

Approved: 12-18-2010

Date

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Pat Colloton at 1:30 p.m. on February 10, 2010, in Room 144-S 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  
Athena Andaya, Kansas Legislative Research Department  
Jerry Donaldson, Kansas Legislative Research Department  
Jackie Lunn, Committee Assistant

Conferees appearing before the Committee:

Kansas State Representative J. David Crum  
Sheriff Craig Murphy, Butler County  
Orville Carver, Private Citizen, Augusta, Kansas  
Jerry Maier, Private Citizen, Augusta, Kansas  
Amber Norris, Butler County Attorney  
Sheriff Frank Denning, Johnson County  
Sheriff Robert Henshaw, Sedwick County Attorney  
Elizabeth Gillespie, Director, Johnson County Department of Corrections  
Robert Lamkey, Public Safety Director for Sedgwick County  
Kansas State Representative Jan Pauls  
Jennifer Roth, Kansas Association of Criminal Defense Lawyers

Others attending:

See attached list.

Kansas State Representative J. David Crum,  
Sheriff Craig Murphy, Butler County  
Orville Carver, Private Citizen, Augusta, Kansas  
Jerry Maier, Private Citizen, Augusta, Kansas  
Amber Norris, Butler County Attorney  
Sheriff Frank Denning, Johnson County  
Sheriff Robert Henshaw, Sedwick County Attorney  
Elizabeth Gillespie, Director, Johnson County Department of Corrections  
Robert Lamkey, Public Safety Director for Sedgwick County  
Kansas State Representative Jan Pauls  
Jennifer Roth, Kansas Association of Criminal Defense Lawyers

**HB 2582 - S Sub for H 2582 by Committee on Utilities – Emergency communications service, fees, charges, collection and distribution**

Chairperson Colloton called the meeting to order and opened the hearing on **HB 2582** calling on State Representative J. David Crum to give his testimony as a proponent of the bill. Representative Crum presented written copy of his testimony. (Attachment 1) He explained the bill would amend the sentencing guidelines statute (21-4704) regarding punishment for burglary when the defendant has a prior conviction for burglary. The change in law would add “attempt or conspiracy to commit burglary or a second conviction of attempting or conspiring to commit burglary”. With the current sentencing guideline a first conviction of burglary results in presumptive probation. This provision of law has encouraged criminals to burglarize homes in rural areas where there is less chance of apprehension and when caught a good chance of probation. Passage of the bill would still require a second conviction for burglary to result in prison time but make an incremental change that would expand the law thus giving prosecutors a greater ability to obtain that second conviction for burglary.

A question and answer session followed.

Chairperson Colloton introduced Sheriff Craig Murphy, Butler County, to give his testimony as a proponent of **HB 2582**. Sheriff Murphy presented written copy of his testimony. (Attachment 2) He stated he was in favor of the bill. He told of forty-two burglaries in a centralized area of Butler County and how a group of six had been identified as being responsible for these crimes. Because of present law these six would be eligible for probation and no prison time. He stated it is time for “meaningful consequences” to be put in our laws. Burglary/theft should not be a profitable business for those who don’t want to do honest work.

A question and answer session followed.

Chairperson Colloton introduced Orville Carver, a private citizen from Augusta, Kansas, to give his testimony as a proponent of the bill. Mr. Carver presented a written copy of his testimony. (Attachment 3) He informed the Committee of all the burglaries in his neighborhood. In closing, he stated if the laws were more strict the burglaries might be reduced.

Chairperson Colloton introduced Jerry A. Maier, a private citizen from Augusta, Kansas to give his testimony as a proponent of **HB2582**. Mr. Maier presented written copy of his testimony. (Attachment 4) He told the Committee of how his business was burglarized by the same six individuals. He would like for the Committee to pass this bills making the consequences of burglary a little tougher so they would go to prison and not get probation. He stated he and his neighbors were going to do what they have to in order to protect their property.

A discussion followed.

Chairperson Colloton introduced Amber Norris, Butler County Attorney, to give her testimony as a proponent of the bill. Ms. Butler did not provide a written copy of her testimony. She stated the bill was a step in the right direction to help with the sentencing on property crimes. In closing, she urged the Committee to support the bill.

A question and answer session followed.

With no others to testify or speak to the bill, Chairperson Colloton closed the hearing on **HB 2582** opened the hearing on **HB 2604**.

#### **HB 2604 - Allowing the court to sentence a defendant to serve time in a work release program**

Chairperson Colloton called on Sheriff Frank Denning, Johnson County Sheriff’s Office, to give his testimony as a proponent of the bill. Sheriff Denning presented written copy of his testimony. (Attachment 5) He stated this bill would ask the court to assign the defendant to a work release program, provided such work release program requires such defendant to return to confinement at the end of each day in the work release program. He went on to say we need a bridge that will allow an avenue to develop community correction work release programs. This modification is laying the ground work for those counties that already have programs in place. Making this simple change will do a lot to lay the groundwork for the further development of re-entry programs. As they develop and become successful, the net effect will be positive on the people in these programs, their families, and their communities as well. Recidivism will decrease and the need for more jail space will be reduced.

A question and answer session followed.

Chairperson Colloton called the Committee’s attention to the “written only” proponent testimony of Sheriff Robert Hinshaw, Sedgwick County. (Attachment 6)

Chairperson Colloton introduced Elizabeth Gillespie, Director Johnson County Department of Corrections, to give her testimony as a proponent of **HB 2604**. Ms. Gillespie present written copy of her testimony. (Attachment 7) She stated the bill will assist Johnson County in the development of Jail reentry programs by expressly authorizing work release as a sentencing option for District Courts. In closing, she stated she wanted to point out that the bill does not require counties to operate work release programs.

A question and answer session followed.

Chairperson Colloton called on the Honorable Judge Tatum, Johnson County, for his thoughts and comments on the bill. Judge Tatum stated work release programs in Johnson County, from a judges standpoint, is very positive. Challenges are great but if they can find those that will benefit from the work release programs this bill would be a start in the right direction.

Chairperson Colloton introduced Robert Lamkey, Public Safety Director for Sedgewick County, to give his testimony as a proponent of **HB 2604**. Mr. Lamkey did not present written testimony. He stated that the bill would give them a great tool to work with which would allow, on the long term, to get them out of the system and would save money in the future.

A discussion followed.

Chairperson Colloton called the Committee's attention to the "written only" neutral party with amendments testimony of Secretary Roger Werholtz, Kansas Department of Corrections. It was noted that a copy of the balloon is attached to his testimony. (Attachment 8)

A short discussion followed.

With no others to speak to the bill, Chairperson Colloton closed the hearing on **HB 2604** and opened the hearing on **HB 2640**,

**HB 2640 - Kansas offender registration act; changing penalties for aiding a person required to register and failure to register by a person required to register**

Chairperson Colloton called on Jason Thompson, Office of the Revisor of Statutes, to explain the bill. Mr. Thompson presented written copy. (Attachment 9) He explained the bill for the Committee.

Chairperson Colloton called on Kansas State Representative Pauls to give her testimony as a proponent of **HB 2640**. Representative Pauls presented written copy of her testimony. (Attachment 10) Representative Pauls stated the bill amends the Offender Registration Act regarding the level of punishment of those who are required to register under the act but fail to do so. Currently, all those required to register under the act: violent offenders, sex offenders, sexually violent predators, and drug offenders are charged with level 5 person felony for failure to register.

A question and answer session followed.

Chairperson Colloton called for any others to speak to the bill and Adam Wood, KBI, asked to be recognized. He stated that the KBI has concerns with the level 9 drug offenses. He asked the Committee to please consider their concerns.

A short question and answer session followed

Chairperson Colloton introduced Jennifer Roth, Kansas Association of Criminal Defense Lawyers, to testify as a proponent of **HB 2640**. Ms. Roth presented written copy of her testimony. (Attachment 11) She is in favor of the bill even though they have some concerns.

With no others to speak or testify to the bill, Chairperson Colloton closed the hearing on **HB 2640**.

