

MEMORANDUM

To: John Kirk, Division of the Budget
From: Scott M. Schultz, Executive Director
Date: January 24, 2021
Re: Prison Bed Impact Assessment, **HB 2081 - Modifying how certain prior convictions are counted for the special sentencing rule related to possession of a controlled substance and providing concurrent or consecutive sentencing for persons convicted of new crimes while on release for a felony.**

IMPACT ASSESSMENT

- This bill **will** have an impact on prison admissions and beds, but it cannot be determined at this time.

SUMMARY OF THE BILL

Section 1. K.S.A. 21-6606, commonly referred to as **Special Rule #10**, is amended to read that any person who is convicted and sentenced for a crime committed while on release for a felony pursuant to article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, shall serve the sentence **concurrently or** consecutively to the term or terms under which the person was released, **as the court directs**.

Section 2. K.S.A. 21-6805(e), commonly referred to as **Special Rule #12** is amended to replace the language of second or subsequent convictions to two or more prior felony convictions for unlawful manufacturing of a controlled substance which shall be a presumptive term of imprisonment of two times the maximum duration of the presumptive term of imprisonment. Additionally, K.S.A. 21-6805(f)(1), commonly referred to as **Special Rule #26**, amends the language third or subsequent conviction and is replaced with two or more prior felony convictions for a violation of K.S.A. 65-4610 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-36a06, prior to its transfer, or K.S.A. 2020 Supp. 21-5706, and amendments thereto, for a presumptive term of imprisonment and the defendant shall be sentenced to prison.

FINDINGS

- **Special Rule #10:** In FY 2019, **884** offenders were convicted of a crime while on felony bond. Of this number:
 - 89 (10.1%) received a concurrent sentence;
 - **546** (61.8% received a consecutive sentence;
 - 31 (3.5%) received both concurrent and consecutive sentences; and
 - 218 (24.7%) received no concurrent or consecutive sentence.

- Of the total 884 offenders:
 - **246** (27.8%) were sentenced to prison;
 - 502 (56.8%) were sentenced to probation; and
 - 136 (15.4%) were sentenced to drug treatment.

- **Special Rule #12** - In FY 2019, **one** offender was convicted with this special rule second/subsequent manufacture of a controlled substance and sentenced to probation.

- **Special Rule #26:** In FY 2019, **288** offenders were convicted with Special Rule #26 applied. Of this number:
 - 82 (28.5%) were sentenced to prison;
 - 203 (70.5% were sentenced to probation; and
 - 3 (1.0%) were sentenced to SB 123 treatment.
 - The criminal history categories of these offenders were:
 - A – 6;
 - B – 24;
 - C – 59;
 - E – 133;
 - F – 57;
 - G – 7;
 - H – 1; and
 - I – 1.

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