

**Minutes of the Kansas Sentencing Commission Zoom Meeting
October 22, 2020**

The Honorable W. Lee Fowler, Chair, called the Kansas Sentencing Commission (KSSC) Zoom Meeting to order on October 22 at 1:30 p.m.

Participants:

Members:

- Honorable W. Lee Fowler, Chair
- Honorable Benjamin J. Sexton, Vice Chair
- Honorable Stephen D. Hill, Kansas Court of Appeals
- Senator David B. Haley
- Representative Dennis “Boog” Highberger
- Representative John Barker
- Senator Carolyn McGinn
- Jonathan Ogletree, Kansas Prisoner Review Board
- Jessica Domme, Kansas Attorney General’s Office
- Spence Koehn, Office of Judicial Administration
- Jefferey Zmuda, Secretary of Corrections
- Mark Dupree, Wyandotte County District Attorney
- Jessica A. Glendening, Third Judicial District Public Defender’s Office
- Pat Colloton, Public Member
- Jermaine Wilson, Public Member
- Shelly Williams, Community Corrections Director

Guests:

Jason Thompson, Revisor of Statutes
Natalie Scott, Revisor of Statutes
Chad Harmon, Substance Abuse Center of Kansas
Murl Riedel, Legislative Research Department
Marie McNeal, Kansas Department of Corrections
Chris Esquibel, Kansas Association of Court Services Officers
Kim Parker, Kansas County and District Attorneys Association
Todd Ackerman, Marysville Chief of Police
Carl Reynolds, The Council for State Governments Justice Center
Patrick Armstrong, The Council for State Governments Justice Center
Sheriff David Groves, Cherokee County Sheriff’s Department
Stuart Little, Little Government Relations
Rachael Druckhammer, The Council for State Governments Justice Center
Greg Halls, The Council for State Governments Justice Center

Sandi Harper, Riley County Community Corrections
Ed Klumpp, KS Association of Chiefs of Police, KS Sheriff's Association, KS Peace Officers Association
Representative Stephen Owens, District 74
Marc Bennet, Sedgwick County District Attorney
Randall Bowman, Kansas Department of Corrections

Staff:

- Scott M. Schultz, Executive Director
- Brenda Harmon, Special Assistant to the Executive Director
- Kunlun Chang, Director of Research
- John Grube, Senior Research Analyst
- Kira Johnson, SB 123 Program Director
- Trish Beck, Program Assistant
- Jamie Mai, Administrative Assistant
- Christopher Lyon, Staff Attorney
- Francis Givens, Special Projects Director
- Melissa Zoesch, Finance Director

Approval of Proposed Agenda

Chair Fowler asked if there were any objections or additions to the agenda. Chair Fowler added a presentation, *Justice Reinvestment in Kansas* by Carl Reynolds to the agenda. There were no objections and the agenda was approved as modified.

Approval of September 16 and 17, 2020, KSSC Workshop Minutes

Chair Fowler referred to the September 16 and 17, 2020, minutes. Jessica Domme moved to approve the minutes of September 16, 2020. The Honorable Stephen Hill seconded the motion. The motion carried.

Vice Chair Sexton moved to approve the minutes of September 17, 2020. Representative Dennis Highberger seconded the motion. The motion carried.

Justice Reinvestment in Kansas

Chair Fowler introduced Carl Reynolds, who presented *Justice Reinvestment in Kansas*. The presentation discussed ways to avoid correctional costs, policy options and various statistics relating to sentences in Kansas.

Review and Discussion of Proposed Legislation

Chair Fowler referred to the handout *2020 KSSC October Legislative Proposals*.

Expand Drug Grid Presumptive Probation

Vice Chair Sexton amended his previous motion to expand the drug grid presumptive probation to 3H-I, 4G-I, and 5A-D and the border boxes to 3G to include that all offenders granted probation under the changes in the grid receive SB 123 eligibility presuming they meet eligibility requirements and to provide appropriate funding to Community Corrections. Pat Colloton seconded the motion. Jessica Domme voted no. The motion carried.

