

MEMORANDUM

To: Leyton Gunn, Division of the Budget
From: Scott M. Schultz, Executive Director
Date: February 3, 2021
Re: Prison Bed Impact Assessment, **HB 2147 - Allowing early discharge from prison for certain drug offenders.**

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill has **no** impact on prison admission.
- **Impact on Prison Beds:** This bill will save **59** prison beds in FY 2022 and **209** beds in 2031.
- **Impact on the Workload of the Commission:** This bill will result in **no** additional journal entry workload of the Commission.
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SUMMARY OF THE BILL

New Section 1. Upon application by an offender in the custody of the secretary of corrections who is serving only a sentence for a severity level 2 through 5 drug crime or serving a sentence for a primary crime that is a severity level 2 through 5 drug crime, the prisoner review board may grant release to probation or assignment to a community correctional services program to such offender for the remainder of such offender's sentence if such offender has successfully served 50% of the prison part of the original sentence.

All applications for release pursuant to this section shall be referred to the board. The board shall examine each case and may approve such application and grant a release. The board shall establish any conditions related to the release of the offender to probation or assignment to a community correctional services program. If the offender fails to comply with any condition of release, probation or assignment to a community correctional services program or if the board otherwise concludes that the offender presents a threat or risk to public safety, the release shall be subject to revocation pursuant to K.S.A. 22-3716.

Upon release, the district court in which the offender was convicted shall have jurisdiction over the offender for all further proceedings. The offender shall remain on supervision until the release is revoked, expiration of the maximum sentence or discharge by the district court.

Section 2. K.S.A. 22-3716 is amended to include language that the court may revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender without having previously imposed a sanction if the offender is on probation or assignment to a community correctional services program after having been released from custody pursuant to new section 1.

KEY ASSUMPTIONS

- The target inmates as defined in this bill include offenders who are convicted of drug crimes of **D2 to D5 and directly sentenced to KDOC.**
- Projected admission to prison for the target offenders is assumed to increase by an annual average of 1%, which is the same percentage used in relation to the baseline prison population forecast produced in August 2019 by the Kansas Sentencing Commission.
- It is assumed that these offenders will be released to probation after serving 50% of their prison sentence less jail credit.
- The revocation rate is assumed to be 30%, which was the actual revocation rate found in FY 2019.
- It is assumed that these offenders will revoke their probation in 14 months, which was the actual average found in FY 2019.
- Such offenders who violate their probation will serve the remaining of their prison sentence minus good time and program credit.
- It is assumed that the new policy effective date starts on July 1, 2021.
- It is assumed that the new policy will be retroactive.

FINDINGS

- In FY 2020, there were **382 drug offenders** directly sentenced to KDOC. The severity levels and the average length of prison sentence were:
 - 54 D2 – 75 months,
 - 82 D3 – 59 months,
 - 46 D4 – 32 months, and
 - 200 D5 – 27 months.
- In FY 2020, there were **933 drug offenders** incarcerated in KDOC. Their severity levels and average sentences remaining to serve were:
 - 293 D2 – 45 months,
 - 329 D3 – 26 months,
 - 71 D4 – 15 months, and
 - 240 D5 – 19 months
- The revocation rate for probation offenders was found to be 30% in FY 2019.
- In FY 2019, of those probation violators, most have their probation revoked in 6 months and were ordered to serve their prison sentences. The average revocation period was found in 14 months.

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Prison Bed Space Impact Assessment

Fiscal Year	Current Policy Unchanged Beds Needed	Serve 50% of Sentence Beds Needed	Beds Saved	30% Revocation in 14 Months Beds Needed	Total Beds Saved
2022	386	327	59	0	59
2023	584	470	114	80	34
2024	726	524	202	120	82
2025	815	526	289	125	164
2026	861	530	331	131	200
2027	862	535	327	128	199
2027	873	545	328	130	198
2029	884	545	339	131	208
2030	893	550	343	134	209
2031	902	558	344	135	209