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**Testimony to the Senate Corrections and Juvenile Justice Committee  
Regarding SB367  
February 2, 2015**

Chairman Smith and Committee Members,

This testimony reflects the concerns and opinions of the members of our associations about the changes to the juvenile justice system in Kansas as proposed in this bill. We acknowledge that a review of our systems and considerations of best practices is due. We also acknowledge the working group contributed a great number of hours into developing the recommendations in a very methodical study of data and best practices.

As some of you know, I was a member of the work group representing law enforcement and I led the roundtable discussions of the law enforcement group. I have attempted to convey to our membership the approach and methodology of the work groups efforts, the data findings, and the best practices recommendations. I also engaged the broader law enforcement community periodically throughout that process.

After reading the workgroup recommendations many of our members had a number of concerns. However, we anxiously awaited the bill so we could evaluate whether those concerns would be addressed. We were pleased to see some of them were addressed. Those include:

- **Providing the Required Local Programs:** The bill contains the most comprehensive effort we have ever seen in a bill to assure resulting savings in state expenditures will be reinvested to meet new demands on community programs. We commend the authors of the bill in this accomplishment. We hope that works, but we also know nothing is ever a certainty in legislative budgeting authority. If it does work it will be the first time in our recollection a legislative commitment to support local programs will become a reality at or near the level we were told during the legislative process. We remain skeptical but hopeful.

It is important to realize funding is just the first part of meeting the local program requirements. All the funding in the world won't create the needed local programs if adequate persons with the proper training are not available in sufficient quantity. This is especially true in our rural areas.

- **Required Law Enforcement Training:** The provision requiring training for law enforcement officers with a primary assignment to schools is well constructed and not overly restrictive or demanding. We believe the development process and requirements are reasonable and obtainable.
- **Local Memos of Understanding:** Provisions requiring discussions and agreements between law enforcement, prosecutors and schools on how to best handle minor offenses in the schools do not appear to be over burdensome. We believe these local discussions are paramount for successfully guiding school incidents into the proper school administrative process or the criminal justice system based on local factors.

We are still concerned with many of the details of the planned changes created with the proposed juvenile justice reform. Some of those are minor adjustments we would like to recommend. Others have an indirect impact on law enforcement but what we believe can be a direct impact on community safety. We believe some of these concerns are parallel with the concerns of prosecutors and we believe they are in a better position to describe how those will impact the legal process and its impact on public safety. We also understand the bill is very complex, lengthy, and portions may intertwine with other statutes not being amended and not in the bill. There is also a chance we just don't understand what parts of the bill actually do. I have tried to divide the feedback from our membership into three categories: Those affecting law enforcement directly, those affecting public safety for our communities, and other issues.

First let us address those areas directly affecting law enforcement:

- **Certain requests for a warrant:** On page 45, lines 4-13, we question why the court services officer, juvenile community corrections officer, etc. would provide the request for a warrant to a law enforcement officer. We cannot issue a warrant and do not see any need for us to get involved in these warrant application processes. Those officers can apply directly to the court for a warrant or go through the prosecutor the same as we would.  
**SUGGESTION:** Have these requests for a warrant go through the prosecutor or directly to the court.
- **Notice to Appear/Complaint:** We believe the process allowing law enforcement to issue a notice to appear to a juvenile in some minor cases is going to be very helpful to us. It is important that the use of the notice to appear is not mandated and allows officers to consider such things as whether it appears the juvenile can be safely released without seeing them returned to the parent's custody in consideration of the existing situation.  
**SUGGESTION:** A traffic citation is a notice to appear and complaint combined into one document. Is it possible to combine the notice to appear and the complaint in this juvenile process rather than two separate documents and requirements? (See Section 32 subsection (g)(1) on page 46, lines 35-31 and subsection (g)(4) on page 47, lines 9-13.)
- **Custody by law enforcement (CINC):** The proposed amendments to the Code for Care of Children KSA 38-2232 in section 22, on page 21, lines 40 and 41, has some of our members concerned. The placement of the child into a "secure facility" vs. the current "juvenile detention facility or other secure facility" is a concern in places that may not have an alternative secure facility. Will this require law enforcement to drive long distances in the rural areas of our state to deliver the child to a secure facility? Will we be making that trip multiple times to transport the child back and forth to court hearings? We are not clear on what options for a secure facility will be available in every jurisdiction in the state. While we understand the preference is to avoid locking up a child taken into custody under these provisions in a detention facility, there may be areas of the state where it is the only viable option in a given circumstance.  
**SUGGESTION:** Reword this so that using a detention facility is not absolutely ruled out but used as a last resort if a secure facility or transportation is not readily available and only for a limited time.
- **Custody by law enforcement (Juvenile Offender):** The proposed amendments to the Juvenile Justice Code KSA 38-2330 in section 32, on page 45, lines 17-38, has some of our members concerned. The provision requiring a child taken into custody as a juvenile offender by a law enforcement officer to "be brought without unnecessary delay to the custody of the juvenile's parent or other custodian, unless there are reasonable grounds to believe that such action would not be in the best interests of the child" appears to us to be too narrow. It does not allow consideration of the interest of public safety, other person's safety or the protection of other people's property. In subsection (d)(2) on lines 33-38, the only way law enforcement is allowed

to take the child to intake is “if the juvenile cannot be delivered to the juvenile’s parent or custodian.” We believe intake should always be an option to law enforcement.

