

Sentencing Commission Overview

House Corrections & Juvenile Justice
Committee

Statehouse, 152-S
January 16, 2019

Scott M. Schultz, Executive Director

www.sentencing.ks.gov

(785) 296-0923

Agenda

- Sentencing Guidelines Review
- Legislative Impacts
- Prison Population Projections
- 2003 SB 123 Substance Abuse Treatment Program
- Legislative Recommendations

2019 Commission Members

Honorable W. Lee Fowler, Chair

District Judge, 5th Judicial District

Honorable Benjamin Sexton, Vice Chair

District Judge, 8th Judicial District

Honorable Stephen Hill

Kansas Court of Appeals

Stacey L. Donovan

Chief Public Defender, 3rd Judicial District

Carolyn McGinn

Kansas Senate

Roger Werholtz

Secretary of Corrections

David B. Haley

Kansas Senate

Jonathan Ogletree

Kansas Prisoner Review Board

John Barker

Kansas House of Representatives

Tom Sawyer

Kansas House of Representatives

Jessica Domme

Attorney General's Office

Dan Dunbar

Chief Deputy, Shawnee County District

Attorney

Christopher Mann

Private Attorney

Shelly Williams

Director of Corrections, Riley County

Ron Pauls

Public Member

James Echols

Public Member

Chris A. Mechler

Office of Judicial Administration

History of the Sentencing Guidelines

- Sentencing Commission created 1989
- Mission Statement: The Kansas Sentencing Commission is charged with the development and maintenance of uniform sentencing guidelines that establish a range of presumptive sentences.
- Presumptive sentences are based upon the assumptions that:
 - Incarceration is reserved for the most serious offenders
 - Primary purposes of prison are incapacitation and punishment

Guideline Basics

- Effective date – July 1, 1993
- Only felony offenses with person and nonperson classifications
- Dual Grids – Nondrug & Drug

SENTENCING RANGE – NONDRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level ↓	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors or 1 Felony	1 Misdemeanor or 2 Felonies	1 Misdemeanor No Record
I	600-800	624-824	648-848	672-872	696-896	720-920	744-944	768-968	792-992
II	893-1093	917-1117	941-1141	965-1165	989-1189	1013-1213	1037-1237	1061-1261	1085-1285
III	1247-1447	1271-1471	1295-1495	1319-1519	1343-1543	1367-1567	1391-1591	1415-1615	1439-1639
IV	1573-1773	1597-1797	1621-1821	1645-1845	1669-1869	1693-1893	1717-1917	1741-1941	1765-1965
V	1830-2030	1854-2054	1878-2078	1902-2102	1926-2126	1950-2150	1974-2174	1998-2198	2022-2222
VI	2400-2600	2424-2624	2448-2648	2472-2672	2496-2696	2520-2720	2544-2744	2568-2768	2592-2792
VII	3000-3200	3024-3224	3048-3248	3072-3272	3096-3296	3120-3320	3144-3344	3168-3368	3192-3392
VIII	3600-3800	3624-3824	3648-3848	3672-3872	3696-3896	3720-3920	3744-3944	3768-3968	3792-3992
IX	4200-4400	4224-4424	4248-4448	4272-4472	4296-4496	4320-4520	4344-4544	4368-4568	4392-4592
X	4800-5000	4824-5024	4848-5048	4872-5072	4896-5096	4920-5120	4944-5144	4968-5168	4992-5192

Probation Terms are:
 0-18 months recommended for felons classified in Severity Levels 1-3
 24 months recommended for felons classified in Severity Levels 4-7
 18 months (up to) for felons classified in Severity Level 8
 15 months (up to) for felons classified in Severity Levels 9-10

Probation Restrictions Terms are:
 0-18 months for felons classified in Severity Levels 1-4
 24 months for felons classified in Severity Levels 5-8
 18 months for felons classified in Severity Levels 9-10

I, F, G, H, I

Presumptive → Probation

(Under 30)

→ Presumptive → Imprisonment

KCSO LMSK Reference Manual 2014
 4/27/2014

SENTENCING RANGE- DRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level ↓	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felony	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	204-194	196-186	187-177	179-169	170-160	162-152	154-144	146-136	128-118
II	144-136	137-130	130-123	124-117	116-111	108-105	101-99	96-94	92-88
III	83-78	77-73	72-68	64-61	62-59	59-56	57-54	51-49	46-44
IV	61-49	46-44	42-40	36-34	32-30	28-24	23-22	19-18	16-15
V	42-40	36-34	32-30	26-24	22-20	18-17	16-15	14-13	12-11
Presumptive Probation									
(Under 30)									
Presumptive Imprisonment									

*Fines not to exceed \$500,000 (SL1-SL2), \$300,000 (SL3-SL4), \$100,000 (SL5)

*Severity level of offense increases one level if controlled substance or analog is distributed or possessed w/ intent to distribute or w/ in 1000 ft. of any school property.

Levels	Distribute or Possess w/ intent to Distribute			Manufacture (alt)	Postrelease	Probation	Good Time
	Cocaine	Meth & Heroin	Marijuana				
I	≥ 1 kg	≥ 100 g	≥ 30 kg	>100 plants	>1000	36	15%
II	100 g - 1 kg	3.5 g - 100 g	400 g - 30 kg	50-100 plants	100-1000	36	15%
III	3.5 g - 100 g	1 g - 3.5 g	25 g - 400 g	5-40 plants	10-100	36	**20%
IV	< 3.5 g	< 1 g	< 25 g	< 5	< 10	24	5-18
V	Possession	Possession	Possession-3rd offense			12	**12

* 5-18 months for 2003 SB122 offenders
 ** Retroactive application for offense committed on or after July 1, 2012

2019 Legislative Session

Anatomy of a Legislative Impact Statement



The Highlights

- The Box
- Summary of the Bill
- Findings
- Impact Assessment
- Proportionality Comparison

The Box

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill would reduce **39** prison admissions in FY 2019 and **44** prison admissions in FY 2028.
- **Impact on Prison Beds:** This bill would save **39** prison beds in FY 2019 and **51** prison beds in FY 2028.
- **Impact on the Commission Workload:** This bill would reduce the workload of the Commission by **70** journal entries each year.

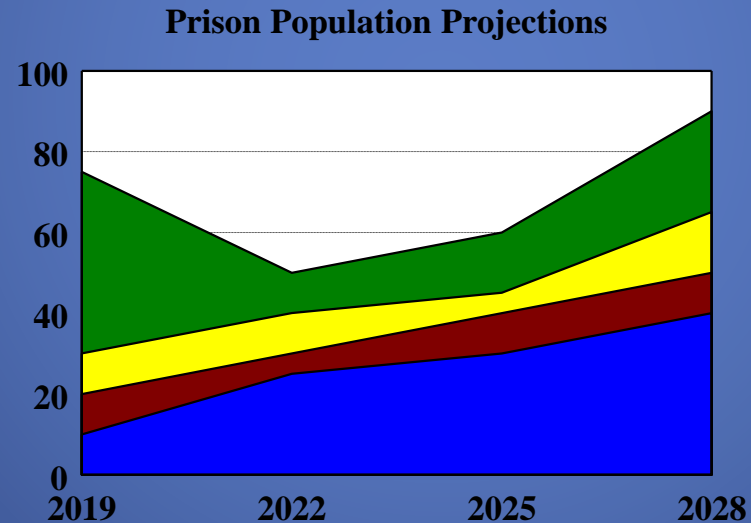
Findings

- In FY 2018, **83** D3 offenders were admitted to prison who committed the crime on or after July 1, 2012.
- On June 30, 2018, **96** D3 offenders were incarcerated in DOC who committed the crime on or after July 1, 2012.
- In FY 2018, 3,444 offenders admitted to KDOC were eligible for 2008 SB 14 program credit.
- On June 30, 2018, 4,296 offenders incarcerated in KDOC were eligible for 2008 SB 14 program credit.
- Based on KDOC's FY 2018 releases, 73% of the eligible offenders earned program credit with an average 57.4 days.

Proportionality Comparison

21-5426(a)(3)(D)	(c)(1)	Human Trafficking; Knowingly coercing employment by obtaining or maintaining labor or services that are performed or provided by another through threatening to withhold food, lodging or clothing	2	4	4	5	Person
21-5426(a)(3)(E)	(c)(1)	Human Trafficking; Knowingly coercing employment by obtaining or maintaining labor or services that are performed or provided by another through knowingly destroying, concealing, removing, confiscating or possessing any actual or purported government iden	2	4	4	5	Person
21-5426(a)(4)	(c)(1)	Human Trafficking; Knowingly hold another in condition of peonage (involuntary servitude) in satisfaction of debt owed	2	4	4	5	Person
21-5503(a)(4)	(b)(1)(C)	Rape; Sexual intercourse; Consent obtained through knowing misrepresentation that sexual intercourse is medically or therapeutically necessary	2	4	4	5	Person
21-5408(a)(1)	(c)(1)	Kidnapping; For ransom, or as a shield or hostage	3	5	5	6	Person
21-5408(a)(2)	(c)(1)	Kidnapping; To facilitate flight or the commission of any crime	3	5	5	6	Person
22-4903(a)	(c)(1)(C)	Kansas Offender Registration Act; Failure to register as required; 3rd and subs. conviction	3	5	5	6	Person
22-4903(b)	(c)(2)	Kansas Offender Registration Act; Aggravated failure to register as required	3	5	5	6	Person
21-5413(d)(1)(A)	(g)(4)(A)	Aggravated Battery; State, county or city law enforcement officer; knowingly causing great bodily harm or disfigurement	3	5	5	6	Person
21-5413(d)(1)(B)	(g)(4)(A)	Aggravated Battery; Campus or university police officer; knowingly causing great bodily harm or disfigurement	3	5	5	6	Person
21-5506(b)(2)(A)	(c)(2)(B)	Aggravated Indecent Liberties with a Child; Nonconsensual lewd fondling/touching; child 14 or more but less than 16	4	6	6	7	Person
21-5506(b)(2)(B)	(c)(2)(B)	Aggravated Indecent Liberties with a Child; Causing child to engage in lewd fondling/touching without consent; child 14 or more but less than 16	4	6	6	7	Person
21-5512(a)(5)	(b)(1)	Unlawful Sexual Relations; Consensual; between JJA staff or contract staff and inmate 16 or older	4	6	6	7	Person

Fiscal Year 2019 Adult Inmate Prison Population Projections



Primary Basis for Projections

1. Number of offenders admitted to prison; and
2. Length of sentence

Full Report Available at:

<https://sentencing.ks.gov/newsitemdetail/2018/08/31/fy-2019-prison-population-projection-report>

Prison Population Characteristics June 30, 2018

Severity Level	Pre-Guideline		Guideline		Total	
	Number	Percent	Number	Percent	Number	Percent
D1	0	0.0%	192	1.9%	192	1.9%
D2	0	0.0%	244	2.4%	244	2.4%
D3	0	0.0%	416	4.2%	416	4.2%
D4	0	0.0%	165	1.7%	165	1.7%
D5	0	0.0%	502	5.0%	502	5.0%
N1	70	0.7%	1070	10.7%	1140	11.4%
N2	54	0.5%	228	2.3%	282	2.8%
N3	43	0.4%	1179	11.8%	1222	12.3%
N4	3	0.0%	352	3.5%	355	3.6%
N5	2	0.0%	1088	10.9%	1090	10.9%
N6	0	0.0%	313	3.1%	313	3.1%
N7	2	0.0%	558	5.6%	560	5.6%
N8	0	0.0%	130	1.3%	130	1.3%
N9	0	0.0%	174	1.7%	174	1.7%
N10	0	0.0%	8	0.1%	8	0.1%
Offgrid	173	1.7%	1239	12.4%	1412	14.2%
Probation Condition Violators	0	0.0%	1106	11.1%	1106	11.1%
Sanction from Probation	0	0.0%	138	1.4%	138	1.4%
Parole/Postrelease Condition Violators	95	1.0%	425	4.3%	520	5.2%
Subtotal	442	4.4%	9527	95.5%	9969	100.0%
Nongrid/Unknown					4	0.0%
Total					9973	100.0%

Source: DOC prison population file.

Comparison Of Actual Prison Population Between FY 2017 And FY 2018

Offender Group	2017	2018	Difference	% Increase/ Decrease
Drug	1474	1519	45	3.1%
N1 to N3	2416	2477	61	2.5%
N4 to N6	1714	1753	39	2.3%
N7 to N10	957	874	-83	-8.7%
Sanction from Probation	137	138	1	0.7%
Probation Condition Violators	1004	1106	102	10.2%
Offgrid Including Old Law Lifer	1360	1412	52	3.8%
Parole/Post Release Violators	547	520	-27	-4.9%
Old Law Inmates*	194	174	-20	-10.3%
Total	9803	9973	170	1.7%

*. Old law inmates include inmates who were convicted of both pre-guideline and guideline offenses

Guideline New Commitment Admission Characteristics - Fiscal Year 2018

Severity Level	Number Admitted	Percent Admitted	Average Sentence (Months)	Jail Credit (Days)	Probation Condition Violators (%)	Probation Violators w/New Sentence (%)	Probation Violators w/New Conviction (%)
D1	20	0.4%	122.3	255.5	10.0	5.0	0.0
D2	70	1.4%	93.9	197.9	17.1	8.6	1.4
D3	155	3.0%	57.9	200.2	20.6	10.3	0.6
D4	159	3.1%	30.5	171.8	34.5	5.8	4.7
D5	852	16.6%	24.8	172.2	55.6	8.7	6.1
N1	100	2.0%	342.0	481.4	1.0	0.0	0.0
N2	19	0.4%	195.6	397.4	10.5	0.0	0.0
N3	184	3.6%	111.0	319.9	4.9	3.8	0.0
N4	95	1.9%	63.0	280.1	7.4	7.4	1.0
N5	332	6.5%	57.5	272.6	16.9	9.0	2.7
N6	187	3.7%	38.8	236.2	24.1	11.2	6.4
N7	604	11.8%	30.4	218.7	44.7	12.3	4.5
N8	344	6.7%	17.1	170.9	48.8	7.6	5.5
N9	682	13.3%	13.3	138.6	46.8	3.8	3.1
N10	39	0.8%	9.4	125.1	41.0	5.1	7.7
Offgrid	79	1.5%	-	-	N/A	N/A	N/A
Sanction	1197	23.4%	-	-	N/A	N/A	N/A
Nongrid/ Unknown	5	0.1%					
Total	5123	100.0%					

Source: KDOC admission file.

Comparison Of Guideline New Commitment Admissions To Prison By Severity Level And Offense

FY 2014, FY 2017 And FY 2018

Severity Level & Offense	FY 2014	FY 2017	FY 2018	Difference Between 2014 & 2018	Difference Between 2017 & 2018
N1	77	85	100	23	15
N2	19	16	19	0	3
N3	166	165	184	18	19
N4	74	85	95	21	10
N5	383	332	332	-51	0
N6	120	210	187	67	-23
N7	610	585	604	-6	19
N8	332	322	344	12	22
N9	670	723	682	12	-41
N10	76	59	39	-37	-20
Drug	985	1134	1256	271	122
Total	3512	3716	3842	330	126

Source: DOC admission file.

Note: Guideline new commitment admissions include new court commitments, probation condition violators and probation violators with new sentence/new conviction.

