

SENATE JUDICIARY COMMITTEE
Senator Kellie Warren, Chair

KANSAS SENTENCING COMMISSION
Scott M. Schultz, Executive Director
January 26, 2021

Proponent Testimony – SB 8

Thank you for the opportunity to present testimony in favor of this legislation on behalf of the Kansas Sentencing Commission. For crimes committed on or after July 1, 2020, this bill amends K.S.A. 2020 Supp. 21-6821, to increase **good time incarceration credit** to 40% for nonperson and 25% for person crimes for the prison part of the sentence. Currently, the good time credit is 15% and 20%, depending on the severity of the crime. See Attachment 1. The bill also increases the amount of time inmates may earn in **program credit** from 120 to 150 days. This is similar to 2020 HB 2484 that the House Corrections and Juvenile Justice committee passed out favorably last year.

K.S.A. 74-9101(b)(15) requires the Sentencing Commission to make sentencing reform recommendations to the legislature and Governor Kelly. It is important to note that inmates with violent off-grid sentences (murder and child sex crimes) do not currently and would not under the bill receive good time credit. Inmates at present that receive drug and nondrug grid sentences are eligible to receive good time credit while incarcerated. This credit is awarded by KDOC in 120-day review periods. If disciplinary events occur, an inmate can have up to 100% of the available good time credits for that period withheld. Staff discretion in the amount of Good Time credits being withheld allows specific behaviors to be addressed through effective case management. Increasing the percentage of available good time credits incentivizes inmates to engage in activities to include work assignments, programs, release planning, and in general appropriate behavior. This will also enhance the impact effective case management can have working with that individual.

Pursuant to K.A.R. 44-6-115a, the following factors are to be considered when determining whether an inmate is awarded good time credits:

1. Performance in a work assignment;
2. Performance in a program assignment;
3. Maintenance of personal and group living environment;
4. Participation in release planning activities;
5. Disciplinary record; and
6. Other factors affecting the inmate's general adjustment, performance, behavior, attitude, and demonstration of individual responsibility and accountability.

This regulation provides for withholding of up to 100% of available good time credits if an inmate refuses to work as assigned or refuses to engage in recommended programs. KAR 44-6-115a also provides for Kansas Department of Corrections Policy in the restoration of withheld and or forfeited good time credits. As an

individual progresses through their incarceration and has demonstrated appropriate behavior they have an opportunity to request restoration of those good time credits previously withheld or forfeited due to disciplinary action.

Reviewing the relationship between the length of sentence, incarceration, and deterrence is worth mentioning here.

Where nonviolent offenders are involved, a study from The Pew Charitable Trusts found that an analysis of data from three states found **little or no evidence** that longer prison terms for many nonviolent offenders produced either incapacitation or deterrence effects. That is, the extra time behind bars neither prevented crimes during the period of incarceration nor kept offenders from committing crimes once released from prison.¹

Public opinion also appears to side with reducing recidivism over longer prison terms. Nearly 90 percent support shortening prison terms by up to a year for low-risk, nonviolent offenders if they have behaved well in prison or completed programs.² More than 80 percent of poll respondents from households in which someone has been a victim of a violent or nonviolent crime agree with the statement, *“It does not matter whether a nonviolent offender is in prison for 18 or 24 or 30 months. What really matters is that the system does a better job of making sure that when an offender does get out, he is less likely to commit another crime.”*³

Still another benefit of this legislation is field officer safety. Fewer inmates in each correctional facility reduces the likelihood of violence on our corrections officers.

Increasing program credit time from 120 to 150 days was suggested previously by the House Corrections and Juvenile Justice committee. This provision further seeks to incentivize offenders to complete programming that will enhance their likelihood of success upon release from prison.

With this amendment to K.S.A. 21-6821, the Sentencing Commission estimates that major bed savings will occur with **85** prison beds in FY 2022 and **564** prison beds by FY 2031. I appreciate your time and attention to the Kansas Sentencing Commission testimony, ask for your support, and would be happy to answer questions. Thank you.

