

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 March 2, 2011 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
Lauren Douglass, Legislative Research
Robert Allison-Gallimore, Legislative Research
Jackie Lunn, Committee Assistant

Conferees appearing before the Committee:

Honorable Judge John White, Criminal Advisory Committee, Kansas Judicial Council

Others attending:

See attached.

Chairperson Colloton called the meeting to order and welcomed Representative Kay Wolf back to the Committee.

Chairperson Colloton opened the hearing on **HB 2321-Amendments to the recodified criminal code.** Jason Thompson, Office of the Revisor of Statutes, explained the bill. The Honorable Judge White testified as a proponent of the bill. He presented written testimony, which can be found in its entirety in the offices of Legislative Administrative Services. (Attachment 1) Director Fertig, Kansas Sentencing Commission explained the bill impact and also presented written copy, which can be found in its entirety in the offices of Legislative Administrative Services. (Attachment 2)

A lengthy discussion followed.

With no others wishing to testify or speak to the bill, Chairperson Colloton closed the hearing on **HB 2321** and adjourned the meeting at 3:05 pm with the next meeting scheduled for March 3, 2011 at 1:30 pm in room 144-S.

DATE: 3.2.11

[illegible]



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TO: Representative Pat Colloton, Chair, House Corrections and
Juvenile Justice Committee

From: Criminal Law Advisory Committee, Kansas Judicial Council

Re: Testimony in support of 2011 House Bill 2321

Date: February 23, 2011

TESTIMONY OF THE JUDICIAL COUNCIL CRIMINAL LAW ADVISORY COMMITTEE ON 2011 HOUSE BILL 2321

In June, 2010, the Criminal Law Advisory Committee (Committee) was asked to study comments received regarding 2010 House Bill 2668. The comments included some concerns that the Recodification Commission had already addressed but also pointed out some apparent errors or omissions in the bill. The Committee reviewed the comments and has prepared "clean-up" legislation to address a few unconstitutional provisions that were unintentionally left in statute during the recodification. The Committee understands that a few provisions that had missing or incorrect penalty provisions are being addressed by the Revisor's office in its follow-up bill.

The Committee also reviewed the policy recommendations included in Vol. II of the Recodification Commission's report. The Committee considered and discussed the Commission's recommendations and subsequently agreed with many of them. House Bill 2321 would implement many of the Commission's recommendations as follows:

- **New Section 1.** The proposed armed criminal action statute is similar to the armed criminal action statute in Missouri. It penalizes use of a firearm in the commission of a felony, unless the underlying felony is one where use of a firearm is a necessary element. Crimes involving the use of a firearm are especially dangerous and justify more severe punishment.
- **New Section 2.** The proposed general reckless endangerment offense is similar to several other jurisdictions. The Kansas code contains numerous offenses that are based on the principle of criminalizing recklessly exposing someone to danger when no injury or death occurs, such as endangerment of a child, casting rocks onto a public road or street, hazing, use or possession of traffic control preemption devices, etc. This general offense provides liability for acts of endangerment that do not fit within these several specific statutes.
- **New Section 3.** Incorporates the new crimes in Section 1 and 2 into the Kansas criminal code.
- **Section 4.** Respecting the infractions established in this statute, the recommendation is to insert language indicating whether and what degree of culpability is required. Neither K.S.A. 21-4010, which defines infractions, nor K.S.A. 21-4012, which specifies penalties, addresses this matter. Under the recodification (section 13(d) & (e) of House Bill No. 2668), recklessness would be required because the definition of the crime does

not “plainly dispense with any mental element.” The committee believes that the Legislature intended for the infractions established in K.S.A. 21-4010 to be strict liability.

Whereas K.S.A. 21-4010 does not say anything about culpability, K.S.A. 21-4012(b), which makes those who own or run public places liable for smoking infractions committed by those on the premises, does explicitly require culpability. This leads to the conclusion that, in contrast with K.S.A. 21-4012(b), the infractions defined in K.S.A. 21-4010 are not meant to require culpability. When the Legislature has intended to establish a strict liability offense, the recodified version of the offense expressly provides that there is “no requirement of a culpable mental state”, thereby avoiding the default requirement of recklessness (section 13(d) & (e) of House Bill No. 2668). See, e.g., House Bill No. 2668 §§ 184, 194. We recommend insertion of the same language.

It is unclear whether this language should be inserted in K.S.A. 21-4010 or K.S.A. 21-4012. The recodification defines offenses and prescribes the penalty in the same statute. The provisions here depart from that arrangement and put the penalties in a different statute, K.S.A. 21-4012. Ideally, the provisions would be revised to conform to the general scheme of the recodification.

- **Section 5.** The recommendation is to change some language in K.S.A. 21-4012(b) to make it consistent with the recodification’s culpability provisions. K.S.A. 21-4012(b) makes one who, e.g., owns or controls a public place, liable for allowing smoking to occur if that person knows of and acquiesces in the smoking. The recodification does use and define “knowledge” as a culpability term. See 2010 House Bill No. 2668 § 13. However, the recodification neither uses nor defines the term “acquiesce”. The committee recommends that the term “acquiesce” be replaced with the phrase “recklessly

permits". The recodification does define recklessness. It is the committee's judgment that recklessness captures the Legislature's intent regarding the culpability required by K.S.A. 21-4012(b).

In addition, the committee recommends changing language in K.S.A. 21-4012(f) to make it consistent with the recodification's culpability provisions. This provision makes it an infraction for an employer to take adverse action against an employee, applicant, or customer "because" the employee, applicant, or customer has reported or attempted to prosecute a smoking violation. The infraction will be committed only when the employer's subjective purpose is to retaliate. As defined in the recodification, "intent" is the applicable culpability term. The committee recommends wording K.S.A. 21-4012(f) accordingly.

- **Section 6.** Subsection (e) should be added in order to eliminate the identical offense doctrine of cases such as *State v. McAdam*, 277 Kan. 136 (2004). Under the proposed language, the existence of identical offenses would not automatically demand imposition of the lesser punishment as the prosecutor may choose which offense to charge.
- **Section 7.** Subsection (b) should be added to provide for the unilateral theory of conspiracy. Under current law, an offender who intends to enter into a conspiracy is not guilty unless there was an additional guilty co-conspirator. Under the unilateral theory of conspiracy, an offender who mistakenly or falsely agreed to commit a crime would be guilty of conspiracy. This distinction is often important as many police investigations employ the use of an agent or undercover informant who is not a genuine co-conspirator. This proposal is consistent with the Model Penal Code and the law of many jurisdictions.

