

MEMORANDUM

To: Leyton Gunn, Division of Budget
From: Scott M. Schultz, Executive Director
Date: January 15, 2021
Re: Prison Bed Impact Assessment, **HB 2071 - Increasing the criminal penalties for stalking a minor.**

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill **may** result in additional prison admissions, but it cannot be determined at this time.
- **Impact on Prison Beds:** This bill **may** result in additional prison admissions, but it cannot be determined at this time.
- **Impact on the Workload of the Commission:** This bill **may** impact the workload of the Commission, but cannot be determined at this time

SUMMARY OF THE BILL

Section 1. K.S.A. 21-5427 is amended to include an additional subsection (a)(4) by which a Stalking violation can occur; to wit, stalking is *intentionally engaging in a course of conduct targeted at a specific child under the age of 14 that would cause a reasonable person in the circumstances of the targeted child, or a reasonable person in the circumstances of an immediate family member of such child, to fear for such child's safety.*

The penalty for violations of subsection (a)(4) are a severity level 7, person felony, or a severity level 4, person felony, upon a second or subsequent conviction.

FINDINGS

- In FY 2019, there were 39 convictions for the crime of stalking under K.S.A. 21-5427 in the KSSC felony database.
 - 3 convictions were severity level five, person felonies
 - 3 (100%) sentenced to prison
 - 1 conviction was a severity level seven, person felony
 - 1 (100%) sentenced to probation

- 34 convictions were severity level nine, person felonies
 - 9 (26%) were sentenced to prison
 - 25 (74%) were sentenced to probation
- 1 conviction was a severity level ten, person felony
 - 1 (100%) was sentenced to probation

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PROPORTIONALITY COMPARISON (PROPOSED BILL LANGUAGE WITH PENALTIES ARE BOLDDED)

Statute Number Violated	Statutory Penalty Section	Registration Required "R"	Statute Description	Severity Level / Class	Attempt, Conspiracy & Solicitation			Person Nonperson/ Select
					A	C	S	
21-5427(a)(2)	(b)(2)(A)		Stalking; Engaging in a course of conduct targeted at specific person which individual knows will place targeted person in fear for such person's or immediate family member's safety; 1st conviction	A	B	C	~	Person
21-6101(a)(1)	(b)(1)		Breach of Privacy; Knowingly and without authority; Intercepting, without consent of sender or receiver, a message by telephone, telegraph, letter or other means of private communication	A	B	C	~	Nonperson
21-5427(a)(1)	(b)(1)(A)		Stalking; Recklessly engaging in a course of conduct targeted at specific person which would cause a reasonable person in the targeted person's circumstances to fear for such person's or immediate family member's safety and targeted person actually placed in such fear; 1st conviction	A	B	C	~	Person
HB 2012 21-5427(a)(4)	(b)(4)(B)		Stalking is intentionally engaging in a course of conduct targeted at a specific child under the age of 14 that would cause a reasonable person in the circumstances of the targeted child, or a reasonable person in the circumstances of an immediate	4	6	6	7	Person

			family member of such child, to fear for such child's safety a second or subsequent conviction.					
21-5602(a)(3)	(b)(2)		Abuse of a Child; Knowingly inflicting cruel and inhuman corporal punishment upon any child under the age of 18 years; victim under the age of six	4	6	6	7	Person
21-5413(b)(1)(A)	(g)(2)(A)		Aggravated Battery; Knowingly causing great bodily harm or disfigurement	4	6	6	7	Person
21-5427(a)(2)	(b)(2)(B)		Stalking; Engaging in a course of conduct targeted at specific person which individual knows will place targeted person in fear for such person's or immediate family member's safety; 2nd or subs. conviction	5	7	7	8	Person
HB 2012 21-5427(a)(4)	(b)(4)(A)		Stalking is intentionally engaging in a course of conduct targeted at a specific child under the age of 14 that would cause a reasonable person in the circumstances of the targeted child, or a reasonable person in the circumstances of an immediate family member of such child, to fear for such child's safety.	7	9	9	10	Person
21-5427(a)(1)	(b)(1)(B)		Stalking; Recklessly engaging in a course of conduct targeted at specific person which would cause a reasonable person in the targeted person's circumstances to fear for such person's or immediate family member's safety and targeted person actually placed in such fear; 2nd or subs. conviction	7	9	9	10	Person
21-5428(a)(1)	(b)(1)		Blackmail; Intentionally gain/attempt to gain anything of value or compel another to act against such person's will, by threatening to: Communicate information that would subject such person or another to public ridicule, contempt or degradation	7	9	9	10	Nonperson