

HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE

Hon. Russ Jennings, Chairman
Hon. Leo Delperdang, Vice Chairman
Hon. Dennis “Boog” Highberger, Ranking Minority Member

February 5, 2019
1:30 p.m.

WRITTEN TESTIMONY IN OPPOSITION OF HB 2050

Thank you for the opportunity to present testimony in opposition of HB 2050. This testimony is being presented on behalf of the Kansas District Judges Association (KDJA) by Merlin G. Wheeler, Chief Judge of the Fifth Judicial District, and a co-chair of the KDJA’s Legislative Committee.

KDJA wishes to take this opportunity to express our opposition to the provisions of HB 2050 which: 1. Eliminate the ability of a court to withhold the authority given to supervising officers to impose short term jail sanctions in county jails (commonly referred to as dips) for probation violations; and 2. Eliminate the longer term 120 and 180 day JRI sanctions (commonly referred to as dunks) in prison and replacing them with the possibility of 60 day county jail sanctions.

HB 2050 is one of several bills offered in an effort to avoid exceeding the capacity of our present prison system. However, it does so at the expense of eliminating tools used by the courts in an attempt to avoid sending probation violators to serve longer prison terms. In the view of this association this approach effectively handcuffs courts who are charged with managing offenders who will not observe probation conditions but have not yet committed another new crime.

It is common for courts, at the time of sentencing, to attempt to convey to an offender the seriousness of not only the offense, but the need to observe probation conditions. One of the ways this message may be conveyed is to withhold the ability of a supervising officer to automatically impose short term jail sanctions. This tells the offender that if there are violations they will be required to reappear before a judge and answer for their behavior rather than counting on a mere 2 or 3 day sanction. This has a “sobering” effect even if the court plans to use the short term sanction. There is no demonstrable evidence that withholding authority for short term sanctions results in any increase in the prison population; to the contrary, it is more likely that this tool enables courts to effectively prevent offenders from accumulating short term sanctions which will ultimately lead to imprisonment. We therefore urge this committee to avoid further limitations on judicial management of offenders as suggested in this bill.

It appears that the elimination of the 120 and 180 day JRI sanctions suggested in this bill is based upon the position of the Kansas Department of Corrections that these dunks are not

resulting in any bed space savings. It remains the position of KDJA that prison space issues should not be addressed by interfering with offender management tools provided to the courts. We also believe that one of the potential reasons why these dunks are not effective is because of the practice of automatically providing good time credit of 50% which effectively reduces the sanctions to period of 60-90 days, many of which are spent in county jails awaiting transport to the KDOC facility. When offenders know, in advance, that a threatened 120 or 180 day sanction will not result in any significant prison term, the effect of the sanction is minimized. Thus, we believe the way the sanctions are managed is the reason why there may not be any bed space savings.

Some of our members also point out that the elimination of the dunk options may have the effect of actually increasing the number of revocations rather than reducing bed space needs. At the present time, judges do not typically impose the 120 or 180 day dunks without already exhausting the 18 day limit on use of the short term dips. Thus, by the time these dips are utilized fully, we will have no options other than to try to verbally persuade a probationer to comply or send the probationer to prison. Judges are very reluctant to imprison individuals, but the elimination of intermediate options may well result in the increase in revocations.

For these reasons we oppose this bill.

Respectfully submitted,

Merlin G. Wheeler
Co-Chair of KDJA Legislative Committee.