



KANSAS ASSOCIATION OF COURT SERVICES OFFICERS

Senate Judiciary Committee
Sen. Kellie Warren, Chair

March 8, 2022 – 10:30am
Room 346-S

Ryan Duckers, Kansas Association of Court Services Officers (KACSO)

TESTIMONY IN OPPOSITION OF SECTIONS TO HB 2516 Requiring the journal entries used to establish criminal history to be attached to a criminal history worksheet

Senator Warren and members of the committee, thank you for your time today and for allowing us to provide comments on behalf of the Kansas Association of Court Services Officers regarding HB 2516. I have been a CSO in the 29th Judicial District since 2006 and am presently a CSO III overseeing the Adult Probation department. I also serve as Secretary for the KACSO Executive Board.

As it is currently written, HB 2516 is an extremely important item of interest not only to the over 300 Court Services Officers across the state, but also the criminal court system in Kansas as a whole. If passed in its current form, the requirement to have every single journal entry record of conviction attached to every Pre-Sentence report completed on all felony cases would have the effect of reversing progress the Criminal Justice Reform Commission is attempting to address. This added requirement will result in defendants remaining in jail awaiting sentencing and/or receiving treatment for longer periods of time than they do currently

The mission of the Kansas Association of Court Services Officers is to challenge, educate, support and advocate for the membership by promoting fellowship and professionalism, providing relevant training opportunities and maintaining communication with all members. The organization will further this mission by encouraging collaboration with our Court Services Officers and professional organizations and by recognizing member excellence.

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Most of the defendants that CSO's prepare presentence reports for, have at least one if not more prior criminal convictions. It is also fair to say that many defendants have years of criminal history records that would affect their criminal history score and sentencing per the current guidelines. As written the bill will dramatically increase the time CSO's will take to prepare the Pre-sentence investigation, unnecessarily causing serious delays in sentencings resulting in defendants remaining in custody longer than they should serious and creating an additional fiscal burden on the Judicial Districts.

While every Judicial District does things somewhat differently, CSO's utilize the same process and face the same obstacles of trying to secure accurate criminal history information for each and every convicted defendant in the State of Kansas to ensure that they are sentenced properly, fairly and in accordance with the sentencing guidelines. All of us in the court system want cases expedited quickly and fairly so convicted defendants are not in custody any longer than absolutely necessary. Sentencings are usually set as soon as possible following a plea.

As a result, the CSO's have limited time to obtain and review the criminal history records necessary to prepare a PSI. That process requires that we research and find the appropriate contacts in Judicial Districts across the state and country to request prior records, wait to receive those records and then provide an accurate report of those records to reflect the proper criminal history to the court for sentencing. Included in that chain of events is the time that the CSO spends in communicating with the defendant, performing the proper and required current presentence assessments and in some instances coordinating with other supervision agencies, treatment providers, legal counsel, and the Courts.

The following are just a few of the concerns that CSO's from across the state have expressed regarding the way the bill is currently written:

- CSO's cite the amount of time that it would take to secure every record of conviction. While the availability of obtaining records online is becoming increasingly more available, many jurisdictions still only make records available by written request and usually there is a fee required for each page of the record of conviction. This fee can increase significantly if a certified record is required.
- Recently in the 1st Judicial District, a presentence report was requested by the court for a defendant who had a 2018 case for Felony Theft. Another Kansas county had done a previous presentence report that revealed the defendant had 215 prior offenses, 180 of which were from the state of Massachusetts dating back to the 1990's. The statement I got from the CSO in Leavenworth was "His bond is set at 20k, so he will likely be in our county jail for quite some time" and that "Doing the work for this PSI as the bill his currently written, would be equal to the work involved in preparing 5-10 other PSI's."
- If required to attach every single one of these convictions to the defendants' criminal history worksheet of the PSI before sentencing could be imposed, it could drastically delay the court proceedings and **keep the defendant in custody far longer than necessary.**
- These changes will increase costs to Judicial Districts to secure these records and many require certified copies of those records that can range anywhere from \$.50 a page, to \$5.00 a page. The cost to the state and counties would be quite significant.
- This bill as written could delay defendants accessing and getting into appropriate treatment programs or being released from custody if the required documents have not been obtained and attached to the presentence report.
- As the usual work settings have changed over the last couple of years, so has the timeliness in which we receive responses and paperwork from other jurisdictions both state and nationwide.

All of this lengthens the amount of time a CSO needs to submit an accurate report to the court so that the defendant is sentenced in accordance with the current law.

We would also refer to portions of the bill like Section 1 (10) (f) that indicates the court make take judicial notice in a subsequent felony proceeding of an earlier presentence investigation report criminal history worksheet prepared for a prior sentencing of the defendant for a felony committed on or after July 1, 1993. In many instances we are requesting records that other jurisdictions in the State have already obtained and been accepted into record, thus duplicating work that has already been done by other CSO's. We would also refer to Section 2 (a) and (c) which would lead a reasonable person to believe that if working properly any challenges to a defendant's criminal history would be submitted to the court prior to sentencing so that parties would have ample opportunity to secure those records if needed and possibly avoid any delays in sentencing or in keeping a defendant in custody longer than necessary.

On behalf of the Kansas Association of Court Services Officers, I would ask that the Committee amend HB 2516 by removing the amended language proposed in Section 1 (page 1, line 36 through page 2, lines 1-7) and a portion of Section 2 (page 3, lines 20-23). As indicated, these provisions will increase inefficiencies, expense, and delay for the courts, our member CSO's, and many defendants needlessly.

Thank you for your time and for allowing us to speak on this matter that we feel is very important.