

Sentencing Commission

Kansas



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# Joint Committee on Corrections & Juvenile Justice Oversight

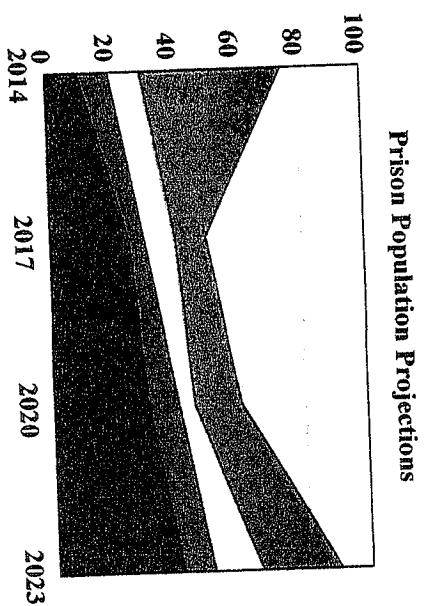
Room 546-S - Statehouse

November 7, 2013

Joint Committee on Corrections &  
Juvenile Justice Oversight  
November 7, 2013  
Attachment 1

# KANSAS SENTENCING COMMISSION

## Fiscal Year 2014 Adult Inmate Prison Population Projections



September 2013



## Primary Basis for Projections

1. Number of offenders admitted to prison; and
2. Length of sentence

Full Report Available at:

<http://www.sentencing.ks.gov/newsitemdetail/2013/09/16/fv-2014-prison-population-projection-report>

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## GUIDELINE NEW COMMITMENT ADMISSION CHARACTERISTICS - FISCAL YEAR 2013

Severity Level	Number Admitted	Percent Admitted	Average Sentence (Months)	Jail Credit (Days)	Probation Condition Violators (%)	Probation Violators w/New Sentence (%)
D1	55	1.5%	99.6	271.8	1.8	3.6
D2	45	1.2%	62.5	151.0	28.9	4.4
D3	278	7.5%	34.0	166.6	43.9	6.5
D4	556	14.9%	22.6	143.4	66.9	5.4
D5	52	1.4%	26.4	102.9	13.5	7.7
N1	88	2.4%	377.0	496.0	3.4	N/A
N2	11	0.3%	137.0	355.4	N/A	N/A
N3	196	5.3%	94.8	300.1	11.2	4.6
N4	76	2.0%	76.9	289.4	13.2	2.6
N5	394	10.6%	56.6	223.6	30.2	6.1
N6	126	3.4%	40.3	185.9	23.0	6.3
N7	659	17.7%	27.0	171.5	52.2	6.1
N8	349	9.4%	16.9	139.0	60.5	7.2
N9	654	17.6%	12.6	122.3	49.5	4.9
N10	79	2.1%	9.0	108.4	64.6	1.3
Offgrid	101	2.7%	-	-	N/A	N/A
Nongrid	2	0.0%	-	-	-	-
<b>Total Admits</b>	<b>3721</b>	<b>100.0%</b>				

Source: KDOC admission file.

**PROBATION CONDITION VIOLATORS ADMITTED TO PRISON  
BY SEVERITY LEVEL IN FY 2013**

Severity Level	Number of Admission	Average Sentence (Months)	Jail Credit (Days)
D1	1	160.0	11.0
D2	13	45.5	171.5
D3	122	29.0	171.6
D4	372	19.5	137.1
D5	7	32.1	80.0
N1	3	585.3	341.3
N3	22	86.2	367.0
N4	10	63.5	201.2
N5	119	47.7	218.3
N6	29	35.5	164.7
N7	344	23.3	170.8
N8	211	14.8	144.9
N9	324	10.4	110.7
N10	51	8.1	102.8
Nongrid	1	11.0	120.0
<b>Total</b>	<b>1629</b>	<b>23.1</b>	<b>151.8</b>

Source: FY 2013 DOC admission file.

## PRISON POPULATION CHARACTERISTICS JUNE 30, 2013

Severity Level	Pre-Guideline		Guideline		Total	
	Number	Percent	Number	Percent	Number	Percent
D1	0	0.0%	286	3.0%	286	3.0%
D2	0	0.0%	151	1.6%	151	1.6%
D3	0	0.0%	320	3.3%	320	3.3%
D4	0	0.0%	284	3.0%	284	3.0%
D5	0	0.0%	46	0.5%	46	0.5%
N1	106	1.1%	951	9.9%	1057	11.0%
N2	68	0.7%	282	2.9%	350	3.7%
N3	44	0.5%	1236	12.9%	1280	13.4%
N4	1	0.0%	292	3.0%	293	3.1%
N5	3	0.0%	1116	11.6%	1119	11.7%
N6	0	0.0%	176	1.8%	176	1.8%
N7	2	0.0%	517	5.4%	519	5.4%
N8	0	0.0%	129	1.3%	129	1.3%
N9	0	0.0%	188	2.0%	188	2.0%
N10	0	0.0%	9	0.1%	9	0.1%
Offgrid	211	2.2%	965	10.1%	1176	12.3%
Probation Condition Violators	2	0.0%	1571	16.4%	1573	16.4%
Parole/Postrelease Condition Violators	157	1.6%	467	4.9%	624	6.5%
Subtotal	594	6.2%	8986	93.8%	9580	100.0%
Nongrid/Missing					1	0.0%
<b>Total</b>					<b>9581</b>	<b>100.0%</b>

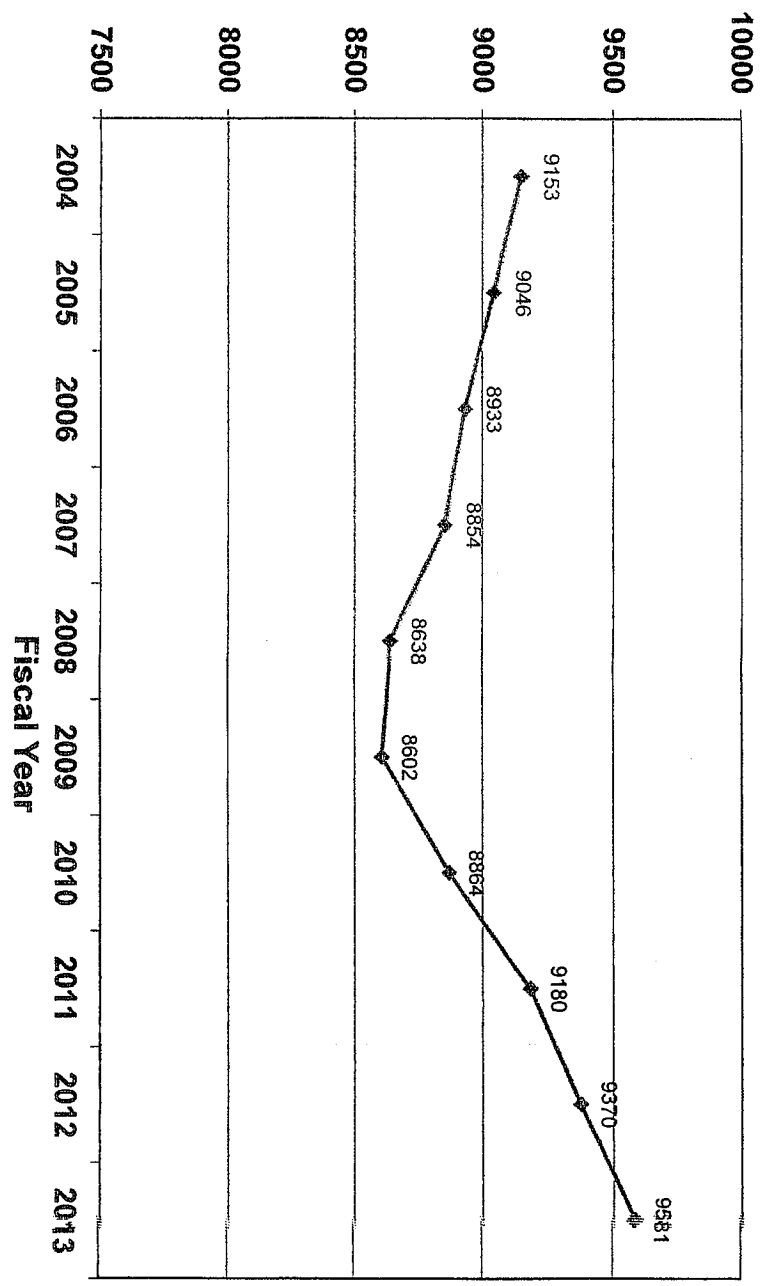
Source: DOC prison population file.

**COMPARATIVE ANALYSIS OF  
PAROLE/POST RELEASE SUPERVISION CONDITION VIOLATORS  
BETWEEN FY 2012 AND FY 2013**

Law	Number of Admission				Average Length of Stay in Month			
	FY 2012	FY 2013	Change #	Change %	FY 2012	FY 2013	Change #	Change %
Guideline	894	1169	275	30.8%	5.1	4.7	-0.4	-7.8%
Pre-guideline	61	65	4	6.6%	26.0	41.7	15.7	60.4%
<b>Total</b>	<b>955</b>	<b>1234</b>	<b>279</b>	<b>29.2%</b>				

Source: DOC admission and release files.

