

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairperson Pat Colloton at 1:30 p.m. on March 17, 2009, in Room 535-N of the Capitol.

All members were present.

Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes
Jason Thompson, Office of the Revisor of Statutes
Jill Wolters, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Jackie Lunn, Committee Assistant

Conferees appearing before the Committee:

Helen Pedigo, Executive Director, Kansas Sentencing Commission

Others attending:

See attached list.

Chairperson Colloton called the Committee's attention to the committee minutes for January 29th, February 2nd, and February 3rd, 2009.

Representative Frownfelter made a motion to approve the minutes for January 29th, February 2nd, and February 3rd. Representative McCray-Miller seconded. Motion carried.

HB 2332 - Recodification of certain drug crimes; quantities of drugs; proportionality of sentencing.

Chairperson Colloton called on Helen Pedigo, Executive Director, Kansas Sentencing Commission, to present information showing where the increased bed impact came from on **HB 2332**. Ms. Pedigo provided written copy regarding the bed impact on the bill. (Attachment 1) She explained how the changes on **HB 2332** have increased the bed impact. She took questions from the Committee during her presentation.

Upon the completion of Ms. Pedigo's presentation, there was a lengthy discussion on what needed to be done to **HB 2332** so that it could be passed out of the Committee next session.

SB 26 - Additional months added to sentences for certain drug felonies involving firearms.

Chairperson Colloton called the Committee's attention on **SB 26**.

Representative McCray-Miller made a motion to report the bill favorable for passage. Representative Frownfelter seconded.

Chairperson Colloton called the Committee's attention to a copy of an amendment on the bill (Attachment 2) that adds the language "the trier of fact makes a finding" on Page 4, Lines 36,37, and 38.

Representative McCray-Miller made a motion to accept the amendment. Representative Kinzer seconded.

Chairperson Colloton explained the amendment to the Committee.

Motion carried.

A discussion followed.

Representative Kinzer made an amendment to restore the bill back to its original language regarding the sentencing on Page 2, Lines 40, 41, and 43. Representative Pauls seconded.

CONTINUATION SHEET

Minutes of the House Corrections and Juvenile Justice Committee at 1:30 p.m. on March 17, 2009, in Room 535-N of the Capitol.

A discussion followed.

Motion failed.

Chairperson Colloton called the Committee's attention back to the bill.

Representative Kinzer made as motion to pass SB 26 out favorably as amended. Representative Patton seconded. Motion failed.

SB 28 - Sub for S 28 by Committee on Judiciary – Driver's license penalties for unlawful possession of a controlled substance or analog which occurs while transporting the substance or analog in a vehicle.

Chairperson Colloton called the Committee's attention to **SB 28.**

Representative Spaulding made a motion to report the bill out favorably for passage. Representative Bethel seconded.

A discussion followed.

Representative Dillmore made a motion to adopt the amendment changing the language on Page 7, Line 8, after the words "in which" adding "the trier of fact makes a finding of fact that". Representative Roth seconded.

A discussion followed

Motion carried.

Representative Bethel moved to pass the bill out favorably as amended. Representative McCray-Miller seconded. Motion carried.

Chairperson Colloton adjourned the meeting at 2:45 p.m. with the next scheduled meeting for March 18, 2009 at 1:30 p.m. in room 535 N.

CORRECTIONS & JUVENILE JUSTICE GUEST LIST

DATE: 03-17-09

NAME	REPRESENTING
Ed Kump	KCCRC KAEP KPOA
Scott Schultz	Securities Commission
Brett Watson	KCCRC
Etha Paffens	LITTLE GOVT.
Helen Pedigo	Ks Sent Com
Brenda Harman	Ks Sent Com

KANSAS

KANSAS SENTENCING COMMISSION
 Honorable Ernest L. Johnson, Chairman
 Helen Pedigo, Executive Director

KATHLEEN SEBELIUS, GOVERNOR

**HB 2332 PRISON BED IMPACT ASSESSMENT
 GROUPED BY MAJOR OFFENSE CATEGORIES
 INCLUDING NEW DOMESTIC BATTERY PROVISIONS**
 Revised 3/16/2009

- A. Drug Offenses:** The provisions of drug offenses of this bill will **SAVE** 71, 63 and 55 prison beds by the end of FY 2011 and 140, 124 and 105 prison beds by the end of FY 2020 depending on which of three scenarios plays out.

