



December 3, 2020

## **RECENT LEGISLATIVE AND OTHER GOVERNMENTAL COMMITTEES AND COMMISSIONS STUDYING CRIMINAL JUSTICE AND JUVENILE JUSTICE ISSUES IN KANSAS**

### **Introduction**

In addition to the standing and statutory committees of the Kansas Legislature that regularly consider criminal justice and juvenile justice issues, in recent years the Legislature has created additional statutory entities to study topics related to these issues. At the same time, the judicial and executive branches of Kansas government have created entities, or directed existing entities, to study related issues. This memorandum provides an overview of major Kansas governmental committees, commissions, and similar entities that have recently studied criminal justice and juvenile justice issues related to those considered by the Legislature or its committees.

### **Legislative Committees**

Legislative standing committees are generally established by House or Senate rules for each biennium. While the below information reflects the standing committees established for the 2019-2020 Biennium, there has been little change in these three committees, other than number of members, over the past ten years.

#### ***House Committee on Corrections and Juvenile Justice***

A standing committee made up of 13 House of Representatives members. Most legislation in the House related to criminal justice or juvenile justice is referred to this committee.

#### ***House Committee on Judiciary***

A standing committee made up of 17 House of Representatives members. Some legislation in the House related to criminal justice or juvenile justice is referred to this committee.

#### ***Senate Committee on Judiciary***

A standing committee made up of 11 senators. Most legislation related to these issues in the Senate is referred to the Committee on Judiciary; the Senate does not have a separate standing committee on corrections and juvenile justice.

***Joint Committee on Corrections and Juvenile Justice Oversight (KSA 2019 Supp. 46-2801, et seq.)***

The Joint Committee on Corrections and Juvenile Justice Oversight was created by the Legislature in 1997 through SB 69. Pursuant to KSA 2019 Supp. 46-2801, the Joint Committee is tasked with monitoring inmate and juvenile offender populations in Kansas and with reviewing and studying the programs, activities, plans, and operations of the Kansas Department of Corrections (KDOC).

***Membership***

- No more than seven members of the Senate; and
- No more than seven members of the House of Representatives, including:
  - Two members of the majority party who are members of the House Committee on Appropriations and appointed by the Speaker of the House;
  - Two members of the majority party who are members of the House Committee on Judiciary and appointed by the Speaker of the House; and
  - Three members of the minority party who are members of the House Committee on Appropriations or House Committee on Judiciary and appointed by the Minority Leader.

**Other Committees and Commissions Established by Statute**

***Kansas Criminal Justice Reform Commission (KSA 2019 Supp. 21-6902)***

The Kansas Criminal Justice Reform Commission (Commission) was created by the Legislature in 2019 through HB 2290. Pursuant to KSA 2019 Supp. 21-6902, the Commission is tasked with the following:

- Analyze the sentencing guideline grids for drug and nondrug crimes and recommend legislation to ensure appropriate sentences;
- Review sentences imposed for criminal conduct to determine proportionality compared to sentences for other criminal offenses;
- Analyze diversion programs and recommend options to expand diversion programs and implement statewide standards;
- Review community supervision levels and programming available for those serving sentences for felony convictions;
- Study and make recommendations for specialty courts statewide;
- Survey and make recommendations regarding available evidence-based programming for offenders in correctional facilities and in the community;
- Study KDOC policies for placement of offenders and make recommendations for specialty facilities including geriatric, health care, and substance abuse facilities; and

- Evaluate existing information management data systems and recommend improvements that will allow criminal justice agencies to more efficiently evaluate and monitor the efficacy of the criminal justice system.

*Membership*

- One member of the Senate appointed by the Senate President;
- One member of the Senate appointed by the Senate Minority Leader;
- One member of the House of Representatives appointed by the Speaker of the House;
- One member of the House of Representatives appointed by the Minority Leader of the House of Representatives;
- One member of the Judicial Branch Court Services appointed by the Supreme Court Chief Justice;
- One criminal defense attorney or public defender appointed by the Governor;
- One county or district attorney from an urban area appointed by the Kansas County and District Attorneys Association;
- One county attorney from a rural area appointed by the Kansas County and District Attorneys Association;
- One sheriff appointed by the Attorney General;
- One chief of police appointed by the Attorney General;
- One professor of law from the University of Kansas School of Law appointed by the dean of the law school;
- One professor of law from Washburn University School of Law appointed by the dean of the law school;
- One drug and alcohol addiction treatment provider who provides services pursuant to the certified drug abuse treatment program appointed by the Kansas Sentencing Commission;
- One district judge appointed by the Kansas District Judges Association;
- One district magistrate judge appointed by the Kansas District Magistrate Judges Association;
- One member representative of the faith-based community appointed by the Governor;
- One member of a criminal justice reform advocacy organization appointed by the Legislative Coordinating Council;
- One mental health professional appointed by the Kansas Community Mental Health Association;
- One member representative of community corrections appointed by the Secretary of Corrections; and
- The Kansas Attorney General or designee, the Secretary of Corrections or designee; the Executive Director of the Kansas Sentencing Commission or designee, shall serve as ex officio, nonvoting members of the Kansas Criminal Justice Reform Commission.

