

Approved: March 27, 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 Wednesday, February 8, 2012 in 144-S of the Capitol.

All members were present

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:

Patricia Scalia, Executive Director, BIDS
Chris Masoner, American Cancer Society

Others in attendance:

See attached list.

Chairperson Colloton opened the hearing on **HB 2469—Requiring payment of BIDS fees for parole revocation proceedings** and introduced Patricia A. Scalia, Executive Director, BIDS, to give her testimony as a proponent of the bill. Director Scalia provided written copies of her testimony for committee and staff (Attachment 1). She stated this bill is legislation that the State Board of Indigents Defense Services requested to allow the BIDS application fee of \$100.00 to be assessed in probation violation and diversion revocation cases. The fee cannot be assessed currently without this statutory language based on a decision of the Kansas Court of Appeals. She went on to say these types of cases represent almost 20% of the BIDS caseload. They estimate that \$100,000 may be received annually through this legislation and they ask for an amendment to specify that these fees be used to support a salary adjustment for public defenders, who are unclassified and who did not receive the market pay adjustment that all other attorneys in the Executive Branch received back in 2008. In closing, she asked the Committee to consider this bill.

A question and answer session followed with Director Scalia and the Committee.

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Chairperson Colloton called for others wishing to testify or speak to the bill. There were none, so she closed the hearing on **HB 2469** and opened the hearing on **HB 2324—Making it unlawful to furnish electronic cigarettes to people under 18 years of age**. The Chair introduced Chris Masoner representing the American Cancer Society, to give his testimony as proponent of the bill. Mr. Masoner provided written copies of his testimony to committee and staff (Attachment 2). He stated that electronic cigarettes (e-cigs) are devices composed of a rechargeable, battery operated heating element, a replaceable cartridge that may contain nicotine, flavoring and other chemicals, and an atomizer that uses heat to convert the contents of the cartridge into a vapor, which is then inhaled by the user. Many are shaped like a traditional cigarette, but they can take other shapes such as cigars, pipes, hookahs (water pipes), or even a pen or USB flash drive. He went on to say nearly all e-cigarettes contain nicotine which is a highly addictive drug. Some e-cigarettes also contain detectable levels of carcinogens and toxic chemicals, including diethylene glycol, a solvent used in brake fluid. He provided actual e-cigarettes to show the Committee. The biggest concern of the American Cancer Society with the bill is that the e-cigarettes will provide an attractive way to introduce young people to a potentially life-long addiction to nicotine. In closing, he urged the committee to support the bill.

Chairperson Colloton called the committee's attention to the "written only" proponent testimony of Mary Jane Hellebust, Executive Director, Tobacco Free Kansas Coalition (Attachment 3), Paul McElroy (Attachment 4), and Todd G. Thompson, County Attorney, Leavenworth County (Attachment 5). The chair then called for anyone else wishing to testify or speak to the bill. There were none, so she closed the hearing on **HB 2324**. She asked the committee if they had any objections to take the bill up for consideration. Since there were no objections, she opened the floor for consideration on **HB 2324**. The chair recognized Sean Ostrow, Office of the Revisor of Statutes, and he stated there are technical cleanups needed on the bill. A discussion followed.

Representative McCray-Miller made a motion to pass the bill out favorably with technical amendments needed by the Revisor. Representative Brookens seconded.

A discussion followed with ***Representative Brookens making a motion to add the following language on Page 4, line 8, "whether or not such device is shaped like a cigarette", after the word 'electronic cigarette',.*** The chair asked if the maker of the amendment would consider Representative Brookens suggestions as a friendly amendment to be added to her motion and she stated she would consider it friendly.

Chairperson Colloton called for a vote on the motion on the floor to pass HB 2324 out favorably as amended by the Revisor including the Brookens amendment. Motion carried

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Next, the Chair moved the committee's attention to **HB 2469** asking if there were any objections to taking the bill up for consideration. There were no objections so she opened the floor for consideration of **HB 2469**.

Representative Roth made a motion to pass the bill out favorably. Representative Goodman seconded.

A discussion followed.

