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Harper County Bar Association Anthony, Kansas May 8, 2015

Scott M. Schultz, Executive Director
Kansas Sentencing Commission

www.kansas.gov/ksc

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Agenda

- Agency Overview
- 2015 Legislative Update
- HB 2170: Provisions & Impact
- Journal Entries

An Overview of the Kansas Sentencing Commission and the Kansas Sentencing Guidelines Act

2015 Commission Members

Honorable Evelyn Z. Wilson, Chair

District Judge, 3rd Judicial District

Honorable W. Lee Fowler, Vice Chair

District Judge, 5th Judicial District

Honorable Patrick D. McAnany

Kansas Court of Appeals

Jennifer C. Roth

Public Defender, 3rd Judicial District

Carolyn McGinn

Kansas Senate

Ray Roberts

Secretary of Corrections

David B. Haley

Kansas Senate

David W. Riggin

Kansas Prisoner Review Board

John J. Rubin

Kansas House of Representatives

Tom Sawyer

Kansas House of Representatives

Amy J. Hanley

Attorney General's Office

Kevin N. Berens

Thomas County Attorney

J. Shawn Elliott

Attorney

Elizabeth (Betsy) M. Gillespie

Director of Corrections, Johnson County

Edward J. Regan

Public Member

Reverend Junius B. Dotson

Public Member

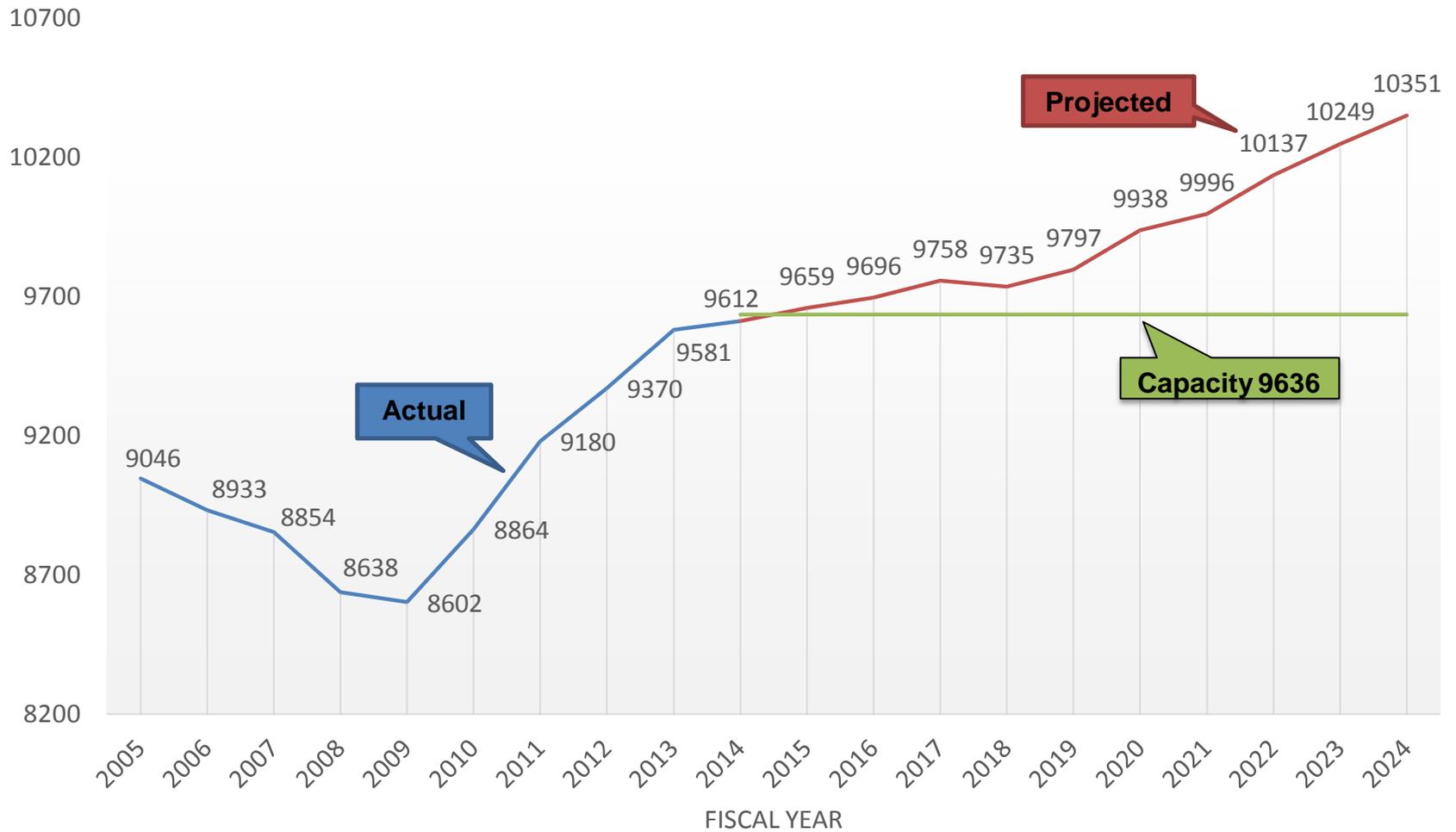
Chris A. Mechler

Office of Judicial Administration

Duties and Responsibilities

- Legislative
 - Impacts during the session
 - Presentation to Joint Committee on Corrections and Juvenile Justice Oversight
- State Statistical Analysis Center for Criminal Justice
 - Maintain database of sentencing journal entries, PSIs and probation revocation journal entries
- Maintain, monitor and update the Kansas Sentencing Guidelines Desk Reference Manual (DRM)
- Annual prison bed population and inmate classification projections for KDOC
- Annual Report

Kansas Prison Population - Actual and Projected



PRISON POPULATION MONTHLY MONITORING REPORT
FY 2015 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2014	9660	9649	11	0.11%
August 2014	9656	9616	40	0.42%
September 2014	9627	9701	-74	-0.76%
October 2014	9638	9671	-33	-0.34%
November 2014	9622	9678	-56	-0.58%
December 2014	9620	9734	-114	-1.17%
January 2015	9604	9654	-50	-0.52%
February 2015	9598	9667	-69	-0.71%
March 2015	9656	9741	-85	-0.87%
April 2015	9714	9780	-66	-0.67%
May 2015	9666			
June 2015	9659			

Duties and Responsibilities (Cont.)

- Administration of SB 123 payments to drug abuse treatment providers
- Private research requests
- Training and information resource for criminal justice agencies
 - Development of sentencing manuals and related training (i.e., DRM and the Kansas Criminal Justice Resource Directory)
 - Quarterly newsletter
 - Sentencing Q & A helpline

Staff

- Currently 11 team members
- Major functional areas:
 - Research and data maintenance
 - SB 123 (provider payments and data tracking)
 - Legislative issues (bed impacts and special requests)
 - Legal issues (JE revisions, PSI questions, DRM updates)

- 1988
 - Prison overcrowding litigation
 - Court Order – Reduce Kansas prison population by 100 inmates per month
 - Criminal Justice Coordinating Council
 - Recommended establishing the Kansas Sentencing Commission in 1989
 - DISPARITY BASED ON RACE AND GEOGRAPHY
 - PROPORTIONALITY
 - TRUTH IN SENTENCING

- 1991
 - Commission formed to study sentencing disparity
 - Delivered a report to the Legislature that called for guidelines sentences
- 1993
 - Legislature passed the Kansas Sentencing Guidelines Act
 - Nondrug and drug grids adopted
 - Indeterminate sentences abolished and converted

SENTENCING RANGE – NONDRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanor	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

Probation Terms are:

36 months recommended for felonies classified in Severity Levels 1-5

24 months recommended for felonies classified in Severity Levels 6-7

18 months (up to) for felonies classified in Severity Level 8

12 months (up to) for felonies classified in Severity Levels 9-10

Postrelease Supervision Terms are:

36 months for felonies classified in Severity Levels 1-4

24 months for felonies classified in Severity Levels 5-6

12 months for felonies classified in Severity Levels 7-10

Postrelease for felonies committed before 4/20/95 are:

24 months for felonies classified in Severity Levels 1-6

12 months for felonies classified in Severity Level 7-10

LEGEND
Presumptive Probation
Border Box
Presumptive Imprisonment

SENTENCING RANGE- DRUG OFFENSES

Categories→	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felony	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	144 136 130	137 130 122	130 123 117	124 117 111	116 111 105	113 108 101	110 104 99	108 100 96	103 98 92
III	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
IV	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	26 24 23	23 22 20	19 18 17	16 15 14
V	42 40 37	36 34 32	32 30 28	26 24 23	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

Presumptive Probation

Border Box

Presumptive Imprisonment

•Fines not to exceed \$500,000 (SL1-SL2), \$300,000 (SL3-SL4), \$100,000 (SL5)

•Severity level of offense increases one level if controlled substance or analog is distributed or possessed w/ intent to distribute on or w/in 1000 ft of any school property.

Distribute or Possess w/ intent to Distribute

Levels	Cocaine	Meth & Heroin	Marijuana	Manufacture (all)	Cultivate	Dosage Units	Postrelease	Probation	Good Time
I	≥ 1 kg	≥ 100 g	≥ 30 kg	2nd or Meth	>100 plants	>1000	36	36	15%
II	100 g - 1 kg	3.5 g - 100 g	450 g - 30 kg	1st	50-99 plants	100-999	36	36	15%
III	3.5 g - 100 g	1 g - 3.5 g	25 g - 450 g		5-49 plants	10-99	36	36	15%
IV	< 3.5 g	< 1 g	< 25 g			<10	24	≤ 18	20%
V	Possession		Possession-2nd offense				12	*≤12	20%

* ≤ 18 months for 2003 SB123 offenders

Why Presumptive Guidelines?

