

## MEMORANDUM

**To:** KSSC Members  
**From:** Scott M. Schultz, Executive Director  
**Date:** September 15, 2021  
**Re:** Prison Bed Space Impact Assessment, **HB 2146 - Expanding the number of presumptive probation and border grid blocks in the sentencing grid for drug crimes. – AS AMENDED IN COMMITTEE (Updated for Workshop)**

### IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill would reduce prison admissions **190** in FY 2023 and **208** prison admissions in FY 2032.
- **Impact on Prison Beds:** This bill would save **178** prison beds in FY 2023 and **217** prison beds in FY 2032.
- **Impact on Probation Supervision:** This bill would increase the number of probations by **190** probationers in FY 2023 and **208** probationers in FY 2032.
- **Impact on the Workload of the Commission:** This bill will result in **no** additional journal entry workload of the Commission.
- **Impact on SB 123 treatment:** This bill will increase the cost of the SB 123 drug treatment program by **\$235,725 in FY 2023 and \$260,869 in FY 2032**, based on the average annual cost of **\$3,143** per SB 123 treatment offender.

### SUMMARY OF THE BILL – AS AMENDED

**Section 1.** K.S.A. 2020 Supp. 21-6805 is amended to change the dispositional line on the sentencing grid to increase the number of grid boxes that are border boxes (4-C, 4-D, and 5-B) and presumptive probation (4-G and 5-D). If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment.

**Section 2.** K.S.A. 2020 Supp. 21-6824 is amended to include mandatory certified drug treatment for grid boxes 5-A and 5-B. Those in grid boxes 4-C and 4-D of the sentencing guidelines grid for drug

crimes will qualify for certified drug treatment if the person felonies in the offender's criminal history were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes, and the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not be jeopardized by such placement in a drug abuse treatment program

**KEY ASSUMPTIONS**

- The target population of this proposal will include drug level 5 B-I and drug level 4 criminal history category C-I.
- Changing all D5 B-I grid boxes and D4 C-I grid boxes to presumptive probation boxes.
- Projected admission to prison for the target offenders is assumed to increase by an annual average of 1%, which is the same percentage used in relation to the baseline prison population forecast produced in August 2021 by the Kansas Sentencing Commission.
- The length of stay in prison for the above offenders will be 80% of their pronounced sentence less jail and program credits.
- It is assumed that the effective date is on July 1, 2022.

**FINDINGS**

- In FY 2020, **2,800** offenders were sentenced as drug **severity level 5** between criminal history B-I. Of this number:
  - 248 (8.9%) received prison sentence with an average length of 24.1 months,
  - 1,364 (48.7%) received probation sentences; and
  - 1,188 (42.4%) were sentenced to SB 123 drug treatment.
- The criminal history category of these offenders was as follows:

<b>Criminal History Category</b>	<b>Number of Offenders</b>	<b>Percent</b>
B	214	7.6%
C	382	13.7%
D	141	5.0%
E	491	17.6%
F	276	9.9%
G	423	15.1%
H	324	11.6%
I	547	19.5%
<b>Total</b>	<b>2,800</b>	<b>100.0%</b>

- In FY 2020, **307** offenders were sentenced as drug **severity level 4** with a criminal history C, D, E, F, G, H, or I. Of this number:
  - 59 (19.2%) were sentenced to prison with an average length of 24 months; and
  - 248 (81.8%) were sentenced to probation.
- The criminal history category of these offenders was as follows:

<b>Criminal History Category</b>	<b>Number of Offenders</b>	<b>Percent</b>
C	29	9.4
D	13	4.2
E	47	15.3
F	32	10.4
G	35	11.4
H	37	12.1
I	114	37.1
<b>Total</b>	<b>307</b>	<b>100.0</b>

## IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill would reduce prison admissions **190** in FY 2023 and **208** prison admissions in FY 2032.
- **Impact on Prison Beds:** This bill would save **178** prison beds in FY 2023 and **217** prison beds in FY 2032.
- **Impact on Probation Supervision:** This bill would increase the number of probations by **190** probationers in FY 2023 and **208** probationers in FY 2032.
- **Impact on the Workload of the Commission:** This bill will result in **no** additional journal entry workload of the Commission.
- **Impact on SB 123 treatment:** This bill will increase the cost of the SB 123 drug treatment program by **\$235,725 in FY 2023 and \$260,869 in FY 2032**, based on the average annual cost of **\$3,143** per SB 123 treatment offender.

### Impact Assessment

<b>Fiscal Year</b>	<b>Prison Beds Saving</b>	<b>Prison Admission Reduction</b>	<b>Number of Probation Increase</b>
2023	178	190	190
2024	199	192	192
2025	202	194	194
2026	203	196	196
2027	206	198	198
2028	209	200	200
2029	207	202	202
2030	210	204	204
2031	212	206	206
2032	217	208	208