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Testimony to the House Committee on Corrections and Juvenile Justice in Opposition of HB 2050

February 5, 2019

Chairman Jennings, Vice Chair Delperdang, ranking Member Highberger, and Members of the Committee:

The Johnson County Sheriff's Office opposes HB 2050. This bill is an attempt to reduce the prison population in Kansas. This is nothing new. Kansas has struggled with its prison population numbers for years, as have most states. In 2012 the Kansas Department of Corrections requested technical assistance from the U.S. Department of Justice's Bureau of Justice Assistance to address a growing prison population. Out of that assistance request a bipartisan, inter-branch working group was formed, authorized by HB 2684 (2012). Out of that workgroup came recommendations that were the basis for HB 2170 (2013).¹

The Kansas Sentencing Commission website contains an FAQ page and videos of explanation done by Scott Schulz, Executive Director. In these videos he explains how HB 2170 works.² The FAQ page states it "represents the majority opinion of the HB 2170 Subcommittee." This FAQ page makes the following points:

- **This is a comprehensive bill - to be effective it must be used in total to work.**
- Graduated Sanctions are for a probationer who cannot comply.
- Quick Dips and intermediate sanctions are punishment.
- It is a money saving tool.
- This bill allows for early discharge from supervision by the court if a probationer has paid all his restitution and have been compliant for 12 consecutive months.

The "2013 HB 2170 Sanction Options for Technical Violations Pt. 1" video makes the following statement, "*The community based programming element is just as important as all the rest of the*

¹ See attachment – Bill Summary: Sentencing, Postrelease Supervision, and Probation; HB 2170

² <https://sentencing.ks.gov/legislation/justice-reinvestment>, Highlights of 2013 HB 2170 (Video KC#2) or <https://www.youtube.com/watch?v=hymM4WGxFuo> "2013 HB 2170 Sanction Options for Technical Violations Pt. 1"

sanctions we're going to talk about. This is a package deal. If we adopt one of those little things and you don't do all the rest of them, you are not going to see the savings and the improvements that you're looking for throughout the justice reinvestment process. And so that is what CSG has indicated to us, in terms of if we only do a small piece of this, it is simply not going to be as effective as if we look at it as a whole process."

Whether or not HB 2170 has been successful is up to interpretation. According to the projections, the estimated impact on the prison population projection was to have been a total of 841 less prisoners than what the 2013 population was. See Figure 3 below.³

FIGURE 3. SUMMARY OF FULL PROJECTED IMPACT, SAVINGS, AND RECOMMENDED REINVESTMENT

	2014	2015	2016	2017	2018	Total
Estimated Impact on Prison Population Projection						
• Working Group Policy Framework	-611	-892	-880	-905	-928	-928
• HB 2170	-593	-830	-797	-820	-841	-841
HB 2170 Impact on Operating Costs	-\$2.2M	-\$14.0M	-\$12.9M	-\$13.3M	-\$13.7M	-\$56.1M
Total Impact on Construction Costs*	-\$25.0M					-\$25.0M
HB 2170 Total Cost Impact	-\$27.2M	-\$14.0M	-\$12.9M	-\$13.3M	-\$13.7M	-\$81.1M
Total Recommended Reinvestment	\$5.0M	\$5.0M	\$5.0M	\$5.0M	\$5.0M	\$25.0M
HB 2170 Net Cost Impact	-\$22.2M	-\$9.0M	-\$7.9M	-\$8.3M	-\$8.7M	-\$56.1M

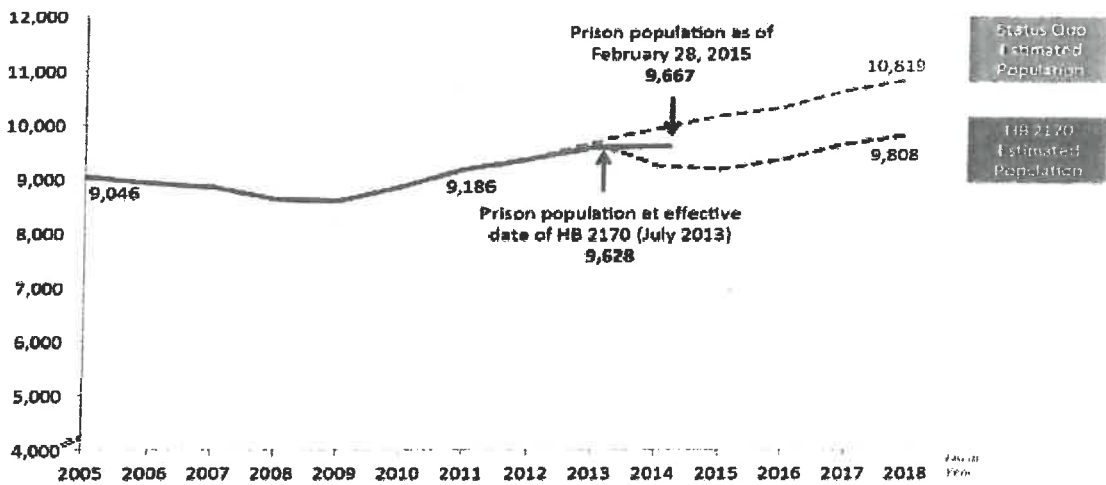
*Estimated construction costs would span five years.

