

HOUSE BILL No. 2941

By Committee on Appropriations

3-18

9 AN ACT creating the Kansas criminal justice recodification, rehabilita-
10 tion and restoration project; duties thereof; establishing a committee
11 to govern the project; providing for the membership thereof.

12
13 WHEREAS, The legislature finds and declares that, since the Kansas
14 criminal code was codified in 1993 and through 2003, 50 new felonies
15 have been enacted; 10 felony offenses have increased severity levels; 14
16 misdemeanor offenses were increased to felony offenses; four crimes
17 were moved to nongrid status; four nonperson crimes were moved to
18 person crime status; the present sentence for nondrug severity level 1
19 with criminal history A is 219% greater than it was 10 years ago (194
20 months to 620 months) and for criminal history I, it is 60% greater (97
21 months to 155 months); the present sentence for nondrug severity level
22 2 with criminal history A is 219% greater than it was 10 years ago (146
23 months to 467 months) and for criminal history I, it is 60% greater (73
24 months to 117 months); and countless new misdemeanors have been en-
25 acted and codified throughout the Kansas statutory code, increasing the
26 margin for error in prosecutors appropriately identifying and charging for
27 certain criminal acts; and

28 WHEREAS, In recent years there have been numerous appellate
29 court decisions, both federal and state, which have impacted determinant
30 sentencing, most especially with regard to departures from the sentencing
31 guidelines, and the enforceability and sentencing severity of enacted
32 criminal legislation; and

33 WHEREAS, Numerous societal changes have occurred as a result of
34 advances in technology, the advent of terrorism and the need for home-
35 land security, which must be appropriately addressed; and

36 WHEREAS, The Legislature further finds and declares that a com-
37 prehensive review of these new and enhanced offenses should be con-
38 ducted to determine if the sentences for these offenses are fair and pro-
39 portionate to other sentences imposed under the code; and

40 WHEREAS, Crime rates have been falling since 1994, with violent
41 and property crime rates nationally being at their lowest level in 30 years.
42 Recidivism as reported in the Corrections Yearbook is rising, and Bureau
43 of Justice Statistics Special Report on Recidivism data indicates that

1 within three years of release, 67.5% of released prisoners were re-ar-
2 rested, 46.9% were reconvicted for new crimes, 35.4% were re-sentenced
3 for new crime, and 51.8% returned to prison; and

4 WHEREAS, The inmate population in Kansas grew at a rate of 45.7%
5 over the past 10 years, now exceeds 9,100 people, and is currently pro-
6 jected to increase to a population of 10,131 in 2013, an additional 11%
7 increase; and

8 WHEREAS, Many of these increased admissions are nonviolent of-
9 fenders and technical parole violators who have committed no crime or
10 not been reconvicted but have violated a condition of their parole. In
11 Kansas, 53.2% of the re-admittees over a three-year period were in this
12 category; and

13 WHEREAS, There have been new and apparently effective reentry
14 strategies for offenders developed that show much promise for improved
15 public safety and successful reintegration of offenders into communities
16 as productive citizens; and

17 WHEREAS, The rate of mental illnesses in state prisons and local jails
18 is three times the rate in the general population, constituting more than
19 21% of inmates, with approximately 75% of these individuals having a co-
20 occurring substance abuse disorder; and

21 WHEREAS, In most areas of Kansas, the mental health, substance
22 abuse and criminal justice systems offer an uncoordinated system of care
23 or no effective response for individuals with a serious mental illness or
24 co-occurring substance abuse disorder; and

25 WHEREAS, The use of newer psychotropic medications has resulted
26 in improved response to treatment for individuals with a serious mental
27 illness, and access to these new medications has resulted in restored
28 health and enhanced public safety; and

29 WHEREAS, Criminal justice, mental health and substance abuse sys-
30 tems that do not provide a coordinated response to individuals with se-
31 rious mental illness often end up using expensive public safety and emer-
32 gency services to respond to certain of those individuals; and

33 WHEREAS, System integration between the mental health, substance
34 abuse and criminal justice system at the county, regional and state levels
35 can provide prompt, appropriate treatment and interventions to break
36 the cycles of decompensation and incarceration to successfully reduce the
37 number of individuals with serious mental illnesses entering into, residing
38 in and reentering the criminal justice system; and

