



KANSAS LEGISLATIVE DIVISION *of* POST AUDIT

The Rundown podcast transcript for Performance Audit report titled **Juvenile Justice Reform: Examining the Effects of 2016 Senate Bill 367** – Released January 2020

Andy Brienzo, Host and Principal Auditor: [00:00]

From the Kansas Legislative Division of Post Audit, this is The Rundown. Your source for news and updates from LPA, including performance audits recently released to the Kansas Legislature. I'm Andy Brienzo. In January 2020, Legislative Post Audit released a performance audit examining the effects of Senate Bill 367 passed in 2016 on community-based services for juveniles, stakeholders' opinions on Senate Bill 367 reforms, and whether Kansas has a process to determine whether these reforms have been successful. I'm with Matt Etzel, Principal Auditor at Legislative Post Audit who supervised this audit. Welcome back to The Rundown, Matt.

Matt Etzel, Principal Auditor and Supervisor: [00:46]

Thanks for having me.

Andy Brienzo, Host and Principal Auditor: [00:48]

First, tell me about the changes Senate Bill 367 made in 2016 and the reasons for these reforms.

Matt Etzel, Principal Auditor and Supervisor: [00:55]

So, Senate Bill 367 was a pretty massive reform of the state's juvenile justice system, but at its core, I think really what it was trying to do, kind of two main things. One, is to limit juvenile offenders' exposure to out-of-home facilities and out-of-home placements. So, what I mean by that, is limiting their exposure to things like prisons, detention centers, and group homes. So, part of the goal of Senate Bill 367 was to try to keep those juveniles basically in homes. So, maybe more so on what would be called an in-home probation, where they are still sentenced, but they're allowed to serve that sentence, at home and supervised by the Department of Corrections or Office of Judicial Administration, but they don't have to be put in an out-of-home placement. And the reason for that is that aligns with national research that shows limiting juvenile's exposure to those out-of-home placements helps, reduce the risk that they will re-offend in the future. So, Senate Bill 367 did this or sought to do this in a number of different ways. So, for example, the reforms all but eliminated a group homes as a placement option for juvenile offenders. Prior to 367, juvenile offenders

could get sentenced to a juvenile correctional facility, which is similar to a prison, but they could also get sentenced to kind of an intermediate facility, which you can refer to as group homes. Senate Bill 367 all but eliminated those group homes as a placement option and again then in theory, putting more of an emphasis on in-home probation and keeping juvenile offenders in home. The other thing that Senate Bill 367 really sought to do was to try to reinvest savings from fewer placements in those juvenile facilities into new community-based programs. And those community-based programs, should be aimed at helping reduce juvenile offenders' risk of re-offending in the future. So, they're going to be programs, related to, behavioral and cognitive therapy, sex offender treatment, drug and alcohol abuse treatment, but programs that, should help reduce that risk of future recidivism. So, those were the two main goals of Senate Bill 367 was help reduce out-of-home placements and help increase community funding for new community programs.

Andy Brienzo, Host and Principal Auditor: [03:34]

As the team got into fieldwork, it looks like you found some of the data you needed to answer one of your audit questions was unavailable. Tell me about the missing data and how it affected your work.

Matt Etzel, Principal Auditor and Supervisor: [03:47]

So, one of the things that we wanted to look at was again, how, how did Senate Bill 367 affect juvenile placement. So, to do that, we had to review data from two state agencies because of the way that the state system is set up. Both the Department of Corrections and the Office of Judicial Administration are responsible for overseeing different parts of the state's juvenile population. So, we worked with both agencies to collect juvenile offender data. What we're able to tell using that data was that the state's out-of-home placements had declined pretty significantly since Senate Bill 367 went into effect. So, since fiscal year 2017 out-of-home placements had declined by about 40 to 60% each year. What we also wanted to do though was to see--so out-of-home placements were declining--where were those juvenile offenders going instead? So, we wanted to use KDOC and OJA data to be able to see how Senate Bill 367 was affecting in-home probation numbers and also something called immediate intervention programs, which, can also be called IIP, but it's pretty similar to a diversion, but a little less severe and in a few different ways. But the state didn't have complete data on in-home probation or IIP. So, although we're able to show that out-of-home placements had declined significantly since Senate Bill 367 went into effect. We couldn't say necessarily where those juvenile offenders were being placed instead.

Andy Brienzo, Host and Principal Auditor: [05:22]

So, Senate Bill 367 reforms allow the state to save some money by reducing the populations of the state's juvenile facilities, which KDOC is supposed to use to expand or create community programs. What has KDOC done with the savings? What types of programs have they focused on and how widely available are these programs?

