

MEMORANDUM

To: Kansas Sentencing Commission Workshop
From: Scott M. Schultz, Executive Director
Date: September 7-8, 2022
Re: Prison Bed Space Impact Assessment, **2021 HB 2128 - Clarifying jurisdiction and supervision of offenders in a certified drug abuse treatment program.**

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill **may** result in additional prison admissions but that cannot be determined at this time.
- **Impact on Prison Beds:** This bill **may** result in additional prison beds but that cannot be determined at this time.
- **Impact on the Workload of the Commission:** This bill will result in **no** additional journal entry workload of the Commission. But, based on the scenarios the SB 123 drug treatment offenders may increase by **165, 331, or 499** persons respectively in FY 2024.
- **Fiscal Impact of the Commission:** This bill would require an increase in the SB 123 program cost by **\$669,405, \$1,342,867 or \$2,024,443** respectively in FY 2024, depending on which scenario plays out. The average cost was **\$4,057** per SB 123 treatment offender in FY 2022.

SUMMARY OF THE BILL

- Section 1. K.S.A. 21-6610 is amended to include language that allows the district court from which a defendant sentenced pursuant to K.S.A. 21-6824 is on parole, on probation, assigned to a community correctional services program or under suspended sentence may transfer jurisdiction of the defendant with the concurrence of the receiving district court and all parties.
- Section 2. K.S.A. 21-6824 is amended to include mandatory drug treatment if the defendant's convictions fall in the following grid blocks: 10-C, 10-D, 10-E, 10-F, 10-G, 10-H, 10-I, 9-C, 9-D, 9-E, 9-F, 9-G, 9-H, 9-I, 8-C, 8-D, 8-E, 8-F, 8-G, 8-H, 8-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes and classified as a nonperson offense.
- Additionally, a defendant is eligible for drug treatment if a defendant's conviction fall into grid blocks 10-A, 10-B, 9-A, 9-B, 8-A, 8-B, 7-A or 7-B of the sentencing guidelines for nondrug crimes and classified as a nonperson offense and has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161,

65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21- 36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction, if the person felonies in the offender's criminal history were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes and the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not be jeopardized by such placement in a drug abuse treatment program.

FINDINGS

- In FY 2021, **1,050** (11.8%) offenders were sentenced to SB 123 Mandatory Drug Treatment.
- In FY 2021, there were **4,031** cases with crime severity levels 7 to 10.
 - **Severity Level 7** – 1,237
 - **Severity Level 8** – 872
 - **Severity Level 9** – 1,792
 - **Severity Level 10** – 130
 - The breakdown by type of crime (person/nonperson) and by sentence imposed for each severity level 7 through 10 are in the tables below.

Severity Level 7

Person/Nonperson	Probation	Prison	Total
Nonperson	205	65	270
Person	730	236	967
Total	935	301	1237

Severity Level 8

Person/Nonperson	Probation	Prison	Total
Nonperson	561	163	724
Person	102	46	148
Total	663	209	872

Severity Level 9

Person/Nonperson	Probation	Prison	Total
Nonperson **	796	255	1053
Person	508	231	739
Total	1304	486	1792

** 1 county jail and 1 mandatory treatment sentence

Severity Level 10

Person/Nonperson	Probation	Prison	Total
Nonperson	93	16	109
Person	13	8	21
Total	106	24	130

Severity Levels 7 – 10 Combined

	Probation	Prison	Total
Nonperson	1655	499	2156
Person	1353	521	1875
Total	3008	1020	4031

- The breakdown by criminal history score for each severity level 7 through 10 is as follows.

Criminal History Score

	a	b	c	d	e	f	g	h	i	
SL 7	191	120	173	109	110	68	98	108	260	1237
SL 8 *	102	76	132	53	160	63	95	75	115	872
SL 9 *	279	224	299	102	266	100	151	127	243	1792
SL 10	14	10	20	8	20	10	8	11	29	130
SL 7-10	586	430	624	272	556	241	352	321	647	4031

* 1 missing criminal history score

ASSUMPTIONS

- In FY 2022, the average annual post-assessment SB 123 treatment cost per offender was \$4,057.

SCENARIOS

- Scenario #1 – 10% of SL 7-10, nonperson offenders qualify for SB 123:**
 - In FY 2021, 1,655 cases were nonperson crimes of severity level 7 through 10 where the offender was sentenced to Probation.
 - Assuming 10% of those are eligible for required drug treatment (additional 165 offenders)
 - Then the total additional cost to include SL 7-10 NP on probation is estimated at \$669,405.**
- Scenario #2 – 20% of SL 7-10, nonperson offenders qualify for SB 123:**
 - Assuming 20% of those are eligible for required drug treatment (additional 331 offenders)
 - Then the total additional cost to include SL 7-10 NP on probation is estimated at \$1,342,867.**
- Scenario #3 – 30% of SL 7-10, nonperson offenders qualify for SB 123:**
 - Assuming 30% of those are eligible for required drug treatment (additional 499 offenders)
 - Then the total additional cost to include SL 7-10 NP on probation is estimated at \$2,024,443.**
- If offenders of low severity, nonperson crimes are eligible for SB 123 treatment post-conviction, this will increase expenditures in the SB 123 program. FY 2021 cost per offender on SB 123 was \$4,057.
 - Increased cost scenarios for KSSC**
 - 165** additional cases to SB 123 = \$669,405
 - 331** additional cases to SB 123 = \$1,342,867
 - 499** additional cases to SB 123 = \$2,024,443

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