

**DRAFT MINUTES****HOUSE AND SENATE INTERIM COMMITTEES ON JUDICIARY  
HOUSE AND SENATE INTERIM COMMITTEES ON STATE AGENCIES  
MEETING JOINTLY****July 17, 2014**

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The House and Senate Interim Committees on Judiciary and the House and Senate Interim Committees on State Agencies, met jointly at 1:30 p.m., Thursday, July 17, 2014, in Room A-MAC, Little Rock, Arkansas.

Committee members present: Senators Jeremy Hutchinson, Chair; Jane English, and Jimmy Hickey; Representatives Marshall Wright, Chair; Andrea Lea, Chair; John Vines, Vice Chair; John Baine, Bob Ballinger, Charlene Fite, Kim Hammer, Prissy Hickerson, Debra Hobbs, John Hutchison, Patti Julian, Josh Miller, Jim Nickels, Betty Overbey, John Payton, Sue Scott, and Mary Lou Slinkard.

Other members in attendance: Senators Jonathan Dismang and Stephanie Flowers; Representatives Scott Baltz, David Branscum, John Burris, Andy Davis, Gary Deffenbaugh, Charlotte Vining Douglas, David Fielding, Douglas House, Joe Jett, Stephanie Malone, Walls McCrary, James McLean, Jeff Wardlaw, and James Word.

Senator Hutchinson called the meeting to order and stated that without objection, Item D will be taken out of order.

**Consideration to Approve Minutes from the April 17, 2014, Meeting (Exhibit B)**

Without objection, the Minutes from the April 17, 2014, Judiciary committee meeting were approved.

**Discussion of Prison Overcrowding in Arkansas (Exhibit D) (Handouts 1 & 2) Attachment 1)**

Mr. Ray Hobbs, Director, Arkansas Department of Correction (ADC), reported that 604 additional beds were opened with the \$6.3 million allocated during the 2014 Second Extraordinary Session. Mr. Hobbs stated the mandatory sentencing law where inmates must serve 70% of their sentences is the driving force behind prison population growth and overcrowding. New crime commitments increased by 712 admissions between 2012 and 2013 and the average sentence for admissions is 79.6 months. Currently, there are 2,980 inmates serving 70% sentences; 5% (767) serving life with parole; 4% (590) serving life without parole; 32 on death row; 607 serving 50 + years.

Mr. Hobbs said 30% of the prison population, or nearly 5,000 inmates, will not be paroled, or leave for any other reason, resulting in a loss of turn-over beds for incoming prisoners. The current recidivism rate is 43.2% for inmates released during calendar year 2010. ADC is working with Arkansas Community Correction (ACC) to focus on reentry programs and is also working with community organizations to ensure that everything is being done to prevent inmates from returning to prison. Mr. Hobbs spoke on the need to build a new 1000-bed facility that would cost an estimated \$75-\$100 million, depending on the design. He stated ADC will request funding for the new facility during the 2015 legislative session.

Upon questioning by Representative Fite regarding the number of inmates serving time for drug offenses, Benny Magness, Chairman, Arkansas Board of Corrections, reported that 225 inmates are currently serving for various drug offenses. He also spoke on the need for a new facility and said the design, either barracks, or two-man cells, would take in to consideration the increasing number of violent offenders who refuse to abide by the rules and need to be segregated from others. Mr. Magness said corrections officials will send out a request for information within the next 60 days to see which communities would be interested in having the new facility.

Ms. Sheila Sharp, Director, ACC, presented a report on ACC's prison population, parole and probation. In 2013, Arkansas had a 17.7% jump in the number of inmates – the highest single year increase in its history. She said over the next ten years the total parole population is projected to remain unchanged, with a possible slight decrease of 500 offenders by 2014. The active probation population is expected to grow 2.9% per year with a total of 24,542 by 2024. ACC will request additional funding of \$9.5 million in fiscal year 2016, and \$13 million in fiscal year 2017, to hire 201 probation and parole officers over the next four years, starting with 45 new officers in the 2015-16 fiscal year. Currently, probation and parole officers average over 100 cases each. She will also request additional funding for reentry programs to help prevent recidivism and promote job training and placement programs. The Act 1190 of 2013 Reentry Committee will present a comprehensive Reentry Plan to the Judiciary committees in October 2014.

