

## MEMORANDUM

**To:** Kansas Sentencing Commission Workshop  
**From:** Scott M. Schultz, Executive Director  
**Date:** September 7-8, 2022  
**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 2021, **1,038** cases where offenders were convicted of a crime while on felony bond. Of this number:
  - **645** (62.1%) received a consecutive sentence;
  - **71** (6.8%) received a concurrent sentence;
  - **77** (7.4%) received both concurrent and consecutive sentences; and
  - **245** (23.6%) received no concurrent or consecutive sentence.

- Of the total 1,038 offenders:
  - **291** (28.0%) were sentenced to prison;
  - 588 (56.7%) were sentenced to probation and extended probation; and
  - 130 (12.5%) were sentenced to drug treatment;
  - 23 (2.2%) were sentenced to drug treatment; and
  - 6 (0.6%) were sentenced to county jail
  
- **Special Rule #12** - In FY 2021, **no** offenders were convicted with this special rule of second/subsequent manufacture of a controlled substance.
  
- **Special Rule #26:** In FY 2021, **305** offenders were convicted with Special Rule #26: third or sub. Drug possession applied. Of this number:
  - 69 (22.6%) were sentenced to prison;
  - 232 (76.1%) were sentenced to probation; and
  - 4 (1.3%) were sentenced to SB 123 treatment.
  - The criminal history categories of these offenders were:
    - A – 25;
    - B – 29;
    - C – 55;
    - E – 140;
    - F – 50;
    - G – 2;
    - H – 1; and
    - I – 1.

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