127 *assure the appearance of the person for preliminary examination*
0128 *or trial, or if no single condition gives that assurance, any combi-*
0129 *nation of the following conditions:*

0130 (a) Place the person in the custody of a designated person or
0131 organization agreeing to supervise such person;

0132 (b) place restrictions on the travel, association, or place of
0133 abode of the person during the period of release;

0134 (c) *require the execution of an appearance bond in a specified*
0135 *amount and the deposit with the court in cash or other qualified*
0136 *surety of a sum of not to exceed ten percent (10%) of the amount of*
0137 *the bond, such deposit to be returned to the defendant upon*
0138 *making the required appearances;*

0139 (d) *require the execution of an appearance bond with suffi-*
0140 *cient surety, or the deposit of cash in lieu thereof, and the amount*
0141 *initially given shall remain valid until final disposition of the*
0142 *offense;*

0143 (e) impose any other condition deemed reasonably necessary
0144 to assure appearance as required, including a condition requiring
0145 that the person return to custody during specified hours.

0146 (2) The ~~appearance~~ bail bond shall be *and any appearance*
0147 *bond may be executed with sufficient solvent sureties who are*
0148 *residents of the state of Kansas; unless the magistrate determines,*
0149 *in the exercise of such magistrate's discretion, that requiring*
0150 *sureties is not necessary to assure the appearance of the person at*
0151 *the time ordered.*

0152 (3) A deposit of cash in the amount of the bond may be made
0153 in lieu of the execution of the bond by sureties.

0154 (4) In determining which conditions of release will reason-
0155 ably assure appearance, the magistrate shall, on the basis of
0156 available information, take into account the nature and circum-
0157 stances of the crime charged, the weight of the evidence against
0158 the defendant, the defendant's family ties, employment, financial
0159 resources, character and mental condition, the length of said
0160 defendant's residence in the community, said defendant's record
0161 of convictions, and said defendant's record of appearance at court
0162 proceedings or of flight to avoid prosecution or failure to appear
0163 at court proceedings.

0164 (5) The *order for release on personal recognizance* or appear-
0165 ance bond shall set forth all of the conditions of release.

0166 (6) A person for whom conditions of release are imposed and
0167 who continues to be detained as a result of his or her inability to
0168 meet the conditions of release shall be entitled, upon application,
0169 to have the conditions reviewed without unnecessary delay by the
0170 magistrate who imposed them. In the event the magistrate who
0171 imposed conditions of release is not available, any other magis-
0172 trate in the county may review such conditions.

0173 (7) A magistrate ordering the release of a person on any
0174 conditions specified in this section may at any time amend the
0175 order to impose additional or different conditions of release. If
0176 the imposition of additional or different conditions results in the
0177 detention of the person, the provisions of subsection (6) shall
0178 apply.

0179 (8) Statements or information offered in determining the
0180 condition of release need not conform to the rules of evidence. No
0181 statement or admission of the defendant made at such a proceed-
0182 ing shall be received as evidence in any subsequent proceeding
0183 against the defendant.

0184 (9) The appearance bond and any security required as a con-
0185 dition of the defendant's release shall be deposited in the office of
0186 the magistrate or the clerk of the court where the release is
0187 ordered. If the defendant is bound to appear before a magistrate
0188 or court other than the one ordering the release, the order of
0189 release, together with the bond and security shall be transmitted
0190 to the magistrate or clerk of the court before whom the defendant

0191 is bound to appear.

0192 Sec. 6. K.S.A. 1977 Supp. 22-2802 is hereby repealed.

0193 Sec. 7. This act shall take effect and be in force from and after
0194 its publication in the statute book.

HOUSE BILL No. 3130

By Special Committee on Corrections

Re Proposal No. 14

1-31

0015 AN ACT relating to pretrial diversion procedures in lieu of
0016 criminal proceedings in certain cases; prescribing guidelines;
0017 requiring procedures; authorizing certain agreements; exclud-
0018 ing certain evidence.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. As used in sections 2 to 6, inclusive:

0021 (1) "District attorney" means district attorney or county at-
0022 torney.

0023 (2) "Complaint" means complaint, indictment or informa-
0024 tion.

0025 (3) "Diversion" means referral of a defendant in a criminal
0026 case to a supervised performance program prior to adjudication.

0027 (4) "Diversion agreement" means the specification of formal
0028 terms and conditions which a defendant must fulfill in order to
0029 have the charges against him or her dismissed.

0030 Sec. 2. (1) After a complaint has been filed charging a de-
0031 fendant with commission of a crime and prior to conviction
0032 thereof, and after the district attorney has considered the factors
0033 listed in section 3, if it appears to the district attorney that
0034 diversion of the defendant would be in the interests of justice and
0035 of benefit to the defendant and the community, the district
0036 attorney may propose a diversion agreement to the defendant.
0037 The terms of each diversion agreement shall be established by the
0038 district attorney in accordance with section 4.

0039 (2) Each district attorney shall adopt written policies and
0040 guidelines for the implementation of a diversion program in
0041 accordance with this act. Such policies and guidelines shall
0042 provide for a diversion conference and other procedures in those

0043 cases where the district attorney elects to offer diversion in lieu of
0044 further criminal proceedings on the complaint.

