

## MEMORANDUM

**To:** John Kirk, Division of the Budget  
**From:** Scott M. Schultz, Executive Director  
**Date:** January 24, 2022  
**Re:** Prison Bed Impact Assessment, **SB 366 – Specifying that the crime of burglary includes, without authority, entering into or remaining within any locked or secured portion of any dwelling, building or other structure, with intent to commit another crime therein.**

### IMPACT ASSESSMENT

- This bill **may** impact admissions or prison beds, but the impact is unlikely to be significant.
- This bill **may** impact the workload of the Commission, but the impact is unlikely to be significant.

### SUMMARY OF THE BILL

**Section 1.** K.S.A. 2021 Supp. 21-5807 is amended to include additional language that burglary is without authority, entering into or remaining within any dwelling, building, manufactured home, mobile home, tent or other structure, or any locked or secured portions therein with intent to commit a felony, theft or sexually motivated crime therein.

Aggravated burglary includes the additional language of any locked or secured portions of the dwelling, building, manufactured home, mobile home, tent, or other structure in which there is a human being.

### FINDINGS

- In FY 2021, **596** offenders were convicted of aggravated burglary and burglary under K.S.A. 21-5807 at the following severity levels:
  - **Severity Level Four** – 33
    - Prison – 18
    - Probation – 15
  - **Severity Level Five** – 26
    - Prison – 6
    - Probation – 20
  - **Severity Level Six** – 17
    - Prison – 9

- Probation – 8
- **Severity Level Seven** – 342
  - Prison – 90
  - Probation – 252
- **Severity Level Nine** – 169
  - Prison – 54
  - Probation – 115
- **Severity Level Ten** – 9
  - Prison – 2
  - Probation – 7
- In FY 2021, **70% of burglary convictions received probation**. Thus, it is likely that most convictions under the proposed language will still receive probation.
- This bill proposes to add additional factual circumstances that would constitute a violation under the current burglary statutes. The KSSC does not collect data on the factual circumstances of each conviction.
  - The additional statutory language **may** impact admissions and prison bed space, as there might be certain thefts charged as burglaries in the future, but that is unlikely to have a significant impact due to the distinct factual circumstances of the proposed language.
  - The Commission's workload **may** be impacted, but only if the circumstances of the new statutory language would have previously been charged a misdemeanor theft as opposed to felony theft.

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