- Establishes equity among offenders in typical cases
- Allows departures in atypical cases
- Allows for more certainty in predicting prison populations

Harper County FY 2014 Overall Sentences

Prison Sentences Based on KDOC Admission Data

Probation and Jail Sentences Based on KSC Sentencing

Gender	Number	Percent
Male	32	66.7
Female	16	33.3
Total	48	100.0
Race	Number	Percent
White	48	100.0
Average Age at Offense		30.2
Average Age at Sentence		30.8

Harper County Felony Sentences FY 2014

Sentence Imposed	Number	Percent
Prison	9	18.8
County Jail	1	2.1
probation	38	79.2
Total	48	100.0
Drug/Nondrug	Number	Percent
Nondrug	25	52.1
Drug	23	47.9
Total	48	100.0

Severity Level	Number	Percent
d3	1	2.1
d4	6	12.5
d5	16	33.3
n1	1	2.1
n10	1	2.1
n7	5	10.4
n8	7	14.6
n9	7	14.6
nongrid	4	8.3
Total	48	100.0

Harper County Felony Sentences FY 2014

Offense	Number	Percent
Agg. Endangering a Child	1	2.1
Agg. Indecent Solicit w/Child	1	2.1
Agg. Kidnapping	1	2.1
Arrange Sale/Purchase Drug	2	4.2
Burglary	3	6.3
Criminal Threat	3	6.3
Drugs	23	47.9
DUI	4	8.3
Failure to Register	1	2.1
Forgery	3	6.3
False Writing	1	2.1
Theft	3	6.3
Traffic in Contraband	1	2.1
Giving Worthless Checks	1	2.1
Total	48	100.0

Description	Number
Jessica's Law Sentences	0
SB 123 Treatment Sentences	6
HB 2170 Sanction to Prison	2
HB 2170 Sanction to Jail	3

Harper County Felony Sentences FY 2014

Offenses			
Sentence Type		Number	Percent
Prison	Agg. Indecent Solicit w/Child	1	11.1
	Agg. Kidnapping	1	11.1
	Burglary	1	11.1
	Drugs: Possession	3	33.3
	Drugs: Distribution/Sale	1	11.1
	Failure to Register	1	11.1
	Giving Worthless Checks	1	11.1
	Total	9	100.0
County Jail	DUI	1	100.0
Probation	Agg. Endangering a Child	1	2.6
	Arrange Sale/Purchase Drug	2	5.3
	Burglary	2	5.3
	Criminal Threat	3	7.9
	Drugs: Possession	14	36.8
	Drugs: Possession of Paraphernalia	1	2.6
	Drugs: Distribution/Sale	4	10.5
	DUI	3	7.9
	Forgery	3	7.9
	False Writing	1	2.6
	Theft	3	7.9
	Traffic in Contraband	1	2.6
	Total	38	100.0

Legislative Update 2015 Session



www.kslegislature.org

SB 13 - Criminal History Record Information

- **SB 13** clarifies the definition of “criminal history record information” in K.S.A. 22-4701 by excluding information regarding the release, assignment to work release, or any other change in custody status of a person confined by the Department of Corrections or a jail. The bill also removes a reference to the Juvenile Justice Authority.
- Effective July 1, 2015

SB 45 - Constitutional Carry

- SB 45 amends laws concerning the concealed carry of firearms. The bill adds language allowing the concealed carry of a firearm **without** a concealed carry license issued by the State, as long as that individual is not prohibited from possessing a firearm under either federal or state law.
- Carrying of a concealed handgun cannot be prohibited in any building unless the building is posted in accordance with rules and regulations adopted by the Attorney General. Concealed carry licenses will still be issued by the State, but the availability of those licenses cannot be construed to prohibit the carrying of handguns without a license, whether carried openly or concealed, loaded or unloaded.

SB 45 - Constitutional Carry (Cont.)

- Related to concealed carry licenses, the bill also allows the AG to create a list of concealed carry handgun licenses or permits from other jurisdictions that have training requirements greater than or equal to the Kansas requirements. This list can be used by the AG when reviewing concealed carry license applications and making a determination about whether an individual has completed an approved handgun safety and training course required for issuance of a concealed carry license.
- The bill amends the definition of “criminal carrying of a weapon” to clarify that it is not legal for anyone under 21 years of age to carry any pistol, revolver, or other firearm concealed on one’s person, except when on such person’s land or in such person’s abode or fixed place of business.
- Effective July 1, 2015

SB 95 - Creation of the Unborn Protection from Dismemberment Act

- The bill prohibits the performance of or the attempt to perform a dismemberment abortion unless the procedure is necessary to preserve the life of the pregnant woman or a continuation of the pregnancy would cause a substantial and irreversible physical impairment of a major bodily function. A claim or diagnosis the woman would engage in conduct resulting in her death or in substantial and irreversible physical impairment of a major bodily function does not allow for a dismemberment abortion under the Act.
- A first conviction for a dismemberment abortion performed or attempted in violation of the Act is a class A person misdemeanor. A second or subsequent conviction is a severity level 10, person felony.
- Effective July 1, 2015

SB 240 – Recodification of the Banking Code

- The bill updates references to the classification of misdemeanors (*e.g.*, specifying Class A, nonperson misdemeanors). It further updates a provision regarding the making of a false report to account for filing of electronic information. The bill also excepts the FDIC from a provision governing violations by a receiver and eliminates a provision pertaining to embezzlement and instead provides it shall be unlawful to injure, defraud, or deceive a bank or trust company for personal gain and use such entity's name for such gains.
- Effective July 1, 2015

SB 252 - Unlawful Abuse of Toxic Vapors

- **SB 252** amends the crime of unlawful abuse of toxic vapors to include “other halogenated hydrocarbons” within the definition of “toxic vapors.”
- Effective July 1, 2015

HB 2275 - Relating to substances included in schedules I, II, III and IV of the uniform controlled substances act.

- **HB 2275** adds several additional drugs or drug classes to the schedules of controlled substances. Specifically, the bill would add a hallucinogenic drug and a cannabinoid to schedule I, reschedule two hydrocodone drugs from schedule III to schedule II, add perampanel to schedule III, and add three drugs to schedule IV. The bill also would correct or standardize spellings or descriptions of several substances (i.e., marihuana to marijuana).
- Effective April 16, 2015

HB 2336 - Risk Assessment and Juvenile Offender Placement

- **HB 2336** requires the court to administer a risk assessment tool or review a risk assessment tool administered within the past six months before a juvenile offender can be placed in a juvenile detention center, under house arrest, or in the custody of the Department of Corrections, or can be committed to a sanctions house or to a juvenile correctional facility. These provisions are effective July 1, 2015.
- Additionally, the bill modifies a general prohibition on placement of any juvenile convicted as an adult in a juvenile correctional facility by permitting placement of juveniles between 16 and 18 years of age who are convicted as adults or under extended jurisdiction juvenile prosecution in a juvenile correctional facility.
- Effective April 16, 2015

State v. Murdock



- **Criminal History** – all pre-1993 *out-of-state* person crimes must be scored as nonperson felonies
- KS Supreme Court held no person/nonperson designation prior to enactment of the Sentencing Guidelines in 1993
- More information – See KSC website (sentencing.ks.gov)

HB 2053: The Murdock Fix



- The 2015 legislative fix for *State v. Murdock* became effective April 2, 2015. HB 2053 amends statutes governing the calculation of criminal history to specify that any prior adult felony conviction, prior misdemeanor, or prior juvenile adjudication for offenses committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas Criminal Code that was in effect on the date the current crime of conviction was committed. HB 2053 further provides that the law is procedural in nature so it can be applied retroactively.

Bills of Interest Pending in 2015 Session



HB 2049 – Penalty Reduction of Possession of Marijuana

- KSC's HB 2049 would amend the penalties for the crime of possession of marijuana. A first violation for possession would be reduced from a class A, nonperson misdemeanor to a class B, nonperson misdemeanor. If an offender has a prior conviction, the penalty would be reduced from a drug severity level five, nonperson felony to a class A, nonperson misdemeanor. Two or more prior convictions for possession of marijuana would remain a drug severity level five, nonperson felony.
- Savings is estimated at 46 prison beds in FY16 and \$788,986 from the 2003 SB 123 substance abuse program.

HB 2051 – Good time and program credits for certain inmates; use of risk assessment tool for community corrections placement.

- KSC's HB 2051 would modify good time and program credit calculations by restoring 20 percent good time credit for drug severity level three offenders whose offenses occurred on or after July 1, 2012, and by increasing the amount of program credit an offender can earn from 60 days to 90 days. The Department of Corrections must make these calculation changes no later than January 1, 2016. The amendments would be applied retroactively.
- Amends the list of adult offenders in KSA 75-5291(a)(2) who are eligible to be placed in community correctional services programs to remove placements based on offense classification and expand placements based on the use of a standardized risk assessment tool specified by the Kansas Sentencing Commission. Those offenders who are determined, on or after July 1, 2014, to be moderate- or very-high risk by this tool would be eligible for placement.

HB 2051: Probation Cut-Off Scoring

LSI-R Score	Supervision Level	Presumed Supervision Agency
0 - 13	Low	Court Services
14 - 23	Low-Moderate	Court Services
24 - 33	Moderate	Community Corrections
34 - 40	High	Community Corrections
41 +	Very High	Community Corrections

KSC Letter to
Chief Justice
Nuss and
Secretary of
Corrections
Roberts on June
20, 2014

- Offenders scoring 23 and lower on the LSI-R are presumed to be placed with Court Services;
- Offenders scoring 24 and higher on the LSI-R are presumed to be placed with Community Corrections;
- Cutoffs and supervision levels apply to all felonies, including SB 123 eligible offenses and nongrid offenses (e.g., DUI, Test Refusal, and Domestic Battery);
- This placement is based on **initial** assessment, being mindful that as offender risk and needs change, so should the supervision. These supervision levels contemplate a continuum of services which relies on evidenced-based decision making;
- Violations of conditions of release for those placed in Court Services per K.S.A. 75-5291(a)(5), is presumed to be placed with Community Corrections before being revoked to DOC;
- Offenses listed in K.S.A. 75-5291 may still be placed under supervision to Community Corrections regardless of LSI-R score, if ordered by the court;
- These cutoff scores and supervision levels apply prospectively to cases in which the underlying crime was committed on or after July 1, 2014.

