

CORRECTIONS COMMISSION MEETING

Via Teleconference

December 22, 2005

3:00 PM

Members Present: Senator J.P. Duniphan, Commission Chairperson; Committee Members: Representative Pat Haley, Representative Casey Murschel, Justice Steven Zinter, Judge Max Gors, Brad Drake, George Prest and Paul Aylward.

Members Absent: Senator Garry Moore.

Others Present: Senator Clarence Kooistra, Secretary of Corrections Tim Reisch, Deputy Secretary of Corrections Laurie Feiler, Annie Mehlhaff, Michael Winder, David Schiefen, Macie Larson and Lawrence Schroeder.

Agenda Item Number One: Approval of Minutes from the Previous Meeting

The meeting was called to order by Senator Duniphan and a quorum was present.

A motion was made by Representative Murschel to approve the minutes from the September 8, 2005 meeting. George Prest seconded and the motion carried.

Agenda Item Number Two: Corrections Related Draft Legislation for the 2006 Session:

Senator Kooistra explained his proposed revisions to SDCL § 24-13-1 (see attached handout). The proposed revisions would add two additional members to the parole board. One of the new members would have to belong to a recognized Indian Tribe. The other new member would have to be a mental health professional. He pointed out that a “mental health professional” is defined by statute.

Senator Kooistra said additional parole board members are needed because of the increase in monthly parole hearings. An average of 148 parole hearings a month took place in 2001 and that average increased to 288 hearings per month in 2005. He also pointed out that one of the top recommendations from the Governor’s Workgroup was to add a Native American to the parole board. Senator Kooistra referenced the public reaction to a recent *Argus Leader* editorial regarding this topic. He stated cost would not be a factor in adding two additional members to the parole board. He also noted the increase in sex offenders and the additional burden they placed on the parole board.

Representative Haley asked about the percentage of Native Americans in the corrections system. Senator Kooistra responded that about 30% of the population is Native American. Deputy Secretary Feiler reported 23% to 24% of the adult male population is Native American and about 35% of the adult female population is Native American.

Senator Kooistra asked the Committee for an endorsement for action or no action for this proposed legislation. He said he spoke to the Governor last year about this same subject. He also talked to the Attorney General as well as many others about this legislation. Senator Kooistra said he plans to move forward with this proposed legislation.

Judge Gors said he was a member of the parole board three different times. He reported a very positive experience with having an Indian on the parole board in the past. Judge Gors suggested the legislation be changed to say the next two appointments to the parole board be slotted for a mental health professional and for an Indian, rather than expand the parole board.

A discussion ensued about the previous expansion of the parole board, the length of the board members' terms, and when the current terms are up. The discussion delved into the legislation proposed last year to expand the parole board.

Brad Drake agreed with Judge Gors on the need for an individual on the parole board who is Native American and another who is a mental health professional. He suggested these two positions be added now and then the next two openings on the parole board not be filled, leaving the total number on the parole board at nine.

Representative Haley agreed with Brad Drake's idea, but also agreed with Senator Kooistra's points on the need to expand the parole board. He favored the idea of having either the Governor or the courts add the new members. Representative Haley noted that in 2007 an appointment would come out of the Attorney General's office and he believes they have a different perspective on this issue. Senator Duniphan said it is important to realize no one knows how the Attorney General's office will react.

Justice Zinter noted there are a lot of good ideas being shared, but the other side of the story has not been heard yet. He would like to hear what the current parole board members think about the proposed expansion. Senator Duniphan said that the January 9, 2006 Corrections Commission meeting would be a good time to provide additional information. Senator Kooistra agreed Senator Duniphan had a good point because amendments could be made.

Senator Duniphan asked Deputy Secretary Feiler to provide information on proposed sex offender legislation. Deputy Secretary Feiler reported on the group that has been working since early summer on numerous sex offender concerns. There are a series of recommendations for legislation that: 1) identifies and incarcerates sex offenders for an extended period of time, 2). adds information to the sex offender registry and makes it accessible to the general public, 3). tightens sex offender registration, and 4). manages sex offenders in the community.

A discussion ensued concerning longer sentences for sex offenders, certain sex offenders being ineligible for parole and civil commitments. Deputy Secretary Feiler reiterated the main goal is to keep the community safe. Representative Murschel questioned the proposed requirement to make certain sex offenders serve their full sentence without parole. She indicated part of the value of parole is to measure an inmate's transition into the community. Secretary Reisch responded that this provision is designed to catch a small number of sex offenders that are not considered "treatable", which is less than 15% of all sex offenders.

Secretary Reisch agreed with Representative Murschel that having inmates released to parole can be a good practice because it places them under the supervision of a parole officer for a period of time following their release. He pointed out that the most dangerous sex offenders could still be a threat to re-offend even while on parole.

A discussion took place about boundary restrictions and where sex offenders could live in the community. Representative Murschel expressed concern that the boundaries would include all sex offenders even if they were not a threat to children. Deputy Secretary Feiler agreed that Representative Murschel made a valid point, but said it is challenging to create boundaries for out-of-state sex offenders because it is hard to get information on exactly what type of sex crime they committed.

Representative Haley asked Justice Zinter about the constitutionality of the proposed sex offender legislation. Justice Zinter reported the U.S. Supreme Court has upheld the constitutionality of this type of legislation/restrictions. Judge Gors said there have been no challenges so far in South Dakota on these constitutionality issues. Representative Haley stated sex offenders are a complex problem because incarceration is based on what they may do. Judge Gors said that it is the same principle used with DWI offenders because sentencing is based on what they may do.

Representative Murschel asked to add an agenda item to the next Corrections Commission meeting. She would like to discuss the role of the Corrections Commission and the Government Operations & Audit Committee (GOAC).

Last Agenda Item: Date and Location for the Next Commission Meeting

The next meeting was scheduled for January 9, 2006. The meeting will take place from 1:00 PM to 4:00 PM at the South Dakota Women's Prison in Pierre.

Senator Duniphan asked for a motion to adjourn the meeting. Representative Haley made the motion to adjourn. Brad Drake seconded the motion. The motion carried and the meeting was adjourned.