



State of Kansas

## Office of Judicial Administration

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### House Corrections and Juvenile Justice Neutral Testimony on House Bill 2516

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Chairperson Owens and committee members, thank you for allowing me to provide neutral testimony regarding HB 2516. My name is Spence Koehn and I am the Court Services Specialist for the Office of Judicial Administration (OJA).

Currently, K.S.A. 21-6813 requires a court services officer (CSO) to prepare the presentence investigation report (PSI) as soon as possible after conviction. Each PSI report includes documents regarding the factual circumstances of the crime or crimes of conviction(s) and other documents related to prior convictions and victim reports. Current law states if a CSO obtains possession of journal entries or other documents related to criminal history, these documents shall also be attached to the PSI report.

The criminal history worksheet is an essential component of the PSI. When a PSI is ordered, CSOs will first conduct a record check through the KBI and National Crime Information Center (NCIC). These reports will provide the CSO a list of arrests that the defendant may have. CSOs use this information to track down and verify any convictions. The CSO will search court computer systems or call the courts in order to obtain the correct conviction information, including statutes, the actual crime of conviction, date of conviction, location of the conviction, and case number. The CSO then uses this information to assign the proper criminal history score to the current conviction.

The proposed change by HB 2516 would impose a duty on a CSO to attach all journal entries for each listed prior conviction necessary to establish the appropriate classification on the criminal history scale or to establish a special sentencing rule. OJA would like the committee to consider the potential implications of this requirement on CSOs and court administration. First, felony journal entries approved by the Kansas Sentencing Commission are 15 pages long for one conviction. If a defendant has 5 previous felony convictions, this adds a considerable number of documents to a PSI report. Misdemeanor journal entries are not as long but will also add additional pages. It is not uncommon to see 10 or more convictions on a criminal history worksheet. The size limit for each document to be efiled with the court is 10MB with an overall

submission size limit of 30MB. PSIs with several convictions could easily exceed this size limitation and may require the PSI to be submitted in several filings.

Second, a CSO would be required by this bill to track down and request all journal entries for each listed prior conviction. Kansas records are generally easy to obtain through our systems. However, obtaining out of state journal entries can be a much more time consuming and costly process. For example, when verifying criminal history in Missouri, if you call the circuit court clerk to verify conviction information, they will refer you to use their online system, Casenet, to confirm the conviction and obtain details. This is generally a quick process. In contrast, calling Jackson County, Missouri to verify and request records can add substantial time to obtaining a record, potentially being on hold with a county or city department for a significant amount of time waiting on these entities to find the case record. Larger counties such as Jackson often do have an email address that can be used to request records, however many small courts do not. Additionally, if a state or municipality won't provide a journal entry or a journal entry doesn't exist for a proceeding, there would be no way for the CSO to obtain the document to attach to the PSI.

These wait times can range from state to state and the process for obtaining these documents is different for each state, and potentially different for each state entity that the CSO is trying to contact. For example, one of our CSOs recently stated the difficulty for requesting juvenile records from California. California required the CSO to fill out six forms and for copies of these forms to be mailed to several different agencies and individuals and include personal service on the defendant in jail. In Colorado, a CSO is required to file motions for juvenile courts records. This process for obtaining these records takes a significant amount of time, sometimes taking over a month to receive these records. If all journal entries of prior convictions are required to be attached to the PSI report for every defendant going forward, this potentially could delay the court process and will increase the amount of time a CSO spends on tracking down journal entries, as well as increase the amount of time a defendant may spend incarcerated if not released on bond.

Lastly, many of these jurisdictions charge a fee to obtain journal entries. In calendar year 2020, CSOs completed 4,299 felony PSI reports. The bill does not state who is required to be responsible for this potential cost.

OJA does not take a position on the policy implications of this bill but wants to draw the committee's attention to the potential increased cost and time this proposal may have on the preparation of PSIs.

Thank you for the opportunity to offer this testimony.