

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 Monday, March 5, 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:

Scott Frank, Post Audit

Others in attendance:

See attached list.

Chairperson Colloton opened the meeting announcing the program at the Women's Correctional Facility in Topeka has been scheduled for the committee to go on March 12, 2012, which is next Monday evening. She called for a show of hands to get a count of those attending. Six members raised their hands.

Next, the Chair moved the committee's attention to the death penalty stating the Committee will be having an informational hearing on the death penalty next week on March 15<sup>th</sup> which is a Thursday.

Chairperson Colloton opened the hearing on **HB 2498—Creating a mental health diversion option for county and district attorneys**. She called the Committee's attention to the "written only" proponent testimony of Melissa G. Johnson, Kansas County & District Attorney Association (Attachment 1) and the "written only" neutral testimony of Kyle Smith, Assistant Attorney General/Deputy Director of the Kansas Bureau of Investigation (Attachment 2).

A lengthy discussion followed. It was noted during the discussion that an agreement had been made with the Kansas County & District Attorneys Association. If the Committee would drop the bill they would take on the initiative of making their members aware of the mental health

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diversion model in Johnson County and they will provide education for those interested in implementing the same type of model in their county.

Upon the conclusion of the discussion and with no others wishing to speak, Chairperson Colloton closed the hearing on **HB 2498**. She then opened the hearing on **SB 249-Relating to employees; criminal history record check**, and introduced Scott Frank, Post Audit, to give his testimony as a proponent of the bill. Mr. Frank provided written copies of his testimony for the Committee and Staff, (Attachment 3) He stated the bill would give their office the authority to have the KBI conduct national criminal history checks on current or prospective Post Audit employees. These checks are a part their overall effort to ensure the security of the confidential information their staff has access to while conducting audits. He went on to say one of the security measures they currently take is to conduct criminal history checks for all new employees, as well as for any current employees who need access to their largest and most sensitive datasets. However under their current authority they can only obtain criminal history information from Kansas. The US Department of Justice requires that state agencies seeking national criminal history information through the National Crime Information Center must have a specific state law in place that authorizes such access. Because their employees work with some of the state's most sensitive and private information, they think having those employees pass a more thorough background check is warranted. This bill would give them that authority.

A short discussion followed with Mr. Frank and the Committee.

Chairperson Colloton called for any others wishing to speak or testify to the bill; being none she closed the hearing on **SB 2498**. She announced if the Committee agreed they could take action on this bill today; being no opposition, she opened the floor for consideration of **HB 2498**.

A short discussion followed with *Representative Roth making a motion to move the bill out favorably for passage. Representative Goodman seconded. Motion carried.*

Chairperson Colloton opened the floor for consideration of the **Substitute for SB 159-Conditions of release for parolees and probationers; searches; expunged records; petitions for relief of disabilities for firearms prohibitions** and called on Jason Thompson, Office of the Revisor of Statutes, to explain the amendments on the bill. Mr. Thompson provided written copies of the **House Substitute for the Substitute for SB 159** (Attachment 4). Mr. Thompson stated the bill is concerning crimes, punishment and criminal procedure; relating to conditions of release; conditions for persons on probation; searches of parolees and persons on postrelease supervision; and conditions for sex offenders. He stated there were three amendments on the bill

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that he would explain to the Committee. The first amendment is regarding probationers on Page 5, (5) be subject to searches of the defendant's person, effects, vehicle, residence and property by a court services officer, a community correctional services officer and any other law enforcement officer based on reasonable suspicion of the defendant violating conditions of probation or criminal activity; and (6) be subject to random, but reasonable, tests for drug and alcohol consumption as ordered by a court services officer or community correctional services officer, (d) Any law enforcement officer conducting a search pursuant to subsection (c)(5) shall submit a written report to the appropriate court services officer or community correctional services officer no later than the close of the next business day after such search. The written report shall include the facts leading to such search, the scope of such search and any findings resulting from such search. The second amendment on Page 17, (2) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to search and seizure by (Alternative A (Senator Pilcher-Cook): a parole officer, a department of corrections enforcement, apprehension and investigation officer or any other law enforcement officer) or (Alternative B, Department of Corrections): a parole officer or a department of corrections enforcement, apprehension and investigation officer,) at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purposes of harassment.

The third amendment would be on Page 22 (w) (1) on and after July 1, 2012, for any inmate who is a sex offender, when the Prison Review Board orders the parole of such inmate or established conditions for such inmate placed on postrelease supervision, such inmate shall agree in writing to not possess pornographic materials. (2) The provisions of this subsection shall be applied retroactively to every sex offender who is on post release supervision on July 1, 2012. The Prisoner Review Board shall obtain the written agreement required by this subsection from such offenders as soon as practicable.

A discussion followed with ***Representative Brookens making a motion to adopt the House Substitute for the Senate Substitute for SB 159. Representative Pauls seconded. Motion carried.***

Chairperson Colloton recognized ***Representative Brookens who made a motion to adopt Alternative Amendment B on Page 18 and Page 20 and not to adopt the Alternative Amendment A. Representative Moxley seconded.***

A discussion followed.

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Chairperson Colloton called for a vote on the motion on the floor. ***The motion carried to adopt Alternative Amendment B on Page 18 and Page 20.***

***Representative Pauls made a motion to move the bill out favorable as amended with technical cleanup recommended by the Revisor. Representative Brookens seconded. Motion carried.***

Chairperson Colloton announced to the committee they would be having a hearing on the competency to stand trial bill tomorrow and there was a \$2 Million fiscal note with the bill.

The meeting was adjourned at 2:50 pm with the next meeting scheduled for March 6, 2012 at 1:30 pm in room 144 S.

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