

HOUSE BILL No. 2026

AN ACT concerning crimes, punishment and criminal procedure; relating to diversion agreements; creating a certified drug abuse treatment program for people on diversion; providing for supervision by court services or community corrections; clarifying supervision of offenders and authorizing the sentencing commission to determine risk levels for participation in the certified drug abuse treatment program; increasing criminal penalties for riot and incitement to riot in a correctional facility; modifying criminal penalties for unlawfully tampering with electronic monitoring equipment; amending K.S.A. 22-2907, 75-5291 and 75-52,144 and K.S.A. 2020 Supp. 21-6201, 21-6322, 21-6610, 21-6824 and 22-2909 and repealing the existing sections.

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

New Section 1. (a) There is hereby established a certified drug abuse treatment program for certain persons who enter into a diversion agreement in lieu of further criminal proceedings on and after July 1, 2021. Placement of divertees in a certified drug abuse treatment program pursuant to a diversion agreement shall be limited to placement of adults, on a complaint alleging a felony violation of K.S.A. 2020 Supp. 21-5706, and amendments thereto, whose offense is classified in grid blocks 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines grid for drug crimes who have no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction.

(b) As part of the consideration of whether or not to allow diversion to the defendant, a divertree who meets the requirements of subsection (a) shall be subject to:

(1) A drug abuse assessment that shall include a clinical interview with a mental health professional and a recommendation concerning drug abuse treatment for the divertree; and

(2) a standardized criminal risk-need assessment specified by the Kansas sentencing commission.

(c) The diversion agreement shall require the divertree to comply with and participate in a certified drug abuse treatment program if the divertree meets the assessment criteria set by the Kansas sentencing commission. The term of treatment shall not exceed 18 months.

(d) Divertees who are committed to a certified drug abuse treatment program pursuant to subsection (c) may be supervised by community correctional services or court services pursuant to a memorandum of understanding entered into pursuant to K.S.A. 22-2907, and amendments thereto.

(e) (1) Divertees in a certified drug abuse treatment program shall be discharged from the program if the divertree:

(A) Is convicted of a new felony; or

(B) has a pattern of intentional conduct that demonstrates the divertree's refusal to comply with or participate in the treatment program in the opinion of the county or district attorney.

(2) Divertees who are discharged from such program pursuant to paragraph (1) shall be subject to the revocation provisions of the divertree's diversion agreement.

(f) For the purposes of this section:

(1) "Mental health professional" includes licensed social workers, persons licensed to practice medicine and surgery, licensed psychologists, licensed professional counselors or registered alcohol and other drug abuse counselors licensed or certified as addiction counselors who have been certified by the secretary of corrections to treat persons pursuant to K.S.A. 2020 Supp. 75-52,144, and amendments thereto.

(2) "Divertree" means a person who has entered into a diversion agreement pursuant to K.S.A. 22-2909, and amendments thereto.

Sec. 2. K.S.A. 2020 Supp. 21-6201 is hereby amended to read as follows: 21-6201. (a) Riot is five or more persons acting together and without lawful authority engaging in any:

(1) Use of force or violence which produces a breach of the public peace; or

(2) threat to use such force or violence against any person or property if accompanied by power or apparent power of immediate execution.

(b) Incitement to riot is by words or conduct knowingly urging others to engage in riot as defined in subsection (a) under circumstances which produce a clear and present danger of injury to persons or property or a ~~breach~~ breach of the public peace.

(c) (1) Riot is a:

(A) Class A person misdemeanor, *except as provided in subsection (c)(1)(B); and*

(B) *severity level 8, person felony if the riot occurs in a correctional facility.*

(2) Incitement to riot is a:

(A) Severity level 8, person felony, *except as provided in subsection (c)(2)(B); and*

(B) *severity level 6, person felony if the incitement to riot occurs in a correctional facility.*

(d) *As used in this section, "correctional facility" means a "correctional institution" as defined in K.S.A. 75-5202, and amendments thereto, or a jail.*

Sec. 3. K.S.A. 2020 Supp. 21-6322 is hereby amended to read as follows: 21-6322. (a) Unlawfully tampering with electronic monitoring equipment is, knowingly and without authorization, removing, disabling, altering, tampering with, damaging or destroying any electronic monitoring equipment used pursuant to court ordered supervision or as a condition of post-release supervision or parole.

