

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 Tuesday, February 7, 2012 in 144 S of the Capitol.

All members were present

Committee staff present:

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

Conferees appearing before the Committee:

Brad Burke, General Counsel, Juvenile Justice Authority  
Nicole Dekt at, Public Service Administrator, KBI  
Chad Austin, Senior Vice president, Governmental Relations, KHA  
Kurt Young, Private Citizen, Topeka, Kansas  
Chris Joseph, KS Association of Criminal Defense Lawyers  
Jennifer Roth, KS Association of Criminal Defense Lawyers  
Chris Mechler, Office of Judicial Administration

Others in attendance:

See attached list.

Chairperson Colloton opened the hearing on **HB 2496—Applying the Kansas Law Enforcement Training Act to investigators of the juvenile justice authority and department of corrections** and introduced Brad Burke, General Counsel for the Kansas Department of Corrections, to give his testimony as a proponent of the bill. Mr. Burke provided written copies of his testimony for the committee and staff ([Attachment 1](#)). He stated the bill would amend the definition of “police officer” and “law enforcement” in the Kansas Law Enforcement Training Act to include special investigators of the Juvenile Justice Authority and any employee employed solely to perform correctional, administrative, or operational duties related to juvenile correctional facilities. It would also give the Commissioner of JJA authority to appoint and designate special investigators and to adopt rules and regulations to govern training required for special investigators. The special investigators would have the power and authority of peace and police officers and the authority to make arrests; conduct searches and seizures; maintain custody, security, and control of any person in the Commissioner's custody; and generally

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enforce state criminal law. They would be subject to the requirements of the Kansas Law Enforcement Training Act. In closing, he urged the committee to support the bill. A question and answer session followed.

Chairperson Colloton called for any others wishing to testify or speak to the bill; being none, she closed the hearing on **HB 2496** and opened the hearing on **HB 2568—Amendments to the Kansas Offender Registration Act**. She introduced Nicole Dekat, Public Service Administrator II for the Kansas Bureau of Investigation (KBI) to give her testimony as a proponent of the bill.

Ms. Dekat provided written copies of her testimony for the committee and staff ([Attachment 2](#)). She stated the bill would amend the Kansas Offender Registration Act, to clarify duties of each registering entity and make technical changes to the act. This legislation is intended to protect children by providing more consistent and comprehensive interstate system of managing sex offenders. The KBI has been charged with maintaining the state's offender registry since its inception in 1993. In order to further improve the Kansas Offender Registration Act, the KBI and the Working Group are asking for some technical revisions to the act. This bill would make these technical changes needed. In closing, she urged the committee to support the bill.

A short discussion followed.

Chairperson Colloton introduced Chad Austin, Senior Vice President, Governmental Relations, Kansas Hospital Association, to give his testimony as a proponent of the bill. Mr. Austin provided written copies of his testimony for the committee and staff ([Attachment 3](#)). He stated they would like to request an amendment on the bill for language to clarify that Kansas community hospitals are not subject to the reporting as outlined in **HB 2568** They are concerned the new proposed language does not fully exempt community hospitals and their free-standing units from the provisions of the bill. They suggested the definition of "treatment facility" to be as follows: "Treatment facility: means any public or private facility or institution providing inpatient mental health, drug or alcohol treatment or counsel, but does not include a hospital or any free-standing unit of a hospital. In closing, he urged the committee to consider their amendment.

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Chairperson Colloton introduced Kurt Young, a private citizen and small businessman in Topeka, to give his testimony as a proponent of the bill. Mr. Young presented written copies of his testimony for committee and staff (Attachment 4). He stated after retiring from SBC Corporation he went into business for himself and has anywhere from 15 to 20 employees. Having always been compassionate to those who have struggled to succeed in life he made it a practice during the last seven years to try, when given the opportunity, to help someone with a questionable past attempt to make it in this world. At the present time he is employing two known recovering alcoholics, one with a record; an individual who has just been released from Leavenworth, an individual with a record, and a person who is a registered sex offender. The current law system penalizes any business for any such effort. The current system, in addition to mapping the offender's home address on all of the official registries as the location of an offender, also flags the place of employment with the same identification. The possibilities of negative attention to the business as a result of this identification are too many to mention. In closing, he asked the committee to please address the issue of flagging those businesses willing to take a chance and hire registered offenders who are penalized when their name and address is listed on the web.

A question and answer session follow.

A discussion followed.

