

MINUTES OF THE SENATE JUDICIARY

The meeting was called to order by Chairman Thomas C. (Tim) Owens at 9:32 a.m. on January 14, 2009, in Room 545-N of the Capitol.

All members were present except:

Senator Terry Bruce- excused

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes

Doug Taylor, Office of the Revisor of Statutes

Jerry Donaldson, Kansas Legislative Research Department

Athena Andaya, Kansas Legislative Research Department

Karen Clowers, Committee Assistant

Others attending:

See attached list.

Introduction of Bills

Senator Jim Barnett requested the introduction of a bill on the presumption of paternity and genetic testing. The bill was introduced without objection.

The Chairman introduced Helen Pedigo, Executive Director, Kansas Sentencing Commission to present a review of 2003 SB 123 (Attachment 1). Ms. Pedigo reviewed the desired impact of the bill, eligibility requirements, analysis of the program structure, and an assessment of results to date.

Chairman Owens thanked Ms. Pedigo for providing an informative presentation. Senator Vratil noted the program has been successful and should continue to be supported by the legislature.

The next meeting is scheduled for January 15, 2009.

The meeting was adjourned at 10:30 a.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 1-14-09

NAME	REPRESENTING
Joseph Molina	KS Bar Assoc.
Joe Mosimann	Hein Law Firm
Kelly DiRocco	LITTLE GOV RELATIONS
JEAN MILLER	CAPITOL STRATEGIES
Bryan Dylman	Intern - Senator Hensley
Angie Silsby	SRS-AAPS
Stacy Chamberlain	SRS-AAPS
Jim McCauslin	Senator Owens
Heleen Pedigo	KSC
Brenda Hansen	KSC
N. Zogelman	Palsinelli

**Senate Judiciary
2003 Senate Bill 123
Overview**

Wednesday, January 14, 2009

**Helen Pedigo
Executive Director
Kansas Sentencing Commission
helenp@sentencing.ks.gov
700 SW Jackson, Suite 501
Topeka, KS 66603-3757
<http://www.kansas.gov/ksc/>
(v) (785) 296-0923
(f) (785) 296-0926**

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Who, What & Why?

- **Nonviolent felony possession offenders**
- **Community punishment**
- **Treatment – opportunity to address the problem**
- **Divert from prison (reserved for serious, violent offenders)**

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Desired Impact

- **Cycle of addiction → cycle of incarceration**
 - Break the cycle of addiction
 - Break the cycle of incarceration

- **Possession increased in severity with subsequent possession convictions (Drug 4, Drug 2, Drug 1)**
 - Retain drug possession convictions on drug level 4 – not escalating in severity for subsequent offenses

SENTENCING RANGE - DRUG OFFENSES

Category —	A	B	C	D	E	F	G	H	I
Severity Level	2 - Felony	2 - Felony	1 - Felony & Misdemeanor	1 - Felony	3 - Misdemeanor	2 - Misdemeanor	1 - Misdemeanor	2 - Misd.	1 - Misd. No Record
I	204 184 185	196 186 176	187 178 169	179 170 161	170 163 154	167 158 150	162 154 146	161 150 142	154 146 138
II	83 78 74	77 73 69	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
III	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	26 24 23	23 22 20	19 18 17	16 15 14
IV	42 40 37	36 34 32	32 30 29	26 24 23	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

LEGEND
Presumptive Probation
Border Box
Presumptive Imprisonment

Probation Terms are:
 36 months recommended for felons classified in Severity Levels 1-2
 18 months (up to) for felons classified in Severity Level 3
 12 months (up to) for felons classified in Severity Level 4
Postrelease Supervision Terms are:
 36 months for felons classified in Severity Levels 1-2
 24 months for felons classified in Severity Level 3
 12 months for felons classified in Severity Level 4 except for some K.S.A. 65-4160 and 65-4162 offenses on and after 11/01/03.

Postrelease for felons committed before 4/20/95 are:
 24 months for felons classified in Severity Levels 1-3
 12 months for felons classified in Severity Level 4

Eligibility

- **Felony drug possession (SL D4)**
- **No prior manufacturing or sale convictions**
- **Nonperson criminal history OR**
- **Person criminal history with low level felonies AND court finding that public safety will not be jeopardized**

Program

- **Mandatory Drug Treatment of up to 18 months in duration with community treatment provider(s)**
- **Intensive supervised probation by Community Corrections**
- **Case management is a team function between treatment provider and Community Corrections officer**

Partners

Kansas Sentencing Commission

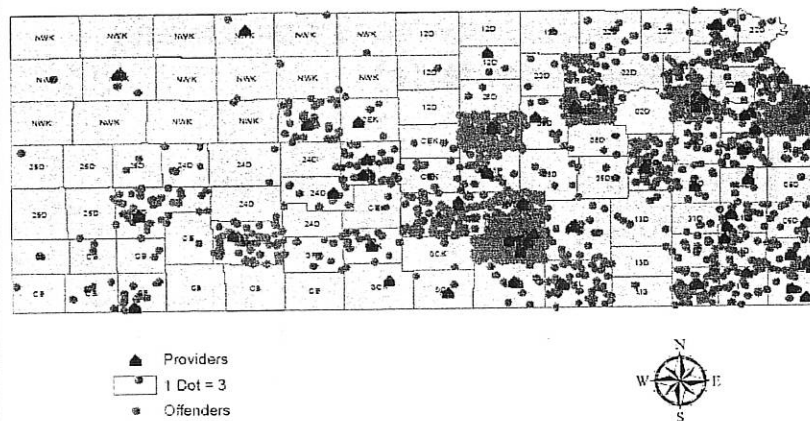
Kansas Department of Corrections

140 Treatment Providers

31 Community Corrections Agencies

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**SB 123 Offenders Received Assessments and Treatment Providers
by Community Correction
As of June 30, 2008**



Note: The total number of SB 123 offenders received assessments is 1,500 and 134 SB 123 drug treatment providers were available as of June 30, 2008.