39 WHEREAS, The system of criminal justice and incarceration in Kan-
40 sas, presently offers substantially diminished opportunities for inmate lit-
41 eracy or marketable skills, or other programs and services that could ame-
42 liorate factors which place inmates at higher risk of recidivism after
43 release; and

1 WHEREAS, The economic burden of recidivism is threefold, being
2 the cost of unemployment in lost income taxes or contributions to the
3 economy, the cost of the crime event itself compounded by police, pros-
4 ecution and court expenses, and the cost of incarceration; and

5 WHEREAS, 93% of prisoners in the prison systems of the states are
6 men; 55% have minor children; the average age of these children is eight,
7 and in all, approximately 2% of all children have a parent in prison; one
8 in seven children in our nation, before reaching age 18, will have an
9 incarcerated father; having a father in prison is a powerful predictor of
10 antisocial behavior in general and of criminality in particular, making a
11 child five to six times more likely to end up in prison; and

12 WHEREAS, The state must learn to spend money more wisely, in
13 order to bring crime down more effectively than to simply imprison, and
14 thereby save monies to spend on other priorities: Now, therefore, *Be it*
15 *enacted by the Legislature of the State of Kansas:*

16 Section 1. There is hereby created the Kansas criminal justice re-
17 codification, rehabilitation and restoration project.

18 (b) The project shall:

19 (1) Re-codify the Kansas criminal code by:

20 (A) Analyzing and reviewing all criminal statutes and criminal pro-
21 cedure, making recommendations for legislation that would ensure that
22 the sentences are fair and proportionate to other sentences imposed for
23 criminal offenses, with particular emphasis on the sentencing guidelines
24 grid for drug crimes.

25 (B) Studying and making recommendations concerning the statutory
26 definitions of crimes and criminal penalties and evaluate whether certain
27 criminal conduct may be combined into one criminal statute, thus alle-
28 viating any potential problems of having two statutes prohibiting the same
29 criminal conduct.

30 (C) Reviewing and making recommendations concerning proposed
31 criminal law modifications and amendments.

32 (D) Reviewing and determining the severity of the Kansas sentencing
33 policies in relation to other states and review possible adjustments which
34 may relieve or eliminate prison capacity issues in Kansas.

35 (E) Reviewing the enactment of K.S.A. 2003 Supp. 21-4729, and
36 amendments thereto, the nonprison sanction of certified drug abuse
37 treatment programs for certain offenders, and review and recommend
38 how best to enhance the sentence for an offender who is not subject to
39 treatment.

40 (2) Identify ways to rehabilitate offenders and to work with offenders
41 on community-based supervision by:

42 (A) For all offenders:

43 (i) Establishing an assessment and classification system whereby of-

1 offenders are classified into those who can correct their criminal behavior
2 and have a successful reentry upon release and those who are offenders
3 who continue to be a threat to society and need to be incarcerated for
4 longer periods of time.

5 (ii) Studying and reviewing programs which hold offenders respon-
6 sible and accountable for such offender's actions.

7 (B) For reentry:

8 (i) Reviewing all correctional programs and study ways to more ef-
9 fectively utilize the monies being spent on such programs to reduce prison
10 population and recidivism, particularly programs which target nonviolent
11 offenders to earn early release by participating in rehabilitative programs
12 while incarcerated then completing the transition by reintegration into
13 the community and obtaining gainful employment and housing. Such re-
14 habilitative programs may include programs which modify criminogenic
15 behavior, enhance education, and provide job training and substance
16 abuse treatment.

17 (ii) Reviewing and recommending treatment programs for mental
18 health, drug abuse and alcohol abuse, and to provide any necessary and
19 appropriate collaboration and cooperation among governmental agencies
20 and services to such end.

21 (C) Reviewing all current research concerning criminal behavior, fo-
22 cusing on rehabilitating criminals in prison and upon reentry into the
23 community and recommend a course of action.

24 (D) Reviewing and recommending reentry initiatives, for continuity
25 between institutional programs and activities, offenders' reentry plans,
26 and the supervision and services offenders receive once released, and
27 necessary collaboration among corrections, law enforcement, and com-
28 munity service agencies for appropriate offender monitoring to ensure
29 that safe communities are maintained.