HB 2055 – Conversion of Out-Of-State Misdemeanors and Special Rule Agg. Battery DUI

- HB 2055 would amend the statute governing the determination of an offender's criminal history to establish a procedure for classifying out-of-state misdemeanor convictions. The comparable Kansas offense would be used to classify the out-of-state conviction as a class A, B, or C misdemeanor. If the comparable Kansas offense is a felony, the conviction would be classified as a class A misdemeanor. If there is no comparable Kansas offense, the conviction would not be included in the criminal history.
- Mija Stockman's Law is created, which would provide a new special rule for determining criminal history for a conviction of aggravated battery when a person is driving under the influence (DUI) and great bodily harm to another person or disfigurement of another person results from such act. The rule would provide that the first prior adult conviction, diversion or juvenile adjudication of DUI, commercial DUI, or DUI test refusal would count as one nonperson felony. Each second or subsequent prior adult conviction, diversion or juvenile adjudication of these offenses would count as one person felony.
- Commercial DUI and DUI test refusal are added to the list of prior convictions, diversions, or juvenile adjudications that shall count as person felonies in determining the criminal history for a conviction of involuntary manslaughter while DUI.

2014 Senate Sub. for HB 2655 – Alternative Sentencing for Veterans in Certain Circumstances

Sentencing of Veterans

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.

2014 Senate Sub. for HB 2655 – Alternative Sentencing for Veterans in Certain Circumstances (Cont.)

If the court determines the defendant has met the criteria established by the bill and the defendant's current crime and criminal history fall within a presumptive non-prison 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 the alternative sentencing provisions of 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.

[S Sub for HB 2448HB 2170 Text](#)
[Legislative Summary](#)
[Frequently Asked Questions](#)
[Waiver of Right to Probation](#)
[Violation Hearing Form](#)
[Graduated Sanctions Retroactivity](#)
[Open Letter](#)
[Veterans Treatment](#)

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VETERANS TREATMENT

[Senate Substitute for HB 2655](#)
[2014 HB 2655 Procedural Outline](#)
[Veteran Consent and Authorization Form](#)
[Request for Certification of Veterans Status Form](#)

External link- [Veterans Justice Outreach, U.S. Department of Veterans](#)

Veterans OJA Forms on KSC Website

REQUEST FOR CERTIFICATION OF VETERAN'S STATUS

Pursuant to 2014 Senate Substitute for House Bill 2655

Pursuant to 2014 Senate Substitute for House Bill 2655, the court requests certification from the Kansas Commission on Veterans Affairs Office regarding the combat zone service and discharge status of:

Veteran's Full Name
(including maiden name): _____

Veteran's Social Security Number: _____

Judge of the District Court

Court Contact Information:

Address 1: _____

Address 2: _____

City, State, Zip: _____

Telephone: _____

[Fax Number]: _____

[E-mail Address]: _____

Fax order and release of information to:
Kansas Commission on Veterans Affairs Office
Attn: Wayne Bollig
785-296-1458 (fax)

July 1, 2014

**Senate Sub. for HB
2655 – Alternative
Sentencing for Veterans
in Certain
Circumstances (Cont.)**

**DISTRICT COURT CONSENT AND AUTHORIZATION
TO RELEASE AND RECEIVE INFORMATION REGARDING
VETERAN STATUS**

I, _____
(Name, including maiden name)

(Social Security Number) _____
(Date of Birth)

hereby consent to and authorize the disclosure and use of information regarding my service in a combat zone in the United States armed forces and my discharge status as allowed by 2014 Senate Substitute for House Bill 2655 by:

The Kansas Commission on Veterans Affairs Office
700 SW Jackson, Suite 1004
Topeka, KS 66603
Fax: (785) 296-1458

2. Name, address, and telephone and fax numbers of court authorized to *receive and use* the information:

3. The information to be released is for:

- Certification of my service in the armed forces of the United States of America in a combat zone as defined in section 112 of the federal Internal Revenue Code of 1986 and
- Certification that I separated from the armed forces with an honorable discharge or general discharge under honorable conditions.

4. This information will be used for:

- Determining that I meet the criteria established by 2014 Senate Substitute for House Bill 2655 for treatment at any treatment facility or program operated by the United States Department of Defense, the federal Veterans' Administration, or the Kansas National Guard and, if applicable;

1

July 1, 2014

- The presentence investigation;
- Probation case supervision; or
- Other purposes related to the case.

5. I understand that, once the uses and disclosures have been made pursuant to this consent and authorization, the information released will no longer be protected by federal privacy laws and will become part of the court record. Information received through this consent may be disclosed to the court assigned to the case, court employees, and the attorneys assigned to the case as necessary for the court's hearing of the case.

This consent and authorization has been executed with my full knowledge and understanding of its contents. I agree to the uses and disclosures listed above and understand that I will receive a copy of this signed consent and authorization.

Signature

Date

Signature of Personal Representative (if applicable)

Authority

2

July 1, 2014

OJA Forms on KSC Website

HB 2170

Provisions and Impact of the Justice Reinvestment Initiative



Intended Impacts of HB 2170

1. Reduction in Prison Beds Demands

2. Reduction in Correctional Spending

3. Increased Public Safety by Focusing Resources on Higher Risk Offenders

4. Increased Access to Community Programming

HB 2170: What Does the Law State?

- Provides for swift & certain responses to offender noncompliance in the community

- Provides graduated sanctioning options for judges

- Establishes presumptive discharge from supervision for certain low-risk offenders

- Mandates postrelease supervision for offenders who would otherwise complete underlying sentence while serving time on a sanction

Swift & Certain (Jail) Sanctions

Problem:

Delayed and inconsistent responses to minor violations do not produce behavior change.

Policy Change:

Enable court services and community corrections officers to apply swift and certain responses to people under felony supervision who commit minor violations.

Primary Agencies Affected: Court Services, Community Corrections, and County Jails

Swift & Certain (Jail) Sanctions

Jail Sanctions:

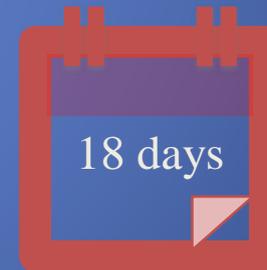
- Imposed by CC or CS officers without court involvement unless court has withheld this authority; and
- Probationer has waived hearing.

Sanction Limits:

Per Violation



Per Supervision Period



Why Swift & Certain (Jail) Sanctions?

- KS can improve public safety by utilizing new (more effective) means of changing offender behavior.
- **Ignoring minor noncompliance** sends the message that bad behavior is okay; in fact, it **reinforces it!**
- Jail sanctions are one response in a range of intermediate sanctions to address offender noncompliance. While jail admissions may increase, the short stays mitigate overall population changes.
- Swift & certain responses are more cost-effective for changing behavior than are longer, more costly prison stays. Short jail sanctions cause less disruption to an offender's pro-social network (i.e., they are less likely to lose a job, home, etc.) than if they served long period in state prison.

Graduated Judicial Sanctions

Problem:

Despite being returned to prison for similar violations, probation violators are sanctioned for almost four times as long (~12 mos.) as postrelease supervision violators.

Policy Change:

Enable judges to impose a 120-day or 180-day prison sanction in response to technical violations of probation.

Primary Agencies Affected: Judiciary and Felony Probation Supervisors

Graduated Judicial Sanctions

An array of judicial options to respond to technical probation violations:



Graduated Judicial Sanctions

- Subject to up to a **50% reduction** (i.e., 120-days can be reduced to 60 days and 180-days to 90 days) by the Secretary of Corrections.
- 120-day and 180-day sanction **cannot be repeated** and 120 is not prerequisite to 180.
- **Jail sanction a prerequisite** unless new crime, absconding or public safety threatened.
- Requires that a graduated sanction of either 120 or 180 days has been **imposed prior to full revocation** unless new crime, absconding or public safety is threatened. Deviations have to be documented.

Focus Resources on High-Risk Offenders

Problem:

Maintaining low-risk offenders on supervision provides little public safety benefit and reduces supervision resources for higher risk offenders.

Policy Change:

There is a **presumption of early discharge** from probation after 1 year for low risk, compliant probationers who have paid restitution unless court finds substantial and compelling reasons for denial.

Primary Agencies Affected: Court Services and Community Corrections

Postrelease Supervision for Probation Violators

Problem:

More than ½ probation violators left prison with no community supervision. Loophole allowed probationers to “get off supervision” following revocation for technical violations.

Policy Change:

Mandates that all probation violators, who committed their crimes on or after 7/1/13 to be assigned postrelease supervision if the underlying sentence expires while serving a 120 or 180-day sanction.

Primary Agencies Affected: Postrelease Supervision

JRI Data Collection

JRI Jail & Prison Sanctions
March 2015



2014 S Sub for HB 2448

Clean-up bill for HB 2170

1. “Quick dips” provisions clarified

– The quick dip language in HB 2170 proved to be a source of confusion, so HB 2448 seeks to clarify several items:

- Quick dips may be imposed in consecutive 2 or 3-day periods only.
- The total of all quick dips imposed by both the court and all supervising officers may not exceed a total of 18 days during the offender’s term of probation.

2014 S Sub for HB 2448

Clean-up bill for HB 2170

2. Quick dips may be imposed upon an offender on probation for a misdemeanor or nongrid felony (i.e., DUI, breath test refusal and domestic battery)
 - The court or supervising officer may impose a 2 or 3-day quick dip sanction upon an offender convicted of a misdemeanor or a nongrid felony. See K.S.A. 2014 Supp. 22-3716(b)(3)(B)(ii).

2014 S Sub for HB 2448

Clean-up bill for HB 2170

3. Nongrid felony offenders are not subject to 120/180-day prison sanctions
 - HB 2448 amended K.S.A. 2013 Supp. 22-716(b)(3)(A) and (b)(3)(B) to clarify that an offender convicted of a nongrid felony is not eligible to serve a prison sanction pursuant to 22-3716(c)(1)(C) or (c)(1)(D).



