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Honorable Richard M. Smith, Chair  
Honorable Evelyn Z. Wilson, Vice Chair  
Scott M. Schultz, Executive Director

Sam Brownback, Governor

## **Minutes of the Kansas Sentencing Policy Subcommittee Meeting January 9, 2013**

### **Participants:**

#### **Members:**

Honorable Richard M. Smith, Chair  
Honorable Evelyn Z. Wilson, Vice Chair  
Representative Janice L. Pauls  
Representative Pat N. Colloton  
Amy J. Hanley, Kansas Attorney General's Office  
Chris A. Mechler, Office of Judicial Administration  
Secretary Ray Roberts, Department of Corrections  
David W. Riggin, Kansas Prisoner Review Board  
Elizabeth M. (Betsy) Gillespie, Director of Corrections, Johnson County  
Jennifer C. Roth, 3rd Judicial District Assistant Public Defender

#### **Guests:**

Ed Klumpp, Representative for Association of Chief of Police and KS Sheriff  
Stuart Little, PhD, Lobbyist for Kansas Community Corrections Association  
Tim Madden, Department of Corrections  
Shelly Williams, Riley County Community Corrections and KCCA  
Jason Thompson, Kansas Office of Revisor of Statutes  
Sean Ostrow, Kansas Office of Revisor of Statutes

#### **Staff:**

Scott M. Schultz, Executive Director  
Kunlun Chang, Director of Research  
Fengfang Lu, Senior Research Analyst

The Honorable Richard M. Smith, Chairman, called the Sentencing Policy Subcommittee meeting to order at 10:14 a.m. on January 9, 2013 in the Senate Room of Jayhawk Tower. Chairman Smith declared Scott Schultz to guide the meeting.

### **Approval of the Minutes**

Mr. Schultz referred to the minutes of Sentencing Policy Subcommittee meetings held on December 13, 2012 and January 2, 2013. The Honorable Evelyn Z. Wilson, Vice Chair, moved to

approve the minutes and Chris Mechler seconded the motion. The motion carried and the minutes were approved.

### **Commission Priorities to be Developed by the Sentencing Policy Subcommittee**

1. Incentivize Offenders
2. Statewide LSI-R
3. Postrelease Supervision
4. Intrastate Mandatory Disposition of Detainers when in KDOC
5. Special Rules #9 and #10.

### **The Subcommittee Resumed Discussion on Objectives One through Five**

#### **Objective 1: Enhance Probation Supervision**

The Subcommittee further discussed the probation revocation process and proposed modifications on the structure, process and graduated sanctions for probation condition violators as follows, which shall not apply to probationers who have absconded or have been convicted of a new crime. The Subcommittee suggested the definition of “absconding” follow what is already adopted by community corrections and the Office of Judicial Administration. Prison bed impact assessments will be reevaluated according to the modified sanctions.

- First probation condition violators are required to serve 3 days in county jail.
- Second probation condition violators serve 120 days in prison and then back to community corrections. If underlying prison sentence expires during the 120 days, a term of postrelease supervision shall be imposed based on the offender’s offense severity level.
- Third probation condition violators will serve 180 days in prison and then return back to community corrections. If underlying prison sentence expires during the 180 days, a term of postrelease supervision shall be imposed based on the offender’s offense severity level.
- Those who exhaust their jail time and prison term with a fourth violation shall be revoked to serve their remaining underlying prison sentence in prison. A term of postrelease supervision shall be imposed based on offender’s offense severity level after release.

#### **Objective 2: Adopt a Statewide LSI-R Assessment**

The Subcommittee discussed the proposed bill language under Objective 2: “The Kansas Sentencing Commission shall be authorized to make cutoff decisions based upon risk and promulgate requirements for services based upon risk levels. The Commission shall periodically review data and make recommended changes”. It was suggested that the proposed bill language be added to K.S.A. 75-5291.

#### **Objective 3: Postrelease Supervision**

*1. Eliminating the requirement of adding good time and program credits to postrelease supervision term.*

Tim Madden, KDOC, introduced the revised KDOC statute drafts relating to postrelease supervision. This policy would exclude sexually violent offenders defined pursuant to K.S.A. 22-

3717. This policy would not be applied retroactively until an offender is released from prison, who has earned good time and/or program credits.

*2. Expanding the power of the Prisoner Review Board to felony violations of postrelease supervision.*

Tim Madden introduced the revised KDOC statute drafts of K.S.A. 21-6604, 21-6604a, 21-6604b and 21-6606. Mr. Madden emphasized that the sentence is still presumptive prison for postrelease violators with new conviction even when the new conviction is a nonprison sentence, but the period of confinement determined by the Kansas Prison Review Board shall not exceed the remaining balance of the postrelease supervision term.

**Objective 4: Intrastate Mandatory Disposition of Detainer When in KDOC**

*Utilizing state resources more efficiently in the disposition of detainees when in KDOC.*

The subcommittee discussed the proposed bill language and suggested that the proposed bill language be added to K.S.A. 22-4301.

**Objective 5: Enable Judiciary Sentencing Discretion**

*Changing sentencing provisions of Special Sentencing Rules #9 and #10 from mandatory to discretionary*

No further discussion on this objective.

Mr. Schultz will further revise the Commission priorities developed by the Sentencing Policy Subcommittee based on discussion and will email it to all members of the Subcommittee before proposing it to the full Committee.

The meeting was adjourned at 3:06 p.m.

**Next meeting**

The next Sentencing Policy Subcommittee meeting is scheduled at 12:30 a.m. on January 18, 2013 in the Senate Room of the Jayhawk Tower.