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**Number of SB 123 Certified Treatment Providers
 By County As of August 4, 2005**

Cheyenne	Rawlins	Decatur	Norton 1	Phillips	Smith	Jewell	Republic	Washington	Marshall	Nemaha	Brown 1	Doniphan	Leavenworth	
Sherman	1	Sheridan	Graham	Rooks	Osborne	Mitchell	3 Cloud	Clay	Pottawatomie	Jackson	2 Atchison	Jefferson	2	Wyandotte
Wallace	Logan	Gove	Trego	2 Ellis	1 Russell	Lincoln	Ottawa	1 Clay	1 Pottawatomie	7 Shawnee	4 Douglas	6 Johnson		
Greeley	Wichita	Scott	Lane	Ness	Rush	Baron	3 Saline	1 Dickinson	Wabaunsee	Morris	3 Osage	2 Franklin	1 Miami	
Hamilton	Kearny	Finney	Hodgeman	1 Pawnee	3 Rice	Ellsworth	McPherson	Marion	Chase	Lyon	1 Coffey	1 Anderson	1 Lin	
Stanton	Grant	Haskell	Gray	Ford	1 Edwards	Stafford	4 Reno	1 Harvey	1 Sedgwick	4 Greenwood	2 Woodson	2 Allen	1 Bourbon	
Morton	Stevens	1 Seward	Meade	Clark	1 Comanche	Pratt	1 Kingman	21 Harper	2 Butler	1 Eik	1 Wilson	5 Neosho	1 Crawford	
								1 Sumner	2 Cowley	2 Chautauqua	2 Montgomery	1 Labette	3 Cherokee	

108 agencies are certified to deliver some form of SB 123 Treatment Services. As of June 30, 2004, there were 270 certified treatment counselors

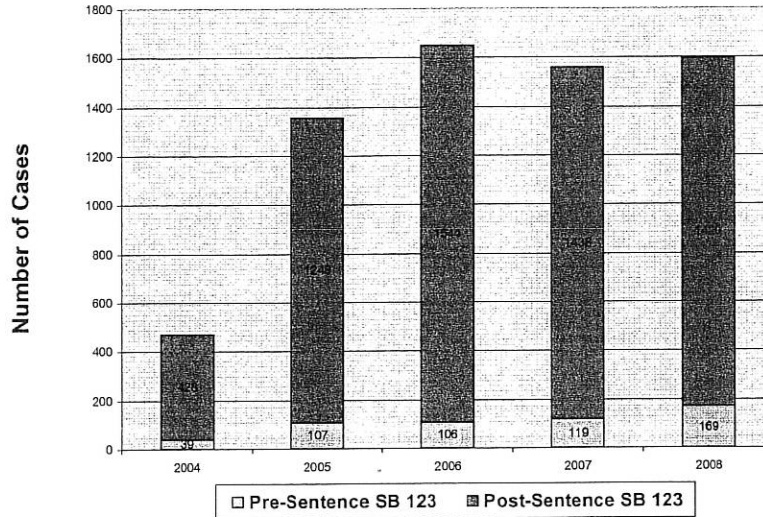
**Number of SB 123 Certified Treatment Providers
 by county as of Sept 9, 2008**

Cheyenne	Rawlins	Decatur	Norton 1	Phillips	Smith	Jewell	Republic	Washington	Marshall	Nemaha	Brown 1	Doniphan	Leavenworth	
Sherman	2	Sheridan	Graham	Rooks	Osborne	Mitchell	3 Cloud	Clay	Pottawatomie	Jackson	2 Atchison	Jefferson	2	Wyandotte
Wallace	Logan	Gove	Trego	2 Ellis	1 Russell	Lincoln	Ottawa	1 Clay	1 Pottawatomie	9 Shawnee	3 Douglas	8 Johnson		
Greeley	Wichita	1 Scott	Lane	Ness	Rush	Baron	8 Saline	1 Dickinson	3 Wabaunsee	Morris	3 Osage	2 Franklin	1 Miami	
Hamilton	Kearny	3 Finney	Hodgeman	2 Pawnee	7 Rice	Ellsworth	McPherson	2 Marion	Chase	Lyon	1 Coffey	1 Anderson	1 Lin	
Stanton	Grant	Haskell	Gray	Ford	1 Edwards	Stafford	5 Reno	1 Harvey	3 Sedgwick	3 Greenwood	3 Woodson	1 Allen	1 Bourbon	
Morton	Stevens	2 Seward	Meade	Clark	1 Comanche	Pratt	1 Kingman	26 Harper	2 Butler	2 Eik	1 Wilson	5 Neosho	1 Crawford	
								1 Sumner	2 Cowley	2 Chautauqua	2 Montgomery	1 Labette	2 Cherokee	

140 agencies (physical locations) are certified to deliver some form of SB 123 Treatment Services. As of August 31, 2008, there were 706 certified treatment counselors.