Chairperson Colloton reminded the Committee they would be meeting this Friday from noon until 1:30 p.m. in room 144S and would be having a couple of hearings. She also stated that they would work bills on Monday and on Tuesday they would meet at noon and have lunch during the meeting.

Chairperson Colloton adjourned the meeting at 3:10 p.m. with the next meeting scheduled for February 11, 2010, at 12:00 p.m. in room 144S.

# CORRECTIONS & JUVENILE JUSTICE GUEST LIST

DATE: 2-10-10

NAME	REPRESENTING
Tim Maddin	KDOC
Bob Lamkey	Sedgewick County CJC
FRANK DENNING	JOCO Sheriff
Kendra Hanson	Hein Law Firm
DAVID BURGER	JCSO
Todd Rogers	SWCO
Pick Kline	"
Goody Ari	Shawnee County Dept. Corrections
Craig Murphy	Butler Co. Sheriff
Amber Norris	Butler Cty Attorney
Betsy Dillinger	Johnson County DOC
Jay Maier	BUTLER CO. RESIDENT
Danika Barber	" " "
Steve Tatum	14th Judicial District Judge
Risë Haneberg	Johnson Co Govt.
C. David Rouner	Kearney Assoc.
Ed Kump	KMP/KPA/KSA



J. DAVID CRUM  
STATE REPRESENTATIVE, DISTRICT 77  
2903 LAKESHORE DR.  
AUGUSTA, KS 67010  
(316) 775-6826

STATE CAPITOL  
TOPEKA, KS 66612  
785-296-7642  
1-800-432-3924



TOPEKA  
HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
TAXATION  
HEALTH AND HUMAN SERVICES  
SOCIAL SERVICE BUDGET

02/10/10

Testimony before the House Corrections and Juvenile Justice  
Committee

The Honorable Pat Colloton Chairman

Thank you very much for the opportunity to testify in support of  
HB2582. This bill would amend the sentencing guidelines statute  
(21-4704) regarding punishment for burglary when the defendant  
has a prior conviction for burglary.

The change in law would add “attempt or conspiracy to commit  
burglary or a second conviction of attempting or conspiring to  
commit burglary”.

Attempt is defined in law as, “any overt act toward the perpetration  
of a crime done by a person who intends to commit such a crime  
but fails in the perpetration there of or is prevented or interceded in  
executing such crime”.

A conspiracy is defined in law as, “an agreement with another  
person to commit a crime or to assist in committing a crime”.

At the present time if a person is convicted of a second burglary  
against a residence the sentence is presumptive imprisonment.

We come to your committee today with this bill because of a  
considerable increase in property crime in rural Butler County. I  
suspect that the problem is not exclusive to Butler County.

Corrections and Juvenile Justice

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Attachment # 1

With the current sentencing guideline a first conviction of burglary results in presumptive probation. This provision of law has encouraged criminals to burglarize homes in rural areas where there is less chance of apprehension and when caught a good chance of probation.

Passage of HB2582 would still require a second conviction for burglary to result in prison time but make an incremental change that would expand the law thus giving prosecutors a greater ability to obtain that second conviction for burglary.

The goal of HB2582 is to raise the ante for property crime in an attempt to discourage this activity.

Corrections Committee Hearing  
February 10<sup>th</sup>, 2010  
Room 144S, State Capital Bldg.  
Topeka, Kansas

Testimony of Sheriff Craig Murphy  
Butler County, Kansas

From January 2007 through December 2009, Butler County, Kansas Sheriff Deputies worked forty two burglary and thefts in a centralized area of Butler County. These crimes also included the theft of eight head of cattle. Sheriff Deputies did identify a group of six individuals responsible for these crimes. It was also learned that other crimes of this nature were occurring in Butler County (outside of this locale), have been perpetrated by other individuals who are familiar and at times associate with the identified six.

During the investigation (which continues today), investigators have learned that property stolen is being transferred to counties southeast of Butler County. In the case of the cattle they were found at the sale barn in Newkirk Oklahoma. Two people were charged with the theft of the cattle.

In the matter of the forty two burglary and thefts by the group of six, we have become aware that some of the six would be eligible for probation while we know they were involved in forty two burglaries/thefts. Due to not being an Attorney and not being in that mode, it is my understanding from the prosecutor, eligibility for probation has to do with time factors involving the burglary/thefts. The time factors apparently have to do with "sentencing guidelines" that the Judges go by.

What has become apparent to Law Enforcement and the victim citizens is the fact that "sentencing guidelines" leave room for manipulation of a harsh enough sentence to remove the desire and knowledge that burglary/theft is a profitable business. It is a fact in south central Kansas that when perpetrators of this type crime are apprehended, Law Enforcement will connect the perpetrator/s from not only one crime, but to a multitude of the same type crimes. The known attitude of the perpetrator/s is "Oh well, big deal, I will get probation" and the minute they bond out and hit the streets they steal to pay their Attorney and bondsmen.

Consequently, because of the "sentencing guidelines" and the attitude, I have a victim (business owner) who lives with fear of being forced out of his livelihood due to threat of being uninsurable. This does not mention the trauma/anguish to the other victims. The group of six responsible for this victims losses continue to run amok today due to the fact no meaningful consequences have been imposed in favor of victims.

When the victims started confronting the system, I was approached that due to the lack of prosecution, vigilantism was being talked. It was a veiled accusation that we had not done our jobs. That is incorrect. My officers did their jobs. They worked the crimes, gathered the evidence, identified the perpetrators, wrote the reports, prepared 64

*Corrections and Juvenile  
Justice Committee  
2-10-10  
Attachment 2*

affidavits, and forwarded all information to the prosecutors, only to find out that due to the way the laws are written, this group has perpetrators who would qualify for probation. Probation means nothing to the criminal element.

It is time for "meaningful consequences" to be put in our laws. I understand budgeting. Law Enforcement and Corrections is expensive. You and we understand this. We need to ask ourselves why it is expensive. The answer is really pretty simple. We have adopted laws or tinkered with laws that benefit the criminal element, not the honest hardworking citizen. We cannot deter nor correct crime without meaningful consequences. We have literally reduced penalties for crime down to "Oh well". Burglary/theft should not be a profitable business for those who don't want to do honest work.

A handwritten signature in black ink, appearing to read "Craig Murphy". The signature is written in a cursive, flowing style.

Sheriff Craig Murphy



2502

Prville Carver  
11947 S.W. Santa Fe Lake Road  
Augusta, Kansas 67010 Tele # 316 775-7171

Home break ins

S.W. 120<sup>th</sup> Rd.

From the house they stole TV and microwave  
from the garage lawn mower and tools

2 times

S.W. 120<sup>th</sup> Rd

Kicked in two doors ransack the house,  
stole money, jewelry, 2 way radio and  
portable saw.

South Diamond Rd.

Man knock at the door wanted to know if their trucks  
was for sale. Lady of the house said she didn't  
know. She told him she was needing to leave and  
that he could come back later. When she came  
home the house had been broken into. It had  
been ransacked, several items were stolen including  
guns, jewelry, money and etc.

Other items stolen

S.W. 110<sup>th</sup>

Broke the lock on the gate and stole a trailer  
with welder on it

Corrections and Juvenile Justice

Date: 2-10-11

Attachment # 3

S. W. 110<sup>th</sup>

Items were stolen from their barn  
and all their fire wood.

S. E. 50<sup>th</sup> Rd

Stock panels were stolen out of a pasture.  
The gate was locked.

S. E. 50<sup>th</sup> Rd.

We had seven head of registered Cattle  
stolen from our pasture.

Two head were recovered in Okla.  
that had been sold through a sale barn.  
But to get them back we had to buy them.

These are some of the cases that has  
taken place in our neighborhood.

