

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Pat Colloton at 1:30 p.m. on February 17, 2009, in Room 535-N of the Capitol.

All members were present.

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Jackie Lunn, Committee Assistant

Conferees appearing before the committee:

Roger Werholtz, Secretary Department of Corrections
Kathy Porter, Judicial Administration

HB 2139 - Disposition of district court fines, penalties and forfeitures; percentage credited to department of corrections alcohol and drug abuse treatment fund.

Chairperson Colloton opened the hearing on **HB 2139** and explained the bill to the Committee. While doing so she referred to a handout of the table on "*Approximate Remittances of District Court Fines, Penalties, and Forefutures pursuant to KSA74-7336*". (Attachment 1) Upon the completion of her explanation she called on Secretary Roger Werholtz to give his testimony as a proponent of the bill. Secretary Werholtz provided written copy of his testimony (Attachment 2) and introduced Dennis Williams, Director of Finance for the Kansas Department of Corrections. Director Williams stated allocated fines, penalties and forfeitures collected by district courts go to various program funds including the Department of Corrections' alcohol and drug abuse treatment fund. The bill would increase the allocation from 2.01% to 6.3%. He also stated he was offering an amendment to raise 6.3% to 7.75% and urged the Committee to pass the bill our favorably as amended.

A question and answer session followed.

Chairperson Colloton introduced Kathy Porter, Judicial Administration, to give her testimony as a neutral party of **HB 2139**. Ms. Porter provided written copy of her testimony. (Attachment 3) She stated she was a neutral party to the bill and her purpose for testifying is to make the Committee aware of the fiscal note and reviewed that for the Committee. In closing, she stated under the provisions of this bill, the State General Fund would receive approximately \$887,541 less in FY 2010.

A short discussion followed.

Being no others wishing to testify, Chairperson Colloton closed the hearing on **HB 2139**.

Chairperson Colloton inquired if the Committee would like to work **HB 2139** at this time. **Representative McCray Miller recommended the Committee add the following amendments to the bill: change the language on line 4, Section 1 changing 6.3% to 7.01% and strike sections 8 and 9. Representative Frownfelter seconded the motion.**

A discussion followed.

Representative Patton made a substitute motion for a substitute amendment which included the changes of Representative McCray-Miller and an amendment that would take \$200,000 out of the Crime Victims Fund and have it go to the KBI Lab. Representative Brookens seconded.

Representative Patton explained his amendment and the reasons for his request. A discussion followed.

CONTINUATION SHEET

Minutes of the House Corrections And Juvenile Justice Committee at 1:30 p.m. on February 17, 2009, in Room 535-N of the Capitol.

Chairperson Colloton called for a vote on the substitute amendment of Representative Patton. Motion failed by show of hands.

Chairperson Colloton called the Committee's attention back to the original motion on the floor.

A lengthy discussion followed.

Chairperson Colloton called for a vote on the McCray-Miller motion on the floor. Motion carried by show of hands.

Representative Frownfelter made a motion to pass HB 2139 out favorably as amended Representative Kinzer seconded. Motion carried by show of hands.

HB 2165 - Establishing recklessness as a standard in unlawfully hosting minors in a person's residence.

Chairperson Colloton called the Committee's attention to **HB 2165** for passage.

Representative Patton made a motion to pass the bill out favorably with his amendment. Representative Dillmore seconded.

Representative Patton provided written copy of his amendment (Attachment 4) and explained the amendment to the Committee. A lengthy discussion followed.

Chairperson Colloton called for a vote of the motion on the floor to pass the bill out favorably as amended. Motion carried.

Chairperson Colloton adjourned the meeting at 2:50 p.m. with the next meeting scheduled for February 18, 2009 at 1:30 p.m. in room 535 N.