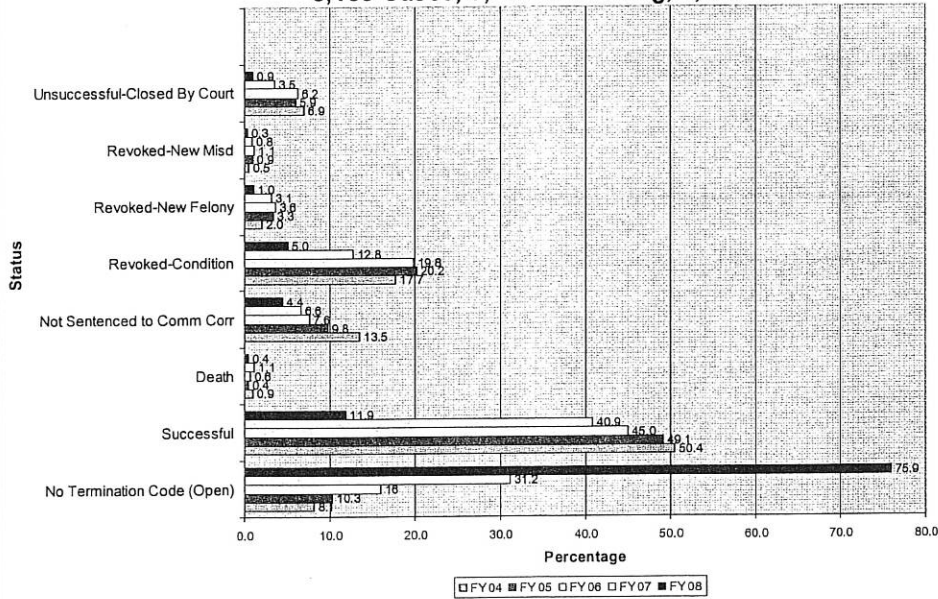
2003 Senate Bill 123 Overview
January 14, 2009

SB 123 Cases by Pre/Post Sentencing Date by Fiscal Year
Inception through June 30, 2008



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Open & Closed Cases by Fiscal Year
8,163 Cases, 3,200 continuing, 4,963 closed



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ASSESSMENTS

- **Assessments required by SB 123**
 - **Level of Services Inventory – Revised Pre-sentence**
 - Re-assessment
 - Discharge
 - **SB 123 Assessment**
 - Pre-Sentence
 - **Addiction Severity Index (ASI)**
 - 1st ASI within 30 days start of treatment
 - 2nd ASI at treatment discharge
 - 3rd ASI at least 6 months after discharge

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SB 123 Assessment Reports

- **As of June 30, 2008, KSC received SB 123 assessment reports of 5,590 offenders, among which,**
 - 1,422 were from FY 2005 and
 - 1,305 were from FY 2008.
- **Of the total 5,590 offenders,**
 - 5,495 (98.3%) had SB123 Assessment,
 - 2,853 (51%) had the initial ASI,
 - 1,070 (19.1%) had the second ASI and
 - 266 (4.8%) had the third ASI.

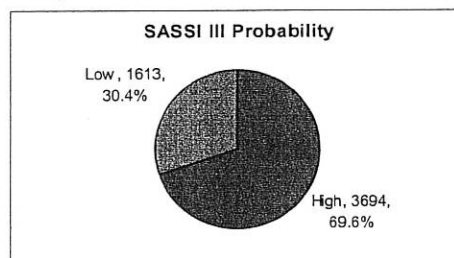
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Substance Abuse Subtle Screening Inventory (SASSI)

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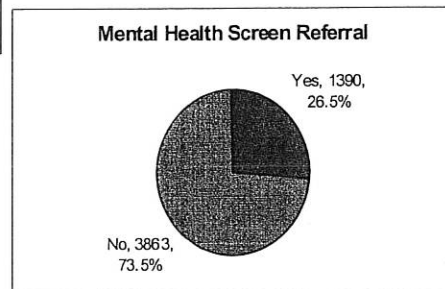
SASSI III: Probability of Having a Substance Dependence Disorder

Inception- June 30, 2008



SASSI III: Mental Health Screen Referral

Inception- June 30, 2008



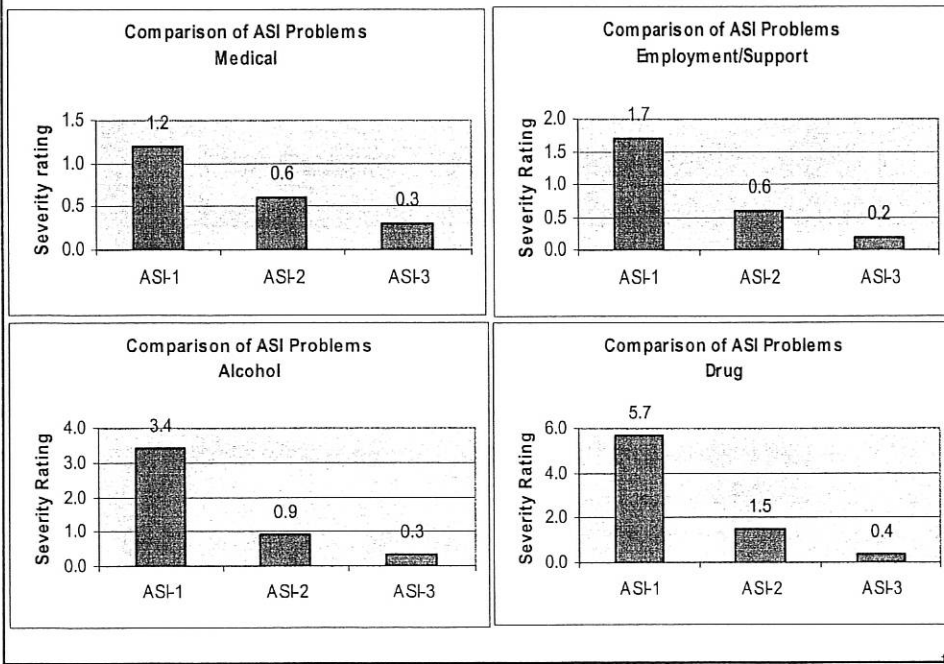
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Comparison of the Average Severity Ratings of Three ASIs by Problem Area

