

MEMORANDUM

To: Kansas Sentencing Commission Workshop
From: Scott M. Schultz, Executive Director
Date: September 7, 2022
Re: Prison Bed Space Impact Assessment, **SB 5 – Aligning the felony loss thresholds for certain property crimes with theft.**

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill would reduce **2** prison admissions each year during the ten-year forecasting period.
- **Impact on Prison Bed Space:** This bill would reduce prison beds **by 1 in FY 2024 and 2 in FY 2033.**
- **Impact on the Commission Workload:** This bill would reduce the workload of the Commission by **2** journal entries each year.

SUMMARY OF THE BILL

Section 1. K.S.A. 21-5802 is amended to increase the threshold amounts for misdemeanor and felony violations of **theft of property lost, mislaid or delivered by mistake**. The level 9 nonperson felony cutoff value is increased from \$1,000 to \$1,500 (but less than \$25,000) and the class A misdemeanor is increased from \$1,000 to \$1,500.

Section 2. K.S.A. 21-5813 is amended to increase the threshold amounts for misdemeanor and felony violations of **criminal damage to property**. The level 9 nonperson felony cutoff value is increased from \$1,000 to \$1,500 (but less than \$25,000) and the class B misdemeanor is increased from \$1,000 to \$1,500.

Section 3. K.S.A. 21-5821 is amended to increase the threshold amounts for misdemeanor and felony violations of **giving a worthless check**. The level 9 nonperson felony cutoff value is increased from \$1,000 to \$1,500 (but less than \$25,000) or three checks within seven days with a value of \$1,500 increased from \$1,000 (but less than \$25,000) and the class A misdemeanor is increased from \$1,000 to \$1,500.

Section 4. K.S.A. 21-5825 is amended to increase the threshold amounts for misdemeanor and felony violations of **counterfeiting**. The level 9 nonperson felony cutoff value is increased from \$1,000 to \$1,500 (but less than \$25,000) and the class A misdemeanor is increased from \$1,000 to \$1,500.

Section 5. K.S.A. 21-5828 is amended to increase the threshold amounts for misdemeanor and felony violations of **criminal use of a financial card**. The level 9 nonperson felony cutoff value is increased from \$1,000 to \$1,500 (but less than \$25,000) and the class B misdemeanor is increased from \$1,000 to \$1,500.

Section 6. K.S.A. 21-5830 is amended to increase the threshold amounts for misdemeanor and felony violations of **impairing a security interest**. The level 9 nonperson felony cutoff value increased from \$1,000 to \$1,500 (but less than \$25,000) and the class A misdemeanor is increased from \$1,000 to \$1,500.

Section 7. K.S.A. 21-5927 is amended to increase the threshold amounts for misdemeanor and felony violations of **Medicaid fraud**. The level 9 nonperson felony cutoff value is increased from \$1,000 to \$1,500 (but less than \$25,000) and the class A misdemeanor is increased from \$1,000 to \$1,500.

Section 8. K.S.A. 21-5602 is amended to increase the threshold amounts for misdemeanor and felony violations of **official misconduct**. The level 9 nonperson felony cutoff value is increased from \$1,000 to \$1,500 (but less than \$25,000) and the class A misdemeanor is increased from \$1,000 to \$1,500.

Section 9. K.S.A. 21-6004 is amended to increase the threshold amounts for misdemeanor and felony violations of **presenting a false claim**. The level 9 nonperson felony cutoff value is increased from \$1,000 to \$1,500 (but less than \$25,000) and the class A misdemeanor is increased from \$1,000 to \$1,500.

Section 10. K.S.A. 21-6005 is amended to increase the threshold amounts for misdemeanor and felony violations of **misuse of public funds**. The level 9 nonperson felony cutoff value is increased from \$1,000 to \$1,500 (but less than \$25,000) and the class A misdemeanor is increased from \$1,000 to \$1,500.

Section 11. K.S.A. 21-5813 is amended to increase the threshold amounts for misdemeanor and felony violations of **criminal desecration**. The level 9 nonperson felony cutoff value is increased from \$1,000 to \$1,500 (but less than \$25,000) and the class A misdemeanor is increased from \$1,000 to \$1,500.

FINDINGS

- In FY 2021, **137 offenders** were convicted of the following crimes relating to loss values. Of this number:
 - **27 (19.7%)** were sentenced to prison; and
 - **108 (80.3%)** were sentenced to probation. The convicted statutes and offenses are listed below:

| Statute | Name of Offense | Number of Convictions | Percent |
|----------------|----------------------------------|------------------------------|----------------|
| 21-5813 | Criminal damage to property | 87 | 69.6 |
| 21-5821 | Giving a worthless check | 15 | 13.6 |
| 21-5828 | Criminal use of a financial card | 14 | 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 |
| 21-5602 | Official Misconduct | 16 | 0.8 |
| Total | | 108 | 100.0 |

- Of the 13 offenders sentenced to prison, the restitution range was from \$120 to \$13,323, with **two** less than \$1,500 and both were less than \$1,000. Both had a special rule applied.
- The average prison sentence was 16.74 months with 172.6 days or six months jail credit.

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