Drug Offenses: Prison Bed Space Assessment

Fiscal Year	Scenario #1 Prison Beds Saving	Scenario #2 Prison Beds Saving	Scenario #3 Prison Beds Saving
2011	-71	-63	-55
2012	-251	-238	-226
2013	-162	-150	-140
2014	-123	-109	-97
2015	-151	-143	-132
2016	-136	-118	-95
2017	-93	-76	-59
2018	-63	-46	-30
2019	-98	-84	-73
2020	-140	-124	-105

Note: Scenario #1- 20% of offenders in border box sentenced to prison.
 Scenario #2- 25% of offenders in border box sentenced to prison.
 Scenario #3- 30% of offenders in border box sentenced to prison.

- B. Property Offenses:** The provisions of property offenses of property provisions will save 15 prison beds and increase 2 and 10 additional prison beds by the end of FY 2011 and 12, 22 and 56 additional prison beds by the end of FY 2020 depending on which of three scenarios plays out.

Property Offenses: Prison Bed Space Assessment

Fiscal Year	Scenario #1 Additional Prison Beds Needed	Scenario #2 Additional Prison Beds Needed	Scenario #3 Additional Prison Beds Needed
2011	-15	2	10
2012	-6	16	27
2013	17	22	42
2014	3	22	27
2015	3	20	32
2016	11	27	37
2017	-11	-13	11
2018	16	22	32
2019	18	27	54
2020	12	22	56

Note: Scenario #1- 20% of offenders in border box sentenced to prison.
 Scenario #2- 25% of offenders in border box sentenced to prison.
 Scenario #3- 30% of offenders in border box sentenced to prison.

Corrections and Juvenile Justice

Date: 3-17-09

Attachment # 1-1

- C. New Sentencing Grids Border Boxes – Nondrug Offenses Only:** The impact of new border boxes for nondrug offenses will result in 256, 325 and 398 additional prison beds needed by the end of FY 2011 and 561, 658 and 758 additional prison beds needed by the end of FY 2020 respectively under each different scenario.

Nondrug Border Boxes Bed Impact - Not Including Property Crimes

Fiscal Year	Scenario #1	Scenario #2	Scenario #3
	Additional Prison Beds Needed	Additional Prison Beds Needed	Additional Prison Beds Needed
2011	256	325	398
2012	487	577	678
2013	552	630	735
2014	548	652	753
2015	534	634	739
2016	548	649	738
2017	541	644	733
2018	558	642	751
2019	565	654	767
2020	561	658	758

Note: Scenario #1- 20% of offenders in border box sentenced to prison.
 Scenario #2- 25% of offenders in border box sentenced to prison.
 Scenario #3- 30% of offenders in border box sentenced to prison.

- D. 3rd, 4th, 5th or Subsequent Domestic Battery:** The impact of this provision will result in 4 additional prison beds needed by the end of FY 2011 and 20, 22 and 29 additional prison beds needed by the end of FY 2020 respectively under each different scenario.

3rd, 4th, 5th or Subsequent Domestic Battery Prison Bed Impact

Fiscal Year	Additional Prison Beds Needed		
	Scenario #1 Mandatory Term + 25% Revocation Rate	Scenario #2 Mandatory Term + 30% Revocation Rate	Scenario #3 Mandatory Term + 35% Revocation Rate
2011	4	4	4
2012	15	18	20
2013	20	26	25
2014	20	22	27
2015	22	23	26
2016	22	24	25
2017	20	26	25
2018	21	25	26
2019	22	25	26
2020	20	22	29

E. Overall Impact of HB 2332: The impact of this bill will result in 266, 360 and 449 additional prison beds needed by the end of FY 2011 and 433, 558 and 718 additional prison beds needed by the end of FY 2020 respectively under each different scenario.

