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## October 2013

Quarterly E-newsletter

Hon. Evelyn Z. Wilson, Chair  
 Scott M. Schultz, Executive Director



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

### Inside this issue:

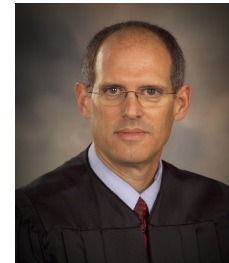
<a href="#">HB 2170 Update</a>	<a href="#">2</a>
<a href="#">Employment Opportunity</a>	<a href="#">3</a>
<a href="#">FY 2014 Prison Population Projections</a>	<a href="#">3</a>
<a href="#">FY 2104 KDOC Inmate Custody Classification Projection</a>	<a href="#">3</a>
<a href="#">2012 Annual Report</a>	<a href="#">3</a>
<a href="#">Desk Reference Manual</a>	<a href="#">3</a>
<a href="#">2013 Journal Entry of Judgment, Probation Revocation, &amp; PSI Forms</a>	<a href="#">4</a>
<a href="#">Senate Bill 123 News</a>	<a href="#">4</a>
<a href="#">Kansas Criminal Justice System Resource</a>	<a href="#">5</a>
<a href="#">Case Law Updates</a>	<a href="#">5</a>

## Shawnee County Judge Appointed to Lead Kansas Sentencing Commission



The Kansas Sentencing Commission has been notified that Governor Sam Brownback has appointed the Honorable Evelyn Z. Wilson as its chair. Judge Wilson presides in Division 5 in the 3rd Judicial District. She was appointed to the bench in 2004 and will assume duties as chief judge in January. She practiced law for 19 years in private practice. A native of Smith County, she graduated *magna cum laude* from Bethany College and with honors from Washburn Law. A published author, she has also taught at Washburn University. The judge is a member of the Board of Directors of Bethany College and also a member of several law-related organizations including the American Judges Association, and the American, Kansas and Topeka Bar Associations. Judge Wilson has served as Vice Chair of the Kansas Sentencing Commission since August 2012. She succeeds district court Judge Richard M. Smith from Linn County who resigned as chair last July.

## Commission Welcomes New Appointment



Chief Justice Lawton R. Nuss announced August 8, 2013 that he has appointed Judge W. Lee Fowler to the Kansas Sentencing Commission. Judge Fowler has served as a district judge since 1997 in the 5<sup>th</sup> Judicial District. He presides over cases in Lyon and Chase Counties. Judge Fowler joins Judge Evelyn Wilson of Shawnee County as one of two district judges appointed by the Chief Justice to the Commission.

Judge Fowler said, "I am honored to have the opportunity to serve as a member of the Kansas Sentencing Commission. I look forward to being able to participate in addressing issues that face our state in the criminal justice system."

Fowler, a native of Parsons, Kansas, is a graduate of Emporia State University and Washburn University School of Law. He served on the 5<sup>th</sup> Judicial District Community Corrections Advisory Board from 1990 through 1992, and again from 2007 to the present. He currently serves as chairman. Judge Fowler created a drug court in Emporia in 2004 and has presided over it since that time. He brings a unique perspective to the commission, having served as Chase County Attorney from 1985 – 1993, and later as defense counsel in private practice. He replaces Judge Richard M. Smith of Linn County on the Commission.



## HB 2170 Justice Reinvestment Initiative Moves to Implementation Phase



Scott Schultz, Executive Director, speaks to criminal justice professionals in Topeka during the agency's statewide training tour in September and October.

On July 1, 2013, the provisions of [HB 2170](#) became effective. The new law provides for sweeping, comprehensive changes to the post-sentencing landscape of criminal law in Kansas. Implementation of the new law is in its third month. Graduated sanctions, presumptive discharge and postrelease supervision for probation violators are highlights of the legislation.