2014 S Sub for HB 2448

Clean-up bill for HB 2170

4. Court may impose up to 60 days in county jail, but not in addition to another graduated sanction
 - HB 2448 moved the language authorizing the court to impose confinement for up to 60 days in county jail from K.S.A. 2013 Supp. 21-6604(a)(3) to 22-3716(c)(11). The court had and will continue to have the authority to impose confinement in a county jail for up to 60 days upon finding the offender has violated the conditions of probation. However, the new language in K.S.A. 2014 Supp. 22-3716(c)(11) clarifies that this period of confinement is separate from the other graduated sanctions (i.e., quick dips and 120/180-day prison sanctions) and may not be imposed at the same time as these other sanctions.



2014 S Sub for HB 2448

Clean-up bill for HB 2170

5. Prior jail credit may not be applied to decrease length of 120/180-day prison sanctions
 - HB 2448 amended K.S.A. 2013 Supp. 22-3716(c)(1)(C) and (c)(1)(D) to provide that the 120 or 180-day sanction shall begin upon pronouncement by the court. Prior incarceration time, such as the time an offender spends awaiting a probation violation hearing, shall not be counted towards service on the prison sanction. However, time spent in county jail awaiting transport to a DOC facility after imposition of the sanction may be counted.



2014 S Sub for HB 2448

Clean-up bill for HB 2170

6. Presumptive early discharge provision in K.S.A. 2013 Supp. 21-6608(d) has been modified
 - K.S.A. 2013 Supp. 21-6608 provided that an offender shall be discharged early from probation if they are low risk, have paid all restitution and are found to have been compliant with the terms of their probation for 12 consecutive months. Under HB 2170, the offender would be discharged unless the court found substantial and compelling reasons to deny the discharge of the offender, but HB 2448 changes this standard of review from “substantial and compelling reasons for denial” to “clear and convincing evidence that denial of discharge will serve community safety interests.”



2014 S Sub for HB 2448

Clean-up bill for HB 2170

7. Concurrent probation terms require concurrent sanctions
 - HB 2448 seeks to clarify in K.S.A. 2013 Supp. 22-3716(c)(10) that an offender serving multiple probation periods concurrently is not eligible for multiple consecutive violation sanctions.
 - For example, an offender serving two separate concurrent probation periods who commits a second or subsequent probation violation may not receive multiple consecutive prison sanctions. Rather, the court may impose a single prison sanction of either 120 or 180 days on each case, to be served concurrently.



2014 S Sub for HB 2448

Clean-up bill for HB 2170

- 
8. Graduated sanctions apply to all probationers, regardless of their date of conviction.
 - HB 2448 adds additional language in K.S.A. 2013 Supp. 22-3716(c)(12) to clarify that the graduated sanction provisions shall apply to any probation violator, regardless of the date on which they committed their original crime of conviction.

Evidenced-Based Practices (E.B.P.)

- Evidence-based practices are those using the most current and valid research findings to determine "what works." Probation, or community monitoring instead of prison, uses effective supervision, intervention and treatment to reduce offender recidivism. Examining and utilizing proven, evidence-based strategies helps in permanently changing criminal behavior to benefit the community.

What is the significance of E.B.P.

- Through statistical analysis such as recidivism studies we have seen hard data that shows:
 - Oversupervision can actually increase offender recidivism
 - Gut-level instinct is not an accurate measure in evaluating risk/needs
 - Managing shrinking resources includes targeting higher risk individuals

OUR PRISONS ARE FULL AND THE KANSAS PRISON POPULATION IS PROJECTED TO INCREASE 7.7% IN 10 YEARS DESPITE REDUCTION IN CRIME

Journal Entries

Changes and Explanations



Presentence Investigation Report
Rev. 12/18/2014

**KANSAS SENTENCING GUIDELINES
PRESENTENCE INVESTIGATION REPORT –
FACE SHEET-**
PLEASE USE FOR CRIMES COMMITTED ON
JULY 1, 2014 - JUNE 30, 2015

Original Amended Resentencing (State v. Murdock)

¹ Judicial District: _____
County and ORI number : _____
Case Number: _____ DV Case
Name: _____
A/K/A's: _____
Age: ____ K.B.I. No: _____
Sex: Male Female
Race: W B A.I. A
Ethnicity: Hispanic Non-Hispanic
U.S. Armed Forces Veteran? Yes No
Address: _____
Citizenship: U.S. Citizen of: _____
Detainer or Other Charges Pending? Yes No
Subject in Custody Awaiting Sentencing? Yes No
Begin _____ End _____ = _____ Days
Begin _____ End _____ = _____ Days
Begin _____ End _____ = _____ Days
DNA Sample Taken (K.S.A. 21-2511): Yes No
² IF OFFENDER WAS UNDER 18 YEARS OF AGE WHEN CRIME(S)
WAS COMMITTED AND WAS TRIED AS AN ADULT, OFFENDER
WAS:
 Adjudicated as an Adult Under K.S.A. 38-2347
 Automatically Considered Adult Because of a Prior Felony
³ Names of Co-Defendants, if any: _____
⁴ Defense Attorney: _____
Type of Counsel Prior to Sentencing:
 Retained Appointed Self
 Waived Orally Waived in Writing
Prosecuting Attorney: _____
Sentencing Judge: _____
Date of Guilty Plea or Judgment: _____
Date of Sentencing: _____
⁵ Presentence Investigator: (Please Print) _____
Date Assigned: _____ Date Submitted: _____
Presentence Investigator's signature: _____

Court File Stamp

⁶ Primary Offense: _____
 Attempt Conspiracy Solicitation
K.S.A. No. (including subsections): _____
Offense Date: _____ Count No.: _____
 Offender Registration Required - Attach Supplement (Pg 7)
(K.S.A. 22-4902)
Criminal History Score: _____
 Person Nonperson
 Misdemeanor - Class _____
 Felony: On-Grid - Severity Level _____ Nondrug Drug
 Off-grid Nongrid (K.S.A. 21-6804(i))
If Grid Sentence:
 Presumptive Prison Presumptive Probation Border Box
Range: Aggravated _____ Standard _____ Mitigated _____
Max. Good Time: (K.S.A. 21-6821) 15% 20%
Special Rules: Special Rule Applies - Attach Supplement (Pg 6)
Number _____ and Description: _____
If Drug Offense (Indicate statute for controlled substance):
 65-4105 65-4107 65-4109 65-4111 65-4113
Name of Drug: _____
Amount: (Distribution Only) _____ win 1,000 ft of school
 Firearm Finding (K.S.A. 21-6805(g)): 6 months
 18 months
Drug Treatment: Mandatory With Court Finding
Not Eligible: Criminal History Residency
 3rd or Subsequent Conviction Felony Possession
 Low or Low-Moderate LSI-R score
 Low SASSI score
Postrelease Supervision Duration: 12 months 24 months
 36 months 60 months Lifetime Postrelease
 Lifetime Parole/Electronic Monitoring (K.S.A. 21-6604(r))
Probation Duration: 12 months 18 months 24 months
 36 months Other: _____
DUI or **Test Refusal** **Post-Imprisonment** Supervision: (12 months)
 Court Services Community Corrections
 Additional one month jail if child <14 in vehicle

SPECIAL RULES SUPPLEMENTAL PAGE (IF APPLICABLE, check box of the special rule that applies and include this page with the corresponding court.

PUBLIC SAFETY OFFENSES / FIREARMS FINDING APPLY:

1. Person Felony Committed With a Firearm – presumed prison. K.S.A. 21-6804(h)
2. Agg. Battery against a L.E.O., if criminal history is 6H or 6I – presumed prison. K.S.A. 21-6804(g)
3. Agg. Assault of a L.E.O., if criminal history is 6H or 6I – presumed prison. K.S.A. 21-6804(g)
34. Battery on a L.E.O., K.S.A. 21-5413(c)(2), resulting in bodily harm- presumed prison and consecutive. K.S.A. 21-6804(r)
32. Drug Felony While in Possession of a Firearm- presumed prison. K.S.A. 21-6805(g)
33. Drug Felony With a Firearm that Discharges- presumed prison. K.S.A. 21-6805(g)
4. Crime Committed for Benefit of a Criminal Street Gang – presumed prison. K.S.A. 21-6804(k)
11. Extended Jurisdiction Juvenile Imposed – both juvenile and adult sentences imposed, adult sentence stayed conditioned on successful completion of juvenile sentence. K.S.A. 38-2347 and 38-2364
35. Agg. Endangering a Child – consecutive sentence required. K.S.A. 21-5601(c)(2)
36. Ballistic Resistant Material – presumed prison with additional 30 months and consecutive. K.S.A. 21-6804(t)
38. Unlawful Sexual Relations - presumed prison. K.S.A. 21-6804(s)

HABITUAL OR REPEAT OFFENSES APPLY:

