

Report of the Joint Committee on Corrections and Juvenile Justice Oversight to the 2023 Kansas Legislature

CHAIRPERSON: Senator Molly Baumgardner

VICE-CHAIRPERSON: Representative Stephen Owens

RANKING MINORITY MEMBER: Senator Ethan Corson

OTHER MEMBERS: Senators Elaine Bowers, John Doll, Renee Erickson, Oletha Faust-Goudeau, and Kristen O’Shea; and Representatives Sydney Carlin, Dennis “Boog” Highberger, Kyle Hoffman, Jo Ella Hoye, John Resman, and Eric Smith

CHARGE

KSA 2021 Supp. 46-2801 directs the Joint Committee on Corrections and Juvenile Justice Oversight (Committee) to monitor inmate and juvenile offender populations and to review and study the programs, activities, plans, and operations of the Kansas Department of Corrections (KDOC).

The Committee studied issues relating to the KDOC workforce and retention issues and the impact of the recent salary adjustments, and it reviewed and considered amendments to the Committee’s duties and functions.

The Committee also reviewed and considered the following during the 2022 Interim:

- Mental health intervention policy, especially in western Kansas and rural areas;
- Potential recommendations from the Sedgwick County Community Task Force investigation of the in-custody death of Cedric Lofton related to mental health issues and “Stand Your Ground” laws;
- Criminal records expungement and associated costs and comparison with other states;

- Offender registry statutes;
- SB 367 (2016) Juvenile Justice Reform and the changes proposed in 2021 HB 2200 as amended by the House Committee on Corrections and Juvenile Justice;
- Practice and policies regarding recording devices in juvenile correctional facilities; and
- Juvenile crisis intervention centers.

The Committee is authorized to tour the Kansas Children's Service League headquarters in Topeka and observe community corrections in the field and see how they function in Douglas County.

Joint Committee on Corrections and Juvenile Justice Oversight

ANNUAL REPORT

Conclusions and Recommendations

The Joint Committee on Corrections and Juvenile Justice Oversight (Committee) recommends allowing all Kansas Department of Corrections (KDOC) employees to be included in the Kansas Public Employees Retirement System Corrections Plan.

The Committee recommends the Legislature consider eliminating fines and fees for justice-involved youth to include expungement fees set by each county.

The Committee requests the Chairperson, on behalf of the Committee, request the Judicial Council review the “Stand Your Ground” laws.

The Committee recommends that KDOC, the Kansas Department for Aging and Disability Services (KDADS), and Kansas Department of Health and Environment (KDHE) distribute information to first responders about the risk of putting an individual who is known to have COVID-19 in a prone position.

The Committee requests the Kansas Judicial Council reintroduce 2022 HB 2581 concerning offender registration, revised as appropriate.

The Committee requests the Secretary for Children and Families to report on the progress of the juvenile crisis intervention center law [KSA 65-536] to the House Committee on Appropriations, Senate Committee on Ways and Means, House Committee on Corrections and Juvenile Justice, Senate Committee on Judiciary, the House Committee on Health and Human Services, and the Senate Committee on Public Health and Welfare by February 1, 2023.

The Committee requests KDOC use salary funds for community corrections staffing instead of salary increases in FY 2023.

The Committee supports the refiling of 2022 HB 2575 regarding criminal record expungements.

Proposed Legislation: Four bills. The Committee requests legislation be introduced in the House:

- The Committee requests the filing of a bill similar to 2022 HB 2471 and SB 321 that would prohibit the physical restraint of juveniles in court appearances unless deemed appropriate by the court.
- The Committee requests the filing of a bundled bill that would name the Committee in honor of Representative J. Russell (Russ) Jennings, amend KSA 46-2801(k)(2) to require the Committee to monitor the implementation of juvenile justice reform and the work of the juvenile justice oversight committee, and delete current KSA 46-2801(k)(5) concerning the defunct Juvenile Justice Authority.

- The Committee requests the refiling of a bill similar to 2022 HB 2556 concerning expungement, to also include amending the timing of the waiting period to start at the date of conviction or adjudication for both adults and juveniles.
- The Committee requests the filing of a bundled bill named the Representative Gail Finney Foster Care Bill of Rights, including provisions similar to those of 2022 HB 2468 (foster youth bill of rights) and 2022 HB 2469 (foster parents bill of rights).

