

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairperson Pat Colloton at 1:30 p.m. on March 12, 2009, in Room 535-N of the Capitol.

All members were present.

Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes
Jason Thompson, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Jackie Lunn, Committee Assistant

Conferees appearing before the Committee:

Jennifer Roth, Kansas Association of Criminal Defense Lawyers
Honorable Mike O'Neal, Speaker, House of Representatives
Patti Biggs, Kansas Parole Board
Barry Wilkerson, Kansas County & District Attorneys Association

See attached list.

HB 2333 - Creating the crime of use of a controlled substance endangering a child.

Chairperson Colloton opened by recognizing Chris Meckler, Office of Judicial Administration. Ms. Meckler stated in regard to yesterday's testimony on **HB 2333** she has information regarding the discussion of the Committee and the proponents. She stated that a pregnant woman seeking treatment for SRS funded care, and IV drug users and Aids positive get moved to the list for treatment and care for substance abuse problems.

Chairperson Colloton called the Committee's attention to the handout from Kansas Legislative Research Department reviewing some of other states laws and policies regarding controlled substance use by a pregnant woman endangering the child she is carrying. (Attachment 1)

Chairperson Colloton opened the continued hearing on **HB 2333** and introduced Jennifer Roth, Kansas Association of Criminal Defense Lawyers, to give her testimony as an opponent of the bill. Ms. Roth provided written copy of her testimony (Attachment 2) and also written copy of answers to questions raised in the hearing yesterday. (Attachment 3) Ms. Roth explained about a bill in 2005 regarding an "internal possession" as a crime. The bill did not pass. She also stated she could not find a state that carried drug use of pregnant women as a separate crime. She stated they have several concerns with this bill including it would be a barrier for pregnant women seeking health care and does not address alcoholism. In closing, Ms. Roth made reference to the Substance Abuse Center of Kansas, Inc. which is located in Wichita that offers a *Health in Pregnancy Program (Sedgwick County)*

Upon the conclusion of Ms. Roth's testimony, Chairperson Colloton called the Committee's attention to the "written only" proponent testimony of Rene Smith, a private citizen. (Attachment 4)

There being no others to testify, Chairperson Colloton closed the hearing on **HB2333**.

Chairperson Colloton announce to the Committee the next order of business is to approve the Committee minutes for January 26th, January 27th and January 28th.

Representative Bethell made a motion to approve the minutes. Representative Frownfelter seconded. Motion carried.

HB 2340 - Sub. For H 2340 by Committee on Corrections and Juvenile Justice - Legislative review of parole board factors and rationale for granting or denying parole.

CONTINUATION SHEET

Minutes of the House Corrections and Juvenile Justice Committee at 1:30 p.m. on March 12, 2009, in Room 535-N of the Capitol.

Chairperson Colloton opened the hearing on **HB2340** and called on Jason Thompson, Office of the Revisor, to explain the bill for the Committee. Mr. Thompson stated the bill would abolish the Parole Board and create a new board, the Prison Review Board, in the Department of Corrections; under the direction of the Secretary of Corrections who would appoint three existing employees to the board. Everything that exist now would be transferred from the Parole Board to the Prison Review Board.

Chairperson Colloton introduced the Speaker of the House of Representatives, Mike, O'Neal, to give his testimony as a proponent of the bill. Speaker O'Neal provided written copy of his testimony. (Attachment 5) Mr. Speaker stated his testimony is a letter that he wrote to the Administrator of the Kansas Parole Board in response to a letter he received regarding an inmate that was passed over for a review for probation. The Speaker stated it is his opinion that 2008 SB 411 has not been carried out by the Parole Board which causes him great concern.

A discussion followed.

Chairperson Colloton introduced Patti Biggs, Kansas Parole Board, to give her testimony as an opponent of the bill. Ms. Biggs provided written copy of her testimony. (Attachment 6) Ms. Biggs stated the Parole Board opposes the provisions of the bill not from a self-serving perspective but from a well-balanced criminal justice system perspective with emphasis on differing missions and roles for differing participants in the system. She reviewed her testimony for the Committee. During her testimony Chairperson Colloton asked that Ms. Biggs would step aside until Monday and allow the opponents to testify that cannot return to the meeting on Monday.

Chairperson Colloton introduced Commissioner Biggs, Kansas Securities Commission, to give his testimony as an opponent of **HB 2340**. Commissioner Biggs provided written copy of his testimony. (Attachment 7) Commissioner Biggs stated doing away with the Kansas Parole Board would be an injustice to victim's families and gave information on the inmate. In closing, he stated there must be the ability to look beyond just the offense of conviction within lawful parameters to determine when the most violent offenders should be released. He called the Committee's attention to a letter from Donna Heintze, a family member of a victim of a violent offender. (Attachment 8) Lastly, he stated if the Board is moved to the Department of Corrections, the bed count will control the release of offenders.

Chairperson Colloton introduced Secretary Werholtz, Department of Corrections, to give his testimony as an opponent of the bill. Secretary Werholtz provided written testimony. (Attachment 9) He stated it was his understanding that this bill would abolish the Kansas Parole Board and establish a Prisoner Review Board under the Department of Corrections. They will do their best to carry out any new policy established. He stated that the relationship between the agencies has been very productive and hoped there would be a way for all parties to get together and reach an agreement that would solve the present issues.

Chairperson Colloton introduced Tom Stanton standing in for Barry Wilkerson, Kansas County & District Attorneys Association, to give his testimony as an opponent of **HB 2340**. Mr. Stanton provided written testimony. (Attachment 9) Mr. Wilkerson stated the boards longstanding independence reflects the recognition that the public welfare is best served by having an entity-separate and distinct from the inmates' keepers-evaluate the propriety of an inmate's release, release revocation or the conditions of release. It is the best interest of safety for the community to leave the Kansas Parole Board as it is.

Chairperson Colloton opened the floor for questions.

Chairperson Colloton announced we would continue on Monday with Patti Biggs continuing her testimony as an opponent of **HB 2340**. She adjourned the meeting at 3:10 p.m. with the next scheduled meeting being March 15, 2009 at 1:30 p.m. in room 535 N.