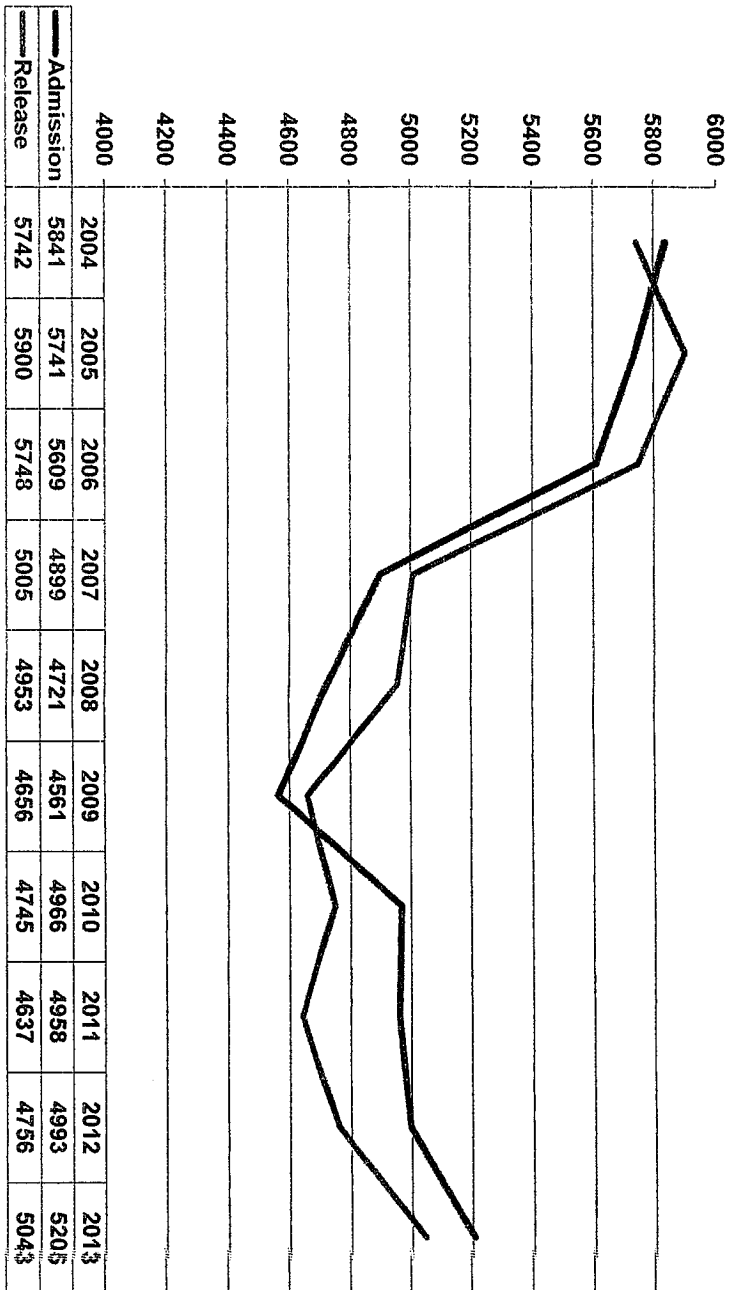
# KANSAS PRISON POPULATION TRENDS Total Prison Population



Source: KDOC prison population files

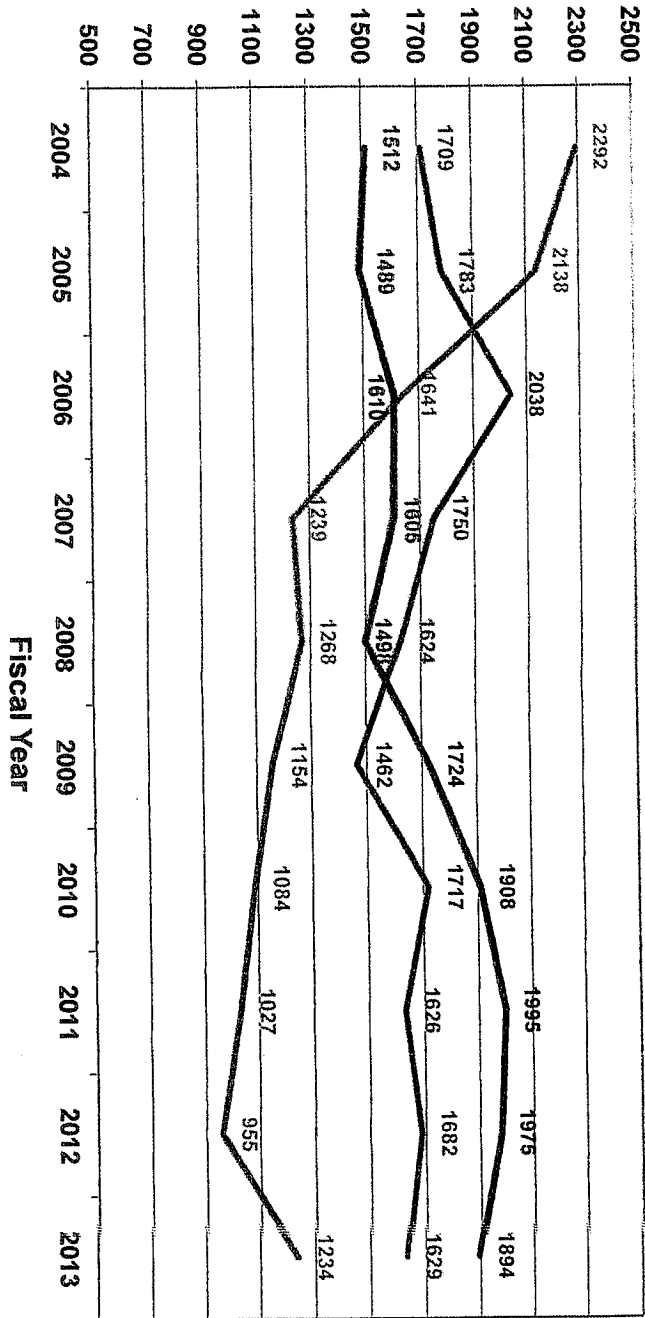


**PRISON ADMISSIONS VS. RELEASES  
FY 2004 THROUGH FY2013**



Source: KDOC admission and release files

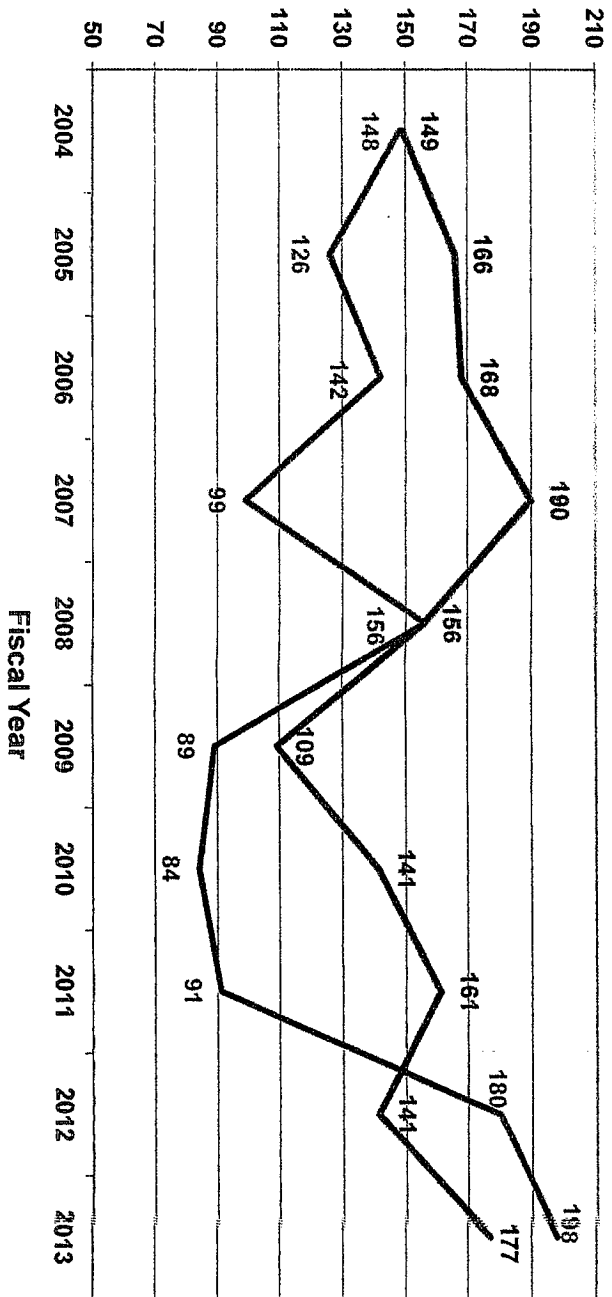
## KANSAS PRISON ADMISSION TRENDS Comparison between the Three Major Admission Types