Overall Impacts of HB 2332

Fiscal Year	Additional Prison Bed Need		
	Scenario 1	Scenario 2	Scenario 3
2011	266	360	449
2012	297	425	551
2013	472	573	707
2014	481	620	743
2015	410	536	667
2016	465	602	725
2017	465	589	718
2018	522	633	769
2019	475	590	742
2020	433	558	718

Note: Scenario #1- 20% of offenders in border box sentenced to prison and 25% revocation rate for domestic battery offenders.
 Scenario #2- 25% of offenders in border box sentenced to prison and 30% revocation rate for domestic battery offenders.
 Scenario #3- 30% of offenders in border box sentenced to prison and 35% revocation rate for domestic battery offenders.

Drug Sentences

KEY ASSUMPTIONS

- The target population in this proposal includes all offenders who are convicted of drug felonies.
- New severity levels of drug offenses are designed according to the following statutes, threshold and drug quantity:
 - 65-4142 (a) drugs – less than \$2,000: receive/acquire proceeds is severity level **10**, nonperson felony;
 - 65-4142 (a) drugs – at least \$2,000, but less than \$25,000: receive/acquire proceeds is severity level **9**, nonperson felony;
 - 65-4142 (a) drugs – at least \$25,000, but less than \$50,000: receive/acquire proceeds is severity level **8**, nonperson felony;
 - 65-4142 (a) drugs – at least \$50,000, but less than \$75,000: receive/acquire proceeds is severity level **7**, nonperson felony;
 - 65-4142 (a) drugs – at least \$75,000, but less than \$100,000: receive/acquire proceeds is severity level **6**, nonperson felony;
 - 65-4142 (a) drugs – \$100,000 or more: receive/acquire proceeds is severity level **5**, nonperson felony;
 - 65-4152 (a)(3) possession of paraphernalia with intent to plant/grow/manufacture, etc. is severity level **9**, nonperson felony;
 - 65-4152 (a)(4) possession of anhydrous ammonia or pressurized ammonia in a container not approved for that chemical by the Kansas Department of Agriculture is severity level **8**, nonperson felony;
 - 65-4153 (a)(1) deliver, possess or manufacture with intent to deliver any simulated controlled substance to a minor or in presence of a minor is severity level **8**, nonperson felony;
 - 65-4153 (a)(2-3) deliver, possess or manufacture with intent to deliver any drug paraphernalia, knowing it will be used to introduce a controlled substance into the human body; deliver to person under 18 years of age or in presence of a minor is severity level **8**, nonperson felony;
 - 65-4153 (a)(4) deliver, possess or manufacture with intent to deliver any drug paraphernalia, knowing it will be used to plant/grow/manufacture a controlled substance in presence of a minor is severity level **8**, nonperson felony;
 - 65-4153 (a)(4) deliver, possess or manufacture with intent to deliver any drug paraphernalia, knowing it will be used to plant/grow/manufacture a controlled substance is severity level **9**, nonperson felony;
 - 65-4159 (a) unlawful manufacture or attempt unlawful manufacture of controlled substance is a severity level **5**, person felony;
 - 65-4159 (a) unlawful manufacture or attempt unlawful manufacture of methamphetamine is a severity level **3**, person felony;
 - 65-4160 (a) possession of opiates, opium or narcotic drugs, etc. is a severity level **10**, nonperson felony;
 - 65-4161 (a) distribution or possession with intent to distribute opiates, opium or narcotic drugs -**super quantity** is a severity level **3**, person felony;
 - 65-4161 (a) distribution or possession with intent to distribute opiates, opium or narcotic drugs -**large quantity** is a severity level **4**, person felony;
 - 65-4161 (a) distribution or possession with intent to distribute opiates, opium or narcotic drugs -**medium quantity** is a severity level **7**, person felony;
 - 65-4161 (a) distribution or possession with intent to distribute opiates, opium or narcotic drugs -**small quantity** is a severity level **9**, person felony;
 - 65-4161 (a) distribution or possession with intent to distribute opiates, opium or narcotic drugs to a minor or in presence of a minor -**super quantity** is a severity level **2**, person felony;