(b) Unlawfully tampering with electronic monitoring equipment is a:

(1) *Severity level-6 8, nonperson felony in the case of electronic monitoring equipment used pursuant to court-ordered supervision or as a condition of postrelease supervision or parole for any felony; and*

(2) *class A nonperson misdemeanor in the case of electronic monitoring equipment used pursuant to court-ordered supervision or as a condition of postrelease supervision or parole for any misdemeanor or used pursuant to court-ordered supervision in any civil case.*

Sec. 4. K.S.A. 2020 Supp. 21-6610 is hereby amended to read as follows: 21-6610. (a) When a defendant is placed on parole by the district court, on probation, assigned to a community correctional services program by a district court or under suspended sentence and such defendant is permitted to go from the judicial district of that court, supervision over the defendant may be transferred from that judicial district to another with the concurrence of the receiving chief court services officer, or if in a community corrections services program, by the concurrence of the director of the receiving program.

(b) The district court from which the defendant is on parole, probation, community correctional services program or suspended sentence may retain jurisdiction of the defendant.

(c) *When a defendant described in subsection (a) is sentenced pursuant to K.S.A. 2020 Supp. 21-6824, and amendments thereto, the district court from which the defendant is on parole, on probation, assigned to a community correctional services program or under suspended sentence may transfer jurisdiction of the defendant with the concurrence of the receiving district court and all parties.*

Sec. 5. K.S.A. 2020 Supp. 21-6824 is hereby amended to read as follows: 21-6824. (a) There is hereby established a nonprison sanction of certified drug abuse treatment programs for certain offenders who are sentenced on or after November 1, 2003. Placement of offenders in certified drug abuse treatment programs by the court shall be limited to placement of adult offenders, convicted of a felony violation of K.S.A. 2020 Supp. 21-5705 or 21-5706, and amendments thereto, whose offense is classified in grid blocks:

(1) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines grid for drug crimes and such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2020 Supp. 21-5703, 21-5705

or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction; or

(2) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes, such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction, if the person felonies in the offender's criminal history were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes, and the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not be jeopardized by such placement in a drug abuse treatment program.

(b) As a part of the presentence investigation pursuant to K.S.A. 2020 Supp. 21-6813, and amendments thereto, offenders who meet the requirements of subsection (a), unless otherwise specifically ordered by the court, shall be subject to:

(1) A drug abuse assessment which shall include a clinical interview with a mental health professional and a recommendation concerning drug abuse treatment for the offender; and

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

(c) If the offender is assigned a ~~high~~ risk status as determined by the drug abuse assessment performed pursuant to subsection (b)(1) and a ~~moderate or high~~ risk status as determined by the criminal risk-need assessment performed pursuant to subsection (b)(2) *that meets the criteria for participation in a drug abuse treatment program as determined by the Kansas sentencing commission*, the sentencing court shall commit the offender to treatment in a drug abuse treatment program until the court determines the offender is suitable for discharge by the court. The term of treatment shall not exceed 18 months. The court may extend the term of probation, pursuant to K.S.A. 2020 Supp. 21-6608(c)(3), and amendments thereto. The term of treatment may not exceed the term of probation.

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

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

(3) *If the offender is permitted to go from the judicial district of the sentencing court, the court may, pursuant to K.S.A. 2020 Supp. 21-6610, and amendments thereto:*

(A) *Transfer supervision of the offender from that judicial district to another; and*

(B) *either transfer or retain jurisdiction of the offender.*

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

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

(A) Is convicted of a new felony; or

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

(2) Offenders who are discharged from such program shall be subject to the revocation provisions of K.S.A. 2020 Supp. 21-6604(n), and amendments thereto.

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

amendments thereto.

