

As Amended by House Committee

As Amended by Senate Committee

Session of 2012

SENATE BILL No. 304

By Joint Committee on Administrative Rules and Regulations

1-19

1 AN ACT concerning domestic ~~violence~~ **relations**; enacting the batterer
2 intervention program certification act; **case management**; amending
3 K.S.A. 2011 Supp. ~~12-4509~~, 21-5414, 21-6604 ~~and 22-4616~~ , **22-4616**
4 **and 23-3508** and repealing the existing sections.
5

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

7 New Section 1. (a) There is hereby created in the office of the
8 attorney general a batterer intervention program certification unit.

9 (b) Except as otherwise provided by law, the books, documents,
10 papers, records or other sources of information obtained and the
11 investigations conducted by the unit shall be confidential as required by
12 state or federal law.

13 (c) The purpose of the batterer intervention program certification unit
14 is to certify and inspect batterer intervention programs in Kansas. To
15 accomplish this purpose, upon request of the unit, the unit shall have
16 access to all records of reports, investigation documents and written
17 reports of findings related to confirmed cases of domestic violence or
18 exploitation of persons or cases in which there is reasonable suspicion to
19 believe domestic violence has occurred which are received or generated by
20 the department of social and rehabilitation services, department on aging,
21 department of health and environment; *or* Kansas bureau of investigation
22 ~~or the behavioral sciences regulatory board.~~

23 (d) The attorney general shall develop a set of tools, methodologies,
24 requirements and forms for the domestic violence offender assessment
25 required by subsection (p) of K.S.A. 2011 Supp. 21-6604, and
26 amendments thereto. The batterer intervention program tools,
27 methodologies, requirements and forms shall be developed in consultation
28 with the agency certified by the centers for disease control and prevention
29 and the department of health and human services as the domestic violence
30 coalition for the state and with local domestic violence victims' services
31 organizations.

32 (e) The attorney general may appoint a panel to assist the attorney
33 general by making recommendations regarding the:

34 (1) Content and development of a batterer intervention certification

1 program; and

2 (2) rules and regulations.

3 (f) The attorney general may appoint such advisory committees as the
4 attorney general deems necessary to carry out the purposes of this act.
5 Except as provided in K.S.A. 75-3212, and amendments thereto, no
6 member of any such advisory committee shall receive any compensation,
7 subsistence, mileage or other allowance for serving on an advisory
8 committee or attending any meeting thereof.

9 New Sec. 2. (a) No person shall operate or provide services as a
10 batterer intervention program unless such program has been certified as
11 required by this section.

12 (b) ***Except as provided in subsection (i),*** any program desiring to be
13 certified in Kansas as a batterer intervention program shall submit an
14 application thereof to the attorney general. All completed applications for
15 initial, renewal, or reinstatement certification shall be verified and on a
16 form approved by the attorney general. The completed application shall
17 include:

18 (1) The full name and resident address of the applicant;

19 (2) the name under which the applicant intends to do business and the
20 business address;

21 (3) a statement as to the general nature of the business in which the
22 applicant intends to engage;

23 (4) a statement of the educational and work experience ~~qualifications~~
24 of each individual, including any employee or agent of applicant, who will
25 be directly providing intervention services to clients of a batterer
26 intervention program;

27 ***(5) a statement that the applicant has complied with such other***
28 ***qualifications as may be established by the attorney general by rules and***
29 ***regulations;***

30 ~~(5) (6)~~ payment of the application fee; and

31 ~~(6) (7)~~ such other information, evidence, statements or documents as
32 may be required by the attorney general.

33 ~~(e) Before an application for a certification may be approved and~~
34 ~~granted, the applicant shall:~~

35 ~~(1) Have attained the age of 21;~~

36 ~~(2) have satisfied the attorney general that the applicant is a person~~
37 ~~who merits the public trust;~~

38 ~~(3) have paid the certification fee; and~~

39 ~~(4) complied with such other qