

Approved: May 22, 2012  
(Date)

MINUTES OF THE JOINT MEETING OF THE SENATE JUDICIARY COMMITTEE AND THE  
HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE

Chairman Owens called the meeting to order at 11:30 a.m. on January 25, 2012, in Room 159-S of the Capitol.

Other Senate-members in attendance: Senators Haley, Kelly, King, Pilcher-Cook and Schodorf

Senate Committee staff present:

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

Conferees appearing at the Joint Meeting:

Steve Howe, Johnson County District Attorney  
Judge Phil Journey, Sedgwick County  
Gene Johnson, Sunflower Alcohol Safety Action (ASAP) Project, Inc.  
Chris Noble, Sunflower Alcohol Safety Action Project, Inc.  
Stuart Little, Kansas Community Corrections Association  
Doug Wells, DUI Commission  
Greg Benefil, Assistant District Attorney, Douglas County  
Judge Nancy Parrish, Shawnee County  
Judge Margaret Alford, 26<sup>th</sup> Judicial District, Grant County

Others Attending:

See Attached List

Chairman Owens and Chairwoman Colloton welcomed those in attendance and explained the purpose of the meeting was to gather information in order to draft a bill to address concerns that have arisen since the enactment of **2011 House Substitute for SB 6 –Driving under the influence** and other DUI-related issues.

Steve Howe recommended the legislature criminalize the refusal to submit to a field sobriety test. He stated the number of test refusals have increased. If a test is refused, prosecutors have little evidence to prosecute and convict the offender. He also suggested strengthening the penalties for repeat offenders. (Attachment 1).

Phil Journey expressed several concerns relating to the DUI laws. He noted that not all fines had been increased by \$250.00 and the statutory maximum fine on misdemeanors also were not increased. There is confusion relating to the money which is to be sent to the Kansas Department of Corrections. The minimum penalty for the 3<sup>rd</sup> and subsequent offenses needs to be clarified. There are post-release issues that need to be resolved. The impoundment process for vehicles needs to be clarified. There is a need to provide for the drug and alcohol evaluation of indigent defendants and to assess the cost of the evaluation as costs of the case. He questioned whether providing the driver's license record or abstract is necessary. He also

## CONTINUATION SHEET

Minutes of the Joint Meeting at 9:35 a.m. on January 25, 2012, in Room 159-S of the Capitol.

questioned how to enforce the revocation of a license plate. (Attachment 2).

Nancy Parrish expressed concern relating to the drug and alcohol evaluation. Before sentencing, the court must order a defendant to obtain an evaluation and pay the cost of the evaluation to the provider. She questioned what would happen if the defendant can't pay the fee. Her second issue concerns whether the new "look back" provision applies to offenses which occurred prior to July 2, 2011, or only to those offenses that occurred after July 1, 2011. She expressed the support of the Judges of the Third Judicial District for the proposal by Sunflower Alcohol Safety Action Project, which would authorize the continued cooperation of community based drug and alcohol safety action programs in Shawnee County. (Attachment 3).

Stuart Little expressed concern that the Kansas Department of Corrections FY 2012 and FY 2013 budgets have not included expenditures from the \$1.1 million in the new community corrections supervision fund. That means there is \$1.1 million the Legislature approved for FY 2013 that is not included in the department's budget submission. (Attachment 4).

Gene Johnson and Chris Noble stated that the cap of \$150 placed on the cost of the evaluation invites the defendant to shop for the cheapest evaluation possible. He requested that language be restored to K.S.A. 8-1008 so that ASAP Project would be certified to perform evaluations. (Attachments 5 and 6).

Written testimony was submitted by Judge Margaret Alford, Joe McGehee and Ray Roberts (Attachments 7, 8 and 9).

Doug Wells suggested an expansion of the purposes for which a person may drive when using an interlock device. He also stated that a refusal to submit to a field sobriety test should not be criminalized. Mr. Wells stated he would submit written testimony at a later date with more detailed suggestions for amendments to the DUI laws. (Attachment 10).

State Representative Collins presented no written testimony, but stated the law concerning interlock devices should be clarified.

Chairman Owens thanked everyone for participating and closed the informational hearing.

The meeting was adjourned at 1:00 p.m.