

**Minutes of the Kansas Sentencing Commission Workshop
September 19, 2017**

The Honorable Evelyn Z. Wilson, Chair, called the Kansas Sentencing Commission (KSSC) Workshop, Day 1, to order on September 19, 2017 at 9:02 a.m.

Participants:

Members:

- Honorable Evelyn Z. Wilson, Chair
- Honorable W. Lee Fowler, Vice Chair
- Honorable Patrick D. McAnany
- Senator David B. Haley
- Representative Tom Sawyer
- Representative John Barker
- Senator Carolyn McGinn
- Mark Keating, Kansas Prisoner Review Board Designee
- Jessica G. Domme, Kansas Attorney General's Office
- Chris A. Mechler, Office of Judicial Administration
- Tim Madden, Secretary of Corrections Designee
- Dan Dunbar, Shawnee County Chief Deputy District Attorney
- Stacey L. Donovan, Third Judicial District Public Defender's Office
- Meredith Butler, Eighth Judicial District Community Corrections
- Vacant, Private Attorney
- James Echols, Public Member
- Ronald Pauls, Public Member

Guests:

Kim Parker, KCDA Prosecurator Coordinator
Jason Thompson, Senior Assistant Revisor of Statutes
Natalie Scott, Assistant Revisor of Statutes
Dr. Mario Cano, Assistant Professor, University of Texas-El Paso
Marie McNeal, Department of Corrections
Jennifer Roth, State Board of Indigents' Defense Services
Kevin Emerson, 28th Judicial District Court Services
Ed Klumpp, Kansas Association of Chiefs of Police and Kansas Sheriffs' Association
Crystalyn Oswald, Wyandotte Deputy District Attorney
Claudia Fisher, Douglas County Community Corrections Probation Officer II
Michelle Sullivan, Department of Corrections

Staff:

- Scott M. Schultz, Executive Director
- Brenda Harmon, Special Assistant to the Executive Director
- Kunlun Chang, Director of Research
- Fengfang Lu, Senior Research Analyst
- George “Ebo” Browne, Research Analyst
- Erica Waggoner, Finance Director
- Kira Johnson, SB 123 Program Director
- Bryanna Estanol, Administrative Assistant
- Anna Wolf, Attorney

Welcome New KSSC Members

Chair Wilson introduced and welcomed new Sentencing Commission members, James Echols and Ronald Pauls.

Approval of Proposed Agenda and Minutes

Chair Wilson asked if there were objections to the agenda. There were no objections to the agenda.

Chair Wilson referred to the Sentencing Commission Meeting minutes of August 16, 2017. Tim Madden moved to approve the minutes and Chris Mechler seconded the motion. The motion carried and the minutes were approved.

Presentation on 2013 HB 2170 State of the Statute

George “Ebo” Browne, Sentencing Commission Research Analyst, provided an overview on the current status of 2013 HB 2170. The presentation covered the pre and post evaluation of K.S.A. 22-3716 along with current compliance statistics with the initiative.

Dr. Mario Cano, Assistant Professor, University of Texas-El Paso, provided an overview on his presentation, *The Effects of Sanctions on Probation Outcomes in Kansas*.

Mr. Browne moderated a roundtable discussion on HB 2170 with Crystalyn Oswald, Kevin Emerson, Michelle Sullivan, and Claudia Fisher.

SB 123 RFP Committee Update

Kira Johnson, SB 123 Program Director, provided an update of the program in which she advised the RFP is currently out for bid.

2018 Legislation Committee Report-Brainstorming Session

KSSC members were provided a handout, *2017 KSSC Workshop Review and Discussion of Active and Proposed Legislation*. Legislative Committee members and the Executive Director introduced and reviewed each of the items for consideration. Those with bill numbers below were introduced last year on behalf of the Commission and are still active in a legislative committee. They included the following:

2017 HB 2086 – Amending the Requirements for Offender Registration

Stacey Donovan recommended removing drug distribution from crimes requiring registration under the Kansas Offender Registration Act.

2017 HB 2087 – *Expanding SB 123 to Divertees*

Vice Chair Fowler suggested authorizing the use of certified drug abuse treatment program to fund diversion possessions.

2017 HB 2088 – *Expanding SB 123 to SL4 Drug Offenders*

Executive Director Scott Schultz proposed the use of certified drug abuse treatment program for drug severity level 4 crimes, small sales would be eligible for paid SB 123 substance abuse treatment. The cost of the expansion is estimated at \$1.2 million.

2017 HB 2089 – *Tampering Electronic Monitoring*

Jessica Domme discussed amending the criminal penalties for unlawfully tampering with electronic monitoring equipment. The proposed language states if an offender is on felony supervision and commits this crime, the violation would be a severity level 8, nonperson felony. If an offender is on misdemeanor or court-ordered supervision in any civil case, violation would be an A, nonperson misdemeanor.

