

HOUSE BILL No. 2288

By Representative Coleman

2-9

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to controlled substances; decriminalizing possession of drugs and
3 creating a civil fine therefor; referring those found in possession of a
4 controlled substance to drug abuse treatment; creating the crime of
5 failure to comply with drug abuse treatment; reducing criminal
6 penalties for manufacturing and distributing drugs; amending K.S.A.
7 75-52,144 and K.S.A. 2020 Supp. 12-4104, 21-5402, 21-5703, 21-
8 5705, 21-5707, 21-5708, 21-5709, 21-5710, 21-5713, 21-6303, 21-
9 6604, 21-6805, 21-6812, 21-6813, 21-6824 and 65-6235 and repealing
10 the existing sections; also repealing K.S.A. 2020 Supp. 21-5706.
11

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

13 New Section 1. (a) A person shall not possess any opiates, opium or
14 narcotic drugs, or any stimulant designated in K.S.A. 65-4107(d)(1), (d)(3)
15 or (f)(1), and amendments thereto, or a controlled substance analog
16 thereof.

17 (b) A person shall not possess any of the following controlled
18 substances or controlled substance analogs thereof:

19 (1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-
20 4109(b) or (c) or 65-4111(b), and amendments thereto;

21 (2) any stimulant designated in K.S.A. 65-4105(f), 65-4107(d)(2), (d)
22 (4), (d)(5) or (f)(2) or 65-4109(e), and amendments thereto;

23 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-
24 4107(g) or 65-4109(g), and amendments thereto;

25 (4) any substance designated in K.S.A. 65-4105(g) and 65-4111(c),
26 (d), (e), (f) or (g), and amendments thereto;

27 (5) any anabolic steroids as defined in K.S.A. 65-4109(f), and
28 amendments thereto;

29 (6) any substance designated in K.S.A. 65-4113, and amendments
30 thereto; or

31 (7) any substance designated in K.S.A. 65-4105(h), and amendments
32 thereto.

33 (c) (1) A person who violates the provisions of this section may incur
34 a civil penalty in an amount not to exceed \$100 per violation.

35 (2) Violations of this section shall be enforced through an action
36 brought under chapter 60 of the Kansas Statutes Annotated, and

1 amendments thereto, by the county or district attorney in the county in
 2 which the violation took place. Civil penalties sued for and recovered by
 3 the county or district attorney shall be paid into the general fund of the
 4 county where the proceedings were instigated.

5 (3) In addition to any fine imposed pursuant to paragraph (1), the
 6 county or district attorney shall refer such person for participation in the
 7 certified drug abuse treatment program pursuant to K.S.A. 21-6824, and
 8 amendments thereto, or another drug abuse treatment program available in
 9 the community, if the substance was a controlled substance other than
 10 marijuana.

11 New Sec. 2. (a) Failure to comply with drug abuse treatment is failing
 12 to complete a drug abuse treatment program when such person was
 13 referred to such program pursuant to section 1, and amendments thereto.

14 (b) Failure to comply with drug abuse treatment is an unclassified
 15 misdemeanor punishable by up to five days in jail, a fine not to exceed
 16 \$250 and a term of probation not to exceed six months.

17 (c) This section shall be a part of and supplemental to the Kansas
 18 criminal code.

19 Sec. 3. K.S.A. 2020 Supp. 12-4104 is hereby amended to read as
 20 follows: 12-4104. (a) The municipal court of each city shall have
 21 jurisdiction to hear and determine cases involving violations of the
 22 ordinances of the city, including concurrent jurisdiction to hear and
 23 determine a violation of an ordinance when the elements of such ordinance
 24 violation are the same as the elements of a violation of one of the
 25 following state statutes and would constitute, and be punished as, a felony
 26 if charged in district court:

27 (1) K.S.A. 8-1567, and amendments thereto, driving under the
 28 influence;

29 (2) K.S.A. 2020 Supp. 21-5414, and amendments thereto, domestic
 30 battery;

31 (3) K.S.A. 2020 Supp. 21-5801, and amendments thereto, theft; *or*

32 (4) K.S.A. 2020 Supp. 21-5821, and amendments thereto, giving a
 33 worthless check; ~~or~~

34 ~~(5) subsection (b)(3) of K.S.A. 2020 Supp. 21-5706, and amendments~~
 35 ~~thereto, possession of marijuana.~~

36 (b) Search warrants shall not issue out of a municipal court.

37 Sec. 4. K.S.A. 2020 Supp. 21-5402 is hereby amended to read as
 38 follows: 21-5402. (a) Murder in the first degree is the killing of a human
 39 being committed:

40 (1) Intentionally, and with premeditation; or

41 (2) in the commission of, attempt to commit, or flight from any
 42 inherently dangerous felony.

43 (b) Murder in the first degree is an off-grid person felony.

1 (c) As used in this section, an "inherently dangerous felony" means:

2 (1) Any of the following felonies, whether such felony is so distinct
3 from the homicide alleged to be a violation of subsection (a)(2) as not to
4 be an ingredient of the homicide alleged to be a violation of subsection (a)
5 (2):

6 (A) Kidnapping, as defined in K.S.A. 2020 Supp. 21-5408(a), and
7 amendments thereto;

8 (B) aggravated kidnapping, as defined in K.S.A. 2020 Supp. 21-
9 5408(b), and amendments thereto;

10 (C) robbery, as defined in K.S.A. 2020 Supp. 21-5420(a), and
11 amendments thereto;

12 (D) aggravated robbery, as defined in K.S.A. 2020 Supp. 21-5420(b),
13 and amendments thereto;

14 (E) rape, as defined in K.S.A. 2020 Supp. 21-5503, and amendments
15 thereto;

16 (F) aggravated criminal sodomy, as defined in K.S.A. 2020 Supp. 21-
17 5504(b), and amendments thereto;

18 (G) abuse of a child, as defined in K.S.A. 2020 Supp. 21-5602, and
19 amendments thereto;

20 (H) felony theft of property, as defined in K.S.A. 2020 Supp. 21-
21 5801(a)(1) or (a)(3), and amendments thereto;

22 (I) burglary, as defined in K.S.A. 2020 Supp. 21-5807(a), and
23 amendments thereto;

24 (J) aggravated burglary, as defined in K.S.A. 2020 Supp. 21-5807(b),
25 and amendments thereto;

26 (K) arson, as defined in K.S.A. 2020 Supp. 21-5812(a), and
27 amendments thereto;

28 (L) aggravated arson, as defined in K.S.A. 2020 Supp. 21-5812(b),
29 and amendments thereto;

30 (M) treason, as defined in K.S.A. 2020 Supp. 21-5901, and
31 amendments thereto;

32 (N) any felony offense as provided in K.S.A. 2020 Supp. 21-5703; *or*
33 21-5705 ~~or 21-5706~~, and amendments thereto;

34 (O) any felony offense as provided in K.S.A. 2020 Supp. 21-6308(a)
35 or (b), and amendments thereto;

36 (P) endangering the food supply, as defined in K.S.A. 2020 Supp. 21-
37 6317(a), and amendments thereto;

38 (Q) aggravated endangering the food supply, as defined in K.S.A.
39 2020 Supp. 21-6317(b), and amendments thereto;

40 (R) fleeing or attempting to elude a police officer, as defined in
41 K.S.A. 8-1568(b), and amendments thereto;

42 (S) aggravated endangering a child, as defined in K.S.A. 2020 Supp.
43 21-5601(b)(1), and amendments thereto;

1 (T) abandonment of a child, as defined in K.S.A. 2020 Supp. 21-
2 5605(a), and amendments thereto;

3 (U) aggravated abandonment of a child, as defined in K.S.A. 2020
4 Supp. 21-5605(b), and amendments thereto; or

5 (V) mistreatment of a dependent adult or mistreatment of an elder
6 person, as defined in K.S.A. 2020 Supp. 21-5417, and amendments
7 thereto; and

8 (2) any of the following felonies, only when such felony is so distinct
9 from the homicide alleged to be a violation of subsection (a)(2) as to not
10 be an ingredient of the homicide alleged to be a violation of subsection (a)
11 (2):

12 (A) Murder in the first degree, as defined in subsection (a)(1);

13 (B) murder in the second degree, as defined in K.S.A. 2020 Supp. 21-
14 5403(a)(1), and amendments thereto;

15 (C) voluntary manslaughter, as defined in K.S.A. 2020 Supp. 21-
16 5404(a)(1), and amendments thereto;

17 (D) aggravated assault, as defined in K.S.A. 2020 Supp. 21-5412(b),
18 and amendments thereto;

19 (E) aggravated assault of a law enforcement officer, as defined in
20 K.S.A. 2020 Supp. 21-5412(d), and amendments thereto;

21 (F) aggravated battery, as defined in K.S.A. 2020 Supp. 21-5413(b)
22 (1), and amendments thereto; or

23 (G) aggravated battery against a law enforcement officer, as defined
24 in K.S.A. 2020 Supp. 21-5413(d), and amendments thereto.

25 (d) Murder in the first degree as defined in subsection (a)(2) is an
26 alternative method of proving murder in the first degree and is not a
27 separate crime from murder in the first degree as defined in subsection (a)
28 (1). The provisions of K.S.A. 2020 Supp. 21-5109, and amendments
29 thereto, are not applicable to murder in the first degree as defined in
30 subsection (a)(2). Murder in the first degree as defined in subsection (a)(2)
31 is not a lesser included offense of murder in the first degree as defined in
32 subsection (a)(1), and is not a lesser included offense of capital murder as
33 defined in K.S.A. 2020 Supp. 21-5401, and amendments thereto. As set
34 forth in subsection (b) of K.S.A. 2020 Supp. 21-5109, and amendments
35 thereto, there are no lesser included offenses of murder in the first degree
36 under subsection (a)(2).

37 (e) The amendments to this section by chapter 96 of the 2013 Session
38 Laws of Kansas establish a procedural rule for the conduct of criminal
39 prosecutions and shall be construed and applied retroactively to all cases
40 currently pending.