The remaining amendments in this section were inserted by the Revisor's Office as part of the clean-up process following recodification of the criminal code and were not reviewed by the Judicial Council Criminal Law Advisory Committee. They are from amendments adopted in 2010 that appear in K.S.A. 2010 Supp. 21-3302, which is repealed by this bill.

- **Section 8.** Subsection (c)(1)(T) should be added to the list of inherently dangerous felonies. Abandonment of a child possesses the same dangers as aggravated endangering of a child.
- **Section 9.** The committee's proposed amendment pertains to subsection (b)(2). Current law has subsection (b)(2) as a stand-alone provision which could lead to the criminalization of trivial behavior, such as a young person driving a date to a place where both intend to engage in sexual conduct. The correction is proposed to bring the statute in line with the perceived intent of the statute.

The remaining amendments in this section were inserted by the Revisor's Office as part of the clean-up process following recodification of the criminal code and were not reviewed by the Judicial Council Criminal Law Advisory Committee. They are from amendments adopted in 2010 that appear in K.S.A. 2010 Supp. 21-3446 and 21-3447, which are both repealed by this bill.

- **Section 10.** Subsection (a)(1) should be removed as it is unconstitutional in light of the U.S. Supreme Court decision in *Lawrence v. Texas*, 539 U.S. 558 (2003). The State or local government could be exposed to civil liability if this offense is retained in statute and results in an arrest. The best practice is to remove unconstitutional statutes from the criminal code.

The remaining amendments in this section were inserted by the Revisor's Office as part of the clean-up process following recodification of the criminal code and were not reviewed by the Judicial Council Criminal Law Advisory Committee. They are from amendments adopted in 2010 that appear in K.S.A. 2010 Supp. 21-3506, which is repealed by this bill.

- **Section 11.** Subsection (a)(5) is unconstitutional in light of the Kansas Supreme Court decision in *State v. Limon*, 280 Kan. 275 (2005) and the U.S. Supreme Court decision in *Lawrence v. Texas*, 539 U.S. 558 (2003). The State or local governments could be exposed to civil liability if this offense is retained in statute and results in an arrest. The best practice is to remove unconstitutional statutes from the criminal code.
- **Section 12.** The addition of subparagraph (c)(2)(A)(ii) is recommended to increase the severity level of the violation when the victim and offender are in a parent/child relationship. A violation of the parental duty to care for a child deserves greater punishment than other forms of incest.
- **Section 13.** The addition of subsection (a)(3) as proposed would criminalize mere possession of recordings produced in violation of subsection (a)(1). Subsection (a)(3) does not require the further intent to sell or rent the recordings. Possession alone should be sufficient to trigger criminal liability.
- **Section 14.** The phrase "sexual battery" should be changed to "sexually motivated crime" to expand liability to other sexually motivated crimes other than sexual battery. For example, an offender who enters a home with the intent to rummage through the victim's underwear enters with the intent to commit a misdemeanor, i.e. criminal deprivation of property, which is not a theft. However, due to the sexually motivated

nature of the offense, such behavior should fall under the burglary statute. The definition of "sexually motivated" is identical to how it is defined in K.S.A. 21-4642, 22-3717, 22-4902 and 59-29a02.

- **Section 15.** The recommendation is to expand liability under this statute. Under current law it is a crime to falsely report a crime. Subsection (a)(1)(A) expands liability to cover persons who falsely report that a particular person committed an offense. Targeting an innocent person aggravates the offense and the severity level should be higher in such cases. Subsection (a)(1)(B) expands liability to any person that provides false information to law enforcement with the intent to obstruct the officer's official duty. This revision goes beyond falsely reporting a crime and may cover instances where an offender misleads law enforcement to prevent detection of a crime or the proper investigation of a crime. Subsection (a)(2) expands liability to offenders who destroy, conceal or alter evidence in order to prevent law enforcement from apprehending an offender. These acts are clearly prohibited under the current statute.
- **Section 16.** The recommended changes to subsection (a)(4)(B) and the addition of subsection (a)(5) are due to several troubling limitations on the crime included in subsection (a)(4). First, the current crime only applies when an offender agrees to accept some consideration for a promise to destroy evidence, etc. The destruction of evidence of a crime, in the absence of consideration, should be a crime. For that reason, the recommendation is to add subsection (a)(5) which would apply to both criminal and civil cases because the offense deals with the judicial process generally, not just the criminal justice process.

- **Section 17.** The proposed change is recommended to avoid the unintended consequence of criminalizing innocent conduct intended to “induce payment of a claim.” The revision would require the “intent to mislead the recipient and cause the recipient to take action in reliance thereon.” This revision provides a superior culpability standard and adequately targets the kind of behavior the legislature originally intended to criminalize.
- **Section 18.** The recommendation is to add the phrase “or arrest” to subsections (a)(1), (a)(2), (b)(1)(A) and (b)(1)(B) and to add subsection (e). Under current case law, an offender may not be charged with escape from custody unless there is a formal written charge, not when the offender is only under arrest without a written charge. Escape while under arrest without a written charge may still be charged under obstruction of legal process, but that offense is subject to a lesser penalty. It was determined that the legislature intended this offense to apply to offenders under arrest, without a formal written charge, and the proposed changes clarify that intent.
- **Section 19.** The current bribery statute is flawed for several reasons. First, it lacks a quid pro quo requirement, i.e. a requirement that a bribe be offered in exchange for the improper performance of a public officer’s duties. See, *State v. Campbell*, 271 Kan. 756 (1975). This is uncommon compared to bribery statutes in other jurisdictions. Second, the statute does not apply to the omission of performance of a public duty. Third, the current offense may criminalize violations of state ethics laws as it prohibits a public official from accepting something to which they are not legally entitled.

The revision requires some consideration to be offered “in exchange for the performance or omission of performance of the public official’s powers or duties.” This kind of quid pro quo element is common in bribery offenses in other jurisdictions. The

revision limits the kind of property that can be offered or accepted to that which the public official “is not permitted by law to accept.” The revised language clarifies that a public official may accept some gifts that are consistent with state ethics laws.

