



October 2012

Hon. Richard M. Smith, Chair
 Hon. Evelyn Z. Wilson, Vice Chair
 Scott M. Schultz, Executive Director



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Inside this issue:

| | |
|--|-------------------|
| FY 2013 KDOC Inmate Custody Classification Projection Report | 2 |
| Case Law Updates | 3 |
| Senate Bill 123 News | 3 |
| SB 123 Billing Changes | 3 |
| Journal Entry of Judgment & PSI | 4 |
| Kansas Criminal Justice System Resource | 5 |
| Kansas Sentencing Guidelines Desk | 5 |

Modifications to PSI & Sentencing Forms

During the recent October monthly meeting, the Kansas Sentencing Commission approved three modifications to the Presentence Investigation Report (PSI) and the Journal Entry of Judgment (JE). The Commission agreed to add special rule language for the criminal offense of DUI Test Refusal in both, the PSI and Journal Entry of Judgment. In addition, the “Placement Options” section of the PSI is modified as well as the Senate Bill 123 reimbursement fees.

First, the Commission approved the addition of a new special rule 39 for placement in the Special Rules pages of the [PSI](#) and [Journal Entry of Judgment](#). Special rule 39 reflects Driving Under the Influence Test Refusal which was criminalized last legislative session.

The Test Refusal statute, now codified at K.S.A. 2012 Supp. 8-1025, closely mirrors the current DUI statute with self-contained penalty provisions. These provisions presently lack nongrid status that is created in K.S.A. 2011 Supp. 21-6804(i)(1) for other crimes such as DUI, Felony Domestic Battery and Cruelty to Animals. The Commission was advised that this was an oversight and the intent was to include the crime of DUI Test Refusal as a nongrid offense. A statutory change will most likely occur in the 2013 legislative session. In the meantime, the felony violations of Test Refusals are to be treated as nonperson felonies. As it was not granted any exemption from the guidelines under K.S.A. 2011 Supp. 21-6804(i)(1), it is recognized under the guidelines as a level 10 nonperson felony in K.S.A. 2011 Supp. 21-6807(c) (3). Consequently, it is anticipated that the Test Refusal special rule placement in the “Habitual or Repeat Offenses Apply” section of the Special Rules pages of the PSI and Journal Entry of Judgment will be temporary and will be moved to the nongrid offenses when the law is amended.

Second, the Commission has recently experienced multiple inquiries from PSI writers regarding the Community Corrections Placement Options on page five of the PSI. These inquiries resulted in a request to be allowed to identify application of a special rule as rationale for community corrections placement. Currently, the Face Sheet and Face Sheet Supplemental pages of the PSI contain a special rule check box and description that is located in the Sentencing Range section so that the writer may denote its use on the particular conviction.

(continue on page 2)

Please Note

REVISED Presentence Investigation (PSI) and Journal Entry (JE) forms—dated 10/2012. [Click here to view forms](#)



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HAPPY HALLOWEEN

Similarly, the Special Rule page specifies the exact rule utilized. The new addition in the “Placement Options” section of the [PSI](#) allows the author to mark a “Special Rule Applies” check box as a basis for community corrections placement to notify the court of the writer’s assessment, should the court choose to sentence the defendant to a community-based sanction.

Finally, due to the modification of the Senate Bill 123 eligibility requirements last session, the Commission made provisions for instances in which only assessments are performed on the defendant with no resulting SB 123 treatment. In these cases, a SB 123 assessment fee of \$200 will be included in the PSI and Journal Entry of Judgment. If the defendant is ordered to SB 123 treatment, an additional \$100 in SB 123 offender reimbursement will apply as a cost. These changes are reflected in the [PSI](#) on page five, “Costs Proposed” section, and on page three, Section V., “Other Conditions, Costs Ordered” section in the [Journal Entry of Judgment](#).

Please contact Executive Director Scott Schultz if you have questions regarding these changes. These actions are effective for crimes committed on or after July 1, 2012.

FY 2013 KDOC Inmate Custody Classification Projection Report

The custody classification projection addresses the types of beds that the state needs for the total number of beds projected in the baseline projection. This includes the number of maximum, medium high, medium low, minimum, special management and unclassified beds needed to accommodate the inmate population.

A copy of the full report just released can be found [here](#).

Have you ordered yours?

2011 Kansas Sentencing Guidelines Desk Reference Manual (DRM)

This popular tool is available in a manual or CD. It is also on our [web site](#). [Fill out this order form](#) and send your payment (including tax if applicable) with the form to us. Thank you.



2003 Senate Bill 123

**K.S.A. 2011 Supp. 21-6824
(formerly K.S.A. 21-4729)**

Provides for community supervision (in lieu of incarceration) and mandatory substance abuse treatment for a defined target population on non-violent adult drug offenders who have been convicted of a drug offense under K.S.A. 2011 Supp 21-5706. (formerly K.S.A. 21-36a06)

GOAL: To provide community intervention and the opportunity for treatment to certain offenders with substance abuse problems in order to address more effectively the revolving door of drug addicts through the state prisons, which should be reserved for serious, violent offenders.

SB123 questions—

Please email Jennifer Dalton, jenniferd@sentencing.ks.gov or Jarod Waltner, Jarodw@sentencing.ks.gov or call with any questions.