BACKGROUND

The 1997 Legislature created the Joint Committee on Corrections and Juvenile Justice Oversight (Committee) to provide legislative oversight of the Kansas Department of Corrections (KDOC) and the Juvenile Justice Authority. Pursuant to Executive Reorganization Order No. 42, on July 1, 2013, the jurisdiction, powers, functions, and duties of the Juvenile Justice Authority and the Commissioner of Juvenile Justice were transferred to KDOC and the Secretary of Corrections.

Statewide, there are eight adult correctional facilities: El Dorado Correctional Facility, Ellsworth Correctional Facility, Hutchinson Correctional Facility, Lansing Correctional Facility, Larned Correctional Mental Health Facility, Norton Correctional Facility, Topeka Correctional Facility, and Winfield Correctional Facility. KDOC also operates parole offices throughout the state and is responsible for the administration of funding and oversight of local community corrections programs.

There is one operational juvenile correctional facility: the Kansas Juvenile Correctional Complex (KJCC). Individuals as young as 10 and as old as 17 may be adjudicated as juvenile offenders and remain in custody in a juvenile correctional facility until age 22.5 and in the community until age 23.

The Committee's duties, as outlined in KSA 2021 Supp. 46-2801(k), are to monitor the inmate population and review and study KDOC's programs, activities, and plans regarding its statutorily prescribed duties, including the implementation of expansion projects; the operation of correctional food service and other programs for inmates; community corrections; parole; and the condition and operation of the

correctional institutions and other facilities under KDOC's control and supervision. The Committee is also charged to review and study the adult correctional programs, activities, and facilities of counties, cities, and other local governmental entities, including the programs and activities of private entities operating community correctional programs and facilities, and the condition and operation of jails and other governmental facilities for the incarceration of adult offenders.

With regard to juvenile offenders, KSA 2021 Supp. 46-2801(k) directs the Committee to review and study programs, activities, and plans involving juvenile offenders, including the responsibility for their care, custody, control, and rehabilitation, and the condition and operation of the juvenile correctional facilities. Further, the Committee is charged to review and study the juvenile offender programs, activities, and facilities of counties, cities, school districts, and other local government entities, including programs for the reduction and prevention of juvenile crime and delinquency; programs and activities of private entities operating community juvenile programs and facilities; and the condition and operation of local governmental residential or custodial facilities for the care, treatment, or training of juvenile offenders.

In addition to its statutory duties, the 2022 Committee was charged by the Legislative Coordinating Council to study the following topics:

- Mental health intervention policy, especially in western Kansas and rural areas;
- Potential recommendations from the Sedgwick County Community Task Force investigation of the in-custody death of

Cedric Lofton related to mental health issues and “Stand Your Ground” laws;

- Criminal records expungement and associated costs and compare with other states;
- Offender registry statutes;
- SB 367 (2016) Juvenile Justice Reform and consideration of the changes proposed in 2021 HB 2200 as amended by the House Committee on Corrections and Juvenile Justice;
- The practice and policies regarding recording devices in juvenile correctional facilities; and
- Juvenile crisis intervention centers.

COMMITTEE ACTIVITIES

The Committee requested and received Legislative Coordinating Council approval for three meeting days and authorization to observe community corrections in the field and see how they function. The Committee met November 28, 29, and 30, 2022, at the Statehouse. The Committee also toured the facilities of the Shawnee County Community Corrections and attended drug court at the Shawnee County District Court on November 28.

November 28, 2022, Meeting

Overview — Kansas Open Meetings Act and Kansas Open Records Act

A Senior Assistant Revisor from the Office of Revisor of Statutes provided an overview of the Kansas Open Meetings Act (KOMA) and the Kansas Open Records Act (KORA) for the Committee.

The Senior Assistant Revisor stated KOMA declares it is public policy of the State of Kansas that meetings for the conduct of governmental affairs and the transaction of governmental business be open to the public (KSA 75-4317).

The Senior Assistant Revisor stated KORA declares it is public policy of the State of Kansas that public records be open for inspection by any person unless otherwise prohibited in the Act (KSA 45-216). KORA requires each public agency to adopt procedures regarding requesting access to and obtaining copies of public records. The Senior Assistant Revisor noted this Committee is a public agency under KORA.

Overview — Committee’s Duties and Functions in KSA 46-2801

A Senior Assistant Revisor from the Office of Revisor of Statutes provided an overview of the Committee’s statutory duties and functions. The Senior Assistant Revisor stated several sections of law contain outdated language that refer to the Juvenile Justice Authority.

