

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 21, 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:

Secretary Roberts, Kansas Department of Corrections
Justin Stowe, Post Audit
Patti Biggs, Kansas Parole Board

Others attending:

See attached.

ERO 34-Consolidation of parole review functions in the executive branch by abolishing the Parole Board as established by K.S.A. 22-3701 et seq. and establishing the Prisoner Review Board within the Department of Corrections.

Chairperson Colloton called the meeting to order and opened the hearing on **ERO 34**. She introduced Secretary Roberts, Kansas Department of Corrections, to give his testimony as a proponent. Chairperson Colloton asked the Secretary to give a brief presentation regarding what was going to happen with the ERO and also to comment on the possibility of a conflict of interest by having the parole process as a part of the Department of Corrections. Secretary Roberts presented written copy of his testimony. (Attachment 1) He opened by stating the legal counsel for the Kansas Department of Corrections has advised there is no conflict of interest by having the parole process as a part of the Department of Corrections. He stated the plan is to appoint three employees of the Kansas Department of Corrections to a Prison Review Board to serve in the same capacity as the Parole Board. The Department of Corrections would gain help from other staff relying heavily on parole officers. They would also be using video conferencing contacts as much as possible. He assured the Committee that he, as the Secretary of the Department of Corrections, would have very little involvement unless absolutely necessary. The focus is to handle the Prison Review Board as the Parole Board has, understanding all decisions should be made very carefully.

Chairperson Colloton stated she will hold all questions until after all testimony is completed and introduced Justin Stowe, Kansas Legislature Division of Post Audit, to give his testimony as a neutral party. Mr. Stowe presented written copy of the Post Audit Summary (Attachment 2) and stated the report can be found in its entirety in the offices of the Kansas Legislative Division of Post Audit. Mr. Stowe stated merging the 3-member Parole Board, which is primarily responsible for granting and denying parole, into the Department of Corrections would not achieve any additional operating efficiencies because the Board's staff functions already are carried out by the Department of Corrections staff, and Board members already are co-located within the Department. In closing, he stated it could be a conflict of interest creating a Prison Review Board within the Kansas Department of Corrections.

Chairperson Colloton introduced Patti Biggs, Kansas Parole Board, to give her testimony as a neutral party to **ERO 34**. Ms. Biggs presented written copy of her testimony. (Attachment 3) Ms. Biggs stated the counsel for the Kansas Parole Board has concerns that the ERO will be creating a conflict of interest by creating a Prison Review Board within the Kansas Department of Corrections and abolishing the Kansas Parole Board. She stated the members of the Parole Board are committed to facilitating any and all action necessary to accomplish the transition of its powers, duties, and functions to the Prison Review Board under the ERO in a manner that is as seamless as possible. She cited the *Morrissey v. Brewer* U.S.

Supreme Court decision of 1972. When an offender is sentenced to prison, they are sentenced to the custody of the Secretary of Corrections for a term of incarceration and a term of post release supervision. Thus, it appears that members of the Department of Corrections cannot be both custodial and neutral and detached. The U.S. Supreme Court, ruling on this Constitutional issue, appears to demand another body be charged with final hearings related to the withdrawal of the right to community-based liberty. In closing, she stated the Parole Board generates savings well in excess of state dollars spend on it; it is a high-yield investment of state dollars. She presented graphs and charts to back up her statements.

With no others to testify or speak to the **ERO 34**, Chairperson Colloton opened the floor for questions. Several of the Committee members had questions and concerns.

Upon the conclusion of the questions and answers, Chairperson Colloton closed the hearing on **ERO 34**.

Next, Chairperson Colloton opened the floor for consideration of the following bills previously heard:

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

HB 2197-Amending the circumstances under which public defenders may accept new clients.

HB 2188-No fiscal note is required for bills concerning the utilization of correctional resources unless the Kansas sentencing commission is required to provide such information

The first bill up for consideration is **HB 2312**. Chairperson Colloton called on Sean Ostrow, Office of the Revisor of Statutes, to explain the bill and the balloon offered on the bill. Mr. Ostrow presented written copy of the balloon. (Attachment 4) He stated there was some technical cleanup in the balloon and also changes in the language that would satisfy Representative Kinzer's concerns.

Representative Pauls made a motion to move the bill out favorably. Representative Kinzer seconded.

A discussion followed.

Representative Pauls made a motion to accept the balloon explained by Mr. Ostrow. Representative Brookens seconded. Motion carried.

Chairperson Colloton moved the attention of the Committee back on the bill.

A discussion followed.

Representative Brookens made a motion for a friendly amendment (Attachment 5) to redefine the value starting on Page 5 leaving theft alone and on line 13, page 7, from the original bill and line 11 and 12 defining regulated scrap issue. (This amendment would drop down one level where theft is now) Representative Pauls seconded. Motion carried.

Representative Brookens made a motion to move HB 2312 out favorably as amended for passage. Representative Pauls seconded. Motion carried.

Chairperson Colloton moved the Committee's attention to **HB 2197** for consideration and called on Sean Ostrow, Office of the Revisor of Statutes, to explain an amendment on the bill. Mr. Ostrow presented written copy of the rules and regs. (Attachment 6) The bill is to limit the case load on public defenders. Changing the word from "may" to "shall"....refuse to take new client which would keep them from not being able to provide adequate representation to existing clients.

Representative McCray-Miller moved to pass HB 2197 out favorably. Representative Goodman seconded.

A discussion followed with some Committee members having concerns.

Representative Brookens made a motion to move an amendment of his which would address the creation of a private right issue. Representative Kinzer seconded.

A discussion followed.

Chairperson Colloton called for a vote on the Brookens amendment to solve the private right to sue for damages or other issues by adding language between section 3 & 4 indicating no private right to sue for relief. Motion carried.

Representative McCray-Miller made a motion to move HB 2197 out favorably as amended for passage. Representative Goodman seconded.

A discussion followed.

Chairperson Colloton called for a vote on the motion on the floor to pass HB 2197 out favorably as amended for passage. Motion carried.

Chairperson Colloton turned the Committee's attention to **HB2188** and called on Representative Pauls to explain the bill and the amendment she is offering.

Representative Pauls made a motion to strike section 1 completely and line 25 (a) should read “fiscal reports done for every legislation including resolutions as well. On line 26 add and resolutions” after all bills. Representative Brookens seconded.

A discussion followed.

Chairperson Colloton called for a vote on the motion on the floor to pass HB 2188 out favorably as amended. Motion carried.

Chairperson Colloton announced to the Committee that some of the bills in Committee could be worked into other bills. She also stated the Speaker of the House has already blessed five bills in our Committee and she was going to ask him to bless **HB 2332-Sexual exploitation of a child: increasing the penalty for certain offenses**, also. The Committee will be working these bills after turnaround.

Chairperson Colloton adjourned the meeting at 3:15 pm. The next scheduled meeting to be on March 2, 2011, at 1:30 p.m. in room 144S.