

## HOUSE BILL No. 2084

By Committee on Corrections and Juvenile Justice

1-18

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1 AN ACT concerning state agencies; relating to providing data and  
2 information to the Kansas sentencing commission; amending K.S.A.  
3 2016 Supp. 74-9101 and repealing the existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2016 Supp. 74-9101 is hereby amended to read as  
7 follows: 74-9101. (a) There is hereby established the Kansas sentencing  
8 commission.

9 (b) The commission shall:

10 (1) Develop a sentencing guideline model or grid based on fairness  
11 and equity and shall provide a mechanism for linking justice and  
12 corrections policies. The sentencing guideline model or grid shall establish  
13 rational and consistent sentencing standards which reduce sentence  
14 disparity, to include, but not be limited to, racial and regional biases which  
15 may exist under current sentencing practices. The guidelines shall specify  
16 the circumstances under which imprisonment of an offender is appropriate  
17 and a presumed sentence for offenders for whom imprisonment is  
18 appropriate, based on each appropriate combination of reasonable offense  
19 and offender characteristics. In developing its recommended sentencing  
20 guidelines, the commission shall take into substantial consideration current  
21 sentencing and release practices and correctional resources, including, but  
22 not limited to, the capacities of local and state correctional facilities. In its  
23 report, the commission shall make recommendations regarding whether  
24 there is a continued need for and what is the projected role of, if any, the  
25 prisoner review board and whether the policy of allocating good time  
26 credits for the purpose of determining an inmate's eligibility for parole or  
27 conditional release should be continued;

28 (2) consult with and advise the legislature with reference to the  
29 implementation, management, monitoring, maintenance and operations of  
30 the sentencing guidelines system;

31 (3) direct implementation of the sentencing guidelines system;

32 (4) assist in the process of training judges, county and district  
33 attorneys, court services officers, state parole officers, correctional  
34 officers, law enforcement officials and other criminal justice groups. For  
35 these purposes, the sentencing commission shall develop an  
36 implementation policy and shall construct an implementation manual for

1 use in its training activities;

2 (5) receive presentence reports and journal entries for all persons who  
3 are sentenced for crimes committed on or after July 1, 1993, to develop  
4 post-implementation monitoring procedures and reporting methods to  
5 evaluate guideline sentences. In developing the evaluative criteria, the  
6 commission shall take into consideration rational and consistent  
7 sentencing standards which reduce sentence disparity to include, but not be  
8 limited to, racial and regional biases;

9 (6) advise and consult with the secretary of corrections and members  
10 of the legislature in developing a mechanism to link guidelines sentence  
11 practices with correctional resources and policies, including, but not  
12 limited to, the capacities of local and state correctional facilities. Such  
13 linkage shall include a review and determination of the impact of the  
14 sentencing guidelines on the state's prison population, review of  
15 corrections programs and a study of ways to more effectively utilize  
16 correction dollars and to reduce prison population;

17 (7) make recommendations relating to modification to the sentencing  
18 guidelines as provided in K.S.A. 2016 Supp. 21-6822, and amendments  
19 thereto;

20 (8) prepare and submit fiscal impact and correctional resource  
21 statement as provided in K.S.A. 74-9106, and amendments thereto;

22 (9) make recommendations to those responsible for developing a  
23 working philosophy of sentencing guideline consistency and rationality;

24 (10) develop prosecuting standards and guidelines to govern the  
25 conduct of prosecutors when charging persons with crimes and when  
26 engaging in plea bargaining;

27 (11) analyze problems in criminal justice, identify alternative  
28 solutions and make recommendations for improvements in criminal law,  
29 prosecution, community and correctional placement, programs, release  
30 procedures and related matters including study and recommendations  
31 concerning the statutory definition of crimes and criminal penalties and  
32 review of proposed criminal law changes;

33 (12) perform such other criminal justice studies or tasks as may be  
34 assigned by the governor or specifically requested by the legislature,  
35 department of corrections, the chief justice or the attorney general;

36 (13) develop a program plan which includes involvement of business  
37 and industry in the public or other social or fraternal organizations for  
38 admitting back into the mainstream those offenders who demonstrate both  
39 the desire and ability to reconstruct their lives during their incarceration or  
40 during conditional release;