- Paired Samples T test is applied to test the average severity rating differences in each problem area.
- The tests indicate that most of the differences are statistically significant at the significance value less than 0.05.
- These results statistically support the purpose of SB 123 treatment programs.

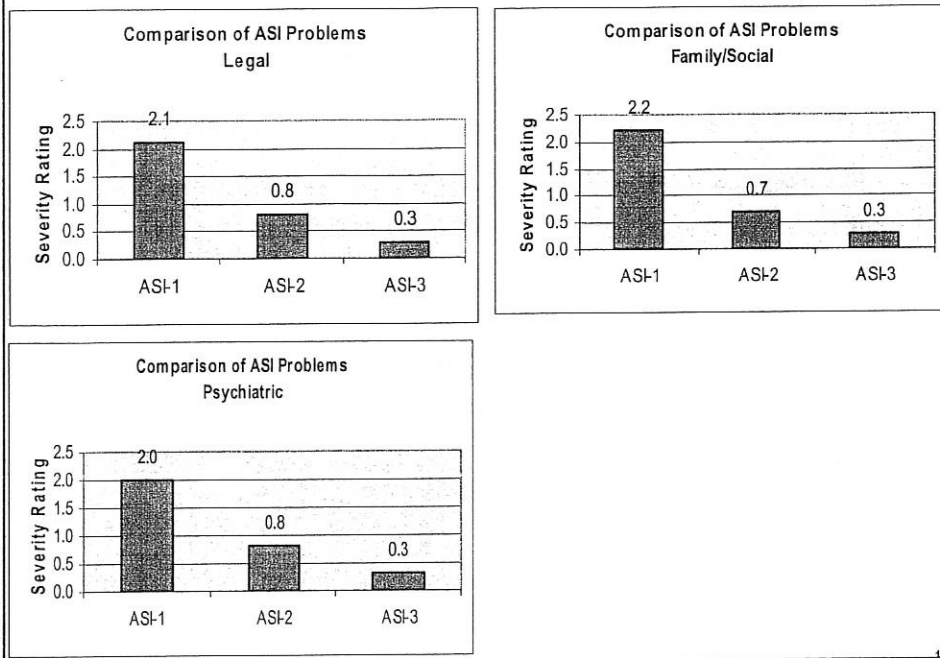
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Inception- June 30, 2008



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Inception- June 30, 2008



Level of Service Inventory - Revised (LSI-R©)

Assessments Through June 30, 2008

- **Risk/Need Assessment Instrument**
- **Identifies Risk for Reoffending and Criminogenic Needs (targets for reducing risk)**
- **Administration Frequency:**
 - After conviction prior to sentencing (5,813)
 - Six months after initial or significant event (5,342)
 - Prior to discharge from supervision (2,050)

LSI-R© Assessment

Of the Total Number:

- **5,813 (44.0%) at Pre-Sent. /Initial**
- **5,342 (40.5%) at Reassessment**
- **2,050 (15.5%) at Discharge**

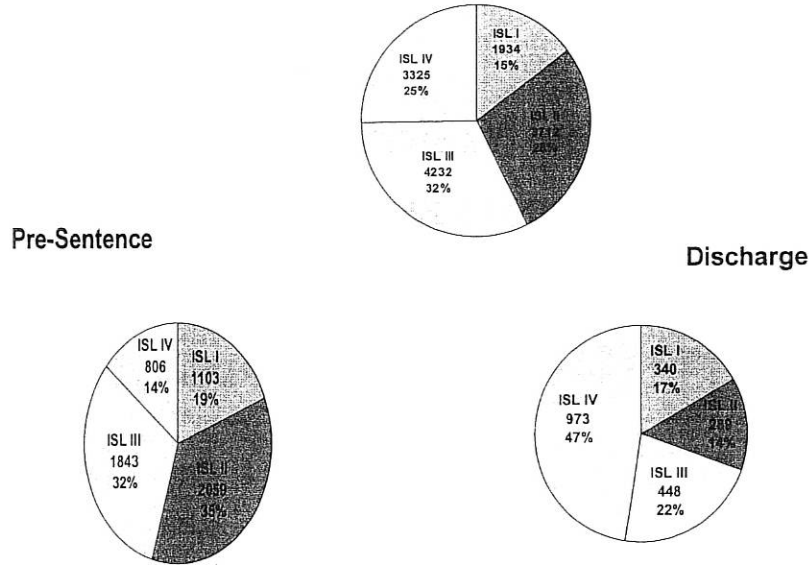
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LSI-R© Assessment

- **13,205 LSI-R's completed on SB 123 offenders since program inception through June 30, 2008**
 - **5,813 Initial; 5,342 reassessment;**
 - **Level of Risk → Level of Supervision**
 - **1,934 (14.6%) at ISL I (highest)**
 - **3,712 (28.1%) at ISL II**
 - **4,232 (32.0%) at ISL III**
 - **3,325 (25.2%) at ISL IV (lowest)**
- (2 unscored were removed from this analysis)**

