

(not approved)

**MINUTES
of the
SIXTH MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**November 28-29, 2005
State Capitol, Room 307
Santa Fe**

The sixth meeting of the Courts, Corrections and Justice Committee for the 2005 interim was called to order on Monday, November 28, 2005, in Room 307 of the State Capitol in Santa Fe.

Present

Rep. Joseph Cervantes, Co-Chair
Sen. Cisco McSorley, Co-Chair
Sen. Rod Adair
Rep. Thomas A. Anderson
Sen. Richard C. Martinez
Rep. Al Park
Sen. Lidio G. Rainaldi
Sen. H. Diane Snyder
Rep. Peter Wirth
Rep. Eric A. Youngberg (11/29)

Absent

Rep. Gail Chasey
Sen. Carroll H. Leavell
Sen. Leonard Tsosie

Advisory Members

Sen. Ben D. Altamirano
Rep. Hector H. Balderas
Sen. Kent L. Cravens (11/28)
Sen. Mary Jane M. Garcia
Rep. W. Ken Martinez (11/28)
Rep. Jane E. Powdrell-Culbert
Sen. John C. Ryan
Sen. Michael S. Sanchez (11/28)
Rep. Sheryl Williams Stapleton
Rep. Mimi Stewart
Rep. Thomas E. Swisstack
Sen. James G. Taylor

Sen. John T.L. Grubestic
Sen. Clinton D. Harden, Jr.
Sen. Gay G. Kernan
Sen. Gerald Ortiz y Pino
Rep. Greg Payne
Sen. William H. Payne

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Maha Khoury
Evan Blackstone
Jennie Lusk
Sarah Salazar

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Monday, November 28

Senator McSorley, co-chair, welcomed committee members and guests and called the meeting to order at 10:15 a.m.

Uniform Laws: Proposed Legislation

John P. Burton, uniform law commissioner, discussed the bill drafts he would like the committee to endorse. He gave a brief explanation of the bills and their effects. Mr. Burton discussed the Uniform Athlete Agents Act, Uniform Parentage Act, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, Uniform Revised Limited Partnership Act, Uniform Real Property Electronic Recording Act, Uniform Trust Code and Uniform Foreign-Country Money Judgments Recognition Act. He mentioned that some of the bills were favorably received in last year's legislative session, but time simply ran out.

The comments and concerns from the committee included whether or not these bills were going to be germane during the 2006 legislative session and why so many changes have to be made.

Committee Business

A motion was made and seconded and the minutes for the fifth meeting of the Courts, Corrections and Justice Committee were adopted.

Electronic Age Verification for Purchase of Alcohol

Senator Cravens, Gary Tomada, director, Alcohol and Gaming Division, Regulation and Licensing Department, and Christine Thomas, management analyst, DWI and Drug Czars, discussed their work pursuant to Senate Memorial 40, passed during the 2005 legislative session. The task force had four meetings during the interim and reported to the committee what it learned about underage drinking. Reuben Baca was also present to discuss what gas stations and convenience stores are doing to curb the problem. These businesses have started a program called "Responsible Retailers" that has proven to be successful. The presenters talked about different ways to give incentives to businesses who use an electronic age verification machine.

The committee agreed that it is important that something be done to curb underage drinking, and it discussed training for bartenders and cashiers and the responsibility of businesses when an employee sells to a minor.

Medical Marijuana

Daniel Abrahamson, director, Office of Legal Affairs, Drug Policy Alliance, and Reena Szczepanski, director, Drug Policy Alliance of New Mexico, discussed the effects of the U.S. Supreme Court case, *Raich*, on medical marijuana legislation. They explained the holding and rationale of the case and what it means if New Mexico were to pass a medical marijuana law, emphasizing that the case did not preclude the states from passing laws that regulate medical marijuana. The bill presented was similar to last year's bill with minor changes.

Questions and comments from the committee included concerns that such a measure would open the door for other illegal drugs, differences in marijuana and morphine, where and how the marijuana would be distributed and the marijuana patch.

DNA Samples for All Felony Arrests

Representative John A. Heaton, John Krebsbach, chair, DNA Oversight Committee, and Joanne and David Sepich all presented in support of a bill that would require DNA samples to be obtained from anyone arrested for a felony charge. The Sepichs spoke about how they lost their daughter in a brutal murder and how it might have been prevented had DNA samples been obtained earlier from the offender.