Comparison Between FY 2017 And FY2018 Prison Admission By Admission Type - **Male**

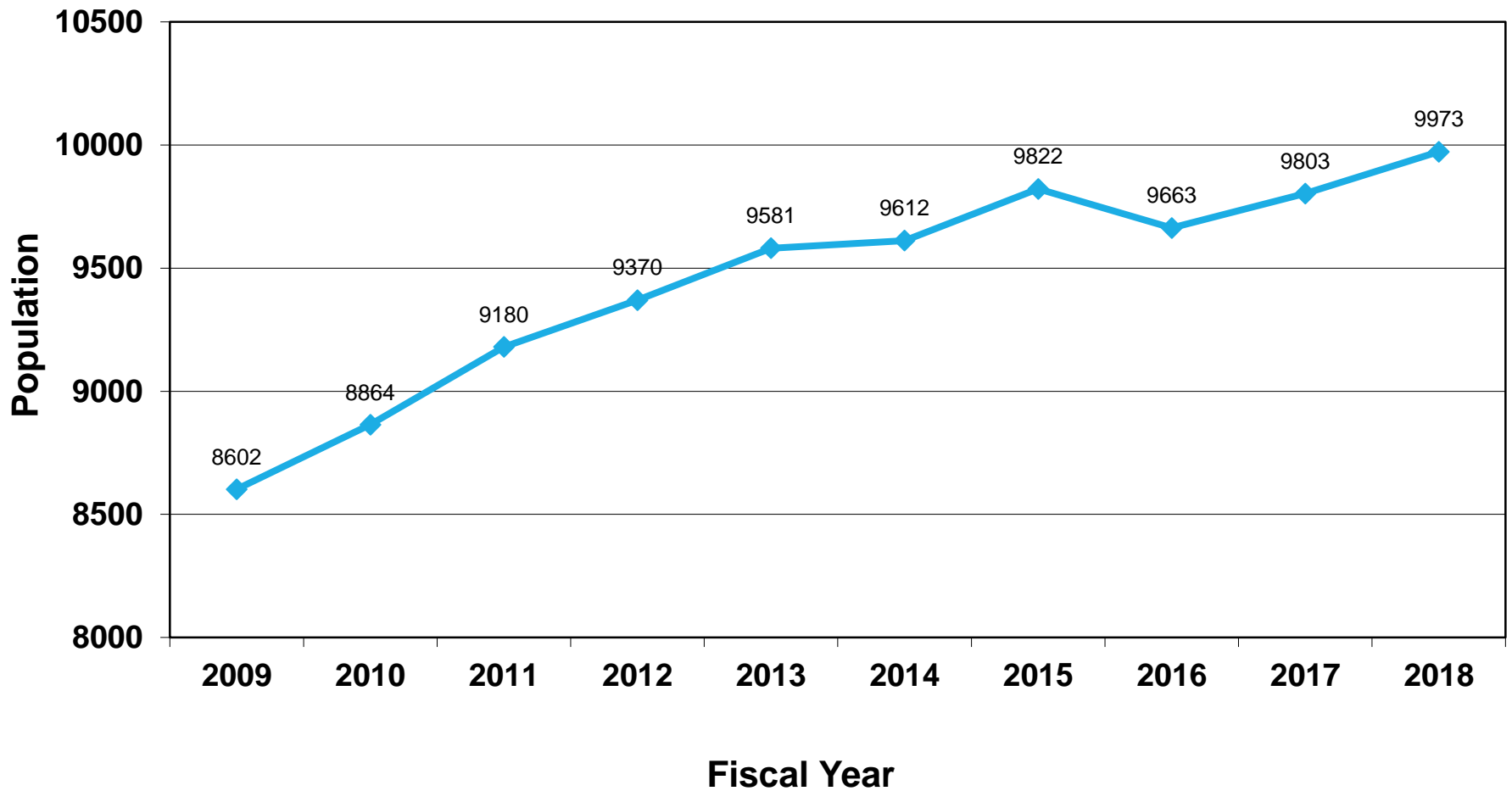
Admission Type	2017	2018	Number Change	Percent Change
New Court Commitment	1848	1787	-61	-3.3%
Probation Condition Violator	929	1081	152	16.4%
Prison Sanction	892	895	3	0.3%
Probation Violator With New Sentence	300	282	-18	-6.0%
Probation Violator With New Conviction	137	104	-33	-24.1%
Parole/Post-release Condition Violator	1096	971	-125	-11.4%
Parole/Post-release Violator With New Sentence	182	197	15	8.2%
Other	66	99	33	50.0%
Total Admission	5450	5416	-34	-0.6%
End of Year Population	8939	9060	121	1.4%

**Comparison Between FY 2017 And FY2018 Prison
Admission By Admission Type - Female**

Admission Type	2017	2018	Number Change	Percent Change
New Court Commitment	223	232	9	4.0%
Probation Condition Violator	300	377	77	25.7%
Prison Sanction	300	302	2	0.7%
Probation Violator With New Sentence	40	20	-20	-50.0%
Probation Violator With New Conviction	45	45	0	0.0%
Parole/Post-release Condition Violator	105	111	6	5.7%
Parole/Post-release Violator With New Sentence	13	15	2	15.4%
Other	20	24	4	20.0%
Total Admission	1046	1126	80	7.6%
End of Year Population	864	913	49	5.7%

KANSAS PRISON POPULATION TRENDS

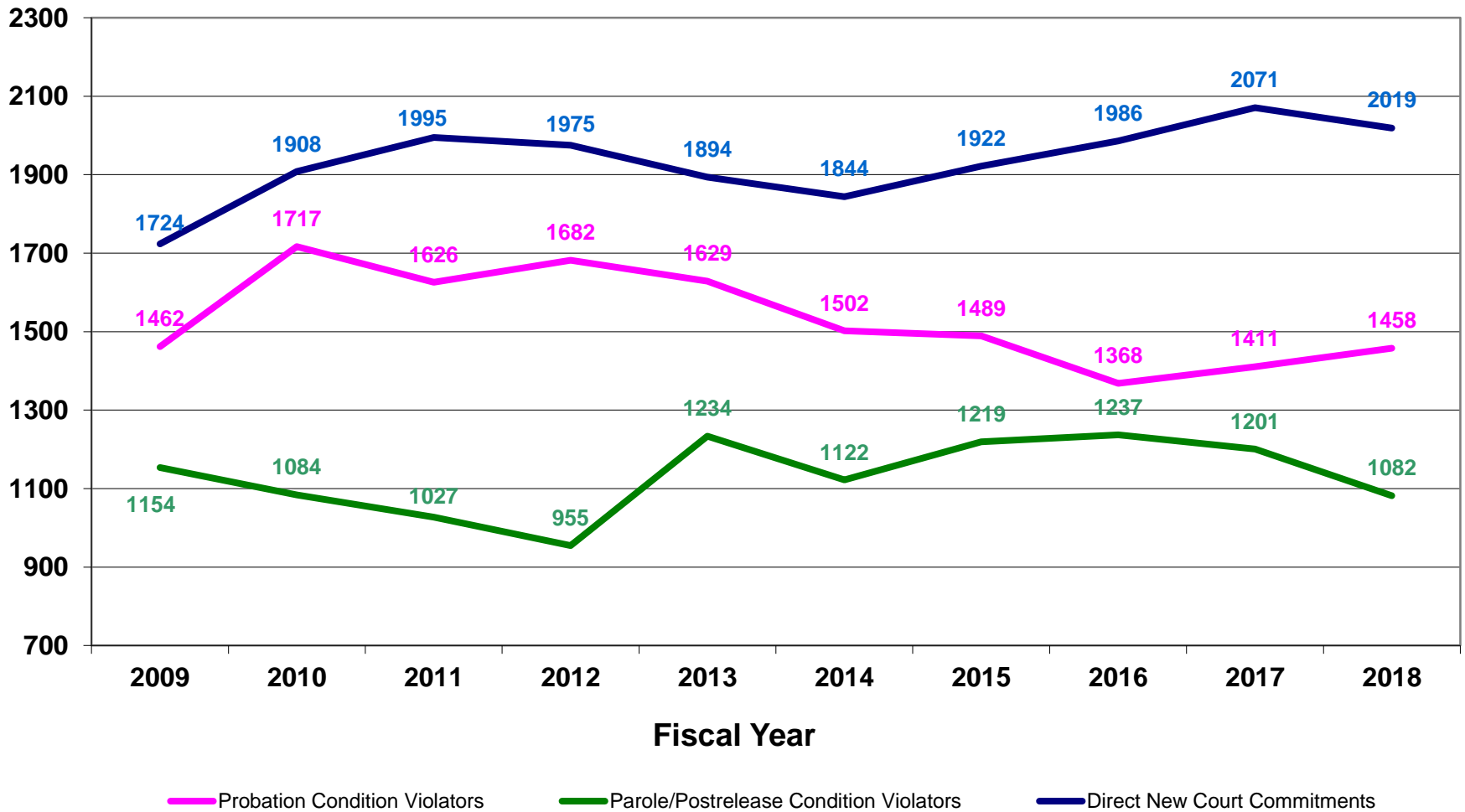
Total Prison Population



Source: KDOC prison population files

KANSAS PRISON ADMISSION TRENDS

Admissions by Three Major Types



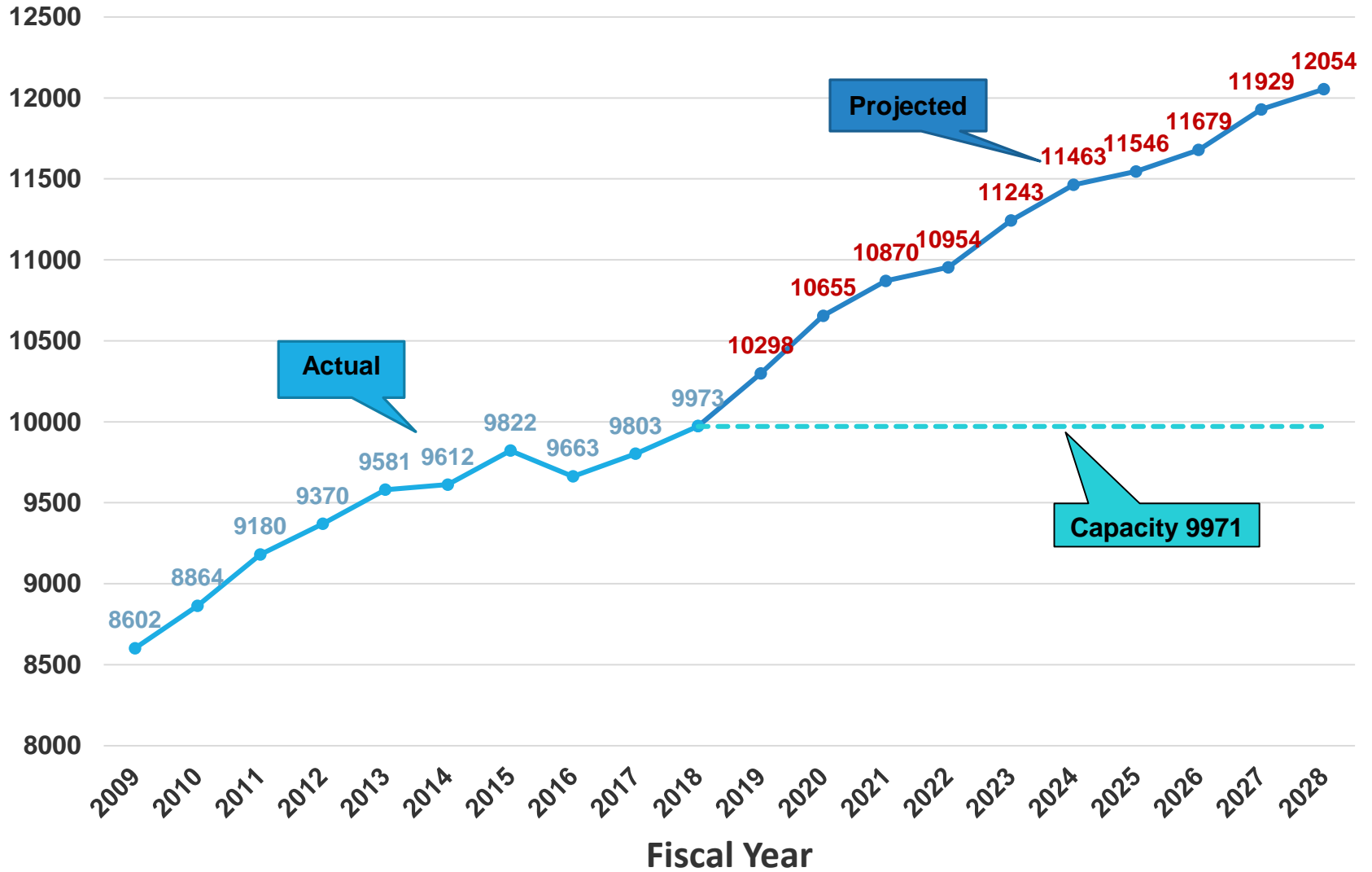
Note: FY 2014 through FY 2017 probation condition violators include probation violators with new conviction.

