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**Testimony Regarding HB 2031
Submitted by Marc Bennett, District Attorney
Eighteenth judicial District
Chair of Kansas Criminal Justice Reform Commission**

Chairman Jennings and members of the House Committee on Corrections and Juvenile Justice, thank you for the opportunity to address HB 2031, regarding the expansion of good time credit.

The concepts referenced in HB 2031 were addressed in the final report of the Kansas Criminal Reform Commission in the list of issues the Commission highlighted for legislative policy makers--see #23:

Violent crime, sentencing, and victims. Consider the CSG Justice Center recommendations listed on pages 53 through 56 of the Appendix adopted by the Proportionality/Sentencing Subcommittee concerning violent crime, sentencing, and victims' assessment.

As written, HB 2031 suggests good time eligibility be increased from 15% and 20% for various grid offenses to,

(D) for a crime committed on or after July 1, 2021, an amount equal to:

- (i) 25% of the prison part of the sentence for a person felony; and*
- (ii) 40% of the prison part of the sentence for a nonperson felony.*

The Reform Commission was tasked with identifying proactive steps the Kansas legislature could take to enhance access to justice and increase efficiencies while protecting public safety. The Commission members did not endorse a specific percentage increase to good time eligibility, instead we acknowledged the issue deserved the attention of policy makers.

While the proposal set forth in HB 2031 would certainly reduce prison bed-space, I have two concerns. One, the 1993 guidelines were passed on the promise of "truth in sentencing." Prior to the implementation of the guidelines, complaints were often raised as to the "indeterminate"

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sentencing ranges (3 to 5 years or 5 to 15) in Kansas. Defendants and victims left sentencing hearings not knowing exactly how much time a convicted felon would serve.

Since 1993, a person sentenced for a felony conviction receives a specific number of months as his or her sentence. For instance, a severity level 5 crime (Aggravated Sexual Battery, Reckless Aggravated Battery or Robbery) with a criminal history in the "I" category will receive 32 months in prison with a "mid" number sentence. With good time under current law, the person will serve not less than 27.2 months. If that % is increased to 25%, it would reduce the time served to 24 months. When the judge announces the controlling term in prison, there is an expectation that the defendant will serve the sentence imposed, not 3/4 of that sentence.

Additionally, the penalty for lower level non-person crimes is already fairly low. In 2017, 21% of people sent to prison arrived owing 6 months or less. Over 70% arrived owing 5 years or less. A suspect convicted of a routine low level felony -- for instance, a severity level 9 non-person crime for burglary of a car -- with a criminal history of I, faces a 5-6-7 month range. If the person spent no time in jail awaiting trial, and was sentenced to the middle number in the box, they would receive probation. By the time the person violated their probation enough times to finally have their probation revoked, under current law, they would serve no less than 4.8 months of their 6 months sentence. Under the proposal in HB 2031, they could be out in 3.6 months-- again, assuming they had earned no jail credit. To the extent that the threat of prison remains a deterrent, what impact can we expect to have on public safety if we cut sentences by 40% instead of 20%?

I am in the unique position of being chair of the Reform Commission and past-President of the KCDA. I understand that a balance must be struck between increased efficiencies brought about by needed reform and the responsibility to ensure public safety. If the public policy of this state is to reduce the penalty for crimes, I suggest we take the affirmative and transparent step of simply lowering the penalties in the grid boxes, rather than creating situations where sentences are announced in open court and then slicing 40% off those sentences later on administratively.

If the legislature wants to enhance good time eligibility, I would suggest an increase from 20% in non-person crimes to 25% would be equitable. As for person crimes, 25% is too much.

Thank you for your time and attention.

Sincerely,



Marc Bennett
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