Codify the Definition Of “Absconder”

Shelly Williams moved to approve the proposed definition amending K.S.A. 22-2202 to include a definition of absconding to read: “Absconds from supervision means knowingly avoiding supervision or knowingly making the defendant's whereabouts unknown to the defendant's supervising court services officer or community correctional services officer”. Representative Dennis Highberger seconded the motion. The Honorable Stephen Hill abstained. The motion carried.

Allowing Earned Discharge Credit for People on Probation. Consider “Substantial Compliance” Definition KSA 21-6608

Vice Chair Sexton moved to approve the proposal amending KSA 21-6608 and the definition of substantial compliance. Shelly Williams seconded the motion. The Honorable Stephen Hill abstained. The motion carried.

Special Rule #26 – Determining prior convictions when charging drug crimes in same complaint KSA 21-6805(f)(1)

Spence Koehn moved to adopt the proposed language to amend KSA 21-6805(f)(1) and to also clarify the use of two or more prior convictions in subsection (e). Representative Dennis Highberger seconded the motion. The motion carried.

Early Prison Release for Certain Drug Offenders

The Commission discussed the proposal of early release for drug SL 2-5 offenders and allowing direct commit offenders only to apply for release after 50% service of sentence in KDOC. Action was delayed until more discussion can be had by the KSSC Legislative Committee and the Kansas Criminal Justice Reform Commission.

Consider Adult Criminal History Decay/Gap

The Commission referred to the excerpt from the *Robina Criminal History Enhancements Sourcebook* and discussed the adult criminal history gap and agreed to let the KSSC Legislative Committee work on the proposal further before taking action.

Expand Nondrug Grid Presumptive Probation

The Commission discussed the proposal to expand nondrug grid presumptive probation to 5H-I and 6G and border boxes to 4H-I, 5G, 6B-F, 7B, 8B, 9B, and 10B. No action was taken on the proposal pending further information and discussion at a later date.

Limit Total Time on Probation to Twice Original Term

The Commission discussed the proposal to limit time on probation to twice the original term. No action was taken on the proposal pending further information and discussion at a later date.

Expand SB 123 Substance Abuse Treatment to Nondrug Offenders

The Commission discussed the proposal to expand SB 123 substance abuse treatment to nondrug offenders. No action was taken on the proposal pending further information and discussion at a later date.

Reduce Penalties for All First Drug Possession to Misdemeanors

The Commission discussed the proposal to reduce penalties for all first-time drug possession offenses to misdemeanors and to expand SB 123 treatment to those offenders. No action was taken on the proposal pending further information and discussion at a later date.

KSSC Assessment Selection Committee Update

Jessica Domme provided an update and discussed the Assessment Selection Committee's recommendations. Beginning July 1, 2021, to utilize the Level of Service/Case Management Inventory (LS/ CMI) for men and the Women's Risk Needs Assessment (WRNA) for women as presentence assessments, replacing the LSI-R. Offenders scoring high must complete the SASSI. Jessica Domme also stated the Committee plans to meet again to discuss the cutoff scores for the assessments.

Jessica Domme moved to approve the recommendation and allow the Committee to recommend adjustments to the cutoff scores at the next meeting. Vice Chair Sexton seconded the motion. The motion carried.

Agency Report

Executive Director Scott Schultz informed the Commission about the recent activities of the staff, highlighting the SB 123 conference on October 19, 2020, as well as the Cybersecurity Survey required by the state, and the progress made on the salary study that the Commission had previously voted on.

Adjournment

Pat Colloton moved to adjourn. Jonathan Ogletree seconded the motion. The motion carried.

The meeting adjourned at 4:16 p.m.

The next Sentencing Commission meeting will be Thursday, November 19, 2020.