FY 2019 Prison Population Projection By Offender Group

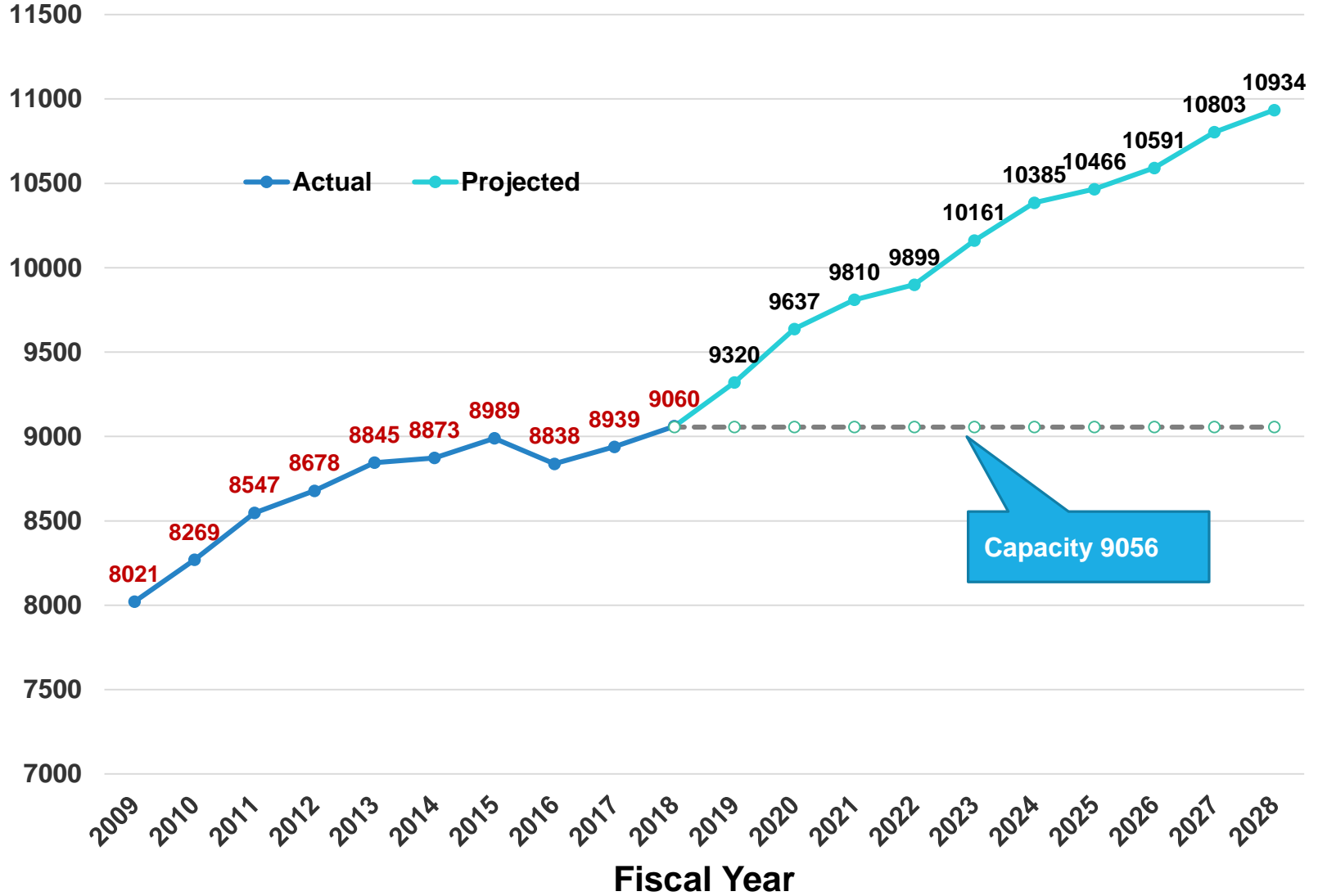
Offender Group	2018*	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	# Change	% Change
Drug	1519	1613	1671	1755	1776	1819	1851	1874	1896	1965	1958	439	28.9%
N1 to N3	2516	2584	2665	2754	2851	2927	3003	3062	3124	3187	3258	742	29.5%
N4 to N6	1754	1774	1814	1810	1831	1813	1851	1849	1847	1857	1863	109	6.2%
N7 to N10	874	951	995	988	971	1017	1048	1060	1062	1123	1126	252	28.8%
Sanction	138	141	148	151	144	160	151	148	159	161	174	36	26.1%
Probation Condition Violators	1106	1210	1306	1318	1311	1368	1377	1353	1377	1383	1425	319	28.8%
Offgrid Including Old Law Lifer	1412	1408	1439	1474	1498	1530	1557	1597	1629	1652	1663	251	17.8%
Parole/Post Release Violators	520	497	516	532	495	541	564	550	538	560	553	33	6.3%
Old Law Inmates	134	120	101	88	77	68	61	53	47	41	34	-100	-74.6%
Total	9973	10298	10655	10870	10954	11243	11463	11546	11679	11929	12054	2081	20.9%