30 (E) Make recommendations concerning reentry initiatives for seri-
31 ous, violent offenders based on current research and collaborative op-
32 portunities identified.

33 (F) Consider and harness the resources and experience of faith-
34 based, volunteer, advocacy and community organizations to help return-
35 ing offenders contribute to society.

36 (3) Identify ways to restore the offender into society as a productive
37 member:

38 (A) Reviewing transitional programs such as mentoring, available
39 treatment, supervised and transitional housing, basic job training and
40 placement, and correctional industry and work release programs which
41 assist offenders to reintegrate into the community.

42 (B) Establishing community networks which would support and assist
43 the offender upon release. Such support may include assisting the of-

1 offender to learn about parenting and the role of the family, and to have a
2 productive relationship with such offender's family, including being a pos-
3 itive and responsible parent and spouse, providing mentoring for children
4 of prisoners, and plans for the whole family.

5 (C) Recommending release planning processes that ensure each of-
6 fender has an individual goal-driven release plan that targets such of-
7 fender's risks and needs, and which assures the safety of our Kansas
8 communities.

9 (c) The project shall be governed by a committee made up of the
10 following members:

11 (1) One legislator shall be appointed by the president of the senate;

12 (2) one legislator shall be appointed by the minority leader of the
13 senate;

14 (3) one legislator shall be appointed by the speaker of the house of
15 representatives;

16 (4) one legislator shall be appointed by the minority leader of the
17 house of representatives;

18 (5) the chief justice of the supreme court or the chief justice's
19 designee;

20 (6) one member of the law enforcement community appointed by
21 the attorney general;

22 (7) one defense attorney or public defender appointed by the
23 governor;

24 (8) one county attorney or district attorney appointed by the Kansas
25 county and district attorney association;

26 (9) a professor of law from the university of Kansas school of law and
27 a professor from Washburn university school of law;

28 (10) a drug and alcohol addiction treatment provider appointed by
29 the governor;

30 (11) one district court judge appointed by the Kansas district judges
31 association;

32 (12) one member representative of the faith-based community ap-
33 pointed by the governor;

34 (13) one member representative of the criminal justice field ap-
35 pointed by the secretary of corrections;

36 (14) three members of the general public, one member appointed by
37 the governor, one member appointed by the president of the senate and
38 one member appointed by the speaker of the house of representatives;

39 and

40 (15) the attorney general, the secretary of corrections, the secretary
41 of social and rehabilitation services and the commissioner of juvenile jus-
42 tice, or such persons' designees, shall serve as ex officio, nonvoting mem-
43 bers of the committee.

1 (d) The members of the committee shall elect officers from among
2 its members necessary to discharge its duties. The committee shall receive
3 testimony from interested parties at public hearings to be conducted in
4 the various geographic areas of the state.

5 (e) Each member of the committee shall receive compensation, sub-
6 sistence allowances, mileage and other expenses as provided for in K.S.A.
7 75-3223, and amendments thereto, except that the public members of
8 the committee shall receive compensation in the amount provided for
9 legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each
10 day or part thereof actually spent on committee activities.

11 (f) The committee shall have the authority to:

12 (1) Organize and appoint such task forces or subcommittees as may
13 be deemed necessary to discharge such committee's duties;

14 (2) accept grants, gifts and other appropriation of funds;

15 (3) hire and employ staff persons; and

16 (4) contract for the services of organizations and agencies in any eval-
17 uation or report necessary for the discharge of the committee's duties.

18 (h) The committee shall work with the Kansas judicial council, the
19 department of corrections, the department of social and rehabilitation
20 services, the juvenile justice authority and the Kansas sentencing com-
21 mission and review studies and findings of the Kansas sentencing com-
22 mission concerning proportionality of sentencing.

23 (i) The committee shall prepare and submit its interim report to the
24 legislature on or before February 1, 2005. A final report and recommen-
25 dations shall be submitted to the legislature on or before January 9, 2006.

26 (j) The staff of the office of the revisor of statutes and legislative
27 research department shall provide such assistance as may be requested
28 by the committee and to the extent authorized by the legislative coordi-
29 nating council.

30 (k) The provisions of this section shall expire on July 1, 2006.

31 Sec. 2. This act shall take effect and be in force from and after its
32 publication in the Kansas register.