Source: KDOC admission files

## KANSAS PRISON ADMISSION TRENDS

### Comparison between Probation and Parole/Postrelease Violators with New Sentence



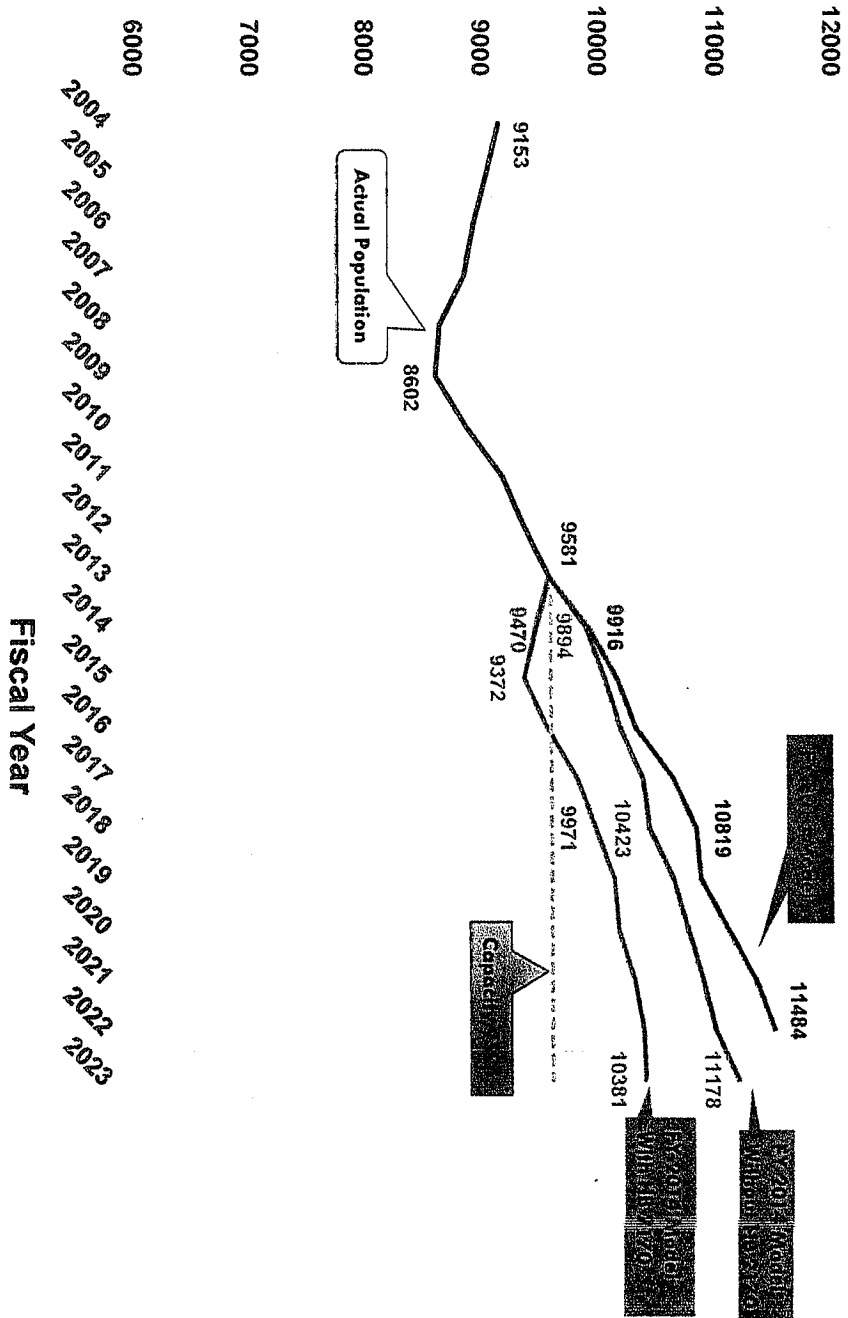
Source: KDOC admission files  
 KDOC has changed probation violator with new sentence coding policy since FY 2014.

FY 2014 PRISON POPULATION PROJECTION BY OFFENSE GROUP

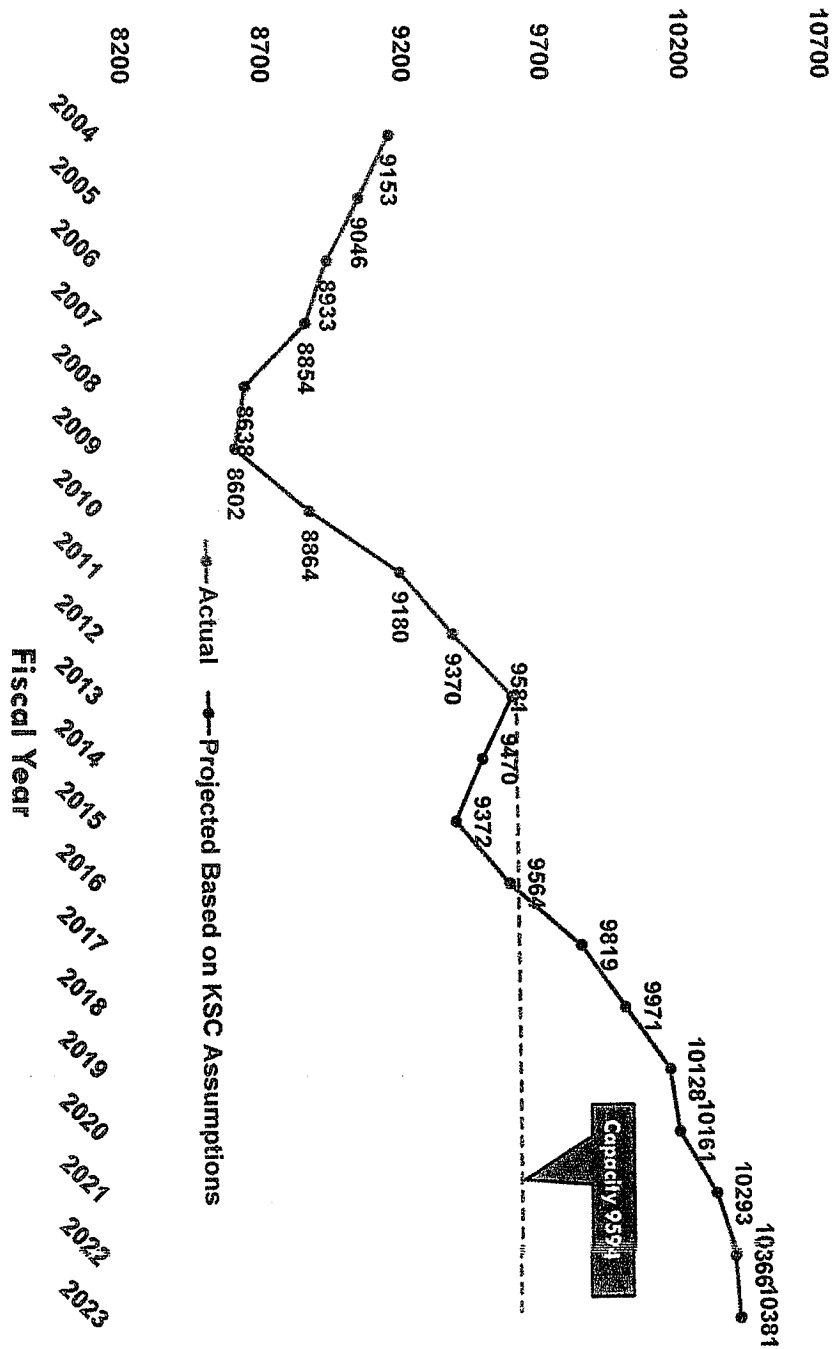
Offender Group	2013*	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	# Change	% Change
Drug	1087	1121	1189	1168	1194	1178	1170	1167	1147	1138	1133	46	4.2%
N1 to N3	2469	2500	2530	2550	2608	2648	2685	2694	2751	2782	2812	343	13.9%
N4 to N6	1584	1728	1775	1771	1794	1830	1852	1887	1939	1939	1903	319	20.1%
N7 to N10	844	926	929	924	940	933	955	974	980	969	1000	156	18.5%
Probation Condition Violators	1573	1207	975	1172	1245	1345	1397	1367	1369	1439	1426	-147	-9.3%
Offgrid Including Old Law Lifer	1174	1203	1234	1253	1292	1318	1349	1347	1352	1363	1379	205	17.5%
Parole/Post Release Violators	623	610	592	610	658	644	660	672	711	700	697	74	11.9%
Old Law Inmates	226	175	148	116	88	75	60	53	44	36	31	-195	-86.3%
Total	9581	9470	9372	9564	9819	9971	10128	10161	10293	10366	10381	800	8.3%

\* Actual prison population on June 30, 2013. Total includes one unknown.

