

CALVIN H. HAYDEN
SHERIFF



DOUGLAS G. BEDFORD
UNDERSHERIFF

DUTY HONOR SERVICE
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Testimony to the Senate Committee on Judiciary in Support of SB 80

Feb.20, 2019

Chairman Wilborn, Vice Chairman Rucker, Ranking Member Miller, and members of the committee,

The Johnson County Sheriff's Office supports SB 80 - Increasing the criminal penalty for criminal possession of a weapon by a felon and adding ammunition to the definition of weapon. Deputies of our Patrol and Traffic Division are concerned by the revolving door of felons they repeatedly encounter on the streets of Johnson County. We should not be reencountering convicted felons, who were in criminal possession of a firearm while committing a crime or a traffic violation over and over again.

The current penalty for this crime is a severity level 8, non-person felony, which results in presumptive probation for all but someone with a criminal history of 2 or more person felonies. Kansas law concerning criminal possession of a weapon by a convicted felon is weak compared to other states in the region.

2017 SENTENCING RANGES

NONDRUG OFFENSES												
	A	B	C	D	E	F	G	H	I	TERMS		
	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misd.	1 Misd No Record	PROB	POST REL	GOOD TIME
1	653/620/592	618/586/554	285/272/258	267/253/240	246/234/221	226/214/203	203/195/184	186/176/166	165/155/147	36	36	15%
2	493/467/442	460/438/416	216/205/194	200/190/181	184/174/165	168/160/152	154/146/138	138/131/123	123/117/109	36	36	15%
3	247/233/221	228/216/206	107/102/96	100/94/89	92/88/82	83/79/74	77/72/68	71/66/61	61/59/55	36	36	15%
4	172/162/154	162/154/144	75/71/68	69/66/62	64/60/57	59/56/52	52/50/47	48/45/42	43/41/38	36	36	15%
5	136/130/122	128/120/114	60/57/53	55/52/50	51/49/46	47/44/41	43/41/38	38/36/34	34/32/31	36	24	15%
6	46/43/40	41/39/37	38/36/34	36/34/32	32/30/28	29/27/25	26/24/22	21/20/19	19/18/17	24	24	15%
7	34/32/30	31/29/27	29/27/25	26/24/22	23/21/19	19/18/17	17/16/15	14/13/12	13/12/11	24	12	20%
8	23/21/19	20/19/18	19/18/17	17/16/15	15/14/13	13/12/11	11/10/9	11/10/9	9/8/7	≤18	12	20%
9	17/16/15	15/14/13	13/12/11	13/12/11	11/10/9	10/9/8	9/8/7	8/7/6	7/6/5	≤12	12	20%
10	13/12/11	12/11/10	11/10/9	10/9/8	9/8/7	8/7/6	7/6/5	7/6/5	7/6/5	≤12	12	20%

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

24 months for felonies classified in Severity Levels 1-6

12 months for felonies classified in Severity Levels 7-10

Presumptive Imprisonment
Border Box
Presumptive Probation

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Our research, conducted in the fall of 2018, shows that Kansas is not even in the same ball park as most states when it comes to length of sentence that is imposed for this crime. We looked at the four surrounding states – Missouri, Nebraska, Oklahoma, and Colorado. We also looked at states that had populations similar to Kansas. Those states were New Mexico, Iowa, Nevada, Mississippi, Utah, and Arkansas.

Of the Border States, Kansas comes in dead last for this offense, with a maximum possible sentence of 23 months of imprisonment but only if the person has been convicted of three or more person felonies. Colorado has a maximum sentence of 3 years, Missouri and Oklahoma have a maximum possible sentence of 10 years, and Nebraska has a maximum possible sentence of life in prison – basically the same standards we have for what we call the “Hard 50.”

Of the states with a comparable population we were next to last. Only New Mexico has a more lenient sentence with a maximum time of eighteen months. Iowa has a maximum sentence of five years, Nevada a maximum of six, Mississippi has a maximum of ten, Utah a maximum of fifteen, and Arkansas a maximum of twenty years.

Today’s 24 hours news cycle brings the risks that law enforcement officers nationwide face from convicted felons who have no legal right to a firearm. As of February 18, 2019, as I wrote this testimony, seventeen officers have died in the line of duty – eight of those by gunfire. Ten of those who were killed were killed while the offender was committing a felonious action. Our deputies and other Kansas officers are not immune from this risk.

The object of this bill is to put the “worst of the worst” in prison so they can’t continue to cause harm. The common objection to passing this bill in the past has been that the bed impact statement is too high. If we increase the penalty for this type of criminal conduct, there won’t be a revolving door releasing these offenders back on the street. We won’t be encountering them as often. Bed space use may go up, but I’m willing to bet admissions will go down. And isn’t that the goal? Don’t we want violent felons behind bars instead of out on parole or probation committing other crimes?

Some criminals look at the penalties for various crimes and pick the states to commit them in because of that sentence. History is a good teacher. In 1933, a controversy arose in the Kansas Legislature. Kansas had repealed the death penalty in 1907. Evidence came to light that some deliberate murders were being committed in Kansas by persons who had committed murders in a neighboring state or states. Those surrounding states all had death penalties. The story was that the murders in Kansas were committed because the sentence of life imprisonment in Kansas would be granted by consenting to

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extradition to Kansas, thus avoiding the death penalty in the other jurisdictions. Kansas reinstated the death penalty in 1935.¹

A more contemporary example is that of serial killer John Robinson. He took a plea for the murders he committed in Missouri to avoid the death penalty. Missouri courts, unlike Kansas, will carry out a death sentence. Eight-eight executions have been conducted since 1989. Kansas has carried out zero in the same amount of time. We have ten people on death row. When Robinson was extradited to Kansas for the murders committed here, he did not take a plea to avoid the death penalty. Why? He felt there was no risk of being executed. And, in a surprising outcome, our supreme court, upheld his death penalty sentence on appeal.

Kansas wants to attract business and people to the state. We don't need to be the state that criminals want to move to because they know they can get a more lenient sentence for their crime. We need to come into alignment with our neighboring states.

The Johnson County Sheriff's Office asks for your support of SB 80.

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¹ Capital Punishment in Kansas – 4, "History of Capital Punishment in Kansas," <https://www.kansasmemory.org/item/209168/page/4>, accessed Feb. 17, 2019