5. Persistent Sex Offender - presumed prison – double the maximum duration. K.S.A. 21-6804(j)
12. 2nd or Subs. Manufacture of a Controlled Substance Conviction – if previous conviction is for methamphetamine or analog, presumed prison, twice the maximum duration. K.S.A. 21-6805(e)
26. 3rd or Subs. Felony Drug Possession occurring on or after July 1, 2008 - presumed prison. K.S.A. 21-6805(f)(1)
13. Residential Burglary with a Prior Residential, Nonresidential or Agg. Burglary Conviction or any attempt or conspiracy convictions of these priors – presumed prison. K.S.A. 21-6804(l)
27. Burglary With Two or More Prior Convictions for Theft, Burglary, or Agg. Burglary – presumed prison. K.S.A. 21-6804(p)
29. Felony Theft With Three or More Prior Convictions for a Felony Theft, Burglary, or Agg. Burglary – presumed prison. K.S.A. 21-6804(p)
30. ** For #27 or #29, Substance Abuse Underlying Factor, Treatment More Effective to Reduce Reoffense Risk and Community Safety Served – KDOC Intensive Substance Abuse Treatment Program, Return to Court Upon Successful Completion. K.S.A. 21-6804(p)
31. 3rd or Subs. Criminal Deprivation of a Motor Vehicle – presumptive prison. K.S.A. 21-6804(n)
16. 2nd Forgery, criminal history I – C, sentenced pursuant to sentencing requirements of K.S.A. 21-5823, term of imprisonment not in KDOC. Criminal history A or B, - sentenced for 5L 8, NPF. K.S.A. 21-6804(i)
17. 3rd or Subs. Forgery, criminal history I – C, sentenced pursuant to sentencing requirements of K.S.A. 21-5823, term of imprisonment not in KDOC. Criminal history A or B, - sentenced for 5L 8, NPF. K.S.A. 21-6804(i)
9. Crime Committed While Incarcerated, on Probation, Parole, Conditional Release, or Postrelease Supervision for a Felony – new sentence shall be imposed consecutively. K.S.A. 21-6606(c). If new crime is a felony, court may impose prison even if presumption is nonprison. K.S.A. 21-6604(f)(1)
40. Felony Committed After Early Discharge When Offender Would Have Been On Probation or Postrelease Supervision for a Felony if committed after early discharge pursuant to K.S.A. 21-6608(d), or K.S.A. 22-3717(d)(2), may impose prison even if presumed nonprison. K.S.A. 21-6604(f)(2)
28. Felony Committed While Incarcerated in a Juvenile Correctional Facility for an Offense That Would be a Felony if Committed by an Adult – presumed prison. K.S.A. 21-6604(f)(3)
10. Crime Committed While on Felony Bond – new sentence imposed consecutively. K.S.A. 21-6606(d), 21-6604(f)(4). If new crime is a felony, court may impose prison even if presumption is nonprison, K.S.A. 21-6604(f)(4)
37. 2nd or Subs. Identity Theft or Identity Fraud – presumed prison. K.S.A. 21-6804(u)
41. Leaving the Scene of an Accident - if current conviction is for K.S.A. 8-1602(b)(2), (b)(3) or (b)(4), prior convictions committed on and after July 1, 2011 of 8-235, 8-262, 8-267, 8-291, 8-1566, 8-1567, 8-1568, 8-1602, 8-1605, 40-3104, 21-5405(a)(3) and 21-5406(a)(3), or comparable convictions from a different jurisdiction, shall count as person felony for criminal history purposes. K.S.A. 21-6811(i).
42. Involuntary Manslaughter by DUI - if current conviction is for K.S.A. 21-5405(a)(3), all previous convictions, adjudications and diversions for K.S.A. 8-1567, or comparable law of a different jurisdiction, shall count as person felony for criminal history purposes. K.S.A. 21-6811(c)(2).
43. 3rd or Subsequent Flee/Evade - presumed prison and imposed consecutively. K.S.A. 2014 Supp. 21-6804(v) (Sub for 2014 HB 2442)
- NONGRID OFFENSES APPLY:** K.S.A. 21-6804(i) - Term of imprisonment not in KDOC
6. Felony D.U.I. (3rd, 4th or Subs.) – sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 8-1567
39. Felony Test Refusal (2nd, 3rd, or Subs) – sentenced pursuant to mandatory sentencing requirements of K.S.A. 8-1025
8. Felony Domestic Battery - sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 21-5414(b)(3)
21. Animal Cruelty - K.S.A. 21-6412; 2nd or subs. conviction; or Working/Assistance dog – K.S.A. 21-6416 – sentenced pursuant to specific mandatory sentencing requirements of same statute

FINANCE OFFENSES APPLY:

25. Fraudulent Insurance Act, any combination of acts w/in 6 months involving \$25,000 or more - presumed prison. K.S.A. 40-2,118(e)
15. Kansas Uniform Securities Act, violation resulting in loss of \$25,000 or more – presumed prison. K.S.A. 17-12a508(a)(5)
19. Mortgage Business Act, 2nd or subs. Conviction – presumed prison. K.S.A. 9-2203(d)
20. Loan Brokers Act, violation resulting in loss of \$25,000 or more – presumed prison. K.S.A. 50-1013(a)

** This option is included, but is unavailable

1. KBI #	2. CASE #	3. KANSAS CRIMINAL HISTORY WORKSHEET		7. OFFENDER NAME (Last, First, Middle)					
3. DISTRICT #	4. COURT/ORI #	NEW _____ PRIOR RECORD _____		8. DATE OF OFFENSE	9. DATE OF CONVICTION				
5. PSI INVESTIGATOR NAME (Last, First, Middle)			STATE V. MURDOCK	10. DATE OF WORKSHEET	11. DATE OF SENTENCING				
12. IF THE OFFENDER WAS UNDER SUPERVISION AT THE TIME HE/SHE COMMITTED THE CURRENT OFFENSE, OR WOULD HAVE BEEN UNDER SUPERVISION BUT FOR EARLY DISCHARGE - pursuant to K.S.A. 21-6608(d) or K.S.A. 22-3717(d)(2) - PLEASE CHECK THOSE THAT APPLY.									
<input type="checkbox"/> Probation/Community	Jurisdiction:	Case No.:	<input type="checkbox"/> Felony OR <input type="checkbox"/> Misdemeanor	Date Sentenced:					
<input type="checkbox"/> Parole	Jurisdiction:	Case No.:	<input type="checkbox"/> Felony OR <input type="checkbox"/> Misdemeanor	Date Sentenced:					
<input type="checkbox"/> Postrelease Supervision	Jurisdiction:	Case No.:	<input type="checkbox"/> Felony OR <input type="checkbox"/> Misdemeanor	Date Sentenced:					
<input type="checkbox"/> Conditional Release	Jurisdiction:	Case No.:	<input type="checkbox"/> Felony OR <input type="checkbox"/> Misdemeanor	Date Sentenced:					
<input type="checkbox"/> Other	Jurisdiction:	Case No.:	<input type="checkbox"/> Felony OR <input type="checkbox"/> Misdemeanor	Date Sentenced:					
<input type="checkbox"/> Felony Early Discharge	Jurisdiction:	Case No.:		Date Discharged:					
Comments:									
13. CURRENT CRIME(S) OF CONVICTION					14. CRIMINAL HISTORY CONVICTIONS AND/OR ADJUDICATIONS PRIOR TO SENTENCING				
K.S.A. Number	Description	M/F	P/N	Level	Juvenile	Adult	Total	Type	
								Person or Off-grid Felonies	
								Nonperson Felonies	
								Person Misdemeanors	
								Nonperson Misdemeanors	
					15. Amended Criminal History Convictions and/or Adjudications				
					Juvenile	Adult	Total	Type	
								Person or Off-grid Felonies	
								Nonperson Felonies	
								Person Misdemeanors	
								Nonperson Misdemeanors	
16. CRIMINAL HISTORY CATEGORY <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H <input type="checkbox"/> I					17. Number of Person Misdemeanors converted:				
Amended? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H <input type="checkbox"/> I					<input type="checkbox"/> 3 <input type="checkbox"/> 6 <input type="checkbox"/> 9 <input type="checkbox"/> 12 <input type="checkbox"/> (Check One)				
18. PRIOR CONVICTION USED TO ENHANCE / ELEVATE OR IS AN ELEMENT OF THE CURRENT CRIME OF CONVICTION? <input type="checkbox"/> Yes <input type="checkbox"/> No					19. Number of Decayed Juvenile Adjudications:				
					Felony _____ Misdemeanors _____				
					Amended? <input type="checkbox"/> Yes <input type="checkbox"/> No Felony _____ Misdemeanors _____				

Rev. 12/18/2014

Criminal History Worksheet

Rev. 12/18/2014

Journal Entry of Judgment Rev. 12/18/2014

For Court Use Only (Seal)			
KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT PLEASE USE FOR CRIMES COMMITTED ON JULY 1, 2014 - JUNE 30, 2015			
SECTION I. CASE IDENTIFYING INFORMATION		1. Transaction No. _____	
2. STATE v. _____ <input type="checkbox"/> Male <input type="checkbox"/> Female		3. Court O.R.I. Number _____	4. K.B.I. Number _____
5. County _____	6. Court Case Number _____	7. Sentencing Judge _____	8. Sentencing Date _____
9. Defense Counsel: <input type="checkbox"/> Appointed <input type="checkbox"/> Retained <input type="checkbox"/> Self <input type="checkbox"/> Waived Orally <input type="checkbox"/> Waived in Writing			
10. Type of Proceeding (Trial) <input type="checkbox"/> Bench Trial (includes a plea on stipulated facts) <input type="checkbox"/> Jury Trial <input type="checkbox"/> Guilty Plea <input type="checkbox"/> Nolo contendere Plea			
11. Date of Conviction: _____ <input checked="" type="checkbox"/> Resentencing pursuant to State v. Murdock			
12. Pre-Trial Status of Offender <input type="checkbox"/> In Custody <input type="checkbox"/> Released on Bond <input type="checkbox"/> Other Release			
SECTION II. CRIMINAL HISTORY CLASSIFICATION			
1. Offender's Overall Criminal History Classification as Found by the Court: <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H <input type="checkbox"/> I			
2. Objection to Criminal History? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, By: <input type="checkbox"/> Defendant or <input type="checkbox"/> State Court's Ruling on Objection: <input type="checkbox"/> Criminal history was amended <input type="checkbox"/> Criminal history was not amended			
SECTION III. CURRENT CONVICTION INFORMATION			
1. Name of PRIMARY Offense of Conviction: _____ Count No.: _____ Date of Offense: _____ <input type="checkbox"/> Designated by court as domestic violence case based upon special finding (see #14 this section)			
2. If Drug Offense: (Indicate statute for controlled substance) <input type="checkbox"/> 65-4105 <input type="checkbox"/> 65-4107 <input type="checkbox"/> 65-4109 <input type="checkbox"/> 65-4111 <input type="checkbox"/> 65-4113 Name of Drug: _____ Amount of Drug (If Distribution Offense): _____ <input type="checkbox"/> w/in 1,000 ft of school			
3. K.S.A. Title, Section, Subsection(s): _____ <input type="checkbox"/> Attempt (K.S.A. 21-5301) <input type="checkbox"/> Conspiracy (K.S.A. 21-5302) <input type="checkbox"/> Solicitation (K.S.A. 21-5303)			
4. Grade of Offense: (Check one in each row.) <input type="checkbox"/> Felony, Severity Level _____ <input type="checkbox"/> Misdemeanor, Class _____ <input type="checkbox"/> Person <input type="checkbox"/> Nonperson			
5. Offense Category: <input type="checkbox"/> Nondrug <input type="checkbox"/> Drug <input type="checkbox"/> Off-grid <input type="checkbox"/> Nongrid			
6. Presumptive Sentencing Range: (Enter terms from appropriate grid.) Aggravated _____ Standard _____ Mitigated _____ Check applicable box(es) <input type="checkbox"/> Presumptive Prison <input type="checkbox"/> Presumptive Probation <input type="checkbox"/> Border Box <input type="checkbox"/> Drug Treatment for up to 18 months. K.S.A. 21-6824 <input type="checkbox"/> Special Rule Applies (Complete Special Rules Supplemental Page and Attach)			
THIS FORM MUST BE ACCOMPANIED BY A COPY OF THE PRESENTENCE INVESTIGATION FORM PURSUANT TO K.S.A. 22-3439 AND A DOCUMENT CONTAINING INFORMATION REQUIRED BY K.S.A. 22-3426. PLEASE USE AN ADDITIONAL OFFENSES PAGE FOR ADDITIONAL OFFENSES OF CONVICTION.			

