

Approved: April 30, 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 Tuesday, February 14, 2012 in 144-S of the Capitol.

All members were present except:

Committee staff present:

Jackie Lunn, Committee Assistant
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:

State Representative Pat Colloton
Ed Klumpp, Kansas Association of Chiefs of Police, Kansas Sheriffs Association, Kansas Peace Officers Association
Colin Thomasset, Association of Community Mental Health Centers of Kansas, Inc.
Bill Cochran, Topeka Police Department

Others in attendance:

See attached list.

Chairperson Colloton opened the hearing on **HB 2600—Amending the medical information confidentiality exception as pertaining to detention of a mental health patient** and called on Sean Ostrow, Office of the Revisor of Statutes, to explain the bill. Mr. Ostrow explained that **HB 2600** would allow mental health treatment facilities to disclose information about whether a person is or has been a patient within the last six months when a person has been detained by law enforcement. They may be detained upon reasonable suspicion that the person is committing, has committed, or is about to commit a misdemeanor or felony, and is suffering from mental illness; and when the law enforcement officer has a reasonable belief that such person may benefit from treatment, rather than placement in a correctional institution, jail, juvenile correctional facility, or juvenile detention facility.

Chairperson Colloton stated she had testimony to give as a proponent of **HB 2600**. She provided written copies of her testimony for the committee and staff (Attachment 1). The chair told the committee that last year the Legislature provided a change in the law so that a police officer could call the local community mental health center and find out if someone that he was arresting had a history of mental illness. As a member of the Johnson County Criminal Advisory Council, he recently received a report from local law enforcement that the law was not working because it required an arrest. **HB 2600** requires detention of the individual but not arrest. This change will enable law enforcement to make use of the exception to the privacy laws.

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A short discussion followed.

Chairperson Colloton called for any others wishing to testify or speak to the bill. There were none, so she closed the hearing on **HB 2600** and opened the hearing on **HB 2601–Criminalizing refusal to provide certain information to law enforcement upon demand**. The chair called on Jason Thompson, Office of the Revisor of Statutes to explain the bill. Mr. Thompson explained that **HB 2601** would amend the definition of interference with a law enforcement officer to include refusing to provide information demanded by a law enforcement officer when stopping a suspect in accordance with state law. The bill would also allow a law enforcement officer, without making an arrest, to ask for a person's date of birth, in addition to the person's name and address, when the person is in a public place and the officer reasonably suspects the person is committing, has committed, or is about to commit a crime.

Chairperson Colloton introduced Ed Klumpp, representing the Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and the Kansas Peace Officers Association, to give his testimony as proponent of the bill. Mr. Klumpp provided written copies of his testimony for the committee and staff, ([Attachment 2](#)). He stated there are some considerations they want to be sure everyone understands. This bill will in no way expand the currently existing authority of law enforcement to stop a person who they have reason to believe is committing, has committed or is about to commit a crime. The bill does not require any person to be in possession of identification document. It merely requires the person to verbally identify himself. He went on to say if a person is charged under the law as amended by the bill it will require officers to articulate to a court their reason for believing the person was committing, had committed, or was about to commit a crime. The court must then find that reasonable belief was justified before a person can be convicted under the new provisions. He went on to say that current law holds a person properly stopped under the provisions of KSA 22-2402 can be found guilty of interference of a law enforcement officer's official duties if they lie to the officer about the required information. However, the courts have held a person may not be found guilty for refusing to provide the information an officer may demand as provided in KSA 22-2402 because the legislature has not provided that is illegal to refuse to provide the information. This bill would correct this from not happening again. In closing, he urged the committee to support this bill.

A short discussion followed.

The chair called for any others wishing to testify or speak to the bill. There were none, so she closed the Hearing on **HB 2601** and opened the hearing on **HCR 5032–A Concurrent Resolution recognizing and promoting the Crisis Intervention Team program** and called on Colin Thomasset representing the Association of Community Mental Health Centers of Kansas, Inc., to give his testimony as a proponent. Mr. Thomasset provided written copies of his testimony for the committee and staff, ([Attachment 3](#)).

