

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Pat Colloton at 2:00 pm on February 18, 2011 in Room 144-S of the Capitol.

All members were present except: Kay Wolf

Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes  
Jason Thompson, Office of the Revisor of Statutes  
Lauren Douglass, Legislative Research  
Robert Allison-Gallimore, Legislative Research  
Jackie Lunn, Committee Assistant

Conferees appearing before the Committee:

Whitney Damron, City of Topeka  
Ed Klumpp, KACP, KSA, KPOA  
Kyle Smith, AG's Office  
Chief Ron Miller, Topeka Police Department  
John Rokos, Advanced Metals Recycling  
Chris Carroll, AT&T  
Former Representative John Faber, ABATE of Kansas, Inc.  
Tim Farr, ABATE of District 4 Representative  
Debra Stewart, ABATE of Kansas, Inc.

Others attending:

See attached:

**HB 2329--Allowing the Kansas bureau of investigation to access expunged records under certain circumstances.**

**HB 2312--Regulated scrap metal; licensing scrap metal dealers; unlawful acts; criminal penalties**

**HB 2199--Right-of-way violations; increased penalties**

**HB 2319--Authorizing house arrest for certain misdemeanors and nongrid felonies and updating definitions**

**HB 2138--Expanding crime of burglary to include entering to commit certain domestic crimes**

**HB 2318--Amendments to the recodified criminal controlled substances provisions**

Chairperson Colloton called the meeting to order and opened the floor for consideration of **HB 2329**. She called on Sean Ostrow, Office of the Revisor of Statutes, to refresh the Committee's memory of the bill. Mr. Ostrow stated the bill will create a new section allowing a person who has been adjudicated mentally ill to petition for relief from state and federal firearm prohibitions and would govern the contents of the person's petition for such relief as well as a court's duties in considering and granting the petition. The bill would also require courts to make expunged records and related information for adults and available to the KBI to complete a person's criminal history record information within the central repository or to provide information or documentation to the KBI to determine a person's qualification to possess a firearm.

**Representative Pauls made a motion to pass the bill out favorably for passage. Representative Moxley seconded.**

**Representative Pauls made a motion to cover 7-1-11. Representative Brookens seconded. Motion carried.**

**A discussion followed with Representative Brookens making a motion for an amendment to add on line 25, Page 1 "shall grant relief if such court determines by clear and convincing evidence". Representative Kelly seconded.**

A short discussion followed.

**Chairperson Colloton called for a vote on the Brookens amendment motion on the floor. A division vote was called for and the motion failed.**

**Representative Pauls moved to pass the bill out favorably as amended. Representative Meier seconded. Motion carried.**

Chairperson Colloton opened the hearing on **HB 2312-Regulated scrap metal; licensing scrap metal dealers; unlawful acts; criminal penalties**, and called on Sean Ostrow, Revisor of Statutes, to explain the bill and the amendments offered on the bill. Mr. Ostrow presented written copy of the amendments proposed by the Attorney General's Office. (Attachment 1) He stated the bill would create new sections of law to govern scrap metal dealers. It would provide that in order to purchase regulated scrap metal, a business would have to have a license for each place of business. The bill outlines the requirements for an application for licensure, the factors that would prohibit licensure, and circumstances allowing and requiring a license be revoked. The bill also makes it unlawful for a scrap metal dealer to purchase wire or cable owned by a telephone, cable, electric, water or other utility provider when the sheathing has been removed, making identification impossible, and the dealer cannot use a form of payment other than \$35 worth of property, copper in any form for any amount, catalytic converters, and refrigeration condensing units and related parts.

Chairperson Colloton introduced Whitney Damron, representing the City of Topeka, to give his testimony as a proponent of the bill. Mr. Damron presented written copy of his testimony. (Attachment 2) Mr. Damron stated curtailing metal theft crimes has been of significant importance to the citizens of Kansas. Those responsible for these crimes have cost Kansans millions of dollars a year in damages, lost productivity, and increased risk to public safety. In closing, he stated the bill is intended to provide a framework for enhanced enforcement of metal theft laws that will increase the likelihood that violators will be caught, successfully prosecuted, and receive stiffer penalties for their efforts. Hopefully the legislation will serve as a deterrent and such crimes will be reduced accordingly.

Chairperson Colloton introduced Chief Ron Miller, Topeka Police Department, to give his testimony as a proponent of the bill. Chief Miller presented written copy of his testimony. (Attachment 3) Chief Miller stated the bill would provide the mechanism to assure better compliance of the existing scrap metal statutes and enhance the consequences to those persons committing these crimes. He went on to say that in many cases the cost to repair the facility where the metal is stolen from far exceeds the value of the metal itself. He referred the Committee to the pictures attached with his testimony showing damages done to businesses by the thieves while removing copper from cooling and heating units located on the roofs. In closing, he urged the Committee to pass this bill favorably to help the Topeka Police Department deter and investigate these crimes which cost Kansans dearly.