**Jerry A. Maier**  
**9892 SW Hodges Rd.**  
**Augusta, Kansas 67010-8214**  
**(O) 316-775-6954**  
**(M) 316-650-3595**  
**e-mail - jermire58@yahoo.com**

February 9, 2010

Representative Crum:

First of all, thanks for the invitation to testify at the hearing on amendments to HB 2582. As you know in our recent conversations, I am very dissatisfied with our legal system when it comes to the arrest, conviction and subsequent sentencing of convicted felons.

As a law abiding citizen and self-employed business owner, I feel that at this point it is up to me to protect my property from the persons that may attempt to drive me out of business. My insurance company will allow only so many theft claims until I am dropped. I have installed a monitored security system that calls my cell phone if a breach occurs. Nightly, I hope and pray that I do not get a call from my security company. If I do get a call, I feel that it is my right to defend my property that I have worked hard for and pay taxes on with whatever means that I deem necessary given the situation that I am given. I pray that I am never put in this situation.

I do not believe that current state laws regarding crime and the subsequent punishment were originally set up to favor the criminal. But, somehow through the years a trend toward protection of human rights has allowed a steady decline in penalties for convicted criminals.

I realize that the state of Kansas is in a financial crunch at this time and that person on person crimes seem to be top priority when it comes to making bed space for convicted criminals. I agree that person on person crimes should have higher precedence when it comes to sentencing and punishment. However, something has to be done to get control of the theft ring that is active in my area of Butler County and probably across the entire state. A complete lack of confidence in our legal system exists and dissention is growing.

My plight at this time is the lack of any kind of hope that these people that habitually commit crimes of theft (in my case) are going to get any kind of jail sentence or other punishment that might actually have an impact on their lifestyle choices in the future. They get probation on most 1<sup>st</sup> and 2<sup>nd</sup> convictions. I see these people out on the streets almost daily. There are four to six known thieves that live within four miles of my rural home. These people have no respect for the law or other people's property. They know that if caught, just a slap on the hand is the consequence. The rewards are well worth the risk of being caught and convicted. It has become a very profitable way to make a living.

**Corrections and Juvenile Justice**  
**Date:** 2-10-10  
**Attachment #** 4

The laws on the books and the sentencing guidelines in the state of Kansas completely stifle law enforcement personnel and our prosecuting attorneys. I firmly believe that Kansas should be proactive and consider a complete do-over of the system.

I am not the type of person to just complain about a problem and dump it off on someone else to rectify. It is my God given American duty to try and help with a solution. The crime problem is not going to be an easy or quick fix. We must all work together to come up with a starting point and work together to come up with a long term solution – one with teeth. If it means Kansas setting the benchmark nationally for new crime and punishment legislation, so be it. Someone needs to act and act soon.

The following outline is some of my thoughts as well as ideas from other Kansans on what steps could be taken to reduce the chances of criminal behavior tendencies and possible consequences of such behavior. As we all know, education is at the forefront of most long term solutions.

—

- Teach basic crime and punishment in our elementary schools. Children need to know at an early age that there are laws in place to protect them and their neighbor. Breaches of these laws on their part mean that consequences exist and will be enforced for such behavior – not just after they reach a certain age.
- The need for technical training facilities at our local high schools to ensure that the students that don't go to college and come away with a bachelors degree can at least have the opportunity to get exposure to numerous industry trade skills that would potentially make them employable after leaving high school.
- Persons convicted of a first offense non person on person crime should be required as part of probation to pursue and achieve at least a high school equivalency diploma before probation period is exhausted.
- Non violent offenders need to be out working within the community on a daily basis. Many projects can be undertaken and accomplished with minimal supervision. Credit toward sentence reduction can be awarded. One foul up and you go back to day one length of sentence and still have to go out and work. These people have skills and if given the chance could prove to be future assets. Meaningful, hard work also will take away ones tendency to be a problem.

Sincerely,

Jerry A. Maier



FRANK P. DENNING  
SHERIFF

TELEPHONE  
913-791-5800

FAX  
913-791-5806



DUTY HONOR SERVICE

125 N. CHERRY  
OLATHE, KANSAS 66061  
WWW.JOCOSHERIFF.ORG

DAVID A. BURGER  
UNDERSHERIFF

KEVIN D. CAVANAUGH  
UNDERSHERIFF

TESTIMONY OF JOHNSON COUNTY SHERIFF  
FRANK P. DENNING  
BEFORE THE KANSAS HOUSE COMMITTEE ON  
CORRECTIONS AND JUVENILE JUSTICE

February 10, 2010

Madam Chair and Members of the Committee,

I want to thank you for the opportunity to address you today on a matter that will have the long term effect of bridging a gap in the statutes. With my testimony, I will attempt to provide you with some background and perspective, and then several distinguished conferees will follow with more specific information on the practical benefit our state could realize should you approve the change in law that we suggest.

With shrinking budgets, rising populations and steady pressure on the number of available jail beds in counties across the State and the nation, support for programs designed to reduce recidivism and the demand for jail bed space has begun to guide the conversation of decision makers at all levels of government. When we joined that conversation in Johnson County with the Board of County Commissioners, the District Court, the Community Corrections Department and the broad based Criminal Justice Advisory Board, we discovered a barrier that would require legislative attention.

"Second Chance" is the most recognizable name used to describe the "re-entry" programs under development across the country. Their purpose is to evaluate convicted persons serving sentences in jails and prisons. At usually a predetermined point with a few months remaining in the sentence of an inmate, teams of forensic evaluators make fact based decisions and recommendations for the placement of that person into any of a number of available treatment or training programs. Those programs are designed to facilitate the inmate's "re-entry" into the family and the community as well as reduce the incidence of "re-entry" into the criminal justice system and incarceration.

A large part of many re-entry programs is the assignment of the confined person to employment in the community. At present, the sentencing statute does not specifically authorize assignment to work release programs for other than fourth time DUI offenders, and it is our opinion that without the requested change before you in Sec (1), *new* Paragraph (11), the further involvement of the court would be needed to modify a sentence of an inmate remanded to the custody of the Sheriff.

**Corrections and Juvenile Justice**

Date: 2-16-10

Attachment # 5

FRANK P. DENNING  
SHERIFF

TELEPHONE  
913-791-5800

FAX  
913-791-5806



DUTY HONOR SERVICE

125 N. CHERRY  
OLATHE, KANSAS 66061  
WWW.JOCOSHERIFF.ORG

DAVID A. BURGER  
UNDERSHERIFF

KEVIN D. CAVANAUGH  
UNDERSHERIFF

This seemingly simple change will do a lot to lay the groundwork for the further development of re-entry programs. As they develop and become successful, the net effect will be positive on the people in these programs, their families, and their communities as well. Recidivism will decrease, and the need for more jail space will be reduced.

I thank you for your consideration, and urge you to pass HB 2604 out of committee with a positive recommendation.

*Sheriff Fackler*



## SEDGWICK COUNTY, KANSAS

SHERIFF'S OFFICE  
ROBERT HINSHAW  
Sheriff

141 WEST ELM \* WICHITA, KANSAS 67203 \* TELEPHONE: (316) 383-7264 \* FAX: (316) 660-3249

**Testimony HB 2604  
Before the Corrections and Juvenile Justice Committee  
February 10, 2010**

Honorable Chairperson Pat Colloton and members of the committee, I appreciate the opportunity to submit written testimony in support of HB2604. My name is Robert Hinshaw. I am the Sheriff of Sedgwick County and Chairman of the Sedgwick County Criminal Justice Coordination Committee (CJCC). I am submitting testimony on behalf of Sedgwick County in support of this legislation, as proposed.

HB 2604 amends KSA 2009 Supp. 21-4603d allowing work release as a sentencing option. The amended Section (d) (11) assigns the defendant to a work release program independent of a county jail, provided such work release program requires the defendant to return to confinement at the end of each day in the work release program.

As proposed, HB 2604 will have an immediate impact on those over populated county jails within Kansas by allowing for reduction of inmate population within main jail facilities. Our current jail was built to house 1158 inmates. As of Monday, February 8, 2010 we had 1573 inmates in custody of which 135 were being housed in the Sheriff's Work Release program, off site. This proposed amendment will assist in reducing inmate overcrowding population issues in some larger Kansas counties.