41 Sec. 5. K.S.A. 2020 Supp. 21-5703 is hereby amended to read as
42 follows: 21-5703. (a) It shall be unlawful for any person to manufacture
43 any controlled substance or controlled substance analog.

1 (b) Violation or attempted violation of subsection (a) is a:

2 (1) Drug severity level-2 3 felony, except as provided in subsections
3 (b)(2) and (b)(3);

4 (2) drug severity level-1 2 felony if:

5 (A) The controlled substance is not methamphetamine, as defined by
6 ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-4107(d)(3) or (f)(1), and
7 amendments thereto, or an analog thereof; and

8 (B) the offender has a prior conviction for unlawful manufacturing of
9 a controlled substance under this section, K.S.A. 65-4159, prior to its
10 repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or a substantially
11 similar offense from another jurisdiction and the substance was not
12 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-
13 4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof, in any
14 such prior conviction; and

15 (3) drug severity level-1 2 felony if the controlled substance is
16 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-
17 4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof.

18 (c) The provisions of ~~subsection (d) of~~ K.S.A. 2020 Supp. 21-
19 5301(d), and amendments thereto, shall not apply to a violation of
20 attempting to unlawfully manufacture any controlled substance or
21 controlled substance analog pursuant to this section.

22 (d) For persons arrested and charged under this section, bail shall be
23 at least \$50,000 cash or surety, and such person shall not be released upon
24 the person's own recognizance pursuant to K.S.A. 22-2802, and
25 amendments thereto, unless the court determines, on the record, that the
26 defendant is not likely to re-offend, the court imposes pretrial supervision,
27 or the defendant agrees to participate in a licensed or certified drug
28 treatment program.

29 (e) The sentence of a person who violates this section shall not be
30 subject to statutory provisions for suspended sentence, community service
31 work or probation.

32 (f) The sentence of a person who violates this section, K.S.A. 65-
33 4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its
34 transfer, shall not be reduced because these sections prohibit conduct
35 identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to their
36 repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or K.S.A. 2020
37 Supp. 21-5705, and amendments thereto.

38 Sec. 6. K.S.A. 2020 Supp. 21-5705 is hereby amended to read as
39 follows: 21-5705. (a) It shall be unlawful for any person to distribute or
40 possess with the intent to distribute any of the following controlled
41 substances or controlled substance analogs thereof:

42 (1) Opiates, opium or narcotic drugs, or any stimulant designated in
43 ~~subsection (d)(1), (d)(3) or (f)(1) of~~ K.S.A. 65-4107(d)(1), (d)(3) or (f)(1),

1 and amendments thereto;

2 (2) any depressant designated in ~~subsection (e) of K.S.A. 65-4105(e),~~
 3 ~~subsection (e) of K.S.A. 65-4107(e), subsection (b) or (c) of K.S.A. 65-~~
 4 ~~4109(b) or (c) or subsection (b) of K.S.A. 65-4111(b),~~ and amendments
 5 thereto;

6 (3) any stimulant designated in ~~subsection (f) of K.S.A. 65-4105(f),~~
 7 ~~subsection (d)(2), (d)(4), (d)(5) or (f)(2) of K.S.A. 65-4107(d)(2), (d)(4),~~
 8 ~~(d)(5) or (f)(2) or subsection (e) of K.S.A. 65-4109(e),~~ and amendments
 9 thereto;

10 (4) any hallucinogenic drug designated in ~~subsection (d) of K.S.A.~~
 11 ~~65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of~~
 12 ~~K.S.A. 65-4109(g),~~ and amendments thereto;

13 (5) any substance designated in ~~subsection (g) of K.S.A. 65-4105(g)~~
 14 ~~and subsection (e), (d), (e), (f) or (g) of K.S.A. 65-4111(c), (d), (e), (f) or~~
 15 ~~(g),~~ and amendments thereto;

16 (6) any anabolic steroids as defined in ~~subsection (f) of K.S.A. 65-~~
 17 ~~4109(f),~~ and amendments thereto; or

18 (7) any substance designated in ~~subsection (h) of K.S.A. 65-4105(h),~~
 19 and amendments thereto.

20 (b) It shall be unlawful for any person to distribute or possess with
 21 the intent to distribute a controlled substance or a controlled substance
 22 analog designated in K.S.A. 65-4113, and amendments thereto.

23 (c) It shall be unlawful for any person to cultivate any controlled
 24 substance or controlled substance analog listed in subsection (a).

25 (d) (1) Except as provided further, violation of subsection (a) is a:

26 (A) Drug severity level ~~4~~ 5 felony if the quantity of the material was
 27 less than 3.5 grams;

28 (B) drug severity level ~~3~~ 4 felony if the quantity of the material was at
 29 least 3.5 grams but less than 100 grams;

30 (C) drug severity level ~~2~~ 3 felony if the quantity of the material was at
 31 least 100 grams but less than 1 kilogram; and

32 (D) drug severity level ~~1~~ 2 felony if the quantity of the material was 1
 33 kilogram or more.

34 (2) Violation of subsection (a) with respect to material containing any
 35 quantity of marijuana, or an analog thereof, is a:

36 (A) Drug severity level ~~4~~ 5 felony if the quantity of the material was
 37 less than 25 grams;

38 (B) drug severity level ~~3~~ 4 felony if the quantity of the material was at
 39 least 25 grams but less than 450 grams;

40 (C) drug severity level ~~2~~ 3 felony if the quantity of the material was at
 41 least 450 grams but less than 30 kilograms; and

42 (D) drug severity level ~~1~~ 2 felony if the quantity of the material was
 43 30 kilograms or more.

1 (3) Violation of subsection (a) with respect to material containing any
2 quantity of heroin, as defined by ~~subsection (c)(1) of~~ K.S.A. 65-4105(c)
3 (1), and amendments thereto, or methamphetamine, as defined by
4 ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-4107(d)(3) or (f)(1), and
5 amendments thereto, or an analog thereof, is a:

6 (A) Drug severity level-4 5 felony if the quantity of the material was
7 less than 1 gram;

8 (B) drug severity level-3 4 felony if the quantity of the material was at
9 least 1 gram but less than 3.5 grams;

10 (C) drug severity level-2 3 felony if the quantity of the material was at
11 least 3.5 grams but less than 100 grams; and

12 (D) drug severity level-1 2 felony if the quantity of the material was
13 100 grams or more.

14 (4) Violation of subsection (a) with respect to material containing any
15 quantity of a controlled substance designated in K.S.A. 65-4105, 65-4107,
16 65-4109 or 65-4111, and amendments thereto, or an analog thereof,
17 distributed by dosage unit, is a:

18 (A) Drug severity level-4 5 felony if the number of dosage units was
19 fewer than 10;

20 (B) drug severity level-3 4 felony if the number of dosage units was
21 at least 10 but less than 100;

22 (C) drug severity level-2 3 felony if the number of dosage units was
23 at least 100 but less than 1,000; and

24 (D) drug severity level-1 2 felony if the number of dosage units was
25 1,000 or more.

26 (5) For any violation of subsection (a), the severity level of the
27 offense shall be increased one level if the controlled substance or
28 controlled substance analog was distributed or possessed with the intent to
29 distribute on or within 1,000 feet of any school property.

30 (6) Violation of subsection (b) is a:

31 (A) Class-A B person misdemeanor, except as provided in subsection
32 (d)(6)(B); and

33 (B) nondrug severity level-7 8, person felony if the substance was
34 distributed to or possessed with the intent to distribute to a minor.

35 (7) Violation of subsection (c) is a:

36 (A) Drug severity level-3 4 felony if the number of plants cultivated
37 was more than 4 but fewer than 50;

38 (B) drug severity level-2 3 felony if the number of plants cultivated
39 was at least 50 but fewer than 100; and

40 (C) drug severity level-1 2 felony if the number of plants cultivated
41 was 100 or more.

42 (e) In any prosecution under this section, there shall be a rebuttable
43 presumption of an intent to distribute if any person possesses the following

1 quantities of controlled substances or analogs thereof:

- 2 (1) 450 grams or more of marijuana;
- 3 (2) 3.5 grams or more of heroin or methamphetamine;
- 4 (3) 100 dosage units or more containing a controlled substance; or
- 5 (4) 100 grams or more of any other controlled substance.
- 6 (f) It shall not be a defense to charges arising under this section that
- 7 the defendant:

- 8 (1) Was acting in an agency relationship on behalf of any other party
- 9 in a transaction involving a controlled substance or controlled substance
- 10 analog;

- 11 (2) did not know the quantity of the controlled substance or
- 12 controlled substance analog; or

- 13 (3) did not know the specific controlled substance or controlled
- 14 substance analog contained in the material that was distributed or
- 15 possessed with the intent to distribute.

- 16 (g) As used in this section:

- 17 (1) "Material" means the total amount of any substance, including a
- 18 compound or a mixture, which contains any quantity of a controlled
- 19 substance or controlled substance analog.

- 20 (2) "Dosage unit" means a controlled substance or controlled
- 21 substance analog distributed or possessed with the intent to distribute as a
- 22 discrete unit, including but not limited to, one pill, one capsule or one
- 23 microdot, and not distributed by weight.

- 24 (A) For steroids, or controlled substances in liquid solution legally
- 25 manufactured for prescription use, or an analog thereof, "dosage unit"
- 26 means the smallest medically approved dosage unit, as determined by the
- 27 label, materials provided by the manufacturer, a prescribing authority,
- 28 licensed health care professional or other qualified health authority.

- 29 (B) For illegally manufactured controlled substances in liquid
- 30 solution, or controlled substances in liquid products not intended for
- 31 ingestion by human beings, or an analog thereof, "dosage unit" means 10
- 32 milligrams, including the liquid carrier medium, except as provided in
- 33 subsection (g)(2)(C).

- 34 (C) For lysergic acid diethylamide (LSD) in liquid form, or an analog
- 35 thereof, a dosage unit is defined as 0.4 milligrams, including the liquid
- 36 medium.

