

MEMORANDUM

To: Leyton Gunn, Division of the Budget
From: Scott M. Schultz, Executive Director
Date: February 21, 2021
Re: Prison Bed Impact Assessment, **HB 2349 - Creating a mechanism to seek relief from the Kansas offender registration act requirements, decreasing criminal penalties for failure to register, allowing courts to waive fees associated with registration, reducing number of places a person is required to register and eliminating registration for most juvenile adjudications**

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill will **reduce** prison admissions by **64** in FY 2022 and by **70** in FY 2031.
- **Impact on Prison Beds:** This bill will **reduce** prison beds by **68** in FY 2022 and by **132** in FY 2031.
- **Impact on the Commission Workload:** This bill will **reduce** the workload of the journal entries by **303** in FY 2022 and **331** in Fy 2031.

SUMMARY OF THE BILL

New Section 1. (a) A person required to register as an offender pursuant to the Kansas offender registration act may petition the district court in the county where the offender resides to waive payment of the registration fee.

If it appears to the satisfaction of the court that requiring the payment will impose manifest hardship on the offender or the offender's immediate family, the court may: waive the current payment owed by the offender; extend the time in which the offender has to make the payment; or waive the payment for a specified period of time, not to exceed three years.

Section 2. K.S.A. 2020 Supp. 21-5913 is amended to remove the specific penalty for obstructing apprehension or prosecution is knowingly harboring, concealing or aiding any person who is required to register which was a **severity level 5, person felony**.

Section 5. K.S.A. 2020 Supp. 22-4902 is amended to remove language in the definitions as found in the Kansas offender registration act that "sex offender" includes any person who: on or after July 1, 2002, is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim. Adultery and patronizing a prostitute are removed from the definitions as well.

Section 6. K.S.A. 2020 Supp. 22-4903 is amended to read that an **aggravated violation of the Kansas offender registration act** is the failure by an offender to continue for one year or more; or is committed by a person with two or more prior convictions of violations of this section is a **severity level 8, nonperson felony**.

Language is amended to add that a **violation of the Kansas offender registration act** is upon a first conviction, a **class B nonperson misdemeanor**; and upon a second conviction, a **class A nonperson misdemeanor**. The language for third or subsequent violations is removed. A **violation of the Kansas offender registration act consisting only of failing to remit payment to the sheriff's office** is amended to a **class C nonperson misdemeanor**.

Lastly, an **aggravated violation of the Kansas offender registration act** is a **class A nonperson misdemeanor** when the **underlying crime for which the offender is required to be registered under the Kansas offender registration act is a misdemeanor**.

Section 9. K.S.A. 2020 Supp. 22-4906 is amended to remove the following offenses from the 15-year registration duration: adultery, patronizing a prostitute, and misdemeanor lewd and lascivious behavior. Language is added to include breach of privacy and kidnapping to the registration requirement.

The 15-year registration requirement is amended to a **5-year registration** requirement for a conviction of:

1. any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act;
2. any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;
3. possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance;
4. K.S.A. 2020 Supp. 21-5705(a)(1), unlawful distribution or possession with the intent to distribute any controlled substances or controlled substance analogs that are opiates, opium or narcotic drugs, or any stimulant designated in subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto; and
5. Any attempt, conspiracy or criminal solicitation of any of the above offenses.

Language requiring registration for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 2020 Supp. 22-4902(c) is removed.

Section 11. K.S.A. 2020 Supp. 22-4908 is amended to include language that under the Kansas offender registration act an **offender may file a verified petition for relief from registration requirements after a specific duration according to their particular registration requirement**. However, an offender who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 *et seq.*, and amendments thereto, shall not petition for relief from registration requirements under the Kansas offender registration act.

FINDINGS

- In FY 2019, **327** offenders violated the offender registration act. Of this number:
 - **123 (37.6%)** were sentenced to prison; and
 - 204 (62.4%) were sentenced to probation.
 - The severity levels of the 327 offenders were:
 - 24 – N3;
 - 37 – N5;
 - 229 – N6;
 - 6 – N7;
 - 28 – N8;
 - 2 – N9’ and
 - 1 – N10.

- In FY 2020, **71** offenders who violated the offender registration act were admitted to prison.
 - The severity levels of the 71 offenders were:
 - 8 – N3;
 - 10 – N5;
 - 46 – N6;
 - 1– N7; and
 - 6 – N8.

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Impact Assessment

Fiscal Year	Prion Admission Reduced	Prion Beds Saved
2022	64	68
2023	64	109
2024	65	120
2025	66	125
2026	66	119
2027	67	120
2027	68	124
2029	68	130
2030	69	132
2031	70	132