0045 (3) Each defendant shall be informed in writing of the diver-
0046 sion program and the policies and guidelines adopted by the
0047 district attorney. The district attorney may require any defendant
0048 requesting diversion to provide information regarding prior
0049 criminal charges, education, work experience and training, fam-
0050 ily, residence in the community, medical history, including any
0051 psychiatric or psychological treatment or counseling, and other
0052 information relating to the diversion program. In all cases, the
0053 defendant shall be present and shall have the right to be repre-
0054 sented by counsel at the diversion conference with the district
0055 attorney.

0056 Sec. 3. In determining whether diversion of a defendant is in
0057 the interests of justice and of benefit to the defendant and the
0058 community, the district attorney shall consider at least the fol-
0059 lowing factors among all factors considered:

0060 (1) The nature of the crime charged and the circumstances
0061 surrounding it;

0062 (2) any special characteristics or circumstances of the de-
0063 fendant;

0064 (3) whether the defendant is a first-time offender and if the
0065 defendant has previously participated in diversion, according to
0066 the certification of the judicial administrator;

0067 (4) whether there is a probability that the defendant will
0068 cooperate with and benefit from diversion;

0069 (5) whether the available diversion program is appropriate to
0070 the needs of the defendant;

0071 (6) the impact of the diversion of the defendant upon the
0072 community;

0073 (7) recommendations, if any, of the involved law enforcement
0074 agency;

0075 (8) recommendations, if any, of the victim;

0076 (9) provisions for restitution; and

0077 (10) any mitigating circumstances.

0078 Sec. 4. (1) A diversion agreement shall provide that if the
0079 defendant fulfills the obligations of the program described

0080 therein, as determined by the district attorney, the district attorney shall act to have the criminal charges against the defendant
0081 dismissed with prejudice. The diversion agreement shall include
0082 specifically the waiver of all rights under the law or the constitution of Kansas or of the United States to a speedy arraignment,
0083 preliminary examinations and hearings, and a speedy trial. The
0084 diversion agreement may include, but is not limited to, provisions
0085 concerning payment of restitution, including court costs and
0086 diversion costs, residence in a specified facility, maintenance of
0087 gainful employment, and participation in programs offering
0088 medical, educational, vocational, social and psychological services, corrective and preventive guidance and other rehabilitative
0089 services.
0090
0091
0092

0093 (2) If the district attorney elects to offer diversion in lieu of
0094 further criminal proceedings on the complaint and the defendant
0095 agrees to all of the terms of the proposed agreement, the diversion
0096 agreement shall be filed with the district court and the district
0097 court shall stay further proceedings on the complaint. If the
0098 defendant declines to accept diversion, the district court shall
0099 resume the criminal proceedings on the complaint.

0100 Sec. 5. No defendant shall be required to enter any plea to a
0101 criminal charge as a condition for diversion. No statements made
0102 by the defendant or counsel in any diversion conference or in any
0103 other discussion of a proposed diversion agreement shall be
0104 admissible as evidence in criminal proceedings on crimes
0105 charged or facts alleged in the complaint. Except for sentencing
0106 proceedings, the following shall not be admissible as evidence in
0107 criminal proceedings which are resumed under section 6: (1)
0108 Participation in a diversion program; (2) the facts of such participation; or (3) the diversion agreement entered into.

0110 Sec. 6. (1) If the district attorney finds at the termination of
0111 the diversion period or any time prior thereto that the defendant
0112 has failed to fulfill the terms of the specific diversion agreement,
0113 the district attorney shall inform the district court of such finding
0114 and the district court, after finding that the defendant has failed
0115 to fulfill the terms of the specific diversion agreement at a hearing
0116 thereon, shall resume the criminal proceedings on the complaint.

0117 (2) If the district attorney finds that the defendant has ful-
0118 filled the terms of the diversion agreement, the district attorney
0119 shall inform the district court thereof and, the district court shall
0120 dismiss with prejudice the criminal charges filed against the
0121 defendant.

0122 (3) A record of the fact that an individual has participated in
0123 diversion shall be forwarded to and kept by the judicial adminis-
0124 trator, and shall be made available upon request to any district
0125 attorney who subsequently considers diversion of such person.

0126 Sec. 7. This act shall take effect and be in force from and after
0127 its publication in the statute book.

HOUSE BILL No. 3131

By Special Committee on Corrections

Re Proposal No. 14

1-31

0015 AN ACT relating to crimes and punishments; concerning parole
0016 procedures; authorizing certain contracts and rules and regu-
0017 lations; amending K.S.A. 1977 Supp. 22-3717 and repealing
0018 the existing section.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. K.S.A. 1977 Supp. 22-3717 is hereby amended to
0021 read as follows: 22-3717. (1) *Subject to the provisions of this act,*
0022 *the Kansas adult authority shall have power to release on parole*
0023 *those persons ~~confined in institutions sentenced to the custody of~~*
0024 *the secretary of corrections who are eligible for parole when, in*
0025 *the opinion of the authority, there is reasonable probability that*
0026 *such persons can be released without detriment to the community*
0027 *or to themselves.*

0028 (2) After expiration of one hundred twenty (120) days from
0029 the date of sentence, *except in a case where a death sentence or*
0030 *life imprisonment has been imposed as the minimum sentence or*
0031 *where the minimum sentence imposed aggregates more than fif-*
0032 *teen (15) years, after deduction of work and good behavior credits,*
0033 *the Kansas adult authority is hereby granted the authority to place*
0034 *upon intensive supervised parole any inmate: (a) Who is clas-*
0035 *sified in the lowest minimum security classification and who has*
0036 *achieved such status under rules and regulations ~~promulgated~~*
0037 *adopted by the secretary of corrections; ~~except in the case where a~~*
0038 *death sentence or life imprisonment has been imposed as the*
0039 *minimum sentence or where the minimum sentence imposed*
0040 *aggregates more than fifteen (15) years, after deduction of work*
0041 *and good behavior credits, and (b) who is eligible for a parole*
0042 *hearing pursuant to the provisions of this act, or (c) who has*

