

MEMORANDUM

To: Sheena Ward, Division of the Budget
From: Scott M. Schultz, Executive Director
Date: February 3, 2021
Re: Prison Bed Space Impact Assessment, **HB 2146 - Expanding the number of presumptive probation and border grid blocks in the sentencing grid for drug crimes.**

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill would reduce **301** prison admissions in FY 2022 and **329** prison admissions in FY 2031.
- **Impact on Prison Beds:** This bill would save **295** prison beds in FY 2022 and **452** prison beds in FY 2031.
- **Impact on Probation Supervision:** This bill would increase the number of probations by **301** probationers in FY 2022 and **329** probationers in FY 2031.
- **Impact on the Workload of the Commission:** This bill will result in **no** additional journal entry workload of the Commission.
- **Impact on SB 123 treatment:** This bill will increase the cost of the SB 123 drug treatment program by **\$378,392 in FY 2022 and \$382,176 in FY 2023**, based on the average annual cost of **\$3,143** per SB 123 treatment offender in FY 2019.

SUMMARY OF THE BILL

Section 1. K.S.A. 2020 Supp. 21-6805 is amended to change the dispositional line on the sentencing grid to increase the number of grid boxes that are presumptive probation (all level 5's, 4-G, 4-H, 4-I, 3-H, and 3-I). In turn, 3-G becomes a border box in which the court may impose an optional nonprison sanction. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment.

Section 2. K.S.A. 2020 21-6824 is amended to include mandatory certified drug treatment for grid boxes 5-A and 5-B. Those in grid boxes 4-E, 4-F, 4-G, 4-H or, 4-I, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes will qualify for certified drug treatment if the person felonies in the offender's criminal history were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes, and the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not be jeopardized by such placement in a drug abuse treatment program

KEY ASSUMPTIONS

- The target population of this proposal will include drug level 5 all criminal history category, drug level 4 criminal history category G-I and drug level 3 criminal history category H-I offenders.
- Changing all D5 grid boxes, D4 G-I and D3 H-I grid boxes to presumptive probation boxes.
- Projected admission to prison for the target offenders is assumed to increase by an annual average of 1%, which is the same percentage used in relation to the baseline prison population forecast produced in August 2019 by the Kansas Sentencing Commission.
- The length of stay in prison for the above offenders will be 80% of their pronounced sentence less jail and program credits.
- It is assumed that the effective date is on July 1, 2021.

FINDINGS

- In FY 2019, **3,573** offenders were sentenced as **drug severity level 5**. Of this number:
 - 391 (10.9%) received prison sentence with an average length of 24.1 months,
 - 1,706 (47.7%) received probation sentences; and
 - 1,476 (41.3%) were sentenced to SB 123 drug treatment.
- The criminal history category of these offenders was as follows:

Criminal History Category	Number of Offenders	Percent
A	207	5.8
B	243	6.8
C	473	13.2
D	137	3.8
E	584	16.3
F	306	8.6
G	538	15.0
H	442	12.4
I	643	17.9
Total	3,573	100.0

- In FY 2019, **294** offenders were sentenced as **drug severity level 4** with a criminal history G, H or I. Of this number:
 - 28 (9.5%) were sentenced to prison with an average length of 19 months; and

- 266 (90.5%) were sentenced to probation.
- The criminal history category of these offenders was as follows:

Criminal History Category	Number of Offenders	Percent
G	60	20.4
H	51	17.3
I	183	62.3
Total	294	100.0

- In FY 2019, **156** offenders were sentenced as **drug severity level 3** with a criminal history H or I. Of this number:
 - 32 (20.5%) were sentenced to prison with an average length of 20.5 months; and
 - 124 (79.5%) were sentenced to probation.
- The criminal history category of these offenders was as follows:

Criminal History Category	Number of Offenders	Percent
H	44	28.2
I	112	71.8
Total	156	100.0

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Impact Assessment

Fiscal Year	Prison Beds Saving	Prison Admission Reduction	Number of Probation Increase
2022	295	301	301
2023	415	304	304
2024	423	307	307
2025	425	310	310
2026	428	313	313
2027	426	316	316
2028	434	319	319
2029	437	323	323
2030	445	326	326
2031	452	329	329