



**January 2014**  
*Quarterly E-newsletter*

Hon. Evelyn Z. Wilson, Chair  
 Hon. W. Lee Fowler, Vice Chair  
 Scott M. Schultz, Executive Director



[www.sentencing.ks.gov](http://www.sentencing.ks.gov)

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**Kansas Sentencing Guidelines  
 2013 Desk Reference Manual  
 (DRM)**

**... Order Now!**

**Mail completed form with your payment.**

The Sentencing Commission is pleased to announce that the 2013 Kansas Sentencing Guideline Desk Reference Manual (DRM) is available for purchase! Included with the manual is a laminated sheet with both HB 2170 Graduated Sanctions Flowchart and K.S.A. 21-5705 - Drug Distribution Crimes Flowchart. Please [click here](#) for more details.

**Commission Looks Forward to New Year**

The passage of the Justice Reinvestment Initiative last legislative session continues to affect judicial districts across the state. Quick dips, 120 and 180-day graduated sanctions are becoming the norm for technical probation violators.

The Commission has been monitoring the progress of HB 2170 and is very optimistic and encouraged by the adoption of this important legislation. To further strengthen these post-sentencing tools, the Commission has hired a research analyst to monitor HB 2170. It also receives data from the Community Corrections and Court Services on a monthly basis to track graduated sanctions.

In the past six months, staff has fielded numerous questions by telephone and email from practitioners state-wide relating to implementation. Due to the overwhelming interest, the Commission created a special tab on its website dedicated to HB 2170. It can be found on the agency's home page and includes a Frequently Asked Questions section to support stakeholders. Last September and October, a seven city speaking tour in Dodge City, Hays, Salina, Wichita, Topeka, Overland Park and Pittsburg by Executive Director Scott Schultz and Staff Attorney Sean Ostrow allowed the office to further educate with HB 2170 presentations and listen to stakeholders concerns to make the legislation better.

**Proposed Amendments**

As a result, the Commission contemplates proposing amendments to HB 2170 and transferring probation cases where courtesy supervision is currently taking place consistent with K.S.A. 21-6610. The changes are aimed at streamlining criminal procedure after sentencing in several ways.

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### **HB 2170**

**Retroactivity** - Since implementation of the bill on July 1, 2013, applying the provisions retroactively to criminal offenses committed prior to July 1, 2013 has been at issue. As a result, some judicial districts have maintained that the measure violates *ex post facto* laws. The Commission has addressed this issue and others in an open letter to stakeholders which may be found on its website at: <http://www.sentencing.ks.gov/docs/default-source/hb-2170/graduated-sanctions.pdf?sfvrsn=0>.

The Commission believes the graduated sanctions are not substantive changes in the law and do not affect the defendant's rights. They are simply procedural refinements within the existing probation violation system which the Kansas Legislature intended to apply retroactively to every offender on probation, regardless of date of conviction. Therefore, the graduated sanctions should be applied retroactively in all cases and additional language is being proposed to further explain this intent.

**60-day sanction** – The Commission has learned that in probation revocation cases since HB 2170 that graduated sanctions and the already available 60-day sanction for violations of probation is conflicting. In some cases, it is also being stacked with HB 2170 sanctions. This was not the original intent of the legislation and the Commission is proposing a technical amendment to remedy this apparent confusion.

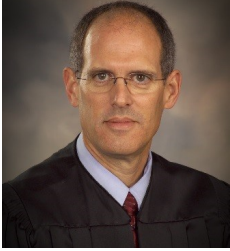
**Felony Quick Dips and Other Graduated Sanctions** – Through discussions with judicial districts and analysis of current probation revocations, the Commission determined that the current language that describes the duration and limits of the imposition of two to three-day jail sanctions or quick dips was confusing. As such, amending language is proposed to maintain the total term of 18-days in jail during the entire supervision but delete the six day and three month time periods. To further enhance the policy of short-term jail stays, a “no stacking provision” for multiple violations is also contemplated.

### **K.S.A. 21-6610**

The Commission also approved language that would allow permanent transfer of probation cases from one judicial district to another. Amending [K.S.A. 21-6610](#) would allow for cost savings as the offenders would not have to be transported back to the original jurisdiction and violation hearings could proceed in the jurisdiction of the courtesy supervision. Probation officers and potential witnesses would be spared travel for a probation violation hearing. Any permanent transfers would require approval from interested parties in both the sending and receiving judicial districts.