37 Sec. 7. K.S.A. 2020 Supp. 21-5707 is hereby amended to read as

38 follows: 21-5707. (a) It shall be unlawful for any person to knowingly or

39 intentionally use any communication facility:

- 40 (1) In committing, causing, or facilitating the commission of any
- 41 felony under K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5706, and
- 42 amendments thereto; or

- 43 (2) in any attempt to commit, any conspiracy to commit, or any

1 criminal solicitation of any felony under K.S.A. 2020 Supp. 21-5703; *or*
 2 21-5705 ~~or 21-5706~~, and amendments thereto. Each separate use of a
 3 communication facility may be charged as a separate offense under this
 4 subsection.

5 (b) Violation of subsection (a) is a nondrug severity level 8,
 6 nonperson felony.

7 (c) As used in this section, "communication facility" means any and
 8 all public and private instrumentalities used or useful in the transmission
 9 of writing, signs, signals, pictures or sounds of all kinds and includes
 10 telephone, wire, radio, computer, computer networks, beepers, pagers and
 11 all other means of communication.

12 Sec. 8. K.S.A. 2020 Supp. 21-5708 is hereby amended to read as
 13 follows: 21-5708. (a) Unlawfully obtaining a prescription-only drug is:

14 (1) Making, altering or signing of a prescription order by a person
 15 other than a practitioner or a mid-level practitioner;

16 (2) distribution of a prescription order, knowing it to have been made,
 17 altered or signed by a person other than a practitioner or a mid-level
 18 practitioner;

19 (3) possession of a prescription order with intent to distribute it and
 20 knowing it to have been made, altered or signed by a person other than a
 21 practitioner or a mid-level practitioner;

22 (4) possession of a prescription-only drug knowing it to have been
 23 obtained pursuant to a prescription order made, altered or signed by a
 24 person other than a practitioner or a mid-level practitioner; or

25 (5) providing false information, with the intent to deceive, to a
 26 practitioner or mid-level practitioner for the purpose of obtaining a
 27 prescription-only drug.

28 (b) Unlawfully selling a prescription-only drug is unlawfully
 29 obtaining a prescription-only drug, as defined in subsection (a), and:

30 (1) Selling the prescription-only drug so obtained;

31 (2) offering for sale the prescription-only drug so obtained; or

32 (3) possessing with intent to sell the prescription-only drug so
 33 obtained.

34 (c) (1) Unlawfully obtaining a prescription-only drug is a:

35 (A) Class A nonperson misdemeanor, except as provided in
 36 subsection (c)(1)(B); and

37 (B) nondrug severity level 9, nonperson felony if that person has a
 38 prior conviction of under this section, K.S.A. 2010 Supp. 21-36a08, prior
 39 to its transfer, or K.S.A. 21-4214, prior to its repeal.

40 (2) Unlawfully selling a prescription-only drug is a nondrug severity
 41 level 6, nonperson felony.

42 (d) As used in this section:

43 (1) "Pharmacist," "practitioner," "mid-level practitioner" and

1 "prescription-only drug" shall have the meanings ascribed thereto by
 2 K.S.A. 65-1626, and amendments thereto.

3 (2) "Prescription order" means an order transmitted in writing, orally,
 4 telephonically or by other means of communication for a prescription-only
 5 drug to be filled by a pharmacist. "Prescription order" does not mean a
 6 drug dispensed pursuant to such an order.

7 (e) The provisions of this section shall not be applicable to
 8 prosecutions involving prescription-only drugs which could be brought
 9 under K.S.A. 2020 Supp. 21-5705 ~~or 21-5706~~, and amendments thereto.

10 Sec. 9. K.S.A. 2020 Supp. 21-5709 is hereby amended to read as
 11 follows: 21-5709. (a) It shall be unlawful for any person to possess
 12 ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal,
 13 iodine, anhydrous ammonia, pressurized ammonia or
 14 phenylpropanolamine, or their salts, isomers or salts of isomers with an
 15 intent to use the product to manufacture a controlled substance.

16 (b) It shall be unlawful for any person to use or possess with intent to
 17 use any drug paraphernalia to:

18 (1) Manufacture, cultivate, plant, propagate, harvest, test, analyze or
 19 distribute a controlled substance; or

20 (2) store, contain, conceal, inject, ingest, inhale or otherwise
 21 introduce a controlled substance into the human body.

22 (c) It shall be unlawful for any person to use or possess with intent to
 23 use anhydrous ammonia or pressurized ammonia in a container not
 24 approved for that chemical by the Kansas department of agriculture.

25 (d) It shall be unlawful for any person to purchase, receive or
 26 otherwise acquire at retail any compound, mixture or preparation
 27 containing more than 3.6 grams of pseudoephedrine base or ephedrine
 28 base in any single transaction or any compound, mixture or preparation
 29 containing more than nine grams of pseudoephedrine base or ephedrine
 30 base within any 30-day period.

31 (e) (1) Violation of subsection (a) is a drug severity level ~~3~~ 4 felony;

32 (2) violation of subsection (b)(1) is a:

33 (A) ~~Drug severity level 5 felony~~ *Class A nonperson misdemeanor*,
 34 except as provided in subsection (e)(2)(B); and

35 (B) ~~class B~~ *C nonperson misdemeanor* if the drug paraphernalia was
 36 used to cultivate fewer than five marijuana plants;

37 (3) violation of subsection (b)(2) is a ~~class B~~ *C nonperson*
 38 *misdemeanor*;

39 (4) violation of subsection (c) is a ~~drug severity level 5 felony~~ *class A*
 40 *nonperson misdemeanor*; and

41 (5) violation of subsection (d) is a ~~class A~~ *B nonperson misdemeanor*.

42 (f) For persons arrested and charged under subsection (a) or (c), bail
 43 shall be at least \$50,000 cash or surety, and such person shall not be

1 released upon the person's own recognizance pursuant to K.S.A. 22-2802,
 2 and amendments thereto, unless the court determines, on the record, that
 3 the defendant is not likely to reoffend, the court imposes pretrial
 4 supervision or the defendant agrees to participate in a licensed or certified
 5 drug treatment program.

6 Sec. 10. K.S.A. 2020 Supp. 21-5710 is hereby amended to read as
 7 follows: 21-5710. (a) It shall be unlawful for any person to advertise,
 8 market, label, distribute or possess with the intent to distribute:

9 (1) Any product containing ephedrine, pseudoephedrine, red
 10 phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia,
 11 pressurized ammonia or phenylpropanolamine or their salts, isomers or
 12 salts of isomers if the person knows or reasonably should know that the
 13 purchaser will use the product to manufacture a controlled substance or
 14 controlled substance analog; or

15 (2) any product containing ephedrine, pseudoephedrine or
 16 phenylpropanolamine, or their salts, isomers or salts of isomers for
 17 indication of stimulation, mental alertness, weight loss, appetite control,
 18 energy or other indications not approved pursuant to the pertinent federal
 19 over-the-counter drug final monograph or tentative final monograph or
 20 approved new drug application.

21 (b) It shall be unlawful for any person to distribute, possess with the
 22 intent to distribute or manufacture with intent to distribute any drug
 23 paraphernalia, knowing or under circumstances where one reasonably
 24 should know that it will be used to manufacture or distribute a controlled
 25 substance or controlled substance analog in violation of K.S.A. 2020 Supp.
 26 21-5701 through 21-5717, and amendments thereto.

27 (c) It shall be unlawful for any person to distribute, possess with
 28 intent to distribute or manufacture with intent to distribute any drug
 29 paraphernalia, knowing or under circumstances where one reasonably
 30 should know, that it will be used as such in violation of K.S.A. 2020 Supp.
 31 21-5701 through 21-5717, and amendments thereto, ~~except subsection (b)~~
 32 ~~of K.S.A. 2020 Supp. 21-5706, and amendments thereto.~~

33 ~~(d) It shall be unlawful for any person to distribute, possess with~~
 34 ~~intent to distribute or manufacture with intent to distribute any drug~~
 35 ~~paraphernalia, knowing, or under circumstances where one reasonably~~
 36 ~~should know, that it will be used as such in violation of subsection (b) of~~
 37 ~~K.S.A. 2020 Supp. 21-5706, and amendments thereto.~~

38 (e) (1) Violation of subsection (a) is a drug severity level-3 4 felony;

39 (2) violation of subsection (b) is a:

40 (A) ~~Drug~~ *Nondrug* severity level-5 10, *nonperson* felony, except as
 41 provided in subsection (e)(2)(B); and

42 (B) drug severity level-4 5 felony if the trier of fact makes a finding
 43 that the offender distributed or caused drug paraphernalia to be distributed

1 to a minor or on or within 1,000 feet of any school property; *and*
 2 (3) violation of subsection (c) is a:
 3 (A) Nondrug severity level—~~9~~ 10, nonperson felony, except as
 4 provided in subsection (e)(3)(B); and
 5 (B) ~~drug~~ nondrug severity level—~~5~~ 9, nonperson felony if the trier of
 6 fact makes a finding that the offender distributed or caused drug
 7 paraphernalia to be distributed to a minor or on or within 1,000 feet of any
 8 school property; ~~and~~

9 ~~(4) violation of subsection (d) is a:~~
 10 ~~(A) Class A nonperson misdemeanor, except as provided in~~
 11 ~~subsection (c)(4)(B); and~~

12 ~~(B) nondrug severity level 9, nonperson felony if the trier of fact~~
 13 ~~makes a finding that the offender distributed or caused drug paraphernalia~~
 14 ~~to be distributed to a minor or on or within 1,000 feet of any school~~
 15 ~~property.~~

16 (f) For persons arrested and charged under subsection (a), bail shall
 17 be at least \$50,000 cash or surety, and such person shall not be released
 18 upon the person's own recognizance pursuant to K.S.A. 22-2802, and
 19 amendments thereto, unless the court determines, on the record, that the
 20 defendant is not likely to re-offend, the court imposes pretrial supervision
 21 or the defendant agrees to participate in a licensed or certified drug
 22 treatment program.

