

Approved: March 19, 2012

(Date)

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE
The meeting was called to order by Chairperson Pat Colloton at 1:30 PM on Tuesday, January 31, 2012 in 144-S of the Capitol.

All members were present except:
Greg Smith

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

Conferees appearing before the Committee:
Tim Madden, Legal Counsel, Kansas Department of Corrections

Others in attendance:
See attached list.

Chairperson Colloton opened the floor for bill introductions; being none, she opened the hearing on **HB 2535**—Amending statutes affected by 2011 ERO 34 transferring the Kansas parole board to the prisoner review board.

Chairperson Colloton called on Sean Ostrow, Office of the Revisor of Statutes, to explain the bill to the Committee. Mr. Ostrow, provided written copies of an amendments on the bill for the Committee and Staff (Attachment 1). He explained that **HB 2535** would make numerous technical amendments to reflect the changes made by **2011 Executive Reorganization Order No. 34**, which established the Prisoner Review Board within the Kansas Department of Corrections and abolished the Kansas Parole Board. The bill also would allow the Prisoner Review Board's required annual report to the Governor and the Legislature to be included in the Department of Corrections' general report, however, the bill would require the information to be in a separate section of such report. Further, it would provide that compilation and the analysis of dispositions of criminal cases by district courts throughout the state or by executive authority would remain the responsibility of the Department of Corrections. Mr. Ostrow addressed the question of the Committee during his explanation.

Upon the conclusion of the review of the bill and technical amendments, Chairperson Colloton introduced Tim Madden, Legal Counsel for the Kansas Department of Corrections, to give his

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testimony as a proponent of the bill. Mr. Madden provided written copies of his testimony for the Committee and Staff (Attachment 2). Mr. Madden stated this bill reflects that the statistical data regarding the Prisoner Review Board will be included in the Department of Corrections' annual report and that research and disposition analysis of criminal cases are conducted by the Sentencing Commission of which the chair of the Prisoner Review Board is a member. Mr. Madden addressed the questions and concerns of the Committee during his testimony.

A discussion followed.

Chairperson Colloton called for any others wishing to testify or speak to the bill; being none, she closed the hearing on **HB 2535** and opened the hearing on **HB 2488**—**Allowing insurance premium increases as restitution to crime victims.**

She called on Sean Ostrow, Office of the Revisor of Statutes, to explain the bill to the Committee. He stated the bill is concerning crimes, criminal procedure and punishment; relating to insurance premiums as restitution amount; amending K.S.A. 2011 Supp. 12-4509 and 21-6604 and repealing the existing sections. Mr. Ostrow addressed the questions of the Committee during his explanation of the bill.

Upon the conclusion of the explanation of the bill, Chairperson Colloton called on Tim Madden, Legal Counsel for the Kansas Department of Corrections, to give his testimony as a neutral party with concerns regarding the bill. Mr. Madden provided written copies of his testimony for the Committee and Staff (Attachment 3). Mr. Madden stated that the Kansas Department of Corrections has concerns with this bill. The bill would allow insurance premium increases as another form of restitution to crime victims. It will allow judges to order restitution to cover any change in a victim (s) insurance premium which may increase the potential amount owed by the offender. This does not have any effect on the current practice of the Kansas Department of Corrections to encourage and work with offender on making restitution payments. In closing, he stated the Kansas Department of Corrections does not support this bill.

A lengthy question and answer session followed with the Committee and Mr. Madden.

Chairperson Colloton called for others wishing to testify or speak to the bill; being none she closed the hearing on **HB 2488** and opened the floor for consideration of bills previously heard.

Chairperson Colloton moved the Committee's attention to **HB 2419**—**Determining defendant's indigency for purposes of appointing counsel.** A discussion followed regarding the bill. The

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Committee was in agreement to suspend action on the bill aside and set it aside because of the fiscal note.

Chairperson Colloton moved the Committee's attention to **HB 2413–Disclosure of tax information for defendants claiming indigency**, for consideration. She stated this is the companion bill of **HB 2419**, listed above, that the Committee decided to set aside. She called on Sean Ostrow, Office of the Revisor of Statutes, to explain a proposed amendment. Mr. Ostrow stated that **HB 2413** would allow the Secretary of the Kansas Department of Revenue (the Department) to disclose specified taxpayer information from Kansas income tax returns to the Board of Indigents' Defense Services (BIDS) for the purpose of determining whether a defendant is financially able to employ counsel and contribute to the cost of legal defense services. The bill would require BIDS to provide to the Department, in the manner determined by the Department, an electronic list of the names, social security numbers, and relevant tax year of the defendants. The Department would then provide to BIDS the defendants' reported Kansas adjusted gross income and number of dependents for the relevant tax year in an electronic format and in the manner determined by the Department. He explained a technical cleanup amendment on Page 4, line 18, to the Committee. He went on to say this may the Department of Corrections, BIDS, and the Office of Judicial Administration were meeting this coming Friday to agree on the best mechanism to transmit the information on the tax return that is needed by BIDS.

Chairperson Colloton called on Richard Cram, Kansas Department of Revenue. Mr. Cram confirmed that the parties involved were meeting on this coming Friday to decide the best solution for providing this information. He added that the easiest way for the Department of Revenue to supply the information would be electronically.

Representative Moxley made a motion to move HB 2419 out for passage. Representative Goodman seconded.

Representative Roth made a motion to adopt the technical cleanup amendment offered by Mr. Ostrow. Representative Goodman seconded. Motion carried.

A discussion followed with the Committee deciding they could put the final amendment on the bill regarding the mechanism for providing the information to BIDS on the House Floor.

Representative Brookens made a motion to pass the bill out favorably as amended for passage. Representative Goodman seconded. Motion carried.

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Next, Chairperson Colloton moved the Committee's attention to **HB 2055–Substitute for HB 2055– Amending reporting requirements of the district attorney to the secretary of corrections.** She explained that this was a bill from last year and the Department of Corrections and the District Attorneys Association could not come to an agreement but have come to an agreement now. She called on Sean Ostrow, Office of the Revisor of Statutes, to explain the **Substitute bill for HB 2055.** He stated that **the Sub. for HB 2055** would remove the requirement from current law that states when a defendant is sentenced to confinement, courts must forward a copy of all county and district attorney reports to the law enforcement officer who has the offender in custody for delivery to a correctional institution. Further, it would clarify that when a person has been convicted of a felony and sentenced to imprisonment, the information provided by the county or district attorney to the Secretary of Corrections is limited to any special facts and circumstances surrounding the commission of the offense or the offender that cannot be obtained from records already provided to the Secretary by the court.

A short discussion followed.

Representative Brookens made a motion to adopt the House Substitute for HB 2055 as amended for passage. Representative Goodman seconded. Motion carried.

The meeting was adjourned at 2:50 p.m. with the next meeting scheduled for February 1, 2012 at 1:30 pm in room 144 S.