While this bill may affect many counties to a greater or lesser degree, it will be a substantial tool for those larger Kansas counties experiencing inmate overcrowding issues.

Having this type of a Work Release program already in place in Sedgwick County for many years as an extension of the county jail, we have found it to:

- Work well within our Criminal Justice system
- Holds work release inmates more accountable
- Allows work release inmates to remain connected with their employers
- Allows work release inmates to pay restitution
- Substantially more cost effective than housing inmates in main jail facility

As Sheriff of Sedgwick County and Chair of the Sedgwick County Criminal Justice Coordination Committee (CJCC), I fully support HB 2604.

Sheriff Robert Hinshaw  
Sedgwick County, Kansas

Corrections and Juvenile Justice  
Date: 2-10-10  
Attachment # 6





## Johnson County Department of Corrections

Administration Office  
206 West Loula Street - Olathe, KS 66061  
Elizabeth Gillespie, Director of Corrections  
Susan Dougan, Assistant Director  
Phone (913) 715-4500 Fax (913) 829-0107

DATE: February 10, 2010  
TO: Honorable Members  
House Corrections and Juvenile Justice Committee  
FROM: Elizabeth Gillespie, Director  
Johnson County Department of Corrections  
SUBJECT: **House Bill No. 2604**

On behalf of Johnson County and the Johnson County Department of Corrections, I am submitting testimony in **support** of House Bill No. 2604. This bill will assist Johnson County in the development of a jail reentry program by expressly authorizing work release as a sentencing option for the District Courts. Currently, state statutes authorize work release as a sentence only for 4<sup>th</sup> time DUI offenders. The Johnson County Department of Corrections has operated the 4<sup>th</sup> time DUI work release program successfully since October 2007. This bill will provide the District Court with another option for sentencing of other low-risk off-grid felony and misdemeanor offenders, other than jail.

Work release provides inmates with an opportunity to learn and practice work skills and to develop work ethic. The inmates maintain jobs within the local community, earn wages, and pay income taxes. With an average daily population of 58, the inmates in the Johnson County Work Release program earned a total of \$1,400,152 in wages and paid a total of \$198,235 in income taxes during the last full year of reporting. These inmates also offset the cost of the program by paying a total of \$337,257 in per-diem fees. The inmates also pay towards their debts such as restitution and court costs. In the same reporting year, the inmates paid \$91,755 to the District Court.

Work release beds are generally less costly to operate than county jail beds; Johnson County's cost per inmate per day in work release is about \$40.00. Work release programs also improve the offenders' chances of success in the community. The recidivism rates for the inmates in the state's work release programs have been approximately 5 to 7% less for work release graduates than for the general population with 1, 2, and 3 year follow-ups.

Staff in most work release programs review and approve or deny proposed employment for the inmates. The staff also monitor the whereabouts of the inmates assigned to their programs. The programs provide strict rules and apply internal consequences for rule violations. Those inmates who do not follow the rules are generally returned to jail to complete their sentences. Public safety is a high priority.

Lastly, I want to point out that this proposed legislation does not require Kansas counties to operate work release programs. Whether or not a county authorizes a work release program will be entirely at the discretion of the county. Further, no state funding is required for this bill. Please consider passage of HB 2604.

**Corrections and Juvenile Justice**  
**Date:** 2-10-10  
**Attachment #** 7



Testimony on HB 2604  
to  
The House Corrections and Juvenile Justice Committee

By Roger Werholtz  
Secretary of Corrections

February 10, 2010

The Department of Corrections is neutral in regard to the provision of HB 2604 which would authorize a sentencing court to order the assignment of an offender to a work release program as it pertains to those work release facilities under local jurisdiction. However, the Department believes that HB 2604 should be amended to clarify that the authority of a sentencing court to order the assignment of a defendant to a work release program does not include work release programs at state correctional facilities under the control of the secretary of corrections as defined by K.S.A. 75-5202(d). A balloon amendment setting out this clarification is attached.

The Department understands that a number of jails operate work release programs. The Department is neutral relative to the role of the sentencing court and jail administrators regarding the selection of jail work release participants. The operation of a county jail work release program is significantly different from a work release program of the state Department of Corrections. It is assumed the District Court Judges are in a much better position to discuss with the local jail administrator the capacity and requirements of a jail work release program. While a jail work release program may achieve the goal, when appropriate, of having the offender maintain the same employment that he or she had prior to incarceration in the jail; the Department of Corrections' work release programs provide employment for those offenders whose prior employment was either years ago or non-existent. Finally, due to the extremely limited availability of work release resources within the Department, it believes that placement decisions should be made by the Department and not individual sentencing courts.

The Department urges incorporation of its proposed amendment if the Committee gives HB 2504 favorable consideration.

Corrections and Juvenile Justice

Date: 2-10-10

Attachment # 8

**DEPARTMENT OF CORRECTIONS**

- 1 21-4603b and amendments thereto;
- 2 (7) order the defendant to attend and satisfactorily complete an al-
- 3 cohol or drug education or training program as provided by subsection
- 4 (3) of K.S.A. 21-4502, and amendments thereto;
- 5 (8) order the defendant to repay the amount of any reward paid by
- 6 any crime stoppers chapter, individual, corporation or public entity which
- 7 materially aided in the apprehension or conviction of the defendant; repay
- 8 the amount of any costs and expenses incurred by any law enforcement
- 9 agency in the apprehension of the defendant, if one of the current crimes
- 10 of conviction of the defendant includes escape, as defined in K.S.A. 21-
- 11 3809, and amendments thereto, or aggravated escape, as defined in K.S.A.
- 12 21-3810, and amendments thereto; repay expenses incurred by a fire dis-
- 13 trict, fire department or fire company responding to a fire which has been
- 14 determined to be arson under K.S.A. 21-3718 or 21-3719, and amend-
- 15 ments thereto, if the defendant is convicted of such crime; repay the
- 16 amount of any public funds utilized by a law enforcement agency to pur-
- 17 chase controlled substances from the defendant during the investigation
- 18 which leads to the defendant's conviction; or repay the amount of any
- 19 medical costs and expenses incurred by any law enforcement agency or
- 20 county. Such repayment of the amount of any such costs and expenses
- 21 incurred by a county, law enforcement agency, fire district, fire depart-
- 22 ment or fire company or any public funds utilized by a law enforcement
- 23 agency shall be deposited and credited to the same fund from which the
- 24 public funds were credited to prior to use by the county, law enforcement
- 25 agency, fire district, fire department or fire company;
- 26 (9) order the defendant to pay the administrative fee authorized by
- 27 K.S.A. 22-4529, and amendments thereto, unless waived by the court;
- 28 (10) order the defendant to pay a domestic violence special program
- 29 fee authorized by K.S.A. 20-369, and amendments thereto;
- 30 (11) *assign the defendant to a work release program, provided such*
- 31 *work release program requires such defendant to return to confinement*
- 32 *at the end of each day in the work release program;*
- 33 ~~(11)~~ (12) impose any appropriate combination of (1), (2), (3), (4), (5),
- 34 (6), (7), (8), (9) and (10) and ~~(11)~~; or
- 35 ~~(12)~~ (13) suspend imposition of sentence in misdemeanor cases.
- 36 (b) (1) In addition to or in lieu of any of the above, the court shall
- 37 order the defendant to pay restitution, which shall include, but not be
- 38 limited to, damage or loss caused by the defendant's crime, unless the
- 39 court finds compelling circumstances which would render a plan of res-
- 40 titution unworkable. In regard to a violation of K.S.A. 21-4018, and
- 41 amendments thereto, such damage or loss shall include, but not be limited
- 42 to, attorney fees and costs incurred to repair the credit history or rating
- 43 of the person whose personal identification documents were obtained and

except a program at a  
 correctional institution under  
 the control of the secretary of  
 corrections as defined by  
 K.S.A. 75-5202 and  
 amendments thereto,

## HOUSE BILL No. 2640

By Committee on Corrections and Juvenile Justice

2-3

HB2640-Balloon-Revisor.pdf  
RS - JThompson - 02/09/10

*Corrections and Juvenile  
Justice Committee  
Attachment 9*

9 AN ACT concerning crimes, punishment and criminal procedure; relat-  
10 ing to aiding a person required to register under the Kansas offender  
11 registration act; failure to register by a person required to register  
12 under the Kansas offender registration act; amending K.S.A. 21-3812  
13 and 22-4903 and repealing the existing sections.  
14

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

16 Section 1. K.S.A. 21-3812 is hereby amended to read as follows: 21-  
17 3812. (a) Aiding a felon is knowingly harboring, concealing or aiding any  
18 person who has committed a felony under the laws of this state, other  
19 than a violation of K.S.A. 22-4903, and amendments thereto, or another  
20 state or the United States with intent that such person shall avoid or  
21 escape from arrest, trial, conviction or punishment for such felony.

