

Minutes of the Kansas Sentencing Commission Meeting November 17, 2022

The Honorable W. Lee Fowler, Chair, called the Kansas Sentencing Commission (KSSC) to order on November 17 at 1:36 p.m. in the Senate Room of Jayhawk Tower in Topeka, Kansas.

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 Dennis "Boog" Highberger
- Representative John Barker
- Senator Carolyn McGinn
- Jonathan Ogletree, Kansas Prisoner Review Board
- Jessica Domme, Kansas Attorney General's Office
- Spence Koehn, Office of Judicial Administration
- Jefferey Zmuda, Secretary of Corrections
- Mark Dupree, Wyandotte County District Attorney
- Jessica A. Glendening, Third Judicial District Public Defender's Office
- Pat Colloton, Public Member
- Jermaine Wilson, Public Member
- Shelly Williams, Community Corrections Director

Guests:

Randall Bowman, Department of Corrections
Jennifer Kisela, Council of State Governments Justice Center
Marie McNeal, Kansas Department of Corrections
Michelle Sullivan, Department of Corrections
Jason Thompson, Kansas Office of Revisor of Statutes
Kendric Holder, Council of State Governments Justice Center
Natalie Scott, Kansas Office of Revisor of Statutes
Jeff Wagaman, Kearney and Associates
Raylene Mattocks, Kansas Court Services

Staff:

- Scott M. Schultz, Executive Director
- Brenda Harmon, Administrative Services Manager
- John Grube, Director of Research
- Jason Lamprecht, Research Analyst
- Gwyn Harvey, SB 123 Program Consultant
- Kira Johnson, SB 123 Program Director
- Trish Beck, Program Auditor

- Grazi Gifford, Administrative Specialist
- Francis Givens, Special Projects Manager
- Kim Sage, Finance Manager
- Chris Lyon, Attorney

Approval of Proposed Agenda

Chair Fowler asked if there were objections or additions to the agenda. The agenda was approved with no modifications.

Approval of September 7 and 8, 2022, KSSC Workshop Minutes

Chair Fowler referred to the September 7 and 8, 2022, KSSC Workshop minutes. Pat Colloton moved to approve the minutes. Shelly Williams seconded the motion. The motion carried, and the minutes were approved.

Welcome New KSSC Staff Member

Executive Director Scott Schultz introduced and welcomed new Sentencing Commission staff member Kim Sage hired to serve as KSSC's Finance Manager.

Review and Approval of 2023 KSSC Draft Legislative Proposals

Executive Director Scott Schultz reviewed the remaining 2023 KSSC Legislative Proposals that had requests for additional information at the KSSC Workshop.

2021 HB 2084 Allowing Earned Discharge and Limiting the Maximum Term for Probation

Kansas Office of Revisor of Statutes provided a bill draft with questions for the Commission to consider. The revisions and following questions to K.S.A. 21-6608 were discussed and will be reviewed at the next meeting.

- Keep, remove, or make changes to subsection (d)?
- Change the wording of (e)(1)(B) to make clear that the Court must authorize the supervision officers to make those recommendations?
- Is more wording needed in (e)(3) about this provision not guaranteeing early termination?

2021 HB 2031 Increasing Good Time and Program Credit for Certain offenders

The Commission discussed amending the 2021 HB 2031 bill draft to increase good time credit by only 5% (15% to 20% and 20% to 25%) and will continue the discussion at the next KSSC meeting upon receiving additional information from the Kansas Department of Corrections.

Review and Approval of Tabled 2023 KSSC Legislative Proposals

Executive Director Scott Schultz reviewed the 2023 KSSC Legislative Proposals tabled during the 2022 KSSC Workshop.

2021 HB 2095 Allowing Courts to Prohibit Possession of a Firearm in a Temporary Custody Order Pursuant to the Care and Treatment Act for Mentally Ill Persons

At the 2022 KSSC Workshop, the Commission tabled the approval of the HB 2095 legislative proposal and requested the types of information warehoused in the National Instant Criminal Background Check System (NICS).

Executive Director Scott Schultz referred to and discussed the handouts, *HB 2095 Bill Draft*, and *K.S.A. 59-2959 KBI Request for information*.