- **Section 20.** In light of the dangerous nature of explosives and the possibility for their misuse when concealed, a C misdemeanor seems inadequate. The recommendation is to increase the penalty to a class A person misdemeanor.
- **Section 21.** Subsection (h) requires a county or district attorney to file charges of animal cruelty when a valid complaint is presented. This unnecessarily constrains the discretion of prosecutors and this kind of restriction on discretion is not employed in any other criminal statute. The recommendation is to strike subsection (h) because the better policy is to permit prosecutors to determine whether filing charges is justified on a case-by-case basis. The remaining amendments are technical in nature.
- **Section 22.** The recommendation is to strike the phrase “or using as an advertising device or promotional display.” Several legitimate businesses use these animals as part of a promotional display, especially during holidays such as Easter. Prohibiting use of these animals as part of an “advertising device” could possibly criminalize their use in producing commercial advertisements. The committee agreed that the legislature did not likely intend to criminalize this conduct.
- **Section 23.** The recommendation is to add new language to subsection (b) that will provide guidance to district courts regarding when and how concurrent and consecutive sentences should be imposed. The new language in subsection (b)(1) provides judicial discretion to impose an entire consecutive sentence or any part of such a sentence. Under current law, a consecutive sentence may only be imposed if the entire sentence is

imposed with the result being that consecutive sentences are not often imposed.

Allowing judicial discretion to impose a portion of a consecutive sentence allows for greater proportionality.



Honorable Ernest L. Johnson, Chair
Honorable Richard M. Smith, Vice Chair
Sarah E. Fertig, Executive Director

Sam Brownback, Governor

MEMORANDUM

To: Dennis Taylor, Secretary of Administration
Attn: Brendan Yorkey
From: Sarah Fertig, Executive Director
Date: March 1, 2011
Re: Prison Bed Space Impact, House Bill 2321, Recodification - Nondrug

IMPACT SUMMARY OF HB 2321

As further discussed below, certain sections of HB 2321 will have a quantifiable impact on prison beds, other sections of the bill likely will have no impact on prison beds, and some sections likely would have an impact but such impact cannot be quantified. The combined base impact of all sections of HB 2321 is as follows:

- **Impact on Prison Admissions:** This bill would result in 22, 49 and 83 additional prison admissions in FY 2012 and 25, 72 and 99 additional prison admissions in FY 2021 respectively based on three different scenarios.
- **Impact on Prison Beds:** This bill would result in 22, 48 and 82 additional prison beds needed in FY 2012 and 60, 134 and 220 additional prison beds needed in FY 2021 respectively based on three different scenarios.
- **Impact on workload of the Commission:** The amendments of this bill would result in 35 to 120 additional journal entries each year for the Commission.
- Some sections of this bill would not have immediate impact on prison admissions and beds, but might have some impacts in the later years from FY 2014. Some are minimal, and some cannot be determined because of no data available upon which to base an impact.
- The following impacts are conducted separately by section.

As discussed below, there are some provisions of this bill which are anticipated to have an impact on prison beds, but such impact cannot be quantified. Thus, the figures above represent the minimum number of prison beds that would be required if HB 2321 is enacted.

SUMMARY OF THE BILL

This bill would re-codify numerous portions of Kansas criminal law, including creating new crimes, amending penalties for existing crimes, and amending criminal procedure. The bill sections that relate to prison bed space are as follows:

New Section 1: creating the crime of armed criminal action. K.S.A. 21-4704(h) currently requires a sentence of presumed imprisonment when a firearm is used in the commission of any person felony. Armed criminal action would be a nonperson felony with a mandatory term of imprisonment of 12 months consecutive to any other sentence imposed.

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Section 6: adds new language to section 9 of chapter 136 of the 2010 Session Laws of Kansas to clarify that a defendant may not be convicted of identical offenses based upon the same conduct.

Section 7: adopting the unilateral theory of conspiracy, which means that an offender can be convicted of conspiracy even if there was no actual agreement with another person to commit a crime.

Section 8: adding abandonment of a child to the list of inherently dangerous felonies in the felony murder statute, K.S.A. 21-3401(b). This would expand the range of inherently dangerous felonies for which a defendant could be charged if a human being was killed in the commission of, attempt to commit or flight from such felony. The penalty for violation of K.S.A. 21-3401(b) would remain the same.

Section 9: human trafficking. This section adds a requirement that trafficking activities must be knowing or intentional. The remainder of this section is clean-up language to reconcile 2010 Substitute for SB 353 and 2010 HB 2435.

Section 12: amending the crime of aggravated incest in section 81 of chapter 136 of the 2010 Session Laws of Kansas to add a new subsection for when the victim is the offenders' biological, step or adoptive child. Violation of this new subsection would be a severity level 3, person felony.

Section 14: deleting sexual battery and replacing it with "sexually motivated crime" as an underlying intent crime in the definitions of burglary and aggravated burglary.

Section 15: amending the crime of interference with law enforcement under section 129 of chapter 136 of the 2010 Session Laws of Kansas. This section would add new felony penalties to certain types of interference:

- Falsely reporting that a particular person committed a crime, or concealing or destroying evidence of a crime, would be a severity level 8 nonperson felony if the case interfered with is a felony;
- Falsely reporting any information, knowing that such information is false and intending to impede an officer's duty would be a severity level 9 nonperson felony if the case interfered with is a felony.

Section 16: amending the crime of interference with the judicial process. New subsection (a)(5) would make concealing, destroying or materially altering evidence a severity level 8 nonperson felony if the case interfered with is a felony.

Section 18: amending section 136 of chapter 136 of the 2010 Session Laws of Kansas for the crimes of escape from custody (K.S.A. 21-3809) and aggravated escape from custody to include escapes from an arrest before written charges are filed. Escapes from custody facilitated by the use of violence would be:

- A severity level 6 person felony for subsections (b)(2)(A), (b)(2)(C), (b)(2)(D), (b)(2)(E) and (b)(2)(F)
- A severity level 5 person felony for subsections (b)(2)(B) and (b)(2)(G)

Section 23: amending current sentencing law to (1) allow the judge to consider proportionality in determining the sentence, and (2) give the judge discretion to impose a consecutive term of imprisonment for a term no longer than the nonbase sentence.

KEY ASSUMPTIONS FOR ALL SECTIONS OF HB 2321

- The projected prison admission growth rate is assumed to be 2.75% in 2012 and after 2012, it is assumed to increase by an annual average of 2%, which is the same percentage used in relation to the baseline prison population forecast produced in August 2010 by the Kansas Sentencing Commission.
- The percentage of sentence served in prison is assumed to be 85% for offenders at nondrug severity levels 1 to 6 and drug severity levels 1 and 2 and 80% for offenders at nondrug severity levels 7-10 and drug severity levels 3 and 4.
- The new policy effective date is assumed to be on July 1, 2011.

