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E-newsletter

Sentencing Commission Introduces Sentencing Reform Legislation for 2016

Hon. Evelyn Z. Wilson, Chair
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www.sentencing.ks.gov

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**Order the
2015 Desk
Reference Manual**

As a caretaker of the Revised Kansas Sentencing Guidelines Act, the KSC has been busy organizing its legislative agenda for 2016. Annually in November, policy items are discussed at a two-day workshop that is held in Topeka. This year, the Commission considered 22 proposals and recommended seven for bill introductions. The following active bills and their status are listed below. Please note that none of them are law at this time.

S Sub for HB 2049 *Amending penalty for first and second marijuana possession convictions* – This Commission bill is a holdover from the last session. The bill lowers the penalties for second time marijuana possession from a severity level 5 felony to a class A misdemeanor. A first time offense would be reduced from a class A misdemeanor to a class B misdemeanor. The bill successfully passed out of the Senate Corrections and Juvenile Justice committee on January 26, but the industrial hemp and medicinal marijuana provisions that had been added by the House last session were stripped out and SB 20 (increase in penalties for burglary and aggravated burglary) were amended into the bill. During Senate floor debate on February 3, the provisions of SB 20 were stripped out and a special sentencing rule was inserted that requires presumptive prison for any offender with criminal history severity level 7C, 7D, and 7E. It also adds the contents of **2015 HB 2218**, which makes the burglary and aggravated burglary statutes inapplicable where an offender enters a public place during normal business hours. It was reported in committee that some prior shoplifting offenders that had been banned by retailers were caught shoplifting again in the establishment and were then subject to aggravated burglary charges as they were entering without permission and people were present in the store, thereby satisfying the elements of the crime. The bill, now S Sub for HB 2049, passed out of the Senate as amended 39-1 and will now go to a conference committee.

HB 2459 *Amending the criminal penalties for unlawful tampering with electronic equipment* –The bill decreases the penalty from a severity level 6 to a severity level 8 if an offender is on felony supervision and tampers with their electronic monitoring device. If on misdemeanor supervision or court-ordered supervision in any civil case at the time of offense, a violation is a class A nonperson misdemeanor. The bill passed out of the full House and is awaiting consideration on the Senate side.

HB 2460 *Linking person or nonperson underlying crime designations to violations of the Kansas offender registration act* – Current law indicates that it is a person felony for violating the provisions of the Kansas Offender Registration act, even if the underlying conviction that requires the offender to register is a nonperson crime. The bill amends this provision to make a violation of KORA a nonperson crime if the underlying conviction is a nonperson crime. The House Corrections and Juvenile Justice Committee also amended the bill to clarify that if an offender has multiple convictions requiring registration and their underlying offenses were person and nonperson felonies, an offender will be charged as a person felony. The bill passed out of the full House and is awaiting consideration on the Senate side.

HB 2462 *Increase theft loss value from \$1,000 to \$2,000 for felony* - The bill increases the felony theft threshold to \$2,000. The House Corrections and Juvenile Justice Committee worked the bill and also amended subsection (b)(6) of the bill to add a floor of \$250 that would be required to charge a severity level 9, nonperson felony. Current law is \$1,000 or less and allows misdemeanor theft cases, in some instances as little as \$3, to be prosecuted as felonies. The bill passed out of the full House and is awaiting consideration on the Senate side.

HB 2463 *Allow certain juvenile adjudications to decay from adult criminal history* – This bill is known as a gap provision for determination of adult criminal history scoring. With some exceptions, juvenile adjudications currently decay after an offender is 25 years of age and are not considered for adult criminal history purposes. HB 2463 complements the current decay provision with a gap policy that would exclude adjudications occurring five years prior to the current adjudication or conviction if there is no criminal history during that five-year time period and the prior adjudication is a nondrug severity level 5 through 10 felony, drug felony, non-grid felony or misdemeanor, if committed by an adult. The bill passed out of the full House and is awaiting consideration on the Senate side.

HB 2464 *Allow HB 2170 prison sanctions (120/180-day) without jail sanction (2-3 day) for probation absconders* – The Commission introduced this bill to respond to requests of the judiciary to have another remedy for probationers that abscond. Currently, K.S.A. 22-3716 does not allow the district court to order 120 or 180-day prison sanctions without first ordering a 2-3 day “quick dip” jail sanction if the offender is deemed to be an absconder. This bill removes that requirement for absconders to enable the court the additional options of the prison sanctions rather than full revocation. The bill passed out of the full House and is awaiting consideration on the Senate side.

