

February 6, 2023

The Honorable Stephen Owens, Chairperson
House Committee on Corrections and Juvenile Justice
300 SW 10th Avenue, Room 546-S
Topeka, Kansas 66612

Dear Representative Owens:

SUBJECT: Fiscal Note for HB 2104 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2104 is respectfully submitted to your committee.

HB 2104 would clarify that probation, suspension of sentence, or assignment to community corrections in both misdemeanor and felony cases may be terminated by the court at any time. The bill would also require that once a defendant has served a period of twice the original supervision term, the defendant must be released from supervision but would continue to be responsible for any outstanding child support or restitution. Under current law, an offender's period of supervision may be extended for five years or the maximum prison sentence that could be imposed, whichever is longer. HB 2104 would require supervision periods to not exceed a maximum of twice the original supervision term. The bill would also require low-risk defendants to serve at least 50.0 percent of the original term of probation, assignment to a community correctional services program, suspension of sentence, or nonprison sanction prior to petitioning the court for discharge. Currently, a defendant may petition the court after 12 months. The bill would allow a supervision officer to recommend the court terminate moderate and high-risk offenders' term of probation, assignment to a community correctional services program, suspension of sentence, or nonprison sanction.

The bill would also add new provisions that for any defendant, regardless of risk level, the court may set a hearing for a date when a defendant has served 50.0 percent of their term of supervision to determine whether to terminate the remaining time. The bill would also add new provisions that specify what the court or supervision officer must consider when deciding whether to terminate or recommend termination, including (1) the defendant's history of compliance with terms and conditions of supervision; (2) whether the defendant has successfully completed any required treatment or programming; (3) whether the defendant has completed 75.0 percent of the required supervision period; (4) whether termination of probation, assignment to a community correctional services program, suspension of sentence, or nonprison sanction serves the community safety interest; and (4) any outstanding fines, costs, and restitution owed by the defendant. Finally, the bill would allow the court to terminate a defendant's term of probation,

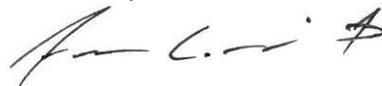
assignment to a community correctional services program, suspension of sentence, or nonprison sanction at any time.

The Kansas Sentencing Commission estimates that enactment of HB 2104 would result in a decrease of 572, 617, or 666 beds needed by the end of FY 2024 depending on the scenario. The scenarios project 572 fewer inmates by the end of FY 2024 if there would be a 10.0 percent reduction of probation violations, 617 fewer inmates if there would be a 15.0 percent reduction in probation violations, and 666 fewer inmates if there would be a 20.0 percent reduction in probation violations. By the end of FY 2033, 625, 673, or 732 fewer beds would be needed, depending on the scenario. The current estimated available bed capacity is 9,428 for males and 936 for females. Based upon the Commission's most recent ten-year projection contained in its *FY 2023 Adult Inmate Prison Population Projections* report, it is estimated that the year-end population will total 7,933 male and 764 female inmates in FY 2023 and 8,043 male and 740 female inmates in FY 2024.

The Department of Corrections indicates that enactment of the bill could result in a slight decrease in the number of beds needed. The Department states that a review of data from April 2021 through December 2022 shows 716 offenders were recommended for early discharge from probation, an average of 34 a month. As a result, the Department indicates that the number of persons released early is generally low and due to the requirement in the bill that supervision officers and the courts must grant early termination, the Department states enactment of the bill would have no fiscal effect on the agency because it does not anticipate such early terminations to significantly increase. The Department notes that if a reduction were to be experienced in either prison bed utilization or Community Corrections probation caseloads, the daily savings per offender on Community Corrections would be \$7.72 per day and the savings on marginal per resident costs (meals, clothing, supplies, etc.) would be \$9.52 per day.

The Office of Judicial Administration indicates enactment of the bill would increase expenditures for the Judicial Branch because it allows petitions to be filed and additional hearings to be held regarding defendant supervision. This would increase the time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. In addition, the bill could result in more time spent by court services officers in the supervision of offenders. However, a precise fiscal effect cannot be estimated. Any fiscal effect associated with HB 2104 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Scott Schultz, Sentencing Commission
Randy Bowman, Department of Corrections
Vicki Jacobsen, Judiciary