



Memorandum

To: Sarah Plinsky, County Administrator, Douglas County
From: Stuart J. Little, Ph.D., Little Government Relations
Date: October 14, 2020
Re: Update to Criminal Justice Coordinating Council

This memo provides an overview of legislative issues discussed over the 2020 interim and that may have action during the 2021 Session. Several committees have met over the interim to discuss criminal justice reform and will be finalizing recommendations and proposed legislation in the coming weeks. This memo simply provides a list of issues being discussed at the state level and potential opportunities for county level engagement during the 2021 Session.

The following are the main entities that have met over the last several months to discuss recommendations to the 2021 Legislature: The Governor's Commission on Racial Equity & Justice; The Pre-Trial Justice Task Force; The Criminal Justice Reform Commission; Kansas Sentencing Commission, and Juvenile Justice Oversight Committee. The following topics have been discussed across several of the groups:

- Reduce incarceration, especially for condition violations, and more funding for community-based services.
- Cash bond issue. (Would take statute change to move to a no cash bond period).
- Minimum mandatory sentences.
- Issues related to criminalization of poverty (such as driver's license reinstatement fees, incarceration for fines and fees, etc.).
- Signature bond unless booked on FTA.
- Incentive-based probation.
- Eliminating bond schedule or creating more flexibility with sentencing guidelines.
- Work with BIDS to establish defense counsel at first appearance and BIDS attorneys in the County.
- Addressing disproportionate minority contact.
- Addressing case processing time at both adult and juvenile levels.
- Monitoring concerns about reducing prison population; ensuring this does not negatively impact local jails/contribute to overcrowding.

Proposed Legislation by Specific Committees

Kansas Sentencing Commission

- Several of these items have been brought forth in previous legislative sessions. This is a selection of proposed legislation from the Sentencing Commission.
- Increasing felony loss thresholds for certain property crimes: 11 property crimes proposed to be raised from \$1,000 to \$1,500 for felony threshold.

- Creating a drug abuse treatment program for people on diversion and allowing county attorneys to enter into agreements with court services and community corrections for supervision. (2020 HB 2002; 2019 HB 2292; 2017 HB 2087).
- Clarifying jurisdiction and supervision of offenders in a certified drug abuse treatment program—All parties must agree to the transfer to offender’s SB 123 probation to the location where offender would be receiving usual courtesy supervision. (2020 HB 2470).
- Modifying Care & Treatment Law—Allowing courts to prohibit possession of a firearm in a temporary custody order pursuant to the care and treatment act for mentally ill persons. (2020 HB 2551).
- Modifying Good Time & Program Credits—Current 15% to 20% good time credit would be modified to 25% for person and 40% for nonperson felonies. Program credit would be increased from 120 to 150 days. (2020 HB 2004).
- Early prison release for certain drug offenders.
- The full list of proposed legislation can be found here: <https://sentencing.ks.gov/document-center/presentations>

Pretrial Justice Task Force

- These recommendations will be forwarded to the Supreme Court in early November.
- The following are selected recommendations from the Task Force that may be of particular interest to the County, though the full report and recommendations can be found here: https://www.kscourts.org/KSCourts/media/KsCourts/court%20administration/Pretrial_Justice_Task_Force/DraftPretrialJusticeTaskForceReport081720.pdf
- Selected Recommendations:
- Amend statutes to facilitate the use of a notice to appear rather than arrest for non-violent misdemeanor offenses.
- Encourage law enforcement agencies to work with community mental health organizations for quick identification and referral of offenders with mental health and SUD needs to appropriate resources.
- KDADS should issue regulations under the Crisis Intervention Act so that crisis centers can be licensed around the state, which will allow law enforcement the ability to immediately connect individuals to effective care.
- State funds earmarked for drug treatment should be available for use by persons in diversion programs for drug-related offenses.
- Increase access to appointed defense counsel after arrest for timely review of release conditions, including appointing counsel to qualifying defendants at first appearance.
- Encourage courts to provide opportunity for offenders to voluntarily report after a missed court date, before service of a bench warrant, to avoid unnecessary arrest.
- Adequate funds should be provided at state and local level so jurisdictions are not required to charge fees for conditional release, pretrial services, or pretrial monitoring.

Criminal Justice Reform Commission

- The subcommittees will submit their recommendations by October 26th. The Commission will meet twice in November to finalize and prioritize those recommendations before submitting their final report on December 1st.
- Efforts focused across six different areas/subcommittees:
 - Diversion, supervision, & specialty courts/prisons.
 - Mental Health & SUD access and treatment in the justice system.
 - Proportionality & sentencing guidelines.
 - Data management.
 - Reentry.
 - Race & the criminal justice system.
- Working with the Council of State Governments (CSG), the Commission has identified goals focused on managing expensive prison population growth and pressure; strengthening community supervision and resources; and increasing access to mental health, SUD treatment, and employment and housing support in order to reduce recidivism. Below is a list of parameters and potential policy options the subcommittees are still in the process of narrowing and finalizing prior to the December 1st due date.
- Behavioral Health: Commission is discussing leveraging access to telehealth; addressing co-occurring disorders; mobile crisis teams and co-responders; ensuring coordination of care between community providers as individuals reenter the community; and increasing diversion opportunities for individuals with mental health and SUD needs.
- Reentry: Focusing on increasing employment, housing, and educational opportunities for individuals reentering the community by developing partnerships between state agencies, community-based agencies, and local workforce agencies; additional training opportunities for housing providers, supervision officers, etc. to address housing needs for those in the system.
- Supervision: Goals include better coordination and sharing of data, formalizing multi-agency partnerships, and training staff in best practices. Policy discussions include addressing dual supervision issues and consolidating supervision to make it more efficient; addressing ongoing staff challenges and training; and initiatives targeted toward connecting individuals to community resources and successfully reengaging them in supervision.
- Proportionality: Focused on prioritizing prison space for people convicted of the most serious crimes by amending drug crime sentencing; expanding diversion options available to prosecutors and judges; exploring non-drug sentencing; and making revocation sentencing more consistent and proportional.
- Note: The Race and the Criminal Justice System Subcommittee has only recently been appointed and may not have formal recommendations to the degree of the other subcommittees, though they will continue to meet and discuss topics prior to December. In prior meetings the subcommittee has discussed a number of topics that have also been discussed on other committees, such as the public defender system, post incarceration efforts, and police training.

Next Steps

- Narrowing these issues down and prioritizing at the County and community level.
- Once these committees determine priorities, we can assist with the articulation of a plan of action as needed.

- As the Session approaches, we will keep the County informed of any and all topics of interest so they have a comprehensive and timely understanding of issues at hand. We will make the Commission aware of educational opportunities as well as opportunities to testify and engage in these issues to the extent they choose.
- As always, if you have questions, please contact us, and we will keep you informed of relevant activities and decisions regarding these opportunities as the 2021 Session approaches.

Contact Information

Stuart J. Little, Ph.D.
stuartjlittle@mac.com
785.845.7265

Mallory Lutz
lutzmallory@gmail.com
785.409.8351