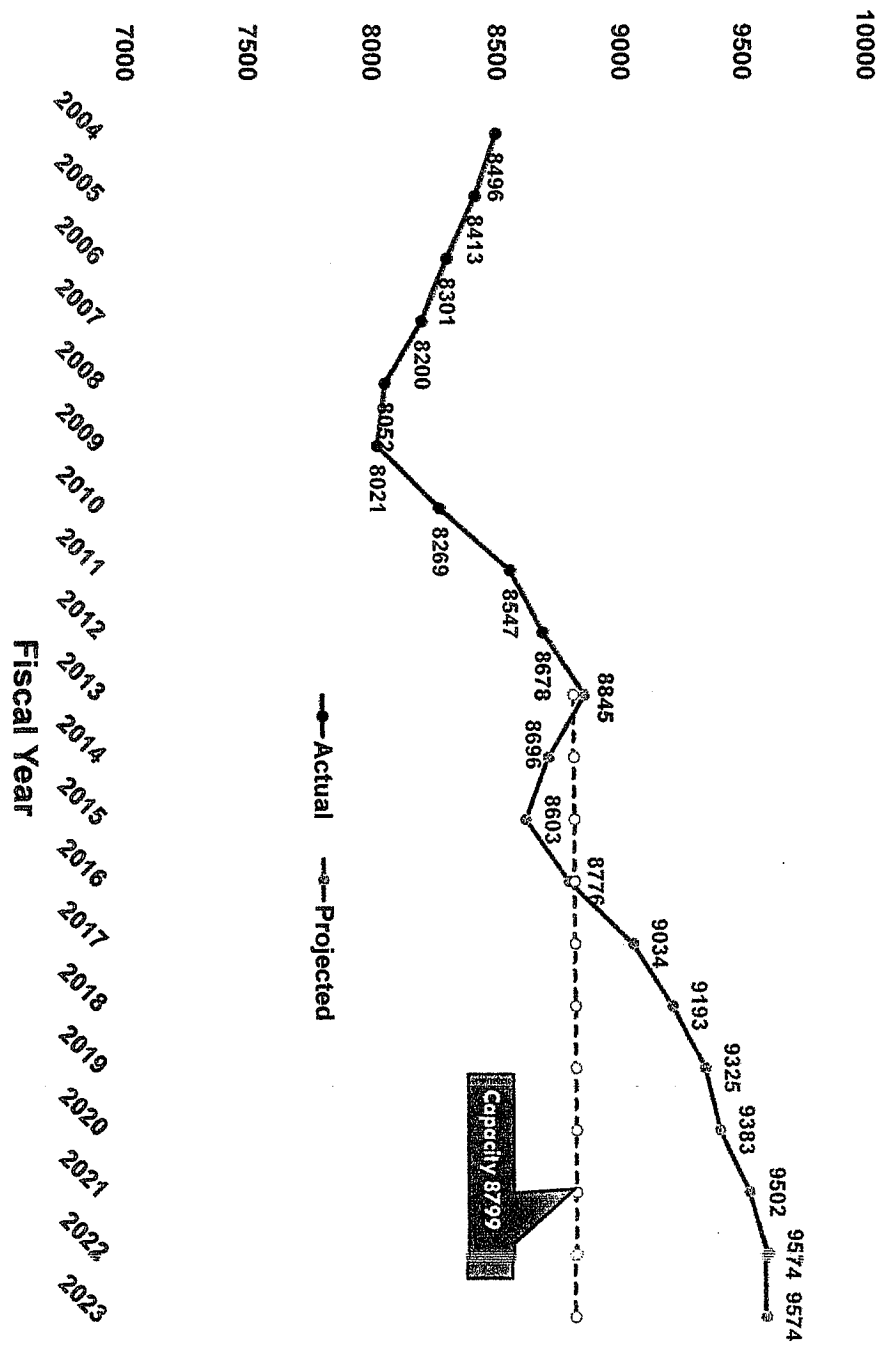
# Prison Population Projections



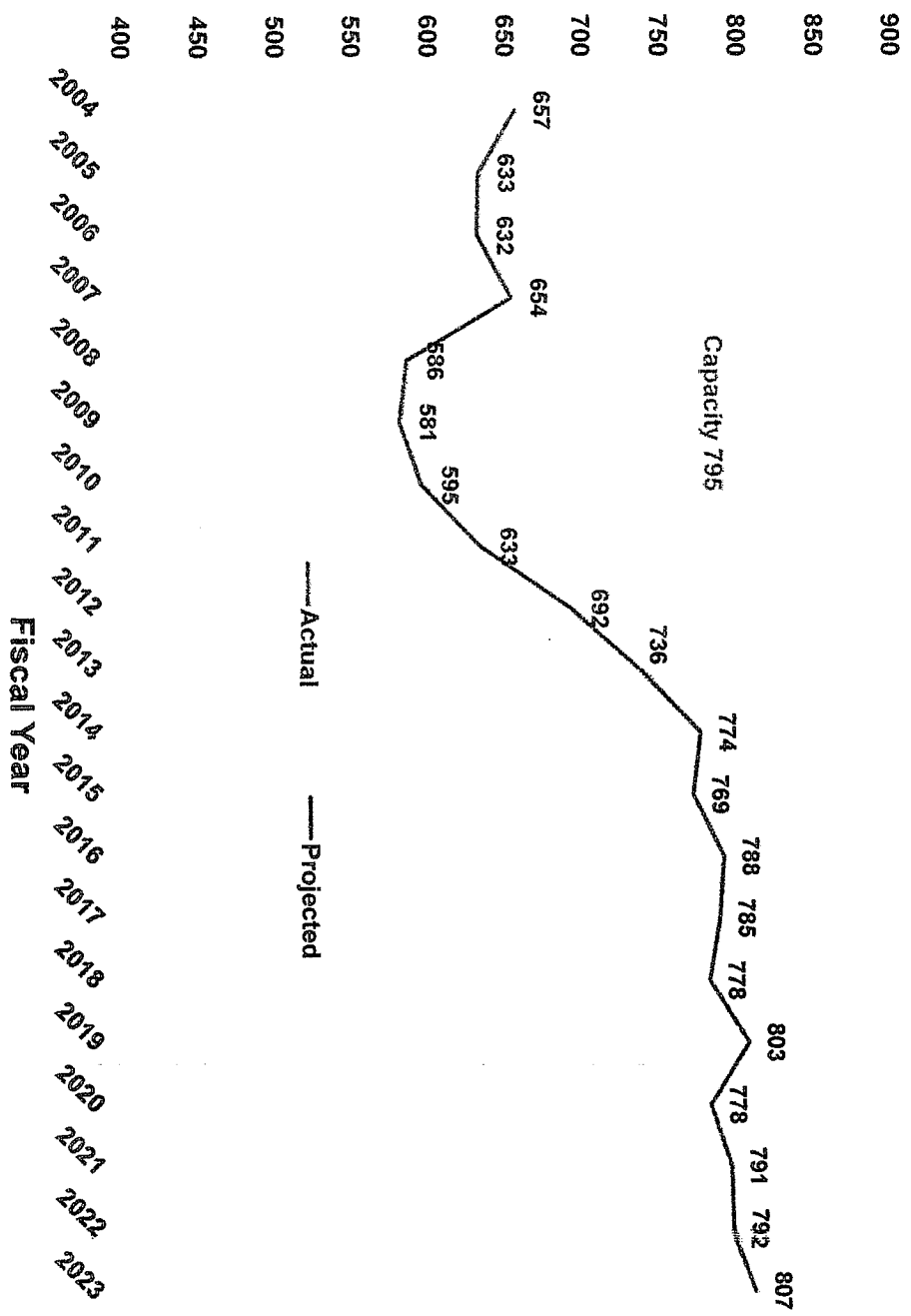
### Kansas Prison Population - Actual and Projected