0043 *successfully fulfilled a contract entered into pursuant to section*
0044 *2. Persons confined in institutions sentenced to the custody of the*
0045 *secretary of corrections shall be eligible for parole after fifteen*
0046 *(15) years if sentenced to life imprisonment or to a minimum term*
0047 *which, after deduction of work and good behavior credits, ag-*
0048 *gregates more than fifteen (15) years, subject to an earlier parole*
0049 *as may be authorized pursuant to section 2.*

0050 (3) ~~Within one year after the admission of each inmate and~~
0051 *Within a reasonable time after a defendant is committed to the*
0052 *custody of the secretary of corrections, which time shall not*
0053 *exceed sixty (60) days after the court's jurisdiction to modify the*
0054 *sentence has passed, the Kansas adult authority or a member or*
0055 *hearing examiner thereof, shall hold an initial hearing with each*
0056 *such defendant in order to inform the inmate of the date when he*
0057 *or she will be eligible for a parole hearing and, if such inmate is*
0058 *eligible therefor, of the ability to participate in mutual agreement*
0059 *programming and to enter into a contractual agreement autho-*
0060 *rized by section 2 for an earlier parole release date. At such*
0061 *hearing the Kansas adult authority shall assign two dates. The*
0062 *first date shall be the upper limit date which shall be the date*
0063 *when the Kansas adult authority shall hold a hearing and consider*
0064 *the inmate for parole in the event the inmate does not enter into a*
0065 *contract pursuant to section 2. Failure of an inmate to earn good*
0066 *time credits shall postpone the upper limit date by a correspond-*
0067 *ing period of time. The second date shall be a date nine months*
0068 *earlier than the upper limit date and shall be the lower limit date*
0069 *which shall be the earliest parole release date that the Kansas*
0070 *adult authority may agree to under a contract entered into pursu-*
0071 *ant to section 2.*

0072 *Prior to each parole hearing, and if parole is not granted, at*
0073 *such intervals thereafter as it may determine, the authority shall*
0074 *consider all pertinent information regarding each inmate, in-*
0075 *cluding the circumstances of the offense of the inmate; the*
0076 *presentence report; the previous social history and criminal rec-*
0077 *ord of the inmate; the conduct, employment, and attitude of the*
0078 *inmate in prison; and the reports of such physical and mental*
0079 *examinations as have been made.*

0080 (4) Before ordering the parole of any inmate, the authority
0081 shall have the inmate appear before it and shall interview the
0082 inmate unless impractical because of the inmate's physical or
0083 mental condition or absence from the institution. A parole shall
0084 be ordered only for the best interest of the inmate and not as an
0085 award of clemency. Parole shall not be considered a reduction of
0086 sentence or a pardon. An inmate shall be placed on parole only
0087 when the authority believes that the inmate is able and willing to
0088 fulfill the obligations of a law-abiding citizen or that the inmate
0089 should be released for hospitalization, deportation or to answer
0090 the warrant or other process of a court. Every inmate while on
0091 parole shall remain in the legal custody of the secretary of
0092 corrections and is subject to the orders of the secretary.

0093 (5) Any parolee may be placed on intensive supervised parole.
0094 Any such parolee shall have a direct meeting at least once each
0095 week with an intensive supervising parole officer. Such parolee
0096 may be removed from intensive supervised parole when it is
0097 determined by the secretary of corrections that such removal will
0098 not jeopardize public safety and will be beneficial to the interests
0099 of the parolee.

0100 (6) The authority may adopt rules and regulations not incon-
0101 sistent with the law as it may deem proper or necessary, with
0102 respect to the eligibility of inmates for parole, the conduct of
0103 parole hearings, or conditions to be imposed upon parolees.
0104 Whenever an order for parole is issued it shall recite the condi-
0105 tions thereof.

0106 (7) As used in this section, the term "minimum security" shall
0107 be defined by rules and regulations of the secretary of correc-
0108 tions.

0109 (8) Notwithstanding any other provision of this section, any
0110 person sentenced pursuant to K.S.A. ~~1976~~ 1977 Supp. 21-4618
0111 shall not be eligible for parole therefrom prior to serving the
0112 entire minimum sentence imposed, except that in the case of a
0113 person convicted of a class A felony and sentenced pursuant to
0114 K.S.A. ~~1976~~ 1977 Supp. 21-4618 shall not be eligible for parole
0115 prior to serving fifteen (15) years of the sentence imposed.

0116 New Sec. 2. (a) The Kansas adult authority shall adopt rules

0117 and regulations in accordance with K.S.A. 77-415 *et seq.* pre-
0118 scribing procedures and eligibility criteria for mutual agreement
0119 programming and for three-party contractual agreements under
0120 this section between inmates, the secretary of corrections and the
0121 Kansas adult authority. Each such agreement shall fix a specific
0122 and mutually agreed upon parole date for the inmate which shall
0123 be conditioned upon successful completion of the explicit and
0124 mutually agreed upon rehabilitation program specified in the
0125 agreement. Upon the inmate's successful completion of the reha-
0126 bilitation program specified in the contract as determined by the
0127 Kansas adult authority in accordance with rules and regulations
0128 adopted hereunder, the Kansas adult authority shall parole the
0129 inmate under such conditions and in the manner authorized by
0130 law.