2017 HB 2090 – *Repeal Special Rule 26 for Third Time Possession of Controlled Substances*

Executive Director Scott Schultz recommended repealing special sentencing rule for third time felony possession of a controlled substance to be introduced to legislation again. The estimated \$500,000 needed funds to add offenders to the SB 123 program appears to be problematic.

2017 HB 2092 – *Increasing Loss Threshold for Certain Property Crimes*

Stacey Donovan discussed increasing felony thresholds of mistreatment of a dependent adult, criminal damage to property, giving a worthless check, criminal use of a financial card, Medicaid fraud, official misconduct, and misuse of public funds from \$1000 to \$1500.

New Proposal #1 – *THC Penalty*

Executive Director Scott Schultz suggested amending K.S.A. 21-5706 to provide the crime for possession of tetrahydrocannabinol (THC) be consistent with the penalty provisions of possession of marijuana.

Adjournment

Meeting adjourned 4:04 p.m.

**Minutes of the Kansas Sentencing Commission Workshop
September 20, 2017**

The Honorable Evelyn Z. Wilson, Chair, called the Kansas Sentencing Commission (KSSC) Workshop, Day 2, to order on September 20, 2017 at 9:01 a.m.

Participants:

Members:

- Honorable Evelyn Z. Wilson, Chair
- Honorable W. Lee Fowler, Vice Chair
- Honorable Patrick D. McAnany
- Senator David B. Haley
- Representative Tom Sawyer
- Representative John Barker
- Senator Carolyn McGinn
- Mark Keating, Kansas Prisoner Review Board Designee
- Jessica G. Domme, Kansas Attorney General's Office
- Chris A. Mechler, Office of Judicial Administration
- Secretary Joe Norwood, Secretary of Corrections
- Dan Dunbar, Shawnee County Chief Deputy District Attorney
- Stacey L. Donovan, Third Judicial District Public Defender's Office
- Meredith Butler, Eighth Judicial District Community Corrections
- Vacant, Private Attorney
- James Echols, Public Member
- Ronald Pauls, Public Member

Guests:

Kim Parker, KCDA A Prosecutor Coordinator
Jason Thompson, Senior Assistant Revisor of Statutes
Natalie Scott, Assistant Revisor of Statutes
Ed Klumpp, Kansas Association of Chiefs of Police and Kansas Sheriffs' Association
Tim Madden, Department of Corrections
Mitchel DePriest, Hein Government Relations, LLC
Eric Turek, Office of the Speaker of the House
Robert Gallimore, Kansas Legislative Research Department
Brad Schuh, Kansas Association of Court Services Officers

Staff:

- Scott M. Schultz, Executive Director
- Brenda Harmon, Special Assistant to the Executive Director
- Kunlun Chang, Director of Research
- Fengfang Lu, Senior Research Analyst
- George "Ebo" Browne, Research Analyst

- Erica Waggoner, Finance Director
- Kira Johnson, SB 123 Program Director
- Bryanna Estanol, Administrative Assistant
- Anna Wolf, Staff Attorney

FY 2018 Prison Population Projections

Executive Director Scott Schultz provided a presentation on the FY 2018 Prison Population Projections and requested their approval as recommended by the FY 2018 Prison Population Projection Consensus Group.

Jessica Domme moved to approve the projections as presented. Chris Mechler seconded the motion. The motion carried and the projections were approved.

Proposed Amendments for 2018 Legislation

KSSC members were provided a handout, *2017 KSSC Workshop Review and Discussion of Active and Proposed Legislation*, to be used as a tool while considering potential 2018 legislation and including measures as options in a letter to the Governor.

Active Legislation

Commission members reviewed all active and proposed legislation for 2018. Chair Wilson moved to reconfirm support for the following bills still active in the legislature and to include them in a letter to the Governor: 2017 HB 2086, 2017 HB 2087, 2017 HB 2088, 2017 HB 2089, 2017 HB 2090 and to refile 2017 HB 2092 as originally proposed by the Commission. Stacey Donovan seconded the motion and the motion carried. Chris Mechler, Jessica Domme, and Meredith Butler opposed the motion.

Proposed Legislation

Stacey Donovan moved to exclude drug offenders from the Kansas Offender Registration Act and that it be included for legislation and the Governor's letter. Senator Haley seconded the motion and the motion carried. Jessica Domme opposed the motion. Staff work to have a draft bill available at the October meeting.

The Commission reviewed amending K.S.A. 21-5706 to provide the crime of possession of a controlled substance, specifically tetrahydrocannabinol (THC) be consistent with the current penalty provisions for possession of marijuana. After discussion, the Commission requested more information on the subject, including that a representative from the Kansas Bureau of Investigation be invited to the October meeting to share technical aspects of potential policy decisions before taking further action.

Additional ways were discussed to make the Justice Reinvestment Initiative in 2013 HB 2170 more effective and efficient. The Commission requested to reactivate the HB 2170 committee to continue the discussion. No further action was taken.

Adjournment

The next Sentencing Commission meeting will be at 1:30 p.m. on October 26, 2017 at the Jayhawk Tower, Senate Room.

Meeting adjourned 10:55 a.m.