The Chair called on Sean Ostrow, Office of the Revisor of Statutes to explain the bill. He stated **HB 2469** would require a defendant pay an application fee of \$100 to the clerk of the district court to request indigent defense services in a proceeding for a violation of a condition of release. The fee would be required regardless of whether the defendant has paid application fees in another proceeding.

A discussion followed with the committee having some concerns. They decided to work more on this bill another day after they can get a balloon correcting the language to match the intent of the bill.

Chairperson Colloton called the committee's attention to **HB 2496**—**Applying the Kansas law enforcement training act to investigators of the juvenile justice authority** and called on Sean Ostrow, Office of the Revisor to explain **HB 2496**. He stated the bill would amend the definition of "police officer and "law enforcement officer" within the Kansas Law Enforcement Training Act to include special investigators of the Juvenile Justice Authority (JJA) and any JJA employee employed solely to perform correctional, administrative, or operational duties related to juvenile correctional facilities. Further, it would give the Commissioner of JJA authority to appoint and designate special investigators and to adopt rules and regulations to govern training required for special investigators. The special investigators would have the power and authority of peace and police officers and the authority to make arrests; conduct searches and seizures; maintain custody, security, and control of any person in the Commissioner's custody; and generally enforce State criminal law. Each special investigator would be vested with law enforcement authority, placed in the classified service under the Kansas Civil Service Act, and be subject to the requirements of the Kansas Law Enforcement Training Act. To carry a firearm, special investigators would have to complete the required law enforcement officer training courses. He explained an amendment adding 38-2386 into the bill. Mr. Ostrow provided written copies of the amendment for committee and staff (Attachment 6).

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Representative Brookens made a motion to move the bill out favorably for passage. Representative Kelly seconded.

A discussion followed with *Representative Brookens making a motion to adopt the amendment by Mr. Ostrow, Office of the Revisor of Statutes. Representative Wolf seconded. Motion carried.*

A discussion followed with *Representative Brookens made a motion to move the bill out favorably as amended. Representative Kelly seconded.*

The discussion continued.

The Chair called for a vote on the motion on the floor to pass the bill out favorably as amended. Motion carried.

Chairperson Colloton opened the floor for consideration of **HB 2468–Requiring defense attorneys to produce reports and allow inspection prior to criminal trial** and called on Sean Ostrow, Office of the Revisor of Statutes, to explain **HB 2468**. He stated the bill would amend current law concerning discovery in a criminal prosecution to require a defendant who seeks discovery and inspection to provide to the prosecutor within 30 days of trial a summary or written report of what any expert witness intends to testify, including the witness 'qualifications, opinions, and the bases and reasons for such opinions. Further, the bill would require all disclosures to be made at the times and in the sequence directed by the court and, absent other directions from the court or stipulation by the parties, made as provided in this section. He also explained the balloon amendment on the bill that added language on Page 2, line 31 “(3) provide for the attorney for the prosecution, no less than ten days prior to trial”. Mr. Ostrow provided written copies of the amendment for committee and staff ([Attachment 7](#)).

A lengthy discussion followed.

Representative Kinzer made a motion to move the bill out favorably. Representative Smith seconded.

Representative Brookens made a motion to adopt the only part of the balloon amendment that is pertaining to giving 30 days for the defendant to disclose expert witnesses. Representative Moxley seconded. Motion carried.

Representative Kinzer made a motion to use the language from 22-6626 in the area of experts and add it into this bill explaining the concept would be the court should decide when the expert witnesses

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should be disclosed and if the parties don't agree the 30 day rule would apply. Representative Brookens seconded.

A discussion followed.

The Chair called for a vote on the Kinzer amendment. Motion carried.

A discussion followed.

Representative Smith made a motion to add the stricken balloon amendment that Mr. Ostrow explained earlier. Representative Goodman seconded.

A discussion followed.

The Chair called for a vote on the motion on the floor made by Representative Smith. Motion failed.

Representative Brookens made a motion to report the bill out as amended. Representative Goodman seconded. Motion carried.

The meeting was adjourned at 3:15 pm with the next scheduled meeting for February 9, 2012 at 1:30pm in room 144S.