IMPACT ANALYSIS OF EACH SECTION OF HB 2321

Section 1: Armed Criminal Action

Assumptions for Section 1

- The target population of **Section 1** includes any offenders who commit a nonperson felony when a firearm is used.
- Such crime would be a nonperson felony with a mandatory term of imprisonment of 12 months.
- Current special sentencing rules pertaining to the use of a firearm in the commission of a person felony (K.S.A. 21-4704(h)) or in the commission of a drug felony (K.S.A. 21-4705(g)) would continue to apply, with the effect that:
 - When a firearm is used in the commission of a person felony, the penalty would continue to be presumed imprisonment; and,
 - When an offender possesses a firearm in the commission of a drug felony, the penalty would continue to be a consecutive term of imprisonment of 6 months, and if such firearm is fired during the commission of the felony, the penalty is a consecutive term of imprisonment for 18 months.

Findings of Section 1

- In FY 2010, the Commission received **296** felony sentences with a firearm. Of this number,
 - 292 (98.6%) were person felony committed with a firearm and
 - 4 (1.4%) were drug felony with a firearm.
 - The offenses of person felony committed with a firearm are as follows:
 - 22 were murder in the first degree;
 - 21 were murder in the second degree;
 - 4 were voluntary manslaughter;
 - 1 was involuntary manslaughter;
 - 71 were aggravated assault
 - 6 were aggravated assault on law informant office;
 - 32 were aggravated battery;
 - 3 were criminal threat;
 - 2 were kidnapping;
 - 1 was aggravated kidnapping;
 - 9 were robbery;
 - 88 were aggravated robbery;
 - 1 was rape;
 - 1 was theft;
 - 1 was burglary; building used as dwelling;
 - 5 were aggravated burglary;
 - 1 was criminal possession of a firearm; and,
 - 23 were criminal discharge of firearm (18 at occupied dwelling, 3 at occupied dwelling bodily harm, 1 greatly bodily harm and 1 at unoccupied dwelling).

Impact Assessment for Section 1

This section would likely have an impact on prison admissions and beds. However, the impact cannot be determined because it is unclear whether this new section would be applied in cases where the use of a firearm already elevates the crime, i.e. aggravated robbery, aggravated battery, or aggravated assault. Likewise, it is unclear whether this new section would be applied in every felony case, for example a voluntary manslaughter case in which the defendant killed another person with a firearm based upon an unreasonable but honest belief that deadly force was authorized for self-defense. In such a case, this new section would result in an increased penalty that would not occur if the defendant had used a non-firearm weapon for self-defense.

Also, current sentencing law includes penalties for the use of a firearm during the commission of a person or drug felony. Assuming that these penalties would continue to be applied, the impact of this section would likely come from the application of this section for nonperson felonies. It is difficult to determine what nonperson felony would be committed by a defendant with a firearm. Examples of nonperson felonies include arson, perjury and Medicaid fraud.

The Sentencing Commission has contacted Missouri, upon whose armed criminal action statute this new section is based, to obtain data related to the number of separate sentences for armed criminal action. To date, no such data has been obtained.

This section would not have an impact on the workload of the Commission.

Section 6: Identical Offenses

This section would allow prosecutors to choose which offense to charge when the defendant's conduct would constitute more than one crime. The Kansas Supreme Court has held that when the same conduct constitutes two separate crimes, the lesser of the two penalties must be imposed. This section would address such holdings by allowing prosecutors to make the choice of which crime to prosecute.

Impact Assessment for Section 6

- **Section 6** would likely have an impact on prison beds, but it cannot be quantified because no data exists as to the number of sentences that would have been longer but for the current statutory language. This section would allow for the greater penalty to be imposed if the prosecution decides to pursue conviction under the crime that carries a higher penalty. It can be assumed that some prosecutors would choose to pursue prosecution for the crime with a greater penalty, but we cannot determine how often that would happen, and which sentences would be impacted.
- This section would not have an impact on the workload of the Commission.

Section 7: Unilateral Theory of Conspiracy

Assumptions for Section 7

- Adopting the unilateral theory of conspiracy means that an offender can be convicted of conspiracy even if there was no actual agreement with another person to commit a crime.
- Adopting the unilateral theory of conspiracy would increase the conspiracy sentences.
- Scenario One: It is assumed that it would increase the conspiracy sentences **by 10%**.
- Scenario Two: It is assumed that it would increase the conspiracy sentences **by 30%**.
- Scenario Three: It is assumed that it would increase the conspiracy sentences **by 50%**.
- It is assumed that 36% of the offenders would be sentenced to prison and 64% of them would be sentenced to probation, which were the actual percentages of the conspiracy sentences observed in FY 2010.
- The average length of sentence is assumed to be 33 months, which is based on the average prison sentence observed in 2010 for conspiracy convictions.

Findings of Section 7

- In FY 2010, there were 141 conspiracy sentences, which cover a variety of offenses from murder to theft and to drug crimes. Of this number,
 - 50 (35.5%) were sentenced to prison and
 - 91 (64.5%) were sentenced to probation.
 - The severity levels of these offenders were:
 - 28 (19.9%) at drug severity level 1;
 - 1 (0.7%) at drug severity level 2;
 - 30 (21.3%) at drug severity level 3;
 - 4 (2.8%) at drug severity level 4;
 - 2 (1.4%) at nondrug severity level 2;
 - 5 (3.5%) at nondrug severity level 5;
 - 1 (0.7%) at nondrug severity level 6;
 - 21 (14.9%) at nondrug severity level 7;
 - 3 (2.1%) at nondrug severity level 8;
 - 20 (14.2%) at nondrug severity level 9; and,

- 26 (18.4%) at nondrug severity level 10.
- No data exists regarding the number of conspiracy prosecutions that were thwarted due to the lack of an actual agreement between the alleged co-conspirators.
- We researched other states that have adopted the unilateral theory of conspiracy, but most had either adopted the theory shortly after the Model Penal Code was released in the 1970's, or they had not collected data regarding the increase or decrease in conspiracy convictions upon adoption of the unilateral theory.