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

(A) Are residents of another state and are returning to such state pursuant to the interstate corrections compact or the interstate compact for adult offender supervision; or

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

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

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

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

Sec. 6. K.S.A. 22-2907 is hereby amended to read as follows: 22-2907. ~~(1)~~(a) After a complaint has been filed charging a defendant with commission of a crime and prior to conviction thereof, and after the district attorney has considered the factors listed in K.S.A. 22-2908, if it appears to the district attorney that diversion of the defendant would be in the interests of justice and of benefit to the defendant and the community, the district attorney may propose a diversion agreement to the defendant. The terms of each diversion agreement shall be established by the district attorney in accordance with K.S.A. 22-2909, *and amendments thereto*.

~~(2)~~(b) Each district attorney shall adopt written policies and guidelines for the implementation of a diversion program in accordance with this act. Such policies and guidelines shall provide for a diversion conference and other procedures in those cases where the district attorney elects to offer diversion in lieu of further criminal proceedings on the complaint.

~~(3)~~(c) Each defendant shall be informed in writing of the diversion program and the policies and guidelines adopted by the district attorney. The district attorney may require any defendant requesting diversion to provide information regarding prior criminal charges, education, work experience and training, family, residence in the community, medical history, including any psychiatric or psychological treatment or counseling, and other information relating to the diversion program. In all cases, the defendant shall be present and shall have the right to be represented by counsel at the diversion conference with the district attorney.

(d) (1) *A county or district attorney may enter into a memorandum of understanding with the chief judge of a judicial district or community correctional services to assist with supervision and monitoring of persons who have entered into a diversion agreement. The county or district attorney shall retain authority over whether a defendant is given the option to enter into a diversion agreement and whether the defendant's diversion agreement will be revoked.*

(2) *A memorandum of understanding shall include provisions related to:*

(A) *Determining the level of supervision needed for a defendant;*

(B) *use of a criminal risk-need assessment;*

(C) *payment of costs for supervision; and*

(D) *waiver of the supervision fee established in this subsection.*

(3) (A) *When a person who has entered into a diversion agreement is supervised pursuant to a memorandum of understanding under this subsection, the person shall pay a supervision fee in the amount established in K.S.A. 2020 Supp. 21-6607(c)(3)(A) for misdemeanor or felony post-conviction supervision, as appropriate for the crime charged.*

(B) *The diversion supervision fee imposed by this paragraph shall*

be charged and collected by the county or district attorney.

(C) All moneys collected pursuant to this section shall be paid into the county general fund and used to fund the costs of diversion supervision performed pursuant to a memorandum of understanding under this subsection.

(D) The diversion supervision fee specified by this paragraph may be reduced or waived by the county or district attorney in accordance with a memorandum of understanding under this subsection.

(4) When a person who has entered into a diversion agreement is supervised pursuant to a memorandum of understanding under this subsection, the person shall pay the actual costs of any urinalysis testing required as a term of supervision. Payments for urinalysis testing shall be remitted to the county treasurer for deposit in the county general fund. The costs of urinalysis testing may be reduced or waived by the county or district attorney.

(5) The office of judicial administration may develop guidelines regarding the content of a memorandum of understanding between a county or district attorney and the chief judge of a judicial district and the administration of a supervision program operating pursuant to such memorandum of understanding.

Sec. 7. K.S.A. 2020 Supp. 22-2909 is hereby amended to read as follows: 22-2909. (a) (1) A diversion agreement shall provide that if the defendant fulfills the obligations of the program described therein, as determined by the attorney general or county or district attorney, such attorney shall act to have the criminal charges against the defendant dismissed with prejudice. The diversion agreement shall include specifically the waiver of all rights under the law or the constitution of Kansas or of the United States to a speedy arraignment, preliminary examinations and hearings, and a speedy trial, and in the case of diversion under subsection (c) waiver of the rights to counsel and trial by jury. The diversion agreement may include, but is not limited to, provisions concerning:

(A) Payment of restitution, including court costs and diversion costs;

(B) residence in a specified facility;

(C) maintenance of gainful employment, ~~and~~;

(D) participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventive guidance and other rehabilitative services; and

(E) supervision by the county or district attorney, or by court services or community correctional services pursuant to a memorandum of understanding entered into by the county or district attorney pursuant to K.S.A. 22-2907, and amendments thereto, including the diversion supervision fee and urinalysis costs described in K.S.A. 22-2907, and amendments thereto, when applicable.

