

HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE
Representative Russ Jennings, Chairman

KANSAS SENTENCING COMMISSION
Scott M. Schultz, Executive Director
January 19, 2021
Proponent Testimony – HB 2028

Thank you for the opportunity to present testimony in favor of this legislation on behalf of the Kansas Sentencing Commission. This is a proportionality bill. The Kansas Criminal Justice Reform Commission also recommends the passage of this bill as outlined in their Preliminary Report to the 2020 Legislature and the Final Report to the 2021 Legislature. This is the same bill as 2019 HB 2049 and 2020 HB 2485. Both have previously passed out of this committee. This bill increases the felony threshold value of several crimes from \$1,000 to \$1,500. Those statute affected are K.S.A. 2020 Supp.:

1. 21-5802 (theft of property lost, mislaid, or delivered by mistake);
2. 21-5813 (criminal damage to property);
3. 21-5821 (giving a worthless check);
4. 21-5825 (counterfeiting);
5. 21-5828 (criminal use of a financial card);
6. 21-5830 (impairing a security interest);
7. 21-5927 (Medicaid fraud);
8. 21-6002 (official misconduct);
9. 21-6004 (presenting a false claim);
10. 21-6005 (misuse of public funds); and
11. 21-6205 (criminal desecration).

Historically, the felony threshold for theft was increased in Kansas from \$500 to \$1,000 in 2004. In 2016, **felony theft** thresholds were again increased from \$1,000 to \$1,500. In 2018, the felony threshold for the crime of **mistreatment of a dependent adult** was increased from \$1,000 to \$1,500.

Four goals are accomplished with this amendment:

1. Lawmakers nationally have increased felony thresholds to prioritize costly prison space for more serious offenders and ensure that value-based penalties take inflation into account. A felony theft threshold of \$1,000 established in 1989, for example, is equivalent to \$2,150 in 2020 dollars when utilizing the Consumer Price Index.¹ Critics have warned that these higher cutoff points might embolden offenders and cause property crime, particularly theft

¹ See U.S. Bureau of Labor Statistics, CPI Inflation Calculator, https://www.bls.gov/data/inflation_calculator.htm

(larceny), to rise. This has proven not to be the case as illustrated by a study from The Pew Charitable Trusts.

In February 2016, Pew surveyed 28 states, including Kansas, which have raised their felony theft thresholds between 2001 and 2011. Their findings revealed that:

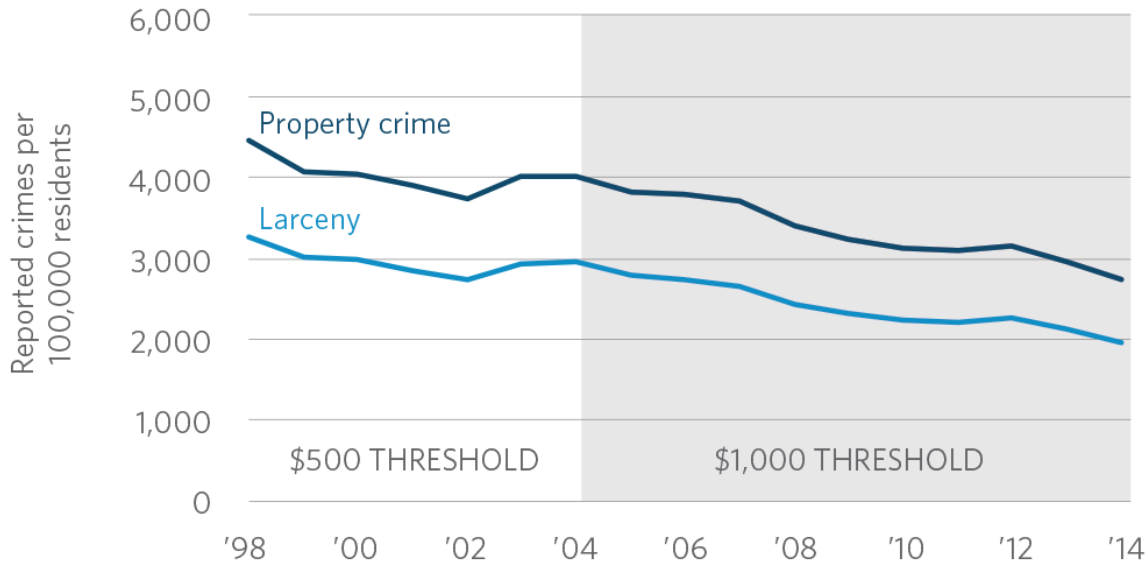
- a. Raising those thresholds has **no** impact on overall property crime or larceny rates (see Attachment 1 for Kansas data);
- b. states that increased their thresholds reported roughly the **same** average decrease in crime as the 22 states that did not change their theft laws; and
- c. the value of states' felony theft thresholds – whether set at \$500, \$1,000 or \$2,000 – is **not** correlated with property crime and larceny rates.

2. In some cases, the district court will have more discretion with the new misdemeanor thefts. This may translate into more incarceration time, if warranted, than if the offender were convicted of a felony.
3. Gaining employment is made more difficult if disclosure of a felony conviction is a requirement of employment. Similarly, the collateral consequence of a first-time offender with a felony conviction rather than a misdemeanor, would preclude voting or possessing a firearm.
4. It is estimated the bill would save two prison beds each year during the ten-year forecasting period.

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.

Figure 6H
Trends in Property Crime and Larceny Rates in the 23 States That Raised Felony Theft Thresholds Between 2001 and 2011

Kansas



Notes: Shaded areas indicate the period after each state's policy change. Old and new thresholds are shown for each state.

Source: Federal Bureau of Investigation, Crime in the United States series, 1998-2014

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