**SUGGESTION:** Amend this to allow the law enforcement officer to consider protection of the safety of another person and protection of property in the decision to release a juvenile to the parent or to take the child to intake.

- **Kansas Juvenile Justice Oversight Committee:** In section 4 of the bill on page 5, lines 14-15, one of the members of the Oversight Committee is “one member from a state law enforcement agency.” With all due respect to our law enforcement partners at the Highway Patrol and the KBI, those agencies do not deal with most of these juvenile issues on a regular basis. We believe this should be a local law enforcement officer.

**SUGGESTION:** Change this to “One member of a city or county law enforcement agency whose regular duties are primarily handling CINC and juvenile offender matters.

Next we would like to address some general things we saw in the bill we are asking the committee and the revisor to review and make sure it is stated correctly. These include:

- **Can a Juvenile Be Age 18 or Older:** Is there a time when a person who is not under the age of 18 is a juvenile under the law? See page 47, lines 7 and 8: “. . .if such juvenile is under 18 years of age.”
- **Data Exchange:** We notice the reference on page 5, lines 29-30, to the utilization of the Kansas Criminal Justice Information System for the purposes of data collection and analysis. We concur with that provision. This is based on the secure manner in which such sensitive data can be transmitted, stored, and access controlled and audited in that system. But we also recognize there will be a great need for data sharing between many program providers, courts, prosecutors, law enforcement, and others to assure continuity of services and to assure proper placements of children based on past history of that child. We believe the Kansas Criminal Justice Information System is also a great platform for this type of data exchange. Building this type of data exchange system will take time and funding, but we believe it will enhance the services to the children and their families who will be touched by the provisions in this bill.

Finally, we have some general public safety concerns with how some provisions will work in the real world in all areas of the state, both those that are highly rural and those that are highly urban.

- The provisions in the bill most commonly commented on in discussions with our members is in the first section. There are concerns that the maximum time periods are too low for some cases. There is also concern that the door for extending beyond these time limits for a very small number of juvenile offenders is prohibited under any conditions. We believe there should be a very narrow path for judges to extend beyond these time periods for those offenders whose history and the facts of the case at hand warrant it. We realize this is a very small number, but these are the juvenile offenders who can create great injury, losses, and unrest in our communities.
- There are several places in the bill referring to “the juvenile poses a significant risk of harm to others” which excludes consideration of a continued risk to others property. We need an alternative for a juvenile who continues to damage property when released or is threatening to do so. See page 49, line 13; page 50, lines 13-14; page 63, line 22; and page 72 lines 6-7 and line 35. Have the revisor check for other instances throughout the bill.  
**SUGGESTION:** Allow consideration in these instances for “significant risk of harm to others or damage to others property.”
- We know there are a small number of juvenile offenders who do not respond to treatment and intervention programs. No program will be 100% successful. Some juvenile offenders are very troubled youth who are very heavily involved in criminal conduct. This is especially true of those involved in criminal gang activity.

- We are not convinced at this point that the proposal retains adequate options for the worst of the juvenile offenders. The absolute caps on how long a juvenile can be under court control is an example. While we understand the data shows this includes a very small number of juvenile offenders in Kansas, these are the individuals who can create the biggest negative impact on community safety. We believe consideration must be given to allow judges, under very strict statutory guidelines, to depart more aggressively when these few juvenile offenders are encountered.
- There is concern with the new restrictions on using local juvenile detention facilities and whether suitable alternatives will be possible in many of our communities. For example, juvenile offenders when placement alternatives are not available or the youth has not responded to those that are available.
- We are concerned with the restrictions on placement of CINC kids. We are unsure what will happen when we cannot locate a suitable adult or facility to place the child with and some of the options being eliminated would have been our only options. We don't want to end up in the same situation with our juveniles that we are currently in with mental health commitments where we end up housing a person in our offices for lengthy periods of time because authorized placements are not available to us.
  - In rural areas, travel times to the location of placement can be very devastating to our operational capabilities. Small agencies with a small number of officers means cities and counties are not covered when we are engaged in lengthy transports of persons in our custody.
- In section 45 on page 74, lines 5-6; lines 15-20 and lines 39-40, placement of a child in the state juvenile correction facility requires a high risk assessment. Being uncertain what can result in a high risk assessment, some of our members have concerns. Our concern is whether this will prohibit the option for a juvenile who continues to commit non-person crimes causing increasing losses for victims and who has failed community programs can be placed into state custody. If it does, we believe this needs to be changed to allow some latitude based on the facts of the child's history and facts of the case.

One final thought, when dealing with major program reforms the legislature has in the past placed a one-year delay on implementation. This allows the new law to be published in statute for people to study and plan implementation. It also provides an opportunity during the next session to correct any flaws that are found. We contend this bill is a major reform bill in the critical area of juvenile justice systems, and specifically how juvenile offenders are held accountable. We urge you to consider a one-year delay in implementation of this bill.

In closing, our associations are offering the above comments, concerns and suggestions for this bill in a neutral position. Some of the concerns we have listed are probably critical enough we could change from neutral to opposing this bill if not amended. We also are wanting to understand more about the positions effecting public safety leading some of our public safety partners to oppose this bill.

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