Overview — Committee Recommendations and Proposed Legislation from the Five Prior Interim Meetings

A Research Analyst from the Kansas Legislative Research Department provided an overview of the Committee’s historical recommendations and proposed legislation from the previous five interim meetings.

Overview — SB 367 Juvenile Justice Reform and Consideration of the Changes Approved in 2021 HB 2200 as Amended by the House Committee on Corrections and Juvenile Justice

An Assistant Revisor from the Office of Revisor of Statutes provided an overview of 2016 SB 367 Juvenile Justice Reform legislation and trailer bills, 2017 House Sub. for SB 42 and 2018 House Sub. for SB 179. The Assistant Revisor then gave an overview of 2021-2022 HB 2200 and its procedural history and the amendments adopted by the 2022 House Committee on Corrections and Juvenile Justice.

The Vice-chairperson provided additional information on 2021-2022 HB 2200, stating the House Committee had heard from conferees and worked the bill to allow evidence-based program account money to be used for more juveniles, require KDOC to build data systems, and allow the overall case length limit to be extended for certain juvenile offenders.

Overview — Court Services

A Court Services Specialist from the Office of Judicial Administration provided an overview of Court Services. Court Services is administered by the Office of Judicial Administration (OJA), which is part of the Judicial Branch. The state contains 31 judicial districts with 403 Court Services officers, who are Judicial Branch employees.

Statutory responsibilities for adults by Court Services include pretrial supervision, presentence investigation reports, risk and needs assessments, house arrest, supervision, and dispute resolution. The specialist stated OJA currently supervises 8,267 adult misdemeanor cases and 2,876 adult felony cases.

Statutory responsibilities for juveniles by Court Services include pretrial supervision, predisposition reports, risk and needs assessments, house arrest, immediate intervention, and child-in-need-of-care informal supervision.

Overview — Community Corrections

Three representatives of adult and juvenile Community Corrections associations and agencies provided an overview of their functions. Community Corrections agencies in Kansas are part of county governments and make up 31 statutorily mandated programs that provide community-based supervision of adults and juvenile offenders in place of incarceration.

The representatives thanked the Committee for approving the FY 2022 request of \$14.3 million added to their grant allocation that provided \$2.6 million in FY 2022 and will provide \$9.2 million in FY 2023. The representatives also requested \$6.0 million in additional funds for operational costs due to previous flat funding, \$4.5 million to increase staffing, and \$1.0 million for behavioral health services for FY 2024. They highlighted the need for flexibility in using additional grant funds from KDOC for new hires in addition to wage increases.

Tour — Shawnee County Community Corrections Office

The Director of the Shawnee County Community Corrections along with several Community Corrections officers talked about their

experiences working with adults and juveniles in the office. The Committee members asked questions about programming, the funding source of those programs, and what priorities needed to be addressed by the Legislature.

Tour — Shawnee County District Court

A Shawnee County District Court Judge and members of the drug court staff gave the Committee an overview of what drug court is and how it is operated. A recent graduate of the program described how the program turned their life around and helped them recover from a drug addiction. Finally, current drug court program participants checked in with the Judge. Committee members asked questions of the Judge and drug court staff.

Overview — Community Taskforce to Review Youth Corrections Systems Standards in Sedgwick County

The Assistant County Manager of Sedgwick County and the Director of the Sedgwick County Department of Corrections gave the Committee background information on the reasons for the creation of the taskforce. The Assistant County Manager also gave an overview of the work of the task force including work done in its 13 sessions and task force recommendations.

November 29, 2022, Meeting

Overview — Criminal Records Expungements and Associated Costs

A Research Analyst from the Kansas Legislative Research Department provided an overview of expungement processes and costs for Kansas and surrounding states. A member of the Kansas Judicial Council's Advisory Committee on Criminal Law suggested five recommendations from the Kansas Judicial Council regarding expungements. The Director of Information Services with the Kansas Bureau of Investigation (KBI) testified about the expungement process from that agency's perspective, specifically on expunging DNA evidence.

Overview — Offender Registration

An Assistant Revisor from the Office of Revisor of Statutes provided an overview of offender registration laws and reforms in Kansas.

Two members of the Kansas Judicial Council’s Advisory Committee on Offender Registration presented the Committee with their recommendations to reform the Kansas Offender Registration Act, emphasizing the recommendation to repeal sex offender registration requirements for juvenile offenders. The Manager for the Offender Registration Unit with the KBI then presented an overview of the offender registration website and its data analytics.

