

To: KSSC Members
From: Scott M. Schultz, Executive Director
Date: September 15, 2021
Re: Prison Bed Space Impact Assessment: HB 2350 - **Expanding the number of presumptive probation and border grid blocks in the sentencing grid for nondrug crimes.**

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill would reduce **142** prison admissions in FY 2023 and **156** prison admissions in FY 2032.
- **Impact on Prison Beds:** This bill would save **112** prison beds in FY 2022 and **169** prison beds in FY 2032.
- **Impact on Probation Supervision:** This bill would increase the number of probations by **142** probationers in FY 2023 and **156** probationers in FY 2032.
- **Impact on the Workload of the Commission:** This bill has **no** impact on the journal entry of the Commission.

SUMMARY OF THE BILL

Section 1. K.S.A. 2020 Supp. 21-6804 is amended to expand nondrug border boxes to grid blocks 4H, 4I, 5G, 5H, 5I, 6B, 6C, 6D, 6E, 6F, 7B, 8B, 9B or 10B, by which the court may impose an optional nonprison sentence. Currently, there are three border boxes (5H, 5I, and 6G). The proposed border boxes are presently presumptive prison boxes.

The current nondrug border box in 6G is amended to a presumptive probation box.

KEY ASSUMPTIONS

- Changing nondrug 6G grid from a border box to presumptive probation box. It is assumed that the prison admission of this group will be reduced by **15.3%**, which is the sentencing difference between the current border boxes and the probation boxes. Special rules will be applied to this group.
- Changing nondrug 4H-I, 5G, 6B-6F, 7B, 8B, 9B, and 10B from presumptive prison boxes to border boxes. It is assumed that the prison admission of this group will be reduced by **22.5%**, which is the sentencing difference between the above prison boxes and the border 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 with the baseline prison population forecast produced in August 2021 by the Kansas Sentencing Commission.

- The length of stay in prison for the N7 to N10 offenders will be 80% (20% good time) of their pronounced sentence, less jail and program credits.
- The length of stay in prison for the N4 to N6 offenders will be 85% (15% good time) of their pronounced sentence, less jail and program credits.
- It is assumed that the effective date is on July 1, 2021.

FINDINGS

- In FY 2020, **3,391** nondrug offenders fell on the presumptive probation grid boxes. The severity levels and criminal history categories were as follows:

Severity Level	Criminal History							Subtotal
	C	D	E	F	G	H	I	
N6						24	53	77
N7	131	93	119	57	106	113	238	857
N8	153	51	196	71	99	85	154	809
N9	337	124	292	112	202	164	294	1525
N10	25	5	24	15	16	21	17	123
Total	646	273	631	255	423	407	756	3391

- Of the 3,391 offenders, **473 (14.0%)** were sentenced to prison, 86% of them with special sentencing rules applied.
- In FY 2020, **216** nondrug offenders whose severity levels and criminal history categories fell on sentencing grid border boxes. Of this number:
 - **77 (35.6%)** were sentenced to prison with an average length of 30.5 months; and
 - 139 (64.4%) were sentenced to probation.
 - The severity levels and criminal history category of these offenders were as follows:

Severity Level	Criminal History			Subtotal
	G	H	I	
N5		39	145	184
N6	32			32
Total	32	39	145	216

- In FY 2020, **903** offenders whose sentences fell on the following grids. Of this number:
 - **471 (52.2%)** were sentenced to prison with an average length of 22.8 months; and
 - 432 (47.8%) were sentenced to probation.

Severity Level	Criminal History								Subtotal
	B	C	D	E	F	G	H	I	
N4							15	31	46

N5						28			28
N6	52	54	28	59	30				223
N7	123								123
N8	92								92
N9	238								238
N10	13								13
Total	518	54	28	59	30	28	15	31	763

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HB 2350 Impact Assessment

Fiscal Year	Prison Beds Saving	Prison Admission Reduction	Number of Probation Increase
2023	112	142	142
2024	152	144	144
2025	154	145	145
2026	156	147	147
2027	156	148	148
2028	155	150	150
2029	160	151	151
2030	161	153	153
2031	162	154	154
2032	169	156	156