



KPOA 2010 Legislative Report No. 2

January 22, 2010

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General Information:

Testimony was provided on:

HB2411 (K-2) in House Corrections and Juvenile Justice

Kyle Smith provided testimony on behalf of KPOA.

HB2423 (911 fees) in House Energy and Utilities Committee.

Committee made several amendments and recommended it to pass to the House. The amendments were non-controversial. An attempt by Sprint to amend it to allow the cell phone companies to recover costs from the funds was defeated 8-10 by the committee. We anticipate they will attempt a floor amendment on this. The bill also prohibits using the funds for field radios.

HB2439 (Texting) in House Transportation Committee.

No committee action yet. They plan on working it next week.

SB96 (KP&F plan for new employees)

This bill proposes making a new KP&F plan with enhanced benefits including a lifetime annual COLA in benefits for new employees. It mirrors the new KPERS plan that went into effect last July 1. It does not increase the cost to employers and is funded solely by employee contributions. This was introduced last year but was not worked by the committee. He will help us get it moving in the hearing process. This is part of an overall plan leading to COLAs for existing retirees and hopefully a plan to eventually include existing employees in a plan providing benefit COLAs.

SB179 (Racial Profiling)

This bill was removed from the Senate Calendar and re-referred to the Senate Federal and State Affairs Committee. No further action is scheduled at this time.

SB348 (Adding K-2 and BZP to schedule 1)

This bill was passed by the Senate 36-1. Senator Haley was the lone vote against it. It now goes to the House. Meanwhile the House heard testimony on HB2411 but hasn't worked the bill in committee yet.

SB352 (LE Qualifications)

Sen. Hensley was very receptive to our concerns on the LE qualifications. He understands our position and agreed the bill went too far to address what he is trying to accomplish. He agreed to pull this bill from further action. His concern is with felony diversions and not with felony or domestic violence convictions or expungements. There may be a different bill on this later.

HB2140 (public safety retirees paying health insurance from retirement benefits pretax)

This bill proposes statutory authority for KPERS to allow retirees to pay their health insurance premiums pre-tax from their benefits as allowed by IRS laws. This bill was introduced last year and we can't get the House to move forward with it. He agreed to introduce an identical

bill in the Senate and help us keep it moving. If it is passed, it is estimated to save each public safety retiree utilizing it about \$450 per year.

HB2413 (distribution of district court fines)

The purpose of this bill is to increase revenues to the DOC to fund additional treatment programs. Our concern with this bill is the statute includes the funding for the Traffic Records Coordinating Committee. We want to be sure what they do does not reduce that funding. The chair (and I) were concerned the direction things were going was going to end up reducing either the money in the general fund from this source and/or the funding for the other programs. She suggested an option of raising the district court traffic fines slightly to increase the revenues to cover the DOC treatment costs. I evaluated the feasibility of this plan. It appears raising the traffic fines \$5 will cover the DOC treatment program funding they are seeking but not at the expense of the other programs funded through this source and not at the expense of the general fund. She will present it to the Committee next week.

HB2517 (domestic violence)

This bill was introduced on Friday. The chair of the House Corrections and Juvenile Justice Committee asked me to review the domestic violence bill draft prior to introduction. I was able to convince her to make an amendment to the bill by eliminating the “predominant aggressor” language prior to having the bill introduced and published. This bill reflects the work over the interim by the Judicial Council’s Criminal Law Advisory Committee. It is a much improved bill due to their work.

SB392 and HB2474 (On line vehicle liability verification)

The two on-line insurance verification bills are driven by a vendor for a camera tag reading system attempting to combine their product and a solution to the no insurance problem. From the motor vehicle perspective, the proposals of this bill are not realistic, especially at the same time they are replacing their entire computer systems for driver’s licenses and registration. I agree with that assessment. There are also huge hurdles with gaining the information from insurance companies in real-time.

Budget Issues

I have been attempting to monitor committee discussions on further cuts to the current FY budget for any activity that might directly affect local law enforcement funding. In particular I was watching for things like fund sweeps such as happened last year with the drug tax money. No such action was discussed to my knowledge.

Personalized tags

There is talk by some legislators to introduce a bill to again allow personalized tags with the same letter-number combination in each county. The cost to do this is \$250,000 to allow the new Department of Revenue computer system to permit this. And, of course, multiple tags with the same number cause difficulty for law enforcement. HB2481 could become a target for this effort.

Committee Action Scheduled for Next Week:

Monday, January 25, 2010

House Corrections and Juvenile Justice Committee, 1:30

[HB2451](#) BZP and TFMPP (They also plan to work HB2411 on K-2 and may roll these two bills together.)