23 (g) As used in this section, "or under circumstances where one
 24 reasonably should know" that an item will be used in violation of this
 25 section, shall include, but not be limited to, the following:

- 26 (1) Actual knowledge from prior experience or statements by
 27 customers;
- 28 (2) inappropriate or impractical design for alleged legitimate use;
- 29 (3) receipt of packaging material, advertising information or other
 30 manufacturer supplied information regarding the item's use as drug
 31 paraphernalia; or
- 32 (4) receipt of a written warning from a law enforcement or
 33 prosecutorial agency having jurisdiction that the item has been previously
 34 determined to have been designed specifically for use as drug
 35 paraphernalia.

36 Sec. 11. K.S.A. 2020 Supp. 21-5713 is hereby amended to read as
 37 follows: 21-5713. (a) It shall be unlawful for any person to distribute,
 38 possess with the intent to distribute, or manufacture with the intent to
 39 distribute any simulated controlled substance.

40 (b) It shall be unlawful for any person to use or possess with intent to
 41 use any simulated controlled substance.

42 (c) (1) Violation of subsection (a) is a:
 43 (A) Nondrug severity level—~~9~~ 10, nonperson felony, except as

1 provided in subsection (c)(1)(B); and

2 (B) nondrug severity level ~~7~~ 8, nonperson felony if the trier of fact
 3 makes a finding that the offender is 18 or more years of age and the
 4 violation occurred on or within 1,000 feet of any school property; and

5 (2) violation of subsection (b) is a class ~~A~~ B nonperson misdemeanor.

6 Sec. 12. K.S.A. 2020 Supp. 21-6303 is hereby amended to read as
 7 follows: 21-6303. (a) Criminal distribution of firearms to a felon is
 8 knowingly:

9 (1) Selling, giving or otherwise transferring any firearm to any person
 10 who, within the preceding five years, has been convicted of a felony, other
 11 than those specified in subsection (c), under the laws of this or any other
 12 jurisdiction or has been released from imprisonment for a felony and was
 13 not found to have been in possession of a firearm at the time of the
 14 commission of the felony;

15 (2) selling, giving or otherwise transferring any firearm to any person
 16 who, within the preceding 10 years, has been convicted of a felony to
 17 which this subsection applies, but was not found to have been in
 18 possession of a firearm at the time of the commission of the felony, or has
 19 been released from imprisonment for such a felony, and has not had the
 20 conviction of such felony expunged or been pardoned for such felony; or

21 (3) selling, giving or otherwise transferring any firearm to any person
 22 who has been convicted of a felony under the laws of this or any other
 23 jurisdiction and was found to have been in possession of a firearm at the
 24 time of the commission of the felony.

25 (b) Criminal distribution of firearms to a felon is a class A nonperson
 26 misdemeanor.

27 (c) Subsection (a)(2) shall apply to a felony under K.S.A. 2020 Supp.
 28 21-5402, 21-5403, 21-5404, 21-5405, 21-5408, ~~subsection (b) or (d) of 21-~~
 29 ~~5412(b) or (d), subsection (b) or (d) of 21-5413(b) or (d), subsection (a) or~~
 30 ~~(b) of 21-5415(a) or (b), subsection (b) of 21-5420(b), 21-5503, subsection~~
 31 ~~(b) of 21-5504(b), subsection (b) of 21-5505(b), and subsection (b) of 21-~~
 32 ~~5807, and amendments thereto, K.S.A. 2020 Supp. (b) or 21-5705 or 21-~~
 33 ~~5706, and amendments thereto, or K.S.A. 21-3401, 21-3402, 21-3403, 21-~~
 34 ~~3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421,~~
 35 ~~21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a, 65-~~
 36 ~~4127b or 65-4160 through 65-4165, prior to their repeal, or a crime under~~
 37 ~~a law of another jurisdiction which is substantially the same as such~~
 38 ~~felony.~~

39 (d) It is not a defense that the distributor did not know or have reason
 40 to know:

41 (1) The precise felony the recipient committed;

42 (2) that the recipient was in possession of a firearm at the time of the
 43 commission of the recipient's prior felony; or

1 (3) that the convictions for such felony have not been expunged or
2 pardoned.

3 Sec. 13. K.S.A. 2020 Supp. 21-6604 is hereby amended to read as
4 follows: 21-6604. (a) Whenever any person has been found guilty of a
5 crime, the court may adjudge any of the following:

6 (1) Commit the defendant to the custody of the secretary of
7 corrections if the current crime of conviction is a felony and the sentence
8 presumes imprisonment, or the sentence imposed is a dispositional
9 departure to imprisonment; or, if confinement is for a misdemeanor, to jail
10 for the term provided by law;

11 (2) impose the fine applicable to the offense and may impose the
12 provisions of subsection (q);

13 (3) release the defendant on probation if the current crime of
14 conviction and criminal history fall within a presumptive nonprison
15 category or through a departure for substantial and compelling reasons
16 subject to such conditions as the court may deem appropriate. In felony
17 cases except for violations of K.S.A. 8-1567 or 8-2,144, and amendments
18 thereto, the court may include confinement in a county jail not to exceed
19 60 days, which need not be served consecutively, as a condition of an
20 original probation sentence;

21 (4) assign the defendant to a community correctional services
22 program as provided in K.S.A. 75-5291, and amendments thereto, or
23 through a departure for substantial and compelling reasons subject to such
24 conditions as the court may deem appropriate, including orders requiring
25 full or partial restitution;

26 (5) assign the defendant to a conservation camp for a period not to
27 exceed six months as a condition of probation followed by a six-month
28 period of follow-up through adult intensive supervision by a community
29 correctional services program, if the offender successfully completes the
30 conservation camp program;

31 (6) assign the defendant to a house arrest program pursuant to K.S.A.
32 2020 Supp. 21-6609, and amendments thereto;

33 (7) order the defendant to attend and satisfactorily complete an
34 alcohol or drug education or training program as provided by K.S.A. 2020
35 Supp. 21-6602(c), and amendments thereto;

36 (8) order the defendant to repay the amount of any reward paid by
37 any crime stoppers chapter, individual, corporation or public entity that
38 materially aided in the apprehension or conviction of the defendant; repay
39 the amount of any costs and expenses incurred by any law enforcement
40 agency in the apprehension of the defendant, if one of the current crimes
41 of conviction of the defendant includes escape from custody or aggravated
42 escape from custody, as defined in K.S.A. 2020 Supp. 21-5911, and
43 amendments thereto; repay expenses incurred by a fire district, fire

1 department or fire company responding to a fire that has been determined
2 to be arson or aggravated arson as defined in K.S.A. 2020 Supp. 21-5812,
3 and amendments thereto, if the defendant is convicted of such crime; repay
4 the amount of any public funds utilized by a law enforcement agency to
5 purchase controlled substances from the defendant during the investigation
6 that leads to the defendant's conviction; or repay the amount of any
7 medical costs and expenses incurred by any law enforcement agency or
8 county. Such repayment of the amount of any such costs and expenses
9 incurred by a county, law enforcement agency, fire district, fire department
10 or fire company or any public funds utilized by a law enforcement agency
11 shall be deposited and credited to the same fund from which the public
12 funds were credited to prior to use by the county, law enforcement agency,
13 fire district, fire department or fire company;

14 (9) order the defendant to pay the administrative fee authorized by
15 K.S.A. 22-4529, and amendments thereto, unless waived by the court;

16 (10) order the defendant to pay a domestic violence special program
17 fee authorized by K.S.A. 20-369, and amendments thereto;

18 (11) if the defendant is convicted of a misdemeanor or convicted of a
19 felony specified in K.S.A. 2020 Supp. 21-6804(i), and amendments
20 thereto, assign the defendant to work release program, other than a
21 program at a correctional institution under the control of the secretary of
22 corrections as defined in K.S.A. 75-5202, and amendments thereto,
23 provided such work release program requires such defendant to return to
24 confinement at the end of each day in the work release program. On a
25 second or subsequent conviction of K.S.A. 8-1567, and amendments
26 thereto, an offender placed into a work release program shall serve the
27 total number of hours of confinement mandated by that section;

28 (12) order the defendant to pay the full amount of unpaid costs
29 associated with the conditions of release of the appearance bond under
30 K.S.A. 22-2802, and amendments thereto;

31 (13) impose any appropriate combination of (1), (2), (3), (4), (5), (6),
32 (7), (8), (9), (10), (11) and (12); or

33 (14) suspend imposition of sentence in misdemeanor cases.

34 (b) (1) In addition to or in lieu of any of the above, the court shall
35 order the defendant to pay restitution, which shall include, but not be
36 limited to, damage or loss caused by the defendant's crime. Restitution
37 shall be due immediately unless: (A) The court orders that the defendant
38 be given a specified time to pay or be allowed to pay in specified
39 installments; or (B) the court finds compelling circumstances that would
40 render restitution unworkable, either in whole or in part. In regard to a
41 violation of K.S.A. 2020 Supp. 21-6107, and amendments thereto, such
42 damage or loss shall include, but not be limited to, attorney fees and costs
43 incurred to repair the credit history or rating of the person whose personal

1 identification documents were obtained and used in violation of such
2 section, and to satisfy a debt, lien or other obligation incurred by the
3 person whose personal identification documents were obtained and used in
4 violation of such section. In regard to a violation of K.S.A. 2020 Supp. 21-
5 5801, 21-5807 or 21-5813, and amendments thereto, such damage or loss
6 shall include the cost of repair or replacement of the property that was
7 damaged, the reasonable cost of any loss of production, crops and
8 livestock, reasonable labor costs of any kind, reasonable material costs of
9 any kind and any reasonable costs that are attributed to equipment that is
10 used to abate or repair the damage to the property. If the court finds
11 restitution unworkable, either in whole or in part, the court shall state on
12 the record in detail the reasons therefor.