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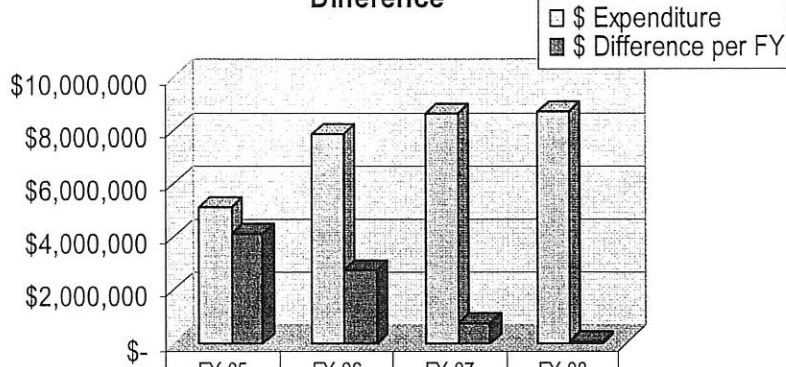
LSI-R: Level Of Supervision-Overall
 (through June 30, 2008)



Summary Of Expenditure Data
 (Payment Database, TPPS)
 November 2003 through June 30, 2008

- Total Offenders (assessment & treatment) •=5,926
- Offenders with treatment expenditures •=4,908
- Avg cost per offender for assessment & treatment •=\$6,327
- Avg cost per offender for treatment only •=\$6,140
- Expenditure for assessment & treatment •=\$31,193,952
- Expenditure for treatment only •=\$30,135,347
- Total number of invoices paid •=48,740

SB 123 Expenditures per Fiscal Year And \$ Dollar Difference



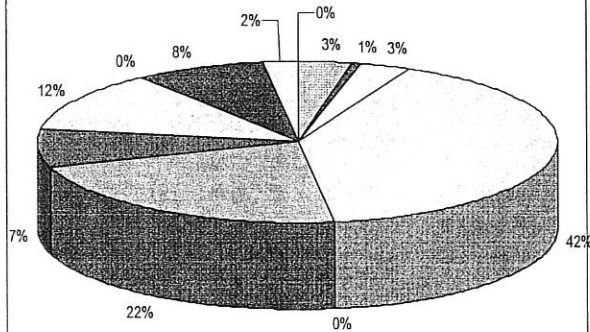
□ \$ Expenditure	\$5,100,925	\$7,860,995	\$8,640,730	\$8,733,056
■ \$ Difference per FY	\$4,102,457	\$2,760,070	\$779,735	\$92,326

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All Years Expenditures by Interventions

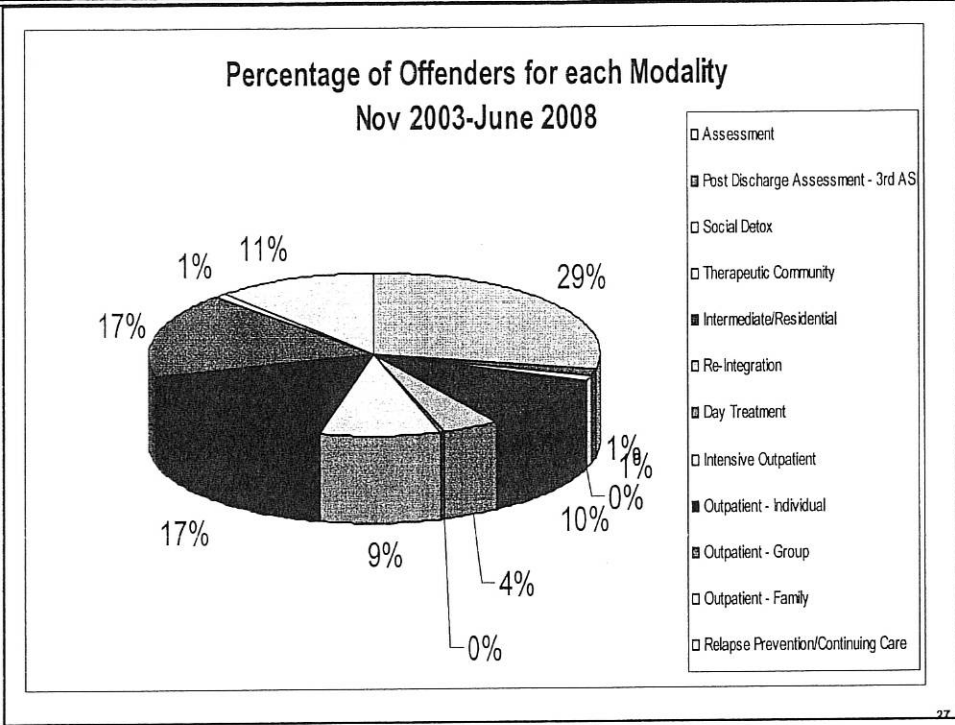
Total Payments % by Modality
Nov 2003-June 2008-Percentage of Dollars Spent

- Assessment
- Social Detox
- Therapeutic Community
- Intermediate/Residential
- Day Treatment
- Intensive Outpatient
- Outpatient - Individual
- Outpatient - Group
- Outpatient - Family
- Re-Integration
- Relapse Prevention/Continuing Care
- Post Discharge Assessment - 3rd ASI



