



Roger Werholtz, Secretary

Laura Kelly, Governor

Testimony on HB 2269
To
The House Corrections and Juvenile Justice Committee

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Secretary
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February 18, 2019

The Kansas Department of Corrections is opposed to HB 2269. HB 2269 would compromise two of the department's most effective incentives related to reducing the prison population and reducing recidivism, based on completion of evidence-based programming. HB 2269 would amend K.S.A. 21-6821 which governs program credit for adult inmate participation in certified rehabilitation programs and K.S.A. 38-2398 which governs program credits for juvenile offenders by repealing the immunity afforded to the department and its employees for good time and program credit calculations.

The application of program credit requires a review of all inmates' program participation and sentence history in order to determine whether a particular inmate's sentence is eligible and, whether a completed program is eligible for credit. Additionally, irrespective of the number of approved programs completed, program credit is limited to 120 days. Allocation of the pool of program credit for various programs is a complex process. Finally, the application of program credits is applied retroactively. Since the enactment of program credit in 2007, the department is not aware of any circumstance that would warrant subjecting that program to litigation for money damages by repealing the immunity provided by current law.

The calculation and application of good time and program credits are unique governmental functions. While the department's policies and procedures may at first blush appear to relegate this function to a ministerial action not subject to the immunity provisions of the Kansas Tort Claims Act, that perception would ignore the case management assessments and decisions made by correctional officials regarding those credits, which warrant the immunity from monetary damages specifically provided by K.S.A. 21-6821 and 38-2398.

The calculation and application of good time and program credits have unique safeguards for the correction of erroneous applications. The department provides for administrative review and courts may provide Habeas Corpus relief to correct errors. Finally, it is important to note that good time and program credits are a matter of legislative grace to reduce a lawfully imposed sentence. The department respectfully submits that creating the possibility of monetary gain through litigation by virtue of a waiver of immunity from monetary damages would increase litigation and a burden on the department's resources without a corresponding benefit.