

## MEMORANDUM

**To:** Commission Members  
**From:** Scott M. Schultz, Executive Director  
**Date:** September 17, 2020  
**Re:** Prison Bed Space Impact Assessment, **2020 HB 2474 - Changing the penalties for violating the Kansas offender registration act and creating a method by which the court can waive payment of fees - UPDATE.**

### IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill will **reduce 75** prison admissions in FY 2021 and **82** prison admissions in FY 2030.
- **Impact on Prison Bed Space:** This bill would **save 75** prison beds in FY 2021 and **129** prison beds in FY 2030.
- **Impact on the Commission Workload:** This bill would **reduce** the workload of the Commission by **187** journal entries each year.

### SUMMARY OF THE BILL

**New Section 1.** This section authorizes the waiver of registration fees imposed pursuant to K.S.A. 22-4905 of the Kansas Offender Registration Act. Offender will be required to submit an affidavit to the Court and the Court may waive or modify the fee on a showing of manifest hardship. There is no docket fee requirement.

**Section 2.** K.S.A. 2020 Supp. 21-5913 is amended to modify the penalty for obstructing apprehension or prosecution by knowingly harboring, concealing or aiding any person who is required to register under the Kansas Offender Registration Act, K.S.A. 22-4901 *et seq.*, and amendments thereto, and who is not in compliance with the requirements of such act with intent that such person shall avoid or escape from registration, arrest, trial, conviction, punishment or any criminal charges arising from the person's failure to comply with the requirements of such act. **The penalty in this section is modified to a severity level 8, nonperson felony from a severity level 5, person felony.**

**Section 3.** K.S.A. 2019 Supp. 21-6804 is hereby amended to include the sentence for a violation of K.S.A. 22-4903(b) (Aggravated violation of the Kansas Offender Registration Act) shall be presumptive imprisonment.

**Section 4.** K.S.A. 2020 Supp. 22-4903 is amended to change Aggravated violation of the Kansas Offender Registration Act by removing the language that it is an Aggravated violation of the Kansas Offender Registration Act if violation continues for more than 180 consecutive days. In addition, it removes, language indicating that upon the 181<sup>st</sup> consecutive day it is a new and separate offense, and shall continue to constitute a new and separate violation of the Kansas Offender Registration Act every 30 days thereafter. The amended statute substitutes the new language that the aggravated violation of the Act is a violation that continues for more than one year or committed by a person with two or more prior convictions of violations of the section.

**Upon a first conviction of this section, it is a class B nonperson misdemeanor (from a level 6 nonperson felony) and upon a second conviction, a class A nonperson misdemeanor (from a level 5 nonperson felony).** Violation of the Kansas Offender Registration Act or aggravated violation of the Kansas Offender Registration Act consisting only of failing to remit payment to the sheriff's office as required in K.S.A. 22-4905(l), and amendments thereto, is **amended to a class C nonperson misdemeanor from a class A misdemeanor. The penalty is removed for having two or more full payments not remitted to the sheriff's office within 15 day of the most recent registration, which was a level 9 nonperson felony. Aggravated violation of the Kansas offender registration act is a class A nonperson misdemeanor when the underlying crime for which the offender is required to be registered under the Kansas offender registration act is a misdemeanor.**

**Section 5.** K.S.A. 2020 Supp. 22-4905 is amended to read payment the registration fee is not required when the offender is under 18 years of age or if the court has determined that requiring payment of the fee would impose manifest hardship on the offender or the offender's immediate family pursuant to Section 1.

**Section 6.** K.S.A. 2020 Supp. 21-5913, 21-6804, 22-4903 and 22-4905 are hereby repealed.

**Section 7.** This act shall take effect and be in force from and after its publication in the statute book.

## **FINDINGS**

### **Section 2**

- In FY 2019, **9** offenders were convicted of the crime of obstructing apprehension or prosecution. Of these:
  - **One** was sentenced to prison and
  - **Eight** were sentences to probation.
  - All of them were sentenced at N8.
  
- In FY 2019, there was **no** defendants admitted to KDOC as new court commitment offender for the crime of obstructing apprehension or prosecution.

#### Section 4

- In FY 2019, **1,378** offenders were **required** to register by the court for a total of 2,115 registrations. Of these registrations:
  - 354 were due to sex offender status;
  - 350 were for any act which at sentencing was determined to be sexually motivated;
  - 466 were due to violent offender status;
  - 1 was due to the victim being less than 18 years of age;
  - 369 were due to conviction of person felony with a deadly weapon; and
  - 575 were due to drug offender status.
  
- In FY 2019, **327** offenders were **convicted** of the crime of failure to register under Kansas Offender Registration Act. Of these offenders:
  - **123 (37.6%)** were sentenced to prison; and
  - 204 (62.4%) were sentenced to probation.
  
- According to KDOC in FY 2019, **74** offenders were admitted to prison for the crime of **failure to register**. The average length of stay in prison was **19 months** based on KDOC's release for the same group of offenders in FY 2019.
  - 4 – Aggravated violation
  - 3 – Third violation
  - 9 – Second violation
  - 59 – First violation
    - 4 - severity level 3
    - 7 - severity level 5
    - 52 - severity level 6
    - 4 - severity level 7
    - 7 - severity level 8

#### IMPACT ASSESSMENT

**Section 2** – There is **no** impact on prison admission, bed space or journal entry workload of the Commission.

#### Section 4

- **Impact on Prison Admissions:** This bill will reduce **75** prison admissions in FY 2021 and **82** prison admissions in FY 2030.
- **Impact on Prison Bed Space:** This bill would save **75** prison beds in FY 2021 and **129** prison beds in FY 2030.
- **Impact on the Commission Workload:** This bill would reduce the workload of the Commission by **187** journal entries each year.

**HB 2474 Prison Bed Space Impact Assessment**

<b>Fiscal Year</b>	<b>Prison Admission Reduction</b>	<b>Prison Bed Space Saving</b>
2021	75	75
2022	75	119
2023	76	120
2024	77	121
2025	78	123
2026	79	125
2027	79	125
2028	80	126
2029	81	128
2030	82	129