Impact Assessment for Section 7

Our impact assessment provides a range of potential outcomes due to this section of HB 2321. The actual impact will depend on how many cases arise that could be prosecuted as unilateral conspiracies. The scenarios below represent a range of conservative to generous estimates:

- **Scenario One:** If adopting the unilateral theory of conspiracy increases the conspiracy sentences by 10% and 36% of them are sentenced to prison with 33 months,
 - by FY 2012, 5 additional prison beds would be needed and
 - by FY 2021, 13 additional prison beds would be needed.
- **Scenario Two:** If adopting the unilateral theory of conspiracy increases the conspiracy sentences by 30% and 36% of them are sentenced to prison with 33 months,
 - by FY 2012, 16 additional prison beds would be needed and
 - by FY 2021, 40 additional prison beds would be needed.
- **Scenario Two:** If adopting the unilateral theory of conspiracy increases the conspiracy sentences by 50% and 36% of them are sentenced to prison with 33 months,
 - by FY 2012, 26 additional prison beds would be needed and
 - by FY 2021, 69 additional prison beds would be needed.
- **Impact on Admissions:** The impact of section 7 will likely result in 5 to 26 additional prison admissions in FY 2012 and 6 to 31 additional prison admissions in FY 2021 respectively based on the three different scenarios.
- **Impact on Workload of the Commission:** The impact of Section 7 will result in 14 to 71 additional journal entries each year on the workload of the Commission.

Section 7 Impact Assessment

Fiscal Year	Additional Prison Admission			Additional Prison Beds Needed		
	Scenario #1 10% increase & 36% sentenced to prison	Scenario #2 30% increase & 36% sentenced to prison	Scenario #3 50% increase & 36% sentenced to prison	Scenario #1 10% increase & 36% sentenced to prison	Scenario #2 30% increase & 36% sentenced to prison	Scenario #3 50% increase & 36% sentenced to prison
2012	5	16	26	5	16	26
2013	5	16	27	10	32	53
2014	5	16	27	11	35	60
2015	6	17	28	12	36	61
2016	6	17	28	13	37	61
2017	6	17	29	13	37	62
2018	6	18	29	13	38	63
2019	6	18	30	13	39	64
2020	6	18	31	14	39	66
2021	6	19	31	13	39	69

Section 8: Adding Abandonment of a Child to the List of Inherently Dangerous Felonies in the Felony Murder Statute

Assumptions for Section 8

- The target population of section 8 includes any offenders who commit the crime of abandonment of a child.
- Adding abandonment of a child to the list of inherently dangerous felonies in the felony murder statute, K.S.A 21-3401(b), would expand the range of inherently dangerous felonies for which a defendant could be charged if a human being was killed in the commission of, attempt to commit or flight from such felony.
- **Scenario One:** It is assumed that **one offender every five years** will commit the crime of abandonment of a child and such child is killed and the defendant will be sentenced to prison.
- **Scenario Two:** It is assumed that **one offender every three years** will commit the crime of abandonment of a child and such child is killed and the defendant will be sentenced to prison.
- **Scenario Three:** It is assumed that **one offender every two years** will commit the crime of abandonment of a child and such child is killed and the defendant will be sentenced to prison.
- The average length of sentence is assumed to be 214 months, which was the actual average sentence length for violations of this statute in FY 2010.

Findings of Section 8

- In FY 2010, 39 offenders were convicted of the crime of murder in the first degree. Eight of them were attempt and one was conspiracy. All of them were sentenced to prison.
 - 29 were sentenced as offgrid;
 - 8 were sentenced at nondrug severity level 1; and,
 - 2 were sentenced at nondrug severity level 2.

Impact Assessment for Section 8

- **Impact on Prison Beds**
 - **Scenario One:** If **one offender every five years** commits the crime of abandonment of a child and such child is killed and the defendant is sentenced to prison,
 - by FY 2012, 1 additional prison bed would be needed and
 - by FY 2021, 2 additional prison beds would be needed.
 - **Scenario Two:** If **one offender every three years** commits the crime of abandonment of a child and such child is killed and the defendant is sentenced to prison,
 - by FY 2012, 1 additional prison bed would be needed and
 - by FY 2021, 4 additional prison beds would be needed.
 - **Scenario Three:** If **one offender every two years** commits the crime of abandonment of a child and such child is killed and the defendant is sentenced to prison,
 - by FY 2012, 1 additional prison bed would be needed and
 - by FY 2021, 5 additional prison beds would be needed.
- **Impact on Admissions:** Section 8 would result in one additional prison admission every 2 to 5 years over the forecast period.
- **Impact on Workload of the Commission:** Section 8 would result in one additional journal entry every 2 to 5 years over the ten-year forecast period.

Section 8: Impact Assessment

Fiscal Year	Additional Prison Admission			Additional Prison Beds Needed		
	Scenario #1 One Person Every 5 Years	Scenario #2 One Person Every 3 Years	Scenario #3 One Person Every 2 Years	Scenario #1 One Person Every 5 Years	Scenario #2 One Person Every 3 Years	Scenario #3 One Person Every 2 Years
2012	1	1	1	1	1	1
2013	0	0	0	1	1	1
2014	0	0	1	1	1	2
2015	0	1	0	1	2	2
2016	0	0	1	1	2	3
2017	1	0	0	2	2	3
2018	0	1	1	2	3	4
2019	0	0	0	2	3	4
2020	0	0	1	2	3	5
2021	0	1	0	2	4	5

Section 9: Human Trafficking, Adding a Requirement That Trafficking Activities Must Be Intentional

Findings of Section 9

- No human trafficking convictions were reported to the Sentencing Commission in FY 2010 and the previous years.

Impact Assessment for Section 9

- It is unlikely that HB 2321's minor amendments to current trafficking law, by themselves, would have an impact on prison admissions and prison beds. The Human Trafficking Task Force within the Kansas Attorney General's office indicated that these amendments likely would not affect prosecutions.

Section 12: Increasing the Penalty for Aggravated Incest When the Victim Is the Offenders' Biological, Step or Adoptive Child

Assumptions for Section 12

- The target population of section 12 includes any offenders who commit the crime of aggravated incest when the victim is the offenders' biological, step or adoptive child.
- Violation of the new subsection in section 12 would be a severity level 3, person felony.
- It is assumed that 2 offenders every year will be convicted of the crime of aggravated incest when the victim is the offenders' biological, step or adoptive child. This assumption is based on the information provided by the Department of Corrections.
- The average length of sentence is assumed to be 82 months. This is based on the actual average sentence length of offenders at nondrug severity level 3 observed in FY 2010.