Chairperson Colloton introduced Ed Klumpp, KACP, KSA, and KPOA, to testify as a proponent of **HB 2312**. Mr. Klumpp presented written copy of his testimony. (Attachment 4) Mr. Klumpp stated the bill establishes a statewide licensing program for all scrap metal dealers in the state. It also modifies the statute requiring payment of scrap metals over \$50.00 be made by check in order to have good records. The bill was modeled by Wichita and has proven to be workable with scrap metal dealers. In closing, he urged the Committee to please support the bill.

Chairperson Colloton introduced Kyle Smith, Attorney General's Office, to give his testimony as a proponent of the bill. Mr. Smith presented written copy of his testimony. (Attachment 5) Mr. Smith stated explosive growth in theft of scrap metal, and the concurrent massive criminal damage to property that is often involved, has created a criminal nightmare and economic straight jacket throughout Kansas. The bill is a smart and effective way of addressing all aspects of the problem. In closing, he urged the Committee to support the bill.

Chairperson Colloton called on Sarah Fertig, Executive Director, Kansas Sentencing Commission, to give a report on the bed impact on prison beds if this bill is put into law. Director Fertig stated the Kansas Sentencing Commission estimates the passage of **HB 2312** would result in an increase between four to six adult prison beds in FY 2012 and increase between six to twelve adult prison beds by FY 2021.

Chairperson Colloton called the Committee's attention to the "written only" testimony of Kent Cornish, Kansas Association of Broadcasters, (Attachment 6), and Chris Carroll, Director of External Affairs, AT&T. (Attachment 7)

Chairperson Colloton introduced John Rokas, Advanced Metals Recycling, to give his testimony as a

neutral party of the bill. Mr. Rokas presented written copy of his testimony. ([Attachment 8](#)) He stated Advantage Metals has six locations in Kansas and six locations in Missouri with over 300 employees. They buy and process over 500,000 GT's of ferrous and nonferrous material each year from businesses and individuals. He went on to say they support many of the measures included in this house bill but have concerns in several areas. He listed the concerns as follows:

1. They would like for additional language included allowing for transfer upon sale of business.
2. They feel that a company should have the ability to conduct business while the appeal process is taking place allowing for due process.
3. They would like for an exemption to be made for cash transactions made by ATM machine. They use ATM machines that record pictures of individuals while they are receiving the cash and they also have record of the individual's driver license. They would like to continue to pay cash in this manner for the convenience of their customers.

Upon the conclusion of Mr. Rokas' testimony, Chairperson Colloton opened the floor for questions from the Committee for the conferees.

A question and answer session followed.

Chairperson Colloton called for any others wishing to testify or speak on the bill. Being none, she closed the hearing on **HB 2312**,

Chairperson Colloton opened the hearing on **HB 2199-Right-of-way violations; increased penalties**, and called on Sean Ostrow, Office of the Revisor of Statutes, to explain the bill. Mr. Ostrow stated the bill was regulating traffic concerning certain right-of-way violations and increasing the penalties.

Chairperson Colloton introduced former State Representative John Faber, representing ABATE of Kansas, Inc., to give his testimony as a proponent of the bill. Mr. Faber presented written copy of his testimony. ([Attachment 9](#)) He stated the bill helps to address a critical concern to motorcycle riders across the state. If the right-of-way laws are violated and it causes great bodily harm or death the violator, if convicted, will be guilty of an unclassified misdemeanor increasing the penalties of present law.

Chairperson Colloton introduced Tim Farr, ABATE of Kansas, Inc. to give his testimony as a proponent of the bill. Mr. Farr presented written copy of his testimony. ([Attachment 10](#)) Mr. Farr stated he had lost friends that were killed while riding their motorcycles. He told of two instances, one of which he was injured. In closing, he stated if the penalties for right-of-way violations were more severe, he believes people would be more careful and take extra time to be sure it is clear before they pull onto a highway or street. The extra second or two taken to make sure the roadway is clear can mean the difference between going on with life and a fatality.

Chairperson Colloton introduced Debra Stewart, ABATE of Kansas, Inc., to give her testimony as a proponent. Ms. Stewart presented written copy of her testimony. ([Attachment 11](#)) Ms. Stewart stated she is very passionate about the bill because her 21 year old son was killed on his motorcycle by a negligent driver. She supports this bill and asked that the Committee pass it out.

