

MEMORANDUM

To: Sheena Ward, Division of the Budget
From: Scott M. Schultz, Executive Director
Date: January 13, 2021
Re: Prison Bed Space Impact Assessment, **HB 2026 - Creating a drug abuse treatment program for people on diversion and allowing county and district attorneys to enter into agreements with chief judges and community corrections for supervision**

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill **may** result in additional prison admissions but that cannot be determined at this time.
- **Impact on Prison Beds:** This bill **may** result in additional prison beds but that cannot be determined at this time.
- **Impact on the Workload of the Commission:** This bill will result in **no** additional journal entry workload of the Commission. But, based on the scenarios the SB 123 drug treatment offenders may increase by **25, 50 or 75** persons respectively in FY 2022.
- **Fiscal Impact of the Commission:** This bill would require an increase in the SB 123 program cost by **\$88,368.25, \$176,736.5 or \$265,104.75** respectively in FY 2022, depending on which scenario plays out. The average cost was **\$3,534.73** per SB 123 treatment offender in FY 2020.

SUMMARY OF THE BILL

This bill establishes a drug treatment program for certain persons who enter into a diversion agreement in lieu of further criminal proceedings. Placement of divertees in a certified drug abuse treatment program pursuant to a diversion agreement shall be limited to placement of adults, on a complaint alleging a felony violation of K.S.A. 2020 Supp. 21-5706 (possession) with no prior convictions of K.S.A. 21-5703 (manufacturing), 21-5705 (distribution), 21-5716 (proceeds of drug crimes), or any substantially similar offense from another jurisdiction.

As part of the consideration of whether to allow diversion to the defendant, a divertee who meets the requirements shall be subject to a drug abuse assessment and a standardized criminal risk-need assessment specified by the Kansas Sentencing Commission.

The diversion agreement shall require the divertee to participate in a certified drug abuse treatment not to exceed 18 months. Supervision may be through community correctional services or court services.

FINDINGS

- In FY 2019, **1,469** (12.0%) offenders were sentenced to SB 123 mandatory drug treatment.
- In FY 2018, **981** offenders were granted diversion according to the Office of Judicial Administration Annual Report.
 - **263** of those offenders were convicted of severity level 5 drug offenses under K.S.A. 21-5706.
- **Example counties:**
 - In calendar year 2018, Douglas County granted **11** felony drug diversions.
 - **8** (73%) were for felony drug possession.
 - **3** (27%) were for felony drug distribution.
 - In calendar year 2018, Sedgwick County granted **11** felony drug diversions.
 - All **11** (100%) were for felony drug possession.
 - In calendar year 2018, Shawnee County granted **46** felony drug diversions.
 - **45** (98%) were for felony drug possession.
 - **1** (2%) was for felony drug distribution.
 - In calendar year 2018, Johnson County granted **34** felony drug diversions.
 - All **34** (100%) were for felony drug possession.
 - Wyandotte County implemented a new drug diversion program in May 2018.
 - Since the inception of this program **85** offenders have been placed on diversion.
 - **40** (47%) were for possession of methamphetamine.
 - **21** (24%) were for possession of marijuana.
 - **20** (23%) were for possession of cocaine.
 - **1** (2%) was for possession of hydrocodone.
 - **1** (2%) was for possession of PCP/LDS.
 - **1** (2%) was for possession of Psilocin
- If offenders are accepted for diversion and are eligible for the SB 123 treatment program, this will increase expenditures in the SB 123 program. FY 2020 cost per offender on SB 123 was **\$3,534.73**
 - **Increased cost scenarios for KSSC:**
 - **Scenario 1 - 25** diversion cases to SB 123 = \$88,368
 - **Scenario 2 - 50** diversion cases to SB 123 = \$176,736
 - **Scenario 3 - 75** diversion cases to SB 123 = \$265,104

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