Overview — Substance Abuse Treatment and SB 123 Program

The Executive Director of the Kansas Sentencing Commission gave an update on the Substance Abuse Treatment Program implementing 2003 SB 123 and subsequent amending legislation.

Panel — Workforce Training

A workforce training panel consisting of the Executive Director of Programs and Risk Reduction for KDOC, the Mayor *Pro Tem* of Leavenworth, the Chief Executive Officer of Zephyr Products, the Chief People Officer of Zephyr Products, and the Executive Director of NCircle, a nonprofit, spoke to the Committee about their individual roles in getting formerly incarcerated citizens to return to the workforce.

Several of the panelists shared their personal experiences from incarceration back into society and the workforce. Other panelists described the needs of inmates and the needs of employers in making it a success to integrate inmates and former inmates into their private businesses. The KDOC representative discussed the importance of a sustained liveable wage to keep returned citizens on the path to success.

November 30, 2022, Meeting

Overview — Kansas Department of Corrections

The Secretary of Corrections (Secretary) provided information on various KDOC operations and issues.

Workforce Retention and Initiatives

The Secretary described current KDOC staffing issues, including critical staff shortages and vacancies, challenges in recruiting and

retention, and the resulting impacts on public, inmate, and staff safety. The Secretary noted that staffing in correctional settings is a national challenge and not unique to Kansas. He stated Colorado and Nebraska departments of corrections have implemented new hire and retention bonuses along with increased hourly pay to reduce vacancies.

KDOC implemented base pay increases for adult and juvenile correctional officers that work in 24/7 facilities. For newly hired correctional officers, base pay increases occur at 3, 9, and 12 months with the agency. Previously hired correctional officers, parole officers, and unit team members received a one-time base pay increase.

The Secretary addressed four temporary pay differentials that hourly employees working at 24/7 facilities were eligible for, from \$1.50 to \$4.50 of pay per hour. Salaried employees working in a 24/7 facility were eligible for a one-time meritorious bonus of up to \$3,500. For FY 2023, \$33.9 million was appropriated to cover the 24/7 facility pay plan expenditures.

KDOC representatives gave an update on recruiting efforts, their application process, and increasing focus on employee wellness.

Budget Enhancements and Capital Improvements

The Secretary gave an overview of requested budget enhancements, including fully funding existing contract costs, replacement of equipment and vehicles, investments in workforce and programs, and indexing the Correctional Institution Building Fund appropriation to inflation.

The Secretary listed capital improvement projects for FY 2024 and FY 2025:

- Lansing Correctional Facility – Demolish old units and provide Career Campus seed money;
- Topeka Correctional Facility – Construct new behavioral health/medical/support building, construct new laundry, and construct work release center for women;

- Hutchinson Correctional Facility – Construct new minimum security unit, and construct new facility to replace the current Hutchinson facility;
- Kansas Juvenile Correctional Facility – Construct vocational building;
- Statewide staff development center; and
- Douglas County/northeast Kansas – Construct work release center for men.

Federal COVID-19 Funds Received by KDOC

The Secretary provided an overview of the COVID-19 federal funds appropriated to KDOC from three sources: Coronavirus Relief Funds, Coronavirus Emergency Supplemental Fund, and American Rescue Plan Act moneys. The total amount from all sources was \$57,621,821.

Juvenile and Adult Updates

The Secretary described updates to both the juvenile correctional system and the adult correctional system. He said in this labor economy, KDOC is focused on both staffed and physical capacity of facilities. The Secretary noted there are increased postsecondary education opportunities through the Second Chance Pell program, and KDOC now has Pell-eligible college programming in all correctional facilities.

The Secretary said KDOC has moved forward with public-private partnerships authorized by 2021 HB 2401 [KSA 75-52,167 *et seq.*]. KDOC has created an approved 501(c)(e) nonprofit entity, and there is a contract with a consultant to perform a pre-fundraising campaign study to identify the feasibility of raising funds for the Lansing Career Campus. The Secretary discussed the impact of a sustained livable wage job to providing stability for returning citizens.

The Secretary said 2022 SB 267 included \$6.7 million, all from the American Rescue Plan Act (ARPA) funds, for new technical education equipment for Wi-Fi network and tablets, commercial driver’s license simulators, and virtual welders. The Secretary said demolition of Honor Camps is moving forward, the remodeling project

for the dorms for the geriatric/cognitive care unit at the Winfield Correctional Facility will be completed in December, remodeling of the Winfield Correctional Facility dining hall and kitchen is delayed due to sourcing of supplies, and remodeling on the substance abuse treatment and work release unit at the Lansing Correctional Facility is ongoing. He gave an update on the Athena data system implementation and evidence-based program fund.