- 65-4161 (a) distribution or possession with intent to distribute opiates, opium or narcotic drugs to a minor or in presence of a minor -**large quantity** is a severity level **3**, person felony;
- 65-4161 (a) distribution or possession with intent to distribute opiates, opium or narcotic drugs to a minor or in presence of a minor -**medium quantity** is a severity level **6**, person felony;
- 65-4161 (a) distribution or possession with intent to distribute opiates, opium or narcotic drugs to a minor or in presence of a minor -**small quantity** is a severity level **8**, person felony;
- 65-4162 (a) 2nd offense -possession of depressants, etc. is a severity level 10, nonperson felony;
- 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc. - **super quantity** is a severity level **3**, person felony;
- 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc.- **large quantity** is a severity level **4**, person felony;
- 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc.- **medium quantity** is a severity level **7**, person felony;
- 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc.- **small quantity** is a severity level **9**, person felony;
- 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc. to a minor or in presence of a minor -**super quantity** is a severity level **2**, person felony;
- 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc. to a minor or in presence of a minor -**large quantity** is a severity level **3**, person felony;
- 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc. to a minor or in presence of a minor -**medium quantity** is a severity level **6**, person felony;
- 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc. to a minor or in presence of a minor -**small quantity** is a severity level **8**, person felony;
- 65-7006 (a) possess precursors with intent to manufacture a controlled substance is a severity level 6, nonperson felony.
- Projected admission to prison for the target offenders is assumed to increase by an annual average of 0.5%, which is the same percentage used in relation to the baseline prison population forecast produced in August 2008 by the Kansas Sentencing Commission.
- The good time is assumed to be 20% for offenders whose severity levels are 7-10.
- The good time is assumed to be 15% for offenders whose severity levels are 1-6.
- The new policy effective date is July 1, 2010.
- **Drug Quantity Assumption:**
 - Super quantity is assumed to be 5%;
 - Large quantity is assumed to be 8%;
 - Medium quantity is assumed to be 20%;
 - Small quantity is assumed to be 67%.
- **Scenario One:** All drug offenders will be sentenced according to the proposed sentencing grid with **20%** of the offenders who fall on the border boxes being sentenced to prison.
- **Scenario Two:** All drug offenders will be sentenced according to the proposed sentencing grid with **25%** of the offenders who fall on the border boxes being sentenced to prison.
- **Scenario Three:** All drug offenders will be sentenced according to the proposed sentencing grid with **30%** of the offenders who fall on the border boxes being sentenced to prison.

Property Sentences

KEY ASSUMPTIONS

- The target population in this proposal includes offenders who are convicted of property crimes under the following statute numbers:
 - 21-3701 (a) Theft;
 - 21-3704 (a) Theft of service;
 - 21-3707 (a) Giving a worthless check;
 - 21-3720 (a) Criminal damage to property;
 - 21-3729 (a) Criminal use financial card and
 - 21-4018 (a) Identity theft.

- The proposed severity levels of the above offenses are based on the following monetary thresholds:
 - Loss at least \$1,000 but less than \$2,000 is severity level **10**, nonperson felony;
 - Loss at least \$2,000 but less than \$25,000 is severity level **9**, nonperson felony;
 - Loss at least \$25,000 but less than \$50,000 is severity level **8**, nonperson felony;
 - Loss at least \$50,000 but less than \$75,000 is severity level **7**, nonperson felony;
 - Loss at least \$75,000 but less than \$100,000 is severity level **6**, nonperson felony and
 - Loss more than \$100,000 is severity level **5**, nonperson felony.