41 (14) appoint a task force to make recommendations concerning the  
42 consolidation of probation, parole and community corrections services;

43 (15) produce official inmate population projections annually on or

1 before six weeks following the date of receipt of the data from the  
2 department of corrections. When the commission's projections indicate  
3 that the inmate population will exceed available prison capacity within two  
4 years of the date of the projection, the commission shall identify and  
5 analyze the impact of specific options for: (A) Reducing the number of  
6 prison admissions; or (B) adjusting sentence lengths for specific groups of  
7 offenders. Options for reducing the number of prison admissions shall  
8 include, but not be limited to, possible modification of both sentencing  
9 grids to include presumptive intermediate dispositions for certain  
10 categories of offenders. Intermediate sanction dispositions shall include,  
11 but not be limited to: Intensive supervision; short-term jail sentences;  
12 halfway houses; community-based work release; electronic monitoring and  
13 house arrest; substance abuse treatment; and pre-revocation incarceration.  
14 Intermediate sanction options shall include, but not be limited to,  
15 mechanisms to explicitly target offenders that would otherwise be placed  
16 in prison. Analysis of each option shall include an assessment of such  
17 option's impact on the overall size of the prison population, the effect on  
18 public safety and costs. In preparing the assessment, the commission shall  
19 review the experience of other states and shall review available research  
20 regarding the effectiveness of such option. The commission's findings  
21 relative to each sentencing policy option shall be presented to the governor  
22 and the joint committee on corrections and juvenile justice oversight no  
23 later than November 1;

24 (16) at the request of the governor or the joint committee on  
25 corrections and juvenile justice oversight, initiate and complete an analysis  
26 of other sentencing policy adjustments not otherwise evaluated by the  
27 commission;

28 (17) develop information relating to the number of offenders on  
29 postrelease supervision and subject to electronic monitoring for the  
30 duration of the person's natural life;

31 (18) determine the effect the mandatory sentencing established in  
32 K.S.A. 21-4642 and 21-4643, prior to their repeal, or K.S.A. 2016 Supp.  
33 21-6626 and 21-6627, and amendments thereto, would have on the number  
34 of offenders civilly committed to a treatment facility as a sexually violent  
35 predator as provided pursuant to K.S.A. 59-29a01 et seq., and amendments  
36 thereto;

37 (19) assume the designation and functions of the state statistical  
38 analysis center. All criminal justice agencies, as defined in ~~subsection (c)~~  
39 ~~of K.S.A. 22-4701(c), and amendments thereto, and the juvenile justice~~  
40 ~~authority shall provide any data or information, including juvenile offender~~  
41 ~~information, requested by the commission to facilitate the function of the~~  
42 ~~state statistical analysis center;~~

43 (20) subject to the provisions of appropriation acts and the

1 availability of funds therefor, produce official juvenile correctional facility  
2 population projections annually on or before November 1, not more than  
3 six weeks following the receipt of the data from the juvenile justice  
4 authority and develop bed impacts regarding legislation that may affect  
5 juvenile correctional facility population;

6 (21) be authorized to make statewide supervision and placement  
7 cutoff decisions based upon the risk levels and needs of the offender. The  
8 commission shall periodically review data and make recommended  
9 changes; ~~and~~

10 (22) determine the impact and effectiveness of supervision and  
11 sanctions for felony offenders regarding recidivism and prison and  
12 community-based supervision populations; *and*

13 (23) *gather data and information from any state agency to carry out*  
14 *the duties and functions described in this section. Unless otherwise*  
15 *prohibited by law, all state agencies shall provide any data or information*  
16 *requested by the commission to carry out such duties and functions. As*  
17 *used in this subsection, "state agency" means any state office, officer,*  
18 *department, board, commission, institution, bureau, agency, or authority*  
19 *or any division or unit thereof.*

20 Sec. 2. K.S.A. 2016 Supp. 74-9101 is hereby repealed.

21 Sec. 3. This act shall take effect and be in force from and after its  
22 publication in the statute book.