



***Jim Howell***  
***Commissioner – Fifth District***  
***Board of County Commissioners***  
***Sedgwick County, Kansas***

Date: January 27, 2022

To: Chair Owens, Corrections and Juvenile Justice Committee

Re: **Proponent Testimony for HB2200**

From: James M. Howell, Sedgwick County Commissioner, Fifth District

Chair Owens and members of the committee:

My interest in Juvenile Justice/Corrections goes back to 2012 through 2014 when I fought to permanently improve the law as it relates to YRCII ‘criminogenic’ medium to high-risk youth residential homes like the renowned Judge Riddel Boys Ranch at Lake Afton. In 2014, I worked closely with Representative **Russ Jennings** to develop **Sub HB2633**. Surprisingly, Sedgwick County chose to oppose the bill which effectively killed it in the Senate. Consequently, JRBR was closed permanently in the summer of 2014 and the building was eventually razed. That location now is used for recreational camping.

The adage, taxpayers can **pay now or pay a lot more later** rings true. In 2016, a total rewrite to Kansas’ Juvenile Justice law known as SB367 passed. Again, **Representative Russ Jennings** and **Senator Greg Smith** did a great job developing this sweeping legislation. They worked tirelessly to pass this 72-page bill which is **now Rep. Jennings legacy**. I do not want to take anything away from SB367 and I respect the work that Jennings and Smith did that year.

I am not an expert on SB367. Nevertheless, I know enough to know the law is complex and made extensive changes to the state’s Juvenile Corrections strategy. Representative Jennings strongly wanted **to let the new law rest for 5 years** before any revisions would be considered so that we could see the benefits and the challenges better. **That time in now.**

In November 2021, I called a meeting among local, county, and state juvenile justice experts to share their thoughts on SB367. In this meeting, we hosted five legislators (Republican and Democratic), key leaders from the District Attorney’s office, several juvenile district court judges, members from County Corrections, DCF, Saint Francis, and other county staff.

Altogether, 23 people came together to present their thoughts on what is working and where we need to make changes. The meeting minutes to this round table discussion are available upon request. I will list the conclusive recommended changes at the end of this testimony.

SB367 was well meaning and would more effectively correct a great number of our troubled youth through community-based programs. Community programming was also considerably less expensive. **I understand the state has saved around \$45M since SB367 became law.**

Unfortunately, this new law eliminated some tools in the tool box. This deficiency is more apparent in urban counties such as Sedgwick County. For example, I understand we have 11 youth being held on murder charges in Sedgwick County. We had about 50 Motions for Adult Prosecution in 2021 when historically we would have about 5 or so. What changed?

Without effective interventions, some of these troubled youth end up in a downward spiral. The downstream costs to the taxpayer can far outweigh the short-term savings if programming is shown to be ineffective for one of these youth. In urban counties such as Sedgwick County, the advantages and shortfalls of SB367 are easily recognized.

Under SB367, rather than charge a youth with a petty crime, those charges would be suspended and eventually erased if the young person would complete some sort of mandatory community-based program. SB367 created sanction guidelines and limited the options for prosecutors and judges. The programming in most cases is effective but for some, it's just not enough.

Here are a few example problems to note:

- On paper, the would-be offenders are essentially equivalent to Children In Need of Care (CINC) and are managed by DCF rather than KDOC. That means children that would have historically remained separate from CINC kids are now intermingled with CINC kids. Some of these "J.O." kids are placed as regular foster care kids by DCF. This has had a direct negative impact on the state's foster system. Many foster parents have chosen to stop being a foster home when they have a bad placement.
- JO kids are now being comingled with CINC youth throughout the systems. The negative consequences of comingling JO kids with CINC kids are obvious.
- HB2200 recognizes that KDOC has realized savings under SB367. Unfortunately, the savings are not being used uniformly or adequately across the state to establish community-based programming. This bill mandates three that KDOC must coordinate with the Judiciary and DCF to determine what is best for the youth. This is great and is why HB2200 exists. We need this coordination to happen.

