



DEPARTMENT OF CORRECTIONS

ADMINISTRATION

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Dear Governor, Chief Justice and 2014 Legislators:

The South Dakota Corrections Commission met three times during calendar year 2013. The first meeting was March 25 at the Capitol in Pierre. The second meeting was September 24 at the Black Hills Correctional Transition Center in Rapid City and included a tour of STAR Academy. The third meeting was December 2 at the South Dakota Women's Prison in Pierre and included a tour of the facility and prison grounds.

The focus of the Corrections Commission is to assist the Department of Corrections (DOC) in examining various criminal justice issues, trends, developing initiatives and monitoring projects and programs occurring within the Department of Corrections.

2013 DOC Related Legislative Bills:

The following DOC related bills were signed by the Governor in 2013. Members of the Corrections Commission received an explanation and description of each bill during the March meeting.

HB 1031 An Act to revise certain provisions regarding parole date calculation.

Bill amended SDCL 24-15A-29 to specify that when a suspended sentence is imposed prior to an inmate's initial parole date on the incarceration period of their suspended sentence, the parole date calculated on the imposed term is a presumptive date instead of a discretionary date. The bill also deleted an obsolete reference to indeterminate sentences in SDCL 24-15A-32. The option of an indeterminate sentence was repealed in 2004.

HB 1032 An Act to revise certain provisions regarding the money, clothing and transportation furnished inmates released from the Department of Corrections.

Bill was designed to be more responsive to transportation and gate money needs of inmates releasing from prison. SDCL 24-5-3 stated an inmate releasing from prison was provided clothing, a sum of money known as gate money and transportation to the county they were sentenced from. But the statute didn't allow for gate money or transportation for a subsequent release.

The bill allowed the DOC to determine on an individual basis if the transportation or gate money is necessary, regardless of whether it is the inmate's first release or a subsequent release. It also allowed transportation to an equivalent distance from the county they were sentenced from, thus removing potential barriers to a successful

reentry. We estimate this will cost an additional \$5,000 to \$15,000 per year in release costs.

SB 31 An Act to make an appropriation for the construction of a maintenance building and to authorize the razing of three buildings at the STAR Academy in Custer County.

Bill appropriated \$215,000 in other funds to construct a new maintenance building at STAR Academy's west campus (boy's campus) and for the razing of a barn, former minimum unit and a woodshed structure there. The new building would be 120' by 52' with 16' sidewalls. This will allow maintenance staff to have everything centrally located on the STAR campus.

Attorney General Bills:

SB 36 An Act to protect the identity of the person or entity supplying the intravenous injection substance for executions and increase the penalty.

Bill increased the penalty in SDCL 23A-27A-31.2 for disclosure of confidentiality of persons administering lethal injection from a Class 2 misdemeanor to a Class 1 misdemeanor. Bill also added the term "entity supplying" the substance(s) to those requiring confidentiality.

SB 38 An Act to increase the penalty for sexual acts between correction facility employees and juvenile detainees.

Bill amended SDCL 22-22-7.6 to clarify that sex between juvenile correction facility employees and detainees is a Class 6 felony if the victim is an adult, and enhances the penalty to a Class 4 felony if the victim is a juvenile.

SB 39 An Act to establish a penalty for a juvenile convicted as an adult of a Class A or B felony and allow a sentence of up to life imprisonment after a sentencing hearing.

Bill allowed for a sentencing hearing for a juvenile convicted as an adult of a Class A or B felony to give the Court the discretion/option of issuing a sentence less than life. This bill was in response to the 2012 U.S. Supreme Court ruling in Miller v. Alabama prohibiting automatic life-without-parole sentences for juvenile offenders convicted as an adult. The conference committee amended the bill to allow for victims of Class A, B and C felonies to have the right to address the court about the impact of the crime. Judges will have the discretion of allowing the victim of any other felony or misdemeanor to provide victim impact testimony.

Criminal Justice Initiative:

SB 70 An Act to improve public safety.

Bill was the Criminal Justice Initiative package to create more drug courts, assistance for veteran's charged with crimes, creation of the South Dakota HOPE program, tribal parolee monitoring, earned discharge from probation/parole, altered penalties for drug crimes, grand theft, and 3rd degree burglary, creation of aggravated DUI, create an oversight council to monitor the effectiveness of the CJI, require fiscal impact statement for bills and ballot measures that impact corrections and the courts and create a

statewide automated victim and notification system.

Governor's Office:

HB 1116 An Act to revise the terms and expiration dates of appointees to certain boards and commissions.

Bill revised SDCL 1-15-29 regarding membership of the Council of Juvenile Services so the terms of members whose terms expired on June 30, 2013, and after were extended until October 30th of the year the term is to expire.

Department of Agriculture:

SB 19 An Act to authorize the Department of Agriculture to construct a housing unit in Huron, to make an appropriation therefore, and to declare an emergency.

Bill appropriated \$100,000 to build a housing unit in Huron for state prison inmates working on the grounds of the State Fair.

