



Kansas County & District Attorneys Association

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To: Senator Kellie Warren, Chair

Senate Judiciary Committee

Re: Support of SB 412

Date: February 5, 2024

Chair Warren and members of the Senate Judiciary Committee:

Thank you for the opportunity to offer testimony today in favor of SB 412 on behalf of the Kansas County and District Attorneys Association. The proposed changes to Kansas Statue 21-6819 update how probation sentences are carried out. The current statue as written and interpreted by our Court of Appeals in 2017, and again last fall, could create chaos for probation officers and prosecutors.

The long-held practice by Courts, Prosecutors and Probation Officers has been that when multiple probation sentences were imposed the longest probation period was applied to probation. To follow the Statue as written, impacts the ability to revoke an underlying prison sentence and have the defendant's full prison sentence imposed.

The Court of Appeals said we were wrong in that practice and each sentence carried its own probation length. This can then lead to different supervision lengths within the same sentence, even when ordered to be served concurrently. It isn't uncommon for a defendant to plea to one offense that carries a 12-month probation period and another offense that carries an 18-month probation period within the same case. Thus, 12 months after sentencing, the underlying prison term that was suspended to probation expires and cannot be imposed if the Court revokes probation a month later, 13 months after sentencing. Even if the suspended prison sentence tied to the 12-month probation period was longer, than the suspended prison sentence tied to the conviction that has an 18-month probation period.

To keep the underlying prison term that was suspended to 12-months' probation in play, in this example, that probation period would need to be extended prior to its expiration or revoked, reinstated, and extended to keep the underlying sentence revokable if the defendant violates probation.

SB 412 imposes one probation length for all sentences within a case, keeping the entire underlying prison sentence revokable if the defendant violates probation.

KCDAA urges your support of SB 412. Thank you for allowing me to testify. I will stand for questions at the appropriate time.

Sincerely,

Melissa Schoen
Philips County Attorney
Norton County Attorney
KCDAA Board of Directors