- Projected admission to prison for the target offenders is assumed to increase by an annual average of 0.5%, which is the same percentage used in relation to the baseline prison population forecast produced in August 2008 by the Kansas Sentencing Commission.
- The good time for offenders whose severity levels are 7-10 is assumed to be 20%.
- The good time for offenders whose severity levels are 1-6 is assumed to be 15%.
- It is assumed that the new policy effective date starts on July 1, 2010.

- **Proposition Distribution Assumption:**
 - The number of severity level 5 is assumed to be the actual number in FY 2008;
 - The number of severity level 6 is assumed to be 2%;
 - The number of severity level 7 is assumed to be 3%;
 - The number of severity level 8 is assumed to be 10%;
 - The number of severity level 9 is assumed to be 45%;
 - The number of severity level 10 is assumed to be 40%.

- **Scenario One:** The above property offenders will be sentenced according to the proposed sentencing grids with **20%** of the offenders who fall on the border boxes being sentenced to prison.
- **Scenario Two:** The above property offenders will be sentenced according to the proposed sentencing grids with **25%** of the offenders who fall on the border boxes being sentenced to prison.
- **Scenario Three:** The above property offenders will be sentenced according to the proposed sentencing grids with **30%** of the offenders who fall on the border boxes being sentenced to prison.

**New Sentencing Grid Border Boxes – Nondrug
(Drug and Property Offenses Excluded)**

KEY ASSUMPTIONS

- The target population in this proposal includes offenders whose convictions fall on new sentencing grid severity level 6, criminal history categories E to I; severity levels 7 and 8, criminal history categories C to F and severity level 9, criminal history categories C to E.
- Projected admission to prison for the target offenders is assumed to increase by an annual average of 0.5%, which is the same percentage used in relation to the baseline prison population forecast produced in August 2008 by the Kansas Sentencing Commission.
- The percentage of sentence served in prison for severity level 6 offenders is assumed to be 85% less jail credit and good time.
- The percentage of sentence served in prison for severity levels 7 to 9 offenders is assumed to be 80% less jail credit and good time
- The good time percentage rate is consistent with the projections released in August 2008.
- It is assumed that the new policy effective date starts on July 1, 2010.
 - **Scenario One:** It is assumed that **20%** of the offenders whose severity level is 6, criminal history categories E to I; severity levels 7 and 8, criminal history categories C to F and severity level 9, criminal history categories C to E will be sentenced to prison.
 - **Scenario Two:** It is assumed that **25%** of the offenders whose severity level is 6, criminal history categories E to I; severity levels 7 and 8, criminal history categories C to F and severity level 9, criminal history categories C to E will be sentenced to prison.
 - **Scenario Three:** It is assumed that **30%** of the offenders whose severity level is 6, criminal history categories E to I; severity levels 7 and 8, criminal history categories C to F and severity level 9, criminal history categories C to E will be sentenced to prison.
- The length of sentence is assumed to be the sentences on the new sentencing grids for the above severity levels and criminal history categories.

