

Approved: April 30, 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 15, 2012 in 144-S of the Capitol.

All members were present except:

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:

Tim Madden, General Counsel, Kansas Department of Corrections

Others in attendance:

See attached list.

Chairperson opened the floor for consideration of **HB 2498—Creating a mental health diversion option for county and district attorneys** and called on Sean Ostrow, Office of the Revisor of Statutes, to review the balloon amendment (Amendment 1). He stated the balloon amendment was changing the language to make it permissive and something they may use as a model.

Representative Brookens moved to adopt the balloon amendment the Revisor just reviewed. Representative Kelly seconded.

A discussion followed.

The chair called for a vote on the motion on the floor. Motion carried.

Representative Brookens made a motion to amend on Page 2, line 33 to change “shall” to “may”. Representative Meier seconded.

A discussion followed.

The chair called for a vote on the Brookens amendment on the floor. Motion carried.

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The discussion continued.

Representative Brookens made a motion to amend on Page 3 to delete (3) on line 3. Representative Moxley seconded. Motion carried.

Representative Brookens made a motion to amend Page 4, line 23 after the word charge add “or admit to any facts”. Representative Moxley seconded. Motion carried.

Representative Brookens made a motion to amend Page 4, line 34 to change “shall” to “may” and on line 37, to add “or if no complaint has been filed, the date of the occurrence prompting the agreement” and add on line 38 “or if no complaint has been filed, such agreement shall be maintained by the county or district attorney”. Motion carried.

Representative Moxley made a motion to move HB 2498 out favorably as amended for passage. Representative Moxley seconded. Motion carried.

Chairperson Colloton opened the hearing on HB 2602—Establishing the Kansas criminal alien rapid repatriation act and called on Tim Madden, General Counsel, Kansas Department of Corrections, to give his testimony as a proponent of the bill. Mr. Madden provided written copies of his testimony for the committee and staff, (Attachment 2). Mr. Madden stated that HB 2602 would enact the Kansas Criminal Alien Rapid Repatriation Act”. The rapid repatriation of non violent criminal aliens to their country of origin is an initiative of the U.S. Immigration and Customs Enforcement (ICE) to work with the state corrections departments to identify and deport eligible nonviolent offenders. HB 2602 would authorize is the legislative authorization or Kansas to participate in this federal ICE program. The Rapid REPAT Program of the U.S. Immigration and Customs Enforcement provides for an early release of non-violent state offenders who are criminal aliens for their removal and return to their home country. A return of the repatriated criminal alien to the United States must result in the revocation of the state release and service of the balance of the state sentence. The federal program requires modification of state law to allow for the early release of Rapid REPAT participants. The bill would authorize the participation by Kansas in the federal REPAT program. This would be limited to offenders serving sentences for nonperson felonies who have served at least ½ of the prison portion of their sentence.

A discussion followed.

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Chairperson Colloton called on Schott Schultz, Executive Director of the Kansas Sentencing Commission to review the bed impact on **HB2602**, (Attachment 3). Director Schultz reviewed The key assumptions stating the target population of the bill includes offenders who commit the nonperson felony crimes in the State of Kansas and who are not U.S. citizens. Such offenders must serve at least half of the prison sentence imposed by the court. The projected prison admission growth rate is assumed to be 2% annually, which is the same percentage used in relation to the baseline prison population forecast produced in August 2011 by the Kansas Sentencing Commission.

- Scenario One: It is assumed that **50%** of the non US citizens who are convicted of nonperson felony crimes will be released from prison after serving 50% of their sentence.
- Scenario Two: It is assumed that **75%** of the non US citizens who are convicted of nonperson felony crimes will be released from prison after serving 50% of their sentence.
- Scenario Three: It is assumed that **100%** of the non US citizens who are convicted of nonperson felony crimes will be released from prison after serving 50% of their sentence.
- The new policy effective date is assumed to be on July 1, 2012.

The Kansas Department of Corrections does not maintain data regarding the number of detainees, holds or orders of deportation for non-U.S. inmates in its prison facilities.

As of February 6, 2012, 343 non-U.S. offenders were incarcerated in prison. Of these offenders, 310 (90.4%) were convicted of person felony crimes, and 33 (9.6%) were convicted of nonperson felony crimes. The average length of sentence for offenders convicted of nonperson felony crimes was 33.

Chairperson Colloton called for any others wishing to testify or speak to the bill. There were none, so she closed the hearing in **HB 2602** and opened the floor for consideration of **HB 2568—Amendments to the Kansas offender registration act**. She called on Jason Thompson, Office of the Revisor of Statutes, to explain the bill and the balloon amendments on the bill. Mr. Thompson stated **HB 2568** would make several amendments to the Kansas Offender Registration Act. The bill would amend some key terms, including the removal of hospitals from the definition of "treatment facility", and add "adjudications" alongside convictions throughout the bill. Further, it would require courts to register offenders at conviction or adjudication, rather than at sentencing or disposition, and clarify the other responsibilities of the court with respect to offender registration at that time, including additional requirements if the offender is released. Similarly, the bill would revise the responsibilities with respect to offender registration of any correctional facility or the registering law enforcement agency's designee; the staff of any

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treatment facility; the registering law enforcement agency, upon the reporting of any offender; and the Kansas Bureau of Investigation (KBI). It also would revise offender registration requirements to remove the requirement if an offender is in the care or custody of any treatment facility and amend requirements with respect to travel outside the U.S. and information that must be provided on the registration form. Additionally, the bill would amend the 15 year registration requirement for some crimes by removing the requirement under sexual battery that one of the parties be less than 18 years of age and adding convictions of any person required by court order to register for an offense not otherwise required by the Kansas Offender Registration Act. It also would amend the lifetime registration requirement for the crime of aggravated human trafficking by removing the requirement that the victim be less than 18 years of age. The bill also would provide that no internet website sponsored or created by a registering law enforcement agency or the KBI would be allowed to contain the address of any place where the offender is an employee or any other information about where the offender works. Mr. Thompson explained the balloon amendments for the hospital group, ([Attachment 4](#)); the KBI, ([Attachment 5](#)); the Office of Judicial Administration, ([Attachment 6](#)); employment group ([Attachment 7](#)); and the municipal group, ([Attachment 8](#)). The following amendments were voted on during his explanation:

Representative Brookens made a motion to adopt the hospital amendment. Representative Kelly seconded. Motion carried.

Representative Cassidy made a motion to adopt the KBI amendment. Representative Brookens seconded. After some discussion the motion carried.

Representative Pauls made a motion to adopt the OJA amendment, Representative Goodman seconded. Motion carried.

Representative Goodman made a motion to adopt the employment group amendment. Representative Meier seconded. Motion carried.

Representative Moxley made a motion to adopt the municipal group amendment. Representative Kelly seconded. Motion carried.

Chairperson Colloton recognized Representative Brookens. He made a motion to amend the bill on Page 2, lines 6, 7, 8, to unstrike and on Page 3, line 9 and 10 to unstrike. Representative Roth seconded. Motion carried.

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A discussion followed.

Representative Brookens made a motion to move HB 2568 out favorably as amended. Representative Goodman seconded. Motion carried.

The meeting was adjourned at 3:00 PM with the next meeting scheduled for February 16, 2012 at 1:30 PM in room 144 S

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