

CHAPTER 77
HOUSE BILL No. 2087

An Act concerning criminal justice; relating to the state statistical analysis center; amending K.S.A. 2006 Supp. 74-9101 and 74-9501 and repealing the existing sections.

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

Section 1. K.S.A. 2006 Supp. 74-9101 is hereby amended to read as follows: 74-9101. (a) There is hereby established the Kansas sentencing commission.

(b) The commission shall:

(1) Develop a sentencing guideline model or grid based on fairness and equity and shall provide a mechanism for linking justice and corrections policies. The sentencing guideline model or grid shall establish rational and consistent sentencing standards which reduce sentence disparity, to include, but not be limited to, racial and regional biases which may exist under current sentencing practices. The guidelines shall specify the circumstances under which imprisonment of an offender is appropriate and a presumed sentence for offenders for whom imprisonment is appropriate, based on each appropriate combination of reasonable offense and offender characteristics. In developing its recommended sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities. In its report, the commission shall make recommendations regarding whether there is a continued need for and what is the projected role of, if any, the Kansas parole board and whether the policy of allocating good time credits for the purpose of determining an inmate's eligibility for parole or conditional release should be continued;

(2) consult with and advise the legislature with reference to the implementation, management, monitoring, maintenance and operations of the sentencing guidelines system;

(3) direct implementation of the sentencing guidelines system;

(4) assist in the process of training judges, county and district attorneys, court services officers, state parole officers, correctional officers, law enforcement officials and other criminal justice groups. For these purposes, the sentencing commission shall develop an implementation policy and shall construct an implementation manual for use in its training activities;

(5) receive presentence reports and journal entries for all persons who are sentenced for crimes committed on or after July 1, 1993, to develop post-implementation monitoring procedures and reporting methods to evaluate guideline sentences. In developing the evaluative criteria, the commission shall take into consideration rational and consistent sentencing standards which reduce sentence disparity to include, but not be limited to, racial and regional biases;

(6) advise and consult with the secretary of corrections and members of the legislature in developing a mechanism to link guidelines sentence practices with correctional resources and policies, including but not limited to the capacities of local and state correctional facilities. Such linkage shall include a review and determination of the impact of the sentencing guidelines on the state's prison population, review of corrections programs and a study of ways to more effectively utilize correction dollars and to reduce prison population;

(7) make recommendations relating to modification to the sentencing guidelines as provided in K.S.A. 21-4725, and amendments thereto;

(8) prepare and submit fiscal impact and correctional resource statement as provided in K.S.A. 74-9106, and amendments thereto;

(9) make recommendations to those responsible for developing a working philosophy of sentencing guideline consistency and rationality;

(10) develop prosecuting standards and guidelines to govern the conduct of prosecutors when charging persons with crimes and when engaging in plea bargaining;

(11) analyze problems in criminal justice, identify alternative solutions and make recommendations for improvements in criminal law, prosecution, community and correctional placement, programs, release procedures and related matters including study and recommendations concerning the statutory definition of crimes and criminal penalties and

review of proposed criminal law changes;

(12) perform such other criminal justice studies or tasks as may be assigned by the governor or specifically requested by the legislature, department of corrections, the chief justice or the attorney general;

(13) develop a program plan which includes involvement of business and industry in the public or other social or fraternal organizations for admitting back into the mainstream those offenders who demonstrate both the desire and ability to reconstruct their lives during their incarceration or during conditional release;

(14) appoint a task force to make recommendations concerning the consolidation of probation, parole and community corrections services;

(15) produce official inmate population projections annually on or before six weeks following the date of receipt of the data from the department of corrections. When the commission's projections indicate that the inmate population will exceed available prison capacity within two years of the date of the projection, the commission shall identify and analyze the impact of specific options for (A) reducing the number of prison admissions; or (B) adjusting sentence lengths for specific groups of offenders. Options for reducing the number of prison admissions shall include, but not be limited to, possible modification of both sentencing grids to include presumptive intermediate dispositions for certain categories of offenders. Intermediate sanction dispositions shall include, but not be limited to: intensive supervision; short-term jail sentences; halfway houses; community-based work release; electronic monitoring and house arrest; substance abuse treatment; and pre-revocation incarceration. Intermediate sanction options shall include, but not be limited to, mechanisms to explicitly target offenders that would otherwise be placed in prison. Analysis of each option shall include an assessment of such options impact on the overall size of the prison population, the effect on public safety and costs. In preparing the assessment, the commission shall review the experience of other states and shall review available research regarding the effectiveness of such option. The commission's findings relative to each sentencing policy option shall be presented to the governor and the joint committee on corrections and juvenile justice oversight no later than November 1;

(16) at the request of the governor or the joint committee on corrections and juvenile justice oversight, initiate and complete an analysis of other sentencing policy adjustments not otherwise evaluated by the commission;

