

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, February 6, 2012 in 144-S of the Capitol.

All members were present except:

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:

Kyle Smith, Assistant Attorney General/Deputy Director, KBI
Mike and Angie Brant, Private Citizens, Topeka
Anthony Brixius, Juvenile Investigator, Lawrence Police Department
Jeremy Barclay, Kansas Department of Corrections
Sara Rust-Martin, Kansas Coalition Against Sexual and Domestic Violence
Kristy Beaudette, Private Citizen, Wichita

Others in attendance:

See attached list.

Chairperson Colloton opened the floor for introduction of bills. She recognized Representative McCray-Miller who stated she had two bill requests for the Committee.

The first request was for House Resolution 6008 regarding the Board of Education and the issuance of computers.

Representative Brookens made a motion to accept the bill request for House Resolution 6008. Representative Wolf seconded. Motion carried.

Representative McCray-Miller's second request was for a bill that mirrored **SB 363-
Amendments to laws regarding racial profiling and data collection.**

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Representative Meier made a motion to accept the second bill request of Representative McCray-Miller regarding racial profiling and data collection. Representative Brookens seconded. Motion carried.

Chairperson Colloton called for any other bill request; being none, she opened the hearing on **HB 2494**—Statute of limitations for sexually violent offenses when victim is a child, and introduced Kyle Smith representing the Attorney General’s Office, to testify as a proponent of the bill. Mr. Smith provided written copies of his testimony for the Committee and Staff (Attachment 1). He stated the bill addresses a major problem in their efforts to protect children. Given that children have limited ability to act independently or grasp the criminal nature or process when they are victimized, the current restrictions on bringing charges leaves many children unprotected and offenders free. He went on to say that this bill was requested by the Attorney General, Derek Schmidt based on a case brought to them by Detective Vicki Fogarty of the Bonner Springs Police Department. While interviewing a six year old molestation victim, the victim disclosed facts that another relative had also been molested when she was six and seven years old. The second victim was also interviewed and confirmed the facts but because she is now 18 years of age the defendant could only be charged with the one case due to the statute of limitations running out. This bill would address this problem with the present law. In closing, he asked the Committee to support the bill.

A question and answer session followed with Mr. Smith and the committee.

Chairperson Colloton introduced Angie Bryant, a private citizen from Topeka, to give her testimony as a proponent of the bill. Ms. Bryant provided written copies of her testimony for the committee and staff (Attachment 2). She stated she and her family were in support of this bill because of firsthand experience which involved all of the blended family children of hers and her husband. She went on to say that their children were remembering more and more of the traumatic events of their young lives as they get older; but, the statutes of limitations has run out and the guilty party cannot be held accountable for the pain that has been caused to their children and is free to do the same thing with other children. In closing, she asked the committee to allow this bill to cover all the children that have reported this and have gotten the reply “too late” for them to get even a half way normal life.

Next, Chairperson Colloton introduced Anthony Brixius, Juvenile Investigator, Lawrence Police Department, to give his testimony as a proponent of the bill. Mr. Brixius provided written copies of his testimony for the committee and staff (Attachment 3). He stated the bill represents a tremendous step forward in helping victims of child sexual abuse tell their story and obtain

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closure. In the last year he has had several discussions with his peers, county attorney and supervisors in regard to several child sexual abuse cases, which have extended past the statute of limitations. In those discussions, everyone has expressed the need for change for the well being of the victims of these crimes. He highlighted on several case examples contained in his testimony in which there were issues of not being able to charge with a crime because of the statute of limitations.

A question and answer session followed ending in a discussion.

Upon the conclusion of the discussion, Chairperson Colloton called the committee's attention to the "written only" proponent testimony of Ed Klumpp, Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and the Kansas Peace Officers Association (Attachment 4).

Chairperson Colloton called for any others wishing to testify or speak to the bill; being none, she closed the hearing on **HB 2494** and opened the hearing on **HB 2465—Authorizing sentencing court to order lifetime electronic monitoring for certain sex offenders**, introducing Kyle Smith, Assistant Attorney General/Deputy Director KBI, to give his testimony as a proponent of the bill. Mr. Smith provided written copies of his testimony for the committee and staff (Attachment 5). He stated the bill clarifies the intent in Jessica's law that persons convicted of the specified heinous crime against young children, after they have done their time in prison should be on parole for the rest of their lives and subject to electronic monitoring. The statute plainly states that the parole board shall order electronic monitoring as a condition of parole but it does not provide authority for a sentencing court to order electronic monitoring under these circumstances. The statute which authorizes numerous dispositions for persons who have been found guilty of a crime does not provide authority for a sentencing court to impose parole conditions. This bill makes it explicit that a sentencing court is authorized to order lifetime electronic monitoring in Jessica's law cases. In closing, he stated the Attorney General supports this bill and urged the committee to pass it out favorably.

A question and answer session followed.

Chairperson Colloton introduced Jeremy Barclay, Special Assistant to the Secretary of the Kansas Department of Corrections, to give his testimony on behalf of the Secretary, as a neutral party of the bill. Mr. Barclay provided written copies of his testimony for the committee and staff (Attachment 6). He stated the Kansas Department of Corrections has a couple of implementation issues they would like to call to the attention of the Committee. First, is the issue of whether a district court at the time of sentencing is in a better position than the Prisoner

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Review Board after the passage of 25 to 40 years, to determine the portion of the costs of the monitoring the offender should bear while under release supervision or modify that financial obligation during the release supervision due to changes in the offender's finances, during the lifetime supervision. Second, pursuant to the proposed amendment provided by **HB 2464** regarding the court ordering a lifetime electronic monitoring requirement, the department is concerned that provision is ambiguous as to whether the electronic monitoring is to be implemented immediately after sentencing and thus requiring electronic monitoring even though the offender is incarcerated.

