

HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE
Representative Russ Jennings, Chairman

KANSAS SENTENCING COMMISSION
Scott M. Schultz, Executive Director
February 3, 2020

Proponent Testimony – HB 2484

Thank you for the opportunity to present testimony in favor of this legislation on behalf of the Kansas Sentencing Commission. For crimes committed on or after July 1, 2020, this bill amends K.S.A. 2019 Supp. 21-6821, to increase good time incarceration credit to 50 percent for the prison part of the sentence. Currently, it is 15% and 20%, depending on the severity of the crime. See Attachment 1.

At its annual workshop last September, the Commission considered the following realities:

1. Prison populations for both male and female are at capacity. As of December 31, 2019, the Secretary of Corrections has been required to send 125 contract beds out-of-state to Arizona and contract 85 county jail beds to house Kansas inmates that cannot be placed in state facilities;
2. Recent prison population projections released by the Sentencing Commission estimate that through FY 2029, KDOC will need an additional 1,384 beds. This past fall, KDOC adjusted their capacity and now places this estimate at 1,504;
3. The legislature has recognized the urgency for sentencing reform and in 2019 established the Kansas Criminal Justice Reform Commission to provide recommendations; and
4. K.S.A. 74-9101(b)(15) requires the Sentencing Commission to make sentencing reform recommendations to the legislature and Governor Kelly.

It is important to note that inmates with violent offgrid sentences (murder and child sex crimes) do not currently and would not under the bill receive good time credit. Inmates at present that receive drug and nondrug grid sentences are able to receive good time credit while incarcerated. This credit is awarded by KDOC in 120-day review periods. If disciplinary events occur, an inmate can lose up to 100% for that time period. Increasing good time credits incentivizes inmates to be compliant by considering the following factors in K.A.R. 44-6-115a to determine whether an inmate is awarded good time credits:

1. Performance in a work assignment;
2. Performance in a program assignment;
3. Maintenance of personal and group living environment;
4. Participation in release planning activities;
5. Disciplinary record; and
6. Other factors affecting the inmate's general adjustment, performance, behavior, attitude and demonstration of individual responsibility and accountability.

This regulation provides for withholding of up to 100% credit if an inmate refuses to work in assigned programs or work details.

Reviewing the relationship between length of sentence and recidivism is worth mentioning here. Where nonviolent offenders are involved, a Pew Charitable Trusts study found that an analysis of data from three states found little or no evidence that longer prison terms for many nonviolent offenders produced either incapacitation or deterrence effects. That is, the extra time behind bars neither prevented crimes during the period of incarceration nor kept offenders from committing crimes once released from prison.¹

Public opinion also appears to side with reducing recidivism over longer prison terms. Nearly 90 percent support shortening prison terms by up to a year for low-risk, nonviolent offenders if they have behaved well in prison or completed programs.² More than 80 percent of poll respondents from households in which someone has been a victim of a violent or nonviolent crime agree with the statement, “*It does not matter whether a nonviolent offender is in prison for 18 or 24 or 30 months. What really matters is that the system does a better job of making sure that when an offender does get out, he is less likely to commit another crime.*”³

Still another benefit of this legislation is field officer safety. Less inmates in each correctional facility reduces the likelihood of violence on corrections officers. Placing the good time credit at 50% is introduced to have a significant impact on the prison population. Any lesser amount will obviously lessen the impact of the legislation. As a result of this amendment to K.S.A. 21-6821, the Sentencing Commission estimates that major bed savings will occur with **150** prison beds in FY 2021 and an unprecedented **2,020** prison beds by FY 2030.

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.

¹ Pew Charitable Trusts, *Time Served: The High Cost, Low Return of Longer Prison Terms*, June 2012, p. 35-36; https://www.pewtrusts.org/~media/legacy/uploadedfiles/wwwpewtrustsorg/reports/sentencing_and_corrections/prisontimeservedpdf.pdf.

² Pew Charitable Trusts, *Prison Time Served and Recidivism*, October 2013; <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2013/10/08/prison-time-served-and-recidivism>.