## *Timeline*

The Commission was directed to prepare and submit an interim report to the Legislature on or before December 1, 2019. The preliminary report may be accessed here: <http://www.kslegresearch.org/KLRD-web/Publications/CommitteeReports/2019CommitteeReports/KS-CriminalJustRefmComm-cr.pdf>.

A final recommendation and report was submitted to the Legislature on December 1, 2020.

## *Subcommittees and Working Groups*

KSA 2019 Supp. 21-6902 authorized the Commission to organize and appoint such task forces or subcommittees as may be deemed necessary to discharge the duties of the Commission. In August 2019, the Commission voted to form five subcommittees, each with specific study topics: Mental Health and Substance Abuse; Data Management; Reentry; Proportionality and Guidelines; and Diversion, Specialty Courts, Specialty Prisons, and Supervision. In June 2020, the Commission voted to form a sixth subcommittee on Race and the Criminal Justice System.

Each subcommittee met multiple times to consider the study topics assigned to it by the Commission. The first five subcommittees produced a preliminary report in 2019, including proposed recommendations for the Commission, which the Commission used in finalizing its preliminary report and recommendations to the Legislature. The Commission followed a similar process in compiling and considering subcommittee recommendations for its final report in 2020.

## *Council of State Governments Justice Center Study*

Since July 2020, the Council of State Governments (CSG) Justice Center has worked with the Commission and subcommittees on the assessment and analysis of Justice Reinvestment in Kansas. The CSG Justice Center and the Commission are collaborating to explore ways to:

- Prioritize prison for people who pose a threat to public safety by managing expensive prison population growth and pressure;
- Increase support for victims of crime;
- Strengthen community supervision and resources to change behavior and reduce recidivism and revocations; and
- Break the cycle of recidivism by ensuring that criminal justice system practitioners have the resources they need in facilities and in the community to help people succeed, including access to mental health and substance use treatment, and employment and housing support.

## ***Juvenile Justice Oversight Committee (KSA 75-52,161)***

The Juvenile Justice Oversight Committee was created by the Legislature in 2016 through SB 367, which also enacted comprehensive reforms to the Kansas juvenile justice system. The Oversight Committee is tasked with guiding implementation of changes in the law pertaining to juvenile justice, defining performance measures and recidivism, approving processes for comprehensive data collection, considering new systems for data collection and analysis, ensuring data collection system integration and accountability, monitoring system integration and training, calculating state expenditure savings by reductions in out-of-home placements, and continuing to review topics related to the improvement of the juvenile justice system.

### ***Membership***

- Governor or designee;
- One member of the House of Representatives appointed by the Speaker of the House;
- One member of the Senate appointed by the President of the Senate;
- One member of the Senate appointed by the Minority Leader of the Senate;
- Secretary of Corrections or designee;
- Secretary for Children and Families or designee;
- Commissioner of Education or designee;
- Deputy Secretary of Juvenile Services at the KDOC or designee;
- Director of Community-Based Services at the KDOC or designee;
- Two district court judges appointed by the Chief Justice of the Supreme Court;
- One chief court services officer appointed by the Chief Justice of the Supreme Court;
- One member of the Office of Judicial Administration appointed by the Chief Justice of the Supreme Court;
- One juvenile defense attorney appointed by the Chief Justice of the Supreme Court;
- One juvenile crime victim advocate appointed by the Governor;
- One member from a local law enforcement agency appointed by the Attorney General;
- One attorney from a prosecuting attorney's office appointed by the Attorney General;
- One member from a community corrections agency appointed by the Governor;
- One youth member of the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention appointed by the chairperson of the advisory group; and
- One director of a juvenile detention facility appointed by the Attorney General.

### ***Kansas Criminal Justice Coordinating Council (KSA 74-9501, et seq.)***

The Kansas Criminal Justice Coordinating Council was created by the Legislature in 1994 through SB 21. Pursuant to KSA 74-9501, the Coordinating Council is tasked with the following:

- Appoint a standing local government advisory group;
- Define and analyze issues and processes in the criminal justice system, identify alternative solutions, and make recommendations for improvements;
- Perform criminal justice studies or tasks requested by the Governor, the Attorney General, the Legislature, or the Chief Justice;
- Oversee development and management of the criminal justice database;
- Develop and oversee reporting of all criminal justice federal funding available to the state or local units of government including the designation and administration of U.S. Bureau of Justice assistance grants;
- Form task groups and appoint members who represent law enforcement; the judiciary; the legal profession; state, local, or federal government; the public; or other professions or groups to represent the various aspects of the criminal justice issue being analyzed or studied;
- Review reports submitted by the task groups and submit the reports with the Coordinating Council's recommendations to the Governor, the Attorney General, the Chief Justice, the Chief Clerk of the House of Representatives, and the Secretary of the Senate; and
- Establish the substance abuse policy board to consult and advise the Coordinating Council regarding issues and policies concerning the treatment, sentencing, rehabilitation, and supervision of substance abuse offenders.