* Actual prison population June 30, 2018

Kansas Prison Population - Actual and Projected

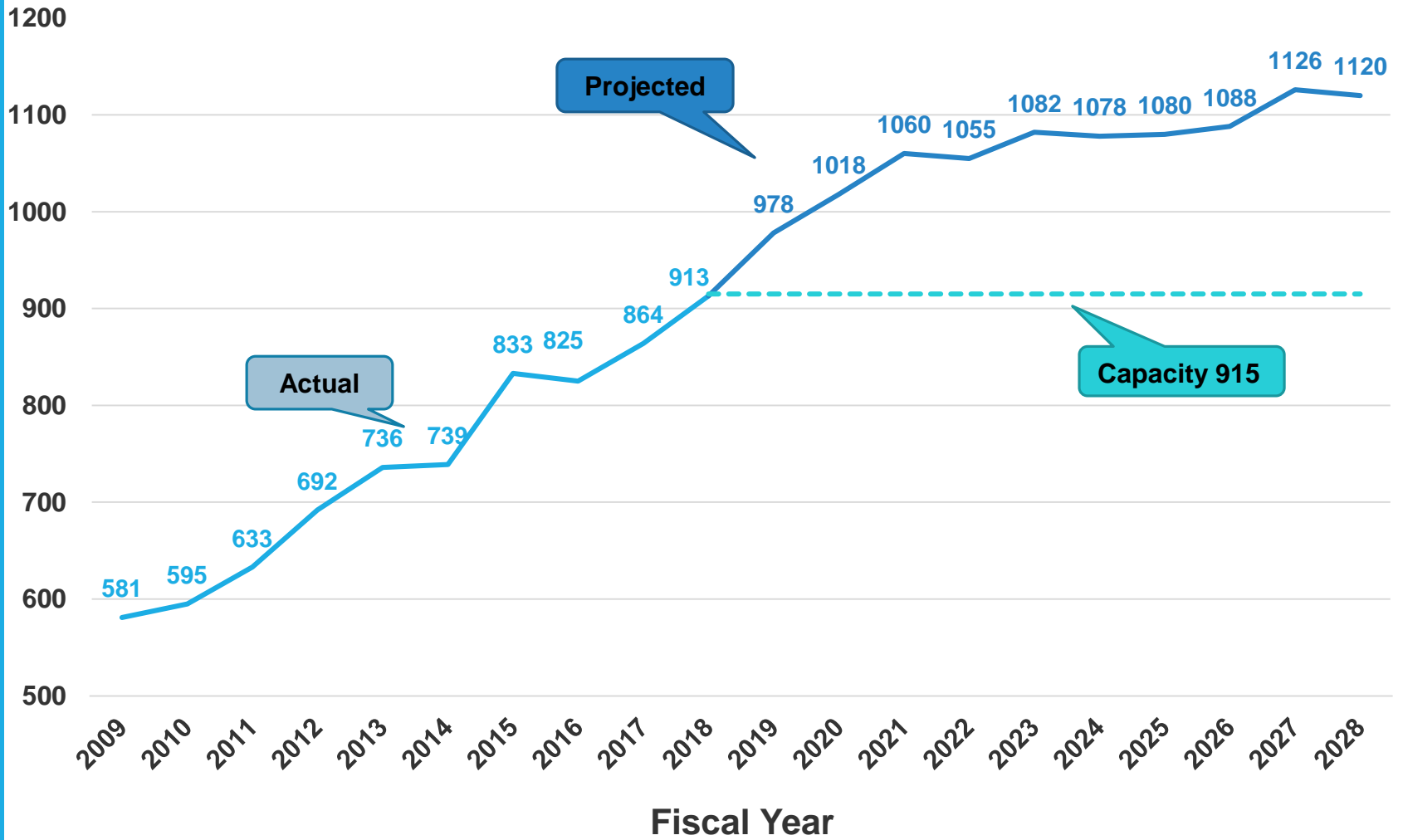


Male Prison Population - Actual and Projected

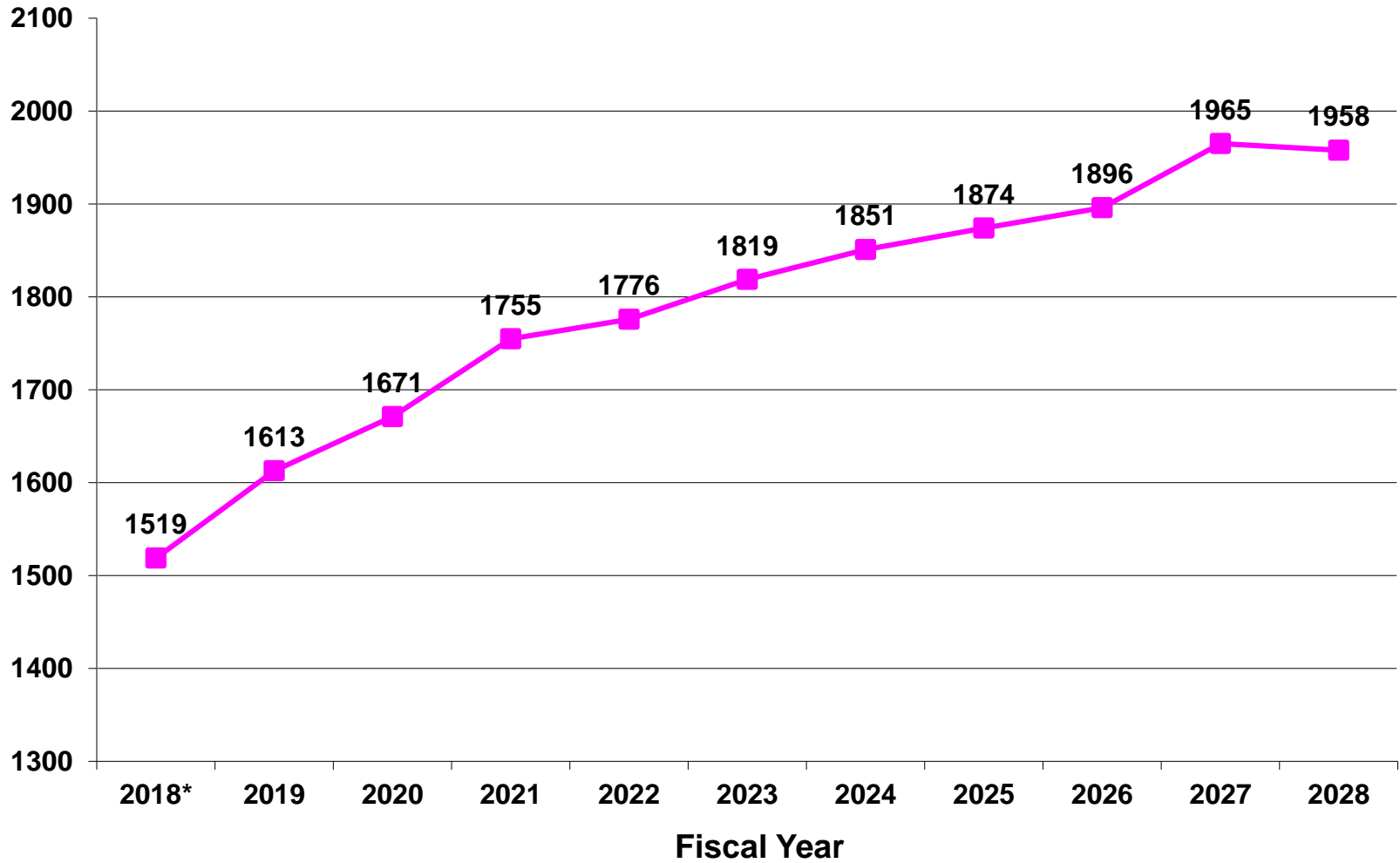


Capacity 9056

Female Prison Population - Actual and Projected

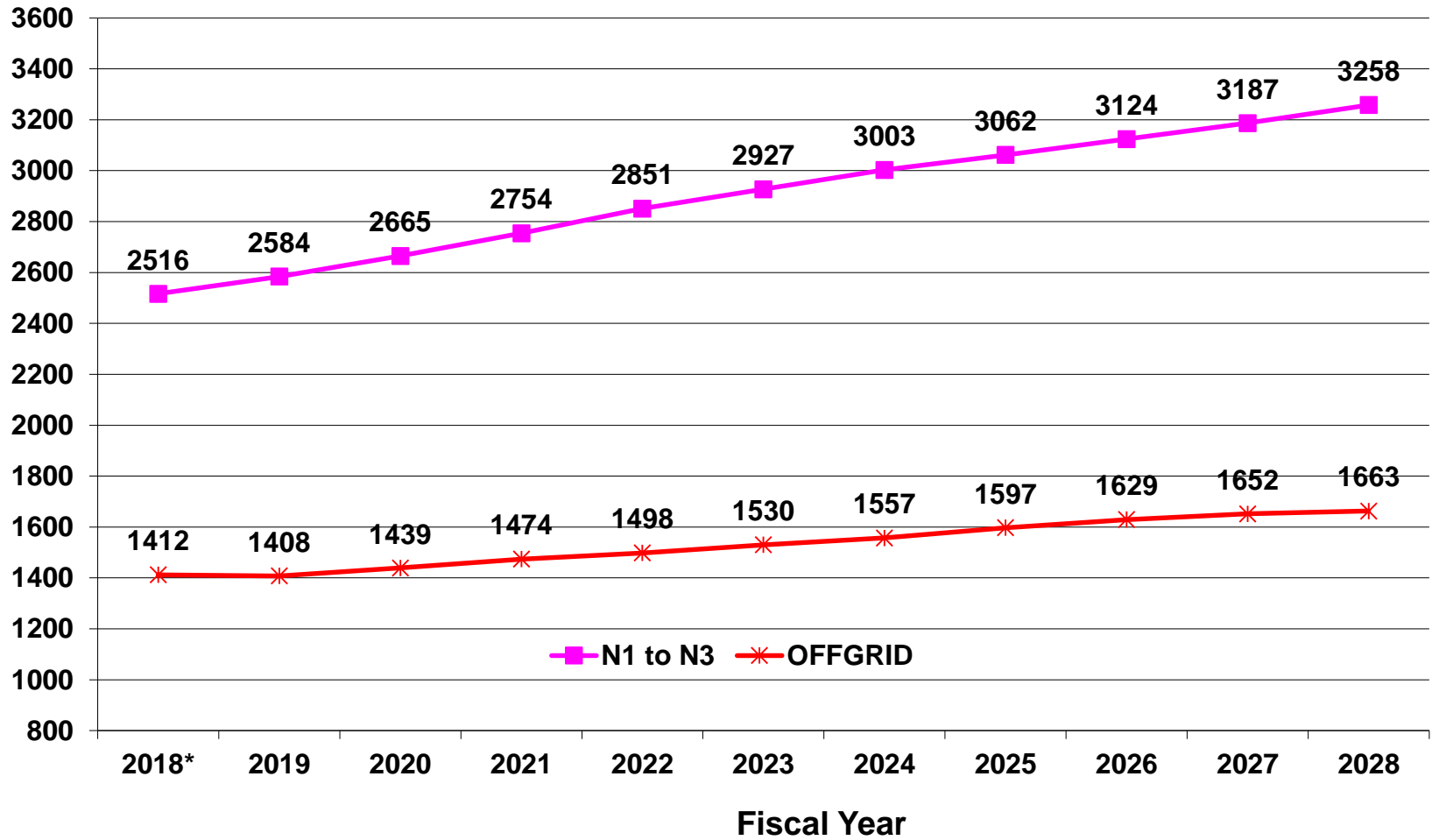


Projected Drug Inmate Prison Population



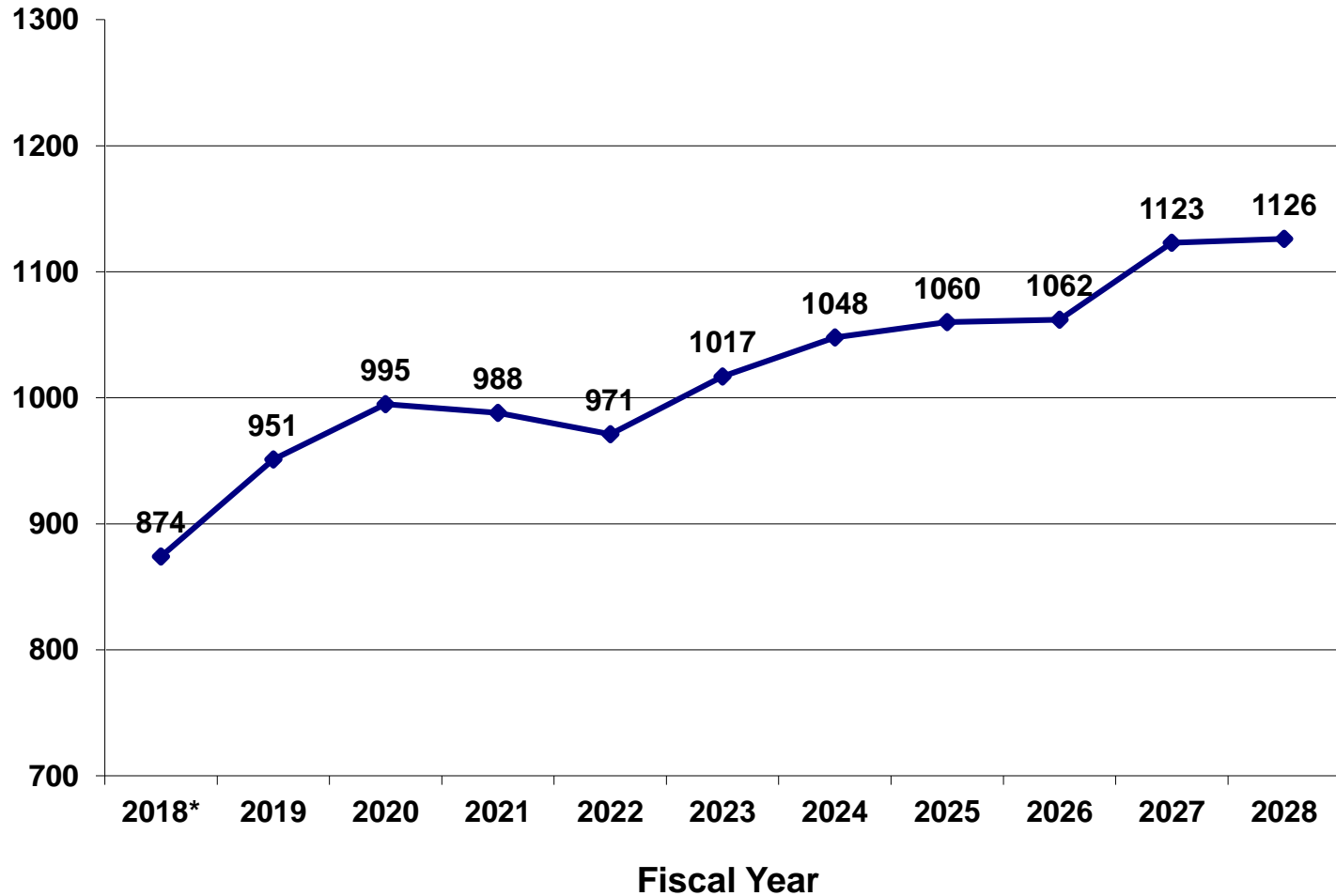
* Actual prison population on June 30, 2018.
This group accounts for 16.2% of the total projected prison population in FY 2028.

Projected Violent Inmate Prison Population



* Actual prison population on June 30, 2018.
This group accounts for 40.8% of the total projected prison population in FY 2028.

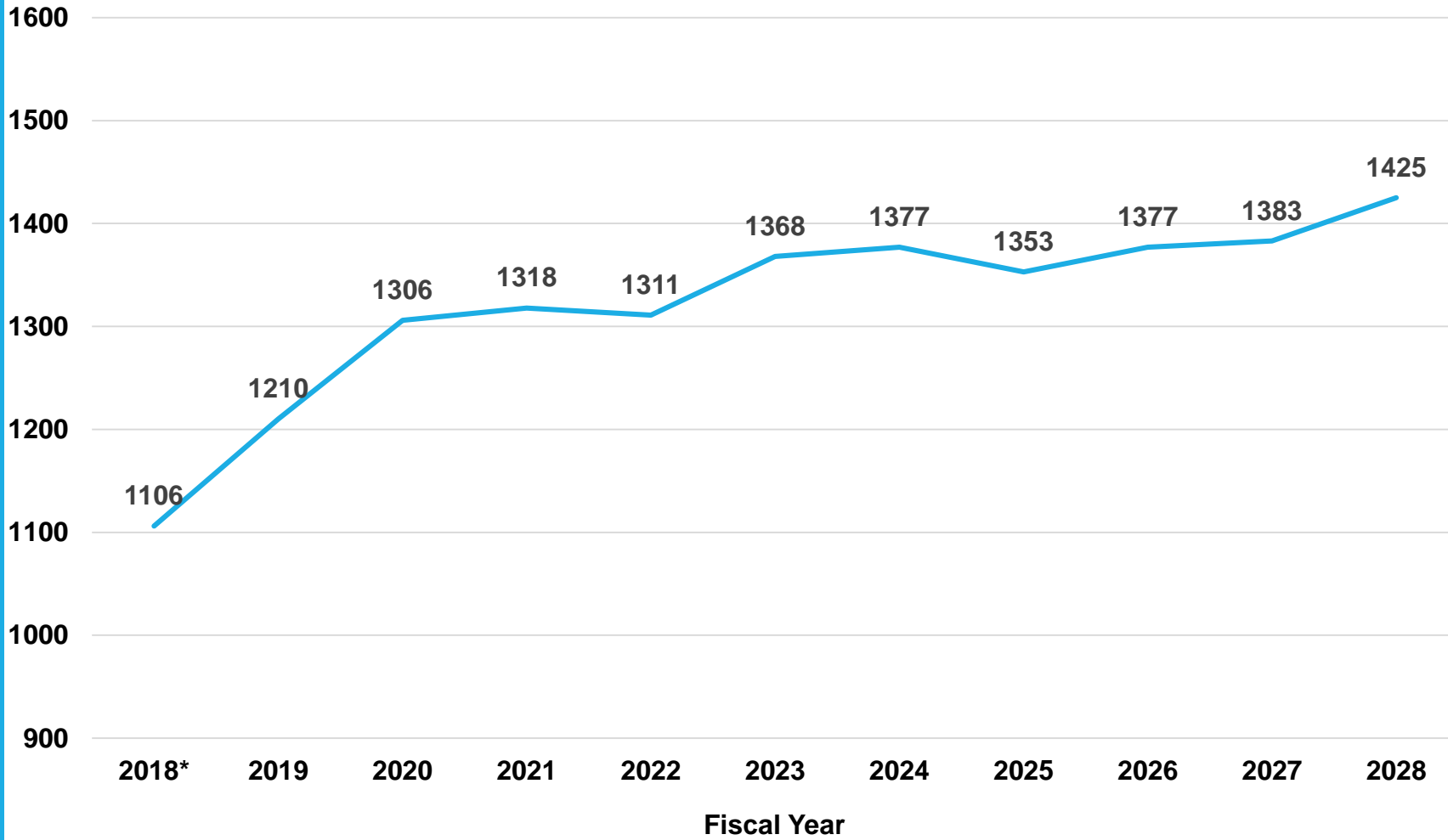
Projected Nonviolent Inmate Prison Population



* Actual prison population on June 30, 2018.

This group accounts for 9.3% of the total projected prison population in FY 2028.

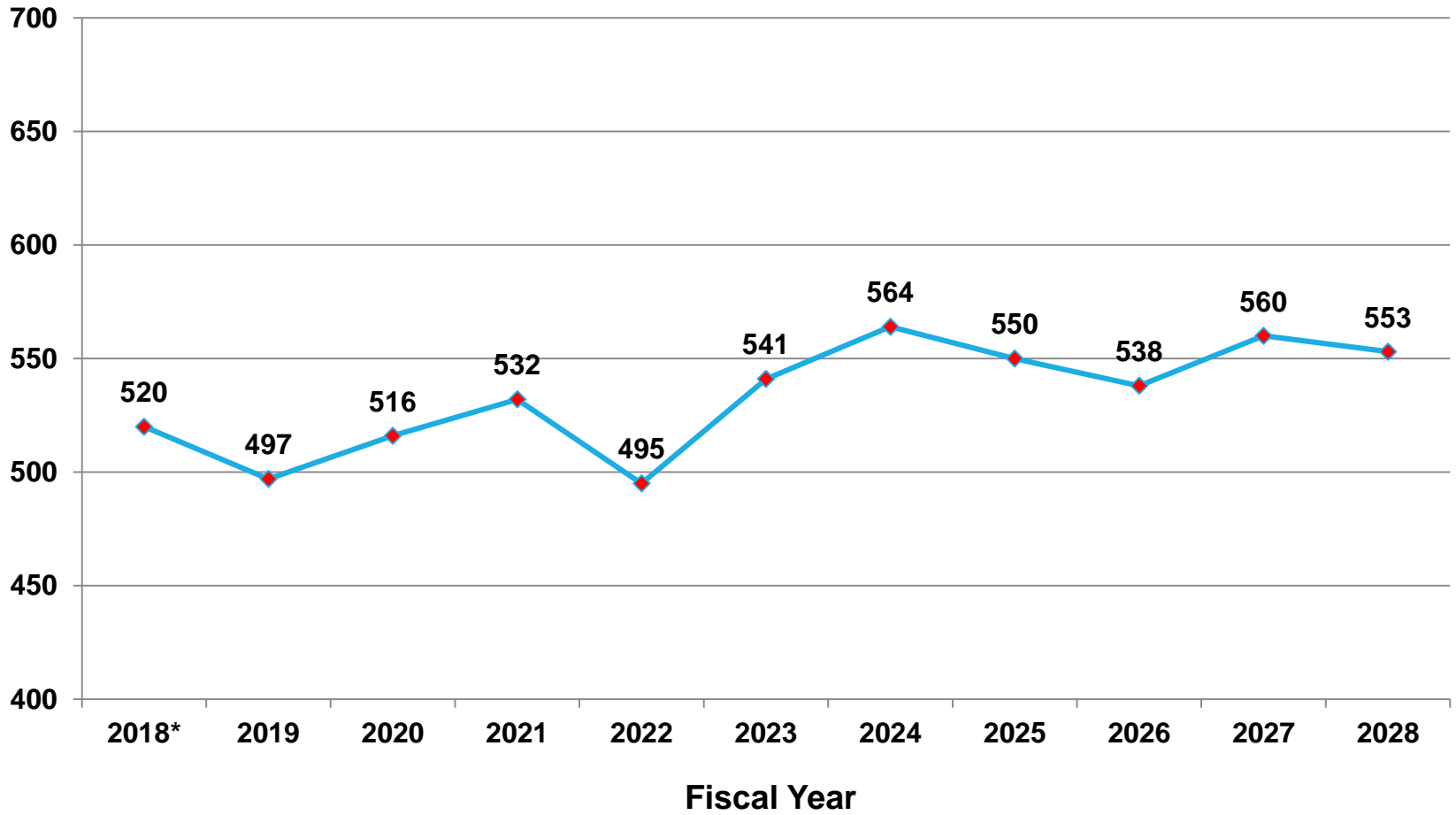
Projected Probation Condition Violator Inmate Population



* Actual prison population on June 30, 2018.

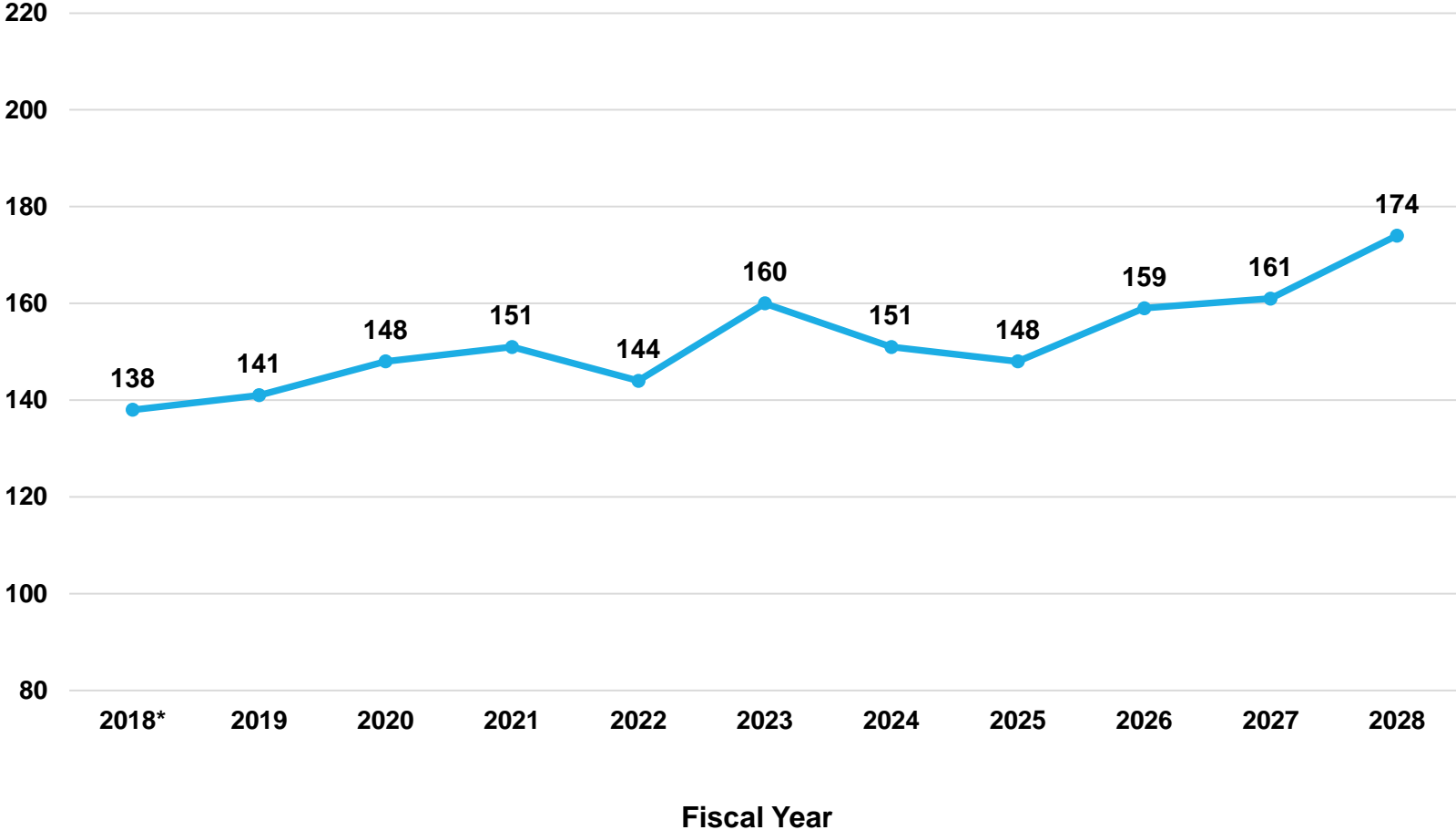
This group accounts for 11.8% of the total projected prison population in FY 2028.