I've linked the Commission's bills above but to search these or any other bills, simply visit www.kslegislature.org and click on the Bills & Laws tab.

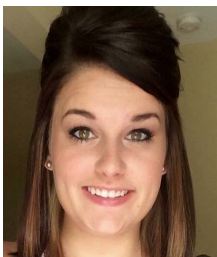
Also of interest to the Commission are the following bills:

HB 2447 *Amendments concerning program credits for certain inmates* - This bill was introduced by the Kansas Department of Corrections and is also part of the state efficiency study recommendation that was recently completed by Alvarez and Marsal. The bill increases prison program credit for inmates from 90 days to 120 days. This is a significant bed savings bill. We estimate that 115 beds will be saved in FY 2017. The bill passed out of the full House and is awaiting consideration on the Senate side.

HB 2681 *Requiring an opportunity for diversion in certain circumstances* - This bill requires county and district attorneys to provide a diversion application developed by the Sentencing Commission to offenders who request them and indicate specific reasons for denial, if applicable. It would also add a statutory duty to the KSC to track all diversion applications with a database that would then allow for annual reporting to the legislature. The bill passed out of the full House and is awaiting consideration on the Senate side.

In addition to following these bills, the Commission is currently tracking 37 criminal bills. For each, staff creates a legislative bed space impact that provides legislative leaders with forecasted prison admissions and bed space requirements tailored to each criminal bill subject matter using journal entry data received statewide from all 31 judicial districts. Each time the bills are amended during the legislative process, the Commission issues a new impact. If you have further questions regarding these bills or the process, please contact Scott Schultz, Executive Director.

Commission Welcomes New Administrative Assistant



The Sentencing Commission welcomes Erica Waggoner, recently hired to serve as an administrative assistant. Erica brings substantial customer service experience and we are pleased to have her working on our team. She also attends Fort Hays State University studying for a bachelor's degree in sociology.

Commission Welcomes New Members



Interim Secretary Johnnie Goddard began his employment with the State of Kansas in 1985 when he joined Hutchinson Correctional Facility as a corrections officer trainee. In 1986, Goddard was promoted to corrections officer I. Goddard later transferred to Ellsworth Correctional Facility (ECF) where he was promoted to sergeant in 1988. He continued to move higher through the ECF ranks to the positions of corrections counselor I in 1988, corrections counselor II in 1989, unit team manager that same year and then emergency preparedness coordinator in 1996.

Goddard was named deputy warden 1999 and then warden in 2007, a position he held until his appointment to deputy secretary in April 2011 by Secretary of Corrections Ray Roberts.

Goddard received his bachelor's degree in interdisciplinary social science from Kansas State University in 2007. He also has earned numerous corrections-related certifications including Special Operations Response, Defusing Crisis Situations Correctional Leadership, Administration of Justice, Kansas Quality Management, Management Development for the Future, Executive Leadership and Leadership Development Academy.

Jonathan Ogletree has been a member of the Prisoner Review Board for Kansas Department of Corrections since their inception July 1, 2011 and promoted to the Chair position as of January 3, 2016. Jonathan has worked in the criminal justice system for over 22 years. He began his career with Kansas Department of Corrections in 1989 at the Lansing Correctional Facility as a Corrections Officer and has also served as a Correctional Counselor, Unit Team Manager and Director of the Shawnee County Re-Entry Program. He has completed two National Institute of Correction (NIC) leadership training programs and the Advanced Practicum for the "Thinking for a Change Program" through NIC and serves as a trainer for both KDOC and NIC. He is currently a member of the Kansas Council for Interstate Adult Offender Committee and the Professional Development Committee for Association of Paroling Authorities International (APAI). Jonathan has a Bachelor of Science degree from Friends University in Organizational Management and Leadership, and a Master of Arts degree from Webster University in Management.



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Commission Welcomes New Members, cont.



Nathan Barnes, Kansas City, was recently appointed by the Governor to serve as one of the two public members on the Commission. Mr. Barnes is the owner of Barnco, Inc of KCK. He also has been employed with the KCMO Housing Authority and Allied, Inc.

His service to his community has extended to local government where he was a Wyandotte County Commissioner from 1997 to 2013. As a county commissioner, Mr. Barnes was instrumental in creating a new Boys and Girls Club facility in Kansas City, KS and bringing NASCAR to the county. Mr. Barnes championed numerous civic and minority causes as a county commissioner. He was also a Kansas City, KS city commissioner from 1995 to 1997.

Mr. Barnes received his Bachelor of Science degree in Business Administration from the University of Arkansas, Pine Bluff. He replaces Pastor Junius Dotson, Wichita.