Mr. Thomasset stated in Kansas, Community Health Centers, (CMHC) are the local Mental Health Authorities coordinating the delivery of publicly funded community-based mental health services. The

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CMHC system is state and county funded and locally administered. In Kansas, you first must be designated by your County to serve as the CMHC to the county residents, then you must secure a license from the Kansas Department of Social and Rehabilitation Services (SRS), to become the publicly funded CMHC and recognized as such by the State of Kansas. Consequently, service delivery decisions are made at the community level, closest to the residents that require mental health treatment. Each CMHC has a defined and discrete geographical service area. Together, they employ over 4,500 professionals. The CMHCs provide services to Kansans of all ages with a diverse range of presenting problems. Together, this system of 27 licensed CMHCs form an integral part of the total mental health system in Kansas. As part of licensing regulations, CMHCs are required to provide services to all Kansans needing them, regardless of their ability to pay. This makes the community mental health system the “safety net” for Kansans with mental health needs. Collectively, the CMHC system serves over 123,000 Kansans with mental illness. He went on to say the Association is supportive of **HCR 5032**; they believe that implementation of Crisis Intervention Team (CIT) programs across the State has achieved positive outcomes and that the State should encourage adoption of such programs. Community based mental health treatment is in fact the best use of resources to ensure individuals with mental illness receive the treatment they need, and CIT programs help divert people from the criminal justice system and towards these community based services. According to the National Council for Community and Behavioral Healthcare, over 1 million arrestees every year have a serious mental illness. They believe CIT programs afford officers with a new set of response options to enhance traditional law enforcement, and encourage strong collaborative ties with the CMHCs. National data has illustrated the outcomes associated with CIT programs are substantial, including fewer officer injuries, fewer SWAT call-outs, reduced arrest rates, and increased access to mental health services.¹ In closing, he stated that considering the substantial benefits these programs bring to communities, they encourage the committee to support the adoption of this resolution.

Chairperson Colloton introduced Captain Cochran, Topeka Police Department, to give his testimony as a proponent of the bill. Mr. Cochran provided written copies of his testimony for committee and staff, (Attachment 4). Captain Cochran stated Crisis Intervention Teams (CIT) began in Memphis, Tennessee in 1988 as a result of a law enforcement encounter with a person who was in a mental health crisis. The situation escalated to the point in which the officers eventually took lethal action and shot and killed the individual. The question became, not did the law enforcement officers do anything wrong, but rather could things have been handled better and the answer was yes. Through the efforts of law enforcement and the mental health community CIT was born. CIT program is a unique alliance between police and the community for the common goals of safety, understanding and service to the mentally ill and their families. The program was developed to provide a more effective, compassionate and safer approach to interacting with people who suffer a mental illness or developmental disability crisis. Through special training, the program provides officers with a more intelligent approach to mental health crisis events in our community. The CIT model encourages communities, families, law enforcement officers and

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mental health professionals to act as a compass for persons with mental illness. An increase in illegal narcotic and alcohol abuse and the “deinstitutionalization” of mentally ill citizens can lead to an increase in homelessness and potential violence, and a consequent increase in involvement by law enforcement. Traditional police methods, misinformation, and a lack of sensitivity have caused fear and frustration for the mentally ill and their families. As a proactive program, CIT works to prevent tragic situations and find “win-win” solutions for all persons concerned. The National Alliance for the Mentally Ill (NAMI), Valeo Behavioral Health Care and the Topeka Police Department agree that an immediate response is preferable in a crisis. By offering an immediate, humane and calm approach, CIT officers reduce the likelihood of physical confrontations and enhance better care for our citizens with mental health issues. Since its inception, citizens and the criminal justice system of Shawnee County and Topeka and other communities across Kansas have experienced significant benefits of the program.

A discussion followed with Mr. Thomasset and Capitan Cochran answering the questions of the committee.

Chairperson Colloton called for any others wishing to speak or testify to the bill. There were none, so she closed the hearing on **HCR 5032**.

The chair announced that if there were no objections, she would like to bring **HB 2600** up for consideration. There were no objections so she opened the floor for consideration of **HB 2600**.

Representative Brookens made a motion to move HB 2600 out favorably and for it to be put on the consent calendar. Representative Smith seconded. Motion carried.

Chairperson Colloton announced to the committee if there were no objections, she would like to bring **HRO 5032** up for consideration also. There were no objections so she opened the floor for consideration of **HRO 5032**.

Representative Cassidy made a motion to pass HRO 5032 out favorably for passage. Representative Kelly seconded. Motion carried.

