

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Thomas C. (Tim) Owens at 9:30 a.m. on March 2, 2009, in Room 545-N of the Capitol.

All members were present except:

Senator David Haley- excused
Senator Jean Schodorf- excused

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Randy Hearrell, Kansas Judicial Council
Marcy Knight, Assistant City Attorney, Lenexa
Clancy Holeman, Riley Co Counselor on behalf of Riley County Board of Commissioners
Kathy Porter, Office of Judicial Administration
Stuart Little, on behalf of Keith Clark, Franklin County Community Corrections
Roger Werholtz, Secretary, Kansas Department of Corrections
Barry Wilkerson, Riley Co. Attorney and on behalf of Kansas County & District Attorneys Assn.

Others attending:

See attached list.

The Chairman opened the hearing on **SB 277 - Funding the recodification commission from judicial council funds; judicial performance commission not required to evaluate retired senior judges.**

Randy Hearrell appeared in support and reviewed the bill which contains two policy changes. The first pertains to funding the last year of the Criminal Code Recodification Commission. Due to reduced State revenues the final year of the recodification program funding was eliminated. The Council's rationale to fund the study is that the recodification of the criminal code is consistent with the Council's mission and the study is nearly completed.

The second policy change pertains to the evaluation of senior judges. The Council states there are several reasons the evaluations are unnecessary including:

- the legislature's initial decision to require evaluations was based on a unique situation that no longer exists,
- the Chief Justice feels the Court is fully apprised of senior judges' qualifications,
- due to part-time work often there is insufficient numbers for an adequate survey,
- it is difficult to identify which cases are heard by each judge,
- elimination of the evaluation requirement save the Council approximately \$20,000. (Attachment 1)

Senator Vratil spoke in favor stating give the current budget concerns funding the final year of the recodification program makes good sense. The Commission expects to complete their work by December 2009. Likewise, the temporary nature of judicial assignments of senior judges makes it very difficult to conduct an accurate and coherent review of their performance. Eliminating the requirement would enable the Council to realize a significant savings each year. (Attachment 2)

There being no further conferees, the hearing on **SB 277** was closed.

The Chairman opened the hearing on **SB 269 - Conduct and offenses giving rise to forfeiture; adding prostitution and related offenses.** Jason Thompson, staff revisor, reviewed the bill.

Marcy Knight testified in support stating enactment will provide law enforcement another tool to combat prostitution type crimes. (Attachment 3)

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:30 a.m. on March 2, 2009, in Room 545-N of the Capitol.

There being no further conferees, the hearing on **SB 269** was closed.

The Chairman opened the hearing on **SB 270 - Individual district options to consolidate community corrections and court services.** Jason Thompson, staff revisor, reviewed the bill.

Clancy Holeman appeared in support stating counties should have the option of consolidation its existing community corrections program with the parallel existing state court services program. This will eliminate duplication of services, and clarify that community corrections staff are employees of the State and not the County. (Attachment 4)

Kathy Porter testified in opposition listing several concerns if field services were consolidated under the Judicial Branch including:

- it would violate the doctrine of separation of powers,
- a lack of sufficient administrative staff to support consolidation,
- under the current system there is a great deal of inconsistency in pay and significant salary issues would arise with consolidation, and
- the bill does not address funding for community correction officers should they become employees of the Judicial Branch. (Attachment 5)

Stuart Little presented opposition testimony on behalf of Keith Clark, 4th Judicial District Community Corrections. The bill does not account for juvenile programming which is present in every judicial district or address salary inconsistencies. Judicial districts already have the ability to consolidate at the local level on a voluntary basis without the necessity to transfer state funding and personnel. (Attachment 6)

Nancy Parrish spoke in opposition as currently written due to the issue of funding regarding operating costs and services. (Attachment 7)

Roger Werholtz provided neutral testimony stating in addition to concerns already raised pertaining to salaries and funding sources, if enacted the legislature would need to address policy initiatives such as SB 123 (treatment alternatives to incarceration for substance abuse offenders) and SB 14 (reductions in probation revocations). Similarly, all community corrections programs have been able to move quickly and consistently to a single risk assessment instrument and use a single data base integrated with the Department of Corrections. The bill is not clear as to the duties of community corrections officers under consolidation or the use of community correction funds for the equipment, operations and personnel expenses. (Attachment 8)

Written testimony in opposition was submitted by:

Kevin C. Murray, President, Kansas Association of Court Services Officers (Attachment 9)

There being no further conferees, the hearing on **SB 270** was closed.

The Chairman opened the hearing on **SB 272 - Incompetent to stand trial; commitment, release procedures.**

Barry Wilkerson appeared in support recounting an incident where a man found incompetent to stand trial was later released from a mental health facility and proceeded to commit a murder. This bill will provide court supervision whenever a person charged with a violent criminal and require a district judge to find the defendant competent to stand trial or does not pose a danger to himself or the public. (Attachment 10)

Clancy Holeman spoke in support stating currently the system is a revolving door offenders in this situation, **SB 272** will close the loophole. (Attachment 11)

The Chairman indicated the hearing on **SB 272** would continue at the next Committee meeting.

The next meeting is scheduled for March 3, 2009.

The meeting was adjourned at 10:29 a.m.