**Domestic Battery 3rd, 4th and 5th or Subsequent Conviction
Revised (3/13/09)**

KEY ASSUMPTIONS

- The target population in this proposal includes any offenders who are convicted of a 3rd, 4th, 5th or subsequent domestic battery.
- A 3rd, 4th, 5th or subsequent domestic battery within 5 years is a severity level 7, person felony.
- A person convicted of a 3rd domestic battery within 5 years will receive a 30 day mandatory imprisonment **in county jail** as a condition of probation.
- A person convicted of a 4th domestic battery within 5 years will receive a 90 day mandatory imprisonment **in county jail** as a condition of probation.
- A person convicted of a 5th or subsequent domestic battery within 5 years will receive one year mandatory imprisonment **in DOC** as a condition of probation.
- **It is assumed that of the current felony domestic battery offenders:**
 - **60% are convicted of the 3rd conviction,**
 - **30% are convicted of the 4th conviction and**
 - **10% are convicted of the 5th or subsequent conviction.**
- Projected admission to prison for the target offenders is assumed to increase by an annual average of 0.5%, which is the same percentage used in relation to the baseline prison population forecast produced in August 2008 by the Kansas Sentencing Commission.
- If probation is revoked, the percentage of sentence served in prison for the above domestic battery offenders is assumed to be 80% **less jail credit** and good time.
- It is assumed that the new policy effective date starts on July 1, 2010.
- **Scenario One:** It is assumed that 25% of the domestic battery offenders who are released from DOC will violate their probation conditions within an average 6 month period and will be ordered to serve their underlying prison sentence in DOC.
- **Scenario Two:** It is assumed that 30% of the domestic battery offenders who are released from DOC will violate their probation conditions within an average 6 month period and will be ordered to serve their underlying prison sentence in DOC.
- **Scenario Three:** It is assumed that 35% of the domestic battery offenders who are released from DOC will violate their probation conditions within an average 6 month period and will be ordered to serve their underlying prison sentence in DOC.
- **The mandatory DOC term will be deducted from the offenders' underlying prison sentence.**
- The underlying prison sentence is based on the new sentencing grids and criminal history categories.

**Bed Space Impact Assessment
House Bill 2332
Overall Impacts (3/16/2009)**

KEY ASSUMPTIONS

- The target population in this bill includes all offenders who are convicted the crimes as defined in this provision based on the new sentencing grids, except the following offenses:
 - 3rd, 4th or subsequent DUI offense (K.S.A. 8-1567),
 - Murder in the first degree (K.S.A. 21-3401),
 - Capital murder (K.S.A. 21-3439),
 - Terrorism (K.S.A. 21-3449),
 - Illegal use of weapons of mass destruction (K.S.A. 21-3450),
 - Treason (K.S.A. 21-3801) and
 - K.S.A. Chapter 21 Article 35 (sex offenses).
- Projected admission to prison for the target offenders is assumed to increase by an annual average of 0.5%, which is the same percentage used in relation to the baseline prison population forecast produced in August 2008 by the Kansas Sentencing Commission.
- The percentage of sentence served in prison for severity levels 1 to 6 offenders is assumed to be 85% less jail credit and good time.
- The percentage of sentence served in prison for severity levels 7 to 10 offenders is assumed to be 80% less jail credit and good time
- The good time percentage rate is consistent with the projections released in August 2008.
- It is assumed that the new policy effective date starts on July 1, 2010.

FINDINGS

- In FY 2008, 9,105 offenders were convicted of one or more crimes as defined in the Kansas criminal codes except those listed above. Of this number,
 - 1,966 (21.6%) were sentenced to prison,
 - 22 (0.2%) were sentenced to county jail,
 - 5,798 (63.7%) were sentenced to probation and
 - 1,319 (14.5%) were sentenced to SB 123 drug treatment.
 - Of the 9,105 offenders, 780 (8.6%) of them whose severity levels and criminal history categories fell on the current sentencing grids border boxes.
 - The following tables display the number of offenses by statute number and severity level.

FY 2008 All Offenses by Statute Number except Those Listed above

Statute	Number	Percent						
8-1568	297	3.3%	21-3415	11	0.1%	21-3605	49	0.5%
8-1602	2	0.0%	21-3419	274	3.0%	21-3608	25	0.3%
9-2012	2	0.0%	21-3420	16	0.2%	21-3609	26	0.3%
17-1253	1	0.0%	21-3421	9	0.1%	21-3610	1	0.0%
17-12501	2	0.0%	21-3422	7	0.1%	21-3612	7	0.1%
21-3402	32	0.4%	21-3426	169	1.9%	21-3701	888	9.8%
21-3403	12	0.1%	21-3427	106	1.2%	21-3704	3	0.0%
21-3404	16	0.2%	21-3428	1	0.0%	21-3705	1	0.0%
21-3410	223	2.4%	21-3435	2	0.0%	21-3707	50	0.5%
21-3411	27	0.3%	21-3437	5	0.1%	21-3710	608	6.7%
21-3412	45	0.5%	21-3438	9	0.1%	21-3711	80	0.9%
21-3413	54	0.6%	21-3442	6	0.1%	21-3715	898	9.9%
21-3414	555	6.1%	21-3448	4	0.0%	21-3716	108	1.2%
			21-3603	5	0.1%	21-3718	41	0.5%

