



July 2014
Quarterly E-newsletter

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



www.sentencing.ks.gov

Inside this issue:

Legislative Update	<u>2</u>
Announcements	<u>3</u>
FY 2104 KDOC Inmate Custody Classification Projection	<u>4</u>
2013 Annual Report	<u>4</u>
FY 2014 Prison Population Projections	<u>4</u>
Senate Bill 123 News	<u>4</u>
Kansas Criminal Justice System Resource	<u>4</u>

Representative Tom Sawyer Appointed to Commission



Tom Sawyer has been appointed the newest member of the Kansas Sentencing Commission. Rep. Sawyer currently represents the 95th District (Wichita) in the Kansas House of Representatives.

Sawyer joins the Commission after being appointed on June 18, 2014, by House Minority Leader Paul Davis, replacing Rep. Jan Pauls from Hutchinson. Rep. Sawyer is currently Vice Chair of the House Committee on Rules and Journal. He is also ranking minority member of the House Elections and Taxation committees.

He was first elected as a state representative in 1987 and served until 1998, resigning to run for governor against Bill Graves. During that time, he served as House Majority Leader (1991-1992) and House Minority Party Leader (1993-1998). In 2002, he was re-elected, serving until September 2009 when he was appointed by Governor Mark Parkinson to serve on the Kansas Parole Board.

Tom received his Bachelor of Business Administration in Accounting, *cum laude* from Wichita State University in 1984 and is a small business owner.

Statewide Cutoff Scoring and Supervision Levels Set for Probation

On June 19, 2014, the Commission approved statewide Level of Service Inventory-Revised (LSI-R) cutoff scoring for offenders receiving felony probation. In 2013, the legislature added this duty in K.S.A. 74-9101(b)(21), which provides that the Commission be “authorized to make statewide supervision and placement cutoff decisions based upon the risk levels and needs of the offender. The commission shall periodically review data and make recommended changes.” LSI-R cutoff scores were set at 23 and under being placed with court services and 24 and above being placed with community corrections. The change is prospective in nature and will apply only to those offenders committing crimes on or after July 1, 2014.

Recommendations to the full Commission were submitted by the LSI-R Subcommittee after extensive data analysis and consideration of many policy options. Members of the Commission participating on the subcommittee are: Hon. Evelyn Wilson, Chair; Betsy Gillespie; Chris Mechler; and Ray Roberts. A proposed letter from Chair Wilson on behalf of the Commission to Kansas Supreme Court Chief Justice Lawton Nuss and Kansas Department of Corrections Secretary Ray Roberts was approved by the Commission at its monthly meeting in June. It establishes recommended cutoff decisions and supervision levels for court services and community corrections based upon the risk level of the offender. The letter may be found [here](#) and on the agency website. The Commission will continue to monitor implementation, review performance and make further recommendations if necessary.

2014 Legislative Update



The Commission recommended four bills for legislative consideration this year, ranging from Justice Reinvestment Act clean-up to misdemeanor criminal history scoring. The two bills that have been passed into law are effective July 1, 2014, and summarized below.

S Sub for HB 2448

The bill was originally drafted as HB 2495. Now S Sub for HB 2448, the legislation clarifies several provisions created or amended by the Justice Reinvestment Act, which made numerous changes to sentencing, probation, and postrelease supervision statutes last year. Specifically, the bill:

- ▶ Moves the provision allowing a judge in most felony cases to impose up to 60 days in a county jail upon revocation of a probation sentence or community corrections placement from the authorized dispositions for sentencing statute to the statute governing probation, community corrections, suspended sentence, and nonprison sanction violations. It further clarifies that this provision is separate and distinct from other sanctions provided for in the violation of release conditions, shall not be imposed at the same time as the other sanctions, and shall be served concurrently if the offender is serving concurrent probation terms;
- ▶ Adds a similar “up to 60 day” sanction provision for misdemeanor violators, and specifies that such sanctions shall be served concurrently if the offender is serving concurrent probation terms;
- ▶ Clarifies that the intermediate sanctions established in HB 2170 that may be imposed by a court services officer or community corrections officer are applicable only if the original crime of conviction was a felony, with the exception of felony DUI, test refusal, domestic battery, forgery, and cruelty to animals convictions;
- ▶ Provides that for felony DUI, test refusal, domestic battery, forgery, and cruelty to animals convictions, the sanctions for misdemeanor violators be imposed;
- ▶ Adds a two to three-day confinement provision for misdemeanor violators, similar to that allowed for felony violators;
- ▶ Clarifies that the 120-day and 180-day incarceration intermediate sanctions shall not be served by prior confinement credit;
- ▶ Specifies that intermediate sanctions are to be imposed concurrently if the offender is serving multiple probation terms concurrently;
- ▶ Adds a retroactivity provision to clarify that the violation sanctions shall apply to any violation occurring on or after July 1, 2013, regardless of the date the underlying crime was committed or the offender was sentenced for the underlying crime; and
- ▶ Amends a provision implemented by HB 2170 allowing early discharge of low risk offenders from supervision to change the standard for denial by the court of such discharge from “substantial and compelling reasons for denial” to “clear and convincing evidence that denial . . . will serve community safety interests.”

S Sub for HB 2655

The Commission approved amendment of a veteran’s bill that would allow the district court to order SB 123 substance abuse treatment to an offender that was deemed to have a combat-related mental illness. The bill enacts new law and amends existing statutes to allow a defendant at the time of conviction or prior to sentencing to assert that the offense was committed as a result of mental illness, including post-traumatic stress disorder, stemming from service in a combat zone while in the U.S. Armed Forces. Under the provisions of the bill, the court must hold a hearing to determine the following:

- ▶ Whether the defendant served in a combat zone while in the U.S. Armed Forces, as proven by a certification by the executive director of the Kansas Commission on Veterans’ Affairs;

- ▶ Whether the defendant has separated from the armed forces with an honorable discharge or a general discharge under honorable conditions;
- ▶ Whether the defendant suffers from a mental illness; and
- ▶ The mental illness was caused or exacerbated by service in a combat zone.

If the court determines the defendant has met these criteria established and the defendant's current crime and criminal history fall within a presumptive nonprison category under the sentencing guidelines, the court may order the defendant to undergo treatment. The bill allows the court to order the defendant to undergo either inpatient or outpatient treatment at any treatment facility or program operated by the U.S. Department of Defense, the Federal Veterans' Administration, and the Kansas National Guard.

If the court determines the defendant is eligible for treatment under the above provisions and that the defendant meets the requirements for treatment under 2003 SB 123, the SB 123 provisions would apply, except the court may order treatment by the providers listed above in lieu of participation in a certified drug abuse treatment program.

Forms Modification

Staff of the Commission tracked over 60 bills germane to criminal sentencing this session. As such, the necessary modifications to reflect these changes in the law has been proposed and approved by the Commission in the most recent update of the Presentence Investigation Report, Journal Entry of Judgment, and Journal Entry of Probation Violation Hearing. Applicable changes have been posted on July 1, 2014 and can be found below and on the Commission's [website](#).

2014 Kansas Sentencing Guidelines– forms



All NEW 2014 Forms (effective 7/1/2014)

[Click here](#) to view all 2014 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.

2013 DRM

... Order Now!

**Mail completed form
with your payment.**

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

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



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

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. 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. 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.

☀ Arrest-Related Deaths Update ☀

NOTICE TO ALL PARTICIPATING STATE LAW ENFORCEMENT AGENCIES:

The Kansas Sentencing Commission will no longer collect Arrest-Related Deaths data because the program has been discontinued by the Bureau of Justice Statistics. We will inform you if the program resumes.

☀ 2013 Annual Report ☀ To view the report click [here](#)

☀ FY 2014 Prison Population Projections ☀

Click [here](#) to view the entire report

☀ FY 2014 KDOC Inmate Custody Classification Projection ☀ The report may be found [here](#).

Senate Bill 123 News

☀ SB123 Billing Changes ☀

Insurance billing changed in January 1, 2013. For more information [click here](#).

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

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, or faxed to 785-296-0927 in care of Jennifer.**
- **SB123 questions— Please email Jennifer Dalton, jenniferd@sentencing.ks.gov or Sean Ostrow, 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.