A discussion followed with Chairperson Colloton asking Mr. Barclay and Mr. Smith to work together to address the issues of the Kansas Department of Corrections and come to an agreement on language.

Chairperson Colloton called for any others wishing to testify or speak to the bill; being none, she closed the hearing on **HB 2465** and opened the hearing on **HB 2613—Allowing for extension of protective orders under certain circumstances**. She introduced Kyle Smith, Assistant Attorney General/Deputy Director of the KBI, once again, to give his testimony as a proponent of the bill. Mr. Smith provided written copies of his testimony for the committee and staff (Attachment 7). Mr. Smith stated currently Kansas law provides for Protection From Abuse and Protection From Stalking (PFS) orders. Violation of such orders is a class A misdemeanor. However, in some cases, the current structure has proven to be inadequate to protect these victims. In situations where the petitioner has been the victim of a violent felony, it seems unnecessary and redundant for the victim to have to return to court each year, face the assailant and request an extension for another year. The bill addresses this problem by providing an extended order in situations for both PFA and PFS orders, where the respondent commits a person felony against the victim. These extended orders can run for two years up to the life of the respondent. The respondent is guaranteed due process and a right to be heard before such order is entered. He went on to say he has a balloon attached to his testimony to clarify that the felony must be committed against the plaintiff or the plaintiff's immediate family.

A question and answer session followed with the Committee and Mr. Smith.

Chairperson Colloton introduced Sara Rust-Martin, Director of Legal and Policy, Kansas Coalition Against Sexual & Domestic Violence, to give her testimony as a proponent of the bill. Ms. Rust-Martin provided written copies of her testimony for the committee and staff (Attachment 8). She stated that currently in Kansas, victims of domestic violence, dating violence, and stalking do have access under the law to civil protection orders. However, there are current limitations that exist with these orders. The PFA or PFS orders in Kansas are only effective for a maximum period of two years, even with a victim-initiated request to extend the

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order. Victims oftentimes face long-term risks to their safety due to the perpetrator's abuse and therefore often require protection from the perpetrator throughout their life. The bill provides victims of abuse and stalking with long-term protections and provides the necessary supports to enhance the safety of victims in Kansas. She stated they support the bill but have attached two balloons to their testimony which addresses issues of clarifying some of the language. In closing, she urged the committee to support the bill with balloons they are submitting.

A question and answer session followed.

Next, Chairperson Colloton introduced Kristy Beaudette, a private citizen from Wichita, to give her testimony as a proponent of the bill. Ms. Beaudette provided written copies of her testimony for the Committee and Staff (Attachment 9). Ms. Beaudette told her story of her baby daughter being tortured by the baby's biological father who is a psychopath. He has been released on parole and had his parole revoked due to violations several times. He will soon be off monitoring. She keeps a current PFS order in effect but she has to update yearly and tell her horrendous story again to be re-victimized. She fears the day will come, after he is off monitoring, that she will have to face him in court while updating her PFS order. The lifetime monitoring would help her and her daughter greatly. In closing, she urged the Committee to pass this bill.

A short question and answer session followed.

Chairperson Colloton called the Committee's attention to the "written only" proponent testimony of Ed Klumpp, Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and the Kansas Peace Officers Association (Attachment 10) and called for any others wishing to testify or speak to the bill; being none she closed the hearing on **HB 2613**.

Chairperson Colloton opened the floor for consideration of **HB 2535—Amending statutes affected by 2011 ERO 34 transferring the Kansas parole board to the prisoner review board** and called on Sean Ostrow, Office of the Revisor of Statutes to refresh the Committee's memory and explain what the bill does. Mr. Ostrow stated HB 2535 would make numerous technical amendments to reflect the changes made by 2011 Executive Reorganization Order No. 34, which established the Prisoner Review Board within the Kansas Department of Corrections and abolished the Kansas Parole Board. The bill also would allow the Prisoner Review Board's required annual report to the Governor and the Legislature to be included in the Department of Corrections' general report, however, the bill would require the information to be in a separate section of such report. Further, it would provide that compilation and analysis of dispositions of

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criminal cases by district courts throughout the state or by executive authority would remain the responsibility of the Department of Corrections. He also explained a balloon amendment on Page 25, to strike the language on line 10 to line 15 to as a clean- up.

Representative Mc Cray-Miller made a motion to pass the bill out favorably. Representative Goodman seconded.

A discussion followed with Chairperson Colloton recognizing Representative Brookens.

Representative Brookens made a motion to keep lines 10,11,12,13 and delete lines 14, 15 on Page 25 and add at the end of line 13 “such report may be put in the general report of the Department of Corrections but set apart in a separate section of the report.” Representative Mc Cray-Miller seconded.

A discussion followed.

The Chair called for a vote on the Brookens’ amendment on the floor. ***Motion carried.***

Representative Brookens made a motion to pass the bill out favorably as amended. Representative Kelly seconded. Motion carried.

The meeting was adjourned at 3:00 pm with the next meeting scheduled for February 7, 2012 at 1:30 pm in room 144 S.