21-3719	7	0.1%
21-3720	98	1.1%
21-3729	21	0.2%
21-3731	4	0.0%
21-3734	1	0.0%
21-3755	11	0.1%
21-3763	1	0.0%
21-3764	34	0.4%
21-3805	6	0.1%
21-3807	1	0.0%
21-3808	136	1.5%
21-3810	139	1.5%
21-3811	2	0.0%
21-3812	25	0.3%
21-3814	51	0.6%
21-3825	12	0.1%
21-3826	46	0.5%
21-3830	1	0.0%

21-3833	17	0.2%
21-3840	1	0.0%
21-3846	2	0.0%
21-3901	1	0.0%
21-4018	178	2.0%
21-4201	9	0.1%
21-4202	13	0.1%
21-4204	101	1.1%
21-4209	2	0.0%
21-4214	16	0.2%
21-4219	22	0.2%
21-4227	1	0.0%
21-4232	1	0.0%
21-4301	1	0.0%
21-4310	3	0.0%
21-4315	1	0.0%
22-4903	69	0.8%
22-4904	28	0.3%

39-720	1	0.0%
40-2118	1	0.0%
65-3441	1	0.0%
65-4141	15	0.2%
65-4142	4	0.0%
65-4152	65	0.7%
65-4153	10	0.1%
65-4159	81	0.9%
65-4160	1905	20.9%
65-4161	421	4.6%
65-4162	428	4.7%
65-4163	345	3.8%
65-7006	24	0.3%
74-9809	1	0.0%
79-5204	2	0.0%
79-5208	62	0.7%
Total	9105	100.0%

FY 2008 All Offenses by Severity Level except Those Listed above

Severity Level	Number	Percent
D1	76	0.8
D2	56	0.6
D3	736	8.1
D4	2,411	26.5
N1	17	0.2
N2	15	0.2
N3	111	1.2
N4	72	0.8
N5	439	4.8
N6	113	1.2
N7	1,318	14.5
N8	1,097	12.0
N9	2,014	22.1
N10	581	6.4
Nongrid	49	0.5
Total	9,105	100.0

IMPACT SUMMARY

- **Impact on Prison Admissions:** The impact of this proposal will result in 67, 162 and 250 additional prison admissions by the end of FY 2011 and 78, 176 and 289 additional prison admissions by the end of FY 2020 respectively under each different scenario.
- **Impact on Prison Beds:** The impact of this proposal will result in 266, 360 and 449 additional prison beds needed by the end of FY 2011 and 433, 558 and 713 additional prison beds needed by the end of FY 2020 respectively under each different scenario.

Overall Impacts of HB 2332

Fiscal Year	Additional Prison Admission			Additional Prison Bed Need		
	Scenario 1	Scenario 2	Scenario 3	Scenario 1	Scenario 2	Scenario 3
2011	67	162	250	266	360	449
2012	70	163	265	297	425	551
2013	123	204	310	472	573	707
2014	98	202	295	481	620	743
2015	105	196	299	410	536	667
2016	81	190	289	465	602	725
2017	82	165	265	465	589	718
2018	139	237	330	522	633	769
2019	107	199	309	475	590	742
2020	78	176	289	433	558	718

Note: Scenario #1- 20% of offenders in border box sentenced to prison and 25% revocation rate for domestic battery offenders.
 Scenario #2- 25% of offenders in border box sentenced to prison and 30% revocation rate for domestic battery offenders.
 Scenario #3- 30% of offenders in border box sentenced to prison and 35% revocation rate for domestic battery offenders.