Table 1: Approximate Remittances of District Court Fines, Penalties, and Forfeitures pursuant to KSA 74-7336

Agency	Fund	Purpose of Fund	Percent of Total Remittance	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Attorney General	Crime Victims Compensation Fund	Payment of compensation pursuant to KSA 74-7301 et seq., and amendments thereto, and for state operations of the crime victims compensation board.	11.99%	\$ 2,310,957.86	\$ 2,427,342.22	\$ 2,505,793.03	\$ 2,548,005.16	\$ 2,480,563.68
Attorney General	Crime Victims Assistance Fund	Grants for on-going operating expenses of victim assistance programs. (KSA 74-7334).	2.45%	472,214.08	495,995.70	512,026.10	520,651.60	506,870.81
Attorney General	Children's Advocacy Center Fund	Operating expenditures of children's advocacy centers in the state that are eligible for funding pursuant to law.	0.12%	23,128.85	24,293.67	25,078.83	25,501.30	24,826.33
Corrections, Department of	Department of Corrections Alcohol and Drug Abuse Treatment Fund	Alcohol and drug abuse treatment programs for Department of Corrections inmates.	2.01%	387,408.28	406,918.92	420,070.39	427,146.82	415,840.95
Emergency Medical Services Board	EMS Revolving Fund	Financially assist EMS agencies and organizations purchase EMS equipment and vehicles, and to assist in education and training.	2.50%	481,851.10	506,118.06	522,475.61	531,277.14	517,215.11
Health and Environment - Health, Department of	Trauma Fund	Development of a statewide trauma system including the establishment of an Advisory Committee of Trauma.	2.50%	481,851.10	506,118.06	522,475.61	531,277.14	517,215.11
Social and Rehabilitation Services, Department of	Community Alcoholism and Intoxication Programs Fund	Provide financial assistance to community-based alcoholism and intoxication treatment programs (KSA 41-1126)'	3.01%	580,148.72	609,366.14	629,060.63	639,657.68	622,727.00
Transportation, Department of	Traffic Records Enhancement Fund	Enhancing and upgrading the traffic records systems in the state	2.50%	481,851.10	506,118.06	522,475.61	531,277.14	517,215.11
Wildlife and Parks, Department of	Boating Fee Fund	Operating expenditures in Administration program, Law Enforcement program, Parks program, and some capital improvements.	0.17%	32,765.87	34,416.03	35,528.34	36,126.85	35,170.63
	State General Fund		72.75%	14,021,866.92	14,728,035.55	15,204,040.26	15,460,164.77	15,050,959.80
	Total District Court Fees Remitted		100.00%	\$ 19,274,043.88	\$ 20,244,722.41	\$ 20,899,024.41	\$ 21,251,085.60	\$ 20,688,604.54

Corrections and Juvenile Justice

Date: 2-17-09

Attachment # 1-1

Table 2: Approximate KSA 74-7336 Remittances as a Percent of Total Operating Expenditures

1-2

Agency	Fund	Purpose of Fund	Approximate Remittance in FY 2008	FY 2008 Actual Operating Expenditures	Remittances as a Percent of Total Operating Expenditures
Attorney General	Crime Victims Compensation Fund	Payment of compensation pursuant to KSA 74-7301 et seq., and amendments thereto, and for state operations of the crime victims compensation board.	\$ 2,480,564	\$ 18,479,202	13.42%
Attorney General	Crime Victims Assistance Fund	Grants for on-going operating expenses of victim assistance programs. (KSA 74-7334).	\$ 506,871	18,479,202	2.74%
Attorney General	Children's Advocacy Center Fund	Operating expenditures of children's advocacy centers in the state that are eligible for funding pursuant to law.	\$ 24,826	18,479,202	0.13%
Corrections, Department of	Department of Corrections Alcohol and Drug Abuse Treatment Fund	Alcohol and drug abuse treatment programs for Department of Corrections inmates.	\$ 415,841	130,485,101	0.32%
Emergency Medical Services Board	EMS Revolving Fund	Financially assist EMS agencies and organizations purchase EMS equipment and vehicles, and to assist in education and training.	\$ 517,215	2,422,563	21.35%
Health and Environment - Health, Department of	Trauma Fund	Development of a statewide trauma system including the establishment of an Advisory Committee of Trauma.	\$ 517,215	150,702,341	0.34%
Social and Rehabilitation Services, Department of	Community Alcoholism and Intoxication Programs Fund	Provide financial assistance to community-based alcoholism and intoxication treatment programs (KSA 41-1126).	\$ 622,727	1,510,979,670	0.04%
Transportation, Department of	Traffic Records Enhancement Fund	Enhancing and upgrading the traffic records systems in the state	\$ 517,215	468,190,199	0.11%
Wildlife and Parks, Department of	Boating Fee Fund	Operating expenditures in Administration program, Law Enforcement program, Parks program, and some capital improvements.	\$ 35,171	48,183,491	0.07%