22 Aiding a felon is a severity level 8, nonperson felony.

23 (b) Aiding a person charged with a felony is knowingly harboring,  
24 concealing or aiding a person who has been charged with a felony under  
25 the laws of this state, other than a violation of K.S.A. 22-4903, and amend-  
26 ments thereto, or another state or the United States with intent that such  
27 person shall avoid or escape from arrest, trial, conviction or punishment  
28 for such felony.

29 Aiding a person charged with a felony is a severity level 8, nonperson  
30 felony.

31 (c) Aiding a person who has been convicted of or who has been  
32 charged with committing a misdemeanor under the laws of Kansas or  
33 another state is knowingly concealing or aiding such person with intent  
34 that such person shall avoid or escape from arrest, trial, conviction or  
35 punishment for such misdemeanor.

36 Aiding a person convicted of or charged with committing a misde-  
37 meanor is a class C misdemeanor.

38 (d) Aiding a person required to register under the Kansas offender  
39 registration act, K.S.A. 22-4901 et seq., and amendments thereto, is  
40 knowingly harboring, concealing or aiding any person who is required to  
41 register under the act and who is not in compliance with the requirements  
42 of the act with intent that such person shall avoid or escape from regis-  
43 tration, arrest, trial, conviction, punishment or any criminal charges aris-

STATE OF KANSAS

JANICE L. PAULS  
REPRESENTATIVE, DISTRICT 102  
TOPEKA ADDRESS:  
STATE CAPITOL, SUITE 420 SOUTH  
TOPEKA, KANSAS 66612-1504  
(785) 296-7657  
HUTCHINSON ADDRESS:  
1634 N. BAKER  
HUTCHINSON, KANSAS 67501-5621  
(620) 663-8961



TOPEKA  
HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

RANKING MINORITY MEMBER:  
JUDICIARY  
MEMBER:  
HOUSE RULES AND JOURNAL  
COMMERCE AND LABOR COMMITTEE  
JOINT HOUSE AND SENATE COMMITTEE  
ON JUVENILE JUSTICE AND CORRECTIONS  
OVERSIGHT  
JOINT HOUSE AND SENATE COMMITTEE  
ON ADMINISTRATIVE RULES AND  
REGULATIONS  
MEMBER OF KANSAS SENTENCING COMMISSION  
CHAIR:  
NATIONAL CONFERENCE OF STATE  
LEGISLATORS COMMITTEE ON LAW AND  
CRIMINAL JUSTICE

Testimony before Corrections and Juvenile Justice Committee  
February 10, 2010

HB 2640

Madam Chairman, Vice Chair Patton and Ranking Minority Member McCray-Miller, and Committee members, thank you for the opportunity to testify before you today. Our sub-committee, Rep. Bethell, Chair, and Rep. Brookens and I, had a number of spirited discussions on the subject of offender registration..

This bill amends the Offender Registration Act regarding the level of punishment of those who are required to register under the act but fail to do so. Currently, all those required to register under the act: violent offenders, sex offenders, sexually violent predators, and drug offenders are charged with a level 5 person felony for failure to register. This bill would keep sex offenders, sexually violent predators, kidnappers, aggravated kidnappers, and those who violate the criminal restraint law, or the aggravated trafficking law at a level 5 person felony. This bill would change the level to a level 9 person felony for failing to register for all other offenders. The bill also changes the penalty for aiding a person in failing to register from a severity level 5 person felony to a level 9 person felony.

I will be glad to stand for questions.

Corrections and Juvenile Justice  
Date: 2-10-10  
Attachment # 10



**House Corrections and Juvenile Justice Committee**  
**House Bill 2640**  
**Testimony of the Kansas Association of Criminal Defense Lawyers**  
**Proponent**  
**February 10, 2010**

The Kansas Association of Criminal Defense Lawyers is a 300-member organization dedicated to justice and due process for people accused of crimes. KACDL generally supports HB 2640 but offers amendments in the alternative.

Background

On April 29, 1993, the Habitual Sex Offender Registration Act went into effect. Almost a year later, on April 14, 1994, the act was renamed the Kansas Sex Offender Registration Act. It was renamed again in 1997 and has since remained the Kansas Offender Registration Act. From 1993 to mid-1999, failure to register was a misdemeanor. In 1999, the Legislature made failure to register a severity level 10 nonperson felony. It remained that way until 2006, when failure to register got caught up in Jessica's Law and jumped to a severity level 5 person felony.

Over time, more offenses have been added to the registry. Violent offenders (murder and manslaughter) and offenders of certain crimes with victims under 18 were added in 1997. People found to be sexually violent predators in a civil proceeding were added in 2001. Juvenile sex offenders were added in 2002. In 2006, the Legislature added people "convicted of any person felony [where a finding was made that] a deadly weapon was used in the commission of such person felony." In 2007, the Legislature added people convicted of manufacturing, possession of products with intent to manufacture and possession with intent to sell narcotics/opiates. The drug crimes did not specify an effective date and, after much confusion, were applied retroactively. People convicted before the registry even included drugs were suddenly subject to the registry and all of its requirements and penalties.

Attached hereto are: 1) a copy of K.S.A. 22-4902, which sets out who is currently required to register; 2) a list prepared by the Kansas Sentencing Commission showing other severity level 5 person felonies, the same level/classification as failure to register is now; and 3) a nondrug sentencing grid.

What HB 2640 does

HB 2640 would move the offense of failure to register in the direction of proportionality. First, failure to register is more appropriate to severity level 9 than 5 (when one considers what other 5s and 9s are). Second, it makes no sense to have failure to register carry a higher severity level and/or person felony classification than the underlying crime for which the person has to register.

**Corrections and Juvenile Justice**

Date: 2-10-10

Attachment # 11

According to the Kansas Sentencing Commission Fiscal Year 2010 Adult Inmate Prison Population Projections Report, “[t]he projection of nondrug severity level V shows a mixed picture. Jessica’s Law, on the one hand, reduces the population by moving the child sex offenders to the offgrid but, on the other hand, increases the population by increasing the offender registration violators from nondrug severity level X to nondrug severity level V. During FY 2009, 38 offenders who violated Kansas Offender Registration Act were admitted to prison.” (p. 1) “The largest increase in number of prison admissions was found on nondrug level V (48 admissions).” (p. 2) “Nondrug severity level V represents the third largest increase of prison population during the ten-year forecast period.” (p. 3)

KACDL proposes two amendments. The first makes failure to register a severity level 9 nonperson felony for all registered offenders. This puts it back in line with 1999 law. It would read:

K.S.A. 22-4903 is hereby amended to read as follows: 22-4903. (a) Any person who is required to register as provided in the Kansas offender registration act who violates any of the provisions of such act, including all duties set out in K.S.A. 22-4904 through 22-4907, and amendments thereto, is guilty of a severity level 9, nonperson felony.

