

## SENATE BILL No. 218

By Senator Haley

2-12

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AN ACT transferring the duties of the Kansas sentencing commission to the department of corrections; creating a division of sentencing in the department of corrections; repealing K.S.A. 74-9101, 74-9102, 74-9103, 74-9104, 74-9105 and 74-9106.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. (a) There is hereby established within and as a part of the department of corrections, the division of sentencing. The secretary of corrections shall appoint a director of such division and such director shall be in the unclassified service of the Kansas civil service act. Subject to and in accordance with appropriations acts, the division of sentencing shall include all powers, duties and functions of the Kansas sentencing commission pursuant to K.S.A. 74-9101, and amendments thereto, which are hereby transferred.

Sec. 2. (a) The Kansas sentencing commission created by K.S.A. 74-9101, and amendments thereto, is hereby abolished.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing Kansas sentencing commission and the existing Kansas sentencing commission created by K.S.A. 74-9102, and amendments thereto, and the executive director of the Kansas sentencing commission created by K.S.A. 74-9103, and amendments thereto, are hereby transferred to and conferred and imposed upon, the department of corrections and the division of sentencing established by this act.

(c) Except as otherwise provided by this act, the department of corrections and the division of sentencing established by this act shall be the successor in every way to the powers, duties and functions of the Kansas sentencing commission and the executive director of the Kansas sentencing commission in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the department of corrections or division of sentencing established by this act shall be deemed to have the same force and effect as if performed by the Kansas sentencing commission or the executive director of the Kansas sentencing commission, respectively, in which such powers, duties and functions were vested prior to the effective date of this act.

1 (d) Except as otherwise provided by this act, whenever the Kansas  
2 sentencing commission, or words of like effect, is referred to or desig-  
3 nated by a statute, contract or other document, such reference or desig-  
4 nation shall be deemed to apply to the division of sentencing established  
5 by this act.

6 (e) Except as otherwise provided by this act, whenever the Kansas  
7 sentencing commission, or words of like effect, is referred to or desig-  
8 nated by a statute, contract or other document, such reference or desig-  
9 nation shall be deemed to apply to the division of sentencing established  
10 by this act.

11 (f) All rules and regulations of the Kansas sentencing commission in  
12 existence on the effective date of this act shall continue to be effective  
13 and shall be deemed to be duly adopted rules and regulations of the  
14 secretary of corrections on behalf of the division of sentencing established  
15 by this act until revised, amended, revoked or nullified pursuant to law.

16 (g) All orders and directives of the Kansas sentencing commission in  
17 existence on the effective date of this act shall continue to be effective  
18 and shall be deemed to be orders and directives of the secretary of cor-  
19 rections on behalf of the division of sentencing established by this act,  
20 until revised, amended or nullified pursuant to law.

21 (h) On the effective date of this act, the secretary of corrections shall  
22 succeed to whatever right, title or interest the Kansas sentencing com-  
23 mission has acquired in any real property in this state, and the secretary  
24 shall hold the same for and in the name of the state of Kansas. On and  
25 after the effective date of this act, whenever any statute, contract, deed  
26 or other document concerns the power or authority of the Kansas sen-  
27 tencing commission to acquire, hold or dispose of real property or any  
28 interest therein, the secretary of corrections shall succeed to such power  
29 or authority.

30 (i) The secretary of corrections established by this act shall be con-  
31 tinuations of the Kansas sentencing commission and the executive direc-  
32 tor of the Kansas sentencing commission.

33 Sec. 3. (a) The secretary of corrections may organize the division of  
34 sentencing in the manner the secretary deems most efficient, so long as  
35 the same is not in conflict with the provisions of this act or with the  
36 provisions of law, and the secretary may establish policies governing the  
37 transaction of business of the division of sentencing within the  
38 department.

39 Sec. 4. Except as otherwise provided in this act, on the effective date  
40 of this act, officers and employees who, immediately prior to such date,  
41 were engaged in the performance of powers, duties or functions of any  
42 state agency or office which is abolished by this act, or which becomes a  
43 part of the department of corrections, or the powers, duties and functions

1 of which are transferred to the secretary of corrections, and who, in the  
2 opinion of the secretary of corrections, are necessary to perform the pow-  
3 ers, duties and functions of the department of corrections, shall be trans-  
4 ferred to, and shall become officers and employees of the department.  
5 Any such officer or employee shall retain all retirement benefits and all  
6 rights of civil service which had accrued to or vested in such officer or  
7 employee prior to the effective date of this act. The service of each such  
8 officer and employee so transferred shall be deemed to have been con-  
9 tinuous. All transfers and any abolition of personnel positions in the clas-  
10 sified service under the Kansas civil service act shall be in accordance  
11 with civil service laws and any rules and regulations adopted thereunder.

12 Sec. 5. (a) When any conflict arises as to the disposition of any power,  
13 function or duty or the unexpended balance of any appropriation as a  
14 result of any abolition, transfer, attachment or change made by or under  
15 authority of this act, such conflict shall be resolved by the governor, whose  
16 decision shall be final.

17 (b) The secretary of corrections shall succeed to all property and re-  
18 cords which were used for or pertain to the performance of the powers,  
19 duties and functions transferred to the secretary of corrections. Any con-  
20 flict as to the proper disposition of property or records arising under this  
21 section, and resulting from the transfer, attachment or abolition of any  
22 state agency, or all or part of the powers, duties and functions thereof,  
23 shall be determined by the governor, whose decision shall be final.

24 Sec. 6. (a) The secretary of corrections shall have the legal custody  
25 of all records, memoranda, writings, entries, prints, representations or  
26 combinations thereof of any act, transaction, occurrence or event of the  
27 department of corrections and any agency or office abolished or trans-  
28 ferred thereto under this act.

29 (b) No suit, action or other proceeding, judicial or administrative,  
30 lawfully commenced, or which could have been commenced, by or against  
31 any state agency mentioned in this act, or by or against any officer of the  
32 state in such officer's official capacity or in relation to the discharge of  
33 such officer's official duties, shall abate by reason of the governmental  
34 reorganization effected under the provisions of this act. The court may  
35 allow any such suit, action or other proceeding to be maintained by or  
36 against the successor of any such state agency or any officer affected.

37 (c) No criminal action commenced or which could have been com-  
38 menced by the state shall abate by the taking effect of this act.

39 Sec. 7. (a) On the effective date of this act, the balance of all funds  
40 appropriated and reappropriated to any of the state agencies abolished  
41 by this act is hereby transferred to the secretary of corrections and shall  
42 be used only for the purpose for which the appropriation was originally  
43 made.

1 (b) On the effective date of this act, the liability for all accrued com-  
2 pensation or salaries of officers and employees who, immediately prior to  
3 such date, were engaged in the performance of powers, duties or func-  
4 tions of any state agency or office abolished by this act, or which becomes  
5 a part of the department of agriculture established by this act, or the  
6 powers, duties and functions of which are transferred to the secretary of  
7 corrections provided for by this act, shall be assumed and paid by the  
8 secretary of corrections on behalf of the division of sentencing established  
9 by this act.

10 Sec. 8. K.S.A. 74-9101, 74-9102, 74-9103, 74-9104, 74-9105 and 74-  
11 9106 are hereby repealed.

12 Sec. 9. This act shall take effect and be in force from and after its  
13 publication in the statute book.

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