Table 3: Approximate Remittances for Optional Changes to KSA 74-7339

1-3

Agency	Fund	Purpose of Fund	Current Statutory Language		Department of Corrections (DOC) Increase, Across the Board Proportional Decrease		DOC Increase, Across the Board Proportional Decrease excluding Attorney General		DOC Increase, Across the Board Proportional Decrease excluding Attorney General and EMS	
			Percent of Total Remittance	FY 2008	Percent of Total Remittance	FY 2008	Percent of Total Remittance	FY 2008	Percent of Total Remittance	FY 2008
Attorney General	Crime Victims Compensation Fund	Payment of compensation pursuant to KSA 74-7301 et seq., and amendments thereto, and for state operations of the crime victim's compensation board.	11.99%	\$ 2,480,564	9.95%	\$ 2,058,946	11.99%	\$ 2,480,564	11.99%	\$ 2,480,564
Attorney General	Crime Victims Assistance Fund	Grants for on-going operating expenses of victim assistance programs. (KSA 74-7334).	2.45%	506,871	2.03%	420,719	2.45%	506,871	2.45%	506,871
Attorney General	Children's Advocacy Center Fund	Operating expenditures of children's advocacy centers in the state that are eligible for funding pursuant to law.	0.12%	24,826	0.10%	20,607	0.12%	24,826	0.12%	24,826
Corrections, Department of	Department of Corrections Alcohol and Drug Abuse Treatment Fund	Alcohol and drug abuse treatment programs for Department of Corrections inmates.	2.01%	415,841	6.30%	1,303,382	6.30%	1,303,382	6.30%	1,303,382
Emergency Medical Services Board (EMS)	EMS Revolving Fund	Financially assist EMS agencies and organizations purchase EMS equipment and vehicles, and to assist in education and training.	2.50%	517,215	2.08%	429,305	1.50%	309,457	2.50%	517,215
Health and Environment - Health, Department of	Trauma Fund	Development of a statewide trauma system including the establishment of an Advisory Committee of Trauma.	2.50%	517,215	2.08%	429,305	1.50%	309,457	1.19%	245,962
Social and Rehabilitation Services, Department of	Community Alcoholism and Intoxication Programs Fund	Provide financial assistance to community-based alcoholism and intoxication treatment programs (KSA 41-1126).	3.01%	622,727	2.50%	516,883	1.80%	372,587	1.43%	296,138
Transportation, Department of	Traffic Records Enhancement Fund	Enhancing and upgrading the traffic records systems in the state	2.50%	517,215	2.08%	429,305	1.50%	309,457	1.19%	245,962
Wildlife and Parks, Department of	Boating Fee Fund	Operating expenditures in Administration program, Law Enforcement program, Parks program, and some capital improvements.	0.17%	35,171	0.14%	29,193	0.10%	21,043	0.08%	16,725
	State General Fund		72.75%	15,050,960	72.75%	15,050,960	72.75%	15,050,960	72.75%	15,050,960
	Total District Court Fees Remitted		100.00%	\$ 20,688,605	100.00%	\$ 20,688,605	100.00%	\$ 20,688,605	100.00%	\$ 20,688,605

KANSAS

KANSAS DEPARTMENT OF CORRECTIONS
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on HB 2139
to
The House Corrections and Juvenile Justice Committee

By Roger Werholtz
Secretary
Kansas Department of Corrections
February 16, 2009

HB 2139 amends K.S.A. 74-7336 which allocates fines, penalties and forfeitures collected by district courts to various program funds including the Department of Corrections' alcohol and drug abuse treatment fund. HB 2139 would increase the allocation to the department's treatment fund from 2.01% to 6.3%. The department urges an amendment to HB 2139 to increase the allocation to 7.75% because of an anticipated increase in the cost of treatment services. A balloon setting out the proposed amendment is attached.

