

MEMORANDUM

To: John Kirk, Division of the Budget
From: Scott M. Schultz, Executive Director
Date: January 28, 2022
Re: Prison Bed Impact Assessment, **SB 385 – Requiring registration as a sex offender for certain violations of the crime of breach of privacy.**

IMPACT ASSESSMENT

- This bill will **increase** prison admissions by **2** in FY 2023 and FY 2032.
- This bill will **increase** prison beds by **2** in FY 2023 and **6** in FY 2032.
- This bill will **increase** the workload of the Commission by **5** in FY 2023 and by **6** in FY 2032.

SUMMARY OF THE BILL

- **Section 1.** K.S.A. 2021 Supp. 22-4902 is amended to include as a sex offender required to register, a person convicted of is convicted of breach of privacy, as defined in K.S.A. 2021 Supp. 21-6101(a)(6), (a)(7) or (a)(8).
- **Section 2.** K.S.A. 2021 Supp. 22-4906 is amended to include breach of privacy, as defined in K.S.A. 2021 Supp. 21-6101(a)(6), (a)(7) or (a)(8) to have a 15 year registration duration. The offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction.

FINDINGS

- In FY 2021, **17** offenders were convicted of breach of privacy under K.S.A. 21-6101 (a)(6), (7), or (8) at the following severity levels:
 - Severity Level Five – 2
 - Prison – 2
 - Probation – 0
 - Severity Level Eight – 14
 - Prison – 4
 - Probation – 10
 - Severity Level Ten – 1
 - Prison – 0
 - Probation – 1

- In FY 2021, **65%** of breach of privacy convictions received **probation**.
- In FY 2021, **275** offenders were convicted of failure to register under K.S.A. 22-4903 at the following severity levels:
 - Severity Level Three – 14
 - Prison – 4
 - Probation – 10
 - Severity Level Five – 41
 - Prison – 18
 - Probation – 23
 - Severity Level Six – 190
 - Prison – 59
 - Probation – 131
 - Severity Level Seven – 3
 - Prison – 2
 - Probation – 1
 - Severity Level Eight – 24
 - Prison – 8
 - Probation – 16
 - Severity Level Nine – 2
 - Prison – 0
 - Probation – 2
- In FY 2021, 66.2% of failure to register convictions received probation.
 - Of those offenders receiving prison, the average sentence was 28 months.
- Registration periods can last for 15 years, 25 years, or a lifetime.
 - Thus, because hundreds of convictions require registration each year, there are thousands of offenders serving their registration periods over a minimum of 15 years.
- If one-third (33.3%) of offenders are later convicted of failure to register under K.S.A. 22-4903, it can be assumed that two-thirds of those convictions would receive probation.
 - One-third of the 17 convictions for breach of privacy under K.S.A. 21-6101 is less than 6.
 - Using that rate, which is an estimate based upon the previous year's data as a whole, not specific to the crime of breach of privacy, we can estimate that **2** offenders convicted under K.S.A. 21-6101 would later be convicted of failure to register under K.S.A. 22-4903.

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