### *Graduated Sanctions*

The heart of the new law focuses on addressing appropriate sanctions for offenders in a technical probation violation setting. New tools for stakeholders now provide the following:

- The Court, Court Services, or Community Corrections officers may impose 2-3 day jail sanctions (quick dips) in an effort to provide swift and certain responses to offender noncompliance. Evidence in other states applying these same reforms have realized over a three-fold reduction in their jail population due to shorter lengths of stay;
- After imposition of a quick dip, the court may order further violation sanctions resulting in a 120 and a 180-day sanction with the Department of Corrections. The offender is then returned back to Community Corrections. These sanctions are designed to make the punishment fit the violation, of which such a variety of tools was not previously available; or
- If public safety or the welfare of the offender is at issue, the Court may impose a "judicial override" and order revocation to prison without proceeding through the graduated sanctions as discussed above.

### *Presumptive Discharge*

Upon serving 12 consecutive months in which the offender is deemed low risk, compliant with the terms of their probation and have paid their restitution in full, the offender is required to be released. This presumption can be rebutted and the Court may find substantial and compelling reasons to deny the discharge.

### *Postrelease Supervision*

In an effort to provide more accountability and supervision to probation violators that are revoked and sent to prison, all offenders committing crimes on or after July 1, 2013 will be required to serve the postrelease supervision term that was imposed at sentencing. This closes a loophole in which over one-half of all offenders leaving prison did not receive postrelease supervision.

### *Commission Provides Ongoing Monitoring of the Bill*

The Legislature provided the Commission with specific authority in the bill to monitor its performance over time. As a result, a HB 2170 Subcommittee was organized by the Commission to gather data and provide feedback to stakeholders. A Frequently Asked Questions web page on the agency's website has been created and continues to be updated with the Subcommittee's suggestions for application of the law. It can be found [here](#).

Recently, the Executive Director, Staff Attorney and support staff completed a seven-city speaking tour of the state to be of further assistance to the criminal justice community. Stakeholders were on hand in Dodge City, Hays, Salina, Topeka, Wichita, Overland Park and Pittsburg to learn more about HB 2170 and the resulting journal entry changes. Feedback gained from the attendees provides the questions contained in the updated FAQ. The live training presentations have been videotaped and it is anticipated they will be available shortly on the agency website.



## ⚙️ Research Analyst Position ⚙️

Kansas Sentencing Commission is accepting applications for a Research Analyst position through October 12, 2013.

For more information [click here](#).

## ☀️ FY 2014 Prison Population Projections ☀️

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

## ☀️ FY 2014 KDOC Inmate Custody Classification Projection ☀️

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

## ☀️ 2012 Annual Report ☀️

To view the report [click here](#)

## Kansas Sentencing Guidelines Desk Reference Manual (DRM)



**... order yours!**

**Mail completed form with your payment.**

### **The Kansas Sentencing Commission Desk Reference Manual ...**

provides general instructions for application of the provisions of the Kansas Sentencing Guidelines Act (KSGA) K.S.A. 2011 Supp. 21-6801. The Manual contains features that we hope will not only inform users of the latest developments in sentencing law, but also help to facilitate more efficient understanding and application of the law.

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



## Did you know...

You can E-mail your Journal Entry (JE), Probation Revocation, or PSI forms to us as an alternative to mailing them? Just like everyone these days, we are always looking for ways to cut costs. Save paper and postage!

E-mail to:

[chrisc@sentencing.ks.gov](mailto:chrisc@sentencing.ks.gov)

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

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

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

### 2003 Senate Bill 123

#### K.S.A. 2012 Supp. 21-6824

Provides for community supervision (in lieu of incarceration) and mandatory substance abuse treatment for a defined target population on non-violent adult drug offenders who have been convicted of a drug offense under K.S.A. 2012 Supp 21-5706.

**GOAL:** To provide community intervention and the opportunity for treatment to certain offenders with substance abuse problems in order to address more effectively the revolving door of drug addicts through the state prisons, which should be reserved for serious, violent offenders.

