

HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE
Representative Russ Jennings, Chairman

KANSAS SENTENCING COMMISSION

Scott M. Schultz, Executive Director

February 6, 2020

Proponent Testimony – HB 2485

Thank you for the opportunity to present testimony in favor of this legislation on behalf of the Kansas Sentencing Commission. This bill increases the felony threshold value of several crimes from \$1,000 to \$1,500. K.S.A. 2019 Supp.:

1. 21-5802 (theft of property lost, mislaid or delivered by mistake);
2. 21-5813 (criminal damage to property);
3. 21-5821 (giving a worthless check);
4. 21-5825 (counterfeiting);
5. 21-5828 (criminal use of a financial card);
6. 21-5830 (impairing a security interest);
7. 21-5927 (Medicaid fraud);
8. 21-6002 (official misconduct);
9. 21-6004 (presenting a false claim);
10. 21-6005 (misuse of public funds); and
11. 21-6205 (criminal desecration).

Historically, the felony threshold for theft was increased in Kansas from \$500 to \$1,000 in 2004. In 2016, **felony theft** thresholds were again increased from \$1,000 to \$1,500. In 2018, the felony threshold for the crime of **mistreatment of a dependent adult** was increased from \$1,000 to \$1,500.

Four goals are accomplished with this change. First, lawmakers nationally have increased felony thresholds to prioritize costly prison space for more serious offenders and ensure that value-based penalties take inflation into account. A felony theft threshold of \$1,000 established in 1989, for example, is equivalent to more than twice that much in 2018 dollars, when utilizing the Consumer Price Index. Critics have warned that these higher cutoff points might embolden offenders and cause property crime, particularly theft (larceny), to rise. This has proven not to be the case as illustrated by a study from the Pew Charitable Trusts.

In February 2016, Pew surveyed 28 states, including Kansas, which have raised their felony theft thresholds between 2001 and 2011. Their findings revealed that:

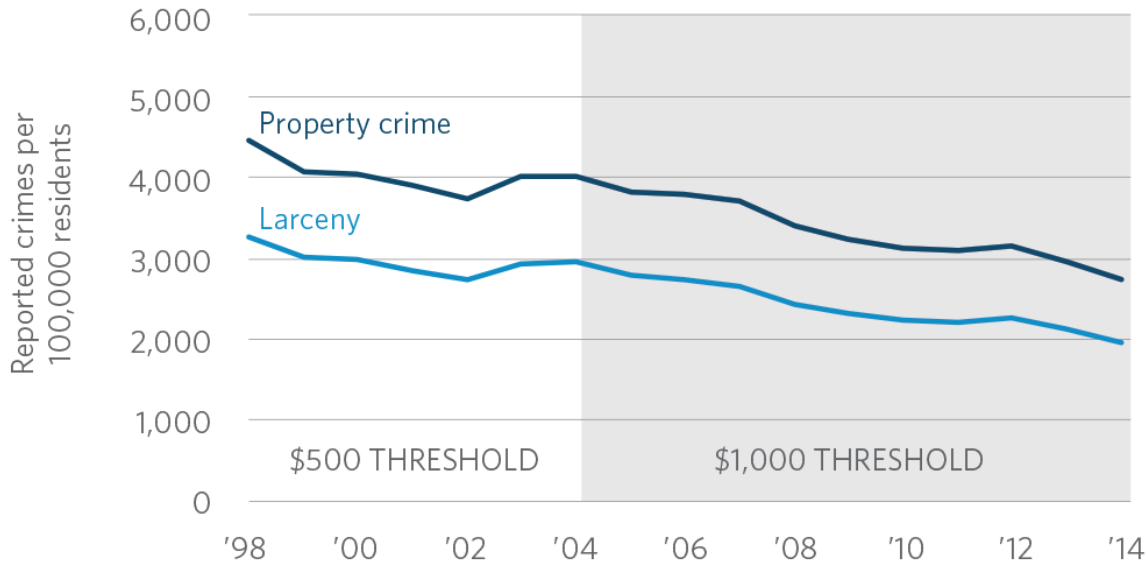
1. Raising those thresholds has **no** impact on overall property crime or larceny rates (see Attachment 1 for Kansas data);
2. states that increased their thresholds reported roughly the **same** average decrease in crime as the 22 states that did not change their theft laws; and
3. the value of states' felony theft thresholds – whether set at \$500, \$1,000 or \$2,000 – is **not** correlated with property crime and larceny rates.

Second, in some cases the district court will have more discretion with the new misdemeanor thefts. This may translate into more incarceration time, if warranted, than if the offender were convicted of a felony. Third, the collateral consequence of a first-time offender will result in a misdemeanor rather than a felony conviction, which would preclude voting or possessing a firearm. Similarly, gaining employment is made more difficult if disclosure of a felony conviction is a requirement of employment. Finally, it is estimated the bill would save two prison beds each year during the ten-year forecasting period.

This is a proportionality bill. The Kansas Criminal Justice Reform Commission also recommends passage of this bill as set forth in their December 2019 Preliminary Report to the Legislature. This bill is the same bill as 2019 HB 2049 that was passed out of this committee last year. I appreciate your time and attention to the Kansas Sentencing Commission testimony, ask for your support, and would be happy to answer questions. Thank you.

Figure 6H
 Trends in Property Crime and Larceny Rates in the 23 States That Raised Felony Theft Thresholds Between 2001 and 2011

Kansas



Notes: Shaded areas indicate the period after each state's policy change. Old and new thresholds are shown for each state.

Source: Federal Bureau of Investigation, Crime in the United States series, 1998-2014

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