

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE
March 18, 1981

The meeting of the House Judiciary Committee was called to order at 8:00 a.m. in Room 437 of the Capitol by Chairman Kerry Keyser. The following members were absent: Conn, Daily, Iverson, Huennekens, Sheldon, Keedy and Teague. Jim Lear, Legislative Council, was present.

SENATE BILL 302 SENATOR MCCALLUM, sponsor, stated this bill is to amend 7-4-2704 to allow county attorneys to complete legal matters remaining from private practice. Sanders County recently had a problem with this situation. The parttime attorney resigned and there was no other attorney to take over the job parttime. They had to hire an attorney fulltime. Fulltime pay is the same regardless of the county size. SENATOR MCCALLUM stated the Association of Counties is in favor of the bill.

There were no proponents.

There were no opponents.

SENATOR MCCALLUM closed the bill.

REP. EUDAILY asked about the fiscal note concerning a constitutional problem. The Senator did not feel there was a problem.

REP. HANNAH asked how the private attorneys currently handle pending cases when they become the County Attorney. REP. YARDLEY stated the law firm usually continues the case or an agreement is worked out.

SENATE BILL 303 SENATOR MCCALLUM, sponsor, stated this bill is to amend 7-4-2706 to allow the office of the County Attorney to be reduced to a parttime position. Each particular county could negotiate whether the position would be full or parttime.

There were no proponents.

There were no opponents.

The Senator closed the bill.

No questions were asked by the committee.

SENATE BILL 286 DAN RUSSELL, Department of Institutions, presented the bill in the absence of SENATOR VAN VALKENBERG. This bill would generally revise the laws which relate to the prisoner furlough program. The program would be defined as a release program and would restrict the time qualification for prisoner eligibility. He said

there are only three prisoners currently out on the furlough program. A prisoner can be out when he is half way to parole. It is suggested in the bill that we require at least 18 months to parole before being eligible for furlough program. Also, if a prisoner leaves the program, it is a misdemeanor. It is hard, also, to bring them back if they go to another state. Rather than the sponsor of the inmate having the prime supervisory responsibility, the parole office should. The law as it is now is non-functional. There are people who should qualify under this program. EXHIBIT 1 was given to the committee.

NICK ROTERING of the Legal Department of the Department of Institutions, gave a brief overview of the background of this law. The department has amended the law in two previous sessions and had three attorney general opinions. It is a nightmare to administer but it is a good type of program. The proposal is to make the time 18 months before release when they may apply. The bill places a great deal of authority on the department in the rule-making authority area. There have only been 52 people since 1975 who have gone out on the program. Some people should qualify and would benefit from this program.

During questions from the committee, REP. HANNAH asked if it is such a bad law, why not take it off the books. ROTERING replied that SENATOR RYAN's bill would have done that, but the Code Commissioners did not want to eliminate the whole law and start over again.

REP. HANNAH asked what the result of the proposed changes would be. ROTERING said it would give control to the department as to who will be eligible. It would make the program more available to the people who need this type of help. It would be available to those who will be out in about 18 months anyway.

REP. YARDLEY asked if this bill had a Statement of Intent. The answer was yes but all committee members had not yet received copies.

CHAIRMAN KEYSER stated it appeared the department is going into a supervisory release program. He felt all furlough programs should be repealed. ROTERING said the department originally did that and ended up with nine sections to a new bill.

CHAIRMAN KEYSER asked how the department will deal with this because the sections asking for amendment are dealing with furlough release program only. ROTERING said the name has changed from furlough to supervisory release and that it would be the same program under a new name. It has never really been a furlough program because if someone takes three days to attend a funeral and then returns, that is a furlough. Or, if the inmate goes to school during the day but

returns to prison at night, that is a furlough.

REP. KEYSER said if it does go to a supervisory release program, it will remove responsibility from the department and the agency should not be released from any responsibility. ROTERING replied that on page 3, section 2, it shows that the department is not abdicating any responsibility. The major change is the sponsor's role in the community because it is not workable. A parole officer will take over the responsibility of the prisoner. REP. KEYSER said that section states that you are responsible. It probably should not be repealed. ROTERING said that by repealing that one section, the department is divesting itself. We feel we would give the department greater control.

SENATOR VAN VALKENBERG said that the Senate felt there should be a program for people who are out on work, but not in school or in a training program. If they could get an acceptable job, they should be allowed to do that. The Board of Pardons has been concerned because the language read that a person could go out on a work release program as long as it goes along with a school or treatment situation. On page 3, line 22, it says you can have a work program. The definition was to eliminate the reference to sponsor.