13 (2) If the court orders restitution, the restitution shall be a judgment
14 against the defendant that may be collected by the court by garnishment or
15 other execution as on judgments in civil cases. If, after 60 days from the
16 date restitution is ordered by the court, a defendant is found to be in
17 noncompliance with the restitution order, and the victim to whom
18 restitution is ordered paid has not initiated proceedings in accordance with
19 K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an
20 agent procured by the judicial administrator pursuant to K.S.A. 20-169,
21 and amendments thereto, to collect the restitution on behalf of the victim.
22 The chief judge of each judicial district may assign such cases to an
23 appropriate division of the court for the conduct of civil collection
24 proceedings.

25 (3) If a restitution order entered prior to the effective date of this act
26 does not give the defendant a specified time to pay or set payment in
27 specified installments, the defendant may file a motion with the court prior
28 to December 31, 2020, proposing payment of restitution in specified
29 installments. The court may recall the restitution order from the agent
30 assigned pursuant to K.S.A. 20-169, and amendments thereto, until the
31 court rules on such motion. If the court does not order payment in
32 specified installments or if the defendant does not file a motion prior to
33 December 31, 2020, the restitution shall be due immediately.

34 (c) In addition to or in lieu of any of the above, the court shall order
35 the defendant to submit to and complete an alcohol and drug evaluation,
36 and pay a fee therefor, when required by K.S.A. 2020 Supp. 21-6602(d),
37 and amendments thereto.

38 (d) In addition to any of the above, the court shall order the defendant
39 to reimburse the county general fund for all or a part of the expenditures
40 by the county to provide counsel and other defense services to the
41 defendant. Any such reimbursement to the county shall be paid only after
42 any order for restitution has been paid in full. In determining the amount
43 and method of payment of such sum, the court shall take account of the

1 financial resources of the defendant and the nature of the burden that
2 payment of such sum will impose. A defendant who has been required to
3 pay such sum and who is not willfully in default in the payment thereof
4 may at any time petition the court that sentenced the defendant to waive
5 payment of such sum or any unpaid portion thereof. If it appears to the
6 satisfaction of the court that payment of the amount due will impose
7 manifest hardship on the defendant or the defendant's immediate family,
8 the court may waive payment of all or part of the amount due or modify
9 the method of payment.

10 (e) In releasing a defendant on probation, the court shall direct that
11 the defendant be under the supervision of a court services officer. If the
12 court commits the defendant to the custody of the secretary of corrections
13 or to jail, the court may specify in its order the amount of restitution to be
14 paid and the person to whom it shall be paid if restitution is later ordered
15 as a condition of parole, conditional release or postrelease supervision.

16 (f) (1) When a new felony is committed while the offender is
17 incarcerated and serving a sentence for a felony, or while the offender is on
18 probation, assignment to a community correctional services program,
19 parole, conditional release or postrelease supervision for a felony, a new
20 sentence shall be imposed consecutively pursuant to the provisions of
21 K.S.A. 2020 Supp. 21-6606, and amendments thereto, and the court may
22 sentence the offender to imprisonment for the new conviction, even when
23 the new crime of conviction otherwise presumes a nonprison sentence. In
24 this event, imposition of a prison sentence for the new crime does not
25 constitute a departure.

26 (2) When a new felony is committed during a period of time when the
27 defendant would have been on probation, assignment to a community
28 correctional services program, parole, conditional release or postrelease
29 supervision for a felony had the defendant not been granted release by the
30 court pursuant to K.S.A. 2020 Supp. 21-6608(d), and amendments thereto,
31 or the prisoner review board pursuant to K.S.A. 22-3717, and amendments
32 thereto, the court may sentence the offender to imprisonment for the new
33 conviction, even when the new crime of conviction otherwise presumes a
34 nonprison sentence. In this event, imposition of a prison sentence for the
35 new crime does not constitute a departure.

36 (3) When a new felony is committed while the offender is
37 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671,
38 prior to its repeal, or K.S.A. 2020 Supp. 38-2373, and amendments
39 thereto, for an offense, which if committed by an adult would constitute
40 the commission of a felony, upon conviction, the court shall sentence the
41 offender to imprisonment for the new conviction, even when the new
42 crime of conviction otherwise presumes a nonprison sentence. In this
43 event, imposition of a prison sentence for the new crime does not

1 constitute a departure. The conviction shall operate as a full and complete
2 discharge from any obligations, except for an order of restitution, imposed
3 on the offender arising from the offense for which the offender was
4 committed to a juvenile correctional facility.

5 (4) When a new felony is committed while the offender is on release
6 for a felony pursuant to the provisions of article 28 of chapter 22 of the
7 Kansas Statutes Annotated, and amendments thereto, or similar provisions
8 of the laws of another jurisdiction, a new sentence may be imposed
9 consecutively pursuant to the provisions of K.S.A. 2020 Supp. 21-6606,
10 and amendments thereto, and the court may sentence the offender to
11 imprisonment for the new conviction, even when the new crime of
12 conviction otherwise presumes a nonprison sentence. In this event,
13 imposition of a prison sentence for the new crime does not constitute a
14 departure.

15 (g) Prior to imposing a dispositional departure for a defendant whose
16 offense is classified in the presumptive nonprison grid block of either
17 sentencing guideline grid, prior to sentencing a defendant to incarceration
18 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing
19 guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I
20 of the sentencing guidelines grid for drug crimes committed prior to July
21 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing
22 guidelines grid for drug crimes committed on or after July 1, 2012, prior to
23 sentencing a defendant to incarceration whose offense is classified in grid
24 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
25 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F
26 of the sentencing guidelines grid for drug crimes committed on or after July
27 1, 2012, and whose offense does not meet the requirements of K.S.A. 2020
28 Supp. 21-6824, and amendments thereto, prior to revocation of a
29 nonprison sanction of a defendant whose offense is classified in grid
30 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
31 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F
32 of the sentencing guidelines grid for drug crimes committed on or after July
33 1, 2012, and whose offense does not meet the requirements of K.S.A. 2020
34 Supp. 21-6824, and amendments thereto, or prior to revocation of a
35 nonprison sanction of a defendant whose offense is classified in the
36 presumptive nonprison grid block of either sentencing guideline grid or
37 grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug
38 crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing
39 guidelines grid for drug crimes committed prior to July 1, 2012, or in grid
40 blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug
41 crimes committed on or after July 1, 2012, the court shall consider
42 placement of the defendant in the Labette correctional conservation camp,
43 conservation camps established by the secretary of corrections pursuant to

1 K.S.A. 75-52,127, and amendments thereto, or a community intermediate
2 sanction center. Pursuant to this subsection the defendant shall not be
3 sentenced to imprisonment if space is available in a conservation camp or
4 community intermediate sanction center and the defendant meets all of the
5 conservation camp's or community intermediate sanction center's
6 placement criteria unless the court states on the record the reasons for not
7 placing the defendant in a conservation camp or community intermediate
8 sanction center.

9 (h) In committing a defendant to the custody of the secretary of
10 corrections, the court shall fix a term of confinement within the limits
11 provided by law. In those cases where the law does not fix a term of
12 confinement for the crime for which the defendant was convicted, the
13 court shall fix the term of such confinement.

14 (i) In addition to any of the above, the court shall order the defendant
15 to reimburse the state general fund for all or part of the expenditures by the
16 state board of indigents' defense services to provide counsel and other
17 defense services to the defendant. In determining the amount and method
18 of payment of such sum, the court shall take account of the financial
19 resources of the defendant and the nature of the burden that payment of
20 such sum will impose. A defendant who has been required to pay such sum
21 and who is not willfully in default in the payment thereof may at any time
22 petition the court that sentenced the defendant to waive payment of such
23 sum or any unpaid portion thereof. If it appears to the satisfaction of the
24 court that payment of the amount due will impose manifest hardship on the
25 defendant or the defendant's immediate family, the court may waive
26 payment of all or part of the amount due or modify the method of
27 payment. The amount of attorney fees to be included in the court order for
28 reimbursement shall be the amount claimed by appointed counsel on the
29 payment voucher for indigents' defense services or the amount prescribed
30 by the board of indigents' defense services reimbursement tables as
31 provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

32 (j) This section shall not deprive the court of any authority conferred
33 by any other Kansas statute to decree a forfeiture of property, suspend or
34 cancel a license, remove a person from office or impose any other civil
35 penalty as a result of conviction of crime.

36 (k) An application for or acceptance of probation or assignment to a
37 community correctional services program shall not constitute an
38 acquiescence in the judgment for purpose of appeal, and any convicted
39 person may appeal from such conviction, as provided by law, without
40 regard to whether such person has applied for probation, suspended
41 sentence or assignment to a community correctional services program.

42 (l) The secretary of corrections is authorized to make direct
43 placement to the Labette correctional conservation camp or a conservation

1 camp established by the secretary pursuant to K.S.A. 75-52,127, and
2 amendments thereto, of an inmate sentenced to the secretary's custody if
3 the inmate:

4 (1) Has been sentenced to the secretary for a probation revocation, as
5 a departure from the presumptive nonimprisonment grid block of either
6 sentencing grid, for an offense that is classified in grid blocks 5-H, 5-I or
7 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-
8 E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes
9 committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of
10 the sentencing guidelines grid for drug crimes committed on or after July
11 1, 2012, or for an offense that is classified in grid blocks 4-E or 4-F of the
12 sentencing guidelines grid for drug crimes committed prior to July 1, 2012,
13 or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for
14 drug crimes committed on or after July 1, 2012, and such offense does not
15 meet the requirements of K.S.A. 2020 Supp. 21-6824, and amendments
16 thereto; and

17 (2) otherwise meets admission criteria of the camp.

18 If the inmate successfully completes a conservation camp program, the
19 secretary of corrections shall report such completion to the sentencing
20 court and the county or district attorney. The inmate shall then be assigned
21 by the court to six months of follow-up supervision conducted by the
22 appropriate community corrections services program. The court may also
23 order that supervision continue thereafter for the length of time authorized
24 by K.S.A. 2020 Supp. 21-6608, and amendments thereto.