One of the FY 2010 budget reduction measures that has been recommended for the Department of Corrections (DOC) is the elimination of the State General Fund appropriation of \$538,000 for payment of DUI treatment services and an offsetting increase in the DOC share of district court fines and forfeitures.

A rate of 6.3% will result in receipts of \$1,294,000, an increase of \$878,000 generated by the current rate of 2.01%. It was originally intended that the amount of \$1,294,000 would finance (1) current treatment costs of \$1,070,000 (this amount is equal to the costs incurred for FY 2008); (2) a deficit of \$112,000, representing that portion of the FY 2008 treatment costs of \$1,070,000 that had to be deferred to FY 2009 for payment; and (3) an anticipated FY 2009 deficit of \$112,000--it was assumed that the same deficit would be incurred as in FY 2008.

However, based upon treatment costs of \$416,000 incurred for the first four months of FY 2009, and assuming that costs of this magnitude also would be incurred for the remaining months of the fiscal year, treatment costs would total \$1,248,000 and the deficit for FY 2009 would be \$245,000. So that sufficient funding of \$1,605,000 would be available to (1) pay off the prior fiscal year deficits of \$357,000 in FY 2010 and (2) finance treatment costs of \$1,248,000 (assuming that costs will be equal to the estimated FY 2009 amount), the percent of fines and forfeitures available to the DOC will have to be increased to 7.75%. This would represent an increase of \$1,189,000 above the receipts generated by the current rate of 2.01%.

Any increase in receipts to the Department of Corrections Alcohol and Drug Abuse Treatment Fund would result in a reduction of receipts to the State General Fund.

The department urges favorable consideration of HB 2139 as proposed that it be amended.

HOUSE BILL No. 2139

By Committee on Appropriations

1-28

9 AN ACT concerning the disposition of district court fines, penalties and
10 forfeitures; relating to the percentage credited to the department of
11 corrections alcohol and drug abuse treatment program; amending
12 K.S.A. 2008 Supp. 74-7336 and repealing the existing section.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2008 Supp. 74-7336 is hereby amended to read as
16 follows: 74-7336. (a) Of the remittances of fines, penalties and forfeitures
17 received from clerks of the district court, at least monthly, the state trea-
18 surer shall credit:

- 19 (1) 11.99% to the crime victims compensation fund;
- 20 (2) 2.45% to the crime victims assistance fund;
- 21 (3) 3.01% to the community alcoholism and intoxication programs
22 fund; 7.75%
- 23 (4) ~~2.01%~~ ~~6.9%~~ to the department of corrections alcohol and drug
24 abuse treatment fund;
- 25 (5) 0.17% to the boating fee fund;
- 26 (6) 0.12% to the children's advocacy center fund;
- 27 (7) 2.50% to the EMS revolving fund;
- 28 (8) 2.50% to the trauma fund;
- 29 (9) 2.50% to the traffic records enhancement fund; and
- 30 (10) the remainder of the remittances to the state general fund.

31 (b) The county treasurer shall deposit grant moneys as provided in
32 subsection (a), from the crime victims assistance fund, to the credit of a
33 special fund created for use by the county or district attorney in estab-
34 lishing and maintaining programs to aid witnesses and victims of crime.

