

## MEMORANDUM

**To:** Commission Members  
**From:** Scott M. Schultz, Executive Director  
**Date:** September 17, 2020  
**Re:** Prison Bed Space Impact Assessment, **2020 HB 2485 – Aligning the felony loss thresholds for certain property crimes - UPDATE**

### IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill would **reduce 4** prison admissions each year during the ten-year forecasting period.
- **Impact on Prison Bed Space:** This bill would result in **2** prison bed **savings** each year during the ten-year forecasting period.
- **Impact on the Commission Workload:** This bill would reduce the workload of the Commission by **4** journal entries each year.

### SUMMARY OF THE BILL

**Section 1.** This section amends 2020 Supp. 21-5802 by increasing the threshold from \$1,000 to \$1,500 for felony theft of property lost, mislaid, or delivered by mistake. Under this bill, a theft less than \$1,500 would be a class A nonperson misdemeanor. A theft of property with the value of \$1,500 but less than \$25,000 would be a severity level 9, nonperson felony. **Currently, a theft of property lost, mislaid, or delivered by mistake with the value of less than \$1,000 is a misdemeanor and theft of property with the value of \$1,000 but less than \$25,000 is a severity level 9, nonperson felony.**

**Section 2.** This section amends K.S.A. 2020 Supp. 21-5813 by increasing the threshold from \$1,000 to \$1,500 for felony criminal damage to property. Under this bill, property damage to the extent of at least \$1,500 but less than \$25,000 is a severity level 9, nonperson felony. **Currently, property damage of at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony.** This section states that damage to property less than \$1,500 is a class B nonperson misdemeanor. **Currently, damage less than \$1,000 is a class B nonperson misdemeanor.**

**Section 3.** This section amends K.S.A. 2020 Supp. 21-5821 by increasing the threshold for the felony of giving a worthless check. Under this bill, if the check is drawn for less than \$1,500 it is a class A

nonperson misdemeanor. **Currently, a check drawn for less than \$1,000 is a class A nonperson misdemeanor.** Under this bill, giving a worthless check is a severity level 9, nonperson felony if the check is drawn for at least \$1,500 but less than \$25,000 or if more than one worthless check is given within a seven-day period and the combined total is at least \$1,500 but less than \$25,000. **Currently, giving a worthless check is a severity level 9, nonperson felony if the check is drawn for at least \$1,000 but less than \$25,000 or if more than one worthless check is giving within a seven-day period totaling at last \$1,000 but less than \$25,000.**

**Section 4.** This section amends K.S.A. 2020 Supp. 21-5825 by increasing the threshold for the felony of counterfeiting. Under this bill, counterfeiting is a severity level 9, nonperson felony if the retail value of such item or service is at least \$1,500 but less than \$25,000. Additionally, counterfeiting is a class A nonperson misdemeanor if the retail value of such item or service is less than \$1,500. **Currently, counterfeiting is a class A nonperson misdemeanor if the value of the item or service is less than \$1,000 and a severity level 9, nonperson felony if the value is at least \$1,000 but less than \$25,000.**

**Section 5.** This section amends K.S.A. 2020 Supp. 21-5828 by increasing the threshold for the felony of criminal use of a financial card. This section states that criminal use of a financial card is a severity level 9, nonperson felony if the money, goods, property or services obtained within any seven-day period are of value of at least \$1,500 but less than \$25,000 or a class A nonperson misdemeanor if the value is less than \$1,500. **Currently, criminal use of a financial card is a class A nonperson misdemeanor if the money, goods, property, or services obtained within any seven-day period are of value less than \$1,000 or a severity level 9, nonperson felony if the value is at least \$1,000 but less than \$25,000.**

**Section 6.** This section amends K.S.A. 2020 Supp. 21-5830 to state that impairing a security interest is a severity level 9, nonperson felony if the personal property subject to the security interest is of the value of at least \$1,500 and is subject to a security interest of at least \$1,500 and either the value of the property or the security interest is less than \$25,000. **Currently, impairing a security interest is a severity level 9, nonperson felony if the personal property subject to the security interest is of the value of at least \$1,000 and is subject to a security interest of at least \$1,000 and either the value of the property or the security interest is less than \$25,000.** This section states that impairing a security is a class A nonperson misdemeanor when the personal property subject to the security interest is of the value of less than \$1,500, or of the value of \$1,500 or more but subject to a security interest of less than \$1,500. **Currently, impairing a security is a class A nonperson misdemeanor when the personal property subject to the security interest is of the value of less than \$1,000, or of the value of \$1,000 or more but subject to a security interest of less than \$1,000.**

