

MEMORANDUM

To: Sheena Ward, Division of the Budget
From: Scott M. Schultz, Executive Director
Date: September 15, 2021
Re: Prison Bed Impact Assessment, **HB 2084 - Allowing earned discharge credit for offenders on probation and limiting the maximum term of supervision on probation.**

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill will reduce **293, 339, or 384** prison admissions by 2023 and **312, 363, or 410** prison admissions by 2032, respectively depending on which scenario plays out.
- **Impact on Prison Beds:** This bill will save **248, 289, or 326** prison beds by FY 2023 and **263, 306, or 350** prison beds in FY 2032 respectively, depending on which scenario plays out.
- **Impact on the Commission Workload:** This bill will reduce **202** journal entries in FY 2022 and **213** journal entries in 2032.

SUMMARY OF THE BILL

Section 1. This bill would amend K.S.A. 21-6608 to allow:

1. Subsection (c), after a defendant has served a period twice the original supervision term, the defendant can be released from supervision, but still be responsible for fees, restitution, and child support still owed.
2. Subsection (d), a defendant can be discharged from probation early if they are found to be in substantial compliance with their conditions of supervision. The court shall set a hearing at sentencing for the date when the defendant will have served 50 percent of their supervision term to determine if the defendant has been in substantial compliance with their terms of supervision.
3. Subsection (e), a defendant may earn discharge credit to reduce the term of probation when a defendant has substantially complied with terms of supervision. A defendant shall be awarded seven days discharge credit each full calendar month of substantial compliance on supervision.
4. Subsection (f), the Kansas Sentencing Commission would adopt procedures to standardize this calculation process.
5. Subsection (g), proposes factors to be determined in substantial compliance, such as a history of compliance and payment of fees and restitution, however, completion of all terms and conditions of supervision is not required. Offenders subject to provisions of K.S.A. 21-6824 (SB 123) will not be eligible for early discharge.

KEY ASSUMPTIONS

- The target inmates as defined in this proposed bill include offenders on probation who have exceeded a term that is double the original probation term.
- Projected admission to prison for the target offenders is assumed to increase by an annual average of 1%, which is the same percentage used with the baseline prison population forecast produced in September 2020 by the Kansas Sentencing Commission.
- It is assumed that the new policy effective date starts on July 1, 2021.
 - **Scenario One:** It is assumed that there will be a **10 percent** reduction of probation condition violations that lead to prison admission.
 - **Scenario Two:** It is assumed that there will be a **15 percent** reduction of probation condition violations that lead to prison admission.
 - **Scenario Three:** It is assumed that there will be a **20 percent** reduction of probation condition violations that lead to prison admission.
 - **Probation Term Cap:** It is assumed that the number of probationers exceeding the cap in FY 2020 will remain the same going forward.
 - The average sentence length is assumed to be **10.4 months**, which is the current observed average length of sentence for offenders admitted to prison under a conditional violation.

FINDINGS

- In FY 2020, there were **1,056 offenders** admitted to prison for conditional violations of probation.
 - 200 (18.9%) of those offenders exceeded the double probation term cap.

IMPACT ASSESSMENT

- **Scenario One:** If **10 percent** of offenders on probation are released for exceeding the probation cap:
 - 2023 – **91** reduction in admission and **80** prison beds saved
 - 2032 – **99** reduction in admission and **86** prison beds saved
- **Scenario Two:** If **15 percent** of offenders on probation are released for exceeding the probation cap:
 - 2023 – **137** reduction in admission and **121** prison beds saved
 - 2032 – **150** reduction in admission and **129** prison beds saved
- **Scenario Three:** If **20 percent** of offenders on probation are released for exceeding the probation cap:
 - 2023 – **182** reduction in admission and **158** prison beds saved
 - 2032 – **199** reduction in admission and **173** prison beds saved
- **Probation Term Cap:** In FY 2020, **200** offenders would have been released from probation for exceeding the probation cap, using this number going forward:
 - 2023 – **202** reduction in admission and **168** prison beds saved
 - 2032 – **213** reduction in admission and **178** prison beds saved

Section 1: Prison Bed Space Impact Assessment

Fiscal Year	Scenario #1 10 percent of Offenders Released	Scenario #2 15 percent of Offenders Released	Scenario #3 20 percent of Offenders Released	Current Offenders Released Due to Cap
2023	80	121	158	168
2024	82	122	158	169
2025	80	120	163	171
2026	82	125	162	173
2027	81	124	166	174
2028	85	127	165	176
2029	84	127	166	178
2030	85	128	171	180
2031	85	130	170	182
2032	86	129	173	177

Total Prison Admission Reduction

Fiscal Year	Scenario #1 Plus Probation Term Cap	Scenario #2 Plus Probation Term Cap	Scenario #3 Plus Probation Term Cap
2023	293	339	384
2024	296	343	388
2025	299	346	389
2026	302	350	393
2027	305	353	397
2028	308	356	401
2029	310	360	405
2030	314	364	410
2031	317	368	414
2032	312	363	410

Total Prison Bed Space Impact Assessment

Fiscal Year	Scenario #1 Plus Probation Term Cap	Scenario #2 Plus Probation Term Cap	Scenario #3 Plus Probation Term Cap
2023	248	289	326
2024	251	291	327
2025	251	291	334
2026	255	298	335
2027	255	298	340
2028	261	303	341
2029	262	305	344
2030	265	308	351
2031	267	312	352
2032	263	306	350

SUMMARY

- **Impact on Prison Admissions:** This bill will reduce **293, 339, or 384** prison admissions by 2023 and **312, 363, or 410** prison admissions by 2032, respectively depending on which scenario plays out.
- **Impact on Prison Beds:** This bill will save **248, 289, or 326** prison beds by FY 2023 and **263, 306, or 350** prison beds in FY 2032 respectively, depending on which scenario plays out.
- **Impact on the Commission Workload:** This bill will reduce **202** journal entries in FY 2022 and **213** journal entries in 2032.