Budget Bill:

HB 1185 An Act to appropriate money for the ordinary expenses of the legislative, judicial, and executive departments of the state, the expenses of state institutions, interest on the public debt, and for common schools.

Bill was the general budget bill for state fiscal year 2014 which included a total DOC budget of \$103,911,902 with 871.2 full-time equivalent positions.

Department of Corrections Topics Reviewed by the Commission:

Update on the Adult Inmate Population:

Laurie Feiler with the DOC shared information with the Commission at the March and December meetings regarding the Average Daily Population of adult inmates with projected numbers for FY 2013 and FY 2014 and provided the Commission with updates on the Average Daily Count (ADC)

Between FY 2005 and 2006, the inmate population jumped by 9 percent. It remained relatively flat from 2006-2011, and grew by 3 percent from FY 2011 to FY 2012 and 2% from FY 2012 to FY 2013.

Criminal Justice Initiative:

The Commission received updates on various aspects of the Criminal Justice Initiative (CJI) at each of the 2013 Commission meetings. The three goals of CJI are to reduce recidivism, provide strategies for stronger supervision of offenders in the community and to reduce the prison population. The CJI affects laws, prisons, and courts and includes over 25 policy changes. It requires that reforms be measured and evaluated.

As part of the CJI, an earned discharge credit (EDC) system was established for parolees. Unless on parole for a sex offense, safety zone violation, or failure to register, parolees will be eligible to receive days off their sentence for each day they are compliant with the provisions of their parole. Parolees began earning the EDCs in July 2013. The Commission received information in October 2013 that 73% of all parolees

earned EDCs on at least one sentence. The cumulative total of EDCs from July 2013 to October 2013 was approximately 277,000 days.

Parole supervision will be improved by focusing on moderate and high-risk parolees through case planning. A system of graduated sanctions commonly referred to as a sanctioning grid will be utilized by parole officers. CJI appropriated \$30,000 to strengthening the risk and needs assessments used by parole agents and validating the community risk assessment and LSI-R.

Included in the CJI is \$250,000 for a Community Transition Program (CTP) housing pilot. Offenders on CTP currently live in minimum custody facilities while they search for housing and employment. DOC will identify locations within the community that can provide contractual housing for offenders which will help transition offenders into the community. Evidence-based practices support that offenders have greater chances for success when they are housed outside of an institutional setting.

CJI also contains provisions for establishing other pilot programs. Existing drug courts and DUI courts will be enhanced and expanded and a tribal community supervision pilot program is in the process of being developed. The tribal pilot has \$250,000 in funding which will be used to hire staff and cover operating costs. The program will include hiring an individual to supervise parolees residing with the bounds of the participating reservation. Staff with the DOC and Tribal Relations met with interested tribes to discuss the pilot project. The DOC is currently working with Sisseton-Wahpeton to develop the program. DOC has provided the tribe with a sample sanctioning grid which the tribe will refine to meet their specific cultural needs. An intergovernmental agreement has been drafted and sent to the tribe for their review and input.

An evidence-based substance abuse treatment services and cognitive behavioral therapy program was included as part of CJI. The Department of Social Services received funds to increase chemical dependency treatment slots in rural communities. Providers were trained in Evidence-based Practices for recidivism reduction. Requests for Proposal (RFPs) were issued to expand these types of services in rural areas.

A tiered system for substance abuse was developed. Possession of a Controlled Substance was moved from a Class 4 to a Class 5 or 6 felony, depending on the schedule. Possession by ingestion was removed from the Misprision of a Felony statute so parole agents are no longer required to report a dirty urinalysis to law enforcement. Reporting is now optional instead of mandatory. Offenders with a substance abuse relapse may be referred to 24-7 treatment and do not necessarily receive a new felony charge.

Judges also have some different options when sentencing offenders. Classification for Grand Theft was be lowered from a Class 4 to a Class 5 or 6 felony, depending on the property dollar amount of the theft. The new law allows up to 365 days in jail as a condition of probation for DUI 5th, and the law requires 5 or 10 years supervision for chronic DUI offenders. Burglary 3rd was moved to a Class 5 felony.

A statewide automated victim notification (SAVIN) system will be created and administered in the Attorney General's Office. This will go into effect in July 2015. DOC will interface its victim information with the Attorney General's. Statute will be revised to provide the Attorney General's office with authority/responsibility to perform the victim notifications.

A reinvestment fund will be created for local jurisdictions. Counties will be eligible to receive \$1000 to \$1200 for each additional probationer. Counties with jails will receive \$1000 for each additional probationer and counties without jails will receive the \$1000 and an additional \$200 to cover transportation costs. The first payments will be made in October 2014 based on the FY 2014 end-of-year counts.

The law also provides for Parole Board and judicial training. Each new parole board member is required to receive training on risk assessment and evidence-based practices within 60 days of appointment and all members will receive training annually. The judiciary will also receive training. In addition, probation and parole officers will receive training on criminal risk factors and targets to reduce recidivism.

The CJI provided for a 13-member oversight council which will meet semi-annually to review and monitor implementation of the CJI provisions. This will be staffed by UJS and will be comprised of four legislators, four members appointed by the Governor, four members appointed by the Chief Justice, and one member appointed by the Attorney General.