Next, the chair opened the floor for consideration of **HB 2498**—**Creating a mental health diversion option for county and district attorneys**. She called on Sean Ostrow, Office of the Revisor of Statutes to explain the bill to the committee. Mr. Ostrow explained **HB 2498** would establish criteria for a mental health diversion program for certain offenders charged with a crime on or after July 1, 2012. Any county or district attorney could elect to establish a diversion

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program in coordination with the Community Mental Health Center (CMHC) in that county or the district attorney's jurisdiction. If a county elected to implement a mental health diversion program, it would become the responsibility of the Community Mental Health Center to administer, monitor and oversee a defendant's participation in the program. The court could assess fees, restitution or court costs to the defendant in order to participate in the program. The Secretary of the Department of Social and Rehabilitation Services (SRS) would be authorized to adopt rules and regulations to implement and administer the Act. Mr. Ostrow reviewed the balloons offered on the bill from disabilities services and Representative Brookens.

A discussion followed regarding the balloon amendments being offered.

Representative Moxley made a motion to pass the bill out favorably. Representative McCray-Miller seconded.

Chairperson Colloton called on Nick Wood, representing the Disability Rights Centers of Kansas to explain the balloon amendment they were offering (Attachment 5). Mr. Wood explained his amendment is adding the definition of "Advocate" and an advocate would be required to be in every proceeding.

A discussion followed. Mr. Wood's amendment was not recommended by anyone on the committee. The committee felt it would make the bill cumbersome and the district attorneys would choose not to use it.

A discussion followed.

Chairperson Colloton stated she would like to offer an amendment on the bill to delete on Page 2, lines 37 and 38 and severity levels 5 and 6 regarding those individuals on the border giving the court the discretion. Representative Brookens seconded.

A lengthy discussion followed.

The chair called for a vote on the motion on the floor. Motion carried.

The discussion continued to Page 12 and the word "shall" and if the committee wanted to change all of the words "shall" in the bill to "may". During the discussion the chair called on Patrick Vogelsberg representing the Kansas County and District Association. She asked if the association had discussed this issue. Mr. Vogelsberg answered that they had not. It was

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suggested in the discussion it might be an option for the Kansas County and District Attorneys Association to recommend the Johnson County Model regarding mental heal diversion to its members and there would not be a need for this legislation.

The discussion moved to Page 3, line 30 and 37. *Representative Pauls made a motion to add the word “serious” in place of “severe” on Page 3, line 30 and 37. Representative Moxley seconded. Motion carried*

Next, Chairperson Colloton recognized *Representative Brookens. He made a motion on Page 1, at the end of line 19, to add “if the case manager is contracted by the community mental health center, such case manager shall be licensed to practice in Kansas as a licensed psychologist, social worker, marriage and family therapist, professional counselor”.* *Representative Moxley seconded.*

A short discussion followed.

The chair called for a vote of the Brookens motion on the floor. Motion carried.

Representative Brookens made another motion on Page 2, line 13 and 14 after the word “program” to delete the rest of the language on that line., on line 15 change “shall” to “may”; on Page 3, strike lines 3,4,5,6,11,12,and 13; on Line 40 to change “shall” to “may” and on line 42, to change “12 months” to “6 months” and after “36 months” strike out the rest.; on Page 4, strike line 1.

The chair called for any other balloon amendments and stated she would have the Brookens amendment and any others put in print so that the committee could see where they stand regarding the language of the bill. She stated they would continue to work on **HB 2498** again tomorrow.

Chairperson Colloton called the committee’s attention to the balloon amendment of **HB 2059– Requiring second-hand stores to verify identity of sellers and record such information (Attachment 6)**. She called on Sean Ostrow, Office of the Revisor of Statutes, to review the balloon amendment for the committee.

A discussion followed

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Representative Moxley moved to pass HB 2059 out favorably as amended. Representative Brookens seconded.

A discussion followed.

Representative Brookens made a motion to amend on Page 2, (f), (2), take out “that has” and add “which items have”. Representative Kinzer seconded. Motion carried.

Representative Mosley made a motion to pass HB 2059 out favorably as amended. Representative Smith seconded. Motion carried.

A discussion followed.

The chair called for a vote on the motion on the floor. Motion carried.

A discussion followed regarding the antique dealers.

Representative Moxle, having voting on the prevailing side, made a motion to reconsider the Substitute for HB 2059. Representative Pauls seconded. Motion carried.

Representative Brookens made a motion to table the Substitute for HB 2059. Representative Goodman seconded. Motion carried.

Chairperson Colloton moved the committee’s attention to the moped bill and a discussion followed. It was noted that the committee would try to work the bill on Thursday.

The meeting was adjourned at 3:10 PM with the next meeting scheduled for February 15, 2012 at 1:30 in room 144 S.