Journal Entry of Judgment
Rev. 12/18/2014

Case No. _____	
KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT (PAGE 2)	
7. SPECIAL RULE APPLICABLE: <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, enter the number(s) and brief description(s) corresponding to the applicable special rule. (Complete Special Rules Supplemental Page and Attach): _____	
8. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to the K5 Offender Registration Act 8a. Did the court make a special finding that the crime was sexually motivated? 8b. IF YES to 8a, did the court find that the act involved non-forcible sexual conduct, the victim was at least 14 and the offender was no more than 4 years older than the victim? (K.S.A. 22-4902(c)(15)) 8c. IF YES to 8a and NO to 8b, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
9. Was offender determined by the Court to be an AGGRAVATED HABITUAL SEX OFFENDER? (K.S.A. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input type="checkbox"/> No
10. Is offender being sentenced pursuant to K.S.A. 21-6627 where offender is 18 years of age or older and the victim is less than 14 years of age? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input type="checkbox"/> No
11. Downward departure (K.S.A. 21-6818(a)) for a crime of extreme sexual violence (K.S.A. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input type="checkbox"/> No
12. Did offender, as determined by the court, commit the current crime with a deadly weapon? IF YES, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input type="checkbox"/> No
13. Was offender convicted of a violation of K.S.A. 21-5703, Manufacture or attempted manufacture; K.S.A. 21-5705(a)(1), Cultivation, Distribution, Possession w/ intent to distribute opiates, opium or narcotic drugs or any stimulant in K.S.A. 65-4107(d)(1), (d)(3), (f)(1); or K.S.A. 21-5709(a), Possession of precursors w/ intent to manufacture? IF YES, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input type="checkbox"/> No
14. Determination of domestic violence case designation 14a. Did offender, as determined by the trier of fact, commit a domestic violence offense? 14b. If YES to 14a above, did the court find that offender had no prior domestic violence conviction or diversion, AND that offender did not use the present domestic violence offense to coerce, control or punish the victim? 14c. If YES to 14a and NO to 14b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> DV Case
15. Veteran's Treatment Eligibility (2014 HB 2655): 15a. Did the offender serve in the U.S. Armed Forces in a combat zone as certified by the Kansas Commission on Veteran Affairs? 15b. Did the offender receive an honorable discharge or general discharge under honorable conditions? 15c. Does the offender suffer mental illness caused or exacerbated by the offender's service in a combat zone? 15d. Does the offender's current conviction place the offender in a presumptive probation grid box or SB 123 treatment? If YES to 15a through 15d, check box if court ordered Veterans Treatment	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> VA treatment
SECTION IV. SENTENCE IMPOSED	
1. Guideline Range Imposed: <input type="checkbox"/> Aggravated <input type="checkbox"/> Standard <input type="checkbox"/> Mitigated <input type="checkbox"/> Departure - COMPLETE SECTION V	
2. Prison Term: KDOC _____ months (including enhancement sentence) (Enter months above then check one of the following) <input type="checkbox"/> Prison sentence imposed or <input type="checkbox"/> Underlying with probation granted ** or Underlying with KDOC Drug Trtmnt Prog. (min. 120 days) <input type="checkbox"/> Enhancement Sentence- Drug with Firearm: <input type="checkbox"/> 6 months <input type="checkbox"/> 18 months (K.S.A. 21-6805(g)) Ballistic Resistant Material: <input type="checkbox"/> 30 months (K.S.A. 21-6804(t)) <input type="checkbox"/> Off-grid Crime: <input type="checkbox"/> Life - Minimum 15 yrs. <input type="checkbox"/> Life - Minimum 20 yrs. <input type="checkbox"/> Hard 25 <input type="checkbox"/> Hard 40 <input type="checkbox"/> Hard 50 <input type="checkbox"/> Life without Parole <input type="checkbox"/> Death Penalty <input type="checkbox"/> Per K.S.A. 2014 Supp. 21-6620, 21-6623 or 21-6627, if guidelines sentence greater than mandatory minimum _____ months.	
3. Postrelease Supervision Term: <input type="checkbox"/> 12 months <input type="checkbox"/> 24 months <input type="checkbox"/> 36 months <input type="checkbox"/> 60 months (sex offense) - COMPLETE SECTION V <input type="checkbox"/> Lifetime Postrelease <input type="checkbox"/> Lifetime Parole / Electronic Monitoring (K.S.A. 21-6604(r))	
4. Felony DUI & Test Refusal: <input type="checkbox"/> 3 rd D.U.I. <input type="checkbox"/> 4 th & Subs. D.U.I. <input type="checkbox"/> 2 nd Test Refusal <input type="checkbox"/> 3 rd & Subs. Test Refusal Jail Term: _____ months _____ days <input type="checkbox"/> Additional one month jail if child <14 in vehicle (K.S.A. 8-1567(c), K.S.A. 8-1025(c)) (include in total) Post-Imprisonment Supervision (12 months) <input type="checkbox"/> Court Services <input type="checkbox"/> Community Corrections <input type="checkbox"/> Assignment to a work release program (K.S.A. 21-6604(a)(11))	
5. Other Nongrid Felony: <input type="checkbox"/> 3 rd & Subs. Domestic Battery w/in 5 yrs. <input type="checkbox"/> Animal Cruelty Jail Term: _____ months _____ days <input type="checkbox"/> Probation granted after serving jail term. Probation Term: _____ months _____ days <input type="checkbox"/> Assignment to a work release program (K.S.A. 21-6604(a)(11))	

Journal Entry of Judgment Rev. 12/18/2014

Case No. _____	(PAGE 4)
KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT	
SECTION VII. RECAP OF SENTENCE	
1. Sentence Imposed: Total Prison Term (if sentence imposed is to prison): _____ Total County Jail Term: _____ <input type="checkbox"/> Consecutive to Prison Term Total Underlying Jail Term (if sentence imposed is probation): _____ Total Underlying Prison Term (if sentence imposed is probation): _____ <input type="checkbox"/> For each count, the Court pronounced the complete sentence, including the maximum potential good time percentage. K.S.A. 21-6804(e)(2) and 21-6805(c)(2).	
2. Postrelease Supervision Term: <input type="checkbox"/> 12 months <input type="checkbox"/> 24 months <input type="checkbox"/> 36 months <input type="checkbox"/> 60 months <input type="checkbox"/> Lifetime Postrelease <input type="checkbox"/> Lifetime Parole / Electronic Monitoring (K.S.A. 21-6604(r))	
3. DUI or Test Refusal Post-Imprisonment Supervision (12 months) <input type="checkbox"/> Court Services <input type="checkbox"/> Community Corrections	
4. Probation Term Imposed (select one): <input type="checkbox"/> 12 months <input type="checkbox"/> 18 months <input type="checkbox"/> 24 months <input type="checkbox"/> 36 months <input type="checkbox"/> 60 months <input type="checkbox"/> Drug Treatment for up to 18 months. K.S.A. 21-6824 <input type="checkbox"/> Extended Period K.S.A. 21-6608(c)(5) for: _____ months <input type="checkbox"/> Other: _____ <small>**Correctional Conservation Camp</small>	
5. Incarceration Credit: Enter dates (m/d/yy only) and days of credit potentially for this case and check "A" if the days are actually awarded, or "N" if the days are not awarded by the court. (attach additional pages if necessary)	
*Location- From: To: = Days <input type="checkbox"/> A <input type="checkbox"/> N	*Location- From: To: = Days <input type="checkbox"/> A <input type="checkbox"/> N
*Location- From: To: = Days <input type="checkbox"/> A <input type="checkbox"/> N	*Location- From: To: = Days <input type="checkbox"/> A <input type="checkbox"/> N
*Location- From: To: = Days <input type="checkbox"/> A <input type="checkbox"/> N	*Location- From: To: = Days <input type="checkbox"/> A <input type="checkbox"/> N
*Location- From: To: = Days <input type="checkbox"/> A <input type="checkbox"/> N	*Location- From: To: = Days <input type="checkbox"/> A <input type="checkbox"/> N
*Enter appropriate letters to indicate the type of location where credit may have been earned: J=Jail TL=Treatment (Locked) TU=Treatment (Unlocked) RL=Residential (Locked) RU=Residential (Unlocked) HA= House Arrest Sentencing Date: _____ - Total number of days of credit actually awarded _____ = Sentence Begins Date: _____ IF cases are "CONSOLIDATED", list grand total of ALL credits actually awarded: _____	
6. Prior Case(s) to Which the Current Sentence is to Run Concurrent or Consecutive: Case No. _____ County _____ Sentence _____ Concurrent <input type="checkbox"/> or Consecutive <input type="checkbox"/> Case No. _____ County _____ Sentence _____ Concurrent <input type="checkbox"/> or Consecutive <input type="checkbox"/> Case No. _____ County _____ Sentence _____ Concurrent <input type="checkbox"/> or Consecutive <input type="checkbox"/> Case No. _____ County _____ Sentence _____ Concurrent <input type="checkbox"/> or Consecutive <input type="checkbox"/> Others: _____	
7. Miscellaneous Provisions: <input type="checkbox"/> Defendant informed of <u>right to appeal</u> within 14 days of this date. K.S.A. 22-3608(c). (Required by case law) <input type="checkbox"/> Defendant informed of potential <u>rights of expungement</u> . K.S.A. 21-6614c(h) <input type="checkbox"/> Defendant informed of <u>duty to register</u> as an offender pursuant to the Kansas Offender Registration Act, K.S.A. 22-4905(b)(2) (Please complete OFFENDER REGISTRATION SUPPLEMENT and attach it to the Journal Entry.) <input type="checkbox"/> Defendant must submit specimens of blood or an oral or other biological sample, if not previously submitted, pursuant to <u>K.S.A. 21-2511(c)</u> . <input type="checkbox"/> Defendant must obtain psychological evaluation and shall complete the recommended treatment pursuant to <u>K.S.A. 22-3717(d)(1)(D)(iv)</u> . <input type="checkbox"/> Defendant has been processed, fingerprinted and palmed. <u>K.S.A. 21-2501(b)</u> <input type="checkbox"/> Court remands Defendant to custody of Sheriff to begin serving sentence. <input type="checkbox"/> Court remands Defendant to custody of Sheriff to await transportation to the custody of the Secretary of Corrections. <input type="checkbox"/> Defendant to report to County Jail on the ____ day of _____, 20__ at ____ o'clock <input type="checkbox"/> a.m. <input type="checkbox"/> p.m. to start serving sentence. <input type="checkbox"/> House arrest is authorized for remaining _____ days after Defendant completes mandatory _____ hours in the County Jail. <input type="checkbox"/> Work release recommended (if accepted, defendant is to abide by recommendations of the program). <input type="checkbox"/> Defendant's financial resources and burden imposed by BIDS application and attorney fees considered by the court pursuant to <u>K.S.A. 22-4513</u> and <u>State v. Robinson</u> , 281 Kan. 538, 132 P.3d 934 (2006). <input type="checkbox"/> Defendant to undergo domestic violence assessment pursuant to <u>K.S.A. 21-6604(p)</u> <input type="checkbox"/> Defendant advised of prohibition against firearms. <input type="checkbox"/> Other Comments: _____	
*This option is included in statute, but is unavailable	
Rev. 12/18/2014	