Chairperson Colloton introduced Margie Phelps, Reentry Director, Kansas Department of Corrections, to give her testimony as a proponent of the bill. Ms. Phelps provided written copies of her testimony for committee and staff (Attachment 5). She opened by stating the Kansas Department of Corrections addresses offender employment as part of its risk reduction and recidivism-reducing efforts. The ability of offenders to become and stay employed is a buffer against high-risk behavior, because it provides a pro-social activity, interaction, and role for the released offender. It helps to offset anti-social thinking, financial problems, family problems, and substance misuse. A weak employment history and overall low-employability is a criminogenic risk factor, so helping offenders become employable and to achieve sustained employment, are important risk reduction strategies. She went on to explain that employment within 45 days is a condition of post-release supervision, and parole staff are required by policy to notify employers of the offender's criminal history. In closing, she stated sustained

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employment by offenders has been shown to reduce recidivism, which reduces victims and enhances public safety.

A discussion followed.

Chairperson Colloton introduced Chris Joseph, Kansas Association of Criminal Defense Lawyers, to give his testimony as a proponent of the bill. Mr. Joseph provided written copies of his testimony for committee and staff (Attachment 6). Mr. Joseph stated he has a number of clients who made mistakes when they were between the ages of 18 and 26, served short prison sentences, and under current law are required to be on the offender registry for the remainder of their lives. He highlighted on safety-valves for lifetime postrelease supervision and provided information in his testimony on what other states are doing and their safety valves for lifetime postrelease supervision. In closing, he asked to Committee to consider a safety-valve for registered offenders under certain circumstances.

Chairperson Colloton introduced Jennifer Roth, Kansas Association of Criminal Defense Lawyers, to give her testimony as an opponent of the bill. Ms. Roth provided written copies of her testimony for committee and staff (Attachment 7). She opened by stating the Kansas Association of Criminal Defense Lawyers opposes **HB 2568** which continues to unnecessarily expand the scope of the Kansas Offender Registration Act. SORNA continues to present Kansas with a large-scale, unfunded mandate. Kansas continues to burden itself by treating all registered offenders the same. The state is paying for a registry when almost half of the registrants have no relevance whatsoever to the unfunded federal mandate. Ms. Roth highlighted the concerns of the Kansas Association of Criminal Defense Lawyers, which are listed below:

- **HB 2568** adds municipal court convictions as qualifying offenses and does so retroactively.
- **HB 2568** expands what qualifies as a registerable juvenile adjudication and does so retroactively.
- **HB 2568** retroactively applies SORNA to unlawful sexual relations.
- **HB 2568** retroactively applies SORNA to all sexual battery convictions.

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In closing, she sighted other concerns with the language of the bill which are listed in her testimony.

A discussion followed.

Chairperson Colloton introduced Chris Mechler, Office of Judicial Administration, to give her testimony as a neutral party to the bill. Ms. Mechler provided written copies of her testimony for committee and staff (Attachment 8). She stated that the passage of the bill would result in a significant amount of additional time spent by court services officers and judges on cases that require offender registration. The bill would require the court to complete the registration form at the time of conviction or adjudication. The registration is a detailed form that requires a significant amount of additional judge time to fill it out. She referred the committee to the amendment attached with her testimony that would address the issue. In closing, she urged the committee to support the amendment of the Office of Judicial Administration.

A discussion followed.

Chairperson Colloton called for any others to testify or speak to the bill. There were none so she closed the hearing on **HB 2568** and opened the floor for the consideration of **HB 2427**– **Firearms; firearms dealers; entrapment; criminal penalties** and called on Sean Ostrow, Office of the Revisor of Statutes, to explain the substitute bill for **HB 2427**. Mr. Ostrow provided written copies of the **Substitute bill for HB 2427** for committee and staff (Attachment 9). He explained **Sub. for HB 2427** states that any person who provides to a licensed dealer or private seller of firearms or ammunition what the person knows to be a materially false information with intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition is guilty of a severity level 10, nonperson felony. A brief discussion followed with **Representative Goodman making a motion to report the substitute bill out favorably. Representative Kelly seconded.**

A lengthy discussion followed with *Chairperson Colloton calling for vote on the motion on the floor. Motion failed by a show of hands. Representative Kinzer voted “yes” and wished for his vote to be recorded in the minutes.*

The meeting was adjourned at 3:10 pm with the next meeting scheduled for February 8, 2012, at 1:30 pm in room 144 S.

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