Questions and comments from the members included possible negative effects of such a bill and questions about federal and state databases and expungement. Various suggestions were made to amend the bill, such as requiring local governments to submit DNA samples from every sexual assault and requiring DNA samples from those convicted of a misdemeanor.

Create Crime of Escape from a Secure Residential Treatment Facility

Representative Martinez and Barri Roberts, director, Metropolitan Criminal Justice Coordinating Council, gave a brief presentation on this bill. They discussed how creating such a crime would encourage judges to commit offenders to treatment facilities because there would be sanctions if an offender escaped from the facility.

Appropriation for Law School Loan Assistance Repayment Program

Kim Posich, executive director, Center on Law and Poverty, discussed with the committee the need to fund the law that was passed last year. He requested that letters be sent from the committee to the Legislative Finance Committee (LFC) and to the governor in support of a recurring appropriation.

A motion was made and seconded that the committee write letters in support of such an appropriation and staff was directed to do so.

Funding Requests for IT Systems for Bernalillo County and for the Albuquerque Police Department

Senator Ryan, Barri Roberts and Ray Schultz, Albuquerque police chief, discussed the benefits and current funding of the contemplated information technology systems. These systems would be a huge benefit not only to the police officers on the streets, but to the courts and to administrative staffs. Among other things, the systems would help track officers for DWI cases brought before the Bernalillo County Metropolitan Court. Chief Schultz said the total cost for this system is \$11 million. They have pulled money from different places and are short \$3.5 million and are asking for the committee's support.

The committee recessed at 5:40 p.m.

Tuesday, November 29

Dona Ana County Court Consolidation Study: Final Report

Gina Maestas, director, Administrative Office of the Courts, presented the final outcome and report of the Court Consolidation Study Committee. She stated that the Court Consolidation Study Committee requests funding in order to obtain a step-by-step implementation plan for the contemplated metropolitan court in Dona Ana County. The consolidation would require 49 new positions and would cost the state millions of dollars. The committee members asked Ms. Maestas to discuss the advantages and disadvantages of this consolidation.

Response to Committee Request for Gender-Specific Criteria in the Operation of the Camino Nuevo Facility

Joe R. Williams, secretary, New Mexico Corrections Department (NMCD), gave an overview of the Camino Nuevo facility that will be opening for women inmates. He spoke about the capacity, populations, profiles of female offenders, staff training, policies and programming for females. Committee members raised concerns that the questions presented in the November 7 letter to Secretary Williams concerning gender-specific criteria in the request for proposals for the Camino Nuevo contract were not being addressed or answered in this presentation. Other committee concerns included mental health, profiles of offenders and the Peanut Butter and Jelly contract. The committee requested that the department consult with Mary Whittaker of the National Institute of Corrections regarding gender-specific criteria for women. The department has not done so, but stated it would consult with Ms. Whittaker.

Corrections Department Budget Request for FY 2007

Renada Peery, fiscal analyst, LFC, Secretary Williams and Jolene M. Gonzales, deputy secretary of administration, NMCD, highlighted some of the budget requests from the NMCD. The large budget request is due to the high inmate population that is projected to grow at an average rate of 2.9 percent from 2005-2016. The department's total request for all funding sources is 7.3 percent over FY06, plus a \$6.3 million general fund contingency to fund inmate population growth from FY06 to FY07.

Judiciary Budget Highlights

Erin McSherry, fiscal analyst, LFC, and Judge Wechsler, New Mexico Court of Appeals, discussed highlights of the judiciary budget for FY 2007.

Meritorious Deductions Earned by Inmates in FY 2005 and Impact of Proposed Changes

Paul Guerin, Ph.D., research scientist, New Mexico Sentencing Commission, presented his report on the meritorious deductions actually earned by prisoners in the preceding fiscal year. He also discussed the impact of the proposed earned meritorious deductions amendments on the availability of beds for inmates and on savings to the state.

Consideration of Legislative Proposals Generated During the Interim

The committee discussed and voted upon legislation that was proposed during the interim. The list of bills discussed and the actions taken by the committee are in the meeting folder and in the interim committee report.

Adjournment

The committee adjourned at 3:43 p.m.