Journal Entry of Judgment
Rev. 12/18/2014

Case No.
SPECIAL RULES SUPPLEMENTAL PAGE (IF APPLICABLE, check box of the special rule that applies and include this page with the corresponding count.
PUBLIC SAFETY OFFENSES / FIREARMS FINDING APPLY:
1. <input type="checkbox"/> Person Felony Committed With a Firearm – presumed prison. K.S.A. 21-6804(h)
2. <input type="checkbox"/> Agg. Battery against a L.E.O., if criminal history is 6H or 6I – presumed prison. K.S.A. 21-6804(g)
3. <input type="checkbox"/> Agg. Assault of a L.E.O., if criminal history is 6H or 6I – presumed prison. K.S.A. 21-6804(g)
34. <input type="checkbox"/> Battery on a L.E.O., K.S.A. 21-5413(c)(2), resulting in bodily harm- presumed prison and consecutive. K.S.A. 21-6804(r)
32. <input type="checkbox"/> Drug Felony While in Possession of a Firearm- presumed prison. K.S.A. 21-6805(g)
33. <input type="checkbox"/> Drug Felony With a Firearm that Discharges- presumed prison. K.S.A. 21-6805(g)
4. <input type="checkbox"/> Crime Committed for Benefit of a Criminal Street Gang – presumed prison. K.S.A. 21-6804(k)
11. <input type="checkbox"/> Extended Jurisdiction Juvenile Imposed – both juvenile and adult sentences imposed, adult sentence stayed conditioned on successful completion of juvenile sentence. K.S.A. 38-2347 and 38-2364
35. <input type="checkbox"/> Agg. Endangering a Child – consecutive sentence required. K.S.A. 21-5601(c)(2)
36. <input type="checkbox"/> Ballistic Resistant Material – presumed prison with additional 30 months and consecutive. K.S.A. 21-6804(f)
38. <input type="checkbox"/> Unlawful Sexual Relations - presumed prison - K.S.A. 21-6804(s)
HABITUAL OR REPEAT OFFENSES APPLY:
5. <input type="checkbox"/> Persistent Sex Offender - if current conviction is presumed prison, double the maximum duration. K.S.A. 21-6804(j)
12. <input type="checkbox"/> 2 nd or Subs. Manufacture of a Controlled Substance Conviction – if previous conviction is for methamphetamine or analog, presumed prison, twice the maximum duration. K.S.A. 21-6805(e)
26. <input type="checkbox"/> 3 rd or Subs. Felony Drug Possession occurring on or after July 1, 2008 - presumed prison. K.S.A. 21-6805(f)(1)
13. <input type="checkbox"/> Residential Burglary with a Prior Residential, Nonresidential or Agg. Burglary Conviction, or any attempt or conspiracy convictions of these priors – presumed prison. K.S.A. 21-6804(f)
27. <input type="checkbox"/> Burglary With Two or More Prior Convictions for Theft, Burglary, or Agg. Burglary – presumed prison. K.S.A. 21-6804(p)
29. <input type="checkbox"/> Felony Theft With Three or More Prior Convictions for Felony Theft, Burglary, or Agg. Burglary – presumed prison. K.S.A. 21-6804(p)
30. <input type="checkbox"/> ** For #27 or #29, Substance Abuse Underlying Factor, Treatment More Effective to Reduce Reoffense Risk and Community Safety Served – KDOC Intensive Substance Abuse Treatment Program, Return to Court Upon Successful Completion. K.S.A. 21-6804(p)
31. <input type="checkbox"/> 3 rd or Subs. Criminal Deprivation of a Motor Vehicle – presumptive prison. K.S.A. 21-6804(n)
16. <input type="checkbox"/> 2 nd Forgery, criminal history I – C, sentenced pursuant to sentencing requirements of K.S.A. 21-5823, term of imprisonment not in KDOC. Criminal history A or B, - sentenced for SL 8, NPF. K.S.A. 21-6804(i)
17. <input type="checkbox"/> 3 rd or Subs. Forgery, criminal history I – C, sentenced pursuant to sentencing requirements of K.S.A. 21-5823, term of imprisonment not in KDOC. Criminal history A or B, - sentenced for SL 8, NPF. K.S.A. 21-6804(i)
9. <input type="checkbox"/> Crime Committed While Incarcerated, on Probation, Parole, Conditional Release, or Postrelease Supervision for a Felony – new sentence shall be imposed consecutively. K.S.A. 21-6806(c). If new crime is a felony, court may impose prison even if presumption is nonprison. K.S.A. 21-6804(f)(1)
40. <input type="checkbox"/> Felony Committed After Early Discharge When Offender Would Have Been On Probation or Postrelease Supervision for a Felony – if committed after early discharge pursuant to K.S.A. 21-6608(d) or K.S.A. 22-3717(d)(2), may impose prison even if presumed nonprison. K.S.A. 21-6804(f)(2)
28. <input type="checkbox"/> Felony Committed While Incarcerated in a Juvenile Correctional Facility for an Offense That Would be a Felony if Committed by an Adult – presumed prison. K.S.A. 21-6604(f)(3)
10. <input type="checkbox"/> Crime Committed While on Felony Bond – new sentence imposed consecutively. K.S.A. 21-6806(d), 21-6804(f)(4). If new crime is a felony, court may impose prison even if presumption is nonprison. K.S.A. 21-6804(f)(4)
37. <input type="checkbox"/> 2 nd or Subs. Identity Theft or Identity Fraud – presumed prison. K.S.A. 21-6804(u)
41. <input type="checkbox"/> Leaving the Scene of an Accident - if current conviction is for K.S.A. 8-1602(b)(2), (b)(3), or (b)(4), prior convictions committed on and after July 1, 2011 of 8-235, 8-262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-1602, 8-1605, 40,3104, 21-5405(a)(3) and 21-5406(a)(3), or comparable convictions from a different jurisdiction, shall count as person felony for criminal history purposes. K.S.A. 21-6811(i).
42. <input type="checkbox"/> Involuntary Manslaughter by DUI - if current conviction is for K.S.A. 21-5405(a)(3), all previous convictions, adjudications and diversions for K.S.A. 8-1567, or comparable law of a different jurisdiction, shall count as person felony for criminal history purposes. K.S.A. 21-6811(c)(2).
43. <input type="checkbox"/> 3 rd or Subsequent Flee/Evade - presumed prison and imposed consecutively. K.S.A. 2014 Supp. 21-6804(v) (Sub for 2014 HB 2442)
NONGRID OFFENSES APPLY: K.S.A. 21-6804(i) - Term of imprisonment not in KDOC.
6. <input type="checkbox"/> Felony D.U.I. (3 rd , 4 th or Subs.) – sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 8-1567
39. <input type="checkbox"/> Felony Test Refusal (2 nd , 3 rd , or Subs.) – sentenced pursuant to mandatory sentencing requirements of K.S.A. 8-1025
8. <input type="checkbox"/> Felony Domestic Battery - sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 21-5414(b)(3)
21. <input type="checkbox"/> Animal Cruelty - K.S.A. 21-6412; 2 nd or subs. conviction; or Working/Assistance dog – K.S.A. 21-6416 – sentenced pursuant to specific mandatory sentencing requirements of same statute
FINANCE OFFENSES APPLY:
25. <input type="checkbox"/> Fraudulent Insurance Act, any combination of acts w/in 6 months involving \$25,000 or more - presumed prison. K.S.A. 40-2,118(e)
15. <input type="checkbox"/> Kansas Uniform Securities Act, violation resulting in loss of \$25,000 or more – presumed prison. K.S.A. 17-12a508(a)(5)
19. <input type="checkbox"/> Mortgage Business Act, 2 nd or subs. Conviction – presumed prison. K.S.A. 9-2203(d)
20. <input type="checkbox"/> Loan Brokers Act, violation resulting in loss of \$25,000 or more – presumed prison. K.S.A. 50-1013(e)