Projected Parole/Postrelease Condition Violator Inmate Population



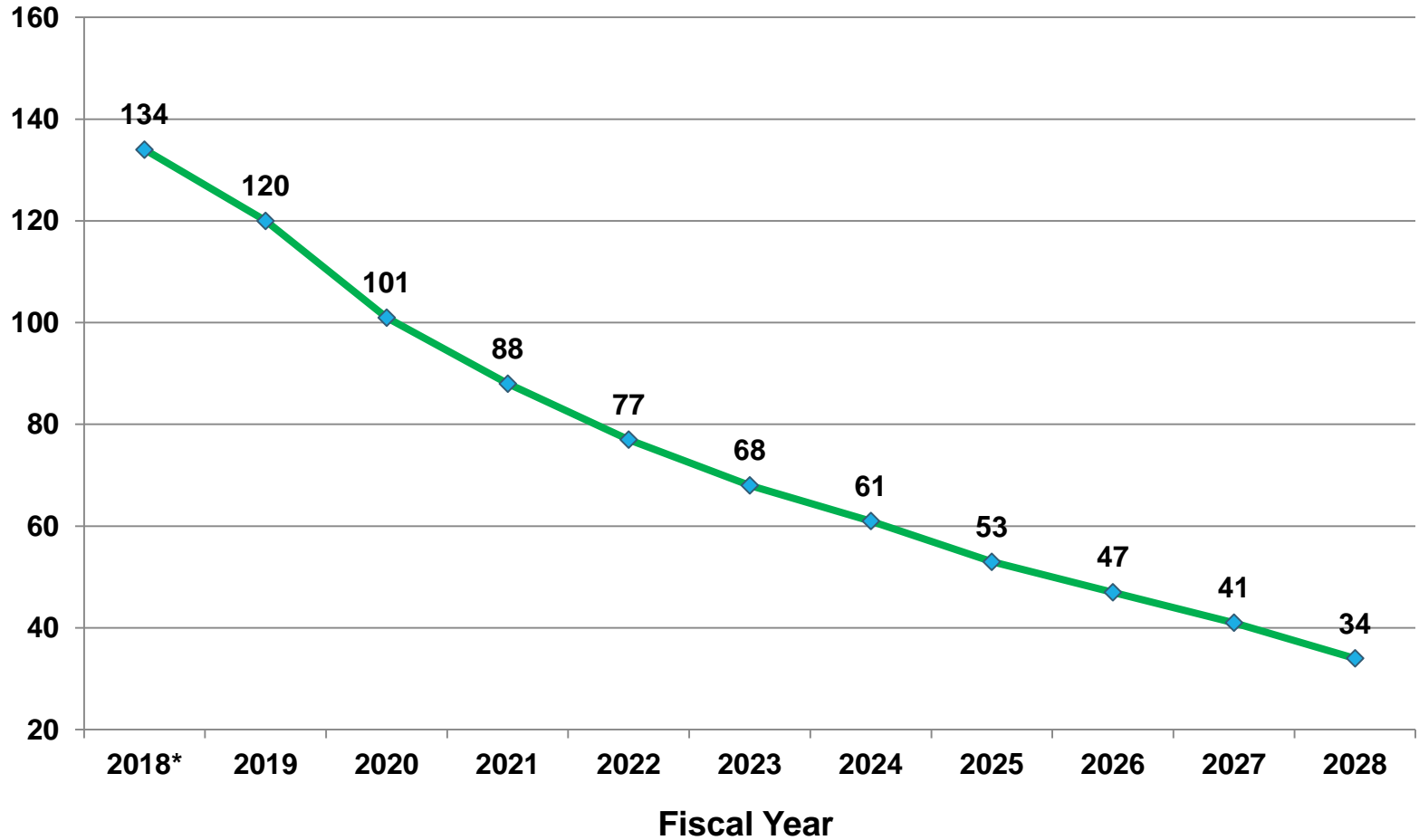
* Actual prison population on June 30, 2018.
This group accounts for 4.6% of the total projected prison population in FY 2028.

Projected Prison Sanction Inmate Population



* Actual prison population on June 30, 2018.
This group accounts for 1.4% of the total projected prison population in FY 2028.

Projected Old Law (Exclude Offgrid) Inmate Population



* Actual prison population on June 30, 2018.
This group accounts for 0.3% of the total projected prison population in FY 2028.

PRISON POPULATION MONTHLY MONITORING REPORT
FY 2019 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2018	10047	10039	8	0.08%
August 2018	10126	10043	83	0.83%
September 2018	10148	10060	88	0.87%
October 2018	10151	10147	4	0.04%
November 2018	10196	10038	158	1.57%
December 2018	10187	10029	158	1.58%
January 2019	10229			
February 2019	10243			
March 2019	10270			
April 2019	10274			
May 2019	10302			
June 2019	10298			

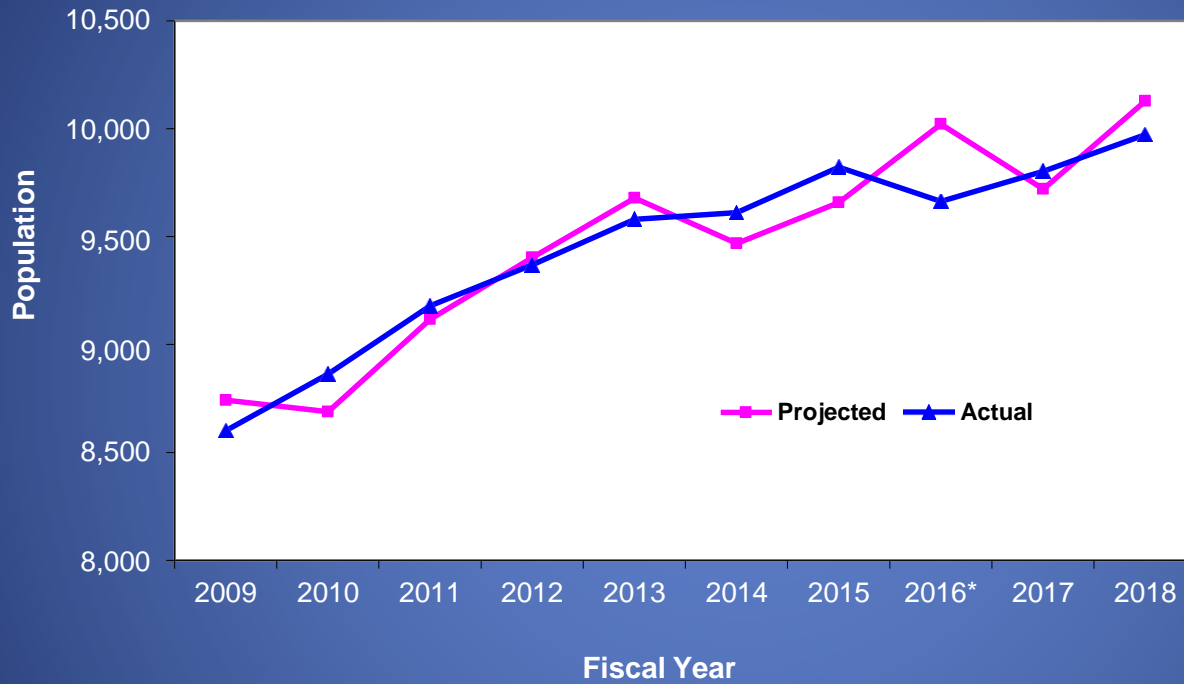
MALE PRISON POPULATION MONTHLY MONITORING REPORT
FY 2019 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2018	9128	9125	3	0.03%
August 2018	9187	9118	69	0.76%
September 2018	9201	9140	61	0.67%
October 2018	9211	9202	9	0.10%
November 2018	9237	9118	119	1.31%
December 2018	9222	9111	111	1.22%
January 2019	9249			
February 2019	9268			
March 2019	9285			
April 2019	9298			
May 2019	9316			
June 2019	9320			

FEMALE PRISON POPULATION MONTHLY MONITORING REPORT
FY 2019 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2018	919	914	5	0.55%
August 2018	939	925	14	1.51%
September 2018	947	920	27	2.93%
October 2018	940	945	-5	-0.53%
November 2018	959	920	39	4.24%
December 2018	965	918	47	5.12%
January 2019	980			
February 2019	975			
March 2019	985			
April 2019	976			
May 2019	986			
June 2019	978			

Ten Year Projected and Actual Prison Population
FY 2009 to FY 2018



Ten Year Projected and Actual Prison Population

Fiscal Year-End	Projected	Actual	# Difference	% Error
2009	8,743	8,602	141	1.6%
2010	8,689	8,864	-175	-2.0%
2011	9,118	9,180	-62	-0.7%
2012	9,404	9,370	34	0.4%
2013	9,680	9,581	99	1.0%
2014	9,470	9,612	-142	-1.5%
2015	9,659	9,822	-163	-1.7%
2016*	10,023	9,663	360	3.7%
2017	9,722	9,803	-81	-0.8%
2018	10,130	9,973	157	1.6%
Average (10 Years)	9,464	9,447	17	0.2%

*The decrease of actual prison population was due to HB 2447 implemented on April 14, 2016, resulting in 147 inmates being released after projections were issued for that fiscal year.



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SB 123 Program Update

An Alternative to Incarceration for Substance Abuse Offenders

2003 SB 123 Program

Overview

Eligibility

Performance

Trends

Partnership

Overview

- SB 123 was approved during the 2003 Legislative session and implemented in FY 2004, with the goal of treating non-violent drug offenders and reserving prison sentences for those offenders who commit serious, violent crimes.
- The program provides funding to eligible offenders for community-based substance abuse treatment.
- The program is maintained through coordinated efforts among the Kansas Sentencing Commission, Community Corrections, Court Services, and treatment providers.

Overview

- Kansas Sentencing Commission (KSSC) - Performs program administration and acts as the centralized payment center (bank) for treatment provider invoices;
- KDOC - Certifies the treatment providers that assess and treat offenders;
- Community Corrections - Supervise offenders while on probation and collaborate with KSSC and treatment providers; and
- Treatment Providers - Community corrections agencies have contracts with 130 treatment providers in most geographical areas throughout Kansas. Through this program treatment access has increased throughout the state. The initial number of treatment providers was approximately 60. Cognitive-Behavioral Therapy (CBT) based treatment models are required.

Mission Statement

- The mission of the SB 123 Program is to ensure public safety while effectively addressing prison recidivism by providing community-based substance abuse treatment to targeted, non-violent, drug offenders having substance abuse disorders.

SENTENCING RANGE- DRUG OFFENSES

Categories→	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felony	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	144 136 130	137 130 122	130 123 117	124 117 111	116 111 105	113 108 101	110 104 99	108 100 96	103 98 92
III	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
IV	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	26 24 23	23 22 20	19 18 17	16 15 14
V	42 40 37	36 34 32	32 30 28	26 24 23	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10
Presumptive Probation									
Border Box									
Presumptive Imprisonment									

•Fines not to exceed \$500,000 (SL1-SL2), \$300,000 (SL3-SL4), \$100,000 (SL5)

•Severity level of offense increases one level if controlled substance or analog is distributed or possessed w/ intent to distribute on or w/in 1000 ft of any school property.

Levels	Distribute or Possess w/ intent to Distribute				Cultivate	Dosage Units	Postrelease	Probation	Good Time
	Cocaine	Meth & Heroin	Marijuana	Manufacture (all)					
I	≥ 1 kg	≥ 100 g	≥ 30 kg	2nd or Meth	>100 plants	>1000	36	36	15%
II	100 g - 1 kg	3.5 g - 100 g	450 g - 30 kg	1st	50-99 plants	100-999	36	36	15%
III	3.5 g - 100 g	1 g - 3.5 g	25 g - 450 g		5-49 plants	10-99	36	36	**20%
IV	< 3.5 g	< 1 g	< 25 g			<10	24	≤ 18	20%
V	Possession	Possession	Possession-3rd offense				12	*≤12	20%

* ≤ 18 months for 2003 SB123 offenders

*** Retroactive application for offense committed on or after July 1, 2012

Eligibility/Program Outline

- 1. Sentencing
 - Eligibility
 - Level 5 Drug Possession offenders (K.S.A. 21-5706) with a criminal history score of C -I
 - Level 5 Drug Possession offenders (K.S.A. 21-5706) with a criminal history score of A or B IF the offender's criminal history does NOT include a level 7 or greater person felony AND the court finds and sets forth with particularity the reasons for finding that public safety will not be jeopardized by such placement
 - SASSI score of High Probability
 - LSI-R score of 24 or greater
 - Non-violent drug offender sentenced to SB123 treatment
 - Up to 2 cases
 - Up to 18 months of funded treatment
 - Community Corrections supervisor and treatment provider collaborate to determine level of care and treatment placement

Offenders with previous or current convictions
of the following are
NOT eligible for SB 123 treatment



**Drug
manufacturing**
(K.S.A. 21-5703)



Drug cultivation
(K.S.A. 21-5705(c))



Drug distribution
(K.S.A. 21-5705(a)
or (b))



**Unlawful use of
proceeds of a
drug crime**
(K.S.A. 21-5716)



Eligibility/Program Outline

- Offenders excluded from the program if:
 - Not a Kansas resident
 - Not a legal resident of the US
 - Convicted 3 times of possession of a controlled substance (Special Rule #26)
 - Convicted of attempt, conspiracy or solicitation to commit
 - Low LSI-R score (<24)/Low Probability on SASSI
- *NOTHING PROHIBITS EVALUATION AND TREATMENT FOR THOSE NOT ELIGIBLE FOR SB 123*

Eligibility/Program Outline

- 2. Treatment
 - Offenders may move up and down levels of care based on need within 18 month time frame
 - Caps on treatment modalities
 - Residential- 21 day max (90 day max with extensions)
 - Intensive Outpatient- 30 day max
 - Re-integration- 60 day max
 - Full listing of modalities and caps can be found on KSSC website

Performance

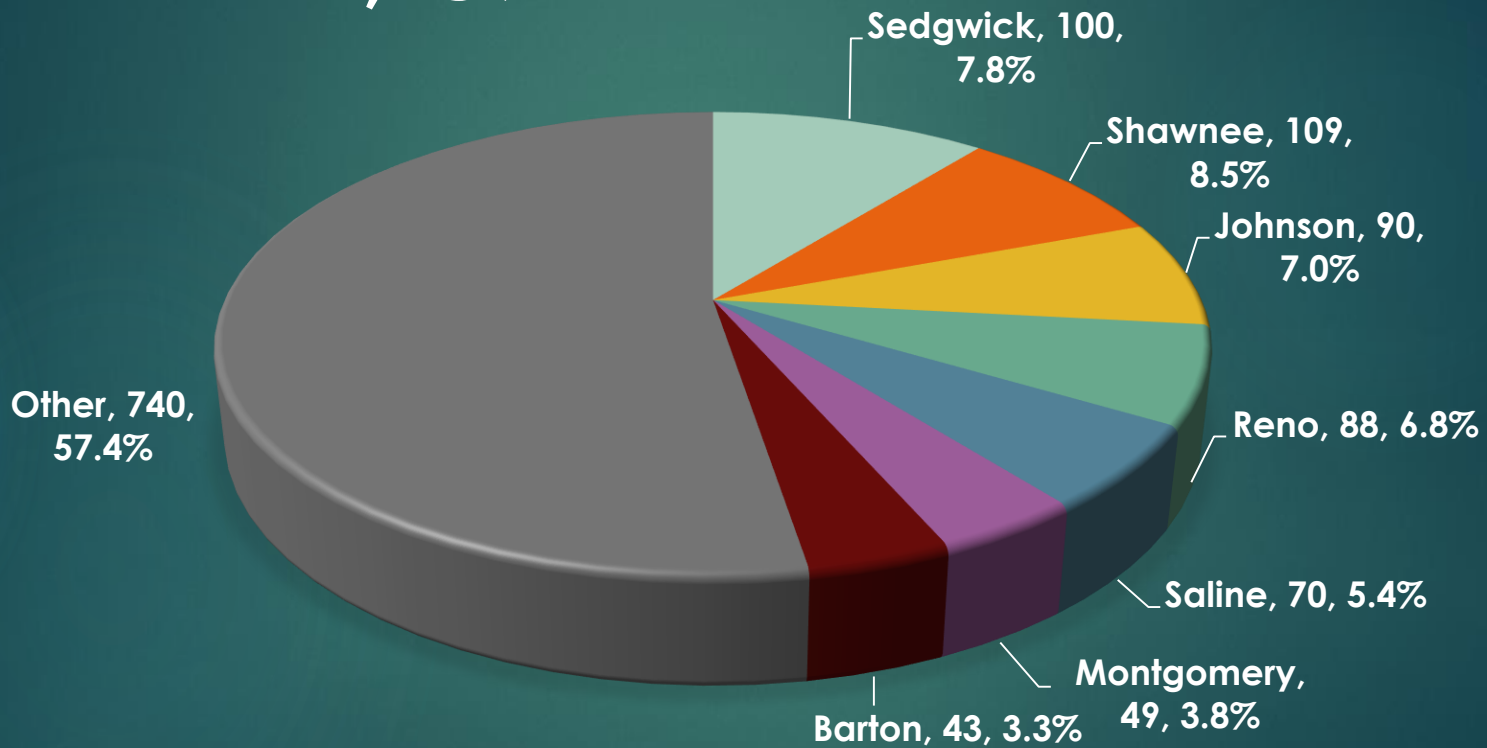
University of Cincinnati Program Assessment

Findings of the December 2014 study:

- The percent reduction in relative odds of a new conviction when successfully completing the SB 123 program is 75%;
- SB 123 offenders are 25-30% less likely to recidivate than non-SB 123 offenders; and
- SB 123 cases had a lower rate of re-conviction (7.7%) when compared to non-SB 123 cases (10.6%).