(2) If a county creates a local fund under the property crime restitution and compensation act, a county or district attorney may require in all diversion agreements as a condition of diversion the payment of a diversion fee in an amount not to exceed \$100. Such fees shall be deposited into the local fund and disbursed pursuant to recommendations of the local board under the property crime restitution and victims compensation act.

(3) If the attorney general enters into a diversion agreement:

(A) Any diversion costs or fees collected pursuant to such agreement shall be deposited in the fraud and abuse criminal prosecution fund established by K.S.A. 75-765, and amendments thereto; and

(B) the attorney general may enter into agreements with the appropriate county or district attorney or other appropriate parties regarding the supervision of conditions of such diversion agreement.

(b) The diversion agreement shall state:

(1) The defendant's full name;

(2) the defendant's full name at the time the complaint was filed, if different from the defendant's current name;

(3) the defendant's sex, race and date of birth;

(4) the crime with which the defendant is charged;

- (5) the date the complaint was filed; and
- (6) the district court with which the agreement is filed.

(c) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto, the diversion agreement shall include a stipulation, agreed to by the defendant, the defendant's attorney if the defendant is represented by an attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint. In addition, the agreement shall include a requirement that the defendant:

(1) Pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 8-1567, and amendments thereto, for a first offense or, in lieu of payment of the fine, perform community service specified by the agreement, in accordance with K.S.A. 8-1567, and amendments thereto; and

(2) participate in an alcohol and drug evaluation conducted by a licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and follow any recommendation made by the provider after such evaluation.

(d) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a domestic violence offense, as defined in K.S.A. 2020 Supp. 21-5111, and amendments thereto, the diversion agreement shall include a requirement that the defendant undergo a domestic violence offender assessment and follow all recommendations unless otherwise agreed to with the prosecutor in the diversion agreement. The defendant shall be required to pay for such assessment and, unless otherwise agreed to with the prosecutor in the diversion agreement, for completion of all recommendations.

(e) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation other than K.S.A. 8-1567, and amendments thereto, the diversion agreement may include a stipulation, agreed to by the defendant, the defendant's attorney if the defendant is represented by an attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint.

(f) If the person entering into a diversion agreement is a nonresident, the attorney general or county or district attorney shall transmit a copy of the diversion agreement to the division. The division shall forward a copy of the diversion agreement to the motor vehicle administrator of the person's state of residence.

(g) If the attorney general or county or district attorney elects to offer diversion in lieu of further criminal proceedings on the complaint and the defendant agrees to all of the terms of the proposed agreement, the diversion agreement shall be filed with the district court and the district court shall stay further proceedings on the complaint. If the defendant declines to accept diversion, the district court shall resume the criminal proceedings on the complaint.

(h) Except as provided in subsection (i), if a diversion agreement is entered into in lieu of further criminal proceedings alleging commission of a misdemeanor by the defendant, while under 21 years of age, under K.S.A. 2020 Supp. 21-5701 through 21-5717, and amendments thereto, or K.S.A. 41-719, 41-727, 41-804, 41-2719 or 41-2720, and amendments thereto, the agreement shall require the defendant to participate in an alcohol and drug evaluation conducted by a licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and follow any recommendation made by the provider after such evaluation.

(i) If the defendant is 18 or more years of age but less than 21

years of age and allegedly committed a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of subsection (h) are permissive and not mandatory.

(j) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 2020 Supp. 21-6421, and amendments thereto, the agreement:

(1) Shall include a requirement that the defendant pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 2020 Supp. 21-6421, and amendments thereto; and

(2) may include a requirement that the defendant enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation.

(k) Except diversion agreements reported under subsection (l), the attorney general or county or district attorney shall forward to the Kansas bureau of investigation a copy of the diversion agreement at the time such agreement is filed with the district court. The copy of the agreement shall be made available upon request to the attorney general or any county, district or city attorney or court.

(l) At the time of filing the diversion agreement with the district court, the attorney general or county or district attorney shall forward to the division of vehicles of the state department of revenue a copy of any diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto. The copy of the agreement shall be made available upon request to the attorney general or any county, district or city attorney or court.

