

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Ward Loyd at 1:30 p.m. on February 3, 2004 in Room 241-N of the Capitol.

All members were present except:
Representative Dale Swenson - absent

Committee staff present:
Jill Wolters, Revisor of Statutes Office
Jerry Ann Donaldson, Legislative Research Department

Conferees appearing before the committee:
Representative Mario Goico
Linden Appel, Chief Legal Counsel for KDOC
Jean K. Giles Phillips, Professor of Law at KU
Judge Philip Vieux, Finney County District Court
Pat Scalia, Board of Indigent Defense Services

Others attending:
See Attached List.

Representative Goico appeared before the committee to request a bill introduction concerning pedestrians crossing into the path of a vehicle, KSA 8-1533(b).

Representative Goering made the motion that this request should be introduced as a committee bill. Representative Ward seconded the motion. The motion carried.

Linden Appel, Chief Legal Counsel for KDOC appeared before the committee to request a bill introduction concerning opt out provision of temporary assistance for needy families. (Attachment 1)

Representative Owens made the motion that this request should be introduced as a committee bill. Representative Pauls seconded the motion. The motion carried.

The committee was given a briefing on the Right to Counsel, that is the right of every individual charged with a crime to have the benefit of legal counsel pursuant to Kansas Bill of Right Section 10 and the Sixth Amendment of the U.S. Constitution.

Jean K. Giles Phillips, Director of the Paul E. Wilson Defender Project, Associate Professor of Law at KU appeared before the committee, that basic Rule 1.1 which states that all lawyers must be competent in order to represent clients. (No written testimony was provided)

Chief Judge Philip Vieux, Finney County District Court, explained to the committee some of the concerns in Finney County. (Attachment 2) He stated that in 1994 the 25th Judicial District was staffed by three attorneys, had 271 felony cases filed and between 12 and 15 private attorneys willing to accept felony appointment. The private side has declined to four attorneys for the entire district, and only one per BIDS rules, is qualified to handle upper level felony crimes. They still have the same three positions in the Public Defenders Office and four attorneys to handle 639 felony cases per year.

The pay rate is \$50 per hour and was established in 1987 as a result of the Supreme Court decision in Stephen v. Smith. In 1987 the overhead average expense for a lawyer was \$40 per hour, BIDS currently estimates the average expense to be \$80 per hour.

Because of the shortage Judge Vieux stated that they are at a place where dismissing a case because of a

lack of representation is something they may have to contemplate.

The following information was provided to the committee:

- Qualifications for B.I.D.S. appointed counsel in felony cases. (Attachment 3)
- Felony Crimes sorted by severity level and then by statute number (Attachment 4)

Pat Scalia, Director, Board of Indigent Defense Services, stated that at one time or another every office of the Public Defender's thirteen offices has had to shut down due to attorney resignation. The Public Defense attorneys are paid a lower rate than the classified attorneys in the State Employment System. (No written testimony was provided)

The budget proposal that was made this year was a request for \$400,000 to adjust Public Defenders salary. The amount is to equal that of an attorney doing comparable work at the Department of Revenue or other executive offices across the state. Board or commission attorneys are in the unclassified service.

Maps were provided that reflect the following: (Attachment 5)

- Public Defender Offices in Kansas
- Counties Served by Public Defender Offices
- Counties served by Contract Counsel/Agreement to Reduce Costs w/Local Bar

Representative Pauls requested a bill introduction. Concerning medical treatment for employees injured on job.

Representative Pauls made the motion that this request should be introduced as a committee bill.
Representative Dillmore seconded the motion. The motion carried.

Representative Ward requested three bills for introduction.

1. Concerning aggravated arson includes bodily harm to a firefighter, law enforcement officers or emergency responders.
2. Concerning KS Offender Registration Act, moving lewd and lascivious behavior to a sexually violent crime, from the list of crimes when victim is under 18.
3. Concerning sentencing for a persistent sex offender to include juvenile adjudications.

Representative Ward made the motion that this request should be introduced as committee bills.
Representative Horst seconded the motion. The motion carried.

The meeting was adjourned at 3:20 PM. The next scheduled meeting is February 4, 2004.