

# STATE OF KANSAS



KANSAS SENTENCING COMMISSION  
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HONORABLE W. LEE FOWLER, CHAIR  
HONORABLE BENJAMIN J. SEXTON, VICE CHAIR  
SCOTT M. SCHULTZ, EXECUTIVE DIRECTOR  
<http://www.sentencing.ks.gov>

GOVERNOR JEFF COLYER, M.D.

## Minutes of the Kansas Sentencing Commission Meeting October 25, 2018

The Honorable W. Lee Fowler, Chair, called the Kansas Sentencing Commission (KSSC) meeting to order on October 25 at 1:30 p.m.

### Participants:

#### Members:

- Honorable W. Lee Fowler, Chair
- Honorable Benjamin J. Sexton, Vice Chair
- Honorable Stephen D. Hill, Kansas Court of Appeals
- Senator David B. Haley
- Representative Tom Sawyer
- Representative John Barker
- Senator Carolyn McGinn
- Jonathan Ogletree, Kansas Prisoner Review Board
- Jessica 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
- Christopher Mann, Private Attorney
- James Echols, Public Member
- Ronald Pauls, Public Member
- Shelly Williams, Community Corrections Director

#### Guests:

Ed Klumpp, The Kansas Association of Chiefs of Police, Kansas Sheriff's Association, Kansas Peace Officers Association  
David Hutchings, Kansas Bureau of Investigations  
Ken McGovern, Douglas County Sheriff's Office  
Jason Thompson, Kansas Office of Revisor of Statutes  
Natalie Scott, Kansas Office of Revisor of Statutes  
Jennifer Roth, Kansas Association of Criminal Defense Lawyers  
Emily Tilton, Kansas Department of Corrections  
Heidi Dick, Kansas Department of Corrections  
Hope Cooper, Kansas Department of Corrections  
Tim Madden, Kansas Department of Corrections

**Staff:**

- Scott M. Schultz, Executive Director
- Brenda Harmon, Special Assistant to the Executive Director
- Kunlun Chang, Director of Research
- George “Ebo” Browne, Senior Research Analyst
- John Grube, Research Analyst
- Trish Beck, Program Assistant
- Bryanna Estanol, Administrative Assistant
- Kira Johnson, SB 123 Program Director
- Jamie Mai, Administrative Assistant
- Francis Givens, Staff Attorney

**Approval of Proposed Agenda**

Chair Fowler asked if there were objections to the agenda. There were no objections. The agenda was approved.

**Approval of September 19 & 20 KSSC Workshop Minutes**

Chair Fowler referred to the September 19 and 20, 2018 KSSC Workshop minutes. Chris Mechler moved to approve the minutes and Representative John Barker seconded the motion. The motion carried and the minutes were approved.

**Kansas Offender Registration Act Presentations**

Special Agent Dave Hutchings and Douglas County Sherriff Ken McGovern presented information regarding the Kansas Offender Registration Act.

**2019 Proposed Legislation Discussion**

*Drug Grid Sentences Modified*

Vice Chair Sexton referred to the proposed legislative bill draft entitled, *AN ACT concerning crimes, punishment and criminal procedure; relating to sentencing; drug severity level 5 crimes; amending K.S.A. 2018 Supp. 21-6805 and repealing the existing section* and reported the KSSC 2013 HB 2170 Committee’s proposed amendments.

Representative Tom Sawyer moved to modify the sentencing guidelines drug grid by reducing the sentencing range of drug severity level 5, categories A to E offenses to mirror the sentencing range of the nondrug severity level 8 crimes, categories A to E offenses. Categories F to I would be 11, 12 and 13 months respectively. Representative Barker seconded the motion and the motion passed. Jessica Domme voted no.

*Early Discharge While on Probation*

Vice Chair Sexton and Scott Schultz referred to and explained the second bill draft legislation entitled, *18rs4391 – AN ACT concerning crimes, punishment and criminal procedure; relating to probation;*

hearing; credit toward early discharge; amending K.S.A. 2018 Supp. 21-6608 and repealing the existing section.