West Farm and Transition to Sequel:

Information was presented to the Commission by Doug Herrmann regarding the West Farm facility and transition to Sequel. West Farm is a DOC owned facility located 3 miles west of Ellis. It began as a prison farm decades ago and housed low custody level inmates until 1996 when it was closed. In 1998 the facility was reopened as a juvenile facility. The facility served 14-17 year old youth and was operated by a contract provider until 2012. A request for proposal (RFP) was issued by the DOC in May 2012 seeking a private provider to provide services for 16-19 year old male youth, with an emphasis on reentry and transitional services. The RFP did not require the West Farm campus be used but it did require the services be offered in the vicinity of Sioux Falls, SD. The DOC worked with the Bureau of Administration to develop the RFP requirements. The RFP was sent to all in-state providers and a number of out-of-state providers.

The RFP was awarded to Sequel Youth and Family Services, who currently has operations based in 16 states. Sequel is licensed by the Department of Social Services (DSS) to operate as a group care provider serving up to 32 male youth. DOC has been working with DSS to coordinate payment for educational services through the local school district. By statute, it is the local school district's responsibility to provide on-site education services and an agreement is in place with the West Central School district.

Sequel Youth Services provides a variety of residential and community-based services across the country. DOC has contracted in the past with two other Sequel operated programs located in Iowa. The program fits well with DOC's emphasis on identifying community-based services for offenders.

While the West Farm facility was vacant, improvements were made to the facility and grounds including drainage work around the buildings, roofing, and tuck-pointing on various portions of the buildings. The program will provide community-based facilities and services for youth transitioning to the community from chemical dependence and sex offender treatment. Out-patient services will also be in place for these youths.

At the September meeting, the Commission was advised that 17 youth are being served at the facility. Sequel has developed agreements for substance abuse and sex offender treatment with local providers and those services are in place. Youth at Sequel are receiving high school education classes, working with various employers in the area and are involved in post-secondary education classes. One youth who completed welding at STAR and is now at Sequel and is attending Southeast Vo-tech welding training. Sequel creates a specific roadmap for each youth.

The DOC projects the facility may have around 30 youth by December 2013. The startup plan was to begin admissions in June and increase the number as the program develops. DOC has identified those youth who will be admitted in October and November. Based on those numbers, Sequel will be at or near capacity around December 2013.

Juvenile Corrections Update:

Doug Herrmann presented the Commission with an update on Juvenile Corrections at the September meeting. A decade ago, the Average Daily Population (ADC) of youth under DOC jurisdiction was 1000 to 1100. FY 2013 ended with an ADC of 693 youth. The reduced ADC is a result of hard work and the implementation of the National Institute of Corrections (NIC) model for implementing Evidence-based Practices (EBP). DOC also received and applied the Returning Home Grant from Fiscal Year (FY) 2003-07. The Returning Home Grant allowed DOC to utilize consultants to help identify changes in certain practices and policies, which in time helped to reduce the ADC. Practices were changed to be more effective when interacting with youth and staff were trained on how to encourage youth to make changes in their behaviors.

The ADP of DOC youth on aftercare was also down for FY 2013. Approximately 296 youth were placed in aftercare. The ADC of youth in Private Placement was 49 out-of-state placements and 154 in state, for a total of 203 in FY 2013.

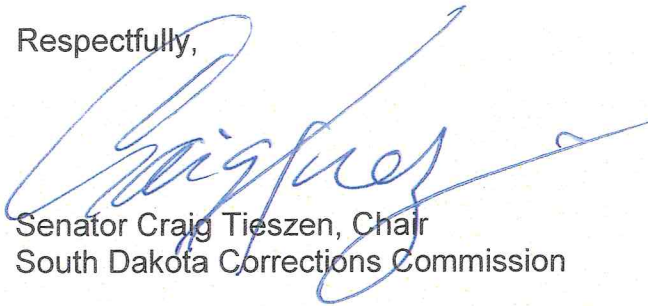
Commission Membership Changes in 2013:

State statute requires the Commission be composed of two senators and two representatives, one each from each political party. The appointments are made by the respective political party caucus leader. In April, Representative Pat Kirschman was appointed by House Minority Leader Bernie Hunhoff to replace Senator Larry Lucas (formally Representative Larry Lucas).

In accordance with the Corrections Commission by-laws, the election of officers was held during the March meeting. Senator Craig Tieszen was re-elected as Chair and Senator Bradford was elected as Vice-Chair, replacing Representative Larry Lucas.

The Commission is committed to assisting and supporting the Department of Corrections in their mission to protect the citizens of South Dakota by providing safe and secure facilities for juvenile and adult offenders committed to its custody by the courts, to provide effective community supervision to offenders upon their release and to utilize evidence-based practices to maximize opportunities for rehabilitation.

Respectfully,



Senator Craig Tieszen, Chair
South Dakota Corrections Commission

c.c.
Secretary Kaemingk
Corrections Commission