



AMERICANS FOR PROSPERITY

February 15, 2022

Dear Chairman Owens and Members of the Committee,

Thank you for the opportunity to testify in favor of HB 2673, which will make Kansas safer by focusing on helping people recover from drug addiction. This bill would amend the drug sentencing grid to better reflect sentencing practices of judges, increase access to treatment, and maintain the judge's discretion to send some people to prison even for the lowest-level drug offenses when the judge decides they are a threat to the community.

Drug addiction continues to devastate communities in Kansas. Americans for Prosperity (AFP) would like to see a system that focuses on actually solving the problem by giving people a legitimate chance at recovery and does not unnecessarily spend taxpayer dollars on expensive prison beds that do not improve results.

Not only are more Kansans dying from drug use, but more are being incarcerated for drug offenses as well, which drives up costs without improving results.

- Drug overdose deaths increased by 24% in Kansas, from 393 in 2019 to 477 in 2020.ⁱ
- There was a 9 percent increase in sentences to prison for drug offenses from FY2010 to FY2020, an increase that occurred despite there being a substantial decline in court processing during the last quarter of the fiscal year.ⁱⁱ
- In the same period, the number of women in prison for drug offenses tripled.ⁱⁱⁱ
- It cost \$52 million to incarcerate people for drug offenses in FY2020.^{iv}
- Prison cost almost 11 times more than community corrections in FY2020,^v but research has found that a prison sentence does not lead to lower recidivism than probation.

The bill's proposed changes are modified from a stronger version of the bill initially recommended by the Criminal Justice Reform Commission last session, which we supported.

The initial version recommended 11 new presumptive probation boxes, keeping the focus on targeting people with addiction. As a compromise the current version recommends only 4 new presumptive boxes and modifies sentence lengths for people convicted of the lowest-level drug offenses, those in level V, primarily simple possession cases. This bill passed out of the House Corrections and Juvenile Justice committee last session, and we urge the committee to approve the bill again.

There will be a small minority of people who commit offenses in the proposed changed grid boxes that the court will determine should go to prison. We are comfortable supporting these

changes because they do not prevent a judge from sending someone to prison if they are a threat to the community. In “border” boxes the recommended sentence is presumed to be prison unless the judge decides otherwise. In “presumptive probation” boxes it is still possible for judges to send someone to prison if they determine it will make the community safer, this bill does not take away that authority from judges, and we believe that judicial discretion is appropriate.

Recovering from addiction is about more than willpower.^{vi} Putting people in prison does not solve this problem, instead it just drains taxpayer resources, and eventually the person is released, and the cycle continues. As an alternative, people need access to treatment in the community to get back on track.

AFP stands in strong support of this bill because it is a conservative solution that captures our values: promotion of safe communities, efficient use of taxpayer dollars, and empowering people to live productive lives. We urge lawmakers to support this measure as well.

Sincerely,

Elizabeth Patton
State Director
Americans for Prosperity - KS

ⁱ Kansas Department of Health and Environment press release dated August 6, 2021.

ⁱⁱ CSG Justice Center analysis of Kansas Sentencing Commission felony sentencing data (FY2010), and Kansas Sentencing Commission Annual Report (FY2020).

ⁱⁱⁱ CSG Justice Center analysis of KDOC prison population data for FY2010 and KDOC Annual Report FY2020. There were 103 women in prison for drug offenses at the end of FY2010 and 318 at the end of FY2020.

^{iv} Kansas Department of Corrections, Fiscal Year 2020 Annual Report (Topeka, KS: Kansas Department of Corrections, 2021). Cost estimates are based on the FY2020 year-end prison population and the FY2020 annual average operating cost per inmate for KDOC facilities (\$30,377). There were 1,969 people incarcerated on a drug offense at fiscal year-end, and the estimated assumes that 25% stayed for 6 months, the remainder for the full fiscal year.

^v Kansas Department of Corrections, *Fiscal Year 2020 Annual Report* (Topeka, KS: Kansas Department of Corrections, 2021); Kansas Department of Corrections, *Statistical Summary FY 2020 Community Corrections Offender Population* (Topeka, KS: Kansas Department of Corrections, 2021). The FY2020 average daily operating cost per person for prisons was reported in the FY2020 KDOC annual report as \$82.47. The estimated cost per day for community supervision was \$7.41; this was calculated by dividing the FY2020 KDOC expenditures for Community Corrections (\$22,900,260) by the average daily population on Community Corrections for FY2020 (8,467), then dividing by 365 to get a daily rate. Cost and population information for Court Services supervision was not available.

^{vi} National Institute on Drug Abuse. The Science of Drug Use: A Resource for the Justice Sector. <https://nida.nih.gov/drug-topics/criminal-justice/science-drug-use-resource-justice-sector>