**Section 7.** This section amends K.S.A. 2020 Supp. 21-5927 by increasing the threshold for the felony of medicaid fraud. Under this bill, less than \$1,500 medicaid fraud is a class A nonperson misdemeanor and at least \$1,500 but less than \$25,000 medicaid fraud is a severity level 9, nonperson felony. **Currently, less than \$1,000 medicaid fraud is a class A nonperson misdemeanor and at least \$1,000 but less than \$25,000 medicaid fraud is a severity level 9, nonperson felony.**

**Section 8.** This section amends K.S.A. 2020 Supp. 21-6002 by increasing the threshold for the felony of official misconduct. Under this bill, official misconduct is a severity level 7, nonperson felony if a claim under (a)(6) is at least \$1,500 but less than \$25,000 and a class A nonperson misdemeanor if such claim is less than \$1,500. **Currently, official misconduct is a severity level 7, nonperson felony**

**if a claim under (a)(6) is at least \$1,000 but less than \$25,000 and a class A nonperson misdemeanor if such claim is less than \$1,000.**

**Section 9.** This section amends K.S.A. 2020 Supp. 21-6004 by increasing the threshold for the felony of presenting a false claim. This section states that presenting or permitting a false claim is a class A nonperson misdemeanor if less than \$1,500 and a severity level 9, nonperson felony if at least \$1,500 but less than \$25,000. **Currently, presenting or permitting a false claim is a class A nonperson misdemeanor if less than \$1,000 and a severity level 9, nonperson felony if at least \$1,000 but less than \$25,000.**

**Section 10.** This section amends K.S.A. 2020 Supp. 21-6005 by increasing the threshold for felony misuse of public funds. Under this bill, misuse of public funds where the aggregate amount is at least \$1,500 but less than \$25,000 is a severity level 9, nonperson felony and a class A nonperson misdemeanor if less than \$1,500. **Currently, misuse of public funds where the aggregate amount is at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony and a class A nonperson misdemeanor if less than \$1,000.**

**Section 11.** This section amends K.S.A. 2020 Supp. 21-6205 by increasing the felony threshold for criminal desecration. This section states that criminal desecration is a severity level 9, nonperson felony if the property is damaged to the extent of \$1,500 but less than \$25,000 and a class A nonperson misdemeanor if less than \$1,500. **Currently, criminal desecration is a severity level 9, nonperson felony if the property is damaged to the extent of \$1,000 but less than \$25,000 and a class A nonperson misdemeanor if less than \$1,000.**

**Section 12.** This section states that K.S.A. 2020 Supp. 21-5802, 21-5813, 21-5821, 21-5825, 21-5828, 21-5830, 21-5927, 21-6002, 21-6004, 21-6005 and 21-6205 are hereby repealed.

**Section 13.** This section states that the act shall take effect and be in force from and after its publication in the statute book.

## FINDINGS

- In FY 2019, **125 offenders** were convicted of the following crimes relating to loss values. Of this number:
  - **13** (10.4%) were sentenced to prison; and
  - 112 (89.6%) were sentenced to probation. The convicted statutes and offenses are listed below:

<b>Statute</b>	<b>Name of Offense</b>	<b>Number of Convictions</b>	<b>Percent</b>
21-5802	Theft of property lost	2	1.6
21-5813	Criminal damage to property	87	69.6
21-5821	Giving a worthless check	17	13.6
21-5825	Counterfeiting	1	0.8
21-5828	Criminal use of a financial card	12	9.6
21-5830	Impairing a security interest	2	1.6
21-5927	Medicaid fraud	1	0.8
21-6005	Misuse of public funds	2	1.6
21-6205	Criminal desecration	1	0.8
<b>Total</b>		<b>125</b>	<b>100.0</b>

- Of the 13 offenders sentenced to prison, the restitution range was from \$361 to \$186,930, with **four** less than \$1,500, including two less than \$1,000. One of the two had a special rule applied. The average prison sentence was 14 months with 186.5 days or 6 months jail credit.

## IMPACT ASSESSMENT

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- **Impact on the Commission Workload:** This bill would reduce the workload of the Commission by **4** journal entries each year.