0131 (b) The inmate shall actively participate with the staff of the
0132 Kansas state reception and diagnostic center and other personnel
0133 of the department of corrections in planning and developing a
0134 rehabilitation program to be set forth in the agreement. The
0135 parole release date fixed in the agreement may be up to nine
0136 months earlier than the upper limit date assigned for the inmate
0137 pursuant to subsection (3) of K.S.A. 1977 Supp. 22-3717, as
0138 amended.

0139 (c) Nothing in this act establishes the right of any inmate to be
0140 a party to any contractual agreement under this section, and the
0141 offering of any such contract shall be solely determined by the
0142 Kansas adult authority, after consultation with the secretary of
0143 corrections, and with due recognition being given to such factors
0144 as funding availability and the amenability of the inmate desiring
0145 to become a party to such contract.

0146 Sec. 3. K.S.A. 1977 Supp. 22-3717 is hereby repealed.

0147 Sec. 4. This act shall take effect and be in force from and after
0148 its publication in the statute book.

HOUSE BILL No. 3133

By Special Committee on Corrections

Re Proposal No. 14

1-31

0015 AN ACT concerning the department of corrections; relating to
0016 correctional industries and employment of inmates; providing
0017 for an advisory committee; authorizing certain leases and
0018 business enterprises at correctional institutions; amending
0019 K.S.A. 75-5211, 75-5252, 75-5274, 75-5275, 75-5276, 75-5277,
0020 75-5280, 75-5281 and 75-5282 and repealing the existing sec-
0021 tions and also repealing K.S.A. 75-5279.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 New Section 1. The secretary of corrections shall appoint an
0024 industries advisory committee from persons engaged in the pri-
0025 vate sector labor and industry. The industries advisory committee
0026 shall be composed of fifteen (15) persons who shall advise the
0027 secretary on engineering, manufacturing, marketing, finance and
0028 labor and in the operations of the correctional industries.
0029 Members of the industries advisory committee attending meet-
0030 ings of such committee, or attending a subcommittee meeting
0031 thereof authorized by such committee, shall be paid subsistence
0032 allowances, mileage and other expenses as provided in K.S.A.
0033 75-3223.

0034 New Sec. 2. (a) Notwithstanding the provisions of K.S.A.
0035 75-3738 to 75-3744, inclusive, or of any other laws to the contrary,
0036 the secretary of corrections may lease one or more buildings or
0037 portions thereof on the grounds of any correctional institution,
0038 together with the real estate needed for reasonable access to and
0039 egress from the leased buildings, for a term not to exceed twenty
0040 (20) years, to a private individual, firm, corporation or other
0041 lawful entity for the purpose of establishing and operating a
0042 business enterprise for the manufacture and processing of goods,

0043 wares or merchandise, or any other business or commercial en-
0044 terprise deemed by the secretary of corrections to be consistent
0045 with the proper training and rehabilitation of inmates.

0046 (b) Subject to approval by the secretary of corrections, any
0047 corporation operating a factory or other business or commercial
0048 enterprise under this section may employ selected inmates of the
0049 correctional institution upon whose grounds it operates.

0050 (c) Any business enterprise established under the provisions
0051 of this section shall be deemed a private enterprise and subject to
0052 all the laws, rules and regulations of this state governing the
0053 operation of similar business enterprises elsewhere in this state.

0054 (d) The authority of the secretary of corrections over the
0055 institutions of the department of corrections and the inmates
0056 thereof shall not be diminished by this section.

0057 New Sec. 3. The secretary of corrections shall remit all
0058 moneys received from leases authorized under section 2 to the
0059 state treasurer at least monthly. Upon the receipt of each such
0060 remittance, the state treasurer shall deposit the entire amount
0061 thereof in the state treasury and the same shall be credited to the
0062 correctional industries account.

0063 Sec. 4. K.S.A. 75-5211 is hereby amended to read as follows:
0064 75-5211. (a) The secretary of corrections shall provide employ-
0065 ment opportunities, work experiences, educational or vocational
0066 training for all inmates capable of benefiting therefrom. To the
0067 extent possible, equipment, management practices and general
0068 procedures shall approximate normal conditions of employment.
0069 The secretary shall provide a forty (40) hour work week for every
0070 inmate. Such work week may include schooling, vocational
0071 training, treatment or other activities authorized by the secretary.
0072 *For all purposes under state law no inmate shall be deemed to be*
0073 *an employee of the state or any state agency.* The secretary of
0074 corrections is ~~authorized to~~ shall credit to each inmate as a reward
0075 for such employment, an amount which shall be set by the
0076 ~~finance council~~ *governor* but shall not be less than twenty-five
0077 cents (25) *per day*. Any inmate who is gainfully employed under
0078 the work release provisions of K.S.A. 75-5267 and 75-5268, *or who*
0079 *is gainfully employed by a private business enterprise operating*

0080 *on the grounds of a correctional institution under section 2, and*
0081 *any inmate who is incarcerated at the Kansas reception and*
0082 *diagnostic center for the purpose of receiving diagnosis and any*
0083 *inmate on disciplinary segregation status shall not be eligible to*
0084 *receive compensation as hereinbefore provided.*