Matt Etzel, Principal Auditor and Supervisor: [05:45]

So, since fiscal year 2017, which is when a lot of these reforms would have gone into effect, the state has gathered about \$40 million, mostly in savings from fewer placements in those juvenile facilities. Of that \$40 million, KDOC has spent about \$9 million so far on new community-based programs. And again, those are going to be programs to help try to reduce juvenile offenders' risk to re-offend in the future. An example of these programs includes family therapy, mental health services, mentoring services, those sorts of programs. The remaining \$31 million in savings remains in a reinvestment fund that KDOC manages and KDOC plans to reinvest more moving forward. So, beginning in fiscal year 2021, KDOC plans to begin reinvesting about \$22 million a year, over a 10-year period, on even more community-based programs for juvenile offenders getting services in the community on in-home probation. Generally, those services were available across the state, but we did find that, maybe some more programs are still needed. So, KDOC tracks whether 10 key program types are available across the state. And in most cases, what we found when we reviewed, data on those programs was that, they generally work, they were available across the state. So, for example, of the 31 judicial districts in the state, 29 judicial districts offered at least seven of those 10 programs, which is pretty good and judicial districts aren't required to offer all 10 of those programs. So, having a majority of those is still pretty good. But what we did find though is when we surveyed members of the community that help oversee those programs, we found that although 61% said that there's adequate programming to serve juvenile offenders in their districts, about 30% still said that there weren't adequate programs. So, even though they're generally available in judicial districts across the state it might be the individual counties within those districts may still need additional access to those community-based programs.

Andy Brienzo, Host and Principal Auditor: [08:04]

So, it looks like the team also had some other findings related to the first audit question. So, for example, it found KDOC didn't have a process to ensure judicial districts used grant funds appropriately and some county and district attorneys were not following all the new requirements in Senate Bill 367. Walk me through some of these other findings.

Matt Etzel, Principal Auditor and Supervisor: [08:28]

So, the Department of Corrections can administer grants to individual judicial districts out of their reinvestment fund to help create local programs across the state to help fill their local needs. What we would've expected to see was that KDOC would've had a process to ensure that judicial districts use those grant funds appropriately. Basically, they're spending it on the programs approved under the terms of their grant. KDOC did have a process to help ensure that traditional districts spent those funds, and to review documentation on what those funds were spent on, but they didn't necessarily have a process to help ensure that those expenditures met the terms of the grant. So, that for example, if they received a grant for a new mentoring service, that those funds were actually spent on a new mentoring service. The second other finding that we had as part of this question was related to the immediate intervention program. And again, immediate intervention is similar to diversion in that, if a juvenile offender completes the IIP successfully, they will avoid a

criminal record. It's a little bit different and that's a little bit less severe than a diversion in that juvenile offenders don't necessarily have to give up certain constitutional rights like they would under a diversion program. Senate Bill 367 made offering an IIP mandatory across the state for all first-time misdemeanor juvenile offenses. What we found was that not all District or County attorneys were complying with that new requirement-- that all first-time misdemeanor offenses be offered an IIP. So, as part of that work, we interviewed ten County or District officials, to understand whether or not they were complying with these new regulations. What we found was that six of those ten were not. So, they were either not offering an IIP at all. So, in some cases, they are still offering a diversion program instead of an IIP, or they were only offering an IIP in certain situations. So, for example, they might not be offering an IIP if a crime committed was related to a sex offense. And the reason that was commonly cited from the District and County attorneys as to why they weren't necessarily complying with this requirement was they're citing a separation of powers--citing a separation of legislative and judicial powers as the basis of their argument.

Andy Brienzo, Host and Principal Auditor: [11:04]

The second audit question focused on stakeholders' opinions about Senate Bill 367 reforms. Tell me who you surveyed and what you asked them about.

Matt Etzel, Principal Auditor and Supervisor: [11:18]

So, we ended up serving 1,759 stakeholders across the state, and that included judges, sheriffs, defense attorneys, prosecutors, probation officers, and members of regional, juvenile question advisory boards and we were surveying them on their opinion on eight key reforms that were part of Senate Bill 367. Of those 1,700 stakeholders that we surveyed, about 400 responded, we got about a 23% response rate, but we asked them whether eight key reforms had a positive or a negative effect on the justice system. Those eight key reforms included probation, detention and case length limits, graduated responses for probation violations, a youth level of service assessment tool, a detention risk assessment tool, the new mandatory immediate intervention program requirement and a multidisciplinary team requirement for the immediate intervention program. What we ended up finding was that most stakeholders surveyed had a negative opinion on the new probation detention and caseload limits and they also had a negative opinion on the graduated responses for probation violations. So, part of what Senate Bill 367 did was to create a new limits on the amount of time that juvenile offenders can basically stay in the juvenile system. So, that's where those probation, detention, and case length limits come in. So, for example, generally, I mean, depending on the crime and the risk of the juvenile, a juvenile offender, now can't be on probation for longer than six to twelve months. What we found was that the majority of stakeholders that we surveyed, felt like those new limits had a negative effect on the juvenile justice system. So, for example, if we go back to this probation limits, 59% of respondents felt like the probation limits had a negative effect on the juvenile justice system. Conversely, only 14% felt like it had a positive effect on the juvenile justice system. Now it is worth noting that we didn't require respondents to select an answer to each of the eight different reforms. So, the other 27%, if you're keeping track there, did not respond or did not have an opinion related to those probation limits. The

