

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on March 16, 2005, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen- excused

Committee staff present:

Mike Heim, Kansas Legislative Research Department

Jill Wolters, Office of Revisor of Statutes

Helen Pedigo, Office of Revisor of Statutes

Nancy Lister, Committee Secretary

Conferees appearing before the committee:

Randy Hearrell, Kansas Judicial Council

Jean Holthaus, Topeka Coalition on Adult Abuse

Gary Daniels, Acting Secretary, Kansas Department of Social and Rehabilitation Services

Tim Madden, Kansas Department of Corrections

Kyle Smith, Special Agent, Kansas Bureau of Investigation

Others attending:

See attached list.

Chairman Vratil opened the meeting and hearing on **Sub HB 2457**.

Sub HB 2457 Civil procedure; service of process, by return receipt delivery

Proponent:

Randy Hearrell, Kansas Judicial Council, testified that the bill contains technical amendments to a section of the Code of Civil Procedure. In 2000, "certified mail" was removed from the Civil Code as a defined term and replaced with the phrase "return receipt delivery". Mr. Hearrell stated that the bill amends K.S.A. 60-304 to insert "return receipt delivery" in ten places where "certified mail" appears in the section. (Attachment 1)

Chairman Vratil closed the hearing on **Sub HB 2457** and opened the hearing on **Sub HB 2038**.

Sub HB 2038 Multidisciplinary teams for adults

Proponents:

Jean Holthaus, representing the Topeka Coalition on Adult Abuse, stated that one of the coalition's goals was the establishment of an adult multidisciplinary team (MDT). She stated they were patterning their team after the children's multidisciplinary team that is a very successful initiative in Shawnee County. (Attachment 2) Ms. Holthaus stated that the first adult MDT was formed about two weeks ago. A grant was received for \$14,000 from the Topeka Community Foundation to hire the Prairie Advocacy Center to do the recruiting, training and consultation. The team is made up of volunteers, and there is no cost to the State.

Chairman Vratil questioned why legislation was necessary to accomplish the establishment of an adult MDT. He questioned why the Secretary of Social and Rehabilitation Services (SRS) or the Secretary of the Department of Aging could not appoint these MDTs right now, without the intervention of a judge.

Dennis Priest, Program Administrator for SRS, stated that Secretary Daniels could not be present at the hearing but did submit written testimony in support of the bill. (Attachment 3) Chairman Vratil posed the same question to Mr. Priest, as to why this legislation is necessary. Mr. Priest stated that the bill was crafted after similar statutory authority that was placed for the creation of teams that deal with children. The Departments do not have direct authority over the disciplinary teams that are established on the children's side. The Department would be involved bringing cases before the team and using the team as a resource. SRS would be primarily a participant or partner rather than have direct oversight authority.

Chairman Vratil asked who was envisioned in the bill as having direct oversight and authority. Mr. Priest

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stated that the district court would have the initial oversight in terms of determining the makeup of the team. The court would formally appoint the team, and then the team would become a free-standing committee, one that would be independent and be able to investigate situations and cases of circumstance. Mr. Priest stated that the concept of the structure has evolved outside the structure of any of the state agencies. Mr. Priest believed that SRS wouldn't want any direct connection with the MDT, so the team would not be influenced by the Department.

Chairman Vratil asked for the Secretary of SRS and the Secretary of the Department on Aging to come before the Committee and address the question as to why this legislation is necessary.

Senator Bruce stated that when he looks at the children's MDT, many times they are called in to help resolve child abuse and child molestation cases, and he believes it is like comparing apples and oranges when comparing children to adult MDTs.

Senator Goodwin asked Ms. Holthaus about the Chief Judge making these appointments. Senator Goodwin stated that she knew of no Chief Judges that go out into the community and find out who does what, so she questioned who gives a Chief Judge the names that he is to appoint. Ms. Holthaus stated that the names would come through the Prairie Advocacy Center. Senator Goodwin questioned why the Chief Judge would then have oversight of the team when he probably doesn't know these people. Ms. Holthaus suggested that could be true, and suggested that when the Secretaries of SRS and Aging appear before the Committee, that the Board President of Prairie Advocacy Center, Sue Lockett, appear, who not only has an understanding of the child MDTs, but has been involved in recruiting members for the adult MDT.

Senator Umbarger stated that the Committee is supportive of the concept, and are just trying to understand how the MDT will work. He asked about Ms. Holthaus' written comments that state, "the legislation will also provide additional resources...", and were those resources coming from SRS. Mr. Priest, stated that they were regarding the resources as being the team, itself.

Written testimony was provided by Secretary Pamela Johnson-Betts, Department on Aging. (Attachment 4) Chairman Vratil indicated that he would not close the hearing yet, in hopes that the Secretaries and Ms. Lockett could appear before the Committee.

Chairman Vratil opened the hearing on **Sub HB 2051**.