### Male Prison Population - Actual and Projected

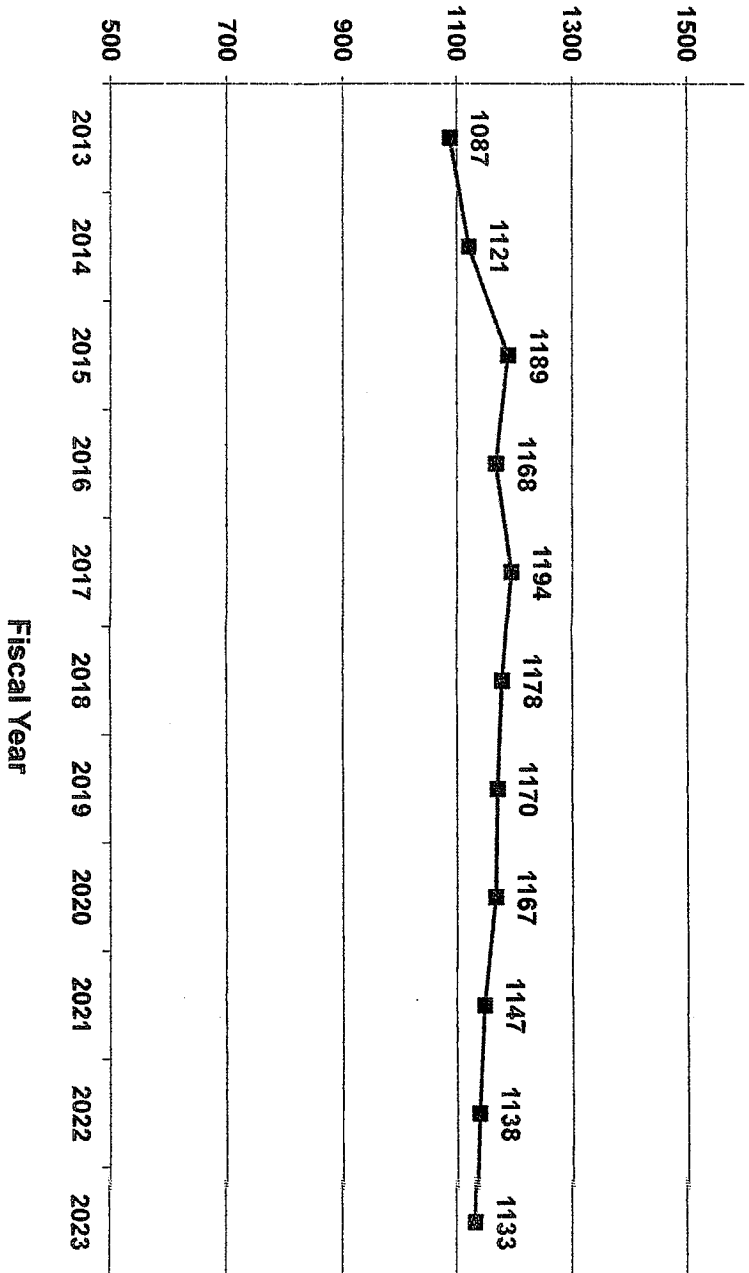


### Female Prison Population - Actual and Projected



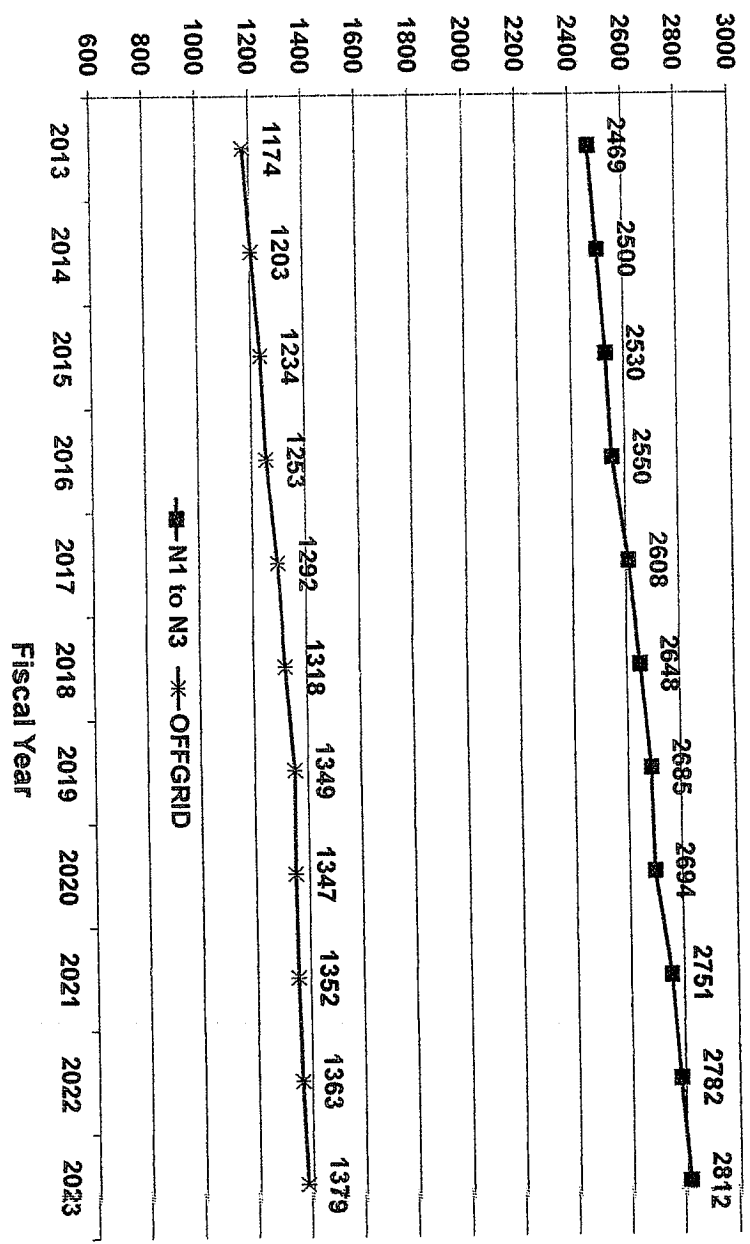


**PROJECTED DRUG INMATE PRISON POPULATION**



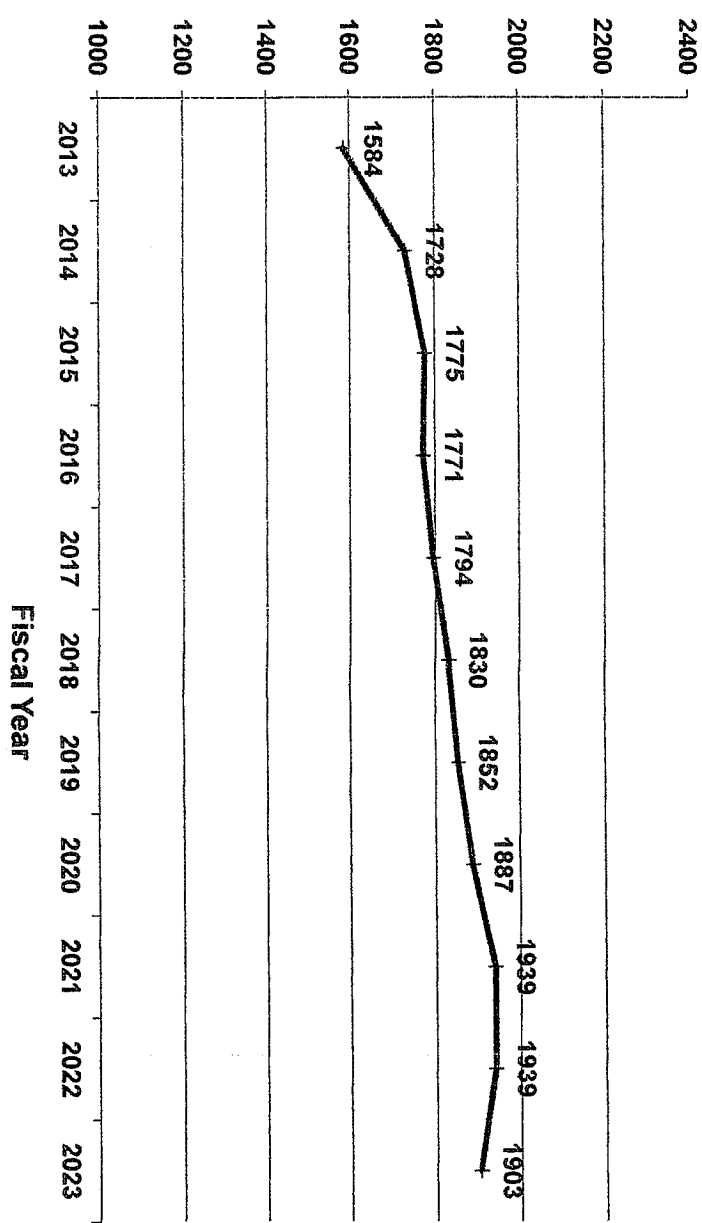
\* Actual prison population on June 30, 2013.  
 This group accounts for 10.9% of the total projected prison population in FY 2023.

### PROJECTED VIOLENT INMATE PRISON POPULATION



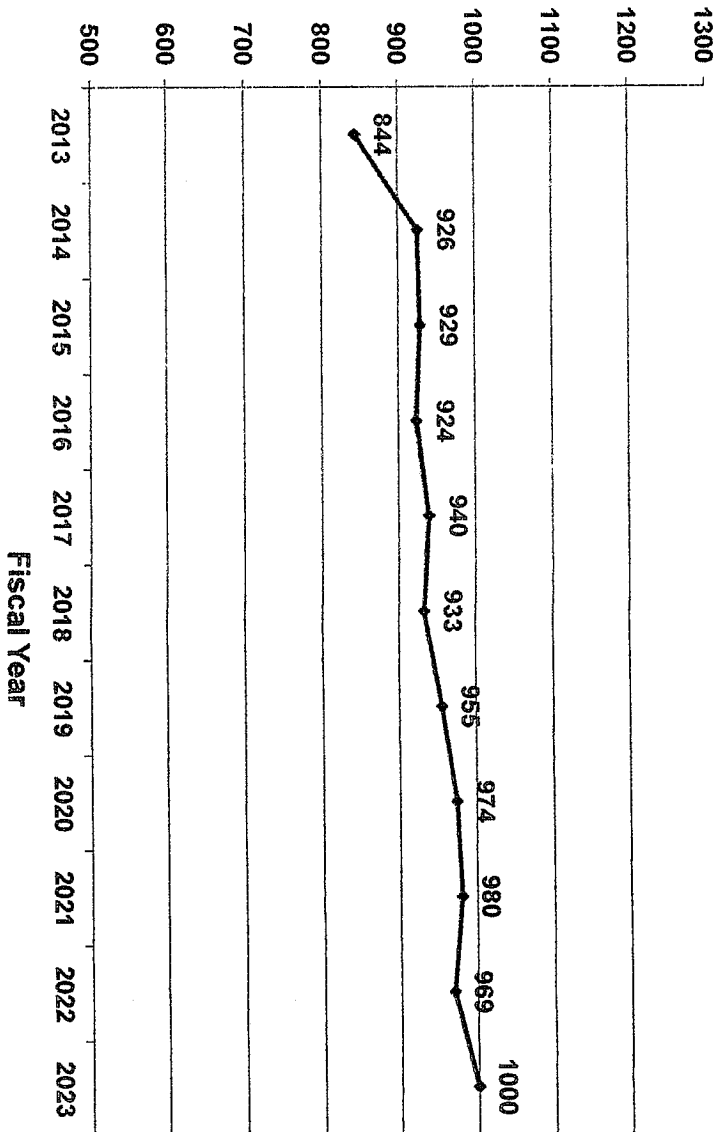
\* Actual prison population on June 30, 2013.  
 This group accounts for 40.4% of the total projected prison population in FY 2023.