In the alternative, we propose an amendment that would make failure to register a severity level 9 person felony for offenders required to register for sex offenses, violent offenses or because of a sexually violent predator finding, but would make it a severity level 9 nonperson felony for everyone else. It would read:

K.S.A. 22-4903 is hereby amended to read as follows: 22-4903. (a) Except as provided further, any person who is required to register as provided in the Kansas offender registration act who violates any of the provisions of such act, including all duties set out in K.S.A. 22-4904 through 22-4907, and amendments thereto, is guilty of a severity level 9, nonperson felony. Any sex offender, violent offender or sexually violent predator who is required to register as provided in the Kansas offender registration act who violates any of the provisions of such act, including all duties set out in K.S.A. 22-4904 through 22-4907, and amendments thereto, is guilty of a severity level 9, person felony.

Kansas cannot afford – in human costs, proportionality costs or actual money costs – to wait to act on this any longer.

Respectfully submitted,



Jennifer Roth  
Chair, KACDL Legislative Committee  
rothjennifer@yahoo.com  
785.550.5365

## Kansas Legislature

[Home > Statutes > Statute](#)[Previous](#)[Next](#)**22-4902**

**Chapter 22.--CRIMINAL PROCEDURE  
KANSAS CODE OF CRIMINAL PROCEDURE  
Article 49.--OFFENDER REGISTRATION**

**22-4902. Definitions.** As used in this act, unless the context otherwise requires:

- (a) "Offender" means: (1) A sex offender as defined in subsection (b);
  - (2) a violent offender as defined in subsection (d);
  - (3) a sexually violent predator as defined in subsection (f);
  - (4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:
    - (A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;
    - (B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or
    - (C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;
    - (5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:
      - (A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;
      - (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;
      - (C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;
      - (D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;
      - (E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto; or
      - (F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;
      - (6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;
      - (7) any person who, on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;
      - (8) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4), (5), (7) or (11), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4), (5), (7) or (11);
      - (9) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4), (5), (7) or (10);
      - (10) any person who has been convicted of aggravated trafficking as defined in K.S.A. 21-3447, and amendments thereto; or
      - (11) any person who has been convicted of: (A) Unlawful manufacture or attempting such of any controlled substance as defined by K.S.A. 65-4159, and amendments thereto, unless the court makes a finding on the record that the manufacturing or attempting to manufacture such controlled substance was for such person's personal use;
      - (B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined by K.S.A. 65-7006, and amendments thereto, unless the court makes a finding on the record that the possession of such product was intended to be used to manufacture a controlled substance for such person's personal use; or
      - (C) K.S.A. 65-4161, and amendments thereto.
- Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.
- (b) "Sex offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).
  - (c) "Sexually violent crime" means:
    - (1) Rape as defined in K.S.A. 21-3502 and amendments thereto;
    - (2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;

- (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;
  - (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;
  - (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;
  - (6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;
  - (7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;
  - (8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;
  - (9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;
  - (10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;
  - (11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or
  - (12) electronic solicitation as defined by K.S.A. 21-3523, and amendments thereto, committed on and after the effective date of this act;
  - (13) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;
  - (14) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or
  - (15) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.
- (d) "Violent offender" includes any person who, after the effective date of this act, is convicted of any of the following crimes:
- (1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;
  - (2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;
  - (3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;
  - (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;
  - (5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto;
- or
- (6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or
  - (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.
- (e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.
- (f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq. and amendments thereto.
- (g) "Nonresident student or worker" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.
- (h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:
- (1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;
  - (2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3) (A) of K.S.A. 21-3506, and amendments thereto; and
  - (3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.
- (i) "Institution of higher education" means any post-secondary school under the supervision of the Kansas board of regents.

**History:** L. 1993, ch. 253, § 18; L. 1994, ch. 107, § 2; L. 1997, ch. 181, § 8; L. 1999, ch. 164, § 29; L. 2001, ch. 208, § 10; L. 2002, ch. 55, § 1; L. 2002, ch. 163, § 6; L. 2003, ch. 123, § 3; L. 2006, ch. 214, § 6; L. 2007, ch. 183, § 1; L. 2008, ch. 74, § 1; Apr. 17.

11-4



11-2

**Kansas Criminal Code**  
**FELONY OFFENSES - BY SEVERITY LEVEL AND THEN BY STATUTE NUMBER**

Statute Number Violated	Statutory Penalty Section	Statute Description	Severity Level	Attempt, Conspiracy, & Solicitation			Person Nonperson
				A	C	S	
17-12a501(2)	17-12a508 (a)(2)(A)	Kansas Uniform Securities Act; General Fraud in connection with offer, sale, or purchase of a security; False statement of or omission of material fact; \$100,000 or more (presumptive imprisonment)	4	6	6	7	Nonperson
17-12a501(3)	17-12a508 (a)(2)(A)	Kansas Uniform Securities Act; General Fraud in connection with offer, sale, or purchase of a security; Engaging in act, practice, or course of business that operates as a fraud or deceit; \$100,000 or more (presumptive imprisonment)	4	6	6	7	Nonperson
17-12a502(a)(1)	17-12a508 (a)(2)(A)	Kansas Uniform Securities Act; Intentional fraud in providing investment advice; Employ a device, scheme, or artifice to defraud another; \$100,000 or more (presumptive imprisonment)	4	6	6	7	Nonperson
17-12a502(a)(2)	17-12a508 (a)(2)(A)	Kansas Uniform Securities Act; Intentional fraud in providing investment advice; Engage in act, practice, or course of business that operates as a fraud or deceit; \$100,000 or more (presumptive imprisonment)	4	6	6	7	Nonperson
21-3414(a)(1)(A)	(b)	Aggravated Battery; Intentionally causing great bodily harm or disfigurement	4	6	6	7	Person
21-3415(a)(2)(A)	(b)(2)	Aggravated Battery; State, county or city law enforcement officer; Intentionally causing bodily harm with a deadly weapon; physical contact done in a rude, insulting or angry manner, with a deadly weapon or in a manner whereby great bodily harm, disfigurement or death can be inflicted	4	6	6	7	Person
21-3415(a)(2)(B)	(b)(2)	Aggravated Battery; Campus or university police officer; Intentionally causing bodily harm with a deadly weapon; physical contact done in a rude, insulting or angry manner, with a deadly weapon or in a manner whereby great bodily harm, disfigurement or death can be inflicted	4	6	6	7	Person
21-3440(a)	(c)	Injury to Pregnant Woman; In the commission of a felony	4	6	6	7	Person
21-3442	same	Involuntary Manslaughter; While under the influence of alcohol or drugs	4	6	6	7	Person
21-3504(a)(2)(A)	(c)	Aggravated Indecent Liberties with a Child; Nonconsensual lewd fondling/touching; Child 14 or more but less than 16	4	6	6	7	Person
21-3504(a)(2)(B)	(c)	Aggravated Indecent Liberties with a Child; Causing child to engage in lewd fondling/touching without consent; Child 14 or more but less than 16	4	6	6	7	Person
21-3811(a)	(d)(2)	Aiding an Escape; Assist one to escape from such lawful custody; KDOC employee/volunteer or KDOC contractor employee/volunteer	4	6	6	7	Nonperson
21-3811(b)	(d)(2)	Aiding an Escape; Supply one any object or thing adapted or designed for use in making an escape; KDOC employee/volunteer or KDOC contractor employee/volunteer	4	6	6	7	Nonperson
21-3811(c)	(d)(2)	Aiding an Escape; Introduce into an institution any object or thing adapted or designed for use in an escape; KDOC employee/volunteer or KDOC contractor employee/volunteer	4	6	6	7	Nonperson
21-4221(a)(1)	(d)(2)	Endangering the Food Supply; Bring into this state any domestic animal which is affected with or exposed to foot-and-mouth disease	4	6	6	7	Nonperson
21-4221(a)(2)	(d)(2)	Endangering the Food Supply; Expose any animal in this state to foot-and-mouth disease	4	6	6	7	Nonperson
21-4221(a)(4)	(d)(2)	Endangering the Food Supply; Expose any raw agricultural commodity, animal feed or processed food to foot-and-mouth disease	4	6	6	7	Nonperson
*21-3419a(a)	(b)	Aggravated Criminal Threat; Public, commercial or industrial building, place of assembly or facility of transportation is evacuated, locked down or disrupted as to regular, ongoing activities as result of threat (amended description)	5	7	7	8	Person
*21-3826(a)	(c)(1)	Trafficking in Contraband in Correctional Institution; Contraband consisting of firearms, ammunition, explosives or controlled substance	5	7	7	8	Nonperson
3826(a)	(c)(2)	Trafficking in Contraband in Correctional Institution; As defined by rules and regulations adopted by Secretary; By an employee of a correctional institution	5	7	7	8	Nonperson

\*Crime was created, amended or the severity level was changed during the 2009 Legislative Session.