The Commission sees 2014 as an opportunity to further shape sentencing policy in the state. These proposals are not law and represent legislation that is anticipated to be introduced this month. If you have any questions, please contact our office.

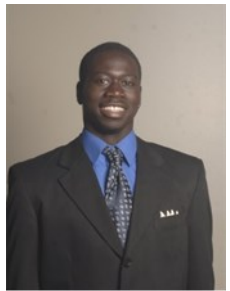
## Lyon County Judge Nominated to Serve as Vice Chair for the Kansas Sentencing Commission



The Kansas Sentencing Commission elected Judge W. Lee Fowler at the 2013 November Commission meeting to serve as the Vice Chair of the Commission.

Judge Fowler was appointed to the Sentencing Commission by Chief Justice Lawton R. Nuss on August 8, 2013. He has served as a district judge since 1997 in the 5th Judicial District. He presides over cases in Lyon and Chase counties.

## Commission Welcomes New Research Analyst



George "Ebo" Browne was born and raised in Lawrence, Kansas. He attended the University of Kansas and obtained an undergraduate degree in Applied Behavioral Science with a concentration in juvenile justice. While at KU, Ebo participated in track and field for the Jayhawks where he was a decorated student athlete on and off the track. Some of his accolades include being nominated as a team captain, multiple recipient of the Athletic Director's honor roll list, and a three-time member of the Academic All-Big 12 1<sup>st</sup> team.

After graduating from KU in 2011, Ebo attended Wichita State University in pursuit of a Master's degree in Criminal Justice. At Wichita State, Ebo served as a Graduate Teaching Assistant (GTA) for the criminal justice department. As a GTA, he assisted professors in criminological research and taught several lectures in an introduction to criminal justice course and racial profiling class. Academically, he geared his graduate curriculum on research design and conducted his Master's thesis project on juvenile offenders.

Ebo will serve as a Research Analyst for the Kansas Sentencing Commission (KSC). His duties include designing and developing the KSC Justice Reinvestment Graduated Sanctions database, monitoring and evaluating offenders' LSI-R information, and participating in legislative impact assessments.

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☀ **FY 2014 Prison Population Projections** ☀ Click [here](#) to view the entire report

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☀ **FY 2014 KDOC Inmate Custody Classification Projection** ☀

The FY 2014 KDOC Inmate Custody Classification Projection report has recently been released. The report represents the specific type of prison beds needed by the state. Over the ten-year forecast period, for males, the percentage distributions of medium high beds will increase; the medium low beds will decrease while unclassified, special management, maximum and minimum beds will remain almost unchanged. For females, the percentage distributions of unclassified beds will increase; while special management, maximum, medium high and medium low beds will slightly decrease. The percentage of minimum beds will remain unchanged. The seven-page report may be found [here](#).

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☀ **2012 Annual Report** ☀ To view the report [click here](#)



## Did you know...

E-mail your Journal Entry (JE), Probation Violation Hearing (PVJE), or PSI forms 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](mailto:chrisc@sentencing.ks.gov)

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

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

If you have ANY questions  
(785) 296-0923.

### 2003 Senate Bill 123 K.S.A. 2013 Supp. 21-6824

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. 2013 Supp. 21-5706.

**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.

## 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. 2013 Supp. 21-6801. The Manual contains features that we hope will not only inform users of the latest developments in sentencing law, but also help to facilitate more efficient understanding and application of the law.

**2012, 2011 & 2010 Desk Reference Manuals (DRM) are still available.**

## 2013 Kansas Sentencing Guidelines— forms

### All 2013 Forms

are effective 7/1/2013

(latest revision date 11/18/2013)

**Click here** to view all 2013 forms

- Journal Entry of Judgment (JE)
- Probation Violation Hearing (PVJE)
- Presentence Investigation Report (PSI)

### **Please note:**

Under each form of the **highlighted version** we have provided and an explanation document describing the latest changes.

Please don't hesitate to call with any questions.