## 2013 Kansas Sentencing Guidelines— Forms

**All 2013 Forms  
are effective 7/1/2013  
(latest revision date 9/1/2013)**

**Journal Entry and PSI were recently revised (9/1/13)-** to reflect the DUI enhanced penalty if a child under 14 yrs of age is in the vehicle. (K.S.A. 8-1567(c))

[Click here](#) to view all 2013 forms

- Journal Entry of Judgment (JE)
- Probation Revocation
- Presentence Investigation Report (PSI)

### **Please note:**

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

Please don't hesitate to call with any questions.

## Senate Bill 123 News

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

#### ☀ **SB123 Billing Changes** ☀

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

For more information [click here](#).

#### The Offender Insurance Coverage Report Form

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

- **Send All ASIs to us (KSC).**
- **In addition to monthly invoicing, the KSC accepts weekly or bi-weekly invoices for faster processing.**

#### **Community Corrections:**

- **If you receive an ASI – please forward it to us (KSC).**
- **Our office gladly prefers invoices emailed to [jenniferd@sentencing.ks.gov](mailto:jenniferd@sentencing.ks.gov) , or faxed to 785-296-0927 in care of Jennifer.**

#### **SB123 questions—**

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

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



## Kansas Criminal Justice System Resource Directory



### A Message to Entities Referenced in the Kansas Criminal Justice System Resource Directory-

The staff of the Kansas Sentencing Commission hopes the Resource Directory will be a valuable aid to you and your staff. Every effort has been made to ensure complete and accurate information. In order to maintain maximum efficiency of this directory, please keep us apprised of updates by emailing changes to: [office@sentencing.ks.gov](mailto:office@sentencing.ks.gov).

Please feel  
free to print  
your own  
copy.

Last revised  
9/26/13

If **your** information in this **Resource Directory** has changed, please use this **revision form** to let us know.

**Thank you to those who help us keep your  
information accurate!**



## July—Sept Case Law Updates

- \* [102891](#) - *State v. Novotny* - September 13, 2013 – Affirmed SUPREME COURT (Jury instructions, Appeals)
- \* [106803](#) - *State v. Rucker* - September 13, 2013 - Reversed and Remanded COURT OF APPEALS (Constitutionality (Right to be Present at Trial, Sixth Amendment))
- \* [98742](#) - *State v. Jefferson* - September 6, 2013 - Reversed and remanded SUPREME COURT (Multiplicity, Constitutionality)
- \* [108184](#) - *State v. Messer* - August 23, 2013 – Affirmed COURT OF APPEALS (DUI)
- \* [104565](#) - *State v. Harris* - August 16, 2013 – Affirmed SUPREME COURT (General Issues, Capital Murder)
- \* [104710](#) - *State v. Ochs* - August 16, 2013 – Affirmed SUPREME COURT (Jessica’s Law, Mandatory Minimums)
- \* [99479](#) - *State v. King* - August 9, 2013 - Affirmed in part, reversed in part SUPREME COURT (Jury Instructions, Criminal History)
- \* [101222](#) - *State v. Bridges* - August 9, 2013 – Affirmed SUPREME COURT (Constitutionality, Multiplicity)
- \* [101806](#) - *State v. Friday* - August 9, 2013 - Affirmed SUPREME COURT (Jury Instructions, Multiplicity)
- \* [104847](#) - *State v. Cruz* - August 9, 2013 - Affirmed SUPREME COURT (Jury Instructions)
- \* [100501](#) - *Baker v. State* (Modified opinion filed August 5, 2013) - Judgment of District Court reversed and remanded (Appeals)
- \* [108291](#) - *State v. Allen* - July 19, 2013 - Reversed and Remanded COURT OF APPEALS (General Issues (Motion to Dismiss))
- \* [104489](#) - *State v. Warren* - July 12, 2013 - Judgment of District Court reversed and remanded (Departures, Sentencing Modifications)
- \* [104206](#) - *State v. Spear, III* - July 5, 2013 - Affirmed in part and reversed in part SUPREME COURT (Jessica’s Law, Consecutive and Concurrent Sentencing)
- \* [104658](#) - *State v. Weber* - (UPDATED - July 8, 2013) - Affirmed in part and reversed in part, remanded to district court (Multiplicity, Mandatory Minimums)