

MEMORANDUM

To: Kansas Sentencing Commission Workshop
From: Scott M. Schultz, Executive Director
Date: September 6, 2022
Re: Prison Bed Impact Assessment, **HB 2084 - Allowing earned discharge credit for offenders on probation and limiting the maximum term of supervision on probation.**

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill will reduce **322, 350, or 378** prison admissions by 2024 and **351, 382, or 413** prison admissions by 2033, respectively depending on which scenario plays out.
- **Impact on Prison Beds:** This bill will save **322, 350, or 378** prison beds by **FY 2024** and **499, 548, or 591** prison beds in **FY 2033** respectively, depending on which scenario plays out.
- **Impact on the Commission Workload:** This bill will reduce revocation journal entries by **322, 350, or 378 in FY 2024** and by **351, 382, or 413 in FY 2033**, respectively, depending upon which scenario plays out.

SUMMARY OF THE BILL

Section 1. This bill would amend K.S.A. 21-6608 to allow:

1. Subsection (c), after a defendant has served a period twice the original supervision term, the defendant can be released from supervision, but still be responsible for fees, restitution, and child support still owed.
2. Subsection (d), a defendant can be discharged from probation early if they are found to be in substantial compliance with their conditions of supervision. The court shall set a hearing at sentencing for the date when the defendant will have served 50 percent of their supervision term to determine if the defendant has been in substantial compliance with their terms of supervision.
3. Subsection (e), a defendant may earn discharge credit to reduce the term of probation when a defendant has substantially complied with terms of supervision. A defendant shall be awarded seven days discharge credit each full calendar month of substantial compliance on supervision.
4. Subsection (f), the Kansas Sentencing Commission would adopt procedures to standardize this calculation process.
5. Subsection (g), proposes factors to be determined in substantial compliance, such as a history of compliance and payment of fees and restitution, however, completion of all terms and conditions of supervision is not required. Offenders subject to provisions of K.S.A. 21-6824 (SB 123) will not be eligible for early discharge.

KEY ASSUMPTIONS

- The target inmates as defined in this proposed bill include offenders on probation who have exceeded a term that is double the original probation term.
- Projected admission to prison for the target offenders is assumed to increase by an annual average of 1%.
- It is assumed that the new policy effective date starts on July 1, 2023.
 - **Scenario One:** It is assumed that there will be a **10 percent** reduction of probation condition violations that lead to prison admission.
 - **Scenario Two:** It is assumed that there will be a **15 percent** reduction of probation condition violations that lead to prison admission.
 - **Scenario Three:** It is assumed that there will be a **20 percent** reduction of probation condition violations that lead to prison admission.
 - **Probation Term Cap:** It is assumed that the number of probationers exceeding the cap in FY 2020 will remain the same going forward.
 - The average sentence length is assumed to be **17.4 months**, which is the current observed average length of sentence for offenders admitted to prison under a conditional violation.
- It is assumed that offenders who reach the double probation cap term or those offenders who are not in substantial compliance and would not be eligible for early discharge from probation.

FINDINGS

- In FY 2021, **820 offenders** had their probation revoked and were ordered to serve their underlying sentence or a modified sentence in prison.
 - 262 (32.0%) of those offenders exceeded the double probation term cap.

IMPACT ASSESSMENT

- **Scenario One:** If **10 percent** of offenders on probation are released for *substantial compliance* prior to exceeding the probation cap:
 - 2024 – **57** reduction in admission and **57** prison beds saved
 - 2033 – **62** reduction in admission and **90** prison beds saved
- **Scenario Two:** If **15 percent** of offenders on probation are released for *substantial compliance* prior to exceeding the probation cap:
 - 2024 – **85** reduction in admission and **85** prison beds saved
 - 2033 – **93** reduction in admission and **139** prison beds saved
- **Scenario Three:** If **20 percent** of offenders on probation are released for *substantial compliance* prior to exceeding the probation cap:
 - 2024 – **113** reduction in admission and **113** prison beds saved
 - 2033 – **124** reduction in admission and **182** prison beds saved

- **Probation Term Cap:** In FY 2021, **262** offenders would have been released from probation for exceeding the probation cap, using this number going forward:
 - 2024 – **265** reduction in admission and **265** prison beds saved
 - 2033 – **289** reduction in admission and **409** prison beds saved

Section 1: Prison Bed Space Impact Assessment

Fiscal Year	Scenario #1 10 percent of Offenders Released	Scenario #2 15 percent of Offenders Released	Scenario #3 20 percent of Offenders Released	Current Offenders Released Due to Cap
2024	57	85	113	265
2025	57	86	114	267
2026	58	87	115	270
2027	58	87	117	273
2028	59	88	118	275
2029	59	89	119	278
2030	60	90	120	281
2031	61	91	121	284
2032	61	92	122	287
2033	62	93	124	289

Total Prison Admission Reduction

Fiscal Year	Scenario #1 Plus Probation Term Cap	Scenario #2 Plus Probation Term Cap	Scenario #3 Plus Probation Term Cap
2024	322	350	378
2025	324	353	381
2026	328	357	385
2027	331	360	390
2028	334	363	393
2029	337	367	397
2030	341	371	401
2031	345	375	405
2032	348	379	409
2033	351	382	413

Total Prison Bed Space Impact Assessment

Fiscal Year	Scenario #1 Plus Probation Term Cap	Scenario #2 Plus Probation Term Cap	Scenario #3 Plus Probation Term Cap
2024	322	350	378
2025	460	502	543
2026	466	508	549
2027	471	513	556
2028	474	518	561
2029	480	523	565
2030	484	528	570
2031	489	535	578
2032	495	541	581
2033	499	548	591

SUMMARY

- **Impact on Prison Admissions:** This bill will reduce **322, 350, or 378** prison admissions by 2024 and **351, 382, or 413** prison admissions by 2033, respectively depending on which scenario plays out.
- **Impact on Prison Beds:** This bill will save **322, 350, or 378** prison beds by FY 2024 and **499, 548, or 591** prison beds in FY 2033 respectively, depending on which scenario plays out.
- **Impact on the Commission Workload:** This bill will reduce revocation journal entries by **322, 350, or 378 in FY 2024** and by **351, 382, or 413 in FY 2033**, respectively, depending upon which scenario plays out.