Chairperson Colloton called the Committee's attention to the "written only" proponent testimony of the following:

- Cassandra Reicher, ABATE of Kansas, Inc. ([Attachment 12](#))
- Ray Thomas, ABATE of Kansas, Inc. ([Attachment 13](#))
- Charles Jiminez, ABATE of Kansas, Inc. ([Attachment 14](#))
- Barbara Evanhoe, Private Citizen ([Attachment 15](#))

Chairperson Colloton called for anyone else to testify or speak on the bill. Being no others, she closed the hearing on **HB 2199**.

Chairperson Colloton called on Lauren Douglass, Legislative Research, to gather information on what other states are doing to address this issue and bring it back to the Committee before they take action on the bill.

Chairperson Colloton moved the Committee's attention to **HB 2319--Authorizing house arrest for certain misdemeanors and nongrid felonies and updating definitions**, and opened the floor for consideration on the bill. She called on Sean Ostrow, Office of the Revisor of Statutes, to explain the bill and the balloon offered. Mr. Ostrow explained the bill was authorizing house arrest for certain

misdemeanors and nongrid felonies and also updating some definitions. The bill expands the underlying intended crimes of burglary and aggravated burglary to include domestic battery. Mr. Ostrow presented a written copy of a balloon, which is mostly a cleanup balloon that addresses the concerns of Representative Brookens. (Attachment 16) He reviewed the balloon for the Committee.

A discussion followed.

**Representative Goodman made a motion to approve balloon as amended. Representative Moxley seconded.**

A lengthy discussion followed.

**Chairperson Colloton called for a vote on the motion on the floor to approve the balloon as amended. Motion carried.**

**Chairperson Colloton recognized Representative Brookens. Representative Brookens stated he had another amendment to offer on Page 5, line 1, strike “on the record” and add “may, at the courts discretion”. Representative Kinzer seconded.**

A discussion followed.

**Chairperson Colloton called for a vote on the motion on the floor for the Brookens amendment. Motion carried.**

**A discussion followed regarding covering drug crimes with Representative Kinzer making a motion to add drug grid level 3 or above to the exceptions. Representative Brookens seconded.**

A discussion followed.

**Chairperson Colloton called for a vote on the motion on the floor to add “level 3 and higher to the exceptions”. Motion carried.**

**Representative Kinzer made a motion to pass the bill out favorably as amended for passage.**

**Representative Kelly seconded. Motion carried.**

Chairperson Colloton called on Dave Hutchings, KBI, asking a question regarding a 5 to 4 vote on his bill. She asked if amending the bill to change the burden of proof to show clear and convincing evidence would interfere with the compliance? She told him the Committee went with the lesser language and did pass the bill out of committee. When the bill goes to the Senate, if permissible, they would like to offer the new language for the Senate to consider. Mr. Hutchings stated he would find out and let her know.

Chairperson Colloton moved the Committee's attention to **HB 2009-Defining the crime of home improvement fraud and providing penalties**, stating the bill was sent back to the Committee because of the language and not the prison bed count. All interested parties were involved with the input of the bill and there is a dispute between the contractors and the district attorneys. If that dispute cannot be resolved by Monday, the bill will be held for next year.

Chairperson Colloton moved the attention of the Committee to **HB 2138-Expanding crime of burglary to include entering to commit certain domestic crimes**, and opened the floor for consideration of the bill. She called on Sean Ostrow, Office of the Revisor of Statutes, to explain the bill to the Committee. **Chairperson Colloton made a motion to pass the bill out favorably for passage. Representative Kinzer seconded.**

A lengthy discussion followed with some concerns.

**Representative Goodman made a motion to pass the bill out favorably for passage. Representative Cassidy seconded.**

**The discussion continued with Representative Brookens making a motion to table the bill until Monday. Representative Moxley seconded. Motion carried.**

Chairperson Colloton moved the Committee's attention to **HB 2318-Amendments to the recodified criminal controlled substances provisions**, and called on Jason Thompson, Office of the Revisor of Statutes, to explain the balloon for the bill. Mr. Thompson presented written copy of the balloon. (Attachment 17) Mr. Thompson explained the balloon contains a couple of changes that add manufacturing and make many technical changes needed. He also stated the bill would need to be a substitute bill. He took the Committee through all the changes and technical cleanup of the balloon.

A lengthy discussion followed regarding the balloon on the bill.

Chairperson Colloton stated she is not intending to work **HB 2055--Eliminating certain information sharing requirements for district and county attorneys**. She announced the Committee would be hearing the ERO on Monday and after that the Committee would be taking action on bills. She stated if anyone had something that they wanted the Committee to consider on Monday to please let her know.

Chairperson Colloton adjourned the meeting at 2:45 pm with the next scheduled meeting to be on Monday, February 21, 2011 at 1:30 pm in room 144S,