



October 2014

Quarterly E-newsletter

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Guardians of the Guidelines

Recently, I watched the movie *Guardians of the Galaxy* with my family. It pits unlikely heroes battling against evil to save the universe. While not a science fiction thriller like the movie, the Sentencing Commission occupies a guardian role by proposing new legislation to further the aims of the Kansas Sentencing Guidelines Act (KSGA). Two of the important issues from the 2014 legislative session were updating the Justice Reinvestment Initiative and providing new ways to treat offenders who are veterans with mental illness.

Justice Reinvestment Initiative

In 2013, the legislature passed the Justice Reinvestment act in HB 2170 that provided significant reforms for sanctions involving technical violations of probation. With assistance from the Council of State Governments, bill language consistent with evidence-based practices was proposed by the Commission to allow for swift and certain sanctions in the form of 2-3 day jail stays, increasing to 120 or 180-day intermediate sanctions with the Department of Corrections prior to receiving a revocation of an offender’s probation. The Commission was authorized by the bill to monitor the implementation of JRI. After receiving feedback from interested parties throughout the state during the first year of implementation, the HB 2170 legislation was amended in the 2014 session to reflect the feedback.

Senate Substitute for House Bill 2448 provides those amendments that seek to streamline and strengthen JRI. Highlights include:

- Quick dips** – Felony language amended to simplify 2-3 day jail stays and up to 18 days total during term of probation. Misdemeanor probationers are now eligible to receive quick dips but not intermediate sanctions (120 or 180-day in DOC);
- Nongrid offenses** – Felony nongrid offenses may also receive quick dips but not intermediate sanctions;
- 60-day sanctions** – Still available to the court as a probation sanction but does not count towards graduated sanctions. Misdemeanor violations are now eligible for this disposition as well;
- Intermediate sanction time calculation** – Time is credited to these sanctions (120 or 180-day) only after the order of sanctions is entered by the court. Any time served awaiting the sanction hearing is credited to the original sentence; and
- Retroactivity** – New subsection that makes clear the legislative intent that JRI sanctions are available for those probationers committing violations on or after July 1, 2013, regardless of when the offender was sentenced or committed the crime.

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Veterans Treatment

Passing HB 2655 in the 2014 session enables eligible offenders who are veterans to be ordered to receive mental illness services in any treatment facility or program operated by the U.S. Department of Defense, the Federal Veterans' Administration and the Kansas National Guard. The bill provides specific criteria for an offender whose sentence would be in a presumptive probation range. At a hearing prior to sentencing, the defendant must comply with the following to be considered by the court for treatment:

- Served in a combat zone while in the U.S. Armed Forces as certified by the Kansas Commission on Veterans' Affairs;
- Received an honorable discharge or general discharge under honorable conditions;
- Suffers from mental illness; and
- The mental illness was caused or exacerbated by service in a combat zone.

In addition to this provision, if the court determines that the veteran is eligible for treatment and meets the requirement under the alternative sentencing provision of 2003 SB 123, the court may order treatment at those federal facilities listed above. With mental illness and substance abuse issues prevalent among today's offenders, the legislation contemplates good outcomes and cost-effective results in utilizing these federal resources.

Staff of the Commission has made contact with federal mental health personnel and have been assured that they are eager to assist the state's veterans in providing adequate treatment at these federal care facilities. To further assist practitioners, the Commission has partnered with the Office of Judicial Administration to provide two sample forms that have been drafted by OJA and placed on the KSC website for use. They are located at the Legislation tab under [Veterans Treatment](#). We hope they will be valuable tools for you.

A statutory duty of the Commission is to assist stakeholders through education efforts to enable implementation of new and amended laws that affect them. This quarterly newsletter is one of the ways we can educate and inform. [Legislative updates](#), like the one recently presented to the Kansas Association of Court Services Officers, can also provide overviews and insights into the annual changes in state criminal law.

The Commission takes its guardian role of the sentencing guidelines seriously. And although the entire galaxy does not appear to need saving just yet, we will continue to promote public safety and advocate for the goals and ideals of the guidelines so that sentencing can be fair and equitable for all parties.

Respectfully submitted,

Scott M. Schultz
Executive Director

State v. Murdock Update

On May 2, 2014, Kansas Supreme Court announced their holding in the case of [State v. Murdock](#). The Court held that *any* convictions which were committed prior to the enactment of the Kansas Sentencing Guidelines Act (KSGA) on July 1, 1993, must be designated as nonperson offenses for criminal history purposes. Subsequently, the Attorney General's office filed a Motion for Modification with the high court. The hearing was granted.

On September 19, 2014, the Kansas Supreme Court issued its [Order of Modification](#), granting in part and denying in part the State's motion as follows:

This court orders a modification to the sentence on page 9 of the slip opinions that states: "We recognize this rule results in the classification of all pre-1993 crimes as nonperson felonies - an outcome the State characterizes as unreasonable." The sentence shall be modified to read: "We recognize this rule results in the classification of all **out-of-state** pre-1993 crimes as nonperson felonies - an outcome the State characterizes as unreasonable." [Emphasis added].

Pursuant to this modification, in-state convictions committed prior to July 1, 1993 may still be classified as person felonies but those out-of-state crimes must be scored as nonperson felonies.

 **FY 2015 Prison Population Projections** 

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



 **FY 2015 KDOC Inmate Custody Classification Projection**  The report may be found [here](#).



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



[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.



2014 Desk Reference is currently under construction.
Please check our website often to determine when orders may be placed.



... Still Available!
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.

Senate Bill 123 News

Position Announcement

The Kansas Sentencing Commission is seeking a Utilization Review and Treatment Specialist to assist in the operations of the SB 123 Drug Treatment and Alternative Sentencing Program. The position will have an integral role in defining the continued success of the program by ensuring that treatment funds are used efficiently and in accordance with evidence-based practices.

This is an opportunity to join the Kansas Sentencing Commission team and have an immediate impact on the delivery of addiction services treatment and care statewide.

Licensed Addiction Counselors and Licensed Clinical Addiction Counselors are encouraged to apply. Preference will be given to candidates with experience in clinical assessment, creating treatment plans, coordinating care and matching client needs with appropriate treatment. More information regarding the position may be found [here](#).



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