Sub HB 2051 Timing of offender release notification

Proponent:

Tim Madden, Kansas Department of Corrections (DOC), stated that Secretary Werholtz submitted written testimony in support of **Sub HB 2051**. In that testimony, the Secretary describes an unfortunate situation where an inmate was placed on a community corrections work crew in the Kansas City, Kansas, area, and NCIC wants a warrant check conducted by the DOC to see if there were any outstanding warrants. That inquiry came back that there were no warrants for that person. Unfortunately, warrants had been issued by the district court charging this individual with aggravated battery, aggravated robbery, kidnaping, criminal possession of a firearm, rape, aggravated criminal sodomy, and aggravated intimidation of a witness. The Department did not know about the existence of that warrant. The offender escaped from the Kansas City, Kansas work crew. (Attachment 5)

The Department recommended to the House Committee that the substitute bill be introduced. The substitute bill basically looks at the Criminal History Records Information Act (CHRIA) as a vehicle to share information between the KBI's central repository and the DOC. The CHRIA lists a number of events that law enforcement agencies and courts are to provide to the KBI's central repository. One of those events is the issuance of an arrest warrant. Another event is the imposition of a sentence. The bill also provides that the KBI will provide information regarding the issuance of an arrest warrant for the imposition of a sentence to the DOC within seven days of receiving that information. There is also a provision that codifies the KBI's current practice of not charging law enforcement agencies for criminal record history information.

Chairman Vratil questioned whether there was any anticipated bed space impact, and Mr. Madden stated there

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is no anticipated bed space impact under **Sub HB 2051**.

Senator Bruce questioned that it would be up to the local law enforcement agency to contact the DOC if they want an offender. Mr. Madden stated under current law, that information is required by CHRIA. This bill provides for the sorting and communication of that information to the DOC on a weekly basis. Senator Bruce questioned that if there was an execution of sentence at the local level, wouldn't the charges pending and the court issuing a warrant appear in the NCIC system. Mr. Madden stated not necessarily, because there is certain criteria for the inputting of a warrant in NCIC, including a commitment to extradite the prisoner from another state; secondly, NCIC is for fugitives. As soon as that person is arrested, that person's name has to be removed from NCIC. The issuance of an arrest warrant is, under current law, a reportable event to the central repository of the criminal history records information.

Neutral:

Kyle Smith, Special Agent, Kansas Bureau of Investigation, stated that the KBI supports addressing the problems of timely information flow to better enhance parole planning. However, the KBI is not convinced that the bill will accomplish that goal. Departments issue warrants through the courts, enter the outstanding warrants (if a misdemeanor) to the KBI's local state-held file, because there is no extradition involved, or, if it is a felony, it is entered into the federal data bank, NCIC. (Attachment 6)

Mr. Smith stated that Kansas has been a leader in establishing a web-based linked series of databases shared by all criminal justice agencies. The Criminal Justice Information System (CJIS) allows the DOC to access the KBI database regarding criminal history information. Right now, the DOC runs an inquiry on any or all their inmates and identify outstanding warrants that might effect parole plans. Some local agencies do not forward in a timely manner local warrants to the KBI so the checks by the DOC are inadequate. There are a lot of cases on misdemeanor warrants where the department doesn't do anything because it is a misdemeanor warrant, and/or they do not plan to spend money to extradite the offender for a minor warrant. This is why some warrants are not entered into the database.

Chairman Vratil questioned Mr. Madden about the bill requiring the central repository to identify persons committed to a correctional facility and then report to the DOC within seven days of the central repository receiving any reportable event. Why couldn't the DOC once a week identify the new inmates who have been committed to the custody of the DOC and run their names through the central repository to see if there is any arrest warrant or imposition of sentence recorded there.

Mr. Madden stated the DOC doesn't have access to the CJIS system, and the bill would give the authority of the KBI to enforce jurisdictions to comply with that act. Chairman Vratil questioned how the KBI could force a sheriff or chief of police to enter the issuance of an arrest warrant. Mr. Madden stated the statute provides that the KBI may do that through regulation and through its policies.

Chairman Vratil closed the hearing on **Sub HB 2051** and asked the Committee to consider final action on **HB 2262**.

Final Action:

HB 2262 Legal holidays include holidays observed by the supreme court by order

Chairman Vratil stated that there was a proposed amendment to the bill, on page 1, line 29, at the end of the sentence, where the last word was "court"; the amendment was to add the phrase, "or the Governor." A motion was made to accept the amendment. Senator O'Connor moved, seconded by Senator Bruce, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator Goodwin moved, seconded by Senator Donovan, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **HB 2180**.

Final Action:

HB 2180 Inherently dangerous felonies

Chairman Vratil stated that the bill expands the list of inherently dangerous felonies to include "fleeing or

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attempting to elude a police officer”. Fleeing or attempting to elude a police officer would also be considered as an act to support the charge of involuntary manslaughter.

Senator Donovan stated that he had several people contact him, from sheriff’s offices to police departments, in favor of the bill. A motion was made to recommend the bill favorably for passage. Senator Bruce moved, seconded by Senator O’Connor, and the motion carried.

Chairman Vratil asked the Committee to consider **HB 2386**.

Final Action

HB 2386 Unlawful sexual relations includes court services officers and community correctional officers

Chairman Vratil stated that he asked the revisor’s office to prepare an amendment, which he handed out. (Attachment 7) Revisor Helen Pedigo summarized the revisions made: on page 2, line 36, the word “direct” was taken out leaving only the word “supervision”; line 37, the words “the offender” were changed to read “court services and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of court services”; the same type of correction that was made on page 2, line 36, was made on page 3, line 1; also, on page 3, definitions were added for “community corrections,” court services,” and “law enforcement officer”.

A motion was made to adopt the balloon amendment. Senator Donovan moved, seconded by Senator Umbarger, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator Goodwin moved, seconded by Senator Donovan, and the motion carried.

Chairman Vratil adjourned the meeting at 10:30 A.M. The next meeting is scheduled for March 17, 2005.