

Approved: March 27, 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 Wednesday, February 1, 2012 in 144-S of the Capitol.

All members were present

### Committee staff present:

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

### Conferees appearing before the Committee:

Steve Howe, District Attorney, Johnson County  
Honorable Judge Bryce Abbott, Municipal Court, Wichita  
Rick Cagan, Executive Director, NAMI  
Amy Campbell, Kansas Mental Health Coalition  
Sky Westerlund, Executive Director, Kansas Chapter, National Association of Social

### Workers

Colin Thomasset, Policy & Research Analyst, Assoc. Community Health Centers of Kansas  
Alan Brumbaugh, Private Citizen, Derby, Kansas

### Others in attendance:

See attached list.

Chairperson Colloton opened by announcing to the Committee there would not be a meeting on Friday because SORNA was having a webcast and she encouraged the Committees to watch from their computers if possible. She also announced that the Women's Correctional Facility in Topeka had another presentation this year and wanted to know if the Committee was interested in attending as a group. There was interest from eight of the members and Chairperson Colloton stated she would try to get that set up.

Next, she opened the floor for bill introductions; being none, she opened the hearing on **HB 2498**—**Creating a mental health diversion option for county and district attorneys**. She called on Steve Howe, District Attorney for Johnson County, to give his testimony as a proponent of the bill. Mr. Howe provided written copies of the bill for the Committee and Staff

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(Attachment 1). Mr. Howe stated the Johnson County District Attorney's Office has had a mental health diversion plan for nearly 10 years. He went on to say they have experienced no logistical, evidentiary or legal problems by implementing this policy. Implementing a mental health diversion program has allowed the Johnson County's District Attorney's office to develop a consistent pattern in assessing the needs of the offender and the victim and in determining what appropriate sanctions should be imposed. Developing a program where supervision is conducted by trained professional in the mental health field can insure better oversight and appropriate responses to the needs of the offender and the community. He went on to say that there had not been any additional cost or time associated with the implementation of this program.

A discussion followed.

Next, Chairperson Colloton called on Sean Ostrow, Office of the Revisor of Statutes, to explain the bill to the Committee. Mr. Ostrow explained that the bill would allow county and district Attorneys in coordination with community mental health centers (CMHCs), to establish a mental health diversion program, pursuant to the provisions of the Act. Each county or district attorney who elects to establish a mental health diversion program would be required to adopt written policies and guidelines for its implementation, including the appointment of a mental health diversion coordinator for each county or district attorney's office and procedures for a Defendant with serious mental illness to enter into a treatment and diversion program in lieu of further criminal proceedings. Likewise, each CMHC would be required to adopt written Guidelines and policies, including appointment of a diversion supervisor to oversee the mental health center's diversion program and to work with the county or district attorney mental health diversion coordinator. Further, the bill would provide that after a complaint has been filed charging a defendant with commission of a crime or before filing of a complaint and prior to any conviction, the defendant could apply to the county or district attorney for a mental health diversion. No mental health diversion would be granted, however, to a defendant charged with an offgrid felony, a severity level 1, 2, 3, or 4 felony, a DUI, or burglary of a dwelling with the intent to commit a felony, theft, or sexual battery therein. The bill would also list factors for county or district attorney to consider when determining

Chairperson Colloton introduced the Honorable Judge Bryce from the Municipal Court in Wichita, to give his testimony as a proponent of the bill. Judge Bryce provided written copies for the Committee and Staff (Attachment 2). He stated that he organized and implemented the first and only Mental Heath Court in Kansas. He went on to say the criminal justice system in Kansas has become the De Facto dumping ground for persons with serious and persistent mental illness. When they end up in the criminal justice system they have usually burned most family

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support bridges, many are homeless and many need case management services to complete activities of daily living that the rest of us take for granted. In the program in Wichita, substantial efforts have been made to train patrol officers and booking personnel to identify candidates for the program. Wichita's experience is that the population they serve work very hard to comply with their requirements. In closing, he stated a criminal might chose to be a criminal but the mentally ill do not chose to be mentally ill. Diversion programs keep the importance of making appointments with Doctors and Therapists constantly in front of the defendant and help them remain accountable and compliant with treatment. These programs help to reduce the effects of the criminalization of mental illness and allow them to positively impact lives, reducing recidivism and the costs to the taxpayer.