House Judiciary Committee, 3:30

[HB2417](#) District Court judge retirements and positions replace by magistrate judges

HB2429 Reassignment of District Court judges

Tuesday, January 26, 2010

House Corrections and Juvenile Justice Committee, 1:30

[HB2413](#) Distribution District Court fines

[HB 2503](#) - Authorizing and requiring the secretary of corrections to supervise parole offices and other release mechanisms and entities.

House Judiciary Committee, 3:30

[HB2226](#) AG or District or County Attorneys requests for grand juries

Wednesday, January 27, 2010

Senate Judiciary Committee, 9:30

[SB351](#) Texting while driving as criminal offense

House Corrections and Juvenile Justice Committee, 1:30

[HB2518](#) Sentencing Proportionality

Thursday, January 28, 2010

House Corrections and Juvenile Justice Committee, 1:30

[HB2469](#) concerning sentencing. This appears to be a technical correction and I don't believe there is much of a LE concern.

Senate Judiciary Committee, 9:30

Working death penalty bills

NEW BILLS INTRODUCED THIS WEEK:

[SB386](#), An act concerning criminal procedure; relating to discovery and inspection; amending K.S.A. 22-3212 and repealing the existing section; also repealing K.S.A. 22-3433.

By Committee on Judiciary

Referred to Senate Judiciary Committee

The title of this bill had me thinking it was another attempt at opening search and arrest affidavits. But it isn't. This one just amends KSA 22-3212 so that prosecutors can redact personal identification information from certain documents the statute already requires to be released to defendants. It is one we may want to look at as it might help protect officer's and victim's personal information. But the bill has no administrative impact on LE since the statute deals with prosecutors releasing information to defendants.

[SB392](#), An act establishing the on-line motor vehicle financial security verification and compliance system; amending K.S.A. 2009 Supp. 8-173 and repealing the existing section.

By Committee on Transportation

Referred to Senate Transportation Committee

Same as HB2474

See my comments in General Information Section of this report.

[SB399](#), An act concerning crimes, punishment and criminal procedure; relating to aggravated endangering a child; controlled substances; amending K.S.A. 2009 Supp. 21-3608a, 21-36a01, 21-36a05, 21-36a10 and 21-36a13 and repealing the existing sections,

By Committee on Judiciary.

Referred to Senate Judiciary Committee

This bill has many amendments to statutes, but basically it provides that aggravated endangering a child includes exposing a child under the age of 18 to an environment with illegal drugs. It also adds as an aggravator for selling illegal drugs in the presence of a minor, on park property, or to a pregnant person.

[HB2468](#) , An act concerning crimes, criminal procedure and punishment; relating to sex offender registration requirements; amending K.S.A. 22-4906 and repealing the existing section.

By Committee on Corrections and Juvenile Justice

Referred to House Corrections and Juvenile Justice Committee

This bill proposes adding “*any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in this subsection.*” to the requirement to register as an offender. The term “an offense defined in this subsection” refers to all the offenses currently requiring a convicted person to register.

[HB2469](#), An act concerning crimes and punishment; relating to sentencing; amending K.S.A. 21-4710 and repealing the existing section.

By Committee on Corrections and Juvenile Justice

Referred to Corrections and Juvenile Justice

This bill proposes to make a technical modification to the statute on determining criminal history levels on the sentencing grid. It doesn't appear to have any direct or major impact on LE.

[HB 2474](#), An act establishing the on-line motor vehicle financial security (Motor vehicle liability insurance) verification and compliance system; amending K.S.A. 2009 Supp. 8-173 and repealing the existing section,

By Representatives Merrick and O'Neal.

Same as SB392

See my comments in General Information Section of this report.

[HB 2481](#), An act relating to motor vehicles; concerning personalized license plates; amending K.S.A. 2009 Supp. 8-132 and 8-133 and repealing the existing sections,

By Committee on Transportation.

Referred to House Transportation Committee

Currently persons receiving personalized tags get two tags. One has to be displayed on the back of the vehicle as any tag does. The second may be displayed on the front of the vehicle. This bill reduces this to only one tag issued and it must be displayed on the back of the vehicle. It is a budget cutting measure. I don't see any need for us to get involved.

[HB 2482](#), An act relating to drivers' licenses; concerning the expiration and renewal thereof; amending K.S.A. 2009 Supp. 8-247 and repealing the existing section,

By Committee on Transportation.

Referred to House Transportation Committee

This bill changes several provisions for driver's license renewal. It is primarily a cost saving measure and none look like they are detrimental to law enforcement. It also adds dependants to the provisions for of active duty military personnel renewals. I don't see any need for us to get involved. Also see my comments in General Information on personalized tags.

[HB 2483](#), An act relating to drivers' licenses; concerning requirements for restricted driver's license; amending K.S.A. 2009 Supp. 8-2,101 and repealing the existing section, by Committee on Transportation.