other reform that had an overwhelmingly negative response were graduated responses to probation violations. So under (Senate Bill) 367, a juvenile offender on probation, they need to commit three technical violations before they can be put back in front of a court to see if additional punishment is justified. For example, whether or not that juvenile offender needs to be sent to a detention center. We ended up finding about 40% of respondents felt like those graduated responses, to the probation violations had a negative effect on the juvenile justice system compared to 60% that felt like it had a positive effect.

Andy Brienzo, Host and Principal Auditor: [14:14]

Did respondents express more positive opinions about any of the Senate Bill 367 reforms?

Matt Etzel, Principal Auditor and Supervisor: [14:22]

So, one of the eight reforms that we asked about had a majority positive response. So, the youth level of service tool, which was newly implemented under Senate 367, this tool is used to help assess a juvenile offender's risks to re-offend. And it also helps to, determine what types of services and programs they might need in the community. So, 30% of our respondents said that that tool had a positive effect on the juvenile system compared to 20% that felt like it had a negative effect. But again, because respondents weren't required to respond to each one of our reforms, the other 50% then didn't select it was having a positive or negative effect. And then the remaining through forms that we asked about, which were related to a new detention risk tool and those mandatory IIPs, respondents were generally split between those. So, there wasn't overwhelmingly a positive or negative opinion on those remaining three reforms.

Andy Brienzo, Host and Principal Auditor: [15:20]

So, for the third question that the team answered, it looks like you found the state had not yet implemented most of the monitoring processes required by Senate Bill 367. Why not?

Matt Etzel, Principal Auditor and Supervisor: [15:35]

One of the biggest reasons why the state hadn't implemented those monetary requirements is it goes back to that lack of a complete data set of juvenile offenders. So, for example, some of these requirements are related to reviewing program outcomes and recidivism, studying and analyzing gaps, the juvenile justice system. So, a lot of these monitoring requirements are going to first require that complete dataset. And as we mentioned before, that is an issue that I ran into that the state kind of lacks that, that comprehensive data set of juvenile offenders.

Andy Brienzo, Host and Principal Auditor: [16:05]

Finally, what is the main takeaway of this report?

Matt Etzel, Principal Auditor and Supervisor: [16:09]

I think the main takeaway is that Kansas' reforms on this juvenile justice system has reduced the number of juvenile offenders in out-of-home placements like prisons and detention centers and group homes. And it has resulted in the state investing

more funding to community-based programs. But I think until the state has a comprehensive data set on its juvenile offenders, it's difficult to really determine what effect those reforms have had on the juvenile justice system. And I think that's echoed in stakeholders' responses as part of question two. Right? So, stakeholders did have negative opinions on several of the reforms that we asked them about. But until we get that complete data or until the state has that complete data on as juvenile offenders, it's really difficult to say whether or not those negative opinions or more related to, probation officers and other stakeholders, getting used to a very new and very different approach to treating juvenile offenders, or whether or not there are actual shortcomings with the new reforms.

Andy Brienzo, Host and Principal Auditor: [17:23]

Matt Etzel is a Principal Auditor at Legislative Post Audit. He supervised an audit examining the effects of Senate Bill 367 which was passed in 2016, stakeholder's opinions on Senate Bill 367 reforms and whether Kansas has a process to determine whether these reforms have been successful. Matt, thank you so much for walking me through your findings today.

Matt Etzel, Principal Auditor and Supervisor: [17:49]

Thank you.

Andy Brienzo, Host and Principal Auditor: [17:50]

Thank you for listening to The Rundown. To hear more podcasts, subscribe on Spotify or Apple podcasts. For more information about Legislative Post audit and our audit reports, visit our website@kslpa.org and follow us on Twitter @ksaudit

General Considerations/Copyright

The information in this podcast is not protected by copyright law in the United States. It may be copied and distributed without permission from LPA. LPA should be acknowledged as the source of the information. Listeners may not use this information to imply LPA endorsement of a commercial product or service or use it in a way that might be misleading.