#### ***Membership***

- Governor or designee;
- Chief Justice of the Supreme Court or designee;
- Attorney General or designee;
- Secretary of Corrections;
- Superintendent of the Highway Patrol;
- Commissioner of Juvenile Justice; and
- Director of the Kansas Bureau of Investigation.

### ***Kansas Closed Case Task Force (KSA 2019 Supp. 21-6901)***

The Kansas Closed Case Task Force was created by the Legislature in 2019 through SB 102. The Kansas Closed Case Task Force is tasked by KSA 2019 Supp. 21-6901 with the following:

Develop a plan for uniform statewide policies and procedures for handling receipt of data from a forensic laboratory and connecting data relating to hits to the combined DNA index system (CODIS) to a relevant case file. Additionally, the Task Force is to make sure all hits are accounted for and

followed up on and address how to share the hits in data from cases—solved and unsolved—with key parties including prosecutor offices, original defense attorney, last known defense attorney of record, crime victims and surviving relatives, and a local organization that litigates innocence claims.

### *Membership*

- Chairperson of the Senate Committee on Judiciary;
- Ranking Minority Member of the Senate Committee on Judiciary;
- Chairperson of the House Committee on Judiciary;
- Ranking Minority Member of the House Committee on Judiciary;
- Governor or governor’s designee;
- Attorney General or Attorney General’s designee;
- Director of the Kansas Bureau of Investigation or designee;
- CODIS administrator as designated by the director of the Kansas Bureau of Investigation Forensic Science Laboratory;
- Sheriff designated by the Kansas Sheriffs Association;
- Chief of Police designated by the Kansas Association of Chiefs of Police;
- Prosecutor designated by the Kansas County and District Attorneys Association;
- Executive Director of State Board of Indigent’s Defense Services or designee;
- President of Kansas Bar Association or designee;
- Director of the Office of Victim Services of KDOC or designee; and
- One member designated by the Governor who represents an organization that litigates claims of innocence.

### *Timeline*

Pursuant to KSA 2019 Supp. 21-6901, the Kansas Closed Case Task Force is to have a complete protocol plan for closed cases that uniformly complies with the local law enforcement agency by October 1, 2020. On or before December 1, 2020, the Task Force was directed to submit a report with the plan for uniform implementation of the protocol throughout the state, including articulated benchmarks to facilitate and measure adoption. The report shall be presented to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The report shall also be posted to the Kansas Bureau of Investigation website. Authority for the Kansas Closed Case Task Force expires on December 20, 2020.

### **Related Executive and Judicial Branch Entities**

#### ***Governor’s Commission on Racial Equity and Justice (Executive Order No. 20-48)***

The Governor’s Commission on Racial Equity and Justice was created on June 24, 2020, by Executive Order No. 20-48. The Commission is tasked with the following:

- Study issues of racial equity and justice in Kansas, focusing first on policing and law enforcement, then expanding the work to other systemic problems determined by members of the Commission;
- Perform outreach and hold listening sessions with Kansans, including community members, local elected officials, law enforcement, state legislators, educators, mental health professionals, social workers, people impacted by systemic racism, and other Kansans with experience and expertise in various aspects of racial equity and justice;
- Research and analyze the state of policing in Kansas as it relates to racial equity and justice, including the availability of adequate data on the topic;
- Review research on actions that have been proven effective in increasing racial equity and justice in policing;
- Analyze racial equity and justice in the context of various systems in Kansas, including mental health, education, housing, and economic opportunity; and
- Make recommendations to the Governor, the Legislature, and local governments on concrete and immediate steps that can be taken to increase racial equity and justice in Kansas.

### *Membership*

The membership is made up of 15 Kansans appointed by the Governor to represent broad perspectives on racial equity and justice. The Commission members serve at the Governor's pleasure.

### *Timeline*

Pursuant to the executive order, the Commission was to submit an initial report detailing assessments, recommendations, and any proposals for the Commission's further work to the Governor by December 1, 2020. The Commission is to submit a second report to the Governor by July 1, 2021, with assessments, recommendations, and any proposals for the Commission's further work. The Commission is to submit a final comprehensive report with assessments, recommendations, and relevant findings of the Commission to the Governor by January 1, 2022.