Legislative Initiatives

The Secretary said KDOC would like to work with the 2023 Legislature to change the name of the Larned Correctional Mental Health Facility and to provide authority for state agencies to pay employee bonuses for recruiting and retention.

Overview — Report on KDOC Facility Study

Representatives of the Dewberry firm, National Justice Practice division, presented their findings from the Juvenile Facility Study they conducted with Clark & Enersen, an architectural and engineering firm. They described the threefold scope of the study: to establish three or more smaller, new regional juvenile facilities; to review the repurposing of the existing Kansas Juvenile Correctional Complex for adults; and to study only enhancing the existing Kansas Juvenile Correctional Complex for youth.

The Committee asked the Secretary his opinion on the best option regarding use of the Kansas Juvenile Correctional Complex. He answered he does not know the best path forward for the building. He said national trends are moving towards smaller unit prisons, but that building more facilities is costly and staffing of those facilities could prove difficult.

Presentation — Arista Recovery

The Vice President of Arista Recovery addressed the establishment of Arista Recovery and the mental health and substance abuse treatment services that the for-profit treatment facility offers.

Overview — Juvenile Crisis Intervention Centers

The Director of the Johnson County Department of Corrections provided background on 2018 House Sub. for SB 179, which created

and amended law to establish juvenile crisis intervention centers (JCICs). The Director described a facility in Johnson County that could serve as a JCIC if there were sustainable state funding and support from the Johnson County Board of County Commissioners. The Committee had lengthy discussion about the history of the Department for Children and Families (DCF) and the Kansas Department for Aging and Disability Services (KDADS) and the requirements to fulfill the requirements of 2018 bill. Although no agency representatives were present at the meeting, KDADS and DCF submitted written-only testimony.

Overview — Justice Reinvestment Initiative in Kansas

The Committee heard an overview on the Justice Reinvestment Initiative (JRI) from a policy analyst from the Council of State Governments (CSG) Justice Center. The analyst explained that the JRI process, which started in 2020, helped identify three key challenges in Kansas: increases in sentences to prison for drug offenses, use of prison to sanction people who violate supervision conditions, and barriers to work and limited behavioral health and reentry supports. The recommendations were targeted toward four policy areas: diversion and specialty courts, community supervision, behavioral health, and reentry. The CSG analyst suggested policy recommendations to the Committee for the next legislative session to continue to address the challenges identified in Kansas.

Overview — Juvenile Fines and Fees

The Campaign Director of Kansas Appleseed and the State Policy Manager for Justice Action Network presented an overview of the types of fines and fees that can be assessed to justice-involved youth.

CONCLUSIONS AND RECOMMENDATIONS

At the end of its November 30 meeting, following discussion, the Committee adopted the following recommendations.

The Committee recommends allowing all KDOC employees to be included in the Kansas

Public Employees Retirement System Corrections Plan.

The Committee recommends the Legislature consider eliminating fines and fees for justice-involved youth to include expungement fees set by each county.

The Committee requests the Chairperson on behalf of the Committee request the Judicial Council review the “Stand Your Ground” laws.

The Committee recommends that KDOC, KDADS, and the Kansas Department of Health and Environment distribute information to first responders about the risk of putting an individual who is known to have COVID-19 in a prone position.

The Committee requests the Kansas Judicial Council reintroduce 2022 HB 2581 concerning offender registration, revised as appropriate.

The Committee requests the Secretary for Children and Families report on the progress of the juvenile crisis intervention center law [KSA 65-536] to the House Committee on Appropriations, Senate Committee on Ways and Means, House Committee on Corrections and Juvenile Justice, Senate Committee on Judiciary, and both health committees by February 1, 2023.

The Committee requests KDOC use salary funds for community corrections staffing instead of salary increases in FY 2023.

The Committee supports the refiling of 2022 HB 2575 regarding criminal record expungements.

The Committee also recommended introduction of several bills regarding prohibiting the physical restraint of juveniles in court appearances unless deemed appropriate by the court, naming the Committee in honor of Representative J. Russell (Russ) Jennings and amending KSA 46-2801, expungements and timing, and naming a bundled bill in honor of Representative Gail Finney that includes the foster youth bill of rights and the foster parents bill of rights.