(17) develop information relating to the number of offenders on post-release supervision and subject to electronic monitoring for the duration of the person's natural life; ~~and~~

(18) determine the effect the mandatory sentencing established in K.S.A. 2006 Supp. 21-4642 and 21-4643, and amendments thereto, would have on the number of offenders civilly committed to a treatment facility as a sexually violent predator as provided pursuant to K.S.A. 59-29a01 et seq., and amendments thereto; *and*

(19) *assume the designation and functions of the state statistical analysis center. All criminal justice agencies, as defined in subsection (c) of K.S.A. 22-4701, and amendments thereto, and the juvenile justice authority shall provide any data or information, including juvenile offender information, requested by the commission to facilitate the function of the state statistical analysis center.*

Sec. 2. K.S.A. 2006 Supp. 74-9501 is hereby amended to read as follows: 74-9501. (a) There is hereby established the Kansas criminal justice coordinating council.

(b) The council shall consist of the governor or designee, the chief justice of the supreme court or designee, the attorney general or designee, the secretary of corrections, the superintendent of the highway patrol, the commissioner of juvenile justice and the director of the Kansas bureau of investigation.

(c) The governor shall designate staff to the Kansas criminal justice coordinating council. The staff shall attend all meetings of the council, be responsible for keeping a record of council meetings, prepare reports of the council and perform such other duties as directed by the council.

(d) The council shall elect a chairperson and vice-chairperson from among the members of the council.

(e) The council shall:

(1) Appoint a standing local government advisory group to consult

and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, a member of a city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses;

(2) define and analyze issues and processes in the criminal justice system, identify alternative solutions and make recommendations for improvements;

(3) perform such criminal justice studies or tasks as requested by the governor, the attorney general, the legislature or the chief justice, as deemed appropriate or feasible by the council;

(4) oversee development and management of a criminal justice database ~~including assuming the designation and functions of the state statistical analysis center currently assigned to the Kansas bureau of investigation pursuant to K.S.A. 75-712a and amendments thereto.~~ All criminal justice agencies as defined in subsection (c) of K.S.A. 22-4701 and amendments thereto and the juvenile justice authority shall provide any data or information, including juvenile offender information which is requested by the council, in a form and manner established by the council, in order to facilitate the development and management of the criminal justice council database;

(5) develop and oversee reporting of all criminal justice federal funding available to the state or local units of government including assuming the designation and functions of administering the United States bureau of justice assistance grants;

(6) form such task groups as necessary and appoint individuals who appropriately represent law enforcement, the judiciary, legal profession, state, local, or federal government, the public, or other professions or groups as determined by the council, to represent the various aspects of the issue being analyzed or studied, when analyzing criminal justice issues and performing criminal justice studies. Members of the legislature may be appointed ex officio members to such task groups. A member of the council shall serve as the chairperson of each task group appointed by the council. The council may appoint other members of the council to any task group formed by the council;

(7) review reports submitted by each task group named by the council and shall submit the report with the council's recommendations pertaining thereto to the governor, the attorney general, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate; and

(8) (A) establish the sex offender policy board to consult and advise the council concerning issues and policies pertaining to the treatment, sentencing, rehabilitation, reintegration and supervision of sex offenders.

(B) The sex offender policy board shall consist of the secretary of corrections, the commissioner of juvenile justice, the secretary of social and rehabilitation services, the director of the Kansas bureau of investigation and the chief justice of the supreme court or the chief justice's designee and two persons appointed by the criminal justice coordinating council. Of the persons appointed by the criminal justice coordinating council, one shall be a mental health service provider and the other shall be engaged in the provision of services involving child welfare or crime victims.

(C) Each member of the board shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, except that the public members of the board shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on board activities. No per diem compensation shall be paid under this subsection to salaried state, county or city officers or employees.

(D) The sex offender policy board shall elect a chairperson from its membership and shall meet upon the call of its chairperson as necessary to carry out its duties.

(E) Each appointed member of the sex offender policy board shall be appointed for a term of two years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each member shall continue in

office until a successor is appointed and qualifies. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term.

(F) The board shall submit its reports to the criminal justice coordinating council and to the governor, the attorney general, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate.

(i) The board shall submit a report regarding public notification pertaining to sex offenders, restrictions on the residence of released sex offenders, utilization of electronic monitoring, and the management of juvenile sex offenders by the first day of the 2007 legislative session.

(ii) The board shall submit a report regarding treatment and supervision standards for sex offenders, suitability of lifetime release supervision and safety education and prevention strategies for the public by the first day of the 2008 legislative session.

(iii) The board shall submit reports regarding any other studies, issues or policy recommendations as completed.

(G) The sex offender policy board established pursuant to subsection (e)(8) of this section shall expire on June 30, 2008.

Sec. 3. K.S.A. 2006 Supp. 74-9101 and 74-9501 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 5, 2007.
