

# Journal of the House

## SIXTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Tuesday, January 22, 2013, 11:00 a.m.

The House met pursuant to adjournment with Speaker Merrick in the chair.

The roll was called with 121 members present.

Rep. Henry was excused on legislative business.

Reps. Ballard, Claeys and Peterson were excused on excused absence by the Speaker.

Prayer by Guest Chaplain, the Rev. Andy Inskeep, Youth Pastor, Fairlawn Church of the Nazarene, Topeka:

Dear God,

Thank you for the diversity that you have created whether through beautiful elements of the created world such as a sunrise, fruit, flat land, hills. Thank you for the diversity in the personalities and the background of those here today and those we are representing. In the midst of a great awareness of our diversity, God, help us to recognize the things that unify and draw us together.

As this legislative body meets this morning I ask you give them the ability to truly listen and value one another. As the writer of Proverbs said, "Answering before listening is both stupid and rude." (Proverbs 18:13 MSG)

Help us to not just assume the point one another is making but to truly listen and also hear the heart behind what is being said. Give us the creativity, God, to think of new ways to come to agreement or to solve the problems that our state faces.

Lord, give us the guidance that we need here today. Let our decisions not just be what we think is best but led and brought about by You. Give us the wisdom that can only come from You and for which only You can truly receive the credit.

Finally, God, I ask that You will help us treat one another with love today. Let this not be just our assembly decorum. As many meetings and tasks may fill up our afternoon and evenings, God help us to remember what truly matters. Help

us in our interactions throughout the day let your selfless love transform us to love another in such a way.

Comfort the family of Representative Ruiz on the loss of his brother.

In the name of My Lord and Savior Jesus I pray, Amen.

The Pledge of Allegiance was led by Rep. Schroeder.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 2036**, AN ACT concerning the uniform consumer credit code; relating to payday loans; amending K.S.A. 16a-2-404 and repealing the existing section, by Committee on Federal and State Affairs.

**HB 2037**, AN ACT concerning public property; relating to historic and religious displays, by Committee on Federal and State Affairs.

**HB 2038**, AN ACT concerning elections; concerning citizenship requirements; amending K.S.A. 2012 Supp. 25-2309 and 65-2418 and repealing the existing sections, by Committee on Federal and State Affairs.

**HB 2039**, AN ACT establishing the fair elections act; dealing with the secretary of state; prohibiting certain political activities, by Representative Ward.

**HB 2040**, AN ACT concerning certain addresses to the legislature; amending K.S.A. 20-101 and 75-102 and repealing the existing sections, by Representative Ward.

**HB 2041**, AN ACT concerning criminal history record information; definition; relating to municipal court reporting; district court reporting; amending K.S.A. 2012 Supp. 12-4106, 22-4701 and 22-4704 and repealing the existing sections, by Committee on Corrections and Juvenile Justice.

**HB 2042**, AN ACT concerning property appraisal and taxation.; amending K.S.A. 79-1475 and K.S.A. 2012 Supp. 74-2433f, 79-1448, 79-1460, 79-1609, 79-1701a and 79-1702 and repealing the existing sections, by Committee on Taxation.

**HB 2043**, AN ACT concerning crimes and punishment; relating to aggravated battery; driving under the influence; amending K.S.A. 2012 Supp. 21-5413 and repealing the existing section, by Committee on Corrections and Juvenile Justice.

**HB 2044**, AN ACT concerning crimes and punishment; relating to distribution of controlled substances causing death or great bodily harm, by Committee on Corrections and Juvenile Justice.

**HB 2045**, AN ACT concerning driving privileges; imposing school attendance and minimum grade point average requirements upon certain persons; amending K.S.A. 2012 Supp. 8-255 and repealing the existing section, by Committee on Corrections and Juvenile Justice.

**HB 2046**, AN ACT concerning motor vehicles; relating to golf carts; amending K.S.A. 2012 Supp. 8-126, 8-1495 and 8-15,108 and repealing the existing sections, by Committee on Transportation.