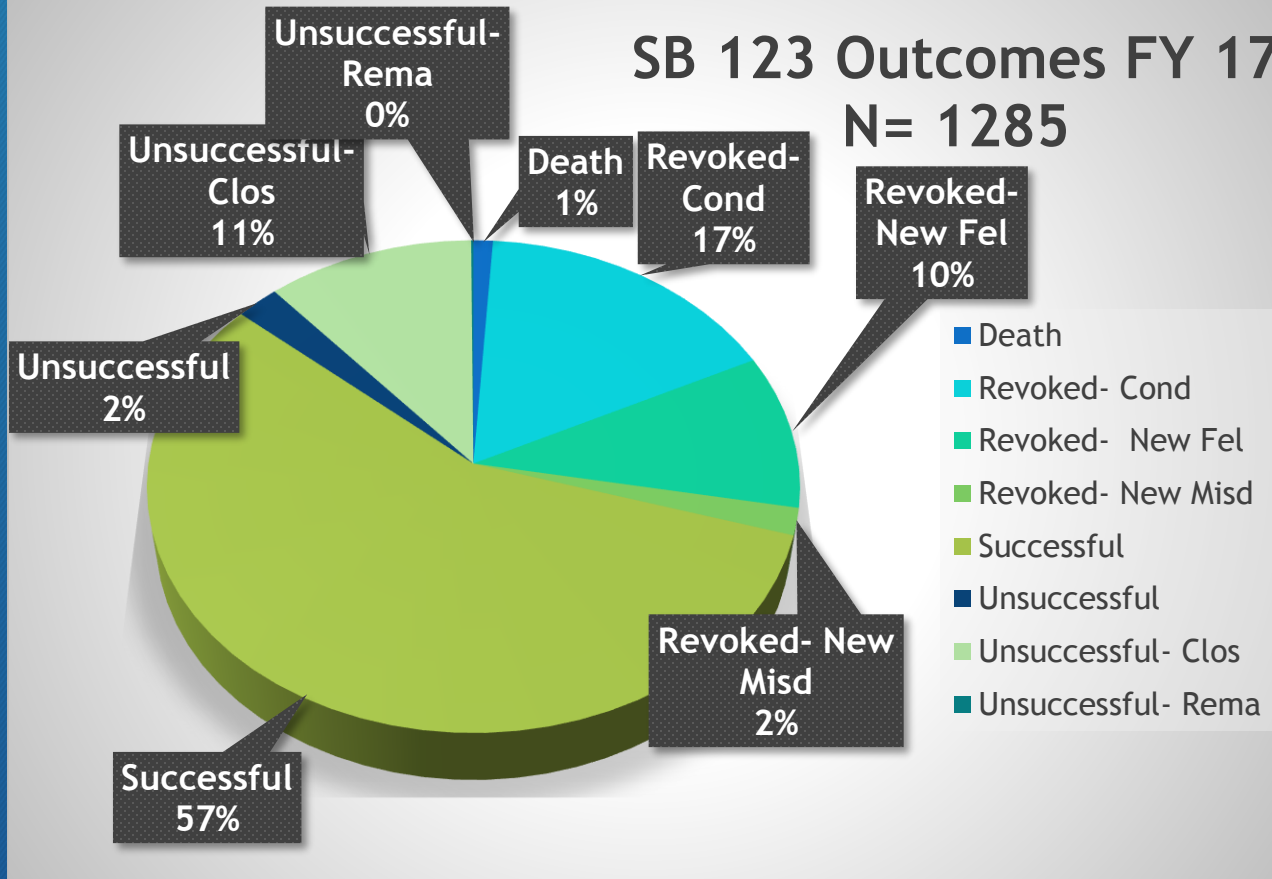
SB 123 Sentences Imposed

FY 2018
N= 1,289



SB 123 Outcomes FY 17

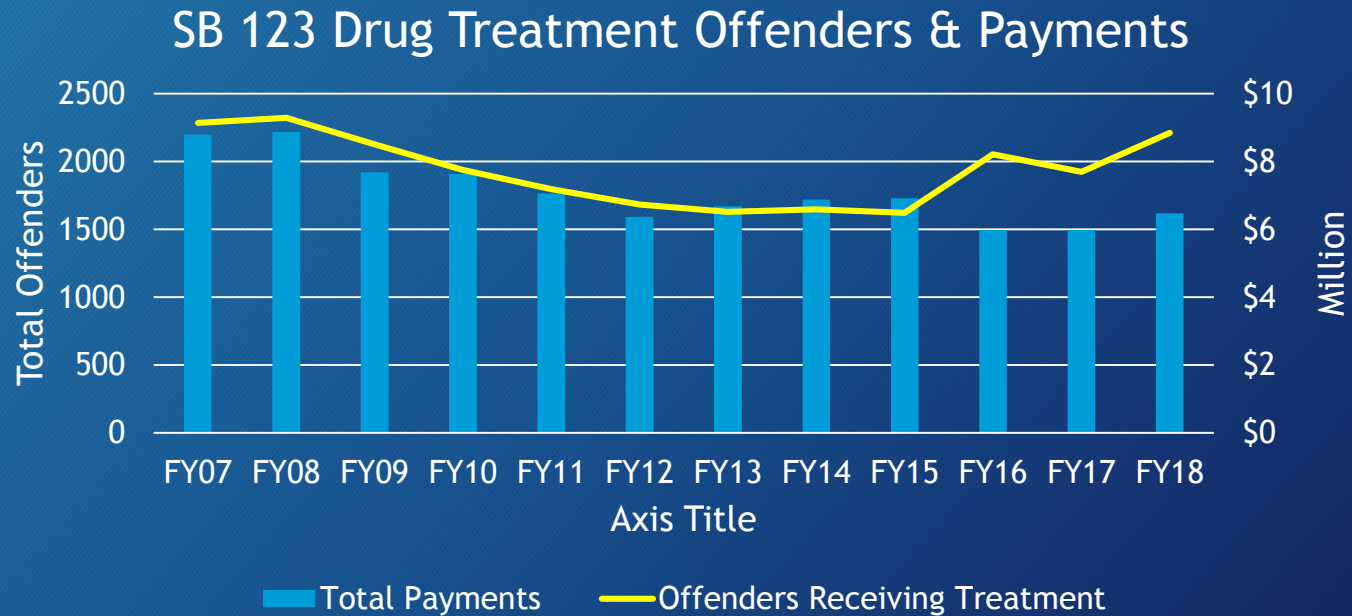
N= 1285



Trends

- To date
 - Approximately 16,500 offenders have received treatment through SB 123
 - Approximately 140,000 invoices paid
 - Averaging \$6,883.56 per offender in treatment cost
- FY 18
 - Total Offenders- 2,213
 - With Treatment- 1,777
 - Total Invoices Paid- 8,790
 - Cost Per Offender- \$3,713
 - Total Amount Paid- \$6,472,917

Trends



Partnership with Beacon Health Options

- As of July 1, 2018, KSSC and the SB 123 Program partnered with Beacon Health Options to provide invoice processing and payment
- **October 1, 2018 - Launched new billing system**
- **Goals**
 - Streamline billing process
 - Reduce unnecessary paperwork and process steps
 - Increase ability to audit and ensure appropriate use of funds
 - Increase speed of payment
 - Foster positive and productive relationships among stakeholders

Program Changes

- KSSC New Role
 - Robust Auditing
 - Policy and Procedures
 - Assistance and Appeals
 - Research

2003 SB 123 Program

- Provides public safety
- Substance abuse treatment for non-violent drug offenders
- Cost savings to the state for these types of offenders



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2013 HB 2170: Justice Reinvestment Initiative A Five Year Review

Agenda

- HB 2170 101 – Use of Probation Sanctions for Technical Violators
- Five Year Statistics

Introduction

House Bill 2170 (HB 2170) was enacted on July 1, 2013 in an effort to decrease the state's rising prison population while also preserving public safety in a cost efficient manner.

- Probationers who return to prison for committing a technical violation were identified as a major contributor to the state's rising prison population.
 - A 2012 prison projection model displayed that technical violators equated to 33.7% of Kansas Department of Corrections (KDOC) prison population (Chang, 2013).

How the Graduated Sanction Law Works

- HB 2170 made numerous changes to sentencing, probation, and postrelease supervision practices in Kansas:
 - Two or three day stays in the county jail for committing a technical violation.
 - After receiving a quick dip jail sanction, offenders are then eligible for a 120-day or 180-day prison sanction inside of a KDOC correctional facility.
 - Upon subsequent technical violation, an offender may be given another graduated sanction or be revoked to serve their remaining underlying term in prison.

HB 2170: What Does the Law State?

- Provides for swift & certain responses to offender noncompliance in the community

- Provides graduated sanctioning options for judges

- Establishes presumptive discharge from supervision for certain low-risk offenders

- Mandates postrelease supervision for offenders who would otherwise complete underlying sentence while serving time on a sanction

Graduated Judicial Sanctions

An array of judicial options to respond to technical probation violations:



Intended Impacts of HB 2170

1. Reduction in Prison Beds Demands

2. Reduction in Correctional Spending

3. Increased Public Safety by Focusing Resources on Higher Risk Offenders

4. Increased Access to Community Programming

Policy Options: Projections FY 2014 – FY 2018

Costs Averted

- \$53 million averted in operations costs*
- \$1.5 million averted in construction costs by FY '15
- Reinvestment of \$2 million in Behavioral Health

Bed Savings

- 800+ beds reduction from projected growth by FY '18
- Still anticipated to be 400+ beds over capacity by FY '18
- Will not prevent need for some expansion

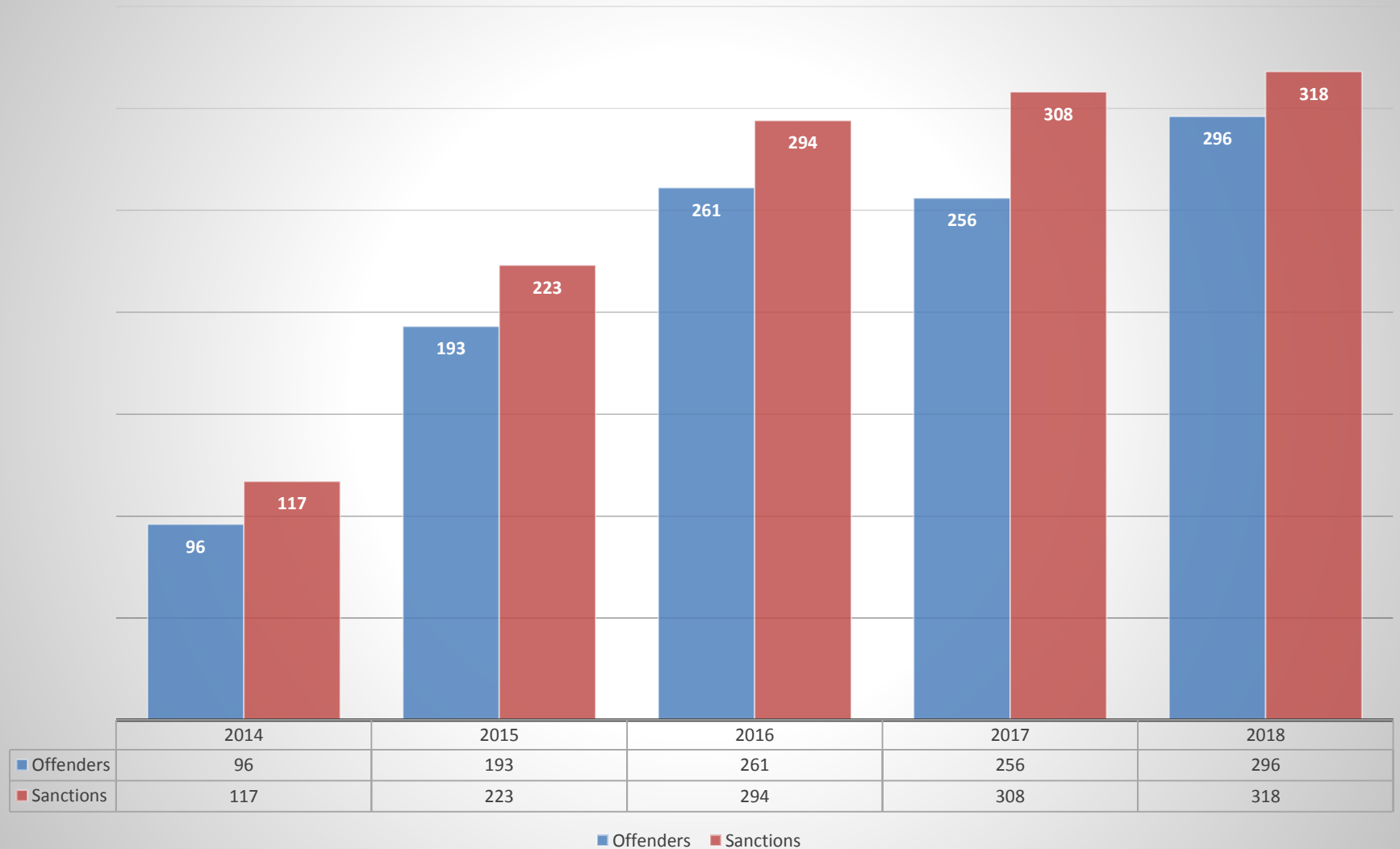
*Source: KDOC JRI Bill Implementation HB 2170 July updated ppt. provided by Secretary Roberts