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2003 Senate Bill 123 Overview
January 14, 2009



FY 2008 Treatment Service Payments Kansas Sentencing Commission FY 2008

Interventions	Amount Paid	Units Paid	Avg Units/Offender	Invoices	Offenders	Avg Cost/Unit	Avg Cost/Offender
Assessment	\$237,475	1,266 assessments	1 1266	1,266	\$188	\$188	
Social Detox	\$57,930	321 days	5 days	82	69	\$180	\$840
Therapeutic Community	\$388,350	2,589 days	129 days	96	20	\$150	\$19,418
Intermediate/Residential	\$3,119,720	19,370 days	34 days	1,169	562	\$161	\$5,551
Day Treatment		days	days	0			
Intensive Outpatient	\$2,065,470	53,409 days	90 days	2,007	595	\$39	\$3,471
Outpatient - Individual	\$674,448	9,010 hours	7 hours	4,400	1,259	\$75	\$536
Outpatient - Group	\$1,142,826	46,095 hours	35 hours	5,024	1,324	\$25	\$863
Outpatient - Family	\$4,135	57 hours	3 hours	28	19	\$73	\$218
Re-Integration	\$690,190	18,676 days	66 days	899	283	\$37	\$2,439
Continuing Care	\$203,590	8,264 sessions	9 sessions	2,951	885	\$25	\$230
Post Discharge - 3rd ASI	\$8,700	87 days	1 days	87	87	\$100	\$100
Total Amount Paid	\$8,592,834						
Remaining Encumbrance	\$ 140,223						
Adjusted Total	\$8,733,057						
Treatment Excl Assessments	\$8,355,359						
Cost Per Offender In Treatment	\$3,636						
Plus Assessment \$187.58 Per Unit	\$3,824						
Total Offenders	2,647						
				Total Invoices Paid	13,616		
				Total Offenders With Treatments	2,298		

1-14

Overall recidivism rates

Group	N	6 months	12 months	18 months
SB 123	1,494	7.1%	14.3%	21.0%
Court Services	2,097	5.0%	11.2%	16.3%
Community Corrections	1,426	11.4%	23.1%	31.6%
Prison	192	9.9%	19.3%	24.5%

18-Month recidivism rates by type

Sentence Type	N	Any failure	Revocation	Reconviction
SB 123	1,494	21.0%	15.6%	5.4%
Court Services	2,097	16.3%	9.3%	7.0%
Community Corrections	1,426	31.6%	22.3%	9.3%
Prison	192	24.5%	17.2%	7.3%

Prison Bed Savings Is the program worth the money?

**Kansas cost of incarceration: approx \$25,000/yr.
Drug Possession offenders LOS before Alternative
Sentencing Policy:**

- **1st possession: Drug 4**
 - 20 months underlying prison (presumptive probation)
 - Prior Funding Availability for Community Treatment - virtually none
 - Revocation Rate: nearing 50% (\$41,667 Incar.)
- **2nd possession: Drug 2**
 - 59 months presumptive prison (\$123,000 incar.)
- **3rd + possession: Drug 1**
 - 162 months presumptive prison (\$337,000 incar.)

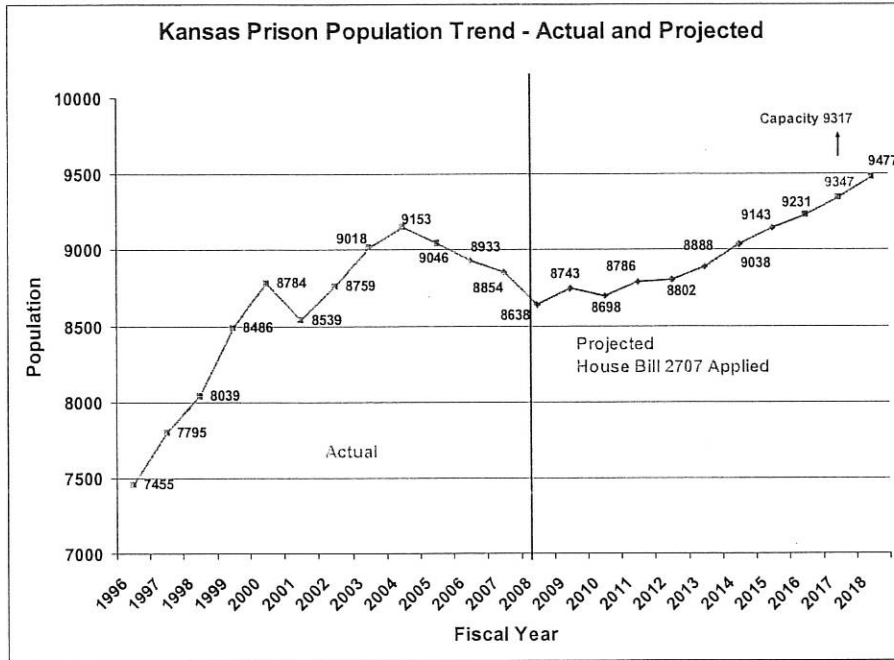
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Prison Beds Saved

- **Anticipated bed savings of 500 or more in 10 years**
- **The estimated prison bed savings is based the SB 123 offenders' average underlying prison sentences minus good time and jail credit. Annual cost of an inmate housed at KDOC is assumed to be \$25,000 annually**

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2003 Senate Bill 123 Overview
January 14, 2009



Revocation Reductions – New Admissions

Severity Level	FY 2004	FY 2007	FY 2008
D1	196	89	56
D2	80	26	32
D3	276	284	223
D4	505	741	622

Probation Condition Violators at D4

FY 2008: 153, or 24.6% of 622 new admissions

FY 2007: 237, or 32.0% of 741 new admissions

Beds Saved

- The table below summarizes the total prison admission reduction each fiscal year since the implementation of SB 123.

