

HOUSE BILL No. 2396

By Committee on Appropriations

3-12

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sentencing; certified drug abuse treatment programs; amending
3 K.S.A. 2018 Supp. 21-6824 and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2018 Supp. 21-6824 is hereby amended to read as
7 follows: 21-6824. (a) There is hereby established a nonprison sanction of
8 certified drug abuse treatment programs for certain offenders who are
9 sentenced on or after November 1, 2003. Placement of offenders in
10 certified drug abuse treatment programs by the court shall be limited to
11 placement of adult offenders, convicted of a felony violation of K.S.A.
12 2018 Supp. 21-5705 or 21-5706, and amendments thereto, whose offense
13 is classified in grid blocks:

14 (1) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines
15 grid for drug crimes and such offender has no felony conviction of K.S.A.
16 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal,
17 K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer,
18 or K.S.A. 2018 Supp. 21-5703, 21-5705 or 21-5716, and amendments
19 thereto, or any substantially similar offense from another jurisdiction; or

20 (2) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines
21 grid for drug crimes, such offender has no felony conviction of K.S.A. 65-
22 4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A.
23 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or
24 K.S.A. 2018 Supp. 21-5703, 21-5705 or 21-5716, and amendments
25 thereto, or any substantially similar offense from another jurisdiction, if
26 the person felonies in the offender's criminal history were severity level 8,
27 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug
28 crimes, and the court finds and sets forth with particularity the reasons for
29 finding that the safety of the members of the public will not be jeopardized
30 by such placement in a drug abuse treatment program.

31 (b) As a part of the presentence investigation pursuant to K.S.A. 2018
32 Supp. 21-6813, and amendments thereto, offenders who meet the
33 requirements of subsection (a), unless otherwise specifically ordered by
34 the court, shall be subject to:

35 (1) A drug abuse assessment which shall include a clinical interview
36 with a mental health professional and a recommendation concerning drug

1 abuse treatment for the offender; and

2 (2) a criminal risk-need assessment. The criminal risk-need
3 assessment shall assign a high or low risk status to the offender.

4 (c) If the offender is assigned a high risk status as determined by the
5 drug abuse assessment performed pursuant to subsection (b)(1) and a
6 moderate or high risk status as determined by the criminal risk-need
7 assessment performed pursuant to subsection (b)(2), the sentencing court
8 shall commit the offender to treatment in a drug abuse treatment program
9 until the court determines the offender is suitable for discharge by the
10 court. The term of treatment shall not exceed 18 months. The court may
11 extend the term of probation, pursuant to K.S.A. 2018 Supp. 21-6608(c)
12 (3), and amendments thereto. The term of treatment may not exceed the
13 term of probation.

14 (d) (1) Offenders who are committed to a drug abuse treatment
15 program pursuant to subsection (c) shall be supervised by community
16 correctional services.

17 (2) Offenders who are not committed to a drug abuse treatment
18 program pursuant to subsection (c) shall be supervised by community
19 correctional services or court services based on the result of the criminal
20 risk assessment.

21 (e) Placement of offenders under subsection (a)(2) shall be subject to
22 the departure sentencing statutes of the revised Kansas sentencing
23 guidelines act.

24 (f) (1) Offenders in drug abuse treatment programs shall be
25 discharged from such program if the offender:

26 (A) Is convicted of a new felony; or

27 (B) has a pattern of intentional conduct that demonstrates the
28 offender's refusal to comply with or participate in the treatment program,
29 as established by judicial finding.

30 (2) Offenders who are discharged from such program shall be subject
31 to the revocation provisions of K.S.A. 2018 Supp. 21-6604(n), and
32 amendments thereto.

33 (g) As used in this section, "mental health professional" includes
34 licensed social workers, persons licensed to practice medicine and surgery,
35 licensed psychologists, licensed professional counselors or registered
36 alcohol and other drug abuse counselors licensed or certified as addiction
37 counselors who have been certified by the secretary of corrections to treat
38 offenders pursuant to K.S.A. 2018 Supp. 75-52,144, and amendments
39 thereto.

40 (h) (1) Offenders who meet the requirements of subsection (a) shall
41 not be subject to the provisions of this section and shall be sentenced as
42 otherwise provided by law, if such offenders:

43 (A) Are residents of another state and are returning to such state

1 pursuant to the interstate corrections compact or the interstate compact for
2 adult offender supervision; or

3 (B) are not lawfully present in the United States and being detained
4 for deportation; or

5 (C) do not meet the risk assessment levels provided in subsection (c).

6 (2) Such sentence shall not be considered a departure and shall not be
7 subject to appeal.

8 (i) The court may order an offender who otherwise does not meet the
9 requirements of subsection (c) to undergo one additional drug abuse
10 assessment while such offender is on probation. Such offender may be
11 ordered to undergo drug abuse treatment pursuant to subsection (a) if such
12 offender is determined to meet the requirements of subsection (c). The cost
13 of such assessment shall be paid by such offender.

14 Sec. 2. K.S.A. 2018 Supp. 21-6824 is hereby repealed.

15 Sec. 3. This act shall take effect and be in force from and after its
16 publication in the statute book.