**Kansas Criminal Code**  
**FELONY OFFENSES - BY SEVERITY LEVEL AND THEN BY STATUTE NUMBER**

7-11

Statute Number Violated	Statutory Penalty Section	Statute Description	Severity Level	Attempt, Conspiracy, & Solicitation			Person Nonperson
				A	C	S	
*21-3826(a)	(c)(3)	Trafficking in Contraband in care and treatment facility; As defined by rules and regulations adopted by Secretary; By an employee of a care and treatment facility	5	7	7	8	Nonperson
17-12a301(1)	17-12a508 (a)(3)(A)	Kansas Uniform Securities Act; Intentional, unlawful offering or selling security in this state; Security not a federally covered security; \$100,000 or more (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a301(2)	17-12a508 (a)(3)(A)	Kansas Uniform Securities Act; Intentional, unlawful offering or selling security in this state; Security not exempt from registration; \$100,000 or more (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a301(3)	17-12a508 (a)(3)(A)	Kansas Uniform Securities Act; Intentional, unlawful offering or selling security in this state; Security not registered; \$100,000 or more (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a401(a)	17-12a508 (a)(3)(A)	Kansas Uniform Securities Act; Intentional violation of broker-dealer registration requirements; \$100,000 or more (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a401(c)	17-12a508 (a)(3)(A)	Kansas Uniform Securities Act; Intentional violation of broker-dealer limits on employment or association; \$100,000 or more (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a402(a)	17-12a508 (a)(3)(A)	Kansas Uniform Securities Act; Intentional violation of agent registration requirements; \$100,000 or more (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a402(d)	17-12a508 (a)(3)(A)	Kansas Uniform Securities Act; Intentional violation of agent limits on employment or association; \$100,000 or more (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a403(a)	17-12a508 (a)(3)(A)	Kansas Uniform Securities Act; Intentional violation of investment adviser registration requirements; \$100,000 or more (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a403(c)	17-12a508 (a)(3)(A)	Kansas Uniform Securities Act; Intentional violation of investment adviser limits on employment or association; \$100,000 or more (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a403(d)	17-12a508 (a)(3)(A)	Kansas Uniform Securities Act; Intentional violation of investment adviser representative registration; \$100,000 or more (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a404(a)	17-12a508 (a)(3)(A)	Kansas Uniform Securities Act; Intentional violation of investment adviser representative registration requirements; \$100,000 or more (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a404(e)	17-12a508 (a)(3)(A)	Kansas Uniform Securities Act; Intentional violation of investment adviser representative limits on employment or association; \$100,000 or more (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a501(1)	17-12a508 (a)(2)(B)	Kansas Uniform Securities Act; General Fraud in connection with offer, sale, or purchase of a security; employing device, scheme or artifice to defraud; At least \$25,000 but less than \$100,000 (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a501(2)	17-12a508 (a)(2)(B)	Kansas Uniform Securities Act; General Fraud in connection with offer, sale, or purchase of a security; False statement of or omission of material fact; At least \$25,000 but less than \$100,000 (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a501(3)	17-12a508 (a)(2)(B)	Kansas Uniform Securities Act; General Fraud in connection with offer, sale, or purchase of a security; Engage in act, practice, or course of business that operates as a fraud or deceit; At least \$25,000 but less than \$100,000 (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a502(a)(1)	17-12a508 (a)(2)(B)	Kansas Uniform Securities Act; Intentional fraud in providing investment advice; Employ a device, scheme, or artifice to defraud another; At least \$25,000 but less than \$100,000 (presumptive imprisonment)	5	7	7	8	Nonperson
17-12a502(a)(2)	17-12a508 (a)(2)(B)	Kansas Uniform Securities Act; Intentional fraud in providing investment advice; Engage in act, practice, or course of business that operates as a fraud or deceit; At least \$25,000 but less than \$100,000 (presumptive imprisonment)	5	7	7	8	Nonperson
*21-3404(a)	same	Involuntary Manslaughter; Recklessly	5	7	7	8	Person

\*Crime was created, amended or the severity level was changed during the 2009 Legislative Session.



**Kansas Criminal Code**  
**FELONY OFFENSES - BY SEVERITY LEVEL AND THEN BY STATUTE NUMBER**

11-7

Statute Number Violated	Statutory Penalty Section	Statute Description	Severity Level	Attempt, Conspiracy, & Solicitation			Person Nonperson
				A	C	S	
21-3404(b)	same	Involuntary Manslaughter; In the commission, or attempted commission, of other felonies	5	7	7	8	Person
21-3404(c)	same	Involuntary Manslaughter; In commission of lawful act in unlawful manner	5	7	7	8	Person
21-3413(a)(3)(A)	(b)	Battery; State correctional officer/employee	5	7	7	8	Person
21-3413(a)(3)(B)	(b)	Battery; Juvenile correctional facility officer/employee	5	7	7	8	Person
21-3413(a)(3)(C)	(b)	Battery; Juvenile detention facility officer/employee	5	7	7	8	Person
21-3413(a)(3)(D)	(b)	Battery; City or county correctional officer/employee	5	7	7	8	Person
21-3414(a)(2)(A)	(b)	Aggravated Battery; Recklessly causing great bodily harm or disfigurement	5	7	7	8	Person
21-3426	same	Robbery; Take property from person or presence of another by force or by threat of bodily harm	5	7	7	8	Person
21-3438(a)(2)	(b)(2)	Stalking; Intentional or reckless engaging in targeted at specific person which individual knows will place targeted person in fear for such person's or immediate family member's safety; second or subsequent conviction	5	7	7	8	Person
21-3438(a)(3)	(b)(3)	Stalking; After notice of protective order prohibiting contact with a targeted person, intentionally or recklessly engaging in conduct listed in (f)(1) that violates the order and would cause a reasonable person in targeted person's circumstances to fear for such person's or immediate family's safety and targeted person actually placed in such fear; second or subsequent conviction	5	7	7	8	Person
21-3441(a)	(c)(1)	Injury to Pregnant Woman; By vehicle while committing a violation of K.S.A. 8-1567	5	7	7	8	Person
21-3503(a)(1)	(c)	Indecent Liberties with a Child; Lewd fondling/touching; Child 14 or more but less than 16	5	7	7	8	Person
21-3503(a)(2)	(c)	Indecent Liberties with a Child; Soliciting the child to engage in any lewd fondling/touching; Child 14 or more but less than 16	5	7	7	8	Person
21-3511(a)	same	Aggravated Indecent Solicitation of a Child; To commit or submit to unlawful sexual act; Child less than 14	5	7	7	8	Person
21-3511(b)	same	Aggravated Indecent Solicitation of a Child; Inviting to enter secluded place; Child less than 14	5	7	7	8	Person
21-3516(a)(1)	(c)	Sexual Exploitation of Child; Employ child less than 18 to engage in sexually explicit conduct	5	7	7	8	Person
21-3516(a)(2)	(c)	Sexual Exploitation of Child; Possess visual medium of child less than 18 engaging in sexually explicit conduct	5	7	7	8	Person
21-3516(a)(3)	(c)	Sexual Exploitation of Child; Parent, guardian or one with custody, knowingly permit child less than 18 to engage in sexually explicit conduct	5	7	7	8	Person
21-3516(a)(4)	(c)	Sexual Exploitation of Child; Promote performance of child less than 18	5	7	7	8	Person
21-3518(a)(1)	(b)	Aggravated Sexual Battery; Intentional nonconsensual touching; Child 16 or more; Victim overcome by force or fear	5	7	7	8	Person
21-3518(a)(2)	(b)	Aggravated Sexual Battery; Intentional nonconsensual touching; Child 16 or more; Victim unconscious or physically powerless	5	7	7	8	Person
21-3518(a)(3)	(b)	Aggravated Sexual Battery; Intentional nonconsensual touching; Child 16 or more; Victim incapable of giving consent because of mental deficiency or disease or under effect of any alcoholic liquor, narcotic, drug or other substance	5	7	7	8	Person
21-3603(a)(2)(A)	(b)	Aggravated Incest; Otherwise lawful intercourse or sodomy with a relative 16 or 17	5	7	7	8	Person
21-3604a	same	Aggravated Abandonment; Of a child less than 16 resulting in great bodily harm	5	7	7	8	Person
21-3609	same	Abuse of a child; Intentionally torture, cruelly beat, or shake resulting in great bodily harm or inflict cruel and inhuman corporal punishment upon any child under the age of 18	5	7	7	8	Person
21-3701(a)(1)	(b)(1)	Theft; Obtain or exert unauthorized control; \$100,000 or more	5	7	7	8	Nonperson
21-3701(a)(2)	(b)(1)	Theft; By deception; \$100,000 or more	5	7	7	8	Nonperson
21-3701(a)(3)	(b)(1)	Theft; By threat; \$100,000 or more	5	7	7	8	Nonperson
21-3701(a)(4)	(b)(1)	Theft; Stolen property; Knowing the property to have been stolen by another; \$100,000 or more	5	7	7	8	Nonperson
21-3704(a)	(e)(1)	Theft of Services; \$100,000 or more	5	7	7	8	Nonperson