Sec. 8. K.S.A. 75-5291 is hereby amended to read as follows: 75-5291. (a) (1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the criminogenic needs of felony offenders including, but not limited to, adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52,127, and amendments thereto.

(2) Except as otherwise provided, placement of offenders in a community correctional services program by the court shall be limited to placement of adult offenders, convicted of a felony offense:

(A) Who, on or after July 1, 2014, are determined to be ~~moderate risk, high risk or very high risk~~ *an appropriate risk level as determined by the Kansas sentencing commission* by use of a statewide, mandatory, standardized risk assessment tool or instrument which shall be specified by the Kansas sentencing commission;

(B) whose severity level and criminal history score designate a presumptive prison sentence on either sentencing guidelines grid but receive a nonprison sentence as a result of departure;

(C) ~~all offenders~~ *who have been* convicted of an offense which satisfies the definition of offender pursuant to K.S.A. 22-4902, and amendments thereto, and which is classified as a severity level 7 or higher offense and who receive a nonprison sentence, regardless of the manner in which the sentence is imposed;

(D) ~~any offender~~ for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in the offender being required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections;

(E) *who have been* placed in a community correctional services program as a condition of supervision following the successful completion of a conservation camp program;

(F) who have been sentenced to community corrections supervision pursuant to K.S.A. 21-4729, prior to its repeal, or K.S.A. 2020 Supp. 21-6824, and amendments thereto; or

(G) who have been placed in a community correctional services

program for supervision by the court pursuant to K.S.A. 8-1567, and amendments thereto.

~~(3) Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before July 1, 2013, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this paragraph shall expire on July 1, 2013.~~

(4) Nothing in this act shall prohibit a community correctional services program from providing services to juvenile offenders upon approval by the local community corrections advisory board. Grants from community corrections funds administered by the secretary of corrections shall not be expended for such services.

~~(5)(4) Nothing in this act shall prohibit a community correctional services program from providing services to persons pursuant to a memorandum of understanding entered into by a community correctional services program and a county or district attorney pursuant to K.S.A. 22-2907, and amendments thereto.~~

(5) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established, as provided in K.S.A. 22-3716, and amendments thereto, to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(b) (1) In order to establish a mechanism for community correctional services to participate in the department of corrections annual budget planning process, the secretary of corrections shall establish a community corrections advisory committee to identify new or enhanced correctional or treatment interventions designed to divert offenders from prison.

(2) The secretary shall appoint one member from the southeast community corrections region, one member from the northeast community corrections region, one member from the central community corrections region and one member from the western community corrections region. The deputy secretary of community and field services shall designate two members from the state at large. The secretary shall have final appointment approval of the members designated by the deputy secretary. The committee shall reflect the diversity of community correctional services with respect to geographical location and average daily population of offenders under supervision.

(3) Each member shall be appointed for a term of three years and such terms shall be staggered as determined by the secretary. Members shall be eligible for reappointment.

(4) The committee, in collaboration with the deputy secretary of community and field services or the deputy secretary's designee, shall routinely examine and report to the secretary on the following issues:

- (A) Efficiencies in the delivery of field supervision services;
- (B) effectiveness and enhancement of existing interventions;
- (C) identification of new interventions; and
- (D) statewide performance indicators.

(5) The committee's report concerning enhanced or new interventions shall address:

- (A) Goals and measurable objectives;
- (B) projected costs;
- (C) the impact on public safety; and
- (D) the evaluation process.

(6) The committee shall submit its report to the secretary annually

on or before July 15 in order for the enhanced or new interventions to be considered for inclusion within the department of corrections budget request for community correctional services or in the department's enhanced services budget request for the subsequent fiscal year.

