

MEMORANDUM

To: Sheena Ward, Division of the Budget
From: Scott M. Schultz, Executive Director
Date: January 29, 2021
Re: Prison Bed Space Impact Assessment, **HB 2128 - Clarifying jurisdiction and supervision of offenders in a certified drug abuse treatment program and allowing certain nondrug offenders to participate in the program.**

IMPACT ASSESSMENT

- This proposal **may** reduce prison admissions, but it cannot be determined at this time.
- This proposal **may** reduce prison beds, but it cannot be determined at this time.
- This proposal will increase the cost of SB 123 drug treatment program by **\$748,034, \$1,492,925, or \$2,239,952**, based on the average annual cost of **\$3,143** per SB 123 treatment offender in FY 2019, depending upon which scenario plays out.
- This proposal would have **no** impact on the Sentencing Commission's journal entry workload.

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 (SB 123) 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 (SB 123) 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 falls 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

- According to KSSC data, in FY 2019 there were **2,376** convictions for nonperson, nondrug offenses severity level 7 through 10, which received probation sentences.
 - 299 (12.6%) severity level 7,
 - 866 (36.4%) severity level 8,
 - 1085 (45.7%) severity level 9 and
 - 126 (5.3%) severity level 10.
- According to the KSSC FY 2019 probation revocation data file, **362** nonperson, nondrug probation condition violators were revoked and ordered to serve their underlying or modified sentence for positive drug tests (may also include other violations).
 - This was included as a direct measure for the presence of a drug addiction within the nondrug offender population.
 - Additionally, this population occupied a significant number of prison beds in FY 2019.

SCENARIOS

- In FY 2019, the average cost of SB 123 treatment was **\$3,143** per offender.
 - **Scenario 1** - If 10 percent (238) of the nondrug, nonperson severity level 7-10 offenders qualify for SB 123, the cost increase would be **\$748,034**.
 - **Scenario 2** - If 20 percent (476) of the nondrug, nonperson severity level 7-10 offenders qualify for SB 123, the cost increase would be **\$1,492,925**.
 - **Scenario 3** - If 30 percent (713) of the nondrug, nonperson severity level 7-10 offenders qualify for SB 123, the cost increase would be **\$2,239,952**.

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