

Testimony on SB 80
To
The Senate Judiciary Committee

By Roger Werholtz
Secretary
Kansas Department of Corrections
February 20, 2019

Members of the committee:

The Kansas Department of Corrections is neutral to SB 80, however, would like to take the opportunity to raise some issues for your consideration on this proposed change.

SB 80 seems on the surface to be legislation that poses relatively little impact for the Kansas Department of Corrections, which is precisely the reason I have chosen to offer this testimony for your consideration. It expands the definition of “weapon” for purposes of identifying criminal possession of a weapon by a convicted felon and it raises the severity level of the penalty. I would ask you to consider a series of questions:

1. What is the purpose of the legislation and the change in penalty? Is it to deter people from committing this offense? Is it simply to incapacitate them for a longer period of time?
2. If the goal is deterrence, I would ask you to consider how many convicted felons will be aware of this legislation or will know that someone with a criminal history of two non-person felonies will move from presumptive probation with an underlying prison sentence of 11 to 13 months to a presumptive prison sentence of 25 to 29 months. I would argue that these folks will not do a cost benefit analysis of possible penalties and decide not to commit the crime because of the new sentences proposed. The fact is, these offenders don't think they will be caught or simply don't think at all.
3. If the goal is incapacitation, how much more public safety will we buy by increasing prison time by 14 to 16 months, especially if the department does not have the program capacity to address the criminal behaviors that resulted in incarceration? We can certainly prevent offenders from doing much harm while imprisoned, but incapacitation is a very expensive strategy to pursue.

During my previous tenure as Secretary of Corrections, Rep. Ward Loyd requested legislative research to determine how many changes were made to sentencing law for a multi-year period beginning in 2005. It was found that 108 changes to sentencing statutes were made. Of those 108 changes, 97 increased penalties.

When considered independently, each of those decisions may seem to have insignificant impact on the Department of Corrections. However, the cumulative effect has considerable impact on our operations. I chose to highlight this issue, with this legislation, because I think it is a good example of what can happen if we don't look at the long-term consequences of a change.

You are no doubt aware by now that we have insufficient space to house our population, insufficient staff to properly supervise them, and insufficient programming to effectively treat them. My request is that, when considering all legislation impacting the size of KDOC's inmate population, please be prepared to provide the necessary resources to safely house and treat them. Our current trajectory is unsustainable. Your careful consideration of this request is appreciated.