

KANSAS SENTENCING COMMISSION

Honorable Ernest L. Johnson, Chairman
Helen Pedigo, Executive Director

Minutes of the Kansas Sentencing Commission Meeting January 22, 2009

The Honorable Ernest L. Johnson, Chairman, called the Kansas Sentencing Commission meeting to order on January 22, 2009, at 1:40 p.m. The meeting was held in the Senate Room of the Jayhawk Tower Building, Topeka, Kansas.

Participants:

Members:

Honorable Ernest L. Johnson, Chairman
Honorable Richard M. Smith
Representative Janice Pauls
Roger Hayden, Designee for Department of Corrections
Patricia Biggs, Kansas Parole Board
Chris Mechler, Office of Judicial Administration
Kevin Graham, Designee for Attorney General's Office
Thomas Drees, Ellis County Attorney
Captain Dale Finger, Public Member

Staff:

Helen Pedigo, Executive Director
Kunlun Chang, Director of Research
Fengfang Lu, Senior Research Assistant
Janice Brasher, Fiscal Director
Marty Schmiedeler, Accountant
Jennifer Dalton, Accountant
Brenda Harmon, Public Service Administrator
Lora Moison, Research Analyst

Guest:

Chief Ed Klumpp, Retired, Topeka Police Dept., Recodification Vice-Chair

Approval of the Minutes

Chairman Johnson referred to the minutes of the December 18, 2008, Kansas Sentencing Commission meeting. A motion was made to approve the minutes as written by Ms. Patricia Biggs and seconded by the Honorable Richard Smith. The motion carried.

Recodification Commission Update

Representative Janice Pauls provided an update on the Recodification Commission. The Commission plans to complete work by January 2010. Representative Pauls stated that she has been appointed to serve on the Commission as a representative of the Minority Party. Mr. Thomas Drees was then appointed to the Recodification Commission to serve as a Sentencing Commission representative.

Proportionality Probation/Postrelease Subcommittee

Mr. Thomas Drees provided information regarding work performed by the Proportionality Probation/Postrelease Subcommittee. A handout was provided. The subcommittee recommended adopting the present severity levels for Aggravated Criminal Threat, Stalking, Defacing ID marks on a Firearm, and Pharmacy Act Violations. Mr. Drees discussed the subcommittee's recommendation to amend the penalty for Aiding an Escape from severity level 4 to a severity level 5, as all sentences within the merged grid at severity level 5 are presumptive prison. Mr. Kevin Graham proposed that the KSC adopt the recommendations of the subcommittee and further, to recommend amending Criminal Deprivation of Property - Motor Vehicle to a severity level 8 nonperson felony for a second or subsequent offense and striking the special rule that is presently applicable to this crime. Mr. Thomas Drees seconded the motion. Ms. Patricia Biggs opposed. The motion carried.

After a brief discussion, Ms. Biggs moved to initiate further study and recommendations with regard to community supervision. Ms. Chris Mechler seconded the motion. The motion carried.

A motion was offered by Ms. Biggs to remove sex crimes from the Proportionality Report and make appropriate notations reflecting that these recommendations are under further development. Mr. Kevin Graham seconded it. The motion carried.

The Honorable Richard Smith made a motion to remove Appendix F, Sex Offenses, from the Proportionality Report. The motion was seconded by Mr. Graham and it carried.

An additional motion was offered by Judge Smith to place a notation within Appendix A, the merged sentencing grid, that states it reflects current law and indicates the Commission's intent to present future legislation regarding recommendations for changes. The motion was seconded by Ms. Biggs. The motion carried.

Kansas County and District Attorneys Association Proposal - SL 4D Probation Term

Chairman Ernest Johnson provided an overview of legislation proposed by the Kansas County and District Attorneys Association (KCDAA) extending the probation term for drug severity level 4 felony convictions, from 12 months to 18 months. A handout was provided. A motion was made by Judge Smith to support KCDAA's legislative proposal with the recommendation that it be effective upon publication in the Kansas Register, rather than the statute book. The motion was seconded by Mr. Graham. The motion carried.

State v. Schow Discussion

Mr. Kevin Graham provided an overview of State v. Schow. A handout was provided. A motion was made by Mr. Drees to introduce Legislation addressing State v. Schow by shifting the burden of proving criminal history to the defendant. The motion was seconded by Mr. Graham. The motion carried.

Budget

Ms. Helen Pedigo provided an overview of the budget. This portion was included in the Agency Report.

Substance Abuse Policy Board

Ms. Chris Mechler provided an update on the Substance Abuse Policy Board. Ms. Mechler stated that the Report to the Legislature is complete and will be available soon.

Agency Report

Ms. Pedigo provided and discussed the agency report. A handout was provided.

Next Meeting

The next Kansas Sentencing Commission meeting is scheduled to be held via teleconference on Thursday, February 19, 2009, at 1:30 p.m.

Chairman Johnson adjourned the meeting at 5:15 p.m.