Anna Cox, Citizen, Founder; and Jane Browning, Executive Director; Compassion Works for All, said Arkansas's proposed policy position should not be based on short term economic advantage for those who benefit from building new prisons but should be based on long-term, broad based justice for all people, and an economic advantage for the state. Both spoke in support of ACC's operating system by which prisoners can receive drug treatment for a minimum of 90 days, develop work skills, get a job, experience family reunification, and return to society with a good chance of success.

Dina Nash, Citizen, presented a proposal by attorney Larry R. Froelich to reduce prison costs and population. The proposal would authorize the parole board to use the reduced punishments of Act 570 of 2011 to calculate parole eligibility for drug offenders sentenced under the old law, and to make Act 570 retroactive in order to save the state enough money to avoid building a new prison.

**Adoption and Discussion of Interim Study Proposal 2013-133 by Senator Hutchinson, "Concerning Parent and Child Representation in Juvenile Court Proceedings" (Exhibit C) Discussion only—not adopted (Handout 3)**

Senator Hutchinson provided a brief summary of Interim Study Proposal 2013-133. He stated he has been contacted by various people expressing concern about the ad litem and parent counsel programs and decided a study should be conducted to address the issue. He said both programs are under the same umbrella at the Administrative Office of the Courts (AOC) and the appearance of a conflict does exist.

Ms. Connie Hickman Tanner, Director of Juvenile Division Courts, AOC, reported that in 1994, AOC contracted with Arkansas Advocates for Children and Families to determine how courts were handling child abuse and neglect cases. The report found that children were not adequately (sometimes poorly) represented. The report also found that parents were the least likely to be represented and when they were, it wasn't consistent. The Arkansas Supreme Court appointed an ad hoc committee that recommended statewide programs for ad litem and parent counsel be established. The court was charged with developing standards of practice and qualifications for service for all attorneys who seek employment or contracts to provide legal representation to children in dependency-neglect cases. The legislature established the Division of Dependency-Neglect Representation within the AOC in 1997, and by January 2000, the state entered into contracts with attorneys to represent every child in abuse and neglect cases. Ms. Tanner said the court would not have placed the ad litem and parent counsel programs under the AOC if there was any thought of attorney conflict; the court is over the Office of Professional Rules and Responsibilities which govern attorney conflicts. Ms. Tanner stated the programs are funded, staffed, and managed separately, and the AOC, as well as the courts, does not see any conflict in overseeing both programs.

Mr. Brian Welch, Parent Counsel Program Director, Juvenile Division Courts, Administrative Office of the Courts, provided an overview of the program. Act 1267 of 2001 established authority for the appointment and payment of attorneys to represent indigent parents in dependency-neglect cases. Currently, there are 59 attorneys on contract representing an average of 2,259 parents or custodians. Attorneys must represent the clients in accordance with the Arkansas Model Rules of Conduct and meet all requirements and qualifications for parent counsel in Administrative Order Number 15.

Senator Hutchinson asked if AOC would include any changes in the programs when presenting their 2015 legislative package. Ms. Tanner said the program directors may include some changes, but she is not aware of any at this time. She noted that in the past, the legislature has funded the ad litem program far more than the parent counsel program. Senator Hutchinson advised Ms. Tanner to submit a request for additional funding.

Senator Hutchinson also asked if there was a conflict with either of the programs since the standards approved by the American Bar Center on Children and the Law state that ad litem programs should not be under the auspices of a judicial counsel or judge. Ms. Tanner said the programs are not under the courts' jurisdiction since the state changed from a court appointed system to a contract system. She stated that AOC works closely with the Center and does not see any conflict.

Senator Hutchinson raised the possibility of moving one of the programs to a different agency and asked Ms. Tanner what location would be the best, other than creating a new agency. Ms. Tanner responded that she doesn't think there is a good location, absent the program being its own separate agency. Senator Hutchinson said this issue will be studied further and hopes it can be resolved without introducing new legislation.

The Honorable Gary Arnold, Circuit Judge, Twenty-Second Judicial Circuit, thanked Senator Hutchinson for inviting him to participate in the discussion. He said in his twenty-four years on the bench, he has learned that the government cannot fix families, but he does think things have greatly improved, mostly due to three programs: CASA, Ad Litem and Parent Counsel. Judge Arnold said both parents and children need representation because taking children from their biological parents is a really big deal; he feels it is the same as taking away someone's liberty and putting them in prison.

**Representative Hammer requested committee staff work with DOC to pull a sampling of inmates with drug charges to determine how many are imprisoned on the basis of drugs with unrelated charges. He feels this will provide an unbiased view for the committees.**

With no further business, the meeting adjourned at 4:15 p.m.