A question and answer session followed.

Chairperson Colloton introduced Rick Cagan, Executive Director, National Alliance on Mental Illness, (NAMI) to give his testimony as a proponent of the bill. Mr. Cagan provided written copies of his testimony for the Committee and Staff (Attachment 3). He stated the most recent data from the Substance Abuse & Mental Health Services Administration indicates that 19.9% of adults in the U.S. had a mental illness in 2010 and 4.8% had a serious mental illness such as schizophrenia, major depression or bipolar disorder. Close to 95,000 adults in Kansas are affected by a serious mental illness. Fewer than 40% of adults with a diagnosable mental disorder receive any mental health services in a given year. He went on to say there is a lack of continuity in the treatment for persons with mental illness in the community versus jail and correctional facilities and inconsistency statewide in the care of individuals with mental illness in county jails. He stated that the bill is based on the successful diversion program which has been operating in Johnson County for the last several years. It provides a framework for the expansion of diversion programs to other communities across the state. He urged the Committee to support the bill.

Chairperson Colloton introduced Amy Campbell representing the Kansas Mental Health Coalition, to give her testimony as a proponent of the bill. Ms. Campbell provided written copies of her testimony for the Committee and Staff (Attachment 4). Ms. Campbell stated the Kansas Mental Health Coalition supports this bill. They feel the bill is a very important 1<sup>st</sup> step addressing the issues of the strain of the capacity of both the criminal justice system and the mental health system to adequately serve Kansas. She went on to say the mental health diversion program shows positive results in Johnson County. The District Attorney's office is actively involved and provides oversight and accountability for the program. In closing, she stated that

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the Kansas Mental Health Coalition hopes that by creating a permissive bill, more Kansas communities will examine their options and pursue similar program.

Chairperson Colloton introduced Sky Westerlun representing the Kansas Chapter of the National Association of Social Workers. Ms. Westerlun provided written copies of her testimony for the Committee and Staff (Attachment 5). She stated they support this bill but believe it needs clarification in the definition for “case manager”. They suggested an amendment to clarify between case managers who are employed staff and the case manager who is contracted staff. She referred the Committee to the language contained in an amendment incorporated into her testimony.

A short discussion followed regarding the amendment she was offering in her testimony.

Chairperson Colloton introduced Colin Thomasset, Policy and Research Analyst for the Association of Community Mental Health Centers of Kansas, Inc. to give his testimony as a proponent of the bill. Mr. Thomasset provided written copies for the Committee and Staff (Attachment 6). He stated the Association is in support of the bill which would allow mentally ill offenders to enter into diversion agreements. The bill as written provided a legal framework to divert individuals with mental illness to mental health treatment programs rather than sending them to jail. They view the bill as a positive step towards getting persons with severe and persistent mental illness into treatment and, out of the criminal justice system. Data illustrates just how much of an issue mental illness has become in the criminal justice system. Recent research from the Bureau of Justice Statistics found that 56% of state prisoners have symptoms, or recent history of mental health problems. He went on to say that while they are very supportive of the concept they have concerns about a number of factors. He highlighted on the following concerns:

- Funding for treatment of persons with mental illness
- Issue of tort protections for Community Mental Healthcare Centers

A question and answer session followed.

Chairperson Colloton called for any others wishing to testify and recognized Alan Brumbugh, a private citizen from Derby, Kansas. He stated his family has had personal experience with mental illness. His youngest son, 29, was diagnosed with schizophrenia. The mentally ill get into the justice system because of their decisions and actions. His son is one of these persons with a mental illness that has ended up in the criminal justice system. After getting into the

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system, it has been very difficult for him to get the treatment he needs. He went on to say his son is only one of many. He stated he supports the bill and can see how it could help in making sure mentally ill offenders get the treatment they need because putting them in jail only makes them worse.

Upon the conclusion of Mr. Braumbaugh's testimony, Chairperson Colloton closed the hearing on **HB 2498** and stated due to the time, they would not be working any bills this day.

The meeting was adjourned at 3:00 pm with the next meeting scheduled for February 2, 2012, at 1:30 pm in room 144 S.

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