Council of State Governments Justice Center

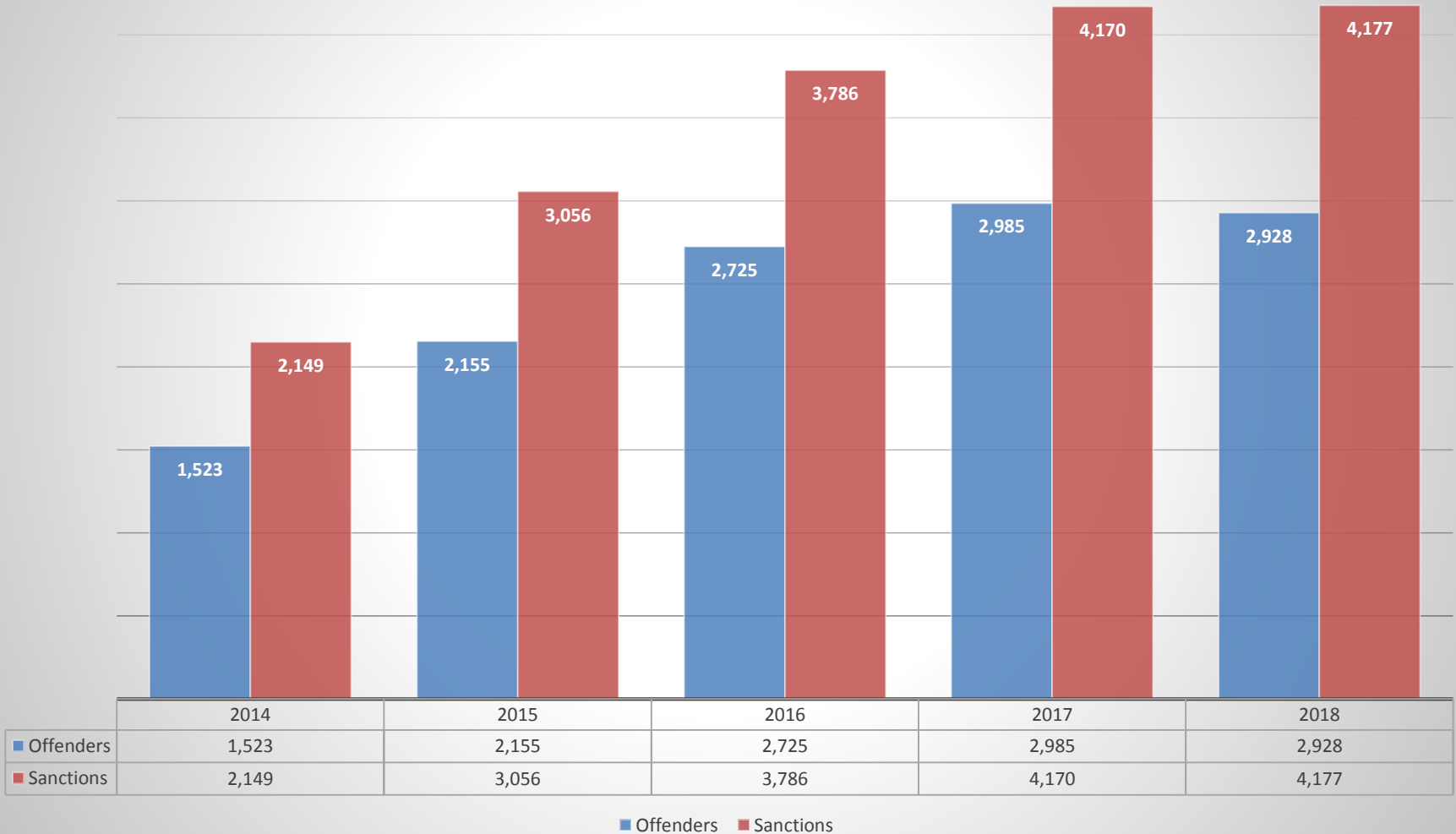
Five Year Review

Show me the data!!!!

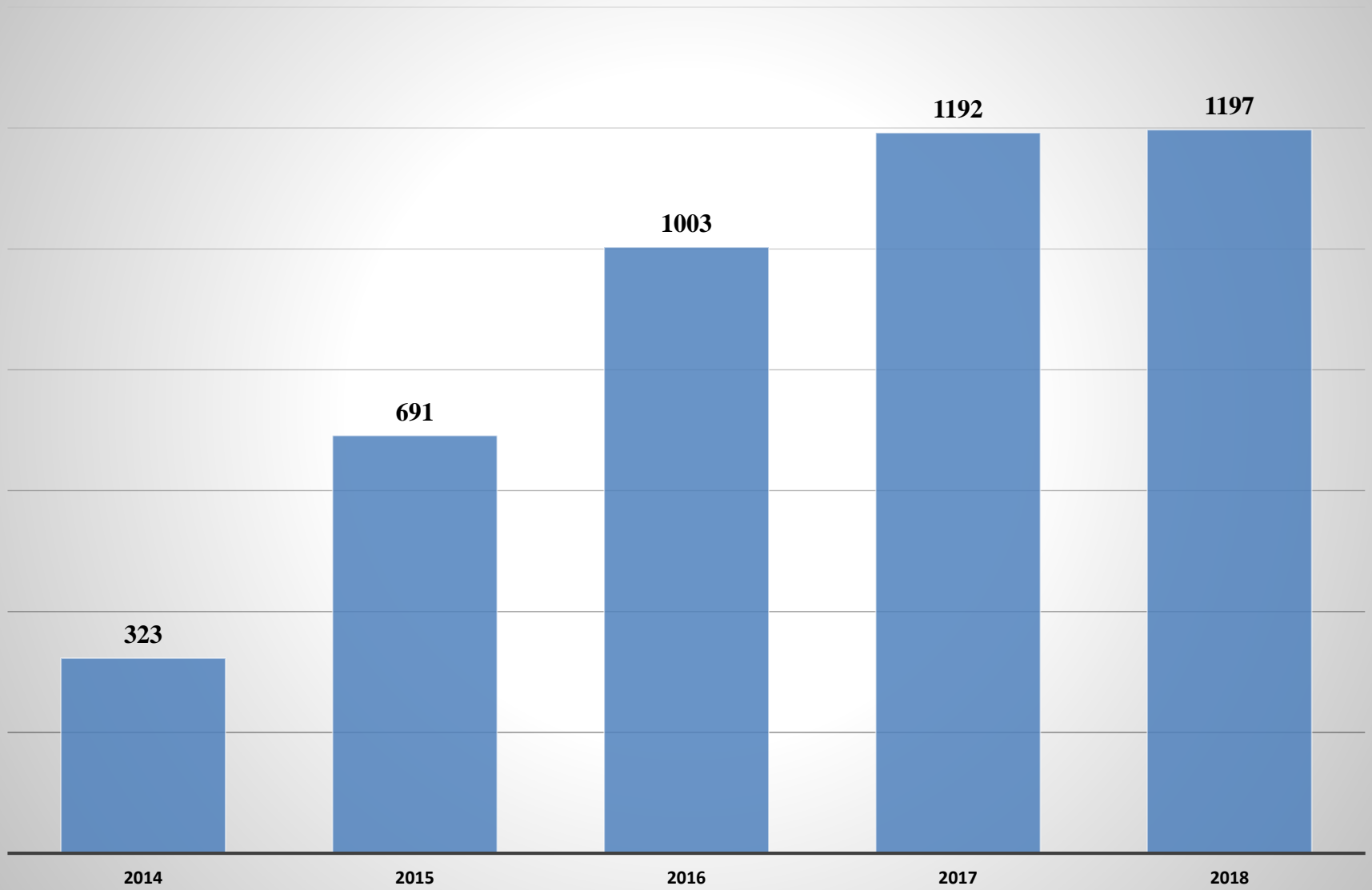
Quick Dips Imposed by CSO



Quick Dips Imposed by ISO



Number of JRI Prison Sanction Admissions by FY



Prison Sanctions

- The average length of stay inside of a KDOC facility for a 120 day prison sanction was 39 days (33% of the sanction).
- The average length of stay inside of a KDOC facility for a 180 day prison sanction was 66 days (37% of the sanction).

Prison Sanctions

- There were 4,264 JRI prison sanction releases from KDOC in the first five FY's of HB 2170.
 - 96.3% (n=4,107) of these offenders returned to Community Corrections supervision after serving their sanction.
 - 2.2% (n=93) of these offenders were placed on postrelease supervision.
 - 1.5% (n=62) were discharged.
 - 2 offenders were released as “other”.

Impact of Graduated Sanctions

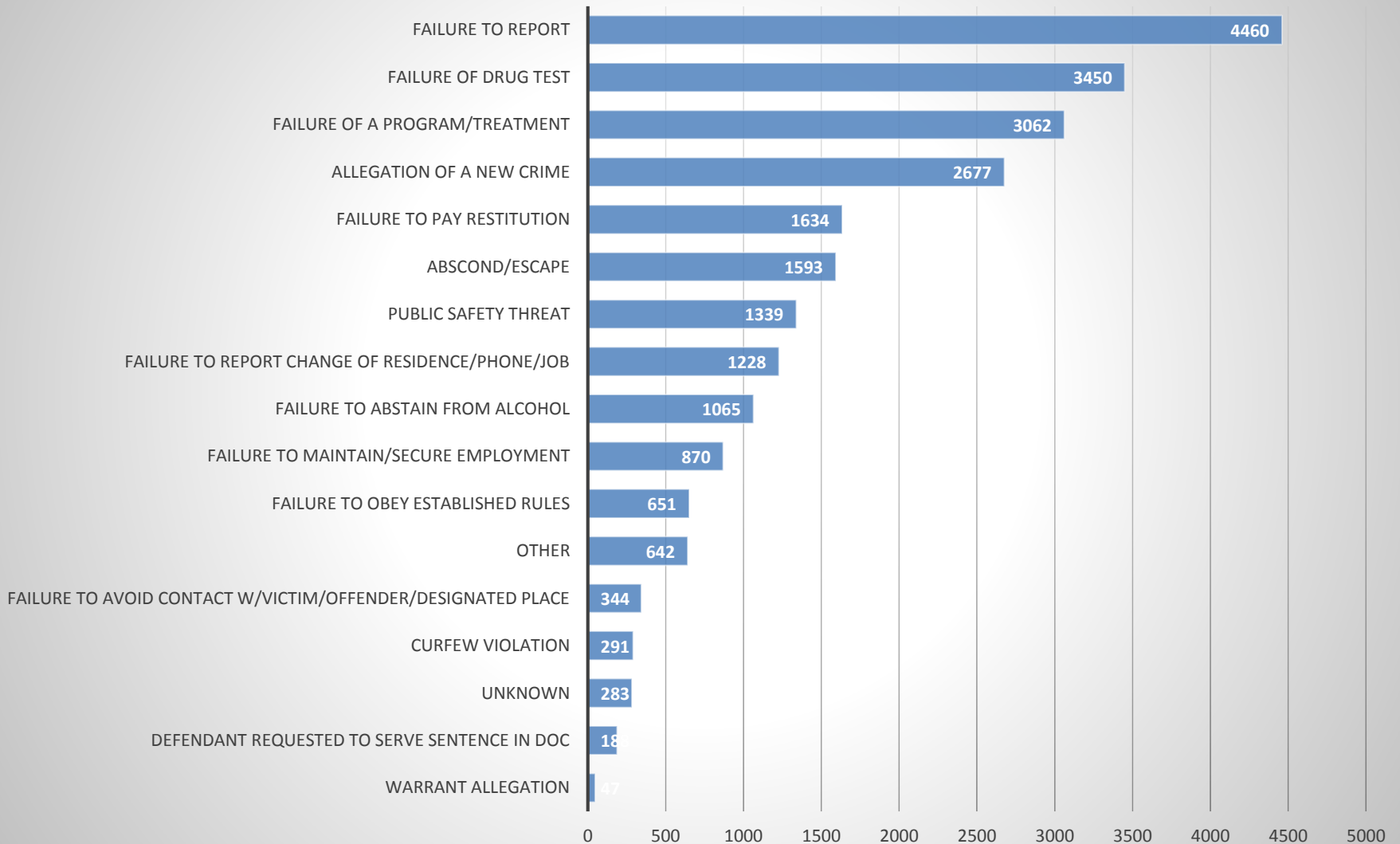
Quick Dip Sanctions

- 10,192 offenders received a quick dip sanction while under community corrections supervision.
 - 26.4% (n=2,696 offenders) of these offenders also received a JRI prison sanction.

Prison Sanctions

- 9,424 offenders were admitted into KDOC for a prison sanction or probation revocation after committing a technical violation.
 - 55.9% (n=5,266 offenders) of these offenders received no prior prison sanction before revocation.
 - KDOC data indicated that 11.6% (n=611) of these offenders were on probation as the result of a downward dispositional departure.

Technical Violations Committed by Revoked Offenders



Prison Sanctions

- Of the 4,158 offenders who were administered a sanction, 30.3% (1,261 offenders) were later revoked to prison for a technical violation.
 - The average length of stay for a revocation following a sanction was 5.7 months in KDOC.

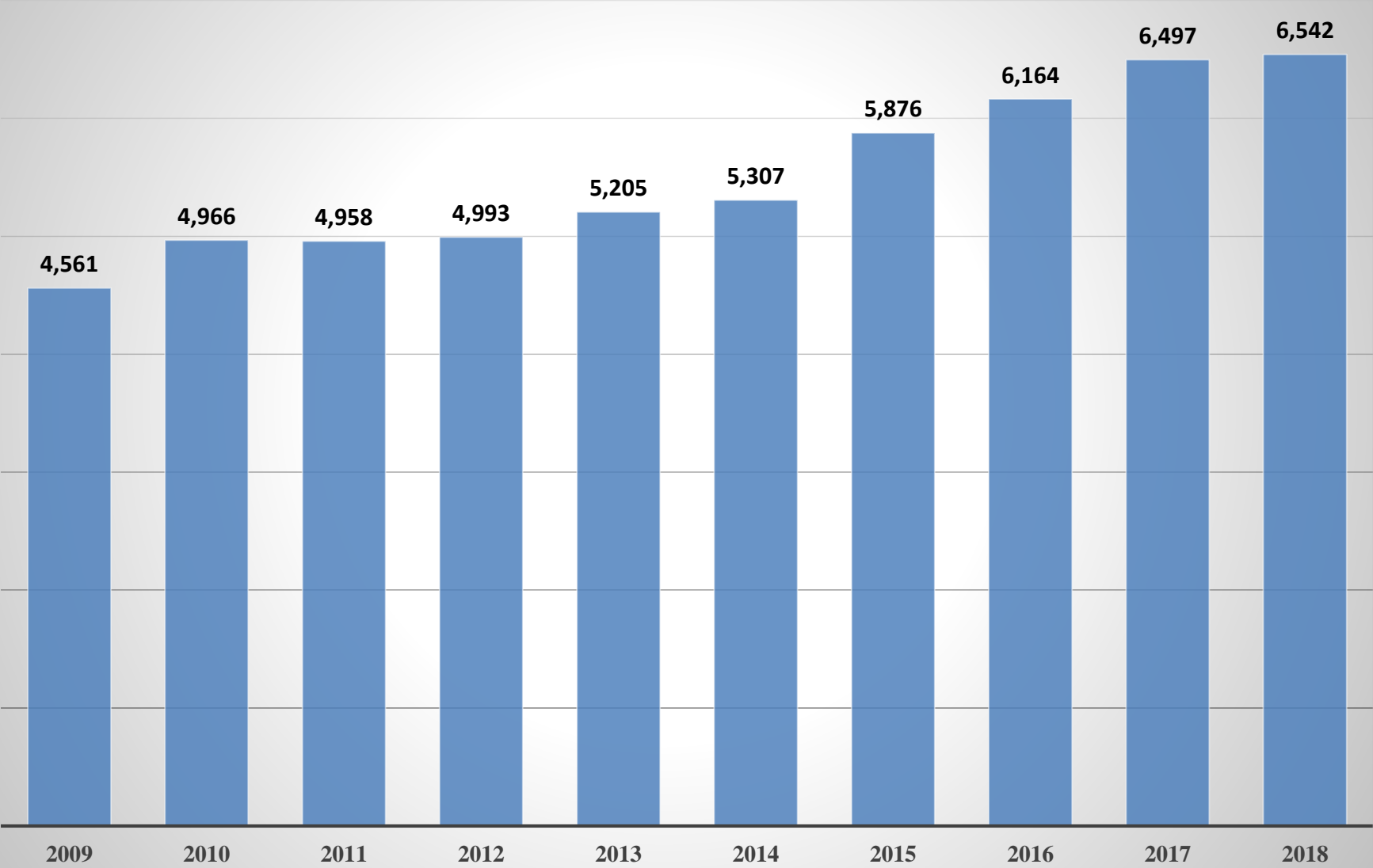
Success Rate of Sanctioned Offenders

- Sample: 2,488 probationers who had their last probation case opened after 7/1/2013 and closed by 6/30/2018 and received a JRI prison sanction.
- 39.3% (n=978) were revoked to prison for technical violation.
- 10.1% (n=252) were revoked for committing a new felony.
- 4.5% (n=112) were revoked for committing a new misdemeanor.

