

Approved: March 19, 2012

(Date)

**MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE
COMMITTEE**

The meeting was called to order by Chairperson Pat Colloton at 1:30 PM on Thursday, January 26, 2012 in 144-S of the Capitol.

All members were present except:

Committee staff present:

Lauren Douglass, Legislative Research
Robert Allison-Gallimore, Legislative Research
Sean Ostrow, Office of the Revisor of Statutes
Jason Thompson, Office of the Revisor of Statutes

Conferees appearing before the Committee:

Steve Karrer, Assistant Attorney General
Michael Gayoso, Jr., Crawford County Attorney
Melissa G. Johnson, Assistant Seward County Attorney/KCDAA, President
Marc Goodman, Lyon County Attorney
Jennifer Roth, Kansas Association of Defense Lawyers
Anne S. Tiegen, Esquire, Transportation and Criminal Justice, NCSL
Marc Bennett, Deputy District Attorney, Eighteenth Judicial District
Ray Roberts, Secretary, Kansas Department of Corrections

Others in attendance:

See attached list.

Chairperson Colloton opened the floor for bill introductions. She recognized State Representative Lana Gordon who requested a committee bill addressing aggravated injury to a child.

Representative Brookens made a motion to accept the request of Representative Gordon as a committee bill. Representative Cassidy seconded. Motion carried.

Chairperson Colloton recognized Representative Brookens to request a committee bill regarding stalking and exemptions.

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Representative Kelly made a motion to accept Representative Brookens request. Representative Kinzer seconded. Motion carried.

Chairperson Colloton recognized Tim Madden, Legal Counsel for the Kansas Department of Corrections to request a bill relating to an illegal offender be deported back to their home county after serving a portion of their sentence in Kansas.

Representative Brookens made a motion to accept the request of Mr. Madden on behalf of the Department of Corrections. Representative Kelly seconded. Motion carried.

Chairperson Colloton recognized Kyle Smith, Assistant Attorney General/Deputy Director of KBI, to request a resolution encouraging law enforcement regarding handling mentally ill.

Representative Pauls made a motion to accept the request of Deputy Director Smith. Representative McCray-Miller seconded. Motion carried.

Chairperson Colloton called for any others wishing to request a bill introduction; being none, she opened the hearing on **HB 2468**–**Requiring defense attorneys to produce reports and allow inspection prior to criminal trial**. She introduced Steve Karrer, Assistant Attorney General, to give his testimony as a proponent of the bill. Mr. Karrer provided written copies of his testimony for the Committee and Staff ([Attachment 1](#)). He stated trial by ambush may be beneficial to one particular party involved in litigation, but it is not a friend of justice. This bill ensures that all parties, attorneys, Judges, juries and witnesses are effectively prepared for trial. The law already requires the state to provide defense counsel with expert reports, names of potential witnesses, and potential exhibits. **HB 2468** would simply require defense counsel to do the same. This would remove the element of surprise during a trial. In closing, he stated he does not agree with the fiscal note attached to this bill.

Chairperson Colloton introduced Michael Grayoso, Jr., Crawford County Attorney, to give his testimony as a proponent of the bill. Mr. Grayoso provided written copies of his testimony for the Committee and Staff ([Attachment 2](#)). He stated that currently there is no uniformity as to how jurisdictions within the State deal with the issue of criminal discovery. This legislation will ensure fundamental fairness by preventing “trial by ambush” in avoiding surprise; by improving judicial economy in avoiding interruptions and postponements; by allowing for better well-reasoned decisions by the district court prior to trial; and by ascertaining the truth in criminal trials.

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A question and answer session followed with Mr Grayoso.

Chairperson Colloton called the Committee's attention to the "written only" proponent testimony of Melissa Johnson, Assistant Seward County Attorney and the President of the KCDAA, ([Attachment 3](#)).

Chairperson Colloton introduced Marc Goodman, Lyon County Attorney, to give his testimony as a proponent of the bill. Mr. Goodman provided written copies of his testimony for the Committee and Staff ([Attachment 4](#)). He stated the role of the prosecutor is to prosecute diligently and to seek the truth, reciprocal discovery would provide efficiency in the criminal system as well as equal justice. He went on to say it would increase the prosecutor's ability to filter cases set for trial; eliminate those cases where it establishes innocence; and it would eliminate the ridiculous concept of "trial by ambush" which would increase efficiency and lower costs. In closing, he urged the committee to support **HB 2468**.

A question and answer session followed with Mr. Goodman.

Chairperson Colloton called the Committee's attention to the "written only" proponent testimony of Chris McMullin, Chief Deputy District Attorney, 10th Judicial District ([Attachment 5](#)).

Chairperson Colloton introduced Jennifer Roth, Kansas Association of Criminal Defense Lawyers, to give her testimony as an opponent of the bill. Ms. Roth provided written copies of her testimony for the Committee and Staff ([Attachment 6](#)). She stated that **HB 2468** is unnecessary. Kansas does not have the resources-money, people, and time to name a few to make changes just because other states or the federal system have certain requirements. Current law already requires defendants to allow the prosecution access to certain discovery. She went on to say the bill violates due process, is unfair and unrealistic. After giving several examples she urged the Committee not to support this bill. Ms. Roth addressed the questions and concerns of the Committee as she presented her testimony.

A discussion followed among the Committee members regarding **HB 2468**.

Chairperson Colloton called for any others that wished to speak to the bill; being none, she closed the hearing on **HB 2468** and opened the hearing on **HB 2055–Eliminating certain information sharing requirements for district and county**.

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Chairperson Colloton called on Sean Ostrow, Office of the Revisor of Statutes, to explain the **Substitute bill for HB 2055**. Mr. Ostrow provided written copies of the **Substitute for HB 2055** (Attachment 7) He stated that the new language was agreed upon by the District Attorneys Association and the Kansas Department of Corrections and explained those changes to the Committee.

Chairperson Colloton introduced Marc Bennett, Deputy District Attorney, Eighteenth Judicial District, appearing on behalf of the District Attorney of the Eighteenth Judicial District and the Kansas County and District Attorneys Association. Mr. Bennett provided written copies of his testimony for the Committee and Staff (Attachment 8). The **Substitute for HB 2055** streamlines the production of information and eliminates redundancies across three current statutes by removing unnecessary administrative burdens, while still allowing a mechanism for special information to flow to the Kansas Department of Corrections as needed. In closing, he urged the Committee to pass the **Substitute for HB 2055** out of Committee.

A short question and answer session followed.

Chairperson Colloton introduced Tim Madden, Kansas Department of Corrections, to give his testimony as a proponent of the **Substitute for HB 2055**. Mr. Madden provided written copies of his testimony for the Committee and Staff (Attachment 9). He told the Committee that they were agreeable with all the changes in the bill from last year and would support the **Substitute for HB 2055**.

Chairperson Colloton called for any others wishing to testify or speak to the bill; being none, she closed the hearing on **Substitute for HB 2055**.

Chairperson introduced Anne S. Tiegen, Esquire, Transportation and Criminal Justice, National Conference of State Legislators (NCSL) to the Committee and adjourned the meeting at 2:45 p.m. with the next scheduled meeting being for January 30, 2012, at 1:30 pm in room 144 S.

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