³ *Id.*

2019 SENTENCING RANGES

NONDRUG OFFENSES												
	A	B	C	D	E	F	G	H	I	TERMS	POST REL	GOOD TIME
1	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misd.	1 Misd No Record	PROB	36	15%
2	653/620/592	618/686/554	285/272/258	267/253/240	246/234/221	226/214/203	203/195/184	186/176/166	165/155/147	36	36	15%
3	493/467/442	460/438/416	216/205/194	200/190/181	184/174/165	168/160/152	154/146/138	138/131/123	123/117/109	36	36	15%
2	247/233/221	228/216/206	107/102/96	100/94/89	92/88/82	83/79/74	77/72/68	71/66/61	61/59/55	36	36	15%
4	172/162/154	162/154/144	75/71/68	69/66/62	64/60/57	59/56/52	52/50/47	48/45/42	43/41/38	36	36	15%
5	136/130/122	128/120/114	60/57/53	55/52/50	51/49/46	47/44/41	43/41/38	38/36/34	34/32/31	36	36	15%
6	46/43/40	41/39/37	38/36/34	36/34/32	32/30/28	29/27/25	26/24/22	21/20/19	19/18/17	24	24	15%
7	34/32/30	31/29/27	29/27/25	26/24/22	23/21/19	19/18/17	17/16/15	14/13/12	13/12/11	24	24	15%
8	23/21/19	20/19/18	19/18/17	17/16/15	15/14/13	13/12/11	11/10/9	11/10/9	9/8/7	≤18	12	20%
9	17/16/15	15/14/13	13/12/11	13/12/11	11/10/9	10/9/8	9/8/7	8/7/6	7/6/5	≤12	12	20%
10	13/12/11	12/11/10	11/10/9	10/9/8	9/8/7	8/7/6	7/6/5	7/6/5	7/6/5	≤12	12	20%

Postrelease for felonies committed before 4/20/95 are:
 24 months for felonies classified in Severity Levels 1-6
 12 months for felonies classified in Severity Levels 7-10

Presumptive Imprisonment
 Border Box
 Presumptive Probation

DRUG OFFENSES

	A	B	C	D	E	F	G	H	I	TERMS	POST REL	GOOD TIME
1	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misd.	1 Misd. No Record	PROB	36	15%
2	204/194/185	196/186/176	187/178/169	179/170/161	170/162/154	167/158/150	162/154/146	161/150/142	154/146/138	36	36	15%
3	144/136/130	137/130/122	130/123/117	124/117/111	116/111/105	113/108/101	110/104/99	108/100/96	103/98/92	36	36	15%
4	83/78/74	77/73/68	72/68/65	68/64/60	62/59/55	59/56/52	57/54/51	54/51/49	51/49/46	36	36	15%
5	51/49/46	47/44/41	42/40/37	38/34/32	32/30/28	26/24/23	23/22/20	19/18/17	16/15/14	≤18	24	20%
5	42/40/37	36/34/32	32/30/28	26/24/23	22/20/18	18/17/16	16/15/14	14/13/12	12/11/10	≤12	12	20%

***Distribute or Possess w/ Intent to Distribute

Levels	Cocaine	Meth & Heroin	Marijuana	Manufacture (all)	Cultivate	Dosage Units	Fines NOT to exceed
I	≥ 1 kg	≥ 100 g	≥ 80 kg	2nd or Meth	>100 plants	>1000	\$500,000
II	100 g - 1 kg	3.5 g - 100 g	450 g - 30 kg	1st	50-99 plants	100-999	\$500,000
III	3.5 g - 100 g	1 g - 3.5 g	25 g - 450 g		5-49 plants	10-99	\$300,000
IV	< 3.5 g	< 1 g	< 25 g			<10	\$300,000
V	Possession	Possession	Poss - 3rd offense				\$100,000

Reputable Presumption Intent to Distribute	Reputable Presumption Intent to Distribute
≥450 g Marijuana	≥100 dosage units of controlled substance
≥3.5 g Heroin or Meth	≥100 g of any other controlled substance

* ≤ 18 months for 2003 SB123 offenders
 ** Retroactive application for offense committed on or after July 1, 2012
 *** Severity level increases one level if on or w/in 1000 ft of any school property