Findings of Section 12

- In FY 2010, 3 offenders were convicted of the crime of aggravated incest under K.S.A. 21-3603. Of this number,
 - 2 (66.7%) offenders were sentenced to prison with an average sentence length of 42 months and
 - 1 (33.3%) offender was sentenced to probation with the underlying prison term of 27 months

- The Department of Corrections reports that of the 25 current inmates who were convicted of incest or aggravated incest, 20 had victims who were the inmates' biological, step or adoptive children.

Impact Assessment for Section 12

- **Impact on Prison Beds:** If 2 offenders every year are convicted of the crime of aggravated incest as amended by this section and sentenced to prison at nondrug severity level 3 with an average sentence length of 82 months,
 - by the end of FY 2012, no additional prison beds will be needed and
 - by the end of FY 2021, 6 additional prison beds will be needed.
- **Impact on Admissions:** The impact of section 12 will result in no additional prison admission during the ten-year forecast period from FY 2012 to FY 2021.
- **Impact on Workload of the Commission:** The impact of section 12 will have no impact on the journal entry workload of the Commission.

Section 12 Impact Assessment

Fiscal Year	Additional Prison Admissions	Additional Prison Beds
2012	0	0
2013	0	0
2014	0	0
2015	0	2
2016	0	4
2017	0	6
2018	0	6
2019	0	6
2020	0	6
2021	0	6

Section 14: Amending the Intent Crimes in the Definition of Burglary and Aggravated Burglary

Assumptions for Section 14

- The target population of section 14 includes any offenders who commit the crime of burglary or aggravated burglary with intent to commit a felony, theft or **sexually motivated** crime.
- **Scenario One:** It is assumed that the amendment of this section would increase burglary and aggravated burglary convictions by **3%** per year.
- **Scenario Two:** It is assumed that the amendment of this section would increase burglary and aggravated burglary convictions by **5%** per year.
- **Scenario Three:** It is assumed that the amendment of this section would increase burglary and aggravated burglary convictions by **10%** per year.
- It is assumed that 29% of these offenders will be sentenced to prison and 71% will be sentenced to probation, which is based on FY 2010 disposition data for burglary and aggravated burglary sentences received by the Commission.
- The average length of prison sentence is assumed to be 24 months, which is the actual average length of sentences imposed on burglary offenders in FY 2010.

Findings of Section 14

- In FY 2010, 1,040 offenders were convicted of 1,106 burglaries and aggravated burglaries. Of the total number of offenders (1,040),
 - 974 (93.7%) had one conviction;
 - 55 (5.3%) had two convictions;
 - 9 (0.9%) had three convictions; and,

- 2 (0.2%) had four convictions.
- Of the total number of convictions (1,106),
 - 362 (32.7%) were residential burglaries;
 - 328 (29.7%) were nonresidential burglaries;
 - 259 (23.3%) were motor vehicle burglaries; and,
 - 157 (14.3%) were aggravated burglaries.
 - The severity levels of these convictions were:
 - 118 (10.7%) at nondrug severity level 5 (N5);
 - 648 (58.6%) at nondrug severity level 7;
 - 310 (28.0%) at nondrug severity level 9; and,
 - 30 (2.7%) at nondrug severity level 10.
 - The sentence dispositions of these convictions were:
 - 319 (28.8%) sentenced to prison;
 - 786 (71.1%) sentenced to probation; and,
 - 1 (0.1%) sentenced to county jail.

Impact Assessment for Section 14

- **Impact on Prison Beds:**
 - **Scenario One:** If the expansion of the burglary definitions increases burglary and aggravated burglary convictions by **3%** per year and 29% of the offenders are sentenced to prison,
 - by FY 2012, 10 additional prison beds would be needed and
 - by FY 2021, 19 additional prison beds would be needed.
 - **Scenario Two:** If the expansion of the burglary definitions increases burglary and aggravated burglary convictions by **5%** per year and 29% of the offenders are sentenced to prison,
 - by FY 2012, 18 additional prison beds would be needed and
 - by FY 2021, 36 additional prison beds would be needed.
 - **Scenario Three:** If the expansion of the burglary definitions increases burglary and aggravated burglary convictions by **10%** per year and 29% of the offenders are sentenced to prison,
 - by FY 2012, 36 additional prison beds would be needed and
 - by FY 2021, 68 additional prison beds would be needed.
- **Impact on Admissions:** The impact of Section 14 will result in 10 to 36 additional prison admissions in FY 2012 and 12 to 43 additional prison admissions in FY 2021 respectively based on the three different scenarios.
- **Impact on Workload of the Commission:** The impact of Section 14 will result in 12 to 43 additional journal entries each year on the workload of the Commission.

Section 14 Impact Assessment

Fiscal Year	Additional Prison Admission			Additional Prison Beds Needed		
	Scenario #1 3% increase & 29% sentenced to prison	Scenario #2 5% increase & 29% sentenced to prison	Scenario #3 10% increase & 29% sentenced to prison	Scenario #1 3% increase & 29% sentenced to prison	Scenario #2 5% increase & 29% sentenced to prison	Scenario #3 10% increase & 29% sentenced to prison
2012	10	18	36	10	18	36
2013	10	19	37	17	30	58
2014	11	19	37	17	31	60
2015	11	20	38	18	31	60
2016	11	20	39	17	32	63
2017	11	21	40	17	33	66
2018	12	22	40	18	34	64
2019	12	22	41	19	36	65
2020	12	23	42	19	37	67
2021	12	23	43	19	36	68

Sections 15: Amending the Crime of Interference with Law Enforcement

Assumptions for Section 15

- The target population of section 15 includes any offenders who commit the crime of interference with law enforcement as amended in this section.
- **Scenario One:** It is assumed that 10% of current offenders who are convicted of the crime of falsely reporting a crime under K.S.A. 21-3818 will be sentenced to a nondrug severity level 8, nonperson felony; of this 10%, 10% will be sentenced to prison.
- **Scenario Two:** It is assumed that 25% of current offenders who are convicted of the crime of falsely reporting a crime under K.S.A. 21-3818 will be sentenced to a nondrug severity level 8, nonperson felony; of this 25%, 10% will be sentenced to prison.
- **Scenario Three:** It is assumed that 40% of current offenders who are convicted of the crime of falsely reporting a crime under K.S.A. 21-3818 will be sentenced to a nondrug severity level 8, nonperson felony; of this 40%, 10% will be sentenced to prison.
- The average sentence length is assumed to be 12 months.
- The percentage sentenced to prison and the average sentence length are based on the actual sentencing data of nondrug severity level 8 nonperson felony sentences observed in FY 2010.