¹ The Pew Charitable Trusts, *Time Served: The High Cost, Low Return of Longer Prison Terms*, June 2012, p. 35-36; https://www.pewtrusts.org/~media/legacy/uploadedfiles/wwwpewtrustsorg/reports/sentencing_and_corrections/prisontimeservedpdf.pdf.

² The Pew Charitable Trusts, *Prison Time Served and Recidivism*, October 2013; <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2013/10/08/prison-time-served-and-recidivism>.

³ *Id.*

2020 SENTENCING RANGES

NONDRUG OFFENSES												
	A	B	C	D	E	F	G	H	I	TERMS	POST REL.	GOOD TIME
1	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	36	15%
2	489/467/443	460/438/416	285/272/258	267/253/240	246/234/221	226/214/203	203/196/184	186/176/166	166/156/147	36	36	15%
3	247/233/221	229/216/206	107/102/96	200/190/181	164/174/165	169/160/152	154/146/138	138/131/123	123/117/109	36	36	15%
4	172/162/154	162/154/144	76/71/68	100/94/89	64/60/57	69/66/62	62/60/47	48/46/42	43/41/38	36	36	15%
5	136/130/122	126/120/114	60/67/63	65/62/60	51/48/46	47/44/41	43/41/38	38/36/34	34/32/31	36	24	15%
6	46/45/40	41/39/37	38/36/34	36/34/32	32/30/28	29/27/26	26/24/22	21/20/19	19/18/17	24	24	15%
7	34/32/30	31/29/27	29/27/26	26/24/22	23/21/19	19/18/17	17/16/16	14/13/12	13/12/11	24	12	20%
8	29/21/19	20/16/18	19/18/17	17/16/16	16/14/13	13/12/11	11/10/9	11/10/9	9/8/7	518	12	20%
9	17/16/15	16/14/13	13/12/11	13/12/11	11/10/9	10/9/8	9/8/7	8/7/6	7/6/5	512	12	20%
10	18/12/11	12/11/10	11/10/9	10/9/8	9/8/7	8/7/6	7/6/5	7/6/5	7/6/5	512	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

DRUG OFFENSES

	A	B	C	D	E	F	G	H	I	TERMS	POST REL.	GOOD TIME
1	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	36	15%
2	204/194/186	196/186/176	187/178/169	179/170/161	170/162/154	167/158/150	162/154/146	161/150/142	164/146/138	36	36	15%
3	144/136/130	137/130/122	130/120/117	124/117/111	116/111/105	113/108/101	110/104/99	108/100/96	103/96/92	36	36	15%
4	83/78/74	77/73/68	72/68/65	68/64/60	62/58/55	60/56/52	57/54/51	54/51/49	51/49/46	36	36	15%
5	51/49/46	47/44/41	43/40/37	36/34/32	32/30/28	29/27/26	26/24/22	21/20/19	19/18/17	518	24	20%
6	42/40/37	36/34/32	32/30/28	29/24/23	22/20/18	19/17/16	16/15/14	14/13/12	12/11/10	512	12	20%

***Distribute or Possess w/ Intent to Distribute

Level	Cocaine	Meth & Heroin	Marijuana	Manufacture (all)	Cultivate	Dosage Units	Fines NOT to exceed	Rebuttable Presumption Intent to Distribute
I	≥ 1 kg	≥ 100 g	≥ 30 kg	2nd or Meth 1st	>100 plants	>1000	\$500,000	≥450 g Marijuana
II	100 g - 1 kg	3.5 g - 100 g	450 g - 30 kg	1st	50-99 plants	100-999	\$500,000	≥3.5 g Heroin or Meth
III	3.5 g - 100 g	1 g - 3.5 g	25 g - 450 g		5-49 plants	10-99	\$300,000	≥100 dosage units of controlled substance
IV	< 3.5 g	< 1 g	< 25 g		<10	<10	\$300,000	≥100 g of any other controlled substance
V	Possession	Possession	Poss.	3rd offense			\$100,000	

* ≤ 18 months for 2003 SB123 offenders
 ** Retroactive application for offenses committed on or after July 1, 2012
 *** Severity level increases one level if on or within 1000 ft. of any school property

