

MEMORANDUM

To: Leyton Gunn, Division of the Budget
From: Scott M. Schultz, Executive Director
Date: February 20, 2023
Re: Prison Bed Space Impact Assessment, **SB 265 - Increasing the criminal penalties for repeat violations of a protective order.**

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill **may increase** prison admissions, but it cannot be determined at this time.
- **Impact on Prison Beds:** This bill **may increase** prison beds, but it cannot be determined at this time.
- **Impact on the Workload of the Commission:** This bill **may increase** journal entry workload for the Commission, but it cannot be determined at this time.

SUMMARY OF THE BILL

Section 1. K.S.A. 21-5924 is amended to add an additional penalty for **violation of a protective order**, a severity level 7, person felony upon a second or subsequent conviction. Additionally, violation of an **extended protective order** is a severity level 6, person felony, and a severity level 4, person felony upon a second or subsequent conviction.

FINDINGS

- In **CY 2022**, KBI reports **2,141 misdemeanor arrests** and **28 felony arrests** for **violation of a protection order** under K.S.A. 21-5924. This statute provides in pertinent part for penalties:
 - (b)(1) Violation of a protective order is a **class A person misdemeanor**, except as provided in subsection (b)(2).
 - (b)(2) Violation of an **extended protective order** as described in K.S.A. 60-3107(e)(2), and amendments thereto, and K.S.A. 60-31a06(d), and amendments thereto, is a **severity level 6, person felony**.
- In **FY 2022**, there were **2 convictions** for a **felony violation of an extended protection order** under K.S.A. 21-5924. Both were **severity level 6, person felonies** and were sentenced to probation.

- In **FY 2022**, there were **129** convictions for **severity level 4, person felonies**.
 - **Prison – 78 (60.5%)**
 - Probation – 51 (39.5%)
- In **FY 2022**, there were **1,229** convictions for **severity level 7, person felonies**.
 - **Prison – 342 (27.8%)**
 - Probation – 879 (72.2%)
- The KSSC does not maintain data on misdemeanor convictions, and thus, does not have data regarding whether any of the misdemeanor convictions are second or subsequent convictions.
- Additionally, because most of the severity level seven, person felonies receive probation (72.2%), many of the second or subsequent convictions will likely receive probation.
- Because there are so few severity level 6 violations of K.S.A. 21-5924, it is likely there will be even fewer convictions at severity level 4.
- This bill may increase prison admissions, prison beds, and workload of the Commission, but it cannot be determined at this time.

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PROPORTIONALITY COMPARISON (PROPOSED BILL LANGUAGE WITH PENALTIES ARE BOLDED)

Statute Number Violated	Statutory Penalty Section	Registration Required "R"	Statute Description	Severity Level / Class	Attempt, Conspiracy & Solicitation			Person Nonperson/ Select
					A	C	S	
21-5414(a)(1)	(c)(1)(C)		Domestic Battery; Knowingly or recklessly causing bodily harm; 3rd or subs. within 5 yrs	**Nongrid				Person
SB 262 25-2912 (a)(1-6)	(b)(2)(B)		Violation of an extended protective order; second or subsequent offense.	4	6	6	7	Person
21-5413(b)(2)(A)	(g)(2)(C)		Aggravated Battery; Recklessly causing great bodily harm or disfigurement	5	7	7	8	Person
SB 262 25-2912 (a)(1-6)	(b)(2)(A)		Violation of an extended protective order; second or subsequent offense.	6	8	8	9	Person
21-5414(b)(1)	(c)(2)		Aggravated Domestic Battery: Knowingly impeding the normal breathing or circulation of the blood by applying pressure on the throat, neck, or chest of a person with whom the offender in	7	9	9	10	Person

			involved or has been involved in a dating relationship or a family or household member, when done in a rude, insulting, or angry manner					
SB 262 25-2912 (a)(1-6)	(b)(1)(B)		Violation of protective order; second or subsequent offense.	7	9	9	10	Person
21-5903(a)(1)	(b)(2)		Perjury; Intentionally and falsely swear, testify, affirm, declare or subscribe to any material fact upon oath or affirmation; during felony trial	7	9	9	10	Nonperson