

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:30 A.M. on February 18, 2011, in Room 548-S of the Capitol.

All members were present, except Senator Donovan, who was excused

Committee staff present:

Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Tamera Lawrence, Office of Revisor of Statutes
Theresa Kiernan, Committee Assistant

Conferees appearing before the committee:

Ray Roberts, Secretary of the Kansas Department of Corrections
Patricia (Patti) Biggs, Vice-Chairperson, Kansas Parole Board

Others attending:

See attached list.

The Chairman opened the hearings on **ERO 34 -- Abolishing Parole Board and Establishing the Prisoner Review Board within the Department of Corrections.**

The Chairman recognized Ray Roberts, Secretary of the Kansas Department of Corrections (KDOC) who provided information requested by members of the committee at the February 4, 2011, hearings on **ERO 34**, as follows:

- Currently the Kansas Parole Board and KDOC are covered under the Kansas Tort Claims Act (KTCA) and the proposed Prisoner Review Board also would be covered by the KTCA.
- There are between 8 and 15 inmates who have been approved for parole, but their re-entry plans have not yet been approved.
- The Victim's Services Division of KDOC and the various county victim services agencies are responsible to provide notice of an inmate's parole hearing to the victims of the inmate.
- In order to continue to receive notice of parole hearings, victims have a duty to notify KDOC and county victim service agency of changes of address.

Patti Biggs presented testimony as a neutral party to **ERO 34 (Attachment 1)**. She stated the Parole Board holds a position of neutrality regarding the ERO recognizing it as a policy issue. Her main concerns are the following:

- Violation of the Due Process Constitutional requirements in the process of post-incarceration supervision revocation. The Supreme Court has held that the due process requires a neutral and detached hearing body
- Cost of implementation exceeds any savings
- Differences in the mission of KDOC and the mission of the Parole Board

Senator Schodorf asked Ms. Biggs to describe briefly the work or caseload of the Parole Board. Ms. Biggs responded, "Members of the board easily spend more than 40 hours a week fulfilling their duties, which include: Attending at least one monthly meeting at each of the 9 correctional facilities; reviewing each of the offender's file (which may take up to six hours each); conducting parole hearings and revocation of parole hearings; reviewing approximately 3,350 re-entry plans annually; and reviewing applications for clemency submitted to the governor. She expressed concern that due to reduction in staff in the KDOC, that the department will be able to handle the work and caseload.

Senator Haley asked how other states handle parole decisions.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on February 18, 2011, in Room 548-S of the Capitol.

Ms. Biggs stated that all states, except Minnesota, have an independent parole board. She will provide information on how Minnesota meets the *Morrissey* requirement relating to a neutral and detached hearing.

Senator Pilcher-Cook asked that Ms. Biggs provide the committee information relating to the *Gilmore* case.

Robert Allison-Gallimore, Research Staff, at the request of Senator Bruce, prepared and distributed copies of a memorandum relating to the neutral and detached due process requirement for a hearing body considering parole revocations (Attachment 2).

The Chairman asked how there could be a cost-savings under the ERO if the current Parole Board is replaced with a Prison Review Board.

The Chairman closed the hearings on ERO 34.

Committee Action:

The Chairman called the committee's attention to an amendment proposed by the Office of the Attorney General for **SB 73 -- Amending criminal discovery statute to prohibit release of child pornography evidence to the defense** (Attachment 3).

The Chairman announced he would take action on the bill after receipt of information requested from the State Board of Indigents Defense Services.

The Chairman turned the committee's attention to **SB 74 -- Civil procedure; forfeiture; electronic solicitation; sexual exploitation**.

The committee discussed an amendment requested by the Office of the Securities Commissioner to add violations of the Kansas Securities Act to the list of offenses giving rise to the forfeiture of assets. No action was taken on the request.

Senator Vratil moved, Senator Pilcher-Cook seconded, that SB 74 be amended by adding to the list of offenses giving rise to the forfeiture of assets the eight offenses suggested in the testimony submitted by the Kansas County and District Attorneys Association (Attachment 4). The motion was adopted.

Senator Vratil moved, Senator Schodorf seconded, that SB 74 be passed as amended. The motion was adopted.

Meeting adjourned at 10:29 A.M. The next meeting is scheduled for February 21, 2011.