This bill removes the requirement of successfully completing an approved driver's education course prior to obtaining a restricted driver's license. I don't see any need for us to get involved.

[HB 2484](#), An act relating to commercial driver's licenses; concerning diversion agreements; amending K.S.A. 2009 Supp. 8-2,150 and repealing the existing section, by Committee on Transportation.

This bill closes a loophole in KSA 8-2,150 concerning diversion agreements with commercial driver's license holders. I don't see any need for us to get involved.

[HB 2485](#), An act relating to motor carriers; increasing time period for verification of compliance with certain requirements; amending K.S.A. 2009 Supp. 66-1,114 and 66-1,114b and repealing the existing sections, by Committee on Transportation.

This bill changes the time period for the commerce commission to verify a public motor carrier holding a certificate of convenience and necessity continues to be fit knowledgeable, and in compliance with several rules. No major LE issue for local law enforcement. I don't see any need for us to get involved.

[HB 2489](#), An act concerning crimes, criminal procedure and punishment; relating to the violation of parole, probation or other postrelease supervision term by a defendant; amending K.S.A. 22-3716 and repealing the existing section,

By Committee on Corrections and Juvenile Justice.

Referred to House Corrections and Juvenile Justice Committee

This bill clarifies the court probation condition violator may be sentenced to not less than the sentence originally imposed. I don't believe there are any major LE concerns in this bill but we might want to just keep an eye on it since it impacts length of sentence for a condition violator.

[HB 2492](#), An act relating to insurance; concerning motor vehicle liability insurance coverage; amending K.S.A. 2009 Supp. 40-3104 and repealing the existing section,

By Committee on Insurance.

Referred to House Insurance Committee

This bill requires the proof of insurance document provided by insurance companies to include the make and year of the insured vehicle. I don't see any need for us to get involved.

[HB 2494](#), An act concerning children in need of care; relating to removal of child from parent's custody; amending K.S.A. 2009 Supp. 38-2255 and 38-2269 and repealing the existing sections,

By Committee on Federal and State Affairs.

Referred to House Judiciary

This bill provides a child may not be removed from the parent's custody solely because the parent(s) are homeless. I don't see any need for us to get involved.

[HB 2498](#), An act relating to drivers' licenses; concerning certain restricted licenses; amending K.S.A. 2009 Supp. 8-296 and 8-2,101 and repealing the existing sections.

By Committee on Transportation

Referred to House Transportation Committee

Adds going to and from a religious service or function as an acceptable use of a restricted driver's license. I don't see any need for us to get involved.

[HB 2499](#), An act regulating traffic; concerning distracted driving; amending K.S.A. 2009 Supp. 8-2118 and repealing the existing section.

By Committee on Transportation

Referred to House Transportation Committee

This bill proposes a general traffic statute covering the driver engaging in any act distracting the driver from the driving duties. **I WELCOME YOUR OPINIONS ON THIS.**

[HB 2502](#), An act establishing the child witness protection act.

By Committee on Corrections and Juvenile Justice

Referred to House Corrections and Juvenile Justice Committee

This bill proposes some allowable provisions in the courtroom to assist and protect children appearing as witnesses. I don't see any need for us to get involved.

[HB 2504](#), An act concerning crimes, criminal procedure and punishment; relating to the calculation of good time credits for inmates on postrelease supervision; amending K.S.A. 21-4722 and K.S.A. 2009 Supp. 22-3717 and repealing the existing sections.

By Committee on Corrections and Juvenile Justice

Referred to House Corrections and Juvenile Justice Committee

Currently any good time resulting in a reduced prison term is added to the time of postrelease supervision. This bill proposes removing that provision.

[HB 2505](#), An act concerning crimes, criminal procedure and punishment; relating to the Kansas parole board; discharge of an inmate by the parole board; amending K.S.A. 22-3722 and K.S.A. 2009 Supp. 22-3717 and repealing the existing sections.

By Committee on Corrections and Juvenile Justice

Referred to House Corrections and Juvenile Justice Committee

The proposed changes to this bill are on Page 10. It moves the provision of for the parole board to release a parolee from parole from one statute to another and removes the “not less than one year after the date of release clause.” This appears to be part of the effort to reduce the case load on parole officers by shortening the period of time of supervision when the state deems they are “rehabilitated.”

[HB 2506](#), An act concerning crimes, criminal procedure and punishment; relating to the Kansas parole board; considerations of the parole board when determining eligibility; amending K.S.A. 2009 Supp. 22-3717 and repealing the existing section.

By Committee on Corrections and Juvenile Justice

Referred to House Corrections and Juvenile Justice Committee

This appears to be more of a technical amendment than anything else. The big item in it is allowing the parole board to consider the current sentencing period when considering parole for persons imprisoned for crimes committed prior to the start of the sentencing grid. This is something they have already been doing.

