

HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE
Representative Russ Jennings, Chair

KANSAS SENTENCING COMMISSION
Scott M. Schultz, Executive Director
February 16, 2021

Proponent Testimony – HB 2147

Thank you for the opportunity to present testimony in favor of this legislation on behalf of the Kansas Sentencing Commission. This bill introduced by the Commission seeks to incentivize nonviolent inmates sentenced for drug offenses by releasing them to community corrections for the remainder of their sentence if it is determined they do not present a future risk to public safety.

Upon application by an offender in the custody of the secretary of corrections who is serving only a sentence for a severity level 2 through 5 drug crime or serving a sentence for a primary crime that is a severity level 2 through 5 drug crime, the prisoner review board (PRB) may grant release to probation or assignment to a community correctional services program to such offender for the remainder of such offender's sentence if such offender has successfully served 50% of the prison part of the original sentence. These are direct commits only. Those incarcerated due to probation revocation and those serving time for an off-grid offense are not eligible.

All applications for release shall be referred to the PRB. It shall examine each case and may approve such application and grant a release. The PRB shall establish any conditions related to the release of the offender to probation or assignment to a community correctional services program. An application for release shall not be approved unless the board determines that the offender does not represent a future risk to public safety. Factors considered by the PRB include:

1. Whether the offender has served 50% of the original sentence imposed;
2. the risk or threat to public safety in the community if released;
3. whether an appropriate release plan has been established;
4. whether the offender has completed all programs required by the department of corrections; and
5. any other factors deemed relevant by the PRB.

Upon release to community corrections, the district court in which the offender was convicted shall have jurisdiction over the offender for all further proceedings. The offender shall remain on supervision until revoked, expiration of the maximum sentence or discharge by the district court.

K.S.A. 2020 Supp. 22-3716 is amended to include language that the court may revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender without having previously imposed a sanction if the offender is on probation or assignment to a community correctional services program after having been released from custody pursuant to this new placement.

This bill seeks to incentivize those drug offenders that are successful in prison to be released to community supervision, where they more likely will receive more resources to be successful than while incarcerated. The PRB acts as the gatekeeper to ensure safety to the public is the priority. If an offender continues to be successful on probation, they are released at the end of their sentence. If they are non-compliant, they are not subject to the graduated sanctions of probation and may be revoked back to prison to serve the remainder of their sentence. Releasing these nonviolent offenders allows for the incarceration of more serious offenders that commit violent offenses.

The bed savings estimated by the Commission is **59** in FY 2022 and **209** beds in FY 2031, which is a conservative one. Because we are unable to determine the anticipated release rate by the PRB, our estimate utilizes all offenders D2-D5 being eligible, which most likely will not occur.

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.