Findings of Sections 15

- The crime of interference with law enforcement is currently a misdemeanor. The new penalties created by HB 2321 for this offense are nondrug severity levels 8 and 9 nonperson felonies.
- According to KBI data, in FY 2009, there were 107 misdemeanor convictions of falsely reporting a crime under K.S.A. 21-3818.
- In FY 2010, 89% of offenders convicted for nondrug severity level 9 crimes were sentenced to probation, and 88% of offenders convicted for nondrug severity level 8 crimes were sentenced to probation.
- Offenders convicted under the new penalties would most probably be sentenced to probation. Therefore, there would not be immediate impact on prison admissions and prison beds from this section.

Impact Assessment for Section 15

- **Scenario One:** If 10% of current offenders who are convicted of the crime of falsely reporting a crime under K.S.A. 21-3818 are sentenced to a nondrug severity level 8, nonperson felony; of this 10%, 10% are sentenced to prison,
 - by the end of FY 2012, 1 additional prison bed will be needed and
 - by the end of FY 2021, 1 additional prison bed will be needed.
- **Scenario Two:** If 25% of current offenders who are convicted of the crime of falsely reporting a crime under K.S.A. 21-3818 are sentenced to a nondrug severity level 8, nonperson felony; of this 25%, 10% are sentenced to prison,
 - by the end of FY 2012, 2 additional prison beds will be needed and
 - by the end of FY 2021, 3 additional prison beds will be needed.
- **Scenario Three:** If 40% of current offenders who are convicted of the crime of falsely reporting a crime under K.S.A. 21-3818 are sentenced to a nondrug severity level 8, nonperson felony; of this 40%, 10% are sentenced to prison,
 - by the end of FY 2012, 3 additional prison beds will be needed and
 - by the end of FY 2021, 4 additional prison beds will be needed.
- **Impact on Admissions:** The impact of Section 15 will result in 1 to 4 additional prison admissions in FY 2012 and 1 to 5 additional prison admissions in FY 2021 respectively based on the three different scenarios.
- **Impact on Workload of the Commission:** The impact of section 15 will result in 1 to 5 additional journal entries each year on the workload of the Commission.

Section 15 Impact Assessment

Fiscal Year	Additional Prison Admission			Additional Prison Beds Needed		
	Scenario #1	Scenario #2	Scenario #3	Scenario #1	Scenario #2	Scenario #3
	10% to N8, 10% to Prison	25% to N8, 10% to Prison	40% to N8, 10% to Prison	10% to N8, 10% to Prison	25% to N8, 10% to Prison	40% to N8, 10% to Prison
2012	1	3	4	1	2	3
2013	1	3	4	1	3	3
2014	1	3	4	1	3	3
2015	1	3	4	1	3	3
2016	1	3	4	1	2	3
2017	1	3	5	1	3	4
2018	1	3	5	1	3	4
2019	1	4	5	1	3	4
2020	1	4	5	1	3	4
2021	1	4	5	1	3	4

Section 16: Amending the Crime of Interference with the Judicial Process

Findings for Section 16

- **During** FY 2010, there were no felony sentences under K.S.A. 21-3815. According to data obtained by the KBI, in FY 2009 (the last year for which complete conviction data is available) there was one conviction for interference with the administration of justice. Violation of K.S.A. 21-3816 is currently a misdemeanor offense. The new penalty created in this section is a nondrug severity level 8, nonperson felony, which would not have immediate impact on prison admissions and prison beds because most offenders sentenced at that level are sentenced to probation.
- In FY 2010, 88% of offenders convicted for nondrug severity level 8 crimes were sentenced to probation.

Impact of Section 16

Section 16 would not have an immediate impact on prison admissions and beds since offenders are most likely to be sentenced to probation. If those individuals re-offend in the future, then their criminal history scores would be increased, which in turn could increase the likelihood of incarceration.

Section 18: Amending the Crimes of Escape from Custody and Aggravated Escape from Custody

Assumptions for Section 18

- The target population of section 18 includes any offenders who commit the crimes of escape from custody or aggravated escape from custody.
- It is assumed that current offenders who are convicted of the crimes of escape from custody and aggravated escape from custody will serve an increased sentence length due to the change from nonperson felony to person felony as follows:
 - The average sentence length will increase from 30 months to 34 months at nondrug severity level 6;

- The average sentence length will increase from 47 months to 52 months at nondrug severity level 5;
- These are based on the actual average sentence lengths of the offenders convicted under K.S.A. 21-3810, aggravated escape from custody, in FY 2010.
- **Escaping from an arrest**
 - **Scenario One:** It is assumed that 5% of current offenders who are convicted of the crime of aggravated escape from custody will be convicted of escaping from an arrest.
 - of this 5%, 10% will be sentenced to prison at nondrug severity level 6 and 90% will be sentenced to prison at nondrug severity level 5.
 - **Scenario Two:** It is assumed that 10% of current offenders who are convicted of the crime of aggravated escape from custody will be convicted of the crime of escaping from an arrest.
 - of this 10%, 10% will be sentenced to prison at nondrug severity level 6 and 90% will be sentenced to prison at nondrug severity level 5.
 - **Scenario Three:** It is assumed that 15% of current offenders who are convicted of the crime of aggravated escape from custody will be convicted of the crime of escaping from an arrest.
 - of this 15%, 10% will be sentenced to prison at nondrug severity level 6 and 90% will be sentenced to prison at nondrug severity level 5.
 - It is assumed that the average sentence length will be 34 months for offenders at nondrug severity level 6 and 52 months for offenders at nondrug severity level 5.
 - The distribution of the severity levels and average sentence length are based on the actual data of the crimes of escape from custody and aggravated escape from custody observed in FY 2010.