SENATOR VAN VALKENBERG closed the bill saying this program is important but it needs to be more practical. The prison is at capacity and a safety valve is needed. There are about 150 prisoners who could be released if there is a proper program. It is a good alternative to prison. On behalf of the Board of Pardons, the Senator urged the committee to amend the bill on page 3, line 22 by striking "WORK PROGRAM OR A" & following "program" on line 24 insert "or work program in conjunction with any of the above." The hearing on Senate Bill 286 closed.

SENATE BILL 448 DAN RUSSELL presented the bill in the absence of SENATOR MIKE ANDERSON. This bill was introduced at the request of the Senate Judiciary Committee. This bill would permit the Department of Institutions to contract with public or private corporations for the confinement of certain inmates. It would place inmates on a prerelease basis.

NICK ROTERING, Department of Institutions, said that some legislation is needed in order that the state can contract with certain corporations for the placement of inmates. It could also be used in transferring inmates from one place to another. The department would do this with organizations within the state. There currently is a placement house in Billings called Alpha House which the department has been using.

REP. YARDLEY asked if there is money in House Bill 500 for this program. The answer was yes.

REP. HANNAH asked if Alpha House is a private operation. The answer was it is private and non-profit.

CHAIRMAN KEYSER felt the department had gone about this in the wrong way. First, the department started using placement centers and then, it came to the legislature and asked permission. REP. YARDLEY said the Legislative Oversight Committee gave some authority to proceed with Alpha House.

SENATE BILL 268 SENATOR GRAHAM, chief sponsor, presented the bill which would assess the costs of impaneling a jury against parties who fail to inform the court of a settlement of the issues. This bill would help keep the lawyers from getting a little lax. Sometimes the parties reach an agreement but they still go to court. If they don't inform the court about the settlement, a jury must be impaneled. This bill would force the lawyers to inform the clerk of court to avoid setting up a jury. The people who are involved should be given consideration and allowed notice of settlement.

There were no proponents.

There were no opponents.

SENATOR GRAHAM closed on the bill.

No questions were asked by the committee.

EXECUTIVE SESSION

SENATE BILL 302 REP. BENNETT moved do pass.

JIM LEAR stated subsection 4 is to take care of the transition from one to the other. It is not unlawful to do matters that need to be done. There are sometimes areas that need winding up from a private practice.

The motion of do pass carried with REP. EUDAILY opposing.

SENATE BILL 303 A motion of do pass was made by REP. CURTISS. The motion carried unanimously.

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SENATE BILL 268 REP. MATSKO moved that Senate Bill 268 do pass.
The motion carried unanimously.

SENATE BILL 448 REP. SEIFERT moved do pass. The motion carried
unanimously.

The meeting adjourned at 9:30 a.m.

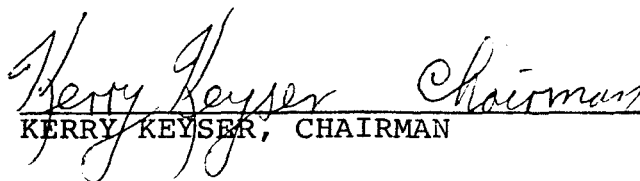
 *Chairman*
KERRY KEYSER, CHAIRMAN
mr

Exhibit 1

STATEMENT OF INTENT

SENATE BILL 286

INTRODUCED BY VAN VALKENBURG

By the Request of the Department of Institutions

SENATE JUDICIARY COMMITTEE

A statement of intent is required for this bill because it delegates authority to the Department of Institutions to adopt rules which will include overall guidelines and criteria for the operation of the supervised release program.

Senate Bill 286 intends that the Department of Institutions carry out the provisions of this bill in order to provide better correctional policies for the supervised release program which is a replacement of the existing prisoner furlough program found in Part 4, Chapter 23 of Title 46.

The bill authorizes the Department of Institutions to adopt administrative rules which will include guidelines concerning prisoner eligibility to participate in the supervised release program. Such guidelines are intended to provide objective criteria for evaluating each individual inmates chances for success by considering the type of crime for which he is incarcerated, prior criminal history, revocation of paroles or probation, escape attempts, institutional adjustment and time to serve to parole eligibility. Each prisoner is to be given points set up under criteria and each criteria is to be weighed in accordance with its relative importance.

Further, these rules will allow that the inmate shall be responsible for developing his own program and for obtaining his own financial support where necessary.

The Department shall adopt rules for the supervision of the inmates while in the program outlining the responsibilities of the supervising parole officer and sponsor. Rules shall also be adopted concerning the revocation hearings and any other provisions that are needed to implement this act.

VISITORS' REGISTER

SENATE	HOUSE	JUDICIARY	COMMITTEE
BILL	286		Date 3/18/81
SPONSOR	Vanvalkenburg		

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.