0085 *(b) The secretary of corrections shall establish programs and*
0086 *prescribe procedures for withdrawing amounts from the compen-*
0087 *sation paid to inmates from all sources for: (1) Victim restitution*
0088 *payments; (2) payments for support of the inmate's family and*
0089 *dependents; (3) reimbursement of the state for per diem expenses*
0090 *for the confinement and rehabilitation of the inmate; and (4)*
0091 *payment of reasonable amounts into a savings account for dis-*
0092 *bursement to the inmate upon release from custody.*

0093 *(c) Upon the release of any inmate on parole from any of said*
0094 *institutions from the custody of the secretary, the inmate may be*
0095 *provided with suitable clothing and gratuity of up to two*
0096 *hundred fifty dollars (\$250) in money, dependent upon individ-*
0097 *ual need, and he or she the inmate shall be provided transporta-*
0098 *tion to his or her place of employment. The same provisions shall*
0099 *be made for any inmate discharged from any of the correctional*
0100 *institutions by conditional release or expiration of his or her*
0101 *maximum sentence, except that transportation shall be provided*
0102 *to his or her home, if within the state, or if not, to the place of*
0103 *conviction or to some other place not more distant, as selected by*
0104 *the inmate.*

0105 *Sec. 5. K.S.A. 75-5252 is hereby amended to read as follows:*
0106 *75-5252. It shall be the duty of the director of each correctional*
0107 *institution under the general supervision of, and the rules and*
0108 *regulations adopted by, the secretary for the direction and gov-*
0109 *ernment of all officers of each correctional institution:*

0110 *(a) To oversee the government and discipline of the correc-*
0111 *tional institution, and to superintend all business concerns*
0112 *thereof.*

0113 *(b) To give necessary directions to the officers and employees*
0114 *and to examine whether they have been careful and vigilant in*
0115 *their respective duties.*

0116 *(c) To examine into the state of the correctional institution*

0117 and for the health, conduct and safekeeping of the inmates.

0118 (d) To use every proper means to furnish employment to the
0119 inmates most beneficial to the public and best suited to their
0120 several capacities under the direction of the secretary.

0121 (e) To oversee any manufacturing or other business that may
0122 be carried on pursuant to law in and about the correctional
0123 institution in behalf of the state, *other than business enterprises*
0124 *operating under section 2*; to receive and take charge of any
0125 articles manufactured or produced, and to sell and dispose of the
0126 same for the benefit of the state, in the manner prescribed by law
0127 or by the secretary, *other than articles, products and services*
0128 *produced or provided by business enterprises operating under*
0129 *section 2.*

0130 (f) To take charge of all real and personal property belonging
0131 to the state in and about the correctional institution or appurte-
0132 nant thereto.

0133 Sec. 6. K.S.A. 75-5274 is hereby amended to read as follows:
0134 75-5274. As used in the prison-made goods act of Kansas, the
0135 following words and terms shall have, respectively, the meanings
0136 ascribed to them by this section:

0137 (a) "Local agency" means any county, city, township, school
0138 district and any other political subdivision or taxing district in
0139 this state;

0140 (b) "State agency" means any state office or officer, depart-
0141 ment, board, commission, institution, bureau, or any agency,
0142 division or unit within any office, department, board, commis-
0143 sion or other authority of this state.

0144 (c) "*Other state*" means any other state or political subdivi-
0145 sion thereof.

0146 (d) "*Federal government*" means the federal government or
0147 any agency thereof.

0148 (e) "*Person*" means any private individual, firm or corpora-
0149 tion.

0150 Sec. 7. K.S.A. 75-5275 is hereby amended to read as follows:
0151 75-5275. (a) The secretary is hereby authorized to purchase in the
0152 manner provided by law, equipment, raw materials and supplies,
0153 and to employ the supervisory personnel necessary to establish

0154 and maintain for this state at each correctional institution, indus-
 0155 tries for the utilization of services of inmates in the manufacture
 0156 or production of such articles or products *or in providing such*
 0157 *services* as may be needed for the construction, operation, main-
 0158 tenance or use of any state agency, local agency, ~~another state or~~
 0159 ~~political subdivision thereof, or other state,~~ the federal govern-
 0160 ment or ~~any agency thereof~~ person.

0161 (b) *The secretary is hereby authorized to sell all such articles,*
 0162 *products and services to the federal government, any state agency,*
 0163 *any local agency, or any person within the state and, to the extent*
 0164 *not prohibited by federal law, to other states.*

0165 Sec. 8. K.S.A. 75-5276 is hereby amended to read as follows:
 0166 75-5276. (a) All state agencies shall purchase; ~~and all local agen-~~
 0167 ~~cies, other states and political subdivisions thereof, and the~~
 0168 ~~federal government or any agency thereof, may purchase~~ from the
 0169 secretary all articles or products required by such state ~~or local~~
 0170 agencies; *that are* produced by inmates and no such article or
 0171 product shall be purchased by any state agency from any other
 0172 source, unless excepted from the provisions of this section; ~~as~~
 0173 ~~hereinafter provided by law or in accordance with K.S.A. 75-5277,~~
 0174 *as amended.*

0175 (b) *The federal government, other states, local agencies and*
 0176 *persons may purchase from the secretary such articles, products*
 0177 *or services that are produced or provided by inmates under the*
 0178 *prison-made goods act and state agencies may purchase from the*
 0179 *secretary such services as are provided by inmates.*

0180 (c) All purchases shall be made through the division of pur-
 0181 chases of the department of administration, upon requisition by
 0182 the proper authority of the agency *or person* requiring such
 0183 articles ~~or,~~ products *or services.*

0184 Sec. 9. K.S.A. 75-5277 is hereby amended to read as follows:
 0185 75-5277. Exceptions from the operation of the mandatory provi-
 0186 sions of K.S.A. 75-5276, *as amended,* may be made in any case
 0187 where in the opinion of the secretary of administration; *and* the
 0188 director of purchases; ~~and the state auditor, or a majority of them;~~
 0189 ~~who are hereby constituted a board for such purposes;~~ the article
 0190 or product so produced or manufactured does not meet the

0191 reasonable requirements of or for such state agency, or in any case
0192 where the requisition made cannot be reasonably complied with.