September/October Case Law Updates

- [*State v. LeClair*](#) – October 26, 2012 – Saline – Reversed, No. 101,201 (Sentencing – KORA)
- [*State v. Wade*](#) – October 26, 2012 – Chautauqua - Affirmed in part, vacated in part, and remanded with directions, No. 101,548 (Jury Instructions)
- [*State v. Phillips*](#) – October 26, 2012 – Sedgwick - Affirmed in part and vacated in part, No. 102,282 (Appeals, Jury Instructions, Postrelease)
- [*State v. Burns*](#) – October 26, 2012 – Wyandotte – Reversed and remanded with directions, No. 103,088 (Jury Instructions)
- [*State v. Delarosa*](#) – October 26, 2012 – Finney – Affirmed, No. 105,534 (Drugs)
- [*State v. Lackey*](#) – October 19, 2012 – Saline – Reversed and remanded with directions, No. 100,890 (DNA)
- [*State v. Montgomery*](#) – October 19, 2012 – Shawnee – Affirmed dismissal of judgment, No. 102,119 (Probation-General Issues)
- [*State v. Hilton*](#) – October 19, 2012 – Ellis – Affirmed, No. 102,256 and 102,257 (Probation-General Issues)
- [*State v. Jones*](#) – October 12, 2012 – Sedgwick – Affirmed, No. 101,667 (Jury Instructions)
- [*State v. Ardry*](#) – October 5, 2012 – Sedgwick – Reversed, sentence vacated, and case remanded with directions, No. 101,311 (Probation – Revocation, Sentencing-Modifications)
- [*Haddock v. State*](#) – October 5, 2012 – Johnson – Affirmed, No. 101,508 (DNA)
- [*State v. Hopkins*](#) – September 28, 2012 – Reno – Reversed and remanded with directions, No. 100,851 (Jail Credit, Sentencing – Senate Bill 123)

Senate Bill 123 News

☀ SB123 Billing Changes ☀

Starting January 1, 2013 all treatments given to offenders with applicable insurance, private insurance or Medicaid, will have to be billed through the applicable insurance first. If the treatment is not covered by the offender's insurance then the treatment voucher should be forwarded to the Sentencing Commission for payment.

For more information [click here](#).

Treatment Providers: Please remember:

- **Send All ASI's to us (KSC).**
- **In addition to monthly invoicing, the KSC accepts weekly or bi-weekly invoices for faster processing.**

Community Corrections:

- **If you receive an ASI – please forward it to us (KSC).**
- **Our office gladly prefers invoices emailed to jenniferd@sentencing.ks.gov, or faxed to 785-296-0927 in care of Jennifer.**



Kansas Sentencing Commission

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Topeka, Kansas 66603-3757

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E-mail:

office@sentencing.ks.gov



Did you know...

You can E-mail your Journal Entry (JE), Probation Revocation, or PSI forms to us as an alternative to mailing them?

Just like everyone these days, we are always looking for ways to cut costs. Save paper and postage!

E-mail to:
chrisc@sentencing.ks.gov

Journal Entry of Judgment (JE) and PSI News

[Click here](#) to view the

**REVISED– 10/30/12
2012 Forms**

(all forms are effective 7/1/2012)

- Journal Entry of Judgment (JE)
- Probation Revocation
- Presentence Investigation (PSI)
- Drug & Nondrug Sentencing Grids

Due to the many **NEW** changes made in the forms– there are **highlighted versions** to show what, where and how things changed.

**Offender Registration Requirement
K.S.A. 2012 Supp. 22-4902**

Under the new Act the court sentencing an offender subject to the Act must not only inform the offender of the registration requirements but also, when that offender is granted some form of probation, see that the initial registration forms are completed.

To get forms - [click here](#)



Attention

When completing JE and PSI's please include the ENTIRE statute number - including subsections

Similar offenses are separated by these subsections

Example:

21-5705(a)(1)(c)(1) - [formerly 21-36a05(a)(1)] **Drugs; Cultivate, distribute, or possess w/ intent to distribute opiates, cocaine, meth, narcotics and the like.**



REGISTRATION REQUIRED!

21-5705(a)(2)(c)(1) - [formerly 21-36a05(a)(2)] **Drugs; Cultivate, distribute, or possess w/ intent to distribute marijuana, depressant, stimulants and the like.**



NO REGISTRATION required!

Please contact
Carrie Krusor or Chris Chavez
if you have **ANY** questions
(785) 296-0923.
Thank You!

Take a look!

**Journal Entry (JE)
Friendly Reminders**



These will answer many questions...

If you email JEs– **please include the following:**



- ▶ JE
- ▶ PSI
- ▶ Date of Birth
- ▶ Criminal History worksheet

We provide
**KBI Offender
Registration Forms**

**Remember...
There are a few misdemeanor offenses that require registration!**



Kansas Criminal Justice System Resource Directory

A Message to Entities Referenced in the Kansas Criminal Justice System Resource Directory-

The staff of the Kansas Sentencing Commission hopes the Resource Directory will be a valuable aid to you and your staff. Every effort has been made to ensure complete and accurate information. In order to maintain maximum efficiency of this directory, please keep us apprised of updates by emailing changes to: office@sentencing.ks.gov.

If **your** information in this **Resource Directory** has changed, please use this **revision form** to let us know.

Thank you to those who help us keep your information accurate!

- Please feel free to print your own copy. *

Last revised 10/24/12



Kansas Sentencing Guidelines Desk Reference Manual (DRM)



The Kansas Sentencing Commission Desk Reference Manual ... provides general instructions for application of the provisions of the Kansas Sentencing Guidelines Act (KSGA) K.S.A. 21-4701 *et seq.* The Manual contains features that we hope will not only inform users of the latest developments in sentencing law 2010, but also help to facilitate more efficient understanding and application of the law.

Please check to see the **current** rate for **your** city or county - (we have to keep our books balanced too.)

[2012 Sales Tax Rates](#)

Thank you!

Mail completed form with your payment.

2010 Desk Reference Manual (DRM) are still available.

[To order yours!](#)

(Please send payment with the order form.)



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To remove your name from our mailing list, please [click here](#).
Questions or comments? E-mail us at sentencing@sentencing.ks.gov
We welcome your questions – call us at 785-296-0923