**HB 2047**, AN ACT concerning property taxation; relating to revenues produced by property tax levies; votes to increase revenues; publication; amending K.S.A. 2012 Supp. 79-2925b and repealing the existing section, by Committee on Taxation.

**HB 2048**, AN ACT concerning sales taxation; relating to exemptions; Jackson county fair association; amending K.S.A. 2012 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Corrections and Juvenile Justice: **HB 2034**.

Federal and State Affairs: **HB 2033**.

Local Government: **HB 2035**.

Social Services Budget: **HB 2032**.

## MESSAGE FROM THE GOVERNOR

### **Executive Reorganization Order No. 42 By Governor Sam Brownback January 18, 2013**

Pursuant to Article 1, Section 6(b) of the Constitution of the State of Kansas, I am transmitting this day Executive Reorganization Order No. 42 to both houses of the Kansas Legislature. Simultaneously with this Order, I am transmitting the accompanying Governor's Message.

The post audit report regarding the Juvenile Justice Authority released this summer highlighted how the decades-old social services approach taken by policy makers and previous administrations failed to provide the safety and security that our juvenile offenders require and deserve. The audit clearly shows that juvenile offenders must be served by a professional corrections agency.

This re-organization calls for the facilities and programs administered by the Juvenile Justice Authority to be transferred to the Department of Corrections. Moving JJA to KDOC will increase the emphasis on safety while continuing to provide programs proven to get our youth back on the right path. It will also provide opportunities to strengthen public safety, build upon successes realized through a minimal administrative consolidation of functions two years ago, and provide for the unique needs of these two populations.

While there are some distinct differences in program needs and management strategies for juveniles, and we will continue the rehabilitation of the juvenile population, it is imperative that basic safety and security practices are routinely employed in correctional environments. Many steps have recently been taken to improve the quality of juvenile corrections and a consolidation will make both agencies stronger and better equipped to provide comprehensive corrections in the State of Kansas.

With a broader organizational base, we can focus on the work necessary to make the Kansas juvenile justice system a nationally-recognized model—one that promotes public safety through sound correctional practices and reduces recidivism through the provision of well researched, evidence-based services. The youth, families, staff, and citizens of the State of Kansas deserve nothing less.

My administration looks forward to working with the Kansas Legislature on this longer term, structural solution to the issues at JJA.

**Executive Reorganization Order No. 42**  
**By Governor Sam Brownback**  
**Transmitted January 18, 2013**

Section 1. (a) The Juvenile Justice Authority created by K.S.A. 75-7001, and amendments thereto, is hereby abolished.

(b) Except as otherwise provided by this order, all of the jurisdiction, powers, functions and duties of the juvenile justice authority and the commissioner of juvenile justice are hereby transferred to and conferred and imposed upon the department of corrections and the secretary of corrections.

(c) Except as otherwise provided by this order, the department of corrections and the secretary of corrections shall be the successor in every way to the jurisdiction, powers, duties and functions of the juvenile justice authority and the commissioner of juvenile justice in which the same were vested prior to the effective date of this order. Every act performed in the exercise of such jurisdiction, powers, duties and functions by or under the authority of the department of corrections and the secretary of corrections shall be deemed to have the same force and effect as if performed by the juvenile justice authority or the commissioner of juvenile justice, respectively, in which such jurisdiction, powers, duties and functions were vested prior to the effective date of this order.

(d) Except as otherwise provided by this order, whenever the juvenile justice authority, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the department of corrections.

(e) Except as otherwise provided by this order, whenever the commissioner of juvenile justice, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of corrections.

(f) All rules and regulations, internal management policies and procedures (IMPP), facility orders and post orders of the juvenile justice authority which relate to the functions transferred by this order and which are in effect on the effective date of this order shall continue to be effective and shall be deemed to be rules and regulations, internal management policies and procedures (IMPP), facility orders and post orders of the department of corrections until revised, amended, revoked, or nullified pursuant to law.