0193 Sec. 10. K.S.A. 75-5280 is hereby amended to read as follows:
0194 75-5280. The secretary shall fix and determine the prices at which
0195 all articles or products manufactured or produced shall be fur-
0196 nished; ~~which~~ *and at which all services shall be provided. All*
0197 *such* prices shall be uniform and nondiscriminating to all, and
0198 shall not exceed the usual market price for a similar ~~article or~~
0199 *articles, products and services. This section shall not apply to*
0200 *articles or products produced or services provided by business*
0201 *enterprises operating under section 2.*

0202 Sec. 11. K.S.A. 75-5281 is hereby amended to read as follows:
0203 75-5281. (a) The secretary is empowered to enter into contracts
0204 and agreements with any person; ~~firm or corporation~~ upon a
0205 self-liquidating basis ~~respecting~~ *for* the acquisition and purchase
0206 of equipment, tools, supplies and materials for manufacturing *or*
0207 *for providing services*, to the end that the same may be paid for
0208 over a period of not exceeding ten (10) years, and the aggregate
0209 amount of such purchases or acquisitions ~~shall not to~~ exceed five
0210 hundred thousand dollars (\$500,000) unless specifically ap-
0211 proved by the governor; ~~All such amounts to~~ *shall* be payable
0212 solely out of the revenues derived from the goods produced *and*
0213 *the services provided* by the correctional system.

0214 (b) Nothing in this section shall be so construed or interpreted
0215 as to authorize or permit the incurring of a state debt of any kind
0216 or nature as contemplated by the constitution of this state in
0217 relation to such debt.

0218 Sec. 12. K.S.A. 75-5282 is hereby amended to read as follows:
0219 75-5282. (a) All moneys collected by the secretary from the sale or
0220 disposition of articles and products manufactured *and services*
0221 *provided* shall be ~~forthwith deposited with remitted to~~ the state
0222 treasurer ~~into a special revolving account designated~~ *at least*
0223 *monthly. The state treasurer shall deposit each such remittance in*
0224 *the state treasury and the same shall be credited to the correc-*
0225 *tional industries account;* ~~and such.~~

0226 (b) *All the moneys so collected and deposited shall be used*
0227 *solely for the purchase of manufacturing supplies, equipment*

0228 and machinery, and for the repair and maintenance of equipment
0229 and machinery: *Provided, except* that on July 1 of each year the
0230 state treasurer shall transfer to the "correctional industries
0231 equipment replacement fund" a sum equal to five percent (5%) of
0232 the total receipts ~~paid into the~~ "*deposited to the credit of the*
0233 *correctional industries account*" during the preceding fiscal year
0234 which receipts were derived from the sale of inmate made articles
0235 and products *and inmate provided services*.

0236 (c) The secretary of corrections shall furnish the state trea-
0237 surer such information as shall be necessary for the determination
0238 of the amount to be so transferred. Upon making any of the
0239 transfers provided for in this section, the state treasurer shall
0240 notify the director of accounts and reports and the secretary of
0241 corrections thereof, who shall make the proper entries in the
0242 records of their respective offices to show such transfers.

0243 Sec. 13. K.S.A. 75-5211, 75-5252, 75-5274, 75-5275, 75-5276,
0244 75-5277, 75-5279, 75-5280, 75-5281 and 75-5282 are hereby re-
0245 pealed.

0246 Sec. 14. This act shall take effect and be in force from and
0247 after its publication in the statute book.



HOUSE BILL No. 3134

By Special Committee on Corrections

Re Proposal No. 14

1-31

0015 AN ACT relating to the taxation of income; providing assistance
0016 to persons undertaking the development of prison business
0017 facilities by means of income tax credits; providing a procedure
0018 to determine such credits; amending K.S.A. 79-32,111 and
0019 repealing the existing section.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 New Section 1. (a) Any taxpayer who shall establish a prison
0022 business facility, as defined in section 2, shall be allowed a credit,
0023 in an amount determined under subsection (b), against the tax
0024 imposed by the Kansas income tax act for the taxable year during
0025 which commencement of commercial operations occurs at such
0026 prison business facility, and for each of the nine (9) succeeding
0027 taxable years. No credit shall be allowed under this section unless
0028 the number of inmate employees, as determined under section 2,
0029 engaged or maintained in employment at the prison business
0030 facility for the taxable year for which the credit is claimed equals
0031 or exceeds five (5).