FY	SB 123		Total	Beds Saved
	Direct Adm. Reduction	Rev. to Pris. Red.	Adm. Red.	
• 2004	61	38	99	79
• 2005	173	123	296	270
• 2006	189	154	343	379
• 2007	167	144	311	387
• 2008	183	149	332	405

Estimated Beds Saved/Money Saved

Fiscal Year	Beds Saved	Money Saved
2004	79	\$1,975,000
2005	270	\$6,750,000
2006	379	\$9,475,000
2007	387	\$9,675,000
2008	405	\$10,125,000

Cost Savings of SB 123

Fiscal Year	SB 123 Expenditure	Money Collected	Actual SB123 Cost	Estimated Saving from Prison Cost	Estimated Money Saved
2004	\$998,430	\$15,948	\$982,482	\$1,975,000	-\$992,518
2005	\$5,100,925	\$150,224	\$4,950,701	\$6,750,000	-\$1,799,299
2006	\$7,860,995	\$213,589	\$7,647,406	\$9,475,000	-\$1,827,594
2007	\$8,640,330	\$202,784	\$8,437,546	\$9,675,000	-\$1,237,454
2008	\$8,733,855	\$229,649	\$8,504,206	\$10,125,000	-\$1,620,794
Total	\$31,334,535	\$812,194	\$30,522,341	\$38,000,000	-\$7,477,659

Challenges

- **Less populated areas = fewer resources**
 - Residential services
 - Transportation
 - Child care
 - Job issues

- **Some offenders choose to violate conditions because 18 months of this program is more difficult than serving the underlying prison sentence; but few treatment slots exist in prison.**

Challenges

- **Case-management data base**
 - Information is ever changing
 - Entered by officers
 - Doesn't always match with journal entry data
- **Team concept is important to the program - case loads, relationships affect program success**

Success!

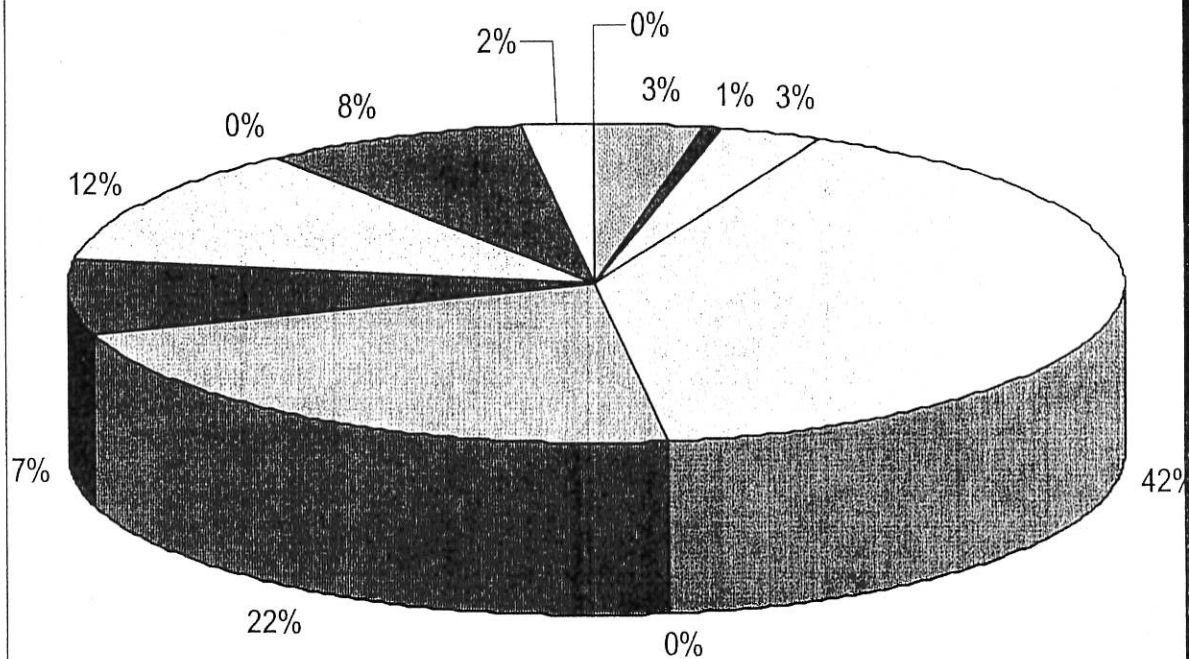
- **Successful offenders remain in the community, working, providing stability for their families (resulting in fewer social service needs), and paying taxes at a cost per year of \$4,000 vs. \$25,000 per year per prison bed**
- **Reduced probation revocations**
- **Fewer reconvictions**