## Senate Bill 123 News

### Observance of Length of Stay Caps when Billing for SB 123 Treatment letter

### ☀ **SB123 Billing Changes** ☀

Starting January 1, 2013, insurance billing changes will occur.

For more information [click here](#).

### The Offender Insurance Coverage Report Form

### **Treatment Providers: Please remember:**

- **Send All ASIs 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](mailto:jenniferd@sentencing.ks.gov), or faxed to 785-296-0927 in care of Jennifer.**

### **SB123 questions—**

Please email Jennifer Dalton, [jenniferd@sentencing.ks.gov](mailto:jenniferd@sentencing.ks.gov) or

Sean Ostrow, [seano@sentencing.ks.gov](mailto:seano@sentencing.ks.gov)





## Kansas Criminal Justice System Resource Directory

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!**

**Last revised 1/3/14**

### October – December Case Law Updates

- \* [104858](#) - *State v. Cheeks* - Supreme Court – October 4, 2013 - Affirmed – (Constitutional Issues, DNA)
- \* [104827](#) - *State v. Llamas* - Supreme Court - October 25, 2013 - Affirmed – (Appeals, Evidentiary Issues, Jury Instructions)
- \* [107671](#) - *State v. Phillips* - Supreme Court – October 25, 2013 - Affirmed – (Sentencing, General Issues, Sentencing Modifications)
- \* [108335](#) - *State v. Craddick* - Court of Appeals - November 1, 2013 - Reversed and Remanded for Sentencing (Sentencing, Special Rules)
- \* [102256](#) - *State v. Hilton* - Court of Appeals - November 8, 2013 - Affirmed - (Probation, Revocation)
- \* [101458](#) - *State v. Lowrance* - Supreme Court - November 8, 2013 - Affirmed- (Appeals, Evidentiary Issues)
- \* [104651](#) - *State v. Key* - Supreme Court - November 8, 2013 - Reversed and Remanded to Court of Appeals - (Appeals, Plea Agreements, Criminal History, Sentencing/DUI)
- \* [105420](#) - *State v. Jones* - Supreme Court - November 8, 2013 - Affirmed - (Issues with Counsel)
- \* [105882](#) - *State v. Robertson* - Supreme Court - November 8, 2013 - Affirmed - (Appeals)
- \* [104083](#) - *State v. Foster* - Supreme Court – November 15, 2013 -Affirmed – (Appeals)
- \* [100704](#) - *State v. Stovall* - Supreme Court - November 22, 2013 - Reversed and Remanded to District Court – (Constitutionality, Issues With Counsel)
- \* [103855](#) - *State v. Bird* - Supreme Court - November 22, 2013 - Reversed Court of Appeals and Affirmed District Court’s Departure Sentence – (Sentencing, Departures)
- \* [107631](#) - *State v. Acevedo* – Court of Appeals - November 22, 2013 – Affirmed – (Jury Instructions)
- \* [108809](#) - *State v. Raikes* – Court of Appeals - November 22, 2013 - Reversed and Remanded (Constitutionality)
- \* [109518](#) - *State v. Richmeier* – Court of Appeals - November 22, 2013 - Reversed and Remanded – (DUI)
- \* [102055](#) - *State v. Hensley* - Supreme Court - December 6, 2013 - Affirmed in Part, Reversed in Part – Constitutionality, Sentencing, Multiplicity)
- \* [105854](#) - *State v. Stanton Holt* - Supreme Court – December 6, 2013 - Affirmed – (Appeals)
- \* [107660](#) - *State v. Srack* – Court of Appeals - December 13, 2013 – Affirmed – (Constitutionality Evidentiary Issues)
- \* [108949](#) - *State v. Phillips* – Court of Appeals - December 13, 2013 - Reversed and Remanded – (Constitutionality)
- \* [103532](#) – *State v. Derek John Holt* - Supreme Court - December 20, 2013 - Reversed and Remanded to District Court – (Appeals, Constitutionality)
- \* [104198](#) - *State v. Hurd* - Supreme Court - December 27, 2013 - Reversed and Remanded to District Court – (Sentencing, General Issues, Appeals, Constitutionality)
- \* [105932](#) - *Makthepharak v. State* - Supreme Court – December 27, 2013 - Affirmed – (Juveniles, Appeals, Sentencing, General Issues)