Chair Fowler motioned to approve and continue supporting 2021 HB 2095 with the reporting change in the bill draft from NCIC to NICS. Jessica Glendening seconded the motion. The motion carried.

2021 HB 2128 Expand SB123 Substance Abuse Treatment to Severity Level 7-10 Nondrug Offenders

At the 2022 KSSC Workshop, the Commission tabled the approval of proposal until the Office of Revisor of Statutes could prepare draft language. Upon Commission review and discussion, it was agreed to refer 2021 HB 2128 to the KSSC Assessment Selection Committee for further study.

Review and Approval of New 2023 KSSC Legislative Proposals

Jessica Domme and Michelle Sullivan, Kansas Department of Corrections, reported practitioner frustration surrounding the award of jail credit for persons who are on postrelease and commit a new offense. Ms. Domme referred to and reviewed handouts, 2018 HB 2603, *State v. Brown*, 435 P.3d 597 (2019), and requested support by the Commission to introduce a bill similar to the 2018 bill brought by KDOC.

The Commission agreed that additional time was needed to review 2018 HB 2603 and *State v. Brown* before taking further action.

KSSC Workshop Data Request

John Grube, Director of Research, presented *The Guidelines May Be Changing...But how?* and reviewed the following topics.

- Determining the goals
- What can be changed
- A move to indeterminate sentencing
- How parole decisions should be made in indeterminate sentencing
- Topics for future discussions

The Commission agreed there was extensive and diverse information that warranted future discussion.

Review and Approval of 2023 KSSC Meeting Dates

Executive Director Scott Schultz referred to the handout *2023 KSSC Proposed Meeting Schedule*. Jessica Domme moved to approve the proposed schedule. Representative Dennis “Boog” Highberger seconded the motion. The motion carried.

Probation Consolidation on Sentencing Forms Discussion

Spence Koehn presented information relating to the probation consolidation of sentencing and proposed revisions to the sentencing forms be considered. No action was taken.

KSSC SB 123 Diversion Drug Treatment Program Update

Kira Johnson, LMLP, SB 123 Program Director, provided an update on the SB 123 and RAFT Diversion Program and discussed the following items.

- SB 123 Fall Conference is scheduled for November 15, 2022
- RAFT training and current utilization
- SB 123 Research- Her doctoral dissertation was successfully defended, and she is looking forward to later presenting her findings to the Commission
- Temporary Certification for clinicians and peer mentors is continuing
- Development of formal complaint form/grievance process is being developed

- Announced change to the presentence assessment payment duties being transferred to Beacon
- Upcoming training for RAFT and assessment billing

Agency Report

Executive Director Scott Schultz provided an update and summarized recent activities of the agency:

- November 2022 KDOC Prison Population Letter and KSSC's Monthly Prison Population Monitoring Report.
- 2022 DRM is available for purchase.
- Francis Givens, Special Projects Manager, reported on previous and upcoming KSSC training webinars.
- John Grube, Director of Research, is attending the 2022 American Society of Criminology Conference in Atlanta, GA.
- On November 29, 2022, Executive Director Scott Schultz and Kira Johnson, SB 123 Program Director, will present information on SB 123 Substance Abuse Treatment program and identify Kansas maps where specific treatment provider services are located.
- KSSC's agency budget was submitted two weeks ago.
- Spence Koehn and Chris Lyon are working on creating a DUI flowchart.
- The Executive Director acknowledged the valuable contributions of Brenda Harmon for 25 years of service and Trish Beck for 15 years of service with the Commission.

Executive Director Compensation Review

Chair Fowler presented information regarding the additional duties added to Executive Director Scott Schultz's position, including the IT oversight and supervision of the electronic journal entry project.

To compensate for the additional responsibilities added to Executive Director Scott Schultz's position, the Honorable Stephen Hill moved to approve a \$25,000 salary increase, effective at the beginning of the next pay period. Pat Colloton seconded the motion. The motion carried.

Adjournment

Jessica Domme moved to adjourn. Jessica Glendening seconded the motion. The motion carried.

The meeting adjourned at 4:23 p.m.

The next Sentencing Commission meeting will be Thursday, December 15, 2022.