(g) All orders and directives of the juvenile justice authority or the commissioner of juvenile justice in existence on the effective date of this order shall continue to be effective and shall be deemed to be orders and directives of the department of corrections or secretary of corrections until revised, amended or nullified pursuant to law.

(h) On the effective date of this order, the department of corrections shall succeed to whatever right, title or interest the juvenile justice authority has acquired in any real property in this state, and the department of corrections shall hold the same for and in the name of the state of Kansas. On and after the effective date of this order, whenever

any statute, contract, deed or other document concerns the power or authority of the juvenile justice authority or the commissioner of juvenile justice to acquire, hold or dispose of real property or any interest therein, the department of corrections shall succeed to such power or authority.

(i) The department of corrections and the secretary of corrections shall be continuations of the juvenile justice authority and the commissioner of juvenile justice.

Section 2. (a) All officers and employees in the juvenile justice authority who, immediately prior to the effective date of this order, are engaged in the exercise and performance of the powers, duties, and functions transferred by this order, are hereby transferred to the department of corrections unless the secretary of corrections determines that some officers or employees are not performing necessary services. All classified employees so transferred shall retain their status as classified employees. Thereafter, the secretary of corrections may convert vacant classified positions to positions in the unclassified service under the Kansas civil service act.

(b) Officers and employees in the juvenile justice authority transferred by this order shall retain all retirement benefits and leave balances and rights which had accrued or vested prior to the date of transfer. The service of each such employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs, or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this order shall affect the classified status of any transferred person employed by the juvenile justice authority prior to the date of transfer.

(c) The Memorandum of Agreement between the Kansas Juvenile Justice Authority and Kansas Department of Administration and Teamsters Union Local #696 that is in existence on the effective date of this order shall continue to be effective until revised, amended or nullified pursuant to the terms of the Memorandum of Agreement.

(d) The Memorandum of Agreement between the State of Kansas and the Kansas Organization of State Employees that is in existence on the effective date of this order shall continue to be effective until revised, amended or nullified pursuant to the terms of the Memorandum of Agreement.

Section 3. (a) When any conflict arises as to the disposition of any power, function or duty or the unexpended balance of any appropriation as a result of any abolition, transfer, attachment or change made by or under authority of this order, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The department of corrections shall succeed to all property and records which were used for or pertain to the performance of the powers, duties and functions transferred to the department of corrections from the juvenile justice authority. Any conflict as to the proper disposition of property or records arising under this section, and resulting from the transfer or attachment of any state agency, or all or part of the powers, duties and functions thereof, shall be determined by the governor, whose decision shall be final.

Section 4. (a) The department of corrections shall have the legal custody of all records, memoranda, writings, entries, prints, representations or combinations thereof of any act, transaction, occurrence or event of the juvenile justice authority and any agency or office transferred thereto under previous law.

(b) No suit, action, or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency or

program mentioned in this order, or by or against any officer of the state in such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this order. The court may allow any such suit, action, or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(c) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this order.

Section 5. (a) On and after the effective date of this order, the balance of all funds appropriated and reappropriated to the juvenile justice authority or any juvenile correctional facility or program is hereby transferred to the department of corrections and shall be used only for the purpose for which the appropriation was originally made.

(b) Subject to the acts of the legislature, all fees, grant funds, and loan repayment funds in the juvenile justice authority dedicated to programs affected by this order shall be transferred to the department of corrections.

(c) On and after the effective date of this order, the liability for all accrued compensation or salaries of officers and employees who are transferred to the department of corrections under this order shall be assumed and paid by the department of corrections.

Section 6. (a) All jurisdiction, powers, functions and duties relating to juvenile correctional facilities and institutions as defined in K.S.A. 38-2302, and amendments thereto, are conferred and imposed upon the secretary of corrections to be administered within the department of corrections as provided by this order.

(b) The secretary of corrections may adopt rules and regulations for the government, regulation and operation of such institutions. The secretary of corrections may adopt rules and regulations relating to all persons admitted to such institutions.