House Bill 2170 Update

Through the assistance of a federal grant funded by the Bureau of Justice Statistics, the Council of State Governments and other partners, KSC has constructed two projects that will be utilized to further educate practitioners throughout the state on HB 2170. The first of which is a continuing legal education webinar that will be accessible in the spring. The second project is a HB 2170 handbook that includes all the finer points of this bill. Provided below are samples of the type of information that may be found in the FAQ section of this handbook.

- ▶ **When imposing a quick dip jail sanction, how does the concurrence of the Chief Court Service Officer or Community Corrections Director need to take place?**
According to K.S.A. 22-3716(b)(4), if a defendant waives the right to a hearing and the sentencing court has not specifically withheld authority, a CSO or CCO may impose a 2-day or 3-day quick dip jail sanction. The CSO or CCO must have the authorization of the Chief CSO or Community Corrections Director. Presently, it is up to each judicial district to develop their own workable system. Written authority in some form would most likely be a preferred method for documentation purposes.
- ▶ **Can prior jail credit be applied to decrease the length of a 120-day or 180-day prison sanction?**
No. 2014 HB 2448 amended K.S.A 22-3716(c)(1)(C) and (c)(1)(D) to provide that the 120-day or 180-day prison sanction shall begin upon pronouncement by the court. Prior incarceration time, such as the time the 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.
- ▶ **How does time credited for serving a 120-day or 180-day prison sanction apply to a defendant's underlying sentence?**
K.S.A 22-3716(c)(1)(C) and (c)(1)(D) provides that a defendant who receives a 120-day or 180-day prison sanction shall be subject to a reduction of up to 50% at the discretion of the secretary of corrections. In the event that a reduction is awarded, credit towards a defendant's underlying sentence shall be applied based upon actual time served incarcerated.

The Commission has created a new email address for HB 2170 inquiries and submissions of completed waiver forms. Please contact Ebo Browne at HB2170@sentencing.ks.gov for information pertaining to HB 2170.

SB 123 Developments and Focal Points 2015/2016

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.

The Kansas Sentencing Commission website provides the latest forms and information on [SB 123 issues](#).



In the spring of 2015, Charlene Peacock, LMSW/LCAC, joined the Kansas Sentencing Commission (KSC) as the SB 123 Program Director/Utilization Review & Treatment Specialist. Her role upon joining the KSC family has been to provide a clinical perspective to increase program efficacy and oversight.

The SB 123 Team was created when Jesse Becker, Finance Director, joined KSC in the summer of 2015. Trish Beck, Program Assistant (long-time KSC employee) stepped up to cover processing SB 123 invoices and provide training.

The SB 123 Team, receives communications from our Community Corrections agencies, court service officers, and treatment providers. In response to these inquiries, the sb123payments@sentencing.ks.gov email was created to channel all SB 123 questions to a central location. The SB 123 Team meets regularly to ensure a more comprehensive, accurate and timely response to invoices, form submissions, inpatient treatment extension request, questions, and program issues as they arise.

Emails to sb123payments@sentencing.ks.gov is our preferred communication method for questions and concerns. As always, should a provider or community correction/court service office have questions involving an invoice, the following will be helpful to research your inquiry: Name of offender, KDOC #, and service month in question.

Last October, the SB 123 Program held a workshop for both Community Corrections and SB 123 Treatment Providers wherein the 2016 modality changes were introduced. Please, refer to our website www.sentencing.ks.gov for updated documents, letters, and forms.

In January 2016, in an effort to continue to measure performance, the SB 123 Program began working with the KSC research department to establish a pilot study with two different community correction agencies. Funding for the project is part of a subaward agreement of the Council of State Governments. The pilot project will inform stakeholders of impacts to enhance and improve service delivery in identified rural areas in central and western Kansas by studying the relationship between local treatment providers administering assessments and subsequent offender treatment modalities resulting from such assessments.

Additionally, at the beginning of the year, the SB 123 operations manual revision process began with interagency/discipline collaboration of the Kansas Department of Corrections, Kansas Department of Aging and Disability Services, Court Services, SB 123 Treatment Providers, and KSC staff. We are meeting bi-weekly and are very pleased with our progress thus far.

Please feel free to email us any concerns and issues.





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.

☀ **FY 2016 Prison Population Projections** ☀

To view the report click [here](#)

☀ **FY 2016 KDOC Inmate Custody Classification Projection** ☀

To view the report click [here](#)

☀ **2014 Annual Report** ☀ To view the report click [here](#)



2015 Kansas Sentencing Guidelines— forms

All forms were updated January 22, 2016

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