### PROJECTED N4-N6 INMATE PRISON POPULATION



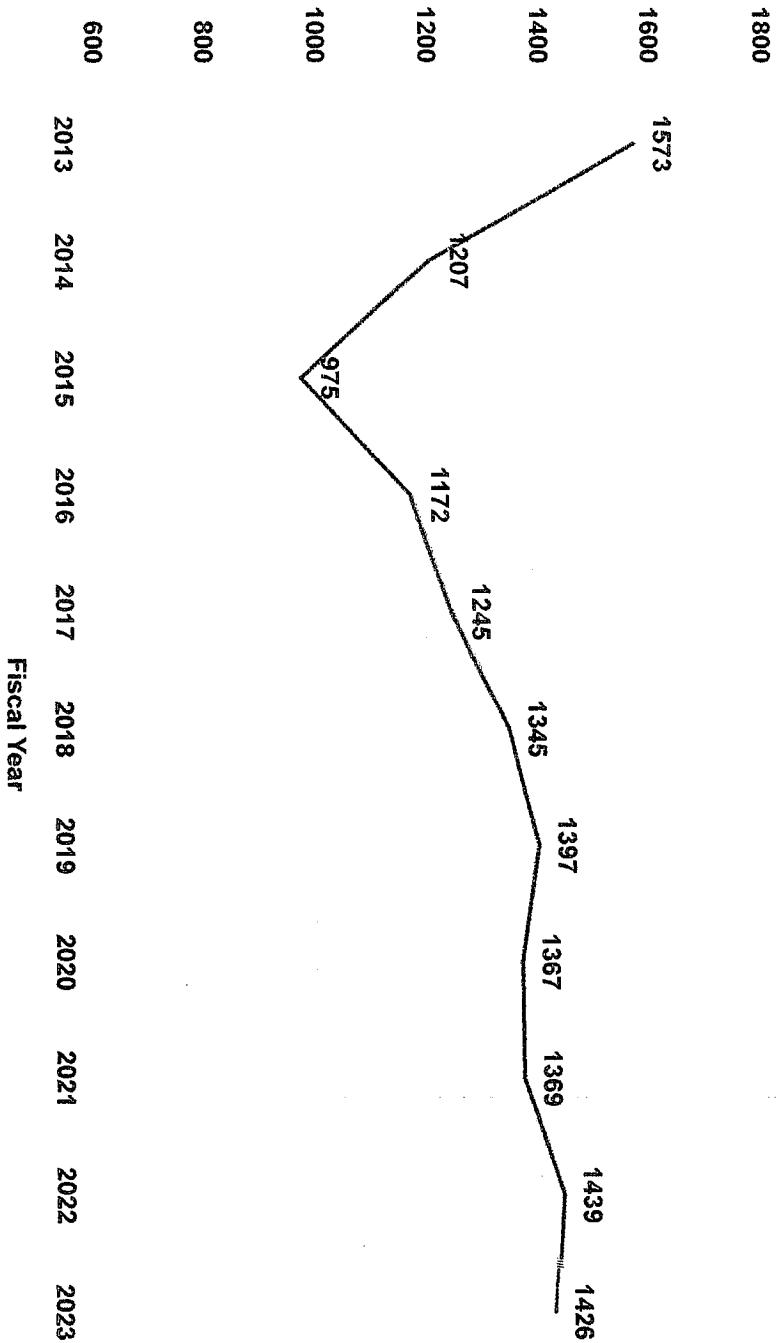
\* Actual prison population on June 30, 2013.  
This group accounts for 18.3% of the total projected prison population in FY 2023.

### PROJECTED NONVIOLENT INMATE PRISON POPULATION



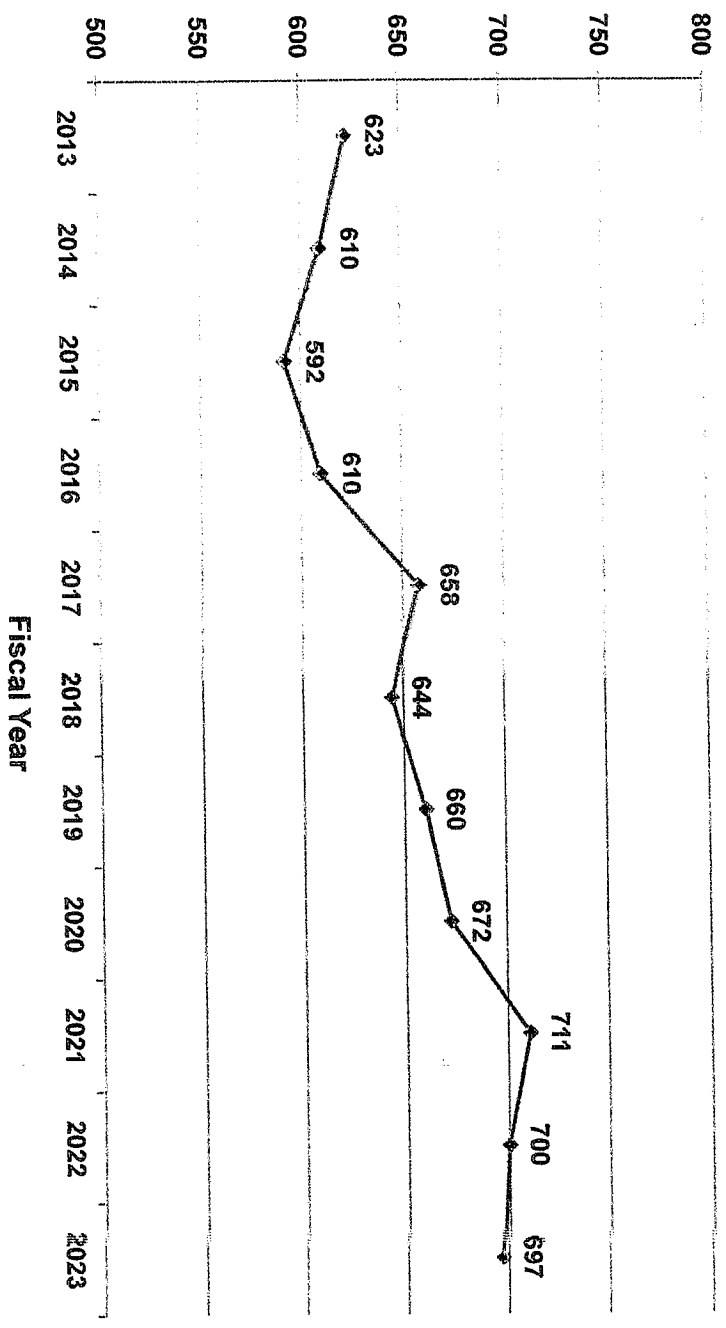
\* Actual prison population on June 30, 2013.  
This group accounts for 9.7% of the total projected prison population in FY 2023.

### PROJECTED PROBATION CONDITION VIOLATOR INMATE POPULATION



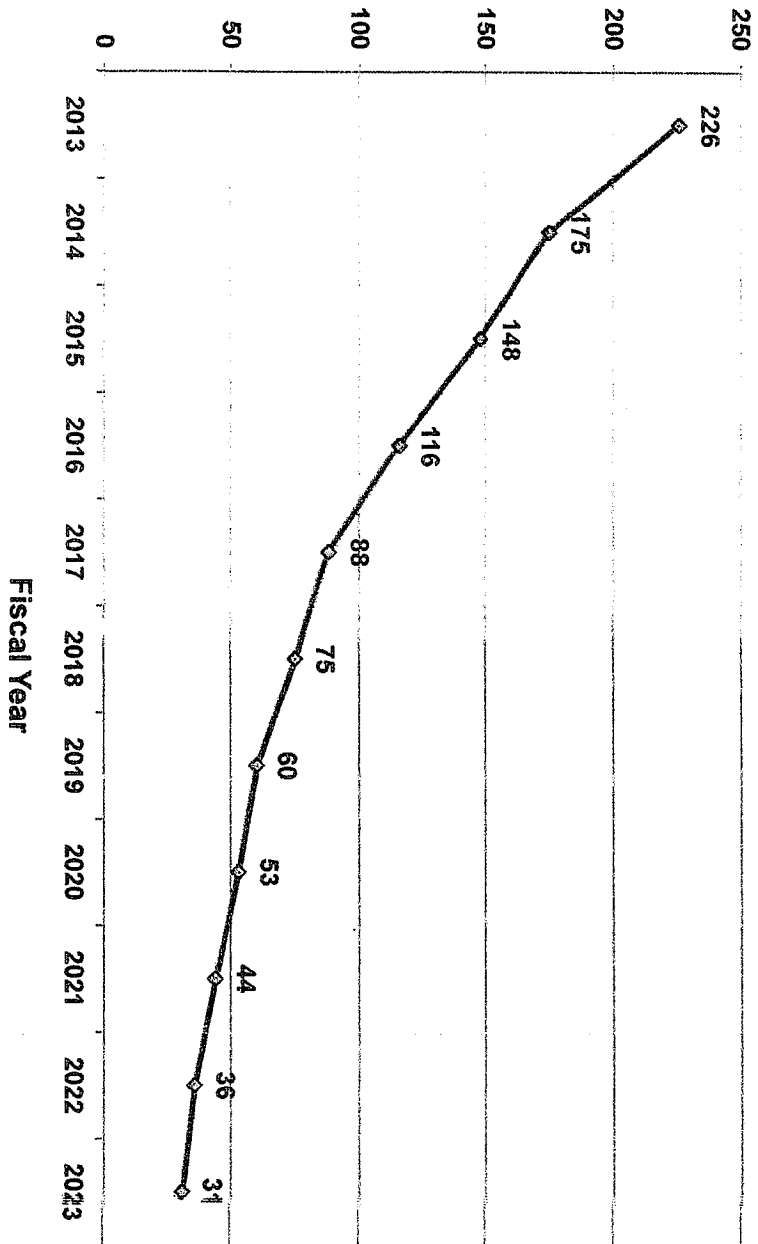
\* Actual prison population on June 30, 2013.  
This group accounts for 13.7% of the total projected prison population in FY 2023.