Sec. 9. K.S.A. 75-52,144 is hereby amended to read as follows: 75-52,144. (a) Drug abuse treatment programs certified in accordance with subsection (b) shall provide:

(1) ~~Presentence~~ Drug abuse assessments of any person who is convicted of *or being considered for a diversion agreement in lieu of further criminal proceedings* for a felony violation of K.S.A. 65-4160 or 65-4162, prior to such section's repeal, K.S.A. 2010 Supp. 21-36a06, prior to its transfer, or K.S.A. 2020 Supp. 21-5706, and amendments thereto, and meets the requirements of K.S.A. 21-4729, prior to its repeal, ~~or subsection (a) of K.S.A. 2020 Supp. 21-6824(a) or section 1,~~ and amendments thereto;

(2) treatment of all persons who are convicted of *or entered into a diversion agreement in lieu of further criminal proceedings* for a felony violation of K.S.A. 65-4160 or 65-4162, prior to such section's repeal, K.S.A. 2010 Supp. 21-36a06, prior to its transfer, or K.S.A. 2020 Supp. 21-5706, and amendments thereto, meet the requirements of K.S.A. 21-4729, prior to its repeal, ~~or K.S.A. 2020 Supp. 21-6824 or section 1,~~ and amendments thereto, and whose sentence requires completion of a certified drug abuse treatment program, as provided in this section;

(3) one or more treatment options in the continuum of services needed to reach recovery: Detoxification, rehabilitation, continuing care and aftercare, and relapse prevention;

(4) treatment options to incorporate family and auxiliary support services; and

(5) treatment options for alcohol abuse when indicated by the assessment of the offender or required by the court.

(b) ~~The presentence~~ criminal risk-need assessment shall be conducted by a court services officer or a community corrections officer. ~~The presentence~~ drug abuse treatment program placement assessment shall be conducted by a drug abuse treatment program certified in accordance with the provisions of this subsection to provide assessment and treatment services. A drug abuse treatment program shall be certified by the secretary of corrections. The secretary may establish qualifications for the certification of programs, which may include requirements for supervision and monitoring of clients; fee reimbursement procedures; handling of conflicts of interest; delivery of services to clients unable to pay; and other matters relating to quality and delivery of services by the program. Drug abuse treatment may include community based and faith based programs. The certification shall be for a four-year period. Recertification of a program shall be by the secretary. To be eligible for certification under this subsection, the secretary shall determine that a drug abuse treatment program:

(1) Meets the qualifications established by the secretary;

(2) is capable of providing the assessments, supervision and monitoring required under subsection (a);

(3) has employed or contracted with certified treatment providers; and

(4) meets any other functions and duties specified by law.

(c) Any treatment provider who is employed or has contracted with a certified drug abuse treatment program who provides services to offenders shall be certified by the secretary of corrections. The secretary shall require education and training ~~which~~ *that* shall include, but not be limited to, case management and cognitive behavior training. The duties of providers who prepare the presentence drug abuse assessment may also include appearing at sentencing and probation hearings in accordance with the orders of the court, monitoring offenders in the treatment programs, notifying the probation department and the court of any offender failing to meet the conditions of probation or referrals to treatment, appearing at revocation hearings as may be required and providing assistance and data reporting and program evaluation.

(d) (1) The cost for all drug abuse assessments performed pursuant

to subsection (a)(1), and the cost for all certified drug abuse treatment programs for any person who meets the requirements of K.S.A. 2020 Supp. 21-6824 or section 1, and amendments thereto, shall be paid by the Kansas sentencing commission from funds appropriated for such purpose. The Kansas sentencing commission shall contract for payment for such services with the supervising agency.

(2) The sentencing court shall determine the extent, if any, that such person is able to pay for such assessment and treatment. Such payments shall be used by the supervising agency to offset costs to the state. If such financial obligations are not met or cannot be met, the sentencing court shall be notified for the purpose of collection or review and further action on the offender's sentence.

(3) *If the person has entered into a diversion agreement in lieu of further criminal proceedings, the county or district attorney shall determine the extent, if any, that such person is able to pay for such assessment and treatment. Such payments shall be used by the supervising agency to offset costs to the state or county. If such financial obligations are not met or cannot be met, the county or district attorney shall be notified for the purpose of collection or review and further action on the person's diversion agreement.*

(e) The community corrections staff shall work with the substance abuse treatment staff to ensure effective supervision and monitoring of the offender.

(f) The secretary of corrections is hereby authorized to adopt rules and regulations to carry out the provisions of this section.

Sec. 10. K.S.A. 22-2907, 75-5291 and 75-52,144 and K.S.A. 2020 Supp. 21-6201, 21-6322, 21-6610, 21-6824 and 22-2909 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.