All Years Expenditures by Interventions

18-1

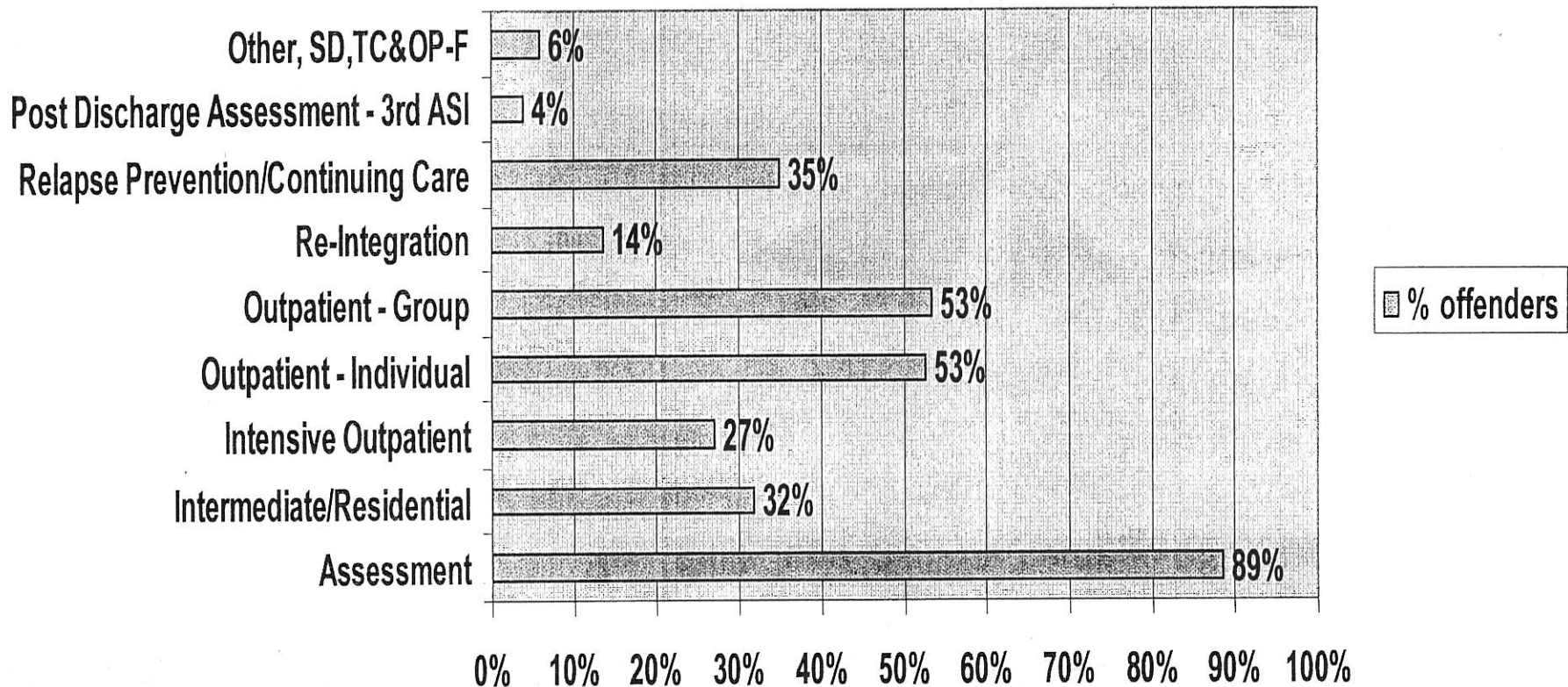
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Modality Utilization for 5928 Unique Offenders

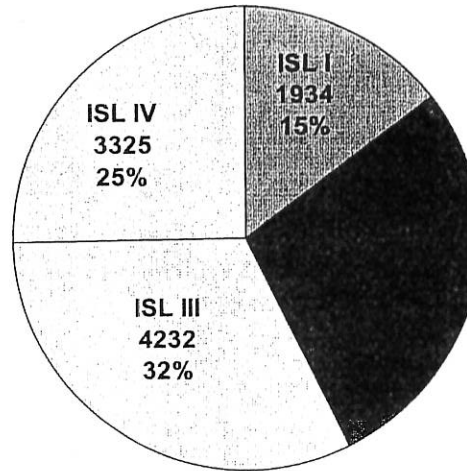
% of the 5928 Unique Offenders Utilizing Each Modality



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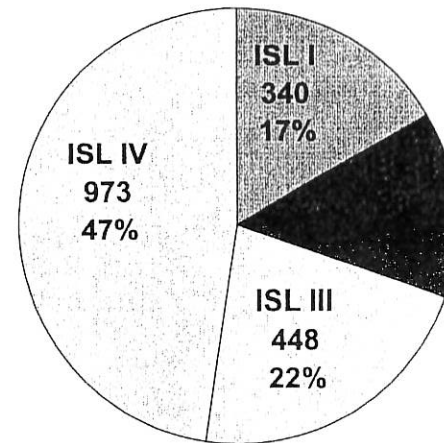
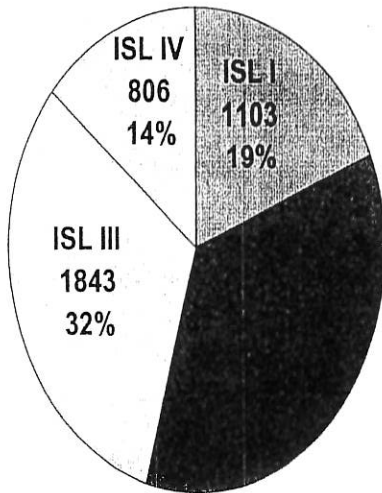
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LSI-R: Level Of Supervision-Overall (through June 30, 2008)



Pre-Sentence

Discharge



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1-27

Open & Closed Cases by Fiscal Year

8,163 Cases, 3,200 continuing, 4,963 closed