(c) The secretary of corrections may enter into an educational services contract with a unified school district, another public educational services provider or a private educational services provider for an institution pursuant to competitive bids or by negotiation as determined by the secretary of corrections. Each such educational services contract is exempt from the competitive bid requirements of [K.S.A. 75-3739](#), and amendments thereto.

(d) The secretary of corrections shall not issue a pass, furlough or leave to any juvenile placed in an institution except as needed for such juvenile to obtain medical services or to reintegrate such juvenile into the community. If any juvenile is issued a pass, furlough or leave, such juvenile shall be accompanied by a staff member or other designated adult.

(e) The secretary of corrections shall implement an institutional security plan designed to prevent escapes and to prohibit contraband and unauthorized access to the institution and, within the limits of appropriations, construct perimeter fencing as required by the institutional security plan.

(f) The secretary of corrections, by rules and regulations, shall establish a rigid grooming code and shall issue uniforms to juvenile offenders in an institution.

(g) The Larned juvenile correctional facility shall be under the supervision and control of the secretary of corrections in accordance with K.S.A. 76-3203, and amendments thereto.

(h) The Kansas juvenile correctional complex shall be under the supervision and control of the secretary of corrections in accordance with K.S.A. 76-3203, and

amendments thereto.

(i) The department of corrections shall be the successor in every way to the jurisdiction, powers, duties, and functions of the juvenile justice authority pertaining to the programs and operation of juvenile correctional facilities and institutions. Every act performed in the exercise of such transferred powers, duties, and functions by or under the authority of the department of corrections shall be deemed to have the same force and effect as if performed by the juvenile justice authority in which such powers, duties, and functions were vested prior to the effective date of this order.

Section 7. The secretary of corrections shall promulgate rules and regulations for the juvenile intake an assessment system and programs concerning juvenile offenders in accordance with K.S.A. 75-7023, and amendments thereto.

Section 8. The secretary of corrections shall administer the provisions of the revised Kansas juvenile justice code in accordance with K.S.A. 75-7024, and amendments thereto.

Section 9. The secretary of corrections shall administer regional youth care and rehabilitation facilities in accordance with K.S.A. 75-7025, and amendments thereto.

Section 10. The secretary of corrections shall administer supplemental youth care facilities in accordance with K.S.A. 75-7026, and amendments thereto.

Section 11. The secretary of corrections shall administer residential care facilities for children and youth established by and in accordance with K.S.A. 75-7028, and amendments thereto.

Section 12. The secretary of corrections shall administer community planning teams, juvenile justice programs, the juvenile justice community planning fund, and the juvenile justice community initiative fund in accordance with K.S.A. 75-7033, and amendments thereto.

Section 13. The secretary of corrections shall administer all grants under K.S.A. 75-7038 through 75-7053, and amendments thereto.

Section 14. The secretary of corrections shall administer community graduated sanctions and prevention programs and the community advisory committee in accordance with K.S.A. 75-7056, and amendments thereto.

Section 15. The Kansas advisory group on juvenile justice and delinquency prevention will report to the secretary of corrections in accordance with K.S.A. 75-7007, and amendments thereto.

Section 16. Except as otherwise provided by this order, all of the provisions of this order shall take effect and have the force of general law on July 1, 2013, unless disapproved by either house of the Kansas legislature as provided by subsection (c) of section 6 of article 1 of the constitution of Kansas, and unless so disapproved, this order is to be published as and with the acts of the legislature and the statutes of this state.

DONE AT The Capitol in Topeka  
Under the Great Seal of the  
State of Kansas this 18<sup>th</sup> day  
of January 2013.

BY THE GOVERNOR:  
SAM BROWNBACK

KRIS W. KOBACH  
*Secretary of State*  
BRAD BRYANT  
*Assistant Secretary of State*

**COMMUNICATIONS FROM STATE OFFICERS**

From State Board of Indigents' Defense, Annual Report, Fiscal Year 2012.

The complete report is kept on file and open for inspection in the office of the Chief Clerk.

On motion of Rep. Vickrey, the House adjourned until 11:00 a.m., Wednesday, January 23, 2013.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