The Commission is allowed at any time to submit a letter to the Governor or the Legislature with information or a recommendation the Commission believes requires immediate action or attention.

### ***Kansas Judicial Council (KSA 20-2201, et seq.)***

The Judicial Council was created by the Legislature in 1927. An independent agency within the Judicial Branch, the Judicial Council is tasked by KSA 20-2203 with the following:

It shall be the continuous duty of the judicial council to survey and study the judicial branch of the state and recommend improvements in the administration of justice. The judicial council shall receive and consider suggestions from judges, lawyers, public officials and citizens concerning



suggested improvements to the administration of justice. The judicial council may undertake studies in any area of the law for the purpose of improving the administration of justice and, may accept assignments from the legislature or the supreme court.

### *Membership*

- One justice of the Supreme Court;
- One judge of the Court of Appeals;
- Two district judges of different judicial districts;
- Four resident lawyers;
- Chairperson of the Judiciary Committee of the House of Representatives or the chairperson's designate [designee]; and
- Chairperson of the Judiciary Committee of the Senate.

All members except the members of the Legislature are appointed by the Chief Justice of the Supreme Court for a term of four years and until a successor has been appointed and qualified.

### *Advisory Committees*

Much of the Judicial Council's work is completed by advisory committees, which review specific areas of law and make recommendations to the Judicial Council, which then reviews and finalizes the recommendations and forwards them to the Supreme Court or to the Legislature for consideration and approval. Advisory committees are made up of experts in a particular field or subject area from across Kansas. Several ongoing advisory committees regularly study issues involving criminal law or the juvenile justice system; these include the advisory committees on Criminal Law, Juvenile Offender/Child in Need of Care, and Pattern Instructions for Kansas – Criminal.

Additionally, advisory committees are regularly formed to study particular issues, often upon request of legislators or a legislative committee. Recent legislative requests have led to the formation of advisory committees that are in the process of conducting comprehensive reviews of Kansas law in the areas of driving under the influence and sex offenses and registration.

### ***Kansas Supreme Court Ad Hoc Pretrial Justice Task Force***

The *Ad Hoc* Pretrial Justice Task Force was created by the Kansas Supreme Court on November 7, 2018, through inherent power of the Court and under Article 3, Section 1 of the *Kansas Constitution*.

In creating the Task Force, the Supreme Court stated it recognized the importance of the constitutional presumption of innocence and the impact of pretrial detention on the accused and the community, and affirmed that no person should be deprived of liberty unnecessarily or unconstitutionally.

The Task Force was charged with looking at nationwide data about best practices for pretrial release decisions to identify whether improvements can be made to the court process in Kansas. This Task Force identified and developed a best practices model for pretrial detention and pretrial alternatives that the Office of Judicial Administration can use to train district court judges. Additionally, input was sought from numerous stakeholders in Kansas, including law enforcement, district attorneys, county attorneys, defense attorneys, court services officers, bail agents, and community corrections associations.

### *Membership*

Fifteen members were appointed per the order creating the Task Force, including the Chief Judge of the Kansas Court of Appeals, district and municipal court judges, the judicial administrator, district and county attorneys, criminal defense attorneys, and corrections employees.

### *Timeline*

The findings and recommendations of the *Ad Hoc* Pretrial Justice Task Force were submitted in its final report to the Kansas Supreme Court on November 6, 2020. The final report and related information may be accessed at the Judicial Branch website: <https://kscourts.org>.

### **Group Overview**

| <b>Group Name</b>   | <b>Number of Members</b> | <b>Authority</b>   |
|---|--------------------------|--|
| House Committee on Corrections and Juvenile Justice           | 13                       |  |
| House Committee on Judiciary                                  | 17                       |  |
| Senate Committee on Judiciary                                 | 11                       |  |
| Joint Committee on Corrections and Juvenile Justice Oversight | 14                       | KSA 2019 Supp. 46-2801, <i>et seq.</i>   |
| Kansas Criminal Justice Reform Commission                     | 22<br>(3 are ex officio) | KSA 2019 Supp. 21-6902   |
| Juvenile Justice Oversight Committee                          | 19                       | KSA 75-52,161  |
| Kansas Criminal Justice Coordinating Council                  | 7                        | KSA 74-9501, <i>et seq.</i>  |
| Kansas Closed Case Task Force                                 | 15                       | KSA 2019 Supp. 21-6901   |
| Governor's Commission on Racial Equity and Justice            | 15                       | Executive Order No. 20-48  |
| Kansas Judicial Council                                       | 10                       | KSA 20-2201, <i>et seq.</i>  |
| Kansas Supreme Court <i>Ad Hoc</i> Pretrial Task Force        | 15                       | Article 3, Section 1 of the <i>Kansas Constitution</i> and inherent power of the Supreme Court |