\*Crime was created, amended or the severity level was changed during the 2009 Legislative Session.

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**Kansas Criminal Code**  
**FELONY OFFENSES - BY SEVERITY LEVEL AND THEN BY STATUTE NUMBER**

Statute Number Violated	Statutory Penalty Section	Statute Description	Severity Level	Attempt, Conspiracy, & Solicitation			Person Nonperson
				A	C	S	
21-3716	same	Aggravated Burglary; Knowingly without authority enter into or remain within any structure or conveyance in which there is a human being, with intent to commit a felony, theft or sexual battery therein	5	7	7	8	Person
21-3810(a)(2)	(c)(2)	Aggravated Escape From Custody; While held on charge or adjudication as juvenile offender	5	7	7	8	Nonperson
21-3810(a)(7)	(c)(2)	Aggravated Escape From Custody; While held upon incarceration at a state correctional institution in the custody of the secretary of corrections	5	7	7	8	Nonperson
21-3810(b)(2)	(c)(4)	Aggravated Escape From Custody; By use of or threat of violence against any person while held on a charge or adjudication as a juvenile offender	5	7	7	8	Person
21-3810(b)(7)	(c)(4)	Aggravated Escape From Custody; By use of or threat of violence against any person while held upon incarceration at a state correctional institution in the custody of secretary of corrections	5	7	7	8	Person
21-3812(d)	(d)	Aiding Person Required to Register under Kansas Offender Registration Act	5	7	7	8	Person
21-3910(a)	(c)(1)	Misuse of Public Funds; Aggregate is \$100,000 or more	5	7	7	8	Nonperson
21-4018(a)	(c)	Identity Theft; Monetary loss more than \$100,000	5	7	7	8	Nonperson
21-4219(b)	same	Criminal Discharge of Firearm; At an occupied building or occupied vehicle resulting in bodily harm	5	7	7	8	Person
21-4220(a)(3)	(b)(3)	Unlawful Endangerment; Protect or attempt to protect the production of a controlled substance with a device or weapon which cause serious physical injury	5	7	7	8	Person
21-4223(b)(2)	(f)	Traffic Control Signal Preemption Device; Unlawful Use; Resulting in traffic accident causing death of any person	5	7	7	8	Person
21-4228(a)(1)	(b)	Criminal Street Gangs; Intimidation; Threaten injury to or actual injury of another to deter them from assisting a gang member in withdrawing from the gang	5	7	7	8	Person
21-4228(a)(2)	(b)	Criminal Street Gangs; Intimidation; Threaten injury to or actual injury of another to punish or retaliate against such person having withdrawn from a gang.	5	7	7	8	Person
22-4903	same	Kansas Offender Registration Act; Failure to register as required	5	7	7	8	Person
22-4904(c)(2)	(c)(4)	Kansas Offender Registration Act; Failure to return verification to KBI	5	7	7	8	Person
39-720	same and 21-3701	Mentally Ill, Incapacitated & Dependent Persons; Welfare fraud; \$100,000 or more	5	7	7	8	Nonperson
44-5,125(a)(1)(A)	(a)(v)	Worker's Comp. Fraud; Attempt to Gain Benefits; False or misleading statement; \$100,000 or more	5	7	7	8	Nonperson
44-5,125(a)(1)(B)	(a)(v)	Worker's Comp. Fraud; Attempt to Gain Benefits; Misrepresent/conceal a material fact; \$100,000 or more	5	7	7	8	Nonperson
44-5,125(a)(1)(C)	(a)(v)	Worker's Comp. Fraud; Attempt to Gain Benefits; Fabricate, alter, conceal or destroy a document; \$100,000 or more	5	7	7	8	Nonperson
44-5,125(a)(1)(D)	(a)(v)	Worker's Comp. Fraud; Attempt to Gain Benefits; Receive temporary total disability benefits or permanent total disability benefits, not entitled to, while employed; \$100,000 or more	5	7	7	8	Nonperson
44-5,125(a)(1)(E)	(a)(v)	Worker's Comp. Fraud; Attempt to Gain Benefits; Conspire with another person to commit any act described by paragraph (1) of this subsection (a); \$100,000 or more	5	7	7	8	Nonperson
44-719(a)	same and 21-3701	Employment Security Law; Make a false statement or representation/Fail to disclose a material fact, to obtain or increase any benefit or other payment under this act; \$100,000 or more	5	7	7	8	Nonperson
65-3235	same	Uniform Anatomical Gift Act; Knowingly purchase or sell a body part for transplantation or therapy	5	7	7	8	Nonperson
21-3437(a)(2)	(d)(2)	Mistreatment of Dependant Adult; Intentionally and knowingly take unfair advantage of a dependent adult's physical or financial resources; Amount is \$100,000 or more	6	8	8	9	Person
*21-36a08(a)	(b)(2)	Drugs; Unlawfully Obtaining and Distributing a Prescription-only Drug; Distributing and such distribution involves selling, possession with intent to sell, or offering for sale the prescription-only drug so obtained [Formerly K.S.A. 21-4215(a)]	6	8	8	9	Nonperson

\*Crime was created, amended or the severity level was changed during the 2009 Legislative Session.

## SENTENCING RANGE - NONDRUG OFFENSES

11-9

Category →	A	B	C	D	E	F	G	H	I
Severity Level ↓	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	Misdemeanor 2+	Misdemeanor 1 No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

**Probation Terms are:**

- 36 months recommended for felonies classified in Severity Levels 1-5
- 24 months recommended for felonies classified in Severity Levels 6-7
- 18 months (up to) for felonies classified in Severity Level 8
- 12 months (up to) for felonies classified in Severity Levels 9-10

**Postrelease Supervision Terms are:**

- 36 months for felonies classified in Severity Levels 1-4
- 24 months for felonies classified in Severity Level 5-6
- 12 months for felonies classified in Severity Levels 7-10

**Postrelease for felonies committed before 4/20/95 are:**

- 24 months for felonies classified in Severity Levels 1-6
- 12 months for felonies classified in Severity Level 7-10

LEGEND
Presumptive Probation
Border Box
Presumptive Imprisonment