

Ray Roberts, Secretary

Sam Brownback, Governor

Testimony on HB 2465
to
The House Corrections and Juvenile Justice Committee

By Ray Roberts
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HB 2465 concerns the electronic monitoring of certain sex offenders sentenced pursuant to K.S.A. 21-4643 prior to its repeal and K.S.A. 2011 Supp. 21-6627 (the recodification of K.S.A. 21-4643). (Commonly referred to as "Jessica's Law" which provides a life sentence with a mandatory term of imprisonment of either 25 or 40 years dependant upon wither the offender is a 1st time or repeat offender).

Current law mandates that if and when a "Jessica's Law" offender is released from imprisonment, the Prisoner Review Board (formerly the Parole Board) must require the offender to be electronically monitored for the rest of the offender's natural life. K.S.A. 2011 Supp. 22-3717 (u) and reprinted in HB 2465 at page 19 lines 20-27. Additionally, the Prisoner Review Board is to order the offender to reimburse the state for all or part of the cost of such monitoring. K.S.A. 2011 Supp. 22-3717 (v).

HB 2465, by creation of new subsection (r) on page 9, lines 33 through 42, would provide that the district court shall order the electronic monitoring for "Jessica's Law" offenders for the duration of the offenders natural life and reimburse the state for all or part of the cost of that monitoring. As pointed out above, new subsection (r) does not alter the substantive current law; since both HB 2465 and current law set out in K.S.A. 2011 Supp. 22-3717(u) and (v) mandate a lifetime electronic monitoring for those offenders and their paying all or some of the cost of that monitoring.

The department is aware of Kansas appellate decisions which hold that district courts are without statutory jurisdiction to order lifetime electronic monitoring, but again, the department raises the question as to whether those decisions have any practical effect since those offenders must be ordered by the Prisoner Review Board to be electronically monitored if and when they are released from prison.

In addition to raising the issue of whether the amendments proposed by HB 2465 are necessary, the department would also like to bring to the Committee's attention two implementation issues. First is the issue of whether a district court at the time of sentencing is in a better position than the Prisoner Review Board after the passage of 25 or 40 years to determine the portion of the cost of the monitoring the offender should bear while under release supervision or modify that financial obligation during the release supervision due to changes in the offenders finances during the lifetime supervision. Second, pursuant to the proposed amendment provided by HB 2465 regarding the court ordering a lifetime electronic monitoring requirement, the department is concerned that provision is ambiguous as to

whether the electronic monitoring is to be implemented immediately after sentencing and thus requiring electronic monitoring even though the offender is incarcerated. In contrast, current law as provided by K.S.A. 2011 Supp. 22-3717 (u) and reprinted in HB 2465 at page 19 lines 20-27 is clear that the electronic monitoring condition is imposed upon the parole of the offender.

The department appreciates the opportunity to raise issues regarding HB 2465 before the Committee and hopes that its review of the bill is beneficial to the Committee in its deliberations.