For Court Use Only (Seal)



2014 KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF PROBATION VIOLATION HEARING

SECTION I. CASE IDENTIFYING INFORMATION		¹ Transaction No.	
² STATE v. <input type="checkbox"/> Male <input type="checkbox"/> Female		³ Court O.R.I. Number	⁴ K.B.I. Number
⁵ County	⁶ Court Case Number	⁷ Judge at Violation Hearing	⁸ Date of Violation Hearing
⁹ Defense Counsel at Violation Proceeding: <input type="checkbox"/> Appointed <input type="checkbox"/> Retained <input type="checkbox"/> Self <input type="checkbox"/> Waived Orally <input type="checkbox"/> Waived in Writing			
¹⁰ Agency Requesting Hearing: <input type="checkbox"/> Court Services <input type="checkbox"/> Community Corrections			
¹¹ Reason for Violation Hearing: <input type="checkbox"/> Condition Violation <input type="checkbox"/> Not Amenable to Treatment <input type="checkbox"/> New Conviction <input type="checkbox"/> K.S.A. 21-6824 (*5B 123*) Intentional Noncompliance			
SECTION II. ORIGINAL CONVICTION AND SENTENCE INFORMATION			
¹ Original Sentencing Date:		² Name of Original Sentencing Judge:	
³ Original Journal Entry: <input type="checkbox"/> Attached			
⁴ Name of PRIMARY Offense of Conviction: Count No.			
⁵ If Drug Offense (Indicate statute for controlled substance): <input type="checkbox"/> 65-4105 <input type="checkbox"/> 65-4107 <input type="checkbox"/> 65-4109 <input type="checkbox"/> 65-4111 <input type="checkbox"/> 65-4113 Name of Drug: Amount of Drug (If Distribution Offense): <input type="checkbox"/> w/in 1,000 ft of school			
⁶ K.S.A., Title, Section, Subsection(s): <input type="checkbox"/> Attempt (K.S.A. 21-5301) <input type="checkbox"/> Conspiracy (K.S.A. 21-5302) <input type="checkbox"/> Solicitation (K.S.A. 21-5303)			
⁷ Grade of Offense: (Check one in each row.) <input type="checkbox"/> Felony, Severity Level ____ <input type="checkbox"/> Misdemeanor, Class ____ <input type="checkbox"/> Person <input type="checkbox"/> Nonperson			
⁸ Offense Category: <input type="checkbox"/> Nondrug <input type="checkbox"/> Drug <input type="checkbox"/> Nongrid			
⁹ Criminal History Classification: <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H <input type="checkbox"/> I			
¹⁰ Imprisonment Term Pronounced for This Offense: _____ months			
¹¹ Postrelease Supervision: <input type="checkbox"/> 12 months <input type="checkbox"/> 24 months <input type="checkbox"/> 36 months <input type="checkbox"/> 60 months <input type="checkbox"/> Lifetime Postrelease <input type="checkbox"/> Parole <input type="checkbox"/> No Postrelease (only applies to crimes committed prior to July 1, 2013 - see K.S.A. 2012 Supp. 22-3716(e)) <input type="checkbox"/> Lifetime Parole			
¹² Probation Term: <input type="checkbox"/> 12 months <input type="checkbox"/> 18 months <input type="checkbox"/> 24 months <input type="checkbox"/> 36 months <input type="checkbox"/> 60 months <input type="checkbox"/> Drug Treatment for up to 18 months. K.S.A. 21-6824. <input type="checkbox"/> Other: Term: _____ months <input type="checkbox"/> Extended Period under K.S.A. 21-6608(c)(5) for: _____ months			
¹³ Prison Term: KDOC _____ months			

PLEASE USE AN ADDITIONAL OFFENSES PAGE FOR ADDITIONAL OFFENSES OF CONVICTION

Journal Entry of Probation Violation Rev. 7/1/2014

SECTION III. VIOLATION SANCTION HISTORY

Quick Dip county jail sanctions imposed (K.S.A. 22-3716(c)(1)(B)):

- 1st ___ days imposed by Supervising officer Court
 2nd ___ days imposed by Supervising officer Court
 3rd ___ days imposed by Supervising officer Court
 4th ___ days imposed by Supervising officer Court
 5th ___ days imposed by Supervising officer Court
 6th ___ days imposed by Supervising officer Court
 7th ___ days imposed by Supervising officer Court
 8th ___ days imposed by Supervising officer Court
 9th ___ days imposed by Supervising officer Court

- 120 days in KDOC (K.S.A. 22-3716(c)(1)(C))
 180 days in KDOC (K.S.A. 22-3716(c)(1)(D))
 Comments (including other jail sanction history):

SECTION IV. DISPOSITION OF THIS VIOLATION HEARING

¹ Disposition: No Violation Determined The court finds sufficient evidence and grounds to show and orders:

Violations Determined, Probation Not Revoked But:

- Probation Conditions Modified? Yes No (If Yes, describe conditions in box #4)
 Ordered to Community Corrections Supervision
 Probation Extended for _____ months
 Drug Treatment for up to 18 months. K.S.A. 21-6824, (*5B123*)

Violation Sanctions Ordered: Quick Dip: 2 day 3 day KDOC Prison Sanction: 120 days 180 days

County Jail up to 60 days _____ (may not be imposed at same time as other sanctions - K.S.A. 2014 Supp. 22-3716(c)(11))

Violation Determined, Probation Revoked and Defendant Ordered to Serve:

- Original Sentence Modified Sentence _____ months
 Court revoked because defendant absconded or committed new crime. (K.S.A. 22-3716(c)(8)) – state reasons in box #3.
 Court revoked because of public safety or offender welfare finding. (K.S.A. 22-3716(c)(9)) – state reasons in comment box.
 No Postrelease Period (only applies to crimes committed prior to July 1, 2013 - see K.S.A. 2012 Supp. 22-3716(e))

**Assigned to Conservation Camp (K.S.A. 21-6604(g))

**KDOC Drug Treatment Program (minimum 120 days) **These options are included in statute, but are unavailable

Comments:

² BIDS FEES ORDERED:

Application Fee Assessed \$ _____ (Per K.S.A. 22-4529, \$100 unless reduced or waived for "manifest hardship")

Attorney Fee Assessed \$ _____ (Per K.S.A. 22-4513)

³ If Probation was Revoked, Modified or Extended for any Reason, Please Provide a Brief Description of the Violation(s):

⁴ If Probation was Modified or Extended for any Reason, Please Provide a Brief Description of any New Conditions Imposed:

Journal Entry of Probation
Violation
Rev. 7/1/2014

State v. Pearce: A Potential Change to Criminal History Scoring

No. 110,435

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellant,

v.

MICHAEL J. PEARCE, JR.,
Appellee.

SYLLABUS BY THE COURT

1.

An appeal is heard on a question reserved by the State only to address a matter of some statewide importance, not merely to show that the district court was wrong in a particular case. The appellate court's ruling on a question reserved does not have any effect on the criminal defendant or juvenile offender in that case.

2.

One factor that determines the length of a defendant's presumptive sentence for a felony conviction under the Kansas sentencing guidelines is the defendant's criminal-history score. Unless excluded by statute, all prior criminal convictions are considered for criminal-history-scoring purposes. K.S.A. 2013 Supp. 21-6810(d)(9).

3.

Prior convictions considered under a statute applicable to certain recidivist burglars, K.S.A. 2013 Supp. 21-6804(l) (which provides a presumptive prison sentence instead of probation), are not excluded from consideration for determining the

defendant's criminal-history category. Thus, all prior burglary convictions are considered for criminal-history purposes.

Appeal from Miami District Court; AMY L. HARTH, judge. Opinion filed January 23, 2015.
Appeal sustained.

Jason A. Orapeza and Robert R. Johnson, assistant county attorneys, Elizabeth Sweeney-Reeder, county attorney, and Derek Schmidt, attorney general, for appellant.

Jenni L. Howsman, legal intern, and Randall L. Hodgkinson, of Kansas Appellate Defender Office, for appellee.

Before MALONE C.J., LEBEN and ATCHESON, JJ.

LEBEN, J.: Under the Kansas sentencing guidelines, the more serious a defendant's past offenses are, the greater the presumptive sentence if the defendant commits a new felony offense. After Michael Pearce, Jr., was convicted of his fifth burglary, however, the district court did not include Pearce's past residential burglary—a person felony—when calculating his criminal-history score because the court had used that conviction to apply a statute that makes prison the default sentence for recidivist burglars.

The State has appealed, contending that the district court erred by excluding the prior residential burglary when determining Pearce's criminal-history score. The defendant successfully argued in the district court that K.S.A. 2013 Supp. 21-6810(d)(9) prevents the court from counting this offense.

But that statute excludes prior convictions only when "they enhance the severity level, elevate the classification from misdemeanor to felony, or are elements of the present crime of conviction." K.S.A. 2013 Supp. 21-6810(d)(9). None of those criteria were met here: the past offense did not change the severity level of this offense (severity-

In applying Special Rule 13, the Court of Appeals held that burglary priors can be used to enhance the sentence under a special rule provision and for criminal history purposes. The Court also inferred forgery priors in Special Rules 16 and 17 could also be used.

State v. Pearce: KSA 21-6810(d)(9) (Cont.)

- **Pre-2008:** Prior convictions of any crime shall not be counted in determining the criminal history category if they enhance the severity level *or applicable penalties*, elevate the classification from misdemeanor to felony, or are elements of the present crime of conviction. Except as otherwise provided, all other prior convictions will be considered and scored. (Emphasis added.)
- **Post-2008:** Prior convictions of any crime shall not be counted in determining the criminal history category if they enhance the severity level, elevate the classification from misdemeanor to felony, or are elements of the present crime of conviction. Except as otherwise provided, all other prior convictions will be considered and scored.

Better Tools for you

- Website – sentencing.ks.gov
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- Desk Reference Manual
- Forms – updated frequently
- New Procedures – new/amended laws
- Hotline – Your guidelines questions answered





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Thank You

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