0032 (b) The credit allowed by subsection (a) shall be a portion of
0033 the income tax, but not in excess of fifty percent (50%) of such tax,
0034 otherwise imposed by the Kansas income tax act on the taxpayer's
0035 prison business facility income, as defined in section 2, for the
0036 taxable year for which such credit is allowed. Such portion shall
0037 be an amount equal to the sum of the following:

0038 (1) Fifty dollars (\$50) for each inmate employee, determined
0039 under section 2 of this act; plus

0040 (2) Fifty dollars (\$50) for each one hundred thousand dollars
0041 (\$100,000), or major fraction thereof (which shall be deemed to be
0042 fifty-one percent (51%) or more), in prison business facility

0043 investment, as determined under section 2.

0044 New Sec. 2. (a) "Prison business facility" means a business
0045 operation operated on land under the control of the secretary of
0046 corrections pursuant to a written lease authorized by law with the
0047 secretary of corrections, under which the business operation
0048 agrees to employ inmates sentenced to the custody of the secre-
0049 tary of corrections.

0050 (b) "Prison business facility investment" means the value of
0051 equipment and other personal property, other than inventory and
0052 property held for sale to customers in the ordinary course of the
0053 taxpayer's business, used by the taxpayer in the operation of the
0054 prison business facility during the taxable year for which the
0055 credit allowed by section 1 is claimed. The value of such property
0056 during such taxable year shall be:

0057 (1) Its original cost if owned by the taxpayer; or

0058 (2) eight (8) times the net annual rental rate, if leased by the
0059 taxpayer. The net annual rental rate shall be the annual rental rate
0060 paid by the taxpayer less any annual rental rate received by the
0061 taxpayer from subrentals. The prison business facility investment
0062 shall be determined by dividing by twelve (12) the sum of the
0063 total value of such property on the last business day of each
0064 calendar month of the taxable year. If the prison business facility
0065 is in operation for less than an entire taxable year, the prison
0066 business facility investment shall be determined by dividing the
0067 sum of the total value of such property on the last business day of
0068 each full calendar month during the portion of such taxable year
0069 during which the prison business facility was in operation by the
0070 number of full calendar months during such period.

0071 (c) The number of inmate employees for which a taxpayer
0072 may be credited shall be computed by dividing the total number
0073 of hours during the taxable year for which inmates are paid by the
0074 taxpayer by two thousand (2,000).

0075 (d) "Prison business facility income" shall mean the Kansas
0076 taxable income, as defined in article 32 of chapter 79 of the
0077 Kansas Statutes Annotated and amendments thereto, derived by
0078 the taxpayer from the operation of the prison business facility. If
0079 a taxpayer has income derived from the operation of a prison

0080 business facility as well as from other activities conducted within
0081 this state, the Kansas taxable income derived by the taxpayer from
0082 the operation of the prison business facility shall be determined
0083 by multiplying the taxpayer's Kansas taxable income, computed
0084 in accordance with article 32 of chapter 79 of the Kansas Statutes
0085 Annotated and amendments thereto, by a fraction, the numerator
0086 of which is the property factor, as defined in paragraph (1), plus
0087 the payroll factor, as defined in paragraph (2), and the denomi-
0088 nator of which is two (2).

0089 (1) The property factor is a fraction, the numerator of which is
0090 the average value of the taxpayer's tangible personal property
0091 owned or rented and used in connection with the operation of the
0092 prison business facility during the tax period, and the denomina-
0093 tor of which is the average value of all the taxpayer's real and
0094 tangible personal property owned or rented and used in this state
0095 during the tax period. The average value of all such property shall
0096 be determined as provided in K.S.A. 79-3281 and 79-3282.

0097 (2) The payroll factor is a fraction, the numerator of which is
0098 the total amount paid during the tax period by the taxpayer for
0099 compensation to inmate employees, as determined under subsec-
0100 tion (c), at the prison business facility, and the denominator of
0101 which is the total amount paid in this state during the tax period
0102 by the taxpayer for compensation. The compensation paid in this
0103 state shall be determined as provided in K.S.A. 79-3283.

0104 The formula set forth in this subsection shall not be used for
0105 any purpose other than determining the prison business facility
0106 income attributable to a prison business facility.

0107 New Sec. 3. A taxpayer entitled to the credit allowed by
0108 section 1 may elect to defer the commencement of the ten-year
0109 period during which such credit is allowed to any taxable year not
0110 later than the third taxable year following the taxable year in
0111 which commencement of commercial operations at the prison
0112 business facility occurs. The taxpayer shall perfect such election
0113 by notifying the secretary of revenue, by a written statement
0114 attached to the return for the taxable year in which commence-
0115 ment of commercial operations at the prison business facility
0116 occurs, of the intention to make such election. Once said election

0117 has been perfected, the credit shall be allowed for the taxable year
0118 specified in such election and for each of the nine (9) succeeding
0119 taxable years.

0120 New Sec. 4. The secretary of revenue shall adopt such rules
0121 and regulations as may be deemed necessary to carry out the
0122 purposes of this act.

0123 New Sec. 5. The provisions of sections 1 to 6, inclusive, shall
0124 apply to all taxable years commencing after December 31, 1978.

0125 New Sec. 6. The provisions of sections 1 to 6, inclusive, shall
0126 be known and may be cited as "the prison business investment
0127 credit act of 1978."

0128 Sec. 7. K.S.A. 79-32,111 is hereby amended to read as fol-
0129 lows: 79-32,111. (a) The amount of income tax paid to another
0130 state by a resident individual, resident estate or resident trust on
0131 income derived from sources in another state shall be allowed as a
0132 credit against the tax computed under the provisions of this act.
0133 Such credit shall not be greater in proportion to the tax computed
0134 under this act than the adjusted gross income for such year
0135 derived in another state while such taxpayer is a resident of this
0136 state is to the total Kansas adjusted gross income of the taxpayer.

