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**Testimony Regarding Juvenile Justice Issues
And the progress of SB 367 passed in 2016
Submitted by Marc Bennett, District Attorney
Eighteenth judicial District**

Chairman Owens and members of the House Corrections and Child Welfare Committee, thank you for the opportunity to issues related to juvenile justice and the progress made since the passage of SB367 in 2016.

I was asked to provide an overview and will address several topics below, but if I had to boil down the primary concerns I hear from prosecutors around the state, it would be as follows:

First, the goal the juvenile offender system should be to rehabilitate through accountability rather than punishment. Kids come into the system for a myriad of reasons, from first time offenders who made a dumb mistake, to kids who have habitually gotten into repeated, and increasingly problematic crimes, to kids who have committed serious, violent crimes. At its core, SB 367 sought to eliminate in all but the most serious cases, any threat of in custody punishment. As such, all but the most serious crimes receive the same response--case length limits and detention limits --under SB 367, irrespective of the contributing factors that led to the criminal act.

Second, fundamental to the advocates who championed SB 367 was the notion that kids should not be detained, because doing so caused them harm. This was taken as an objective truth and is at the core of SB367. As such, after arrest or even adjudication, we now send kids back to the same house, neighborhood and school, hoping for another result. The public policy of the State is that a night in detention is far worse than the message sent that crime has no consequence.

Other Issues

(1) Short-term alternative placements are only for sex offenders adjudicated of SL 1-4 offenses or attempts or solicitation to commit these crimes AND for situations in which the victim lives in the same home as the offending juvenile. If the crime is a severity Level 5 (Indecent Liberties, for instance) or below and/or the victim is not in the same home, those kids

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get probation and stay in the home. That other (non-victim) children may be in the home and/or that the offending juvenile has not yet been to or through sex offender treatment does not change this response.

To be clear, I'm not suggesting that the offending juvenile (especially those is 12 or 13) has to be locked up, but with no placement options, these kids end up in foster care with other, vulnerable kids.

(2) Out-of-home placements – even if a juvenile has a probation violation (PV), or if the victim of their crime is in the home (ex: aggravated batteries and aggravated assaults committed against family/parents), we routinely send them back home without services or therapy/medication management in place.

We have a 45 day maximum detention limit so we cannot hold them long enough to get services in place before release. If we max-out the 45 day detention limit before the trial while we are waiting for the placement in treatment, the Judge must simply close the case pursuant to SB367.

This also impacts the capacity for probation to positively impact the juvenile. For example, a juvenile is adjudicated and then placed on 12 months of probation. But this occurred after the juvenile was detained for 30 days between adjudication (finding of guilt) and sentencing. If that juvenile violates probation 30 days later and serves 15 days as a consequence of the PV -- the case must be closed. Even though the juvenile was only on probation for 30 days and failed. No additional supervision or accountability.

(3) Conditional Release Violations – (like parole) - given the 45 day maximum, no matter how many violations take place, there can be no further consequences.

Some juveniles are supposed to be on "CR" until they are 23 years of age. For example, because of good time credit, an 18 yr old released on CR after an adjudication for 2nd degree murder committed when he was 16 can violate his CR repeatedly without consequence because when we meet the max of 45 days, we cannot hold the juvenile anymore.

(4) Earned Discharge Credit – juveniles earn 7 days off their probation term for each month of successful compliance. "Successful compliance" means that they are not AWOL, detained or have a PV filed (after 3rd violation). They can however, test positive for meth, be suspended from school or commit a new offense and they are still in "successful compliance" until they have 3 violations after which a PV is filed.

(5) Case length limits – A separate issue from detention limits, cases can only last 15 months. Examples of prosecutor's concerns, a juvenile adjudicated of SL 5 person felony (ex: aggravated battery, Robbery or Involuntary Manslaughter) is given a chance at probation, then violates after 12 to 13 months but due to case length limit of 15 months, may only have 2 or 3 months left before case must closed .

(6) Adult convictions - any adult conviction (even a misdemeanor shoplift in District Court) terminates JV jurisdiction. A guy could have a Rape case pending in JV, turn 18 and get a misdemeanor conviction in adult court and the JV case just ends – no matter whether he is adjudicated, serving a direct commitment or is still pending.

(7) Mental health – the scope of mental health issues among youth has risen exponentially of late. Studies documenting the effect of the pandemic are well known. We have little in the way of mental health treatment to offer them at this point. Within the first few weeks of school this year, we had 5 gun possessions in school in Wichita. Since JV possession of a gun is a misdemeanor and we can't detain them, there is little incentive to change behavior.

8) Motions for Adult Prosecution - when options no longer exist for rehabilitation given either the seriousness of the crime (Murder, for instance) or the repeated violations, the state is often left with one option: filing a Motion for Adult Prosecution rather than leaving the juvenile with ineffective options in juvenile court.

I do not propose that we simply scrap SB367, as that ship has frankly sailed. The programs that were in place pre-367 have been disbanded. That said, we could increase options for our judges in juvenile court. Increase case length limits, increase detention limits and increase treatment options in the communities and increase residential options (as an alternative to foster care) and adding respite options for families of juveniles who are working with treatment.

Thank you for your time and attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Bennet", with a stylized flourish at the end.

Marc Bennet
District Attorney