

**Minutes of the Kansas Sentencing Commission Meeting
October 26, 2017**

The Honorable Evelyn Z. Wilson, Chair, called the Kansas Sentencing Commission (KSSC) meeting to order on October 26, 2017 at 1:32 p.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
- Jonathan Ogletree, Kansas Prisoner Review Board
- Jessica G. Domme, Kansas Attorney General's Office
- Chris A. Mechler, Office of Judicial Administration
- Secretary Joe Norwood, 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:

Sarah Hill, Assistant Johnson County District Attorney
Dwain Worley, KBI Forensic Drug Chemist
Tim Madden, Department of Corrections
Natalie Scott, Assistant Revisor of Statutes
Jason Thompson, Senior Assistant Revisor of Statutes
Ed Klumpp, Kansas Association of Chiefs of Police and Kansas Sheriffs' Association
Marie McNeal, Department of Corrections
Chris Esquibel, Kansas Association of Court Services Officers
John Monroe, Hein Governmental Consulting, LLC
Katie Whisman, Executive Officer at Kansas Bureau of Investigation

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
- Trish Beck, Program Assistant
- Bryanna Estanol, Administrative Assistant
- Anna Wolf, Attorney
- Kira Johnson, SB 123 Program Director

Approval of Proposed Agenda

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

Approval of Minutes

Chair Wilson referred to the Sentencing Commission Workshop minutes of September 19-20, 2017. Stacey Donovan moved to approve the minutes and Chris Mechler seconded the motion. The motion carried and the minutes were approved.

Roundtable Discussion and Review of Tetrahydrocannabinol (THC) Possession of Penalties

Executive Director Scott Schultz moderated a roundtable discussion on the characteristics of tetrahydrocannabinol (THC) with Dwain Worley, Forensic Chemist, Kansas Bureau of Investigation and Sarah Hill, Assistant District Attorney, Johnson County, Kansas. Further discussion continued with commission members inquiring of the panel regarding testing methods for controlled substances and decreasing penalties for possession of THC to be consistent with possession of marijuana. Possession of THC is currently a severity level 5 drug felony for a second time conviction. It was agreed to continue the review of the matter at the November meeting.

Review of 2018 Legislative Recommendations and New Business

Chair Wilson asked if there were objections to the review the 2018 Legislative recommendations from the September workshop. There were no objections.

A recent criminal history scoring issue was raised by Staff Attorney Anna Wolf. She discussed *State v. Horselooking*, referring to criminal history scoring of out-of-state convictions when the convicting jurisdiction does not differentiate between felonies and misdemeanors. The *Horselooking* court applied the rule of lenity and required the tribal residential burglary conviction to be scored as a misdemeanor rather than a felony. Staff prepared and provided a bill draft to members to address the issue. Stacey Donovan moved to table the measure to give the defense bar more time to review the proposal. Senator Haley seconded the motion. Jessica Domme and Representative Barker opposed the motion. The Honorable Patrick McAnany abstained from voting. Motion carried and the bill was tabled.

Approval of Revisions of the 2017 Journal Entry Forms

Stacey Donovan, Forms Committee Chair, provided a revised Journal Entry (JE) form and discussed the revisions. After discussion, Chris Mechler moved to approve the revised JE form. Stacey Donovan seconded the motion and the motion carried.

Stacey provided a revised Presentence Investigation Report (PSI) and discussed the revisions. After discussion, Representative Sawyer moved to approve the revised PSI. Jonathan Ogletree seconded the motion and the motion carried.

Executive Director Scott Schultz provided a revised Felony Sanction flowchart and discussed the revisions. Jessica Domme moved to approve the revised flowchart. Vice Chair Fowler seconded the motion and the motion carried.

SB 123 Committee Update

Chris Mechler, SB 123 Committee Chair and Kira Johnson, SB 123 Program Director, provided an update on SB 123 Request for Proposal (RFP) and the telemed project.

HB 2170 Committee Update

Chair Wilson provided an update on the HB 2170 committee. On October 4, 2017, the committee met and discussed ways 2013 HB 2170 can be more effective and efficient. Uniform implementation of the act continues to be a challenge. Staff will continue to monitor the initiative and collect data.

Approval of Proposed 2018 KSSC Meeting Dates

Members were provided proposed 2018 meeting dates. The Honorable Patrick McAnany moved to approve the proposed meeting dates. Senator Haley seconded the motion and the motion carried.

Agency Report

Executive Director, Scott Schultz provided a summary of the agency's activities since the last meeting, reviewed the monthly KDOC inmate letter and discussed the KSSC's Prison Population Monthly Monitoring Report.

Next Meeting

The next Sentencing Commission meeting will be at 1:30 p.m. on November 16, 2017 in the Senate Room of the Jayhawk Tower.

Meeting adjourned at 3:58 p.m.