25 (m) When it is provided by law that a person shall be sentenced
26 pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions
27 of this section shall not apply.

28 (n) (1) Except as provided by K.S.A. 2020 Supp. 21-6630 and 21-
29 6805(f), and amendments thereto, in addition to any of the above, for
30 felony violations of K.S.A. 2020 Supp. 21-5706, and amendments thereto,
31 the court shall require the defendant who meets the requirements
32 established in K.S.A. 2020 Supp. 21-6824, and amendments thereto, to
33 participate in a certified drug abuse treatment program, as provided in
34 K.S.A. 75-52,144, and amendments thereto, including, but not limited to,
35 an approved after-care plan. The amount of time spent participating in
36 such program shall not be credited as service on the underlying prison
37 sentence.

38 (2) If the defendant fails to participate in or has a pattern of
39 intentional conduct that demonstrates the defendant's refusal to comply
40 with or participate in the treatment program, as established by judicial
41 finding, the defendant shall be subject to sanction or revocation pursuant
42 to the provisions of K.S.A. 22-3716, and amendments thereto. If the
43 defendant's probation is revoked, the defendant shall serve the underlying

1 prison sentence as established in K.S.A. 2020 Supp. 21-6805, and
2 amendments thereto.

3 (A) Except as provided in subsection (n)(2)(B), for those offenders
4 who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon
5 completion of the underlying prison sentence, the offender shall not be
6 subject to a period of postrelease supervision.

7 (B) Offenders whose crime of conviction was committed on or after
8 July 1, 2013, and whose probation is revoked pursuant to K.S.A. 22-
9 3716(c), and amendments thereto, or whose underlying prison term expires
10 while serving a sanction pursuant to K.S.A. 22-3716(c)(1), and
11 amendments thereto, shall serve a period of postrelease supervision upon
12 the completion of the underlying prison term.

13 ~~(o) (1) Except as provided in paragraph (3), in addition to any other~~
14 ~~penalty or disposition imposed by law, upon a conviction for unlawful~~
15 ~~possession of a controlled substance or controlled substance analog in~~
16 ~~violation of K.S.A. 2020 Supp. 21-5706, and amendments thereto, in~~
17 ~~which the trier of fact makes a finding that the unlawful possession~~
18 ~~occurred while transporting the controlled substance or controlled~~
19 ~~substance analog in any vehicle upon a highway or street, the offender's~~
20 ~~driver's license or privilege to operate a motor vehicle on the streets and~~
21 ~~highways of this state shall be suspended for one year.~~

22 ~~(2) Upon suspension of a license pursuant to this subsection, the court~~
23 ~~shall require the person to surrender the license to the court, which shall~~
24 ~~transmit the license to the division of motor vehicles of the department of~~
25 ~~revenue, to be retained until the period of suspension expires. At that time,~~
26 ~~the licensee may apply to the division for return of the license. If the~~
27 ~~license has expired, the person may apply for a new license, which shall be~~
28 ~~issued promptly upon payment of the proper fee and satisfaction of other~~
29 ~~conditions established by law for obtaining a license unless another~~
30 ~~suspension or revocation of the person's privilege to operate a motor~~
31 ~~vehicle is in effect.~~

32 ~~(3) (A) In lieu of suspending the driver's license or privilege to~~
33 ~~operate a motor vehicle on the highways of this state of any person as~~
34 ~~provided in paragraph (1), the judge of the court in which such person was~~
35 ~~convicted may enter an order that places conditions on such person's~~
36 ~~privilege of operating a motor vehicle on the highways of this state, a~~
37 ~~certified copy of which such person shall be required to carry any time~~
38 ~~such person is operating a motor vehicle on the highways of this state. Any~~
39 ~~such order shall prescribe the duration of the conditions imposed, which in~~
40 ~~no event shall be for a period of more than one year.~~

41 ~~(B) Upon entering an order restricting a person's license hereunder,~~
42 ~~the judge shall require such person to surrender such person's driver's~~
43 ~~license to the judge who shall cause it to be transmitted to the division of~~

1 vehicles, together with a copy of the order. Upon receipt thereof, the
2 division of vehicles shall issue without charge a driver's license, which
3 shall indicate on its face that conditions have been imposed on such
4 person's privilege of operating a motor vehicle and that a certified copy of
5 the order imposing such conditions is required to be carried by the person
6 for whom the license was issued any time such person is operating a motor
7 vehicle on the highways of this state. If the person convicted is a
8 nonresident, the judge shall cause a copy of the order to be transmitted to
9 the division and the division shall forward a copy of it to the motor vehicle
10 administrator of such person's state of residence. Such judge shall furnish
11 to any person whose driver's license has had conditions imposed on it
12 under this paragraph a copy of the order, which shall be recognized as a
13 valid Kansas driver's license until such time as the division shall issue the
14 restricted license provided for in this paragraph.

15 (C) Upon expiration of the period of time for which conditions are
16 imposed pursuant to this subsection, the licensee may apply to the division
17 for the return of the license previously surrendered by such licensee. In the
18 event such license has expired, such person may apply to the division for a
19 new license, which shall be issued immediately by the division upon
20 payment of the proper fee and satisfaction of the other conditions
21 established by law, unless such person's privilege to operate a motor
22 vehicle on the highways of this state has been suspended or revoked prior
23 thereto. If any person shall violate any of the conditions imposed under
24 this paragraph, such person's driver's license or privilege to operate a
25 motor vehicle on the highways of this state shall be revoked for a period of
26 not less than 60 days nor more than one year by the judge of the court in
27 which such person is convicted of violating such conditions.

28 (4) As used in this subsection, "highway" and "street" mean the same
29 as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

30 (⊕) In addition to any of the above, for any criminal offense that
31 includes the domestic violence designation pursuant to K.S.A. 2020 Supp.
32 22-4616, and amendments thereto, the court shall require the defendant to:
33 (1) Undergo a domestic violence offender assessment conducted by a
34 certified batterer intervention program; and (2) follow all
35 recommendations made by such program, unless otherwise ordered by the
36 court or the department of corrections. The court may order a domestic
37 violence offender assessment and any other evaluation prior to sentencing
38 if the assessment or evaluation would assist the court in determining an
39 appropriate sentence. The entity completing the assessment or evaluation
40 shall provide the assessment or evaluation and recommendations to the
41 court and the court shall provide the domestic violence offender
42 assessment to any entity responsible for supervising such defendant. A
43 defendant ordered to undergo a domestic violence offender assessment

1 shall be required to pay for the assessment and, unless otherwise ordered
2 by the court or the department of corrections, for completion of all
3 recommendations.

4 ~~(q)~~(p) In imposing a fine, the court may authorize the payment
5 thereof in installments. In lieu of payment of any fine imposed, the court
6 may order that the person perform community service specified by the
7 court. The person shall receive a credit on the fine imposed in an amount
8 equal to \$5 for each full hour spent by the person in the specified
9 community service. The community service ordered by the court shall be
10 required to be performed by the later of one year after the fine is imposed
11 or one year after release from imprisonment or jail, or by an earlier date
12 specified by the court. If by the required date the person performs an
13 insufficient amount of community service to reduce to zero the portion of
14 the fine required to be paid by the person, the remaining balance shall
15 become due on that date. If conditional reduction of any fine is rescinded
16 by the court for any reason, then pursuant to the court's order the person
17 may be ordered to perform community service by one year after the date of
18 such rescission or by an earlier date specified by the court. If by the
19 required date the person performs an insufficient amount of community
20 service to reduce to zero the portion of the fine required to be paid by the
21 person, the remaining balance of the fine shall become due on that date.
22 All credits for community service shall be subject to review and approval
23 by the court.

24 ~~(r)~~(q) In addition to any other penalty or disposition imposed by law,
25 for any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643,
26 prior to its repeal, or K.S.A. 2020 Supp. 21-6627, and amendments
27 thereto, for crimes committed on or after July 1, 2006, the court shall order
28 that the defendant be electronically monitored upon release from
29 imprisonment for the duration of the defendant's natural life and that the
30 defendant shall reimburse the state for all or part of the cost of such
31 monitoring as determined by the prisoner review board.

32 ~~(s)~~(r) Whenever the court has released the defendant on probation
33 pursuant to subsection (a)(3), the defendant's supervising court services
34 officer, with the concurrence of the chief court services officer, may
35 impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B),
36 and amendments thereto, without further order of the court, unless the
37 defendant, after being apprised of the right to a revocation hearing before
38 the court pursuant to K.S.A. 22-3716(b), and amendments thereto, refuses
39 to waive such right.

40 ~~(t)~~(s) Whenever the court has assigned the defendant to a community
41 correctional services program pursuant to subsection (a)(4), the defendant's
42 community corrections officer, with the concurrence of the community
43 corrections director, may impose the violation sanctions as provided in

1 K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order
2 of the court unless the defendant, after being apprised of the right to a
3 revocation hearing before the court pursuant to K.S.A. 22-3716(b), and
4 amendments thereto, refuses to waive such right.

5 ~~(t)~~(t) In addition to any of the above, the court shall authorize an
6 additional 18 days of confinement in a county jail to be reserved for
7 sanctions as set forth in K.S.A. 22-3716(b)(3)(B), (b)(4) or (c)(1)(B), and
8 amendments thereto.

9 ~~(u)~~(u) The amendments made to this section by this act are procedural
10 in nature and shall be construed and applied retroactively.

11 Sec. 14. K.S.A. 2020 Supp. 21-6805 is hereby amended to read as
12 follows: 21-6805. (a) The provisions of this section shall be applicable to
13 the sentencing guidelines grid for drug crimes. The following sentencing
14 guidelines grid for drug crimes shall be applicable to felony crimes under
15 K.S.A. 2020 Supp. 21-5701 through 21-5717, and amendments thereto,
16 except as otherwise provided by law:

SENTENCING RANGE - DRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	144 136 130	137 130 122	130 123 117	124 117 111	116 111 105	113 108 101	110 104 99	108 100 96	103 98 92
III	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
IV	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	28 26 24	24 22 20	21 19 17	18 15 14
V	42 40 37	36 34 32	32 30 28	28 26 24	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

LEGEND
Presumptive Probation
30-36-37
Presumptive Imprisonment

1 (b) Sentences expressed in the sentencing guidelines grid for drug
2 crimes in subsection (a) represent months of imprisonment.