[HB 2507](#), An act concerning crimes, criminal procedure and punishment; relating to the Kansas parole board; conditions of parole and postrelease supervision; amending K.S.A. 2009 Supp. 22-3717 and repealing the existing section.

By Committee on Corrections and Juvenile Justice

Referred to House Corrections and Juvenile Justice Committee

This bill amends postrelease condition requirements. It does not seem to be controversial.

[HB 2508](#), An act concerning crimes, criminal procedure and punishment; relating to the Kansas parole board; deferral of parole board hearings; amending K.S.A. 2009 Supp. 22-3717 and repealing the existing section.

By Committee on Corrections and Juvenile Justice

Referred to House Corrections and Juvenile Justice Committee

Current law allows the parole board to defer another hearing for ten years under certain conditions. This law changes that to 5 years and mandates the parole board move up hearings on anyone deferred for more than five years under current law. This appears to be part of the current effort to get more people out of prison sooner.

[HB 2509](#), An act concerning the commitment of sexually violent predators; relating to notice of release into a work release program; amending K.S.A. 59-29a03 and repealing the existing section.

By Committee on Corrections and Juvenile Justice

Referred to House Corrections and Juvenile Justice Committee

This bill proposes adding the release of persons convicted of a sexually violent crime to work release requires written 90-day notice to the AG.

[HB 2510](#), An act amending the vehicle dealers and manufacturers licensing act; relating to temporary vehicle registration; amending K.S.A. 8-2409 and repealing the existing section.

By Committee on Federal and State Affairs

Referred to House Transportation Committee

This bill proposes permitting trucks, truck tractors, or semitrailers to operate on a temporary registration for 30 days instead of the current 48 hours.

[HB 2513](#), An act concerning children in need of care; relating to runaways; amending K.S.A. 2009 Supp. 38-2231 and repealing the existing section.

By Committee on Federal and State Affairs

Referred to House Judiciary Committee

This bill removes the authorization for law enforcement to allow a runaway to remain at a place of shelter when there is reason to believe it is in the best interest of the child and the person providing shelter voluntarily reports the location of the runaway. It proposes requiring all runaways to be placed in a secure facility until a CINC determination is made. It also defines a runaway.

[HB 2517](#), An act concerning crimes, punishment and criminal procedure; relating to domestic violence; amending K.S.A. 20-369, 22-2307 and 22-2401 and K.S.A. 2009 Supp. 21-3110, 21-4603d and 75-712 and repealing the existing sections.

By Committee on Corrections and Juvenile Justice

Referred to House Corrections and Juvenile Justice Committee

I expect a hearing on this bill the first week of February. I will also attend a meeting with the committee chair to discuss this bill on January 27th.

This is the new domestic violence bill replacing the one from last year that had so many problems. This bill contains the suggestions of the Judicial Council Criminal Law Committee who held several meetings over the interim which I attended and was allowed to provide input. This bill is much, much better than the one last year. Unlike last year's bill this one retains the current domestic battery statute. This proposed law will apply to other crimes committed as an act of domestic violence and will standardize the definition for domestic violence across the state. It provides for evaluation and treatment of domestic violence offenders. Also see the Judicial Council's [Criminal Law Advisory Committee Report](#). **I encourage us to support this bill.**

[HB 2518](#), An act concerning crimes, punishment and criminal procedure; amending [a large number of criminal offenses].

By Joint Committee on Corrections and Juvenile Justice Oversight

Referred to House Corrections and Juvenile Justice Committee

A hearing on this bill is scheduled for January 27th.

This is the new sentencing proportionality bill replacing the bill from last year that caused so much controversy. Most of the controversial items have been removed. It is the product of the Kansas Sentencing Commission Proportionality Subcommittee of which I am a member. This bill does make some substantial changes. It combines the non-drug and drug sentencing grids, it changes the sale of illegal drugs to a quantity severity system, and it standardizes the dollar value of theft and other value related crimes. Also see the [Sentencing Commission Summary](#) and the [Revisor's Summary](#) for the bill. The drug quantity provisions are a big component of this bill addressing disproportionate sentencing in Kansas. First, SL1 and SL2 drug crimes have a sentencing downward departure rate of over 80%. Second, Kansas is one of the few states that does not use quantity to establish various severity levels for drug distribution. In the current system the level of punishment is the same for giving a joint, single pill, or single drug dose to another person as it is for selling an entire semi load of the same drug. The development of the drug provisions was done with consultation with several forensic labs in the state including the KBI, several local narcotics units, and prosecutors. **There may be changes we want to pursue, but I encourage us to support this bill.**