

Approved: March 19, 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, January 18, 2012 in 144 S 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
Lauren Douglass, Legislative Research
Robert Allison-Gallimore, Legislative Research
Jackie Lunn, Committee Assistant

Conferees appearing before the Committee:

State Representative Virgil Peck
Patricia Scalia, Executive Director, BIDS
Richard Cram, Kansas Department of Revenue
Joe Lawhon, Post Audit
Mark Gleeson, Office of Judicial Administration

Others in attendance:

See attached list.

Chairperson Colloton announced to the Committee that Representative Peck asked Post Audit to take a look at how Judges were determining a person being charged to be indigent and what changes might be proposed. She went on to say those changes are being addressed in the two on the agenda for hearings in our Committee today. She called on State Representative Virgil Peck to introduce Joe Lawhon, Post Audit. Mr. Lawhon presented his summary report (Attachment 1) of the audit requested by State Representative Peck. Mr. Lawhon stated Kansas' system for providing legal services to indigent persons is generally sufficient, but has a few problems. He recommended the Board address issues pertaining to the design and use of its financial affidavit and modifying its administrative regulations; and the Kansas Supreme Court require districts courts to use the most updated version of the financial affidavit form issued or approved by the Board, and to ensure that claims submitted by private attorneys for reimbursement are submitted in accordance with the law, or propose amendments to the law.

A question and answer session with Mr. Lawhon and the Committee followed his testimony.

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Next, Chairperson Colloton introduced Patricia Scalia, Executive Director, BIDS, to give a short power point presentation on the State Board of Indigents' Defense Services (BIDS). During her presentation Ms. Scalia addressed the questions of the Committee. She stated that the Board is charged with providing legal services for indigents in a cost efficient manner. She stated they provide service in three ways: public defenders; contract attorneys; and assigned counsel. The Board has provided services to almost 26,000 individuals per year. She stated public defenders handle more cases and are more cost effectively than the other two. She stated that every single year they handle more cases even though the crime rate is going down. Assigned counsel takes almost one-half of the BIDS budget. In closing, she stated the bills before the Committee today will address some of the issues they have in being able to be more cost effective.

Upon the completion of the presentation by Ms. Scalia, Chairperson Colloton opened the hearing on **HB 2419-Determining defendant's indigence for purposes of appointing counsel**, and called on Sean Ostrow, Office of the Revisor of Statutes, to explain the bill.

Chairperson Colloton called on State Representative Virgil Peck to give his testimony as a proponent of the bill. Representative Peck provided a written copy of his testimony for the Committee and Staff. (Attachment 2) He stated he received a call from the Montgomery County Attorney about a concern he had regarding taxpayer funding of legal counsel for indigent defendants that could afford to pay their own attorney fees.

He went on to say he asked Post Audit to get involved believing that BIDS was not doing their job. Instead, he found out that BIDS was doing their job but there are problems with the procedure. In closing, he urged the Committee to support this bill and pass it our favorably for passage.

Chairperson Colloton called on Patricia, Scalia, State Director, BIDS, to give her testimony as a proponent of the bill. Director Scalia provided a written copy of her testimony for Committee and Staff (Attachment 3). She stated she sees this bill as a reminder to the Court to interrogate. She also stated by requiring the Court to do an interrogation under oath it would take approximately 15 minutes and would require a fiscal note on the bill.

A short question and answer session followed.

Chairperson Colloton introduced Helen Pedigo, Special Counsel to Chief Justice to give her testimony as a neutral party to the bill. Ms. Pedigo provided written copies of her testimony for the Committee and Staff (Attachment 4). She stated she wanted to alert the Committee the fiscal note on the bill.

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With no others to testify or speak to the bill, Chairperson Colloton closed the hearing on **HB 2419** and opened the hearing on **HB 2413-Disclosure of tax information for defendants claiming indigence**. She called on Sean Ostrow, Office of the Revisor of Statutes to explain the bill to the Committee. Mr. Ostrow provided a written copy of a proposed balloon amendment for the Committee and Staff (Attachment 5). He also explained the amendment to the Committee.

Chairperson Colloton introduced Richard Cram, Kansas Department of Revenue to give his testimony as a neutral party of the bill. Mr. Cram provided a written copy of his testimony for the Committee and Staff (Attachment 6). Mr. Cram stated they understand that the Board anticipates 26,000 defendants per year will be seeking legal defense services. The Department could not respond to this volume of requests for copies of tax returns without having to hire at least one additional staff person, as that volume would be significantly higher than the total number of requests we currently receive for copies of tax returns per year. In closing, he stated to minimize the Department's administrative costs in responding to this proposal, the Department respectfully request that **HB 2413** be amended, as suggested in the amendment attached to his testimony.

Chairperson Colloton called on Mark Gleeson, Office of Judicial Administration, to give his thoughts on the bill. He stated that it might be feasible and he would continue working with all parties to see if an agreement could be made which would accomplish the intent of the bill in the most cost effective way.

Chairperson Colloton called on Patricia Scalia, stated that **HB 2413** would amend the income taxpayer information confidentiality statute, to require the Department of Revenue to provide information from tax returns to the Board of Indigents' Defense Services (BIDS) for purposes of determining whether an individual is eligible financially to receive appointed counsel. Ms. Scalia provided a written copy of her testimony for the Committee and Staff (Attachment 7).

Chairperson Colloton called on State Representative Peck to give his testimony as a proponent of the bill. Representative Peck provided a written copy of his testimony to the Committee and Staff (Attachment 8). He stated that this bill would provide BIDS with information that would assist the Court in their decision regarding indigence of those charged with a crime.

A discussion followed.

The meeting was adjourned at 2:50 pm with the next meeting scheduled for January 10, 2012 at 1:30 pm in room 144 S.

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