3 (c) (1) The sentencing court has discretion to sentence at any place
4 within the sentencing range. In the usual case it is recommended that the
5 sentencing judge select the center of the range and reserve the upper and
6 lower limits for aggravating and mitigating factors insufficient to warrant a
7 departure. The sentencing court shall not distinguish between the
8 controlled substances cocaine base (9041L000) and cocaine hydrochloride
9 (9041L005) when sentencing within the sentencing range of the grid
10 block.

11 (2) In presumptive imprisonment cases, the sentencing court shall
12 pronounce the complete sentence which shall include the:

13 (A) Prison sentence;

14 (B) maximum potential reduction to such sentence as a result of good
15 time; and

16 (C) period of postrelease supervision at the sentencing hearing.
17 Failure to pronounce the period of postrelease supervision shall not negate
18 the existence of such period of postrelease supervision.

19 (3) In presumptive nonprison cases, the sentencing court shall
20 pronounce the prison sentence as well as the duration of the nonprison
21 sanction at the sentencing hearing.

22 (d) Each grid block states the presumptive sentencing range for an
23 offender whose crime of conviction and criminal history place such
24 offender in that grid block. If an offense is classified in a grid block below
25 the dispositional line, the presumptive disposition shall be
26 nonimprisonment. If an offense is classified in a grid block above the
27 dispositional line, the presumptive disposition shall be imprisonment. If an
28 offense is classified in grid blocks 4-E, 4-F, 4-G, 4-H, 4-I, 5-C or 5-D, the
29 court may impose an optional nonprison sentence as provided in
30 subsection (q) of K.S.A. 2020 Supp. 21-6804(q), and amendments thereto.

31 (e) The sentence for a second or subsequent conviction for unlawful
32 manufacturing of a controlled substance, K.S.A. 65-4159, prior to its
33 repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, K.S.A. 2020
34 Supp. 21-5703, and amendments thereto, or a substantially similar offense
35 from another jurisdiction, if the controlled substance in any prior
36 conviction was methamphetamine, as defined by ~~subsection (d)(3) or (f)(1)~~
37 of K.S.A. 65-4107(d)(3) or (f)(1), and amendments thereto, or an analog
38 thereof, shall be a presumptive term of imprisonment of two times the
39 maximum duration of the presumptive term of imprisonment. The court
40 may impose an optional reduction in such sentence of not to exceed 50%
41 of the mandatory increase provided by this subsection upon making a
42 finding on the record that one or more of the mitigating factors as specified
43 in K.S.A. 2020 Supp. 21-6815, and amendments thereto, justify such a

1 reduction in sentence. Any decision made by the court regarding the
2 reduction in such sentence shall not be considered a departure and shall
3 not be subject to appeal.

4 ~~(f) (1) The sentence for a third or subsequent felony conviction of~~
5 ~~K.S.A. 65-4160 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-~~
6 ~~36a06, prior to its transfer, or K.S.A. 2020 Supp. 21-5706, and~~
7 ~~amendments thereto, shall be a presumptive term of imprisonment and the~~
8 ~~defendant shall be sentenced to prison as provided by this section. The~~
9 ~~defendant's term of imprisonment shall be served in the custody of the~~
10 ~~secretary of corrections in a facility designated by the secretary. Subject to~~
11 ~~appropriations therefore, the defendant shall participate in an intensive~~
12 ~~substance abuse treatment program, of at least four months duration,~~
13 ~~selected by the secretary of corrections. If the secretary determines that~~
14 ~~substance abuse treatment resources are otherwise available, such term of~~
15 ~~imprisonment may be served in a facility designated by the secretary of~~
16 ~~corrections in the custody of the secretary of corrections to participate in~~
17 ~~an intensive substance abuse treatment program. The secretary's~~
18 ~~determination regarding the availability of treatment resources shall not be~~
19 ~~subject to review. Upon the successful completion of such intensive~~
20 ~~treatment program, the offender shall be returned to the court and the court~~
21 ~~may modify the sentence by directing that a less severe penalty be~~
22 ~~imposed in lieu of that originally adjudged. If the offender's term of~~
23 ~~imprisonment expires, the offender shall be placed under the applicable~~
24 ~~period of postrelease supervision.~~

25 ~~(2) Such defendant's term of imprisonment shall not be subject to~~
26 ~~modification under paragraph (1) if:~~

27 ~~(A) The defendant has previously completed a certified drug abuse~~
28 ~~treatment program, as provided in K.S.A. 75-52,144, and amendments~~
29 ~~thereto;~~

30 ~~(B) has been discharged or refused to participate in a certified drug~~
31 ~~abuse treatment program, as provided in K.S.A. 75-52,144, and~~
32 ~~amendments thereto;~~

33 ~~(C) has completed an intensive substance abuse treatment program~~
34 ~~under paragraph (1); or~~

35 ~~(D) has been discharged or refused to participate in an intensive~~
36 ~~substance abuse treatment program under paragraph (1).~~

37 ~~The sentence under this subsection shall not be considered a departure~~
38 ~~and shall not be subject to appeal.~~

39 ~~(g) (1) Except as provided further, if the trier of fact makes a finding~~
40 ~~that an offender carried a firearm to commit a drug felony, or in~~
41 ~~furtherance of a drug felony, possessed a firearm, in addition to the~~
42 ~~sentence imposed pursuant to K.S.A. 2020 Supp. 21-6801 through 21-~~
43 ~~6824, and amendments thereto, the offender shall be sentenced to:~~

1 (A) Except as provided in subsection (g)(1)(B), an additional 6
2 months' imprisonment; and

3 (B) if the trier of fact makes a finding that the firearm was
4 discharged, an additional 18 months' imprisonment.

5 (2) The sentence imposed pursuant to subsection (g)(1) shall be
6 presumptive imprisonment. Such sentence shall not be considered a
7 departure and shall not be subject to appeal.

8 (3) The provisions of this subsection shall not apply to violations of
9 K.S.A. 2020 Supp. ~~21-5706~~ or 21-5713, and amendments thereto.

10 Sec. 15. K.S.A. 2020 Supp. 21-6812 is hereby amended to read as
11 follows: 21-6812. The prosecutor and the attorney for the defendant, or
12 the defendant when acting pro se, may engage in discussions with a view
13 toward reaching an agreement that, upon the entering of a plea to a
14 charged offense or to a lesser or related offense, the prosecutor may do any
15 of the following:

16 (a) Move for dismissal of other charges or counts;

17 (b) recommend a particular sentence within the sentencing range
18 applicable to the offense or to the offense to which the offender pled
19 guilty;

20 (c) recommend a particular sentence outside of the sentencing range
21 only when departure factors exist and such factors are stated on the record;

22 (d) agree to file a particular charge or count;

23 (e) agree not to file charges or counts; or

24 (f) make any other promise to the defendant, except that the
25 prosecutor shall not enter into any agreement to decline to use a prior drug
26 conviction of the defendant to elevate or enhance the severity level of a
27 drug crime as provided in K.S.A. 2020 Supp. 21-5703; *or* 21-5705 ~~or 21-~~
28 ~~5706~~, and amendments thereto, or make any agreement to exclude any
29 prior conviction from the criminal history of the defendant.

30 Sec. 16. K.S.A. 2020 Supp. 21-6813 is hereby amended to read as
31 follows: 21-6813. (a) The court shall order the preparation of the
32 presentence investigation report by the court services officer as soon as
33 possible after conviction of the defendant.

34 (b) Each presentence investigation report prepared for an offender to
35 be sentenced for one or more felonies committed on or after July 1, 1993,
36 shall be limited to the following information:

37 (1) A summary of the factual circumstances of the crime or crimes of
38 conviction.

39 (2) If the defendant desires to do so, a summary of the defendant's
40 version of the crime.

41 (3) When there is an identifiable victim, a victim report. The person
42 preparing the victim report shall submit the report to the victim and
43 request that the information be returned to be submitted as a part of the

1 presentence investigation. To the extent possible, the report shall include a
2 complete listing of restitution for damages suffered by the victim.

3 (4) An appropriate classification of each crime of conviction on the
4 crime severity scale.

5 (5) A listing of prior adult convictions or juvenile adjudications for
6 felony or misdemeanor crimes or violations of county resolutions or city
7 ordinances comparable to any misdemeanor defined by state law. Such
8 listing shall include an assessment of the appropriate classification of the
9 criminal history on the criminal history scale and the source of information
10 regarding each listed prior conviction and any available source of journal
11 entries or other documents through which the listed convictions may be
12 verified. If any such journal entries or other documents are obtained by the
13 court services officer, they shall be attached to the presentence
14 investigation report. Any prior criminal history worksheets of the
15 defendant shall also be attached.

16 (6) A proposed grid block classification for each crime, or crimes of
17 conviction and the presumptive sentence for each crime, or crimes of
18 conviction.

19 (7) If the proposed grid block classification is a grid block that
20 presumes imprisonment, the presumptive prison term range and the
21 presumptive duration of postprison supervision as it relates to the crime
22 severity scale.

23 (8) If the proposed grid block classification does not presume prison,
24 the presumptive prison term range and the presumptive duration of the
25 nonprison sanction as it relates to the crime severity scale and the court
26 services officer's professional assessment as to recommendations for
27 conditions to be mandated as part of the nonprison sanction.