### PROJECTED PAROLE/POSTRELEASE CONDITION VIOLATOR INMATE POPULATION



\* Actual prison population on June 30, 2013. This group accounts for 6.7% of the total projected prison population in FY 2023.

### PROJECTED OLD LAW (EXCLUDE OFFGRID) INMATE POPULATION



\* Actual prison population on June 30, 2013.  
This group accounts for 0.3% of the total projected prison population in FY 2023.

# PRISON POPULATION MONTHLY MONITORING REPORT FY 2014 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2013	9635	9628	7	0.07%
August 2013	9648	9617	31	0.32%
September 2013	9673	9636	37	0.38%
October 2013	9665	9668	-3	-0.03%
November 2013	9594			
December 2013	9557			
January 2014	9587			
February 2014	9578			
March 2014	9539			
April 2014	9490			
May 2014	9494			
June 2014	9470			



# MALE PRISON POPULATION MONTHLY MONITORING REPORT FY 2014 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2013	8887	8891	-4	-0.04%
August 2013	8888	8860	28	0.32%
September 2013	8898	8881	17	0.19%
October 2013	8885	8926	-41	-0.46%
November 2013	8809			
December 2013	8768			
January 2014	8799			
February 2014	8805			
March 2014	8769			
April 2014	8709			
May 2014	8707			
June 2014	8696			

# FEMALE PRISON POPULATION MONTHLY MONITORING REPORT FY 2014 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2013	748	737	11	1.49%
August 2013	760	757	3	0.40%
September 2013	775	755	20	2.65%
October 2013	780	742	38	5.12%
November 2013	785			
December 2013	789			
January 2014	788			
February 2014	773			
March 2014	770			
April 2014	781			
May 2014	787			
June 2014	774			

# HB 2170

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## Provisions and Impact of the Justice Reinvestment Initiative



## **Intended Impacts of HB 2170**

1. Reduction in Prison Beds Demands

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2. Reduction in Correctional Spending

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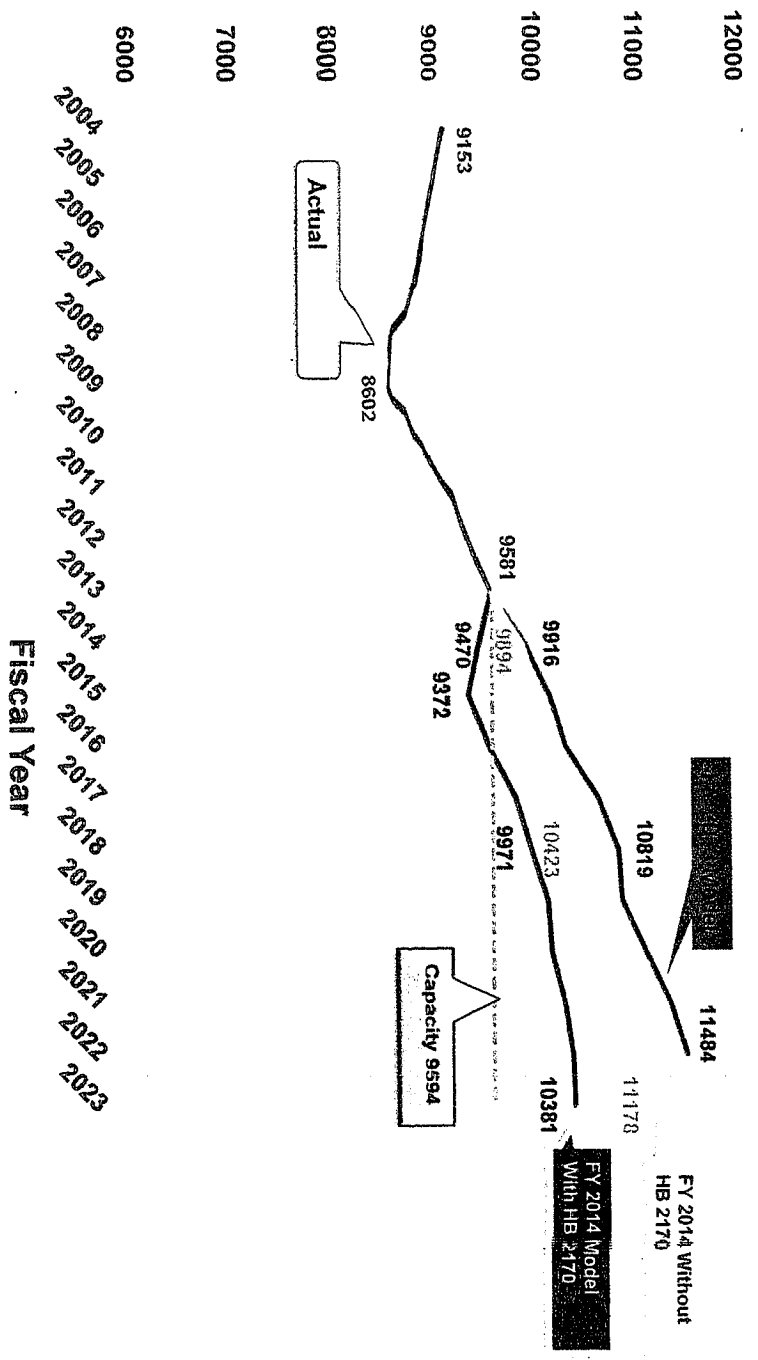
3. Increased Public Safety by Focusing Resources on Higher Risk Offenders

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4. Increased Access to Community Programming

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# FY 14 Prison Population Projections



## **Curb Additional Corrections Spending**

**By slowing growth in the state prison population between FY 2014 and FY 2018, this package of policies and added programs averts millions in additional spending that would be needed to accommodate prison population growth.**

# FINDING: MOST PROBATION REVOCATIONS HAVE BEHAVIORAL HEALTH NEEDS

- Unsuccessful probationers have behavioral health issues.

## FY 2014 KDOC Probation Revocations

58%	SA Score of 4 or higher
17%	MH Score of 3 or higher
12%	Both Scores

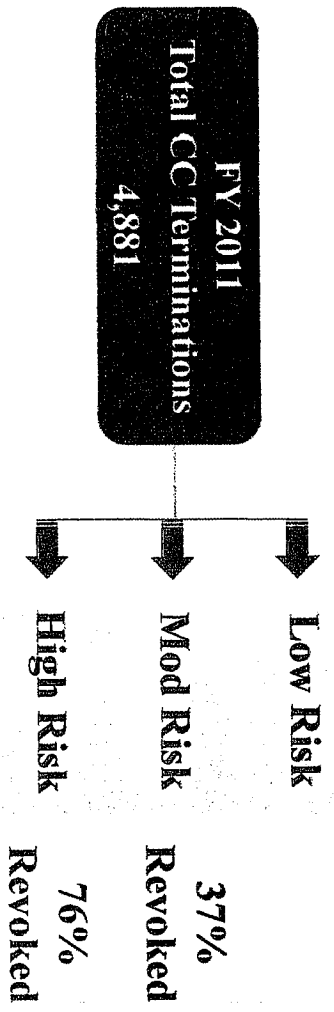
- Successful probationers are much less likely to have a substance use problem.

## Community Corrections Revocations

- Only 16% of successfully terminated Community Corrections probationers had an SA Score of 4 or higher.

# FINDING: SUCCESS ON PROBATION RELATED TO PROGRAMMING

High-risk probationers fail at much higher rates.



*Successful probationers are twice as likely to receive behavioral health programming.*



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# **Behavioral Health Programming In FY 14 and FY 15**

Increase access to community-based programming for offenders sentenced to felony probation supervision who are at a higher risk of re-offending.

**Community Corrections & Court Services  
Program Funding Needed For Successful  
Implementation of HB 2170**

## **HB 2170: What Does the Law State?**

- Provides for swift & certain responses to offender noncompliance in the community

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- Provides graduated sanctioning options for judges

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- Establishes presumptive discharge from supervision for certain low-risk offenders

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- Mandates postrelease supervision for offenders who would otherwise complete underlying sentence while serving time on a sanction

# Swift & Certain (Jail) Sanctions

## ***Problem:***

Delayed and inconsistent responses to minor violations do not produce behavior change.

