

**Minutes of the Kansas Sentencing Commission Meeting  
December 17, 2015**

The Honorable Evelyn Z. Wilson, Chair, called the Kansas Sentencing Commission meeting to order on December 17, 2015 at 2:40 p.m.

**Participants:**

**Members:**

- Honorable Evelyn Z. Wilson, Chair
- Honorable W. Lee Fowler, Vice Chair
- Honorable Patrick D. McAnany
- Senator David B. Haley
- Representative Tom Sawyer
- Representative John J. Rubin
- Representative Janice Pauls
- Senator Carolyn McGinn
- David W. Riggin, Kansas Prisoner Review Board
- Amy J. Hanley, Kansas Attorney General's Office
- Chris A. Mechler, Office of Judicial Administration
- Tim Madden, Department of Corrections Designee
- Kevin N. Berens, Thomas County Attorney
- Stacey L. Donovan, Third Judicial District Public Defender's Office
- Nathan Barnes, Public Member

**Guests:**

Natalie Scott, Revisors' Office  
Jason Thompson, Revisors' Office  
Stuart Little, Ph.D., Little Government Relations, LLC  
Kevin Barone, Kansas Bail Agents Association

**Staff:**

- Scott M. Schultz, Executive Director
- Brenda Harmon, Special Assistant to the Executive Director
- Kunlun Chang, Director of Research
- Fengfang Lu, Senior Research Analyst
- Charlene Peacock, Utilization Review/SB 123 Program Director
- Ebo Browne, Research Analyst
- Jesse Becker, Finance Director
- Erica Waggoner, Administrative Assistant

**Approval of Proposed Agenda**

Chair Wilson asked if there were objections to the agenda. There were no objections to the agenda.

### **Approval of Minutes**

Chair Wilson referred to the Sentencing Commission Workshop minutes of November 18 and 19, 2015. Amy Hanley moved to approve the minutes as written. Kevin Berens seconded the motion, and the minutes were approved.

### **Welcome New KSC Members**

Chair Wilson updated members on newly appointed members. Former Sentencing Commission member and State Representative Janice Pauls is replacing Edward “Eddie” Regan. Chair Wilson also introduced new Sentencing Commission member, Nathan Barnes who is replacing Pastor Junius Dotson.

### **Welcome New Staff Members**

Scott Schultz, Executive Director, introduced new Sentencing Commission staff member, Erica Waggoner as the agency’s Administrative Assistant. Ms. Waggoner began work on November 30 and is replacing Rachel Cole who accepted a position as a Data Entry Operator III.

### **Letter to the Governor**

Judge Wilson moved to amend the proposed Governor’s letter changing 1) language for increase felony from loss to theft; and 2) removing both the Repeal Special Rule 26 and Criminal History Scoring due to the lack of approval in the KSC 2015 Workshop. Chris Mechler seconded the motion and the motion carried. Amy Hanley and Kevin Berens opposed the motion.

Scott Schultz presented the requested information to the members. The Commission had previously tabled a discussion regarding offender registration at the November Workshop until more information was provided. Judge Fowler moved to remove from the table the proposed legislation regarding the failure to register. Representative Sawyer seconded the motion, and the offender failure to register discussion was removed from the table.

Judge Fowler moved to include K.S.A. 22-4903 to state that a nonperson felony violation of the Kansas Offender Registration Act would be a nonperson felony rather than a person felony. Representative Rubin seconded the motion and the motion carried to add the proposal to both the legislation and the letter to the Governor. Amy Hanley, Kevin Berens, Representative Rubin, and Tim Madden opposed the motion.

Representative Rubin moved to include in the Governor’s letter the Criminal History Scoring. Stacey Donovan seconded the motion and the motion carried to add Criminal History Scoring to the Governor’s letter. Amy Hanley and Kevin Berens opposed the motion.

Chris Mechler moved to include the repeal of Special Rule 26 in the Governor’s letter. Representative Sawyer seconded the motion and the motion carried. Amy Hanley, Kevin Berens, and Representative Rubin opposed the motion.

Judge Fowler moved to approve a study proposal in the letter to the Governor. Amy Hanley seconded the motion. The original motion carried to include the study proposal as an attachment to the letter to the Governor. After discussion Kevin Berens moved to call the question. Amy Hanley seconded the motion and the motion carried.

## **Review and Approval of 2016 Proposed Legislation**

KSC members were provided handouts of 2016 KSC Legislative Proposals in draft form. Scott Schultz explained each proposed bill as referenced below:

### **16rs2566- Drugs: Repeal Special Rule 26 Third Time Drug Possession**

Judge Fowler moved to approve the proposal for legislation and for inclusion in the letter to the Governor. Representative Sawyer seconded the motion, and the motion carried. Amy Hanley, Kevin Berens and Representative Rubin opposed the motion.

### **16rs2570- SB 123: Expand to severity level 4 drug small sales if SB 123 criteria is met.**

Judge Fowler moved to approve the proposal for both legislation and the letter to the Governor. Chair Wilson seconded the motion and the motion carried. Amy Hanley and Kevin Berens opposed the motion.

### **16rs2568 - JRI: Delete quick dip requirement prior to prison sanctions for abscond but not new crimes.**

Judge Fowler moved to approve the proposal for both legislation and the letter to the Governor. Representative Rubin seconded the motion and the motion carried. Amy Hanley and Kevin Berens opposed the motion.

### **16rs2567 - Theft: Increase felony theft loss threshold to \$2,000.**

To make theft offenses consistent, Stacey Donovan moved to include subsections (b)(5) and (b)(6) of K.S.A. 21-5801 in the proposed legislation which increases the felony theft loss threshold to \$2,000. Chris Mechler seconded the motion and the motion carried.

### **16rs2610 - Unlawfully tampering w/electronic monitoring equipment: Amending the severity level from 6 to severity level 6 for nondrug severity levels 1-5 and drug severity levels 1-2; severity level 8 for nondrug severity levels 6-8 and drug severity level 3; severity level 10 for nondrug severity levels 9-10 and drug severity level 4-5; and class A misdemeanor for misdemeanors or civil cases involving electronic monitoring.**

Representative Rubin moved to approve the proposal for both legislation and the letter to the Governor. Representative Sawyer seconded the motion and the motion carried. Kevin Berens opposed the motion.

### **16rs2608 - Criminal History Scoring: Except off-grid and nonperson severity levels 1-4, all juvenile adjudications, will decay if the offender has no new adjudications within five years from the date of discharge of the final adjudication.**

Stacey Donovan moved to approve the proposal for legislation and the letter to the Governor. Representative Sawyer seconded the motion and the motion carried. Amy Hanley and Kevin Berens opposed.

## **Executive Session**

Chair Wilson moved to go into executive session for 15 minutes concerning personnel matters. Judge Fowler seconded the motion and the motion carried.

After 15 minutes, the meeting returned to open session.

Chair Wilson moved to have Kevin Berens replace Betsy Gillespie on the Compensation Subcommittee. Judge Fowler seconded the motion and the motion carried.

**Agency Report**

Executive Director Scott Schultz provided a summary of the agency's activities since the last meeting and reviewed KDOC prison population reports.

**Next Meeting**

The next Sentencing Commission meeting will be at 1:30 p.m. on January 22, 2016 at the Jayhawk Tower, Senate Room.

Meeting adjourned 5:12 p.m.