- **Impact on the Workload of the Commission:** This bill will result in a significant impact on the workload of the Commission regarding databases redesign and reprogram; change of journal entry forms; desk reference manuals and trainings. The Commission may need an additional FTE.

SENATE BILL No. 26

By Committee on Judiciary

1-14

House Committee on Corrections and Juvenile Justice
SB26-Balloon.pdf (RS - JThompson - 03/02/09)

10 AN ACT concerning crimes, punishment and criminal procedure; relat-
11 ing to drug offenses; possession of a firearm; sentencing; amending
12 K.S.A. 2008 Supp. 21-4705 and repealing the existing section.
13

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

15 Section 1. K.S.A. 2008 Supp. 21-4705 is hereby amended to read as
16 follows: 21-4705. (a) For the purpose of sentencing, the following sen-
17 tencing guidelines grid for drug crimes shall be applied in felony cases
18 under the uniform controlled substances act for crimes committed on or
19 after July 1, 1993:
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Corrections and Juvenile Justice
Date: 3-17-09
Attachment # 2-1

1 4159 and amendments thereto, manufacture of any controlled substance
 2 or controlled substance analog shall be a presumptive term of imprison-
 3 ment of two times the maximum duration of the presumptive term of
 4 imprisonment. The court may impose an optional reduction in such sen-
 5 tence of not to exceed 50% of the mandatory increase provided by this
 6 subsection upon making a finding on the record that one or more of the
 7 mitigating factors as specified in K.S.A. 21-4716 and amendments thereto
 8 justify such a reduction in sentence. Any decision made by the court
 9 regarding the reduction in such sentence shall not be considered a de-
 10 parture and shall not be subject to appeal.

11 (f) (1) The sentence for a third or subsequent felony conviction of
 12 K.S.A. 65-4160 or 65-4162, and amendments thereto, shall be a pre-
 13 sumptive term of imprisonment and the defendant shall be sentenced to
 14 prison as provided by this section. Such term of imprisonment shall be
 15 served in a facility designated by the secretary of corrections in the cus-
 16 tody of the secretary of corrections to participate in an intensive substance
 17 abuse treatment program. The intensive substance abuse treatment pro-
 18 gram shall be determined by the secretary of corrections, but shall be for
 19 a period of at least four months. Upon the successful completion of such
 20 intensive treatment program, the offender shall be returned to the court
 21 and the court may modify the sentence by directing that a less severe
 22 penalty be imposed in lieu of that originally adjudged within statutory
 23 limits. If the offender's term of imprisonment expires, the offender shall
 24 be placed under the applicable period of postrelease supervision.

25 (2) If the defendant has previously completed a certified drug abuse
 26 treatment program, as provided in K.S.A. 2008 Supp. 75-52,144, and
 27 amendments thereto, has been discharged or refused to participate in a
 28 certified drug abuse treatment program, as provided in K.S.A. 2008 Supp.
 29 75-52,144, and amendments thereto, has completed an intensive sub-
 30 stance abuse treatment program under paragraph (1) or has been dis-
 31 charged or refused to participate in an intensive substance abuse treat-
 32 ment program under paragraph (1), such defendant's term of
 33 imprisonment shall not be subject to modification under paragraph (1).

34 The sentence under this subsection shall not be considered a departure
 35 and shall not be subject to appeal.

36 (g) (1) *Except as provided further, if an offender carries a firearm to*
 37 *commit a drug felony, or in furtherance of a drug felony, possesses a*
 38 *firearm, in addition to the sentence imposed pursuant to the Kansas sen-*
 39 *tencing guideline act, the offender shall be sentenced to:*

- 40 (A) An additional ~~60~~ **12** months imprisonment;
- 41 (B) if the firearm is brandished, an additional ~~84~~ **15** months impris-
- 42 onment; and
- 43 (C) if the firearm is discharged, an additional ~~120~~ **24** months

the trier of fact makes a finding that

carried

possessed

2-2