0137 (b) There shall be allowed as a credit against the tax computed
0138 under the provisions of the Kansas income tax act, and acts
0139 amendatory thereof and supplemental thereto, on the Kansas
0140 taxable income of an individual, corporation or fiduciary the
0141 amount determined under the provisions of K.S.A. 79-32,153 to
0142 79-32,158 or under the provisions of sections 1 to 6, inclusive.

0143 Sec. 8. K.S.A. 79-32,111 is hereby repealed.

0144 Sec. 9. This act shall take effect and be in force from and after
0145 its publication in the statute book.

House Concurrent Resolution No. 5061

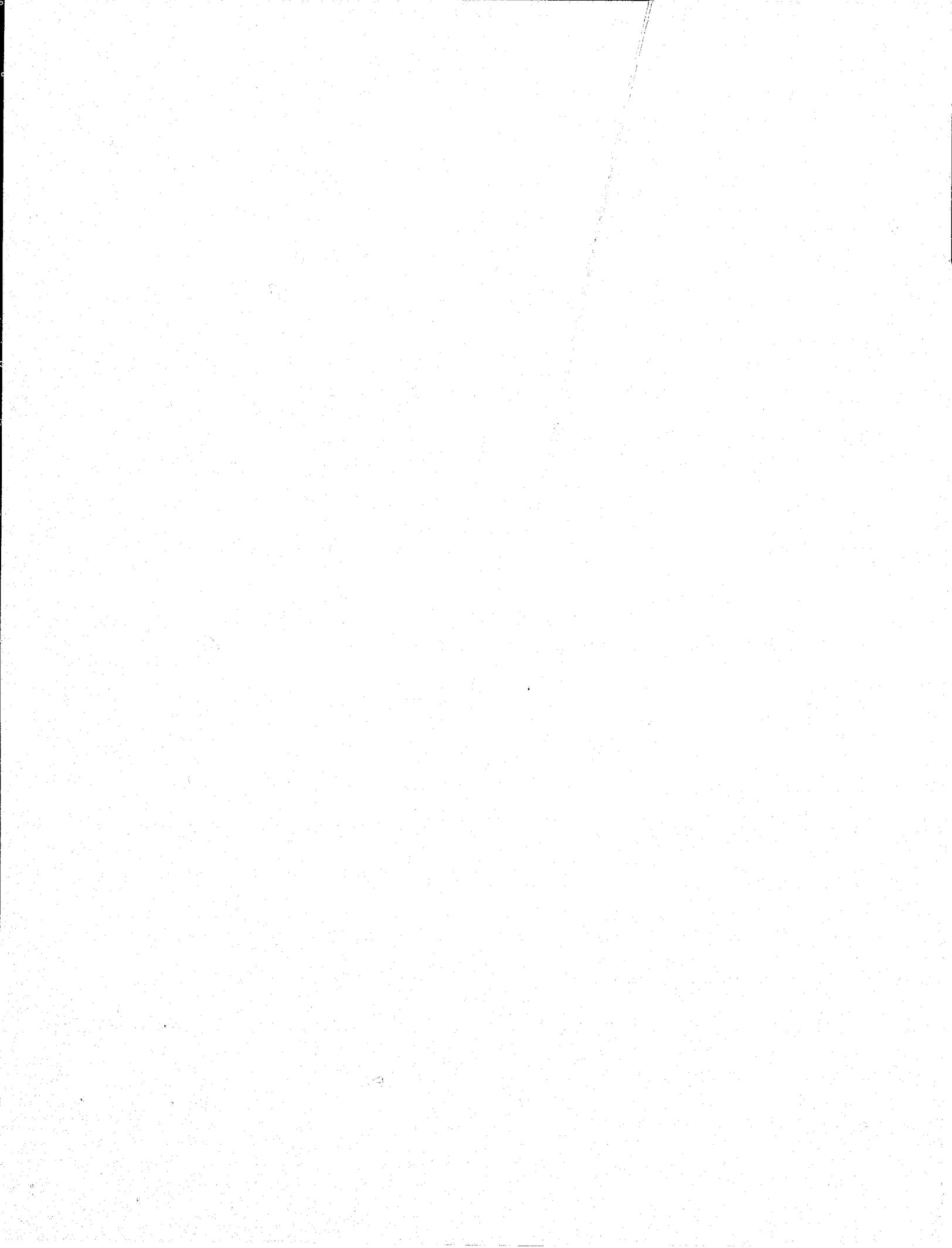
By Special Committee on Corrections

Re Proposal No. 14

1-26

0015 A CONCURRENT RESOLUTION providing for a special com-
0016 mittee to make a legislative study concerning public and pri-
0017 vate facilities and programs for care, treatment or detention of
0018 juveniles under the Kansas juvenile code.

0019 *Be it resolved by the House of Representatives of the State of*
0020 *Kansas, the Senate concurring therein:* That the legislative co-
0021 ordinating council appoint or designate a special committee to
0022 study the following: Public and private facilities and programs
0023 for the care, treatment or detention of juveniles under the Kansas
0024 juvenile code and such other matters as the legislative coordinat-
0025 ing council may specify. Such special committee shall make its
0026 report and recommendations to the legislature and transmit the
0027 same to the legislative coordinating council on or before De-
0028 cember 1, 1978, unless such council authorizes an extension of
0029 such time.



END