Findings of Section 18

- No actual data is available regarding the number of suspects who escape from an arrest prior to written charges being filed.
- The crime of escape from custody under K.S.A. 21-3809 is currently a misdemeanor offense. HB 2321 would not change this penalty. Therefore, the impact of this bill would be in the number of offenders convicted of aggravated escape from custody.
- In FY 2010, 106 offenders were convicted of aggravated escape from custody.
 - Of these 106 offenders,
 - 9 (8.5%) were sentenced at nondrug severity level 5;
 - 1 (0.9%) were sentenced at nondrug severity level 6;
 - 72 (67.9%) were sentenced at nondrug severity level 8; and,
 - 24 (22.6%) were sentenced at nondrug severity level 10.
 - Of these 106 offenders,
 - 83 (78.3%) offenders were sentenced to prison and
 - 9 of them were sentenced at nondrug severity level 5 with an average sentence length of 47 months,
 - 1 of them was sentenced to nondrug severity level 6 with a sentence length of 30 months,
 - 57 of them were sentenced at nondrug severity level 8 with an average sentence length of 12 months and
 - 16 of them were sentenced at nondrug severity level 10 with an average sentence length of 8 months.

Impact Assessment for Section 18

- The impact of this bill would come from the expansion of the definition of "custody", which could increase the pool of offenders who could be convicted of aggravated escape from custody. Additionally, changing these crimes from nonperson felonies to person felonies would increase the length of sentences for such crimes.
- **Scenario One:** If current offenders, who are convicted of the crime of escape from custody under K.S.A. 21-3809 and aggravated escape from custody under K.S.A. 21-3810, serve an increased sentence length from nonperson felony to person felony; and if additional 5% of current offenders who are convicted of the crimes of escape from custody and aggravated escape from custody are convicted of the crime of escaping from an arrest and sentenced to prison at nondrug severity levels 5 and 6,
 - by the end of FY 2012, 5 additional prison beds will be needed and
 - by the end of FY 2021, 25 additional prison beds will be needed.

- **Scenario Two:** If current offenders, who are convicted of the crime of escape from custody under K.S.A. 21-3809 and aggravated escape from custody under K.S.A. 21-3810, serve an increased sentence length from nonperson felony to person felony; and if additional 10% of current offenders who are convicted of the crimes of escape from custody and aggravated escape from custody are convicted of the crime of escaping from an arrest and sentenced to prison at nondrug severity levels 5 and 6,
 - by the end of FY 2012, 11 additional prison beds will be needed and
 - by the end of FY 2021, 52 additional prison beds will be needed.
- **Scenario Three:** If current offenders, who are convicted of the crime of escape from custody under K.S.A. 21-3809 and aggravated escape from custody under K.S.A. 21-3810, serve an increased sentence length from nonperson felony to person felony; and if additional 15% of current offenders who are convicted of the crimes of escape from custody and aggravated escape from custody are convicted of the crime of escaping from an arrest and sentenced to prison at nondrug severity levels 5 and 6,
 - by the end of FY 2012, 16 additional prison beds will be needed and
 - by the end of FY 2021, 74 additional prison beds will be needed.
- **Impact on Admissions:** The impact of section 18 will result in 5 to 16 additional prison admissions in FY 2012 and 6 to 20 additional prison admissions in FY 2021 respectively based on the three different scenarios.
- **Impact on Workload of the Commission:** The impact of section 18 will result in 6 to 20 additional journal entries each year on the workload of the Commission.

Section 18 Impact Assessment

Fiscal Year	Additional Prison Admission			Additional Prison Beds Needed		
	Scenario #1 with additional 5% Escape from an arrest	Scenario #2 with additional 10% Escape from an arrest	Scenario #3 with additional 15% Escape from an arrest	Scenario #1 with additional 5% Escape from an arrest	Scenario #2 with additional 10% Escape from an arrest	Scenario #3 with additional 15% Escape from an arrest
2012	5	11	16	5	11	16
2013	5	12	17	10	23	33
2014	5	12	17	14	33	49
2015	5	12	17	18	44	63
2016	6	12	18	23	47	66
2017	6	12	18	20	46	65
2018	6	13	19	22	47	67
2019	6	13	19	24	48	70
2020	6	13	19	23	50	69
2021	6	14	20	25	52	74

Section 23: Amending Current Sentencing Law to (1) Allow the Judge to Consider Proportionality in Determining the Sentence, and (2) Give the Judge Discretion to Impose A Consecutive Term of Imprisonment for a Term No Longer Than the Nonbase Sentence

Findings of Section 23

- In FY 2010, 3,722 offenders were convicted of at least one additional count of offense. Of this number,
 - 2,336 (22.1%) had one additional count of offense;

- o 773 (7.3%) had two additional counts of offense;
 - o 288 (2.7%) had three additional counts of offense;
 - o 125 (1.2%) had four additional counts of offense;
 - o 67 (0.6%) had five additional counts of offense; and,
 - o 133 (3.6%) had six or more additional offenses.
- Of the 3,722 offenders, 1,925 offenders received at least one consecutive sentence and 105 offenders received both concurrent and consecutive sentences. These two numbers together indicate that 28.2% of the total offenders (10,592) received consecutive sentences in FY 2010.

Impact Assessment for Section 23

- **Section 23** would not have an impact on prison admissions and beds in FY 2012 and FY 2013. It would have an impact in FY 2014 and forward, but the impact would be minimal since the current sentencing practice indicates that in FY 2010, 28.2% of the offenders received a consecutive prison sentence and 64% of them received consecutive probation sentences for their additional count or separate offense. Thus, even if this section resulted in consecutive prison sentences of a shorter length, it would only impact approximately one quarter of the consecutive sentences imposed.
- This section would not have an impact on the workload of the Commission.

OVERALL IMPACT OF HB 2321

- **Impact on Prison Admissions:** This bill would result in 22, 49 and 83 additional prison admissions in FY 2012 and 25, 72 and 99 additional prison admissions in FY 2021 respectively based on three different scenarios.
- **Impact on Prison Beds:** This bill would result in 22, 48 and 82 additional prison beds needed in FY 2012 and 60, 134 and 220 additional prison beds needed in FY 2021 respectively based on three different scenarios.
- **Impact on workload of the Commission:** The amendments of this bill would result in 35 to 120 additional journal entries each year for the Commission.

HB 2321 Impact Assessment

Fiscal Year	Prison Admission			Prison Beds Needed		
	Scenario #1	Scenario #2	Scenario #3	Scenario #1	Scenario #2	Scenario #3
2012	22	49	83	22	48	82
2013	21	50	85	39	89	148
2014	22	50	86	44	103	174
2015	23	57	87	50	116	189
2016	24	60	90	55	120	196
2017	25	62	92	53	121	200
2018	25	66	94	56	125	202
2019	25	67	95	59	129	207
2020	25	67	98	59	132	211
2021	25	72	99	60	134	220