**Here are several conclusions from the November round-table discussion:**

- Remove or allow extension of juvenile case and probation length limits. (HB2200 addresses this)
- Remove or increase juvenile detention limits.
- Allow juvenile judges the discretion to retain jurisdiction over an offender even following an adult conviction.
- Create an out of home placement option for high-risk juvenile offenders.
- Provide a possible immediate punishment/sanction for juveniles found in contempt of court.

(The following is my personal testimony and does not necessarily represent the thoughts or opinions of other members of the county commission)

With respect to the ongoing Cedric Lofton (17-yr old that died on 9/26/21, just 2 days after WPD picked him up and delivered him to SgCo JIAC in a WRAP restraint) case in Sedgwick County, other considerations:

Bonita Gooch writes in The Community Voice, “*The Problem with Prone Restraint by Police Officers*”, Jan, 6th, 2022, P 19

*“A prone investigation conducted jointly by two television stations - one in Denver, the other in Minneapolis - found **more than 119 deaths between 2010 and mid 2021** with a finding similar to the one listed on CJ Lofton’s autopsy. CJ’s cause of death was identified as “**complications of cardio pulmonary arrest sustained after physical struggle restrained in the prone position**”*

*Expert after expert testified in the trial of Minneapolis police officer Derek Chauvin that prone restraint lead to the death of George Floyd in 2020.*

*Warnings to law-enforcement departments about the potential of “sudden” death from prone restraint date back to 1995 when the department of justice issued a bulletin warning officers about positional asphyxia - i.e. death as a result of body position that interferes with one’s ability to breathe - as it occurs with a confrontational situation involving law-enforcement officers.*

*The advisory bulletin recommendation: “**get the suspect off their stomach as soon as they’re handcuffed**”. The bulletin points out guidelines which call for officers to turn the suspect on their side or get them in a seated position.”*

Although Sedgwick County will likely adopt a local policy to curtail the use of Prone positioning, this is absolutely germane to SB367 and therefore it is germane to HB2200. In SB367, it references Juvenile Intake Assessment Center (JIAC) 66 times throughout the bill.

I am formally requesting this committee add clear language to this bill **to limit the use of Prone Positioning** similar to the recommendations quoted in the Community Voice article.

Additionally, it would be reasonable to add language that clarifies that **when it is apparent that a juvenile is undergoing any sort of mental or physical duress, that they be provided a mental and physical assessment as soon as practicable to ensure their physiological wellbeing.**

Finally, the Wichita Beacon reported on December 8th, 2021 (“*A child in crisis died in juvenile custody. How can Wichita prevent it from happening again?*” story by Stefania Lugli) states that the Wichita Police Department **has deployed WRAP 83 times** since starting to use the restraint in ‘summer 2020’ (through 11/1/21). Of those:

- 1 individual reported minor scratches; no others claimed injury.
- 275 officers are trained and certified to use the WRAP restraint — about 66% of patrol officers in the field.
- 10 minors between the ages of 13 and 17 years old have been restrained.

Since the use of WRAP devices is a relatively new tool to the WPD community, reliance on the use of WRAP devices is not well established. WRAP restraints are obviously very effective to subdue a disorderly subject. That being said, WRAP restraints also cause incredible anxiety. If someone is struggling with medical issues or mental anguish, the use of a WRAP restraint may be very detrimental to the person being taken into custody. It is likely the person being restrained has an adrenaline rush and reacts with more even more anguish. These WRAP restraints don't deescalate but heighten the conflict. Historically, law enforcement officers have apprehended and controlled those in custody without the use of a WRAP restraint. These WRAP restraints are new to Wichita and yet they appear to be drastically overused.

I am formally requesting this committee add clear language to establish a statewide prohibition on the use of WRAP restraints on juveniles (people known or believed to be under age 18) or prohibit their use entirely for the full population.

Thanks for this opportunity to testify in favor of HB2200. I encourage the members of this committee to amend HB2200 with the improvements highlighted in GREEN and pass it out favorably as amended.

Respectfully,



Jim Howell  
Commissioner – Fifth District