

REPORT OF THE JUDICIAL COUNCIL
CRIMINAL LAW ADVISORY COMMITTEE
ON SB 66

DECEMBER 6, 2013

Senate Bill 66, which would require county and district attorneys to publish a monthly report of all criminal actions and proceedings and juvenile offender proceedings in a manner that is accessible to the public, was introduced during the 2013 legislative session. After the hearing on the bill, the Senate Judiciary Committee recommended that the legislation be further studied by the Kansas Judicial Council. In May 2013, Senator Jeff King asked the Kansas Judicial Council to study methods of efficiently recording criminal proceedings and dispositions by county without overburdening local prosecutors or Kansas Bureau of Investigation (KBI) databases. The Judicial Council granted Senator King's request and assigned the study to the Criminal Law Advisory Committee.

COMMITTEE MEMBERSHIP

The members of the Judicial Council Criminal Law Advisory Committee are:

Stephen E. Robison, Chair, Member of Fleeson, Gooing, Coulson & Kitch, LLC and Member of Kansas Judicial Council; Wichita

Sen. Terry Bruce, Kansas State Senator and Practicing Attorney; Hutchinson

James W. Clark, Practicing Attorney; Lawrence

Jim D. Garner, Practicing Attorney; Lawrence

Patrick M. Lewis, Criminal Defense Attorney; Olathe

Hon. Michael Malone, District Court Judge in the 7th Judicial District; Lawrence

Prof. Joel Meinecke, Retired Attorney; Topeka

Steven L. Opat, Geary County Attorney; Junction City

Rep. John Rubin, Kansas State Representative, Attorney, and Retired Federal Administrative Law Judge; Shawnee

John Settle, Pawnee County Attorney; Larned

Ann Swegle, Sedgwick County Deputy District Attorney; Wichita

Loren L. Taylor, Attorney and Police Trainer; Kansas City

Ron Wurtz, Retired Public Defender (Federal and Kansas); Topeka

BACKGROUND

On February 19, 2013, the Senate Judiciary Committee heard testimony regarding SB 66. The Senate Judiciary Committee later referred SB 66 to the Kansas Judicial Council, and the Judicial Council assigned the legislative study to the Criminal Law Advisory Committee. On August 16, 2013, the Criminal Law Advisory Committee met to study SB 66. Kyle Smith, the Deputy Director and Assistant Attorney General for the KBI, attended the meeting as an invited guest.

DISCUSSION

The Committee began the study by reviewing SB 66 and the written testimony related to the bill. Members concurred that the information proposed in the bill should be made public, because victims and the general public would benefit from a transparent system. Moreover, the Committee acknowledged that while the information is already being gathered, the data is not in a format that is easily accessible to the public.

The Committee explored how reporting could most efficiently be managed so that the public could access the information identified in SB 66. The Committee examined the burden on local prosecutors under SB 66 and agreed that adding another administrative task would ultimately take away prosecuting time. First, the bill would require attorneys to publish a monthly report, which would create unnecessary work. The majority of cases last many months. Under the proposed system, an attorney would have to generate multiple reports for a single case. Under current mandates, cases are measured from start to finish, and attorneys only have to report information once to the KBI. Second, the impact on counties would vary significantly, because county systems are not uniform. For instance, many counties only have part-time county attorneys who are unlikely candidates for expanded responsibilities. Third, county and district attorneys already face a heavy reporting burden, and their obligations are likely to increase in the future. For example, the Kansas State Board of Education is considering strengthening reporting requirements for local prosecutors. Peter Hancock, *State Education Board May Seek Stiffer Laws on Reporting of Teachers with Felony Convictions*, LAWRENCE JOURNAL WORLD, August 21, 2013, <http://www2.ljworld.com/news/2013/aug/13/state-education-board-may-seek-stiffer-laws-crimin/>. The Committee agreed that county and district attorneys are poorly positioned to take on new duties or duplicate reports. Government budgets are shrinking, making it unlikely that offices will get case management systems or new staff to

help manage an increased workload. Thus, increasing reporting requirements for county and district attorneys is likely to reduce the amount of time they have to prosecute cases.

After considering the burdens as originally proposed in SB 66, the Committee examined the potential role of the KBI. Committee members noted that county and district attorneys already send the requested data to the KBI, which would eliminate the issue of duplicative reporting. Also, Committee members were impressed by the February 19, 2013 testimony of Kirk Thompson, the Director of the KBI. He stated that the KBI collects much of the data requested in the bill, but does not currently have the capacity to publish the information on a public website. Mr. Thompson suggested that the KBI could achieve the goals outlined in SB 66 after the KBI updated repositories, business processes, and technology. The Committee found the KBI proposal attractive, because it released county and district attorneys from additional reporting requirements and gave the reporting responsibilities to the KBI. At the same time, the Committee acknowledged that the KBI cannot implement the proposed solution unless the agency is first given adequate funding and time to enhance the agency's technical capabilities. The Committee agreed that the KBI alternative offers the best long term solution, but it is not an immediate remedy.

CONCLUSION

In conclusion, the Committee recommends against passage of SB 66. While the Committee believes that the information proposed in the bill should be readily accessible to the public, the Committee found asking county and district attorneys to generate additional monthly reports too burdensome. The Committee agreed that the reporting responsibility would be better placed on the KBI. At the same time, the Committee believed that it was premature to recommend specific amendments regarding the KBI, because the KBI needs to be given time and resources before it can achieve the goals outlined in SB 66.