35 Sec. 2. K.S.A. 2008 Supp. 74-7336 is hereby repealed.

36 Sec. 3. This act shall take effect and be in force from and after its
37 publication in the statute book.



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

House Corrections and Juvenile Justice Committee

Neutral Testimony on the Fiscal Impact of 2009 HB 2139

Monday, February 16, 2009

Kathy Porter

I am here as a neutral conferee on HB 2139 to provide you with information on the fiscal impact of this bill. I have attached a copy of the Office of Judicial Administration fiscal note, which is dated January 30, 2009. Because no fiscal note on this bill appears on the legislative website, it appeared that information on the fiscal impact of this bill would be helpful to you.

In FY 2008, clerks of the district court statewide remitted to the State Treasurer a total of \$20,688,605 from fines, penalties, and forfeitures. Based on this figure, a total of approximately \$415,841 (or 2.01% of the total), would have been credited to the Department of Corrections Alcohol and Drug Abuse Treatment Fund. SB 2139 would increase the percentage of fines, penalties, and forfeitures credited to the Department of Corrections Alcohol and Drug Abuse Treatment Fund from 2.01% to 6.3%, and would therefore increase the amount credited to the fund by an additional \$887,541 (using FY 2008 actuals), for a total of approximately \$1,303,382 that would be credited to the fund.

Under the provisions of this bill, the State General Fund would receive approximately \$887,541 less in FY 2010. Other funds that receive a percentage split of fines, penalties, and forfeitures would be held harmless.

Thank you for the opportunity to testify, and I would be happy to stand for any questions.

KP:ls
Attachment

Corrections and Juvenile Justice
Date: 2-17-09
Attachment # 3-1



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

January 30, 2009

To: Duane Goossen
Director of the Budget

From: Jerry Sloan
Budget & Fiscal Officer

Re: HB 2139

House Bill 2139 would amend K.S.A. 2008 Supp. 74-7336 to increase from 2.01% to 6.3% the amount credited to the Department of Corrections Alcohol and Drug Abuse Treatment Program from the remittances of fines, penalties, and forfeitures forwarded to the State Treasurer by the clerks of the district court. Under the bill, all other funds, with the exception of the State General Fund, would be held harmless.

In FY 2008, the Department of Corrections Alcohol and Abuse Treatment Fund was credited approximately \$415,841. Based on FY 2008 data, if HB 2139 passes and the percentage this fund receives is increased to 6.3%, an additional \$887,541 for a total of \$1,303,382 would be deposited into the Department of Corrections Alcohol and Abuse Treatment Fund. The State General Fund would in turn receive \$887,541 less in FY 2010.

JS:ae

HOUSE BILL No. 2165

By Committee on Judiciary

1-29

9 AN ACT concerning crimes and punishment; relating to unlawfully host-
10 ing minors; amending K.S.A. 21-3610c and repealing the existing
11 section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 21-3610c is hereby amended to read as follows: 21-
15 3610c. (a) Unlawfully hosting minors consuming alcoholic liquor or cereal
16 malt beverage is intentionally *or recklessly* permitting a person's residence
17 or any land, building, structure or room owned, occupied or procured by
18 such person to be used by an invitee of such person or an invitee of such
19 person's child or ward, in a manner that results in the possession or con-
20 sumption therein of alcoholic liquor or cereal malt beverages by a minor.

21 (b) Unlawfully hosting minors consuming alcoholic liquor or cereal
22 malt beverage is a class A person misdemeanor, for which the minimum
23 fine is \$1,000. If the court sentences the offender to perform community
24 or public service work as a condition of probation, as described in sub-
25 section (c)(10) of K.S.A. 21-4610, and amendments thereto, the court
26 shall consider ordering the offender to serve the community or public
27 service at an alcohol treatment facility.

28 (c) As used in this section, terms have the meanings provided by
29 K.S.A. 41-102, and amendments thereto. ←

30 (d) This section shall be a part of and supplemental to the Kansas
31 criminal code.

32 Sec. 2. K.S.A. 21-3610c is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its
34 publication in the statute book.

HB2165-Balloon.pdf
RS - JThompson - 02/12/09

(d) The provisions of this section shall not be deemed to create any civil liability for any lodging establishment, as defined in K.S.A. 36-501, and amendments thereto.

and re-letter remaining subsections