

## MEMORANDUM

**To:** KSSC Members  
**From:** Scott M. Schultz, Executive Director  
**Date:** September 15, 2021  
**Re:** Prison Bed Impact Assessment, **HB 2081 - Modifying how certain prior convictions are counted for the special sentencing rule related to possession of a controlled substance and providing concurrent or consecutive sentencing for persons convicted of new crimes while on release for a felony.**

### IMPACT ASSESSMENT

- This bill **will** have an impact on prison admissions and beds, but it cannot be determined at this time.

### SUMMARY OF THE BILL

Section 1. K.S.A. 21-6606, commonly referred to as **Special Rule #10**, is amended to read that any person who is convicted and sentenced for a crime committed while on release for a felony pursuant to article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, shall serve the sentence **concurrently or** consecutively to the term or terms under which the person was released, **as the court directs**.

Section 2. K.S.A. 21-6805(e), commonly referred to as **Special Rule #12** is amended to replace the language of second or subsequent convictions to two or more prior felony convictions for unlawful manufacturing of a controlled substance which shall be a presumptive term of imprisonment of two times the maximum duration of the presumptive term of imprisonment. Additionally, K.S.A. 21-6805(f)(1), commonly referred to as **Special Rule #26**, amends the language third or subsequent conviction and is replaced with two or more prior felony convictions for a violation of K.S.A. 65-4610 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-36a06, prior to its transfer, or K.S.A. 2020 Supp. 21-5706, and amendments thereto, for a presumptive term of imprisonment and the defendant shall be sentenced to prison.

### FINDINGS

- **Special Rule #10:** In FY 2020, **742** offenders were convicted of a crime while on felony bond. Of this number:
  - 67 (9.0%) received a concurrent sentence;
  - **416** (56.1%) received a consecutive sentence;
  - 32 (4.3%) received both concurrent and consecutive sentences; and
  - 227 (30.6%) received no concurrent or consecutive sentence.

- Of the total 884 offenders:
  - **208** (28.1%) were sentenced to prison;
  - 444 (59.6%) were sentenced to probation; and
  - 91 (12.3%) were sentenced to drug treatment.
  
- **Special Rule #12** - In FY 2020, **zero** offender was convicted with this special rule second/subsequent manufacture of a controlled substance and sentenced to probation.
  
- **Special Rule #26:** In FY 2019, **252** offenders were convicted with Special Rule #26 applied. Of this number:
  - 64 (25.4%) were sentenced to prison;
  - 185 (73.4%) were sentenced to probation; and
  - 3 (1.2%) were sentenced to SB 123 treatment.
  - The criminal history categories of these offenders were:
    - A – 14;
    - B – 22;
    - C – 43;
    - D – 1;
    - E – 135;
    - F – 37;

## **IMPACT ASSESSMENT**

- This bill will have an impact on prison admissions and beds, but it cannot be determined at this time because special rules are applied at sentencing and are subject to judicial discretion.