

Ray Roberts, Secretary

Sam Brownback, Governor

Testimony on HB 2055
to
The Senate Judiciary Committee

By Ray Roberts
Secretary
Kansas Department of Corrections
March 7, 2012

The Department of Corrections supports HB 2055 as amended by the House. HB 2055 was passed by the House by a vote of 121-0.

HB 2055 addresses the submission of information by prosecutors to the Department of Corrections regarding criminal cases resulting in the imprisonment of an offender with the department. This information is provided in what is commonly referred to as the “County/District Attorney’s Report”. The department has conferred with the Sedgwick County District Attorney’s Office and the Kansas Association of County and District Attorneys regarding HB 2055. The bill as passed by the House reflects the agreement of these parties. The department believes that HB 2055 as amended by the House serves the public safety interests of both the department and prosecuting attorneys. Therefore, the department supports HB 2055 as amended.

HB 2055 as amended by the House provides:

- Retention of Court’s obligation to forward to the department previously prepared court documents consisting of complaints, supporting affidavits, presentence investigation reports and other diagnostic reports received by the court as provided by K.S.A. 22-3427.
- Deleting the requirement on the part of the Court to forward to the department, the county and district attorney report. (Amending K.S.A. 22-3427).
- Amending K.S.A. 22-3432 to clarify that prosecutors need only provide to the department special circumstances pertaining to the commission of the offense or offender that is not contained in the information provided by the Court pursuant to K.S.A. 22-3427.

As pointed out last session, the department does not wish to create an unreasonable burden upon prosecutors or courts in providing relevant information to the department necessary for public safety both while the offender is incarcerated as well as upon his or her release. To that end, the department concurs that prosecuting attorneys should not be required to submit information in their report that is also set out in other documents routinely provided to the department. Generally, the criminal complaint and the supporting affidavit for prosecution provide the department with the necessary information regarding the circumstances of the criminal behavior and the offender. This information is provided to the department by the Clerk of the District Court pursuant to K.S.A. 21-2632 (recodified at K.S.A. 22-3427). Retention of the statutory provisions requiring the Clerk of the District Court to provide copies

of those documents to the department ensures that the department receives information regarding the circumstances surrounding the offender's criminal behavior in much greater detail than a mere citation to the statutory provision violated by the defendant.

Typically, the criminal complaint and supporting affidavit will suffice in providing the department with sufficient information to understand the circumstances surrounding the offense and offender in order to take appropriate action regarding that offender while incarcerated or under release supervision. HB 2055 as amended by the House retains submission of a county or district attorney's report as a vehicle for prosecutors to advise the department of unique situations wherein special measures should be undertaken by the department; for example, when co-defendants testified against each other or other situations known by the prosecutor but not set out in the routine material provided to the department by the Court.

In regard to deleting the county and district attorney's report as one of the documents the Court is to forward to the department pursuant to K.S.A. 22-3427, deletion of that report recognizes that the prosecutor's report is not a judicial document filed with the Court and should be confidential.

The department urges favorable consideration of HB 2055 as amended by the House.