Success Rate of Sanctioned Offenders

- 14.3% (n=355) of these probationers had their probation terminated unsuccessful, closed by court.
- 2.4% (n=60) were unsuccessful.
- 27.5% (n=685) were successful.
- 1.9% (n=46) were miscellaneous.
 - Death, not sentenced to CC, revoked to parole after prison sanction, unsuccessful remanded to jail.

KDOC FY Admissions



Source: KDOC Admissions File

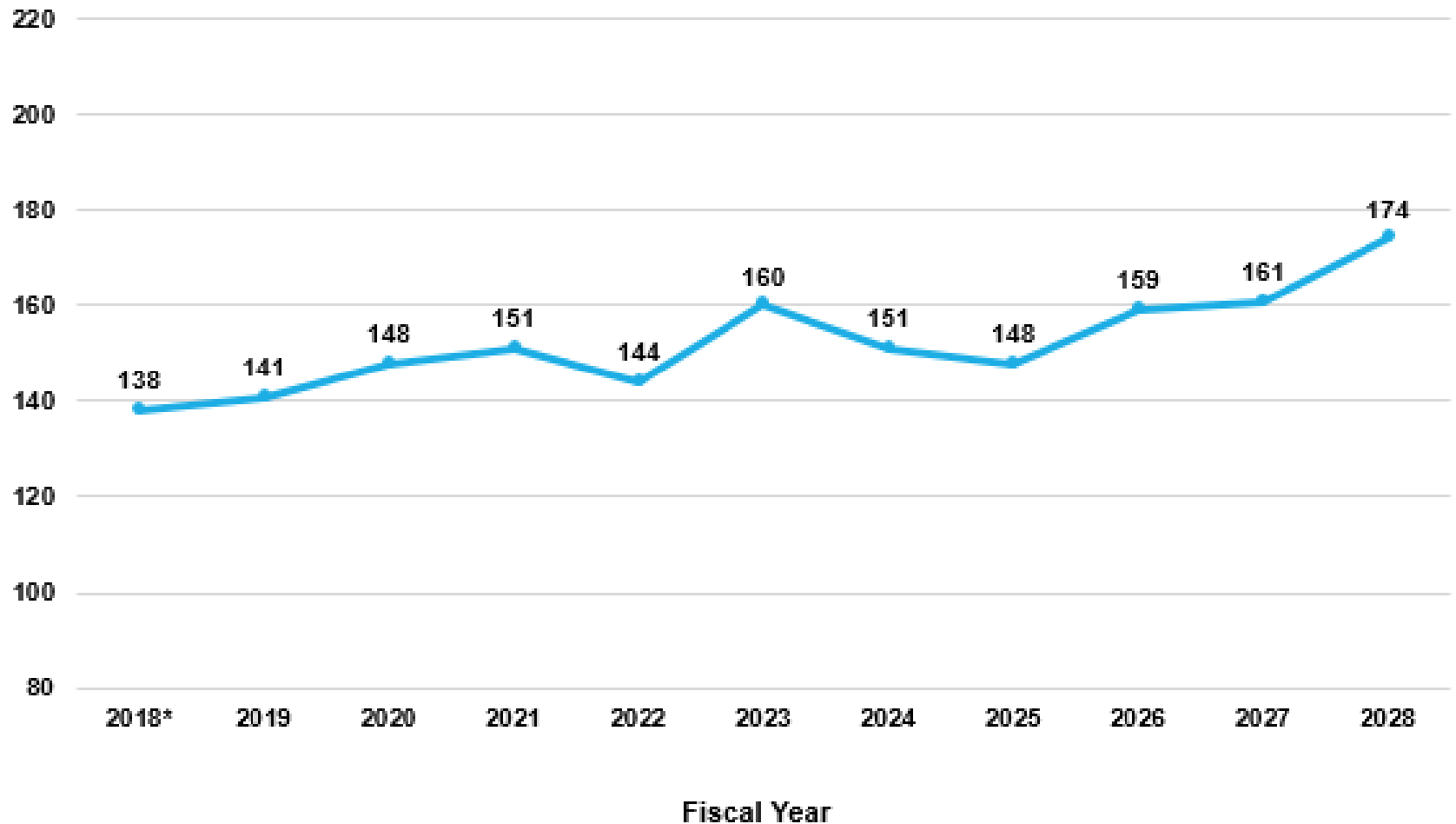
**COMPARISON BETWEEN FY 2017 AND FY 2018 PRISON ADMISSION BY
ADMISSION TYPE - MALE**

Admission Type	2017	2018	Number Change	Percent Change
New Court Commitment	1848	1787	-61	-3.3%
Probation Condition Violator	929	1081	152	16.4%
Prison Sanction	892	895	3	0.3%
Probation Violator With New Sentence	300	282	-18	-6.0%
Probation Violator With New Conviction	137	104	-33	-24.1%
Parole/Post-release Condition Violator	1096	971	-125	-11.4%
Parole/Post-release Violator With New Sentence	182	197	15	8.2%
Other	66	99	33	50.0%
Total Admission	5450	5416	-34	-0.6%
End of Year Population	8939	9060	121	1.4%

**COMPARISON BETWEEN FY 2017 AND FY 2018 PRISON ADMISSION BY
ADMISSION TYPE - FEMALE**

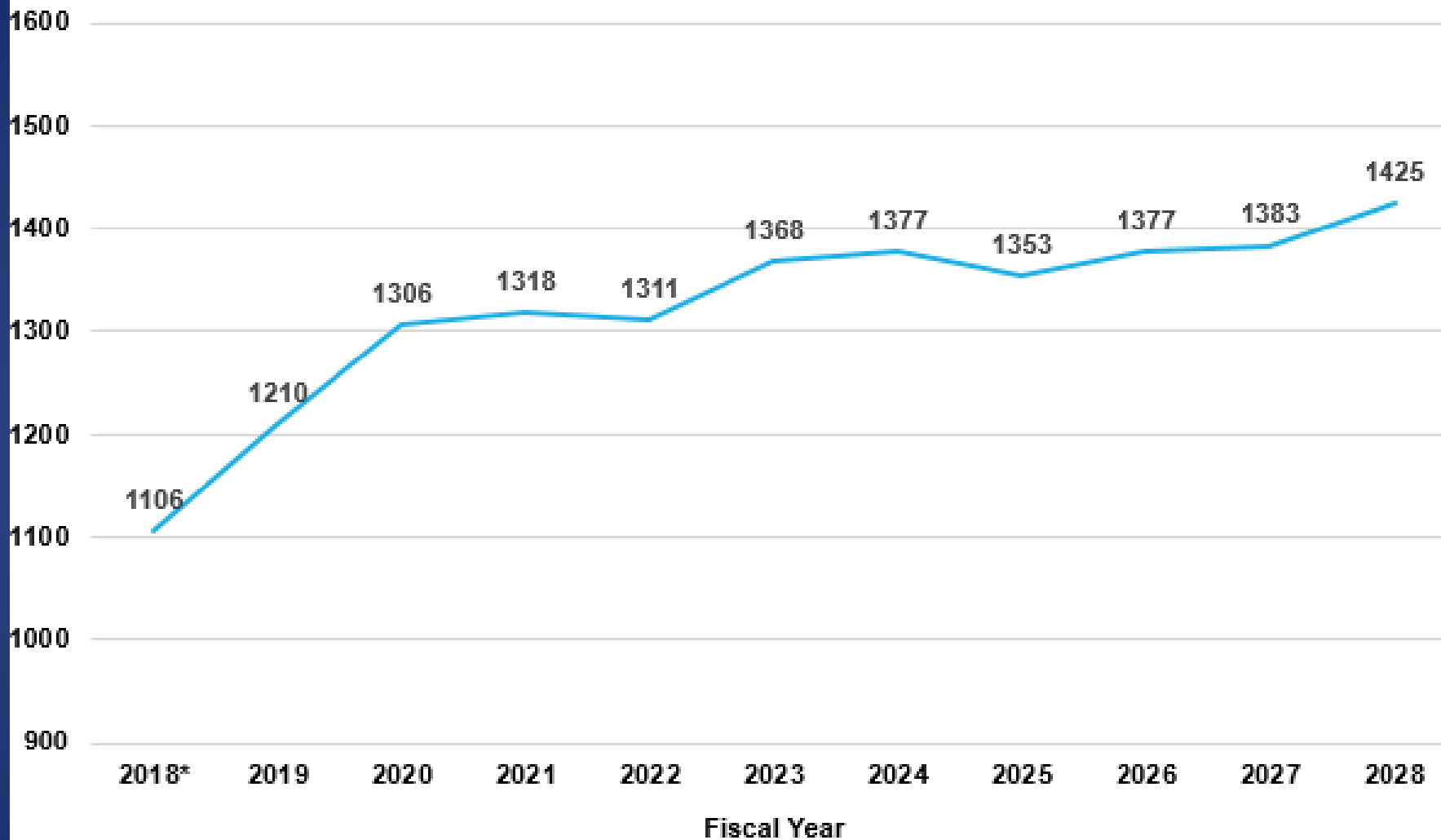
Admission Type	2017	2018	Number Change	Percent Change
New Court Commitment	223	232	9	4.0%
Probation Condition Violator	300	377	77	25.7%
Prison Sanction	300	302	2	0.7%
Probation Violator With New Sentence	40	20	-20	-50.0%
Probation Violator With New Conviction	45	45	0	0.0%
Parole/Post-release Condition Violator	105	111	6	5.7%
Parole/Post-release Violator With New Sentence	13	15	2	15.4%
Other	20	24	4	20.0%
Total Admission	1046	1126	80	7.6%
End of Year Population	864	913	49	5.7%

Projected Prison Sanction Inmate Population



* Actual prison population on June 30, 2018.
This group accounts for 1.4% of the total projected prison population in FY 2028.

Projected Probation Condition Violator Inmate Population



* Actual prison population on June 30, 2018.

This group accounts for 11.8% of the total projected prison population in FY 2028.

2019 Legislative Recommendations



Drug Crimes Reform

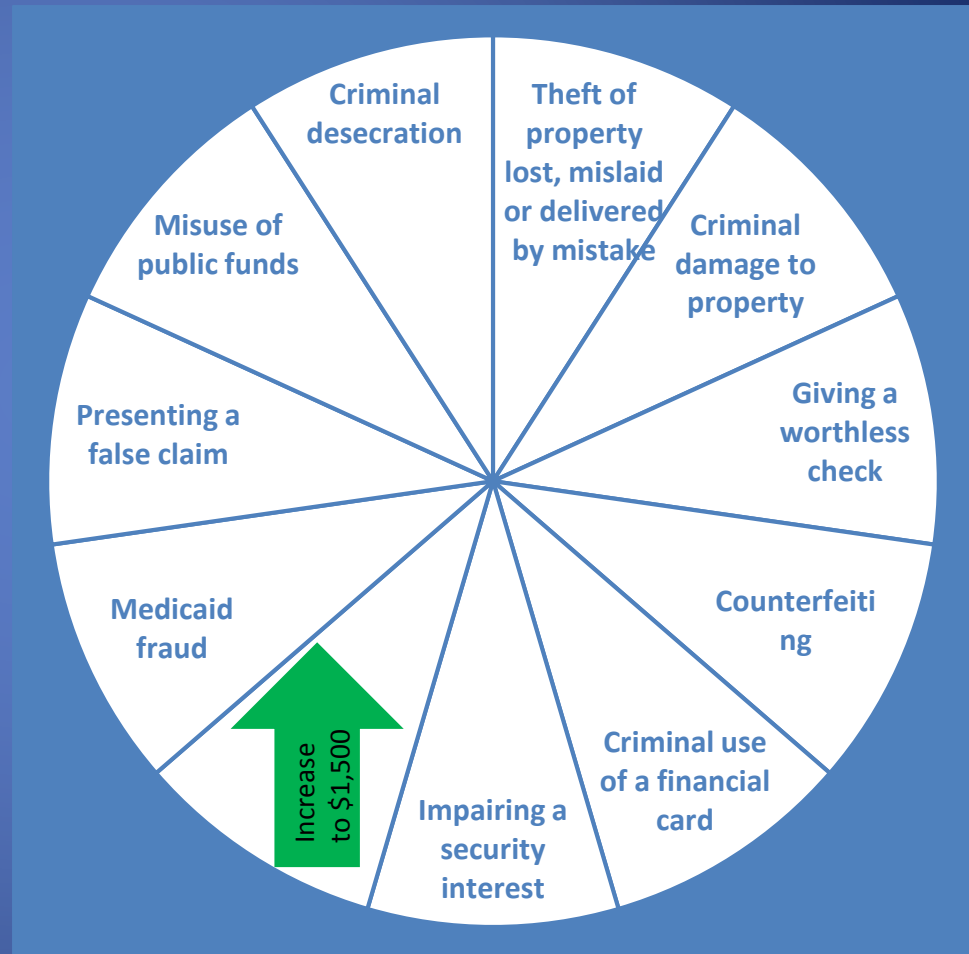
1. Expand 2003 SB 123 eligibility to drug severity level 4 small sales – technical fix
2. Reducing the length of sentence of drug severity level 5 possession crimes

Probation Review

3. Justice Reinvestment Initiative – repeal graduated prison sanctions for technical violations of probation
4. Probation mandatory early discharge for offender substantial compliance with conditions of supervision

Nonviolent Crimes

5. Increase felony loss thresholds to \$1,500 for miscellaneous property crimes to be proportional with current felony theft loss threshold passed in 2016.



Offender Registration Act

6. Remove drug offenders from the list in KSA 22-4902 required to register under the act
 - Remove felony violations, making all failure to pay \$20 offender registration fee violations of KSA 22-4903(c)(3) misdemeanor crimes

Sentencing

7. Criminal history scoring of out-of-state priors
- offense elements are comparable rather than identical or narrower in response to *State v. Wetrich*
8. Resolve conflict of mandatory or discretionary consecutive sentences for new crimes while on felony bond in KSA 21-6604(f)(4) and KSA 21-6606(d)

Closing

- Resource for the Legislature for over 25 years
- Data collection and analysis allows for better forecasting for Legislature and the criminal justice community



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Thank You

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