The FY 2013 prison population was 9628 (July 1, 2013 was the effective date of HB 2170). The population of FY 2018 (the projected date end date of HB 2170) was 9973. There are more prisoners housed in FY 2018 than there were in FY2013. If one bases their interpretation on actual numbers, HB 2170 was not successful. However, if one uses the projected population compared to the actual FY 2018 population HB 2170 was amazingly successful. The estimated FY 2018 population was 10,819 without HB 2170. Again, the actual FY 2018 population was 9973. That is a difference of 846 (less) inmates than the projected population – a bigger decrease than projected. See Figure 2 on the next page.⁴

³ <https://csjusticecenter.org/jr/kansas/publications/justice-reinvestment-in-kansas-strengthening-probation-supervision-and-promoting-successful-reentry/> Accessed Feb. 2, 2019.

⁴ *ibid*

FIGURE 2. ACTUAL AND ESTIMATED IMPACT OF HB 2170 ON KANSAS'S PRISON POPULATION



Source: Projections were provided by the Kansas Sentencing Commission (2012). Actual prison population totals can be found in the Kansas DOC's annual reports and represent FY populations. The February 28, 2015 figure came from the end-of-month population reports on the KDOC website.

Projections on this figure show a prison population of 9808 for FY 2018. Actual numbers were 9973. This is a difference of 165 (plus) inmates than the projected population. I do not know why the projected population is different on Figure 2 than the projection estimate on Figure 3. Either way, HB 2170 followed the projections.

One could argue that HB 2170 has run its course. However, given that HB 2170 has had what I would describe as a successful run, why would we want to deviate from a strategy that has proven to reduce the prison population in Kansas?

Kansas has been dealing with a rising prison population for the last decade. It appears that HB 2170 has been at least partially responsible for reducing the rate of the increase. If HB 2170 is going to be cherry picked, we can't expect to get better results. After all, we were told in 2013 that "...if we only do a small piece of this, it is simply not going to be as effective as if we look at it as a whole process."

HB 2050 (2019) doesn't change the number of revocations. It changes the way they are handled. In a way that does not follow what evidence based practices suggest are the best practices. It prevents judges from using a tool – a graduated sanction.

It would simply move the prison population to local jails. It logically follows the majority of those moved to the jails would go to the heaviest populated counties, either because more crime occurs in those counties so more people are from there, or because smaller counties may need to "farm" out inmates because they will not be able to handle the increase in population.

The Bed Impact Statement shows that in one year 1215 inmates would be moved to local jails. Our jail capacity in Johnson County is approximately 1000. Our average daily population is approximately 750 – 850 inmates. Moving that many inmates to jails would be a huge fiscal impact for a sheriff's office. In our jails the average daily cost per inmate is between \$90 – 130 depending on what security level the prisoner is classified at. The costs of feeding and medical care would increase. Additional modules would

need to be opened to handle the overflow. That would result in having to have more deputies to staff the facility. Overtime costs would go up if staffing wasn't sufficient. Sheriff Hayden has diligently worked to reduce our overtime costs, successfully. HB 2170 would cause that gain to go away.

I know from my years in the Legislature there can be a tendency to pass costs down to local governments. However, there are certain functions that each type of government is responsible for. People with felony crimes that fall under the jurisdiction of HB 2170 are the responsibility of state government. They are not the responsibility of local governments.

We would ask that you oppose HB 2050 and work to find another solution.

A handwritten signature in black ink, appearing to read "Greg Smith", written over a faint, illegible typed name.

Greg Smith
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