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Sam Brownback, Governor

Testimony on HB 2620
to
The Senate Corrections and Juvenile Justice Committee

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March 8, 2016

The Department of Corrections supports HB 2620. The House passed HB 2620 by a vote of 123 to 1. HB 2620 amends K.S.A. 75-5217 to allow the secretary to assess Delinquent Time Lost on Parole (DTLOP) as part of a parolee or postreleasee's waiver of a hearing before the Prisoner Review Board. DTLOP is the principle that the time during which a person on release supervision has absconded from supervision does not count toward service of his or her release supervision obligation.

Constitutionally, certain minimum due process procedures are required before credit for actual time served on parole/postrelease supervision can be disallowed. This entails notice and an administrative hearing concerning the alleged supervision violation and/or absconding charge. The hearing may be waived by the offender. Under Kansas law, the constitutionally required hearing to determine whether a parole or postrelease supervision violation has been committed and thus DTLOP is applicable is conducted by the Kansas Prisoner Review Board. HB 2620 would allow the secretary or secretary's designee to accept the releasee's waiver of the Prisoner Review Board hearing but condition that acceptance upon the releasee's acquiescence to an assessment of DTLOP. This initiative would be analogous to diversion programs administered by prosecutors.

In addition to avoiding use of limited Prisoner Review Board hearing resources, a waiver of the hearing with the imposition of DTLOP by the secretary or the secretary's designee would afford an opportunity to provide a swift and sure sanction for low level technical supervision violations in the form of denying the offender credit for the time during which he or she was not reporting. The acceptance of a DTLOP sanction without a formal hearing before the Prison Review Board would save the jail cost for holding the offender pending a preliminary hearing, transportation and prison incarceration for approximately 30 days pending a final hearing before the Board. If the Secretary determined that assessing DTLOP was an insufficient response to a technical supervision violation, the secretary could deny the hearing wavier and refer the offender to a hearing before the Prisoner Review Board which could assess DTLOP and a prison sanction of 180 days as provided for by current law.

The department urges favorable consideration of HB 2620.