



Kansas Bureau of Investigation

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Senate Judiciary Committee
Testimony of Kyle Smith, Assistant Attorney General
Deputy Director, Kansas Bureau of Investigation
In Support of HB 2465
March 5, 2012

Chairman Owens and Members of the Committee,

I appear today on behalf of Attorney General Derek Schmidt in support of HB 2465, a bill to clarify the legislative intent in Jessica's law (Formerly K.S.A. 21-4643, now K.S.A. 21-6627) that persons convicted of the specified heinous crimes against young children, after they have done their prison time should be on parole for their rest of their lives and subject to electronic monitoring.

Last March, the Kansas Supreme Court in the case of *State v Jolly*, No. 101,512, reversed the sentence of a William Jolly who had plead guilty to raping a 12 year old girl. While the decision to reverse was primarily based on improper sentencing procedures the court also interpreted the provisions the legislature created to require lifetime electronic monitoring:

While not clearly identified from the transcript of the sentencing hearing, the parties agree that the "lifetime monitoring" condition of Jolly's sentence was imposed pursuant to K.S.A. 22-3717(u). That statute provides:

An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the Kansas parole board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life." (Emphasis added.)

The statute plainly states that the parole board shall order electronic monitoring as a condition of parole. K.S.A. 22-3717(u) does not also provide authority for a sentencing court to order electronic monitoring under these circumstances. Additionally, K.S.A. 21-4603d, which authorizes numerous dispositions for persons who have been found guilty of a crime, does not provide authority for a sentencing court to impose parole conditions.

We therefore conclude the district court incorrectly imposed electronic monitoring pursuant to K.S.A. 22-3717(u).

- *State v Jolly*, Page 8-9:

HB 2465 amends two long statutes but the core of the legislation is pretty simple. On page 9, lines 33-43, K.S.A. 21-6604 and on page 19, lines 29-31, the bill makes it explicit that a sentencing court is authorized to order lifetime electronic monitoring in Jessica's law cases.

On behalf of Attorney General Schmidt we would ask your support for this legislation.

I would be happy to stand for questions.