

HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE
Representative Russ Jennings, Chairman

KANSAS SENTENCING COMMISSION
Scott M. Schultz, Executive Director
February 6, 2019

Proponent Testimony – HB 2052

Thank you for the opportunity to present testimony in favor of this legislation on behalf of the Kansas Sentencing Commission. This bill was introduced by the Commission to decrease caseloads for probation officers by incentivizing offenders to comply with their terms and conditions of supervised probation. It provides for two opportunities for early discharge.

Current felony probation terms are normally 12, 24 or 36 months depending on the severity of the offense. The court may extend this probation in some circumstances, such as outstanding restitution or in lieu of revoking probation. This bill represents an attempt to incentivize those offenders that are performing well on probation, which is the goal so they are less likely to reoffend.

First, the bill provides that an offender may be discharged early from probation if the offender is found to be in substantial compliance with the conditions of their supervision. The district court would be required to set a hearing at sentencing for the date when the offender will have served 50% of such offender's term of supervision to determine if an offender has been in substantial compliance. The requirements that the offender have a risk assessment of low risk, have all restitution paid, and have been supervised 12 months would be removed from the statute. The reality of this current provision is that relatively few probationers are eligible for early discharge because they either could not become low risk during their supervision or the probation length, in many cases 12 months, was too short for them to take advantage of the early discharge.

Second, the bill proposes, independently of the 50% early discharge provision above, to provide an additional incentive for offenders. If they are in substantial compliance with the conditions of supervision, they will earn credit to reduce such supervision term at the rate of seven days earned discharge credit for each full calendar month.

To maintain consistency, the term "substantial compliance" is modeled after Kansas Supreme Court Rule 1801 - Earned Discharge for Juvenile Probationers and is defined in subsection (g) of the bill as:

- (1) The defendant has made significant progress in meeting the conditions of probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction; and
- (2) the defendant has no violations of conditions of probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction filed with the court pursuant to K.S.A. 22-3716, and amendments thereto.

Certainly, this will require another hearing by the courts after sentencing. But short-term incentives can make progress more real and tangible to the offender. If an offender knows they will have to answer to the court at the 50% time period, compliance and accountability is encouraged and gained. Exceptions to proceeding with this 50% hearing before the court are not included in the bill but could be fashioned to exclude clear instances of non-compliance, such as absconding, incarceration or evidence of current participation in mental health or substance abuse treatment.

Bed savings is estimated at **121, 182 or 242** in FY 2020 and **143, 214 or 285** in FY 2029, respectively depending on which scenario plays out. This represents credible savings in light of the KSSC's projection of **325** more beds needed by the end of this fiscal year and a total of **2,081** additional beds needed by the end of FY 2028. Prison population as of February 4, 2019, was 10,052 while operating capacity is only 9,971.

This bill represents a solution to remove compliant offenders from probation to free up resources for case management of higher risk offenders. I appreciate your time and attention to the Kansas Sentencing Commission testimony, ask for your support, and would be happy to answer questions. Thank you.