## ***Policy Changes:***

Enable court services and community corrections officers to apply swift and certain responses to people under felony supervision who commit minor violations.

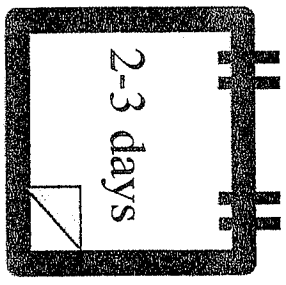
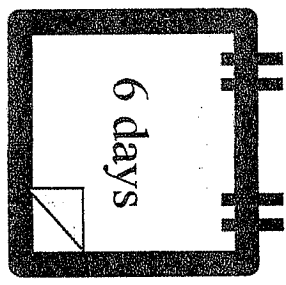
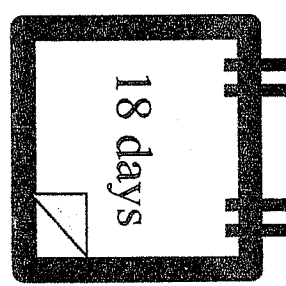
*Primary Agencies Affected:* Court Services, Community Corrections, and County Jails

# SWIFT & CERTAIN (JAIL) SANCTIONS

## Jail Sanctions:

- Imposed by CC or CS officers without court involvement unless court has withheld this authority; and
- Probationer has waived hearing.

## Sanction Limits:

Per Violation	Per Month	Per Supervision Period
		

## WHY SWIFT & CERTAIN (JAIL) SANCTIONS?

- KS can improve public safety by utilizing new (more effective) means of changing offender behavior.
- **Ignoring minor noncompliance** sends the message that bad behavior is okay; in fact, it **reinforces it!**
- Jail sanctions are one response in a range of intermediate sanctions to address offender noncompliance. While jail admissions may increase, the short stays mitigate overall population changes.
- Swift & certain responses are more cost-effective for changing behavior than are longer, more costly prison stays. Short jail sanctions cause less disruption to an offender's pro-social network (i.e., they are less likely to lose a job, home, etc.) than if they served long period in state prison.

# Graduated Judicial Sanctions

## **Problem:**

Despite being returned to prison for similar violations, probation violators are sanctioned for almost four times as long (~11 mos.) as postrelease supervision violators.

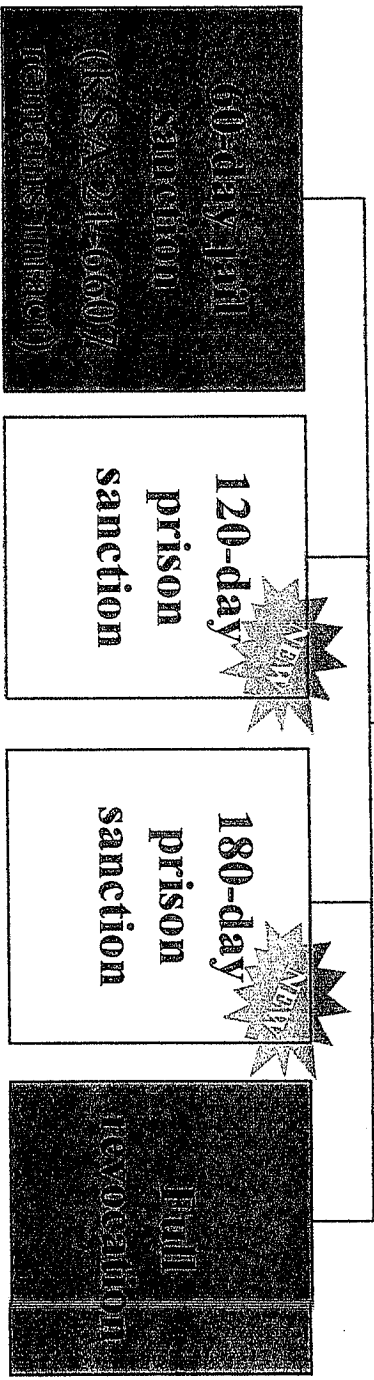
## **Policy Changes**

Enable judges to impose a 120-day or 180-day prison sanction in response to technical violations of probation.

Primary Agencies Affected: Judiciary and Felony Probation Supervisors

# Graduated Judicial Sanctions

An array of judicial options to respond to technical probation violations:



## **Graduated Judicial Sanctions**

- Subject to up to a **50% reduction** (i.e., 120-days can be reduced to 60 days and 180-days to 90 days) by the Secretary of Corrections.
- 120-day and 180-day sanction **cannot be repeated** and 120 is not prerequisite to 180.
- **Jail sanction a prerequisite** unless new crime, absconding or public safety threatened.
- Requires that a graduated sanction of either 120 or 180 days has been **imposed prior to full revocation** unless new crime, absconding or public safety is threatened. Deviations have to be documented.



## Focus Resources on High-Risk Offenders

### **Problem:**

Maintaining low-risk offenders on supervision provides little public safety benefit and reduces supervision resources for higher risk offenders.

### **Policy Changes**

There is a **presumption of early discharge** from probation after 1 year for low risk, compliant probationers who have paid restitution unless court finds substantial and compelling reasons for denial.

Primary Agencies Affected: Court Services and Community Corrections

# Postrelease Supervision for Probation Violators

## **Problem:**

More than 1/2 probation violators left prison with no community supervision. Loophole allowed probationers to "get off supervision" following revocation for technical violations.

## **Policy Challenge:**

Mandates that all probation violators, who committed their crimes on or after 7/1/13 to be assigned postrelease supervision if the underlying sentence expires while serving a 120 or 180-day sanction.

Primary Agencies Affected: Postrelease Supervision

# By The Numbers After Four Months

HB 2170 Implementation As of November 5, 2013

Number of Sanctions

## Community Corrections

Sanction Type	Days	Number of Sanctions	Percent
Prison	120 days	50	9.6%
Prison	180 days	25	4.8%
Jail	1 day	9	1.7%
Jail	3 days	254	48.8%
Jail	2 days	183	35.1%
<b>Total Sanctions</b>		<b>521</b>	<b>100.0%</b>

## Court Services

Sanction Type	Days	Number of Sanctions	Percent
Jail	3 days	13	61.9%
Jail	2 days	8	38.1%
<b>Total Sanctions</b>		<b>21</b>	<b>100.0%</b>

# By The Numbers After Four Months

HB 2170 Implementation As of November 5, 2013

Number of Offenders

## Community Corrections

Number of Sanctions	Days	Number of Offenders	Percent
Prison	120 days	50	11.7%
Prison	180 days	25	5.8%
One Jail Sanctions	1, 2 or 3 days	288	67.1%
Two Jail Sanctions	1, 2 or 3 days	50	11.7%
Three Jail Sanctions	1, 2 or 3 days	11	2.6%
Four Jail Sanctions	1, 2 or 3 days	4	0.9%
Nine Jail Sanctions	2 days each	1	0.2%
<b>Total Offenders</b>		<b>429</b>	<b>100.0%</b>

## Court Services

Sanction Type	Days	Number of Offenders	Percent
Jail	3 days	13	61.9%
Jail	2 days	8	38.1%
<b>Total Offenders</b>		<b>21</b>	<b>100.0%</b>

# Justice Reinvestment Initiative Outcomes

## STRENGTHEN PROBATION: SWIFT AND CERTAIN RESPONSES

- How many probationers had a jail sanction via the swift/certain response?
- How many days was each sanction (2 or 3)?
- How many probationers had multiple jail sanctions via the swift/certain response?

**Long term: Analyze recidivism rates for the group that had jail sanctions vs. no jail sanctions**

# Justice Reinvestment Initiative Outcomes

## STRENGTHEN PROBATION: GRADUATED SANCTIONS

- How many probationers received a 120-day or 180-day sanction?
- How much “good time” credit applied by KDOCC?
- How many days was offender in a KDOCC facility?
- How many jail sanctions did offenders have prior to KDOCC sanction?
- How many offenders were revoked but did not receive graduated sanctions?

**Long term: Analyze recidivism rates for the group that had 120/180-day sanctions vs. immediate revocation**

# **Justice Reinvestment Initiative Outcomes**

## **INCREASE REENTRY SUCCESS: POSTRELEASE SUPERVISION REQUIRED**

- How many probationers with 120 or 180-day sanction released to PRS?
- How many probationers serving full revocation released to PRS?

**Long term: Analyze recidivism rates for the group that had graduated sanctions vs. no sanctions**

## Justice Reinvestment Initiative Outcomes

### INCENTIVIZE GOOD BEHAVIOR AND FOCUS ON HIGHER RISK POPULATION

- How many probationers were granted presumptive early discharge?
- What was the original length of probation?
- How many probationers were not granted discharge and why?

**Long term: Analyze recidivism rates for the group that was granted early discharge vs. no early discharge**



# Justice Reinvestment Initiative

## *Implementation Challenges and Solutions*

- Education
  - ✓ Speaking Tours by Sentencing Commission and KIDOC
  - ✓ Phase II assistance from Council of State Governments
- Monitoring
  - ✓ Sentencing Commission
- Funding
  - ✓ Community Corrections
  - ✓ Court Services

**Kansas**

Sentencing Commission



# THANK YOU

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