Secretary Joe Norwood moved to amend K.S.A. 21-6608(d) as follows:

~~In addition to the provisions of subsection (a), a defendant who has a risk assessment of low risk, has paid all restitution and has been compliant with the terms of~~ may be discharged early from probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction for a period of 12 months shall be eligible for discharge from such period of supervision by the court if such defendant is found to be in substantial compliance with conditions of such supervision. The court shall hold a hearing to determine if a defendant has been in substantial compliance when such defendant has completed the service of 50 percent of such defendant's term of supervision. The court shall grant such discharge unless the court finds by clear and convincing evidence that denial of such discharge will serve community safety interests.

Judge Stephen Hill seconded the motion and the motion passed. Dan Dunbar, Jessica Domme, and Representative John Barker voted no.

Representative Barker moved to amend K.S.A. 21-6608 by adding new subsections as follows:

(e) A defendant shall earn credit to reduce such defendant's term of probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction when the defendant has substantially complied with the conditions of such defendant's supervision. A defendant shall be awarded seven days earned discharge credit for each full calendar month of substantial compliance with the conditions of such defendant's supervision.

(f) The Kansas sentencing commission shall adopt procedures and forms to standardize the process for calculating earned discharge credit pursuant to this section.

(g) For the purposes of this section, substantial compliance means:

(1) The defendant has made significant progress in meeting the conditions of probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction; and

(2) the defendant has no violations of conditions of probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction filed with the court pursuant to K.S.A. 22-3716, and amendments thereto.

Stacey Donovan seconded the motion and the motion passed. Jessica Domme, Judge Stephen Hill, Chair Fowler, and Dan Dunbar voted no.

#### *Offender Registration Act*

Chair Fowler referred to the handout *Proponent Testimony – HB 2565*. Representative Tom Sawyer moved to propose the failure to pay the \$20 offender registration fee as a class A misdemeanor instead of the current severity level 9 felony for second and subsequent violations for nonpayment. Stacey Donovan seconded the motion and the motion passed.

Chair Fowler referred to the bill draft entitled, *AN ACT concerning crimes, punishment and criminal procedure; relating to the Kansas offender registration act; drug offenders; amending K.S.A 2017 Supp. 22-4902, 22-4905, 22-4906 and 22-4909 and repealing the existing sections.* Chair Fowler advised a motion by Stacey Donovan to amend the Kansas Offender Registration Act by removing drug offenses from the Kansas Offender Registration Act was tabled on September 19, 2018 during the KSSC Workshop to receive more information from law enforcement at the October meeting. Stacey Donovan moved to take the motion from the table. Chris Mechler seconded the motion and the original motion was returned for consideration. Representative Tom Sawyer seconded Stacey Donovan's original motion and the motion passed. Jessica Domme, Dan Dunbar, Ronald Pauls, and Judge Stephen Hill voted no.

### **2019 Proposed KSSC Meeting Schedule**

Scott Schultz referred to the *2019 Proposed KSSC Meeting Schedule*. No objections or revisions were made to the schedule. The schedule for 2019 was approved.

### **SB 123 Update**

Executive Director Schultz provided a brief update on the status of SB 123. He specifically highlighted the status of the contract with Beacon Health Options and gave information on the SB 123 conference that was held in Topeka on October 16, 2018. Over 180 participants were in attendance.

### **Agency Report**

Executive Director Schultz provided an update on the agency's latest activities. Chris Chavez, Research Analyst III, was recognized with a certificate and \$250.00 for ten years of outstanding service at the agency. Mr. Schultz informed the commission that the agency received a Bureau of Justice Statistics grant which will enable the agency to make use of the Tableau data visualization software for research purposes.

### **Adjournment**

Chris Mechler moved to adjourn. Secretary Joe Norwood seconded the motion and the motion carried.

Meeting adjourned at 3:46 p.m.

The next Sentencing Commission meeting will be on Thursday, November 15, 2018 in the Senate Room of the Jayhawk Tower.