28 ~~(9) For defendants who are being sentenced for a conviction of a~~
29 ~~felony violation of K.S.A. 65-4160 or 65-4162, prior to their repeal, or~~
30 ~~K.S.A. 2020 Supp. 21-5706, and amendments thereto, and meet the~~
31 ~~requirements of K.S.A. 2020 Supp. 21-6824, and amendments thereto, the~~
32 ~~drug abuse assessment as provided in K.S.A. 2020 Supp. 21-6824, and~~
33 ~~amendments thereto.~~

34 ~~(10) For defendants who are being sentenced for a third or subsequent~~
35 ~~felony conviction of a violation of K.S.A. 65-4160 or 65-4162, prior to~~
36 ~~their repeal, or K.S.A. 2020 Supp. 21-5706, and amendments thereto, the~~
37 ~~drug abuse assessment as provided in K.S.A. 2020 Supp. 21-6824, and~~
38 ~~amendments thereto.~~

39 (c) The presentence investigation report will become part of the court
40 record and shall be accessible to the public, except that the official version,
41 defendant's version and the victim's statement, any psychological reports,
42 risk and needs assessments and drug and alcohol reports and assessments
43 shall be accessible only to: The parties; the sentencing judge; the

1 department of corrections; community correctional services; any entity
2 required to receive the information under the interstate compact for adult
3 offender supervision; and, if requested, the Kansas sentencing
4 commission. If the offender is committed to the custody of the secretary of
5 corrections, the report shall be sent to the secretary and, in accordance
6 with K.S.A. 75-5220, and amendments thereto, to the warden of the state
7 correctional institution to which the defendant is conveyed.

8 (d) The criminal history worksheet will not substitute as a
9 presentence investigation report.

10 (e) The presentence investigation report will not include optional
11 report components, which would be subject to the discretion of the
12 sentencing court in each district except for psychological reports and drug
13 and alcohol reports.

14 (f) Except as provided in K.S.A. 2020 Supp. 21-6814, and
15 amendments thereto, the court may take judicial notice in a subsequent
16 felony proceeding of an earlier presentence investigation report criminal
17 history worksheet prepared for a prior sentencing of the defendant for a
18 felony committed on or after July 1, 1993.

19 (g) All presentence investigation reports in any case in which the
20 defendant has been convicted of a felony shall be on a form approved by
21 the Kansas sentencing commission.

22 Sec. 17. K.S.A. 2020 Supp. 21-6824 is hereby amended to read as
23 follows: 21-6824. (a) There is hereby established a nonprison sanction of
24 certified drug abuse treatment programs for certain offenders who are
25 sentenced on or after November 1, 2003. Placement of offenders in
26 certified drug abuse treatment programs by the court shall be limited to
27 placement of adult offenders, convicted of a felony violation of K.S.A.
28 2020 Supp. 21-5705 ~~or 21-5706~~, and amendments thereto, whose offense
29 is classified in grid blocks:

30 (1) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines
31 grid for drug crimes and such offender has no felony conviction of K.S.A.
32 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal,
33 K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer,
34 or K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5716, and amendments
35 thereto, or any substantially similar offense from another jurisdiction; or

36 (2) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines
37 grid for drug crimes, such offender has no felony conviction of K.S.A. 65-
38 4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A.
39 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or
40 K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5716, and amendments
41 thereto, or any substantially similar offense from another jurisdiction, if
42 the person felonies in the offender's criminal history were severity level 8,
43 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug

1 crimes, and the court finds and sets forth with particularity the reasons for
2 finding that the safety of the members of the public will not be jeopardized
3 by such placement in a drug abuse treatment program.

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

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

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

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

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

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

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

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

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

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

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

42 (g) As used in this section, "mental health professional" includes
43 licensed social workers, persons licensed to practice medicine and surgery,

1 licensed psychologists, licensed professional counselors or registered
2 alcohol and other drug abuse counselors licensed or certified as addiction
3 counselors who have been certified by the secretary of corrections to treat
4 offenders pursuant to K.S.A. 75-52,144, and amendments thereto.

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

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

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

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

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

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

22 Sec. 18. K.S.A. 2020 Supp. 65-6235 is hereby amended to read as
23 follows: 65-6235. (a) This section shall be known and may be cited as
24 Claire and Lola's law.

25 (b) As used in this section ~~and K.S.A. 2020 Supp. 21-5706, and~~
26 ~~amendments thereto:~~

27 (1) "Cannabidiol treatment preparation" means an oil containing
28 cannabidiol (other trade name: 2-[(3-methyl-6-(1-methylethenyl)-2-
29 cyclohexen-1-yl]-5-pentyl-1,3-benzenediol)) and tetrahydrocannabinol, as
30 described in K.S.A. 65-4105, and amendments thereto, and having a
31 tetrahydrocannabinol concentration of no more than 5% relative to the
32 cannabidiol concentration in the preparation, verified through testing by a
33 third-party, independent laboratory.

34 (2) "Debilitating medical condition" means a medically diagnosed
35 chronic disease or medical condition causing a serious impairment of
36 strength or ability to function, including one that produces seizures, for
37 which the patient is under current and active treatment by a physician
38 licensed to practice medicine and surgery in Kansas.

39 (3) "Tetrahydrocannabinol concentration" means the combined
40 percentage of tetrahydrocannabinol and its optical isomers, their salts and
41 acids and salts of their acids, reported as free tetrahydrocannabinol on a
42 percent by weight basis.

43 (4) "Third-party, independent laboratory" means an organization:

1 (A) That is accredited to ISO/IEC 17025 of the international
2 organization for standardization and the international electrotechnical
3 commission by an accreditation body that is a signatory of a multilateral
4 recognition arrangement with the international accreditation forum,
5 international laboratory accreditation cooperation or other similar body;

6 (B) whose scope of accreditation includes testing for cannabinoid
7 potency; and

8 (C) that is not affiliated with the producer of the item being tested.

9 (c) No agency of this state or political subdivision thereof shall
10 initiate proceedings to remove a child from the home of the child's parent
11 or guardian or initiate any child protection action or proceeding based
12 solely upon the parent's or the child's possession or use of cannabidiol
13 treatment preparation in accordance with the provisions of K.S.A. 2020
14 Supp. 21-5706(d), and amendments thereto.

15 (d) Nothing in this section shall be construed to require the Kansas
16 medical assistance program or any individual or group health insurance
17 policy, medical service plan, contract, hospital service corporation
18 contract, hospital and medical corporation contract, fraternal benefit
19 society or health maintenance organization that provides coverage for
20 accident and health services and that is delivered, issued for delivery,
21 amended or renewed on or after July 1, 2019, to provide payment or
22 reimbursement for any cannabidiol treatment preparation.

23 (e) Nothing in this section shall be construed to allow the possession,
24 sale, production, redistribution or use of any other form of cannabis.

25 Sec. 19. K.S.A. 75-52,144 is hereby amended to read as follows: 75-
26 52,144. (a) Drug abuse treatment programs certified in accordance with
27 subsection (b) shall provide:

28 (1) Presentence drug abuse assessments of any person who is
29 convicted of a ~~felony violation of K.S.A. 65-4160 or 65-4162, prior to~~
30 ~~such section's repeal, K.S.A. 2010 Supp. 21-36a06, prior to its transfer, or~~
31 ~~K.S.A. 2020 Supp. 21-5706 section 2, and amendments thereto, and or~~
32 meets the requirements of K.S.A. 21-4729, prior to its repeal, or
33 ~~subsection (a) of K.S.A. 2020 Supp. 21-6824(a), and amendments thereto;~~

34 (2) treatment of all persons who are ~~convicted of a felony violation of~~
35 ~~K.S.A. 65-4160 or 65-4162, prior to such section's repeal, K.S.A. 2010~~
36 ~~Supp. 21-36a06, prior to its transfer, or K.S.A. 2020 Supp. 21-5706~~
37 ~~referred to such program pursuant to section 1, and amendments thereto,~~
38 ~~or meet the requirements of K.S.A. 21-4729, prior to its repeal, or K.S.A.~~
39 ~~2020 Supp. 21-6824, and amendments thereto, and whose sentence~~
40 requires completion of a certified drug abuse treatment program, as
41 provided in this section;

42 (3) one or more treatment options in the continuum of services
43 needed to reach recovery: Detoxification, rehabilitation, continuing care

1 and aftercare, and relapse prevention;

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

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

6 (b) The presentence criminal risk-need assessment shall be conducted
7 by a court services officer or a community corrections officer. The
8 presentence drug abuse treatment program placement assessment shall be
9 conducted by a drug abuse treatment program certified in accordance with
10 the provisions of this subsection to provide assessment and treatment
11 services. A drug abuse treatment program shall be certified by the
12 secretary of corrections. The secretary may establish qualifications for the
13 certification of programs, which may include requirements for supervision
14 and monitoring of clients; fee reimbursement procedures; handling of
15 conflicts of interest; delivery of services to clients unable to pay; and other
16 matters relating to quality and delivery of services by the program. Drug
17 abuse treatment may include community based and faith based programs.
18 The certification shall be for a four-year period. Recertification of a
19 program shall be by the secretary. To be eligible for certification under this
20 subsection, the secretary shall determine that a drug abuse treatment
21 program: (1) Meets the qualifications established by the secretary; (2) is
22 capable of providing the assessments, supervision and monitoring required
23 under subsection (a); (3) has employed or contracted with certified
24 treatment providers; and (4) meets any other functions and duties specified
25 by law.

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

38 (d) The cost for all drug abuse assessments performed pursuant to
39 subsection (a)(1), and the cost for all certified drug abuse treatment
40 programs for any person who meets the requirements of K.S.A. 2020
41 Supp. 21-6824, and amendments thereto, shall be paid by the Kansas
42 sentencing commission from funds appropriated for such purpose. The
43 Kansas sentencing commission shall contract for payment for such

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

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

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

12 Sec. 20. K.S.A. 75-52,144 and K.S.A. 2020 Supp. 12-4104, 21-5402,
13 21-5703, 21-5705, 21-5706, 21-5707, 21-5708, 21-5709, 21-5710, 21-
14 5713, 21-6303, 21-6604, 21-6805, 21-6812, 21-6813, 21-6824 and 65-
15 6235 are hereby repealed.

16 Sec. 21. This act shall take effect and be in force from and after its
17 publication in the statute book.