

Ray Roberts, Secretary

Sam Brownback, Governor

Testimony on HB 2382  
to  
The House Corrections and Juvenile Justice Committee

By Ray Roberts  
Secretary  
Kansas Department of Corrections  
March 9, 2015

The Department of Corrections supports HB 2382. HB 2382 amends K.S.A. 38-2366 which governs the incarceration of offenders under the age of 18 at the time of sentencing who have been either convicted as an adult or under an extended jurisdiction juvenile prosecution. HB 2382 retains the dictate that persons under the age of 16 convicted as an adult are to be incarcerated in a juvenile correctional facility but would allow the Secretary of Corrections to place a person who is between the ages of 16 and 18 at the time of sentencing as an adult offender into either a juvenile correctional facility or an adult correctional facility.

The placement discretion afforded to the secretary by HB 2382 regarding 16 and 17 year old offenders sentenced as adults is significant due to the enactment of the federal Prison Rape Elimination Act (PREA). PREA defines 16 and 17 year old offenders as “youthful offenders”. Under PREA, offenders under the age of 18 even though convicted as an adult, may not be incarcerated in an adult correctional facility unless they are separated from inmates over the age of 18. These “youthful offenders” may however, be incarcerated with inmates older than 18 in a juvenile correctional facility. Due to the prohibition of K.S.A. 38-2366 against placing youthful offenders in juvenile correctional facilities this is not an option for Kansas and Kansas sends its youthful offenders out of state.

HB 2382 would provide the secretary with the flexibility to place 16 and 17 year old offenders sentenced as adults at a juvenile correctional facility, send them out of state, or with operational changes to provide separation from inmates over 18 place them in an adult correctional facility.

Typically, KDOC has approximately 5 youthful offenders in its custody. Currently, females are incarcerated in North Dakota and males in Nebraska at the rate of \$185.85 and \$139.70 respectively per day per offender. The incarceration of youthful offenders a great distance from their home community is not a desirable practice but with the restrictions of K.S.A. 38-2366 it is the only feasible option.

In addition to concerns regarding the distance between an offender and his or her family and community, placement decisions may be driven by a particularized threat posed by or to an inmate. HB 2382 provides the flexibility to KDOC to address the placement needs of youthful offenders in a safe and economical manner.

The department urges favorable consideration of HB 2382.