



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

July 12, 1977

ATTORNEY GENERAL OPINION NO. 77- 224

Mr. Devon Knoll  
Director, Kansas Adult Authority  
818 Kansas Avenue  
Topeka, Kansas 66612

RE: Criminal Code - Sentencing - Power of the Kansas Adult Authority to award good behavior credits to female misdemeanants incarcerated at the Kansas Correctional Institution For Women.

SYNOPSIS: Senate Bill No. 166, effective July 1, 1977, conferring jurisdiction upon the district courts to parole misdemeanor females incarcerated at the Kansas Correctional Institution For Women, does not diminish the existing power of the Kansas Adult Authority to award good behavior credits to such offenders during the period of their incarceration.

RE: Criminal Procedure - Release Procedures - Power of Kansas Adult Authority to issue orders of conditional release and of final discharge upon the completion of sentence obligations by a misdemeanant sentenced to the Kansas Correctional Institution For Women.

SYNOPSIS: The Kansas Adult Authority possesses both the power and the responsibility to issue orders of conditional release and of final discharge to a misdemeanant sentenced to confinement at the Kansas Correctional Institution For Women upon the completion of her sentence obligations.

RE: Criminal Code - Sentencing - Forfeiture of Civil Rights By Misdemeanants Incarcerated at the Kansas Correctional Institution For Women.

SYNOPSIS: A misdemeanant incarcerated at the Kansas Correctional Institution For Women convicted of an offense punishable by one years confinement forfeits the civil rights enumerated in K.S.A. 21-4615.

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Dear Mr. Knoll:

Your recent inquiry presents several questions concerning the administration of sentences of female misdemeanants incarcerated at the Kansas Correctional Institution For Women (KCIW).

Initially, you inquire whether Senate Bill No. 166, enacted by this session of the legislature, effective July 1, 1977, diminishes the existing authority of the Kansas Adult Authority (KAA) to award good behavior credits to female misdemeanants incarcerated by KCIW. Senate Bill No. 166, which amends K.S.A. 21-4611 and K.S.A. 1976 Supp. 21-4612, confers jurisdiction upon the district courts of the state to grant paroles to female misdemeanants sentenced by them to the custody of the Secretary of Corrections to serve a term of confinement at KCIW and to thereafter order the prisoner's discharge upon satisfaction of the parole terms. As we perceive the question presented, this law in no manner operates to divest the KAA of the power to apply its schedule of good time credits to misdemeanant inmates at KCIW since the respective powers of the courts and the Adult Authority are distinct and not in conflict.

Although the bill confers upon the district courts continuing jurisdiction to parole such a misdemeanant offender, the inmate nonetheless remains within the custody of the Secretary of Corrections during the term of imprisonment and is thereby entitled to the benefits of the regulatory provisions establishing good behavior credits applicable to all inmates within the Secretary's custody. The jurisdictional dichotomy which is established authorizes a district court to grant a parole to such an offender at any time prior to the date of conditional release while authorizing the KAA to supervise the terms of a conditional release if parole has not been granted theretofore.<sup>1</sup> No tension exists in the operation of the respective powers and therefore the Adult Authority may continue its present practice of applying good behavior credits to the sentences of these offenders.

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<sup>1</sup>In order that the district courts be familiar with the Adult Authority's schedule of good time credits, it is suggested that the agency provide the courts with copies of the table if it has not already been done.

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Secondly, you query whether the KAA may issue orders of conditional release and of final discharge when a KCIW misdemeanant completes her sentence obligations. Upon review of the question, we find no statutory impediment to the exercise of these powers by the Adult Authority. An examination of the provisions of K.S.A. 22-3718, concerning conditional release, and of K.S.A. 22-3722, respecting the issuance of certificates of discharge, clearly indicates that the KAA is vested with the power, and indeed the responsibility, to issue such documents demonstrating the satisfaction of the inmate's sentence. As noted heretofore, Senate Bill No. 166 does not constitute an exclusive grant of jurisdiction to the district courts to administer the sentence of a KCIW misdemeanant, and therefore the bill does not detract from the responsibilities of the Adult Authority to issue orders of conditional release and final discharge at the appropriate time prescribed by law when the district court has not previously authorized a parole for the offender.

Finally, you inquire whether a KCIW misdemeanant forfeits her civil rights during the period of her incarceration. The resolution of this question may be determined by reference to K.S.A. 21-4615(1) which provides:

"A person who has been convicted in any state or federal court of a crime punishable by death or by imprisonment for a term of one (1) year or longer and is imprisoned pursuant to such conviction shall, by reason of such conviction and imprisonment, be ineligible to hold any public office under the laws of the state of Kansas, or to register as a voter or to vote in any election held under the laws of the state of Kansas or to serve as a juror in any civil or criminal case."

An examination of this provision reveals that any offender convicted of a crime punishable by a term of one year or longer who is subsequently incarcerated for that offense forfeits the statutorily designated civil rights. Since Class A and certain unclassified misdemeanors are punishable by a term of confinement not exceeding one year, under K.S.A. 21-4502(1)(a) and (d), it necessarily follows that any KCIW misdemeanant who has committed such an offense must forfeit her civil rights during the period

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of incarceration. However, any KCIW offender convicted of a lesser degree of misdemeanor would not be subject to the forfeiture of her civil rights.<sup>2</sup>

Very truly yours,



CURT T. SCHNEIDER  
Attorney General

CTS:RMT:en

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<sup>2</sup>Of course, quite apart from the provisions of K.S.A. 21-4615, all KCIW offenders lose those civil rights necessarily forfeited as a concomitant of lawful imprisonment.