

SENATE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

Hon. Greg Smith, Chairman

Hon. Forrest Knox, Vice Chairman

Hon. Pat Pettey, R.M. Member

February 4, 2016

9:30 a.m.

Room 144-S

Chief Judge Patricia Macke Dick

Twenty Seventh Judicial District

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TESTIMONY IN OPPOSITION OF SB 367

Thank you, Mr. Chairman, and this honorable committee for this opportunity to testify in opposition of SB 367. I am Patricia Macke Dick, Chief Judge of the 27th Judicial District, and the president-elect of the Executive Board of the Kansas District Judge's Association (KDJA.) I am testifying in my individual capacity and as a representative for the KDJA.

I started practicing in a general law firm in Hutchinson 35 years ago and found my passion in juvenile court helping children and families. I am now in my 28th year of hearing all of the juvenile cases in Reno County and have served on many committees and task forces regarding juvenile law. My testimony is from historical memory and actual experience of changes tried through decades for improving juvenile justice. I have been involved in modifications that have succeeded and those that failed.

I support policies presented to the legislature to improve the juvenile justice system and inherently the lives of families, and am not here to testify about any policy changes. I am, however, gravely concerned, as is the Kansas District Judges Association, about the practical application this law would have on the legal system and the administration of juvenile justice.

One concern with the sweeping changes is no corresponding funding at the outset to allow agencies, branches of government, and communities to implement this shift of paradigm. After a similar study, Georgia advanced millions of dollars for startup costs. The anticipated shift of funding from reducing out of home placements cannot be realized until there are new evidence-based programs operating in the communities for those returning offenders. They will have already had the full continuum of sanctions in their community and failed. The communities need to feel safe with their return.

Effective parenting techniques apply in juvenile cases, because these kids are still children. Consequences for bad decisions need to be immediate. Those of you who are parents know that some children are much easier to redirect than others. In juvenile justice there is no ability to apply the same consequences to all children with identical results. While research based risk assessments should be used to help make sentencing determinations, the real needs of the child and the family are better defined during local supervision. Taking away discretion and certain sanctions will result in more children failing and greater risk to the community. I cannot in good conscience condone a juvenile probationer using meth or K2 three times (technical violations) before having authority to take action. One time can be fatal. The new standard that children must be exhibiting harm to others (and not themselves) removes the ability of the officer to take this same child into custody and place them in a safe setting until further plans could be made, such as arresting and detaining them in detention.

Another example from my court is a young girl who sent nude pictures of herself to older men. One of these men picked her up and they left town. Once she was found in Wichita (after her anguished parents posted signs all over town) and the protective custody served she returned to our detention facility, testing positive for drugs but unwilling to admit she had been in any danger and openly stating she would go again as soon as she could. SB 367 would not allow this safety net of detaining her. It is crucial to have this child in detention where we know she is safe with the risk of human trafficking ever

increasing. These kids would be allowed to be placed in a secure facility, of which there is one in Kansas, with 12 beds and only for girls.

Closing all group homes is not a panacea. There are good group homes in Kansas, those that are mediocre and those that aren't effective at all. There are very obvious, long standing problems with group homes that should have been corrected long ago by those administering the facilities. A strict "no eject, no reject" policy should apply. High risk children should be placed with high risk children in structured, higher staff ratio placements, and low risk children with low risk children in places with more opportunities for healthy decision making. Where is the research on how to improve group homes and replicate those that have good outcomes with uniformity? If our goal with children is rehabilitation, after trying every local program there must be an option to get the children away from their communities for the sake of not just the child, but the safety of citizens. Recommendations for out of home placement for juvenile offenders in my district come primarily from KDOC-JS supervising officers, not from Phoenix and Philadelphia, which was the basis of the research presented to the workgroup recommending the placement of group homes.

Years ago, some of the proposed changes would be more likely to be successful than today. Most juvenile offenders are children in need of care about whom concerns were either screened out by DCF or we didn't see them in court until they committed a crime, sometimes after a dozen trips to juvenile intake and assessment. When the system gets involved with some of those families, there is little doubt the lack of ability to respect boundaries or authority did not start with today's juvenile but is often a multigenerational problem. I see grandchildren of juveniles I represented in the 80's. In those families, each generation has become increasingly entrenched in criminal activities, limits have practically disappeared. Parents share drugs with their children, education is not valued and there are instances where the children and parents commit crimes together. While crime numbers are down, most children who commit crimes have become increasingly incorrigible and resistive to change. Senate

Bill 367 requires that all children will be left in their homes, which means the entire family would need to be amenable to change, or that the child be declared a child in need of care. Juvenile offenders could be placed with children in need of care, most of whom are no risk, not just low risk.

Given the speed with which this bill was presented and is moving, it is difficult to digest all the changes and intelligently discuss them. There are certain parts of the bill that no one would hesitate to try, but that is the key. This law should be studied and the parts that are fruitful phased in. The whole of Kansas does not need to be a test site for an outside interest; changes can be made in an orderly manner with pilot projects without total disruption and extreme expense.

The incentive for juveniles to modify their behavior and be kept safe will dissipate with the reduction of discretion of those who work in the juvenile justice system to provide different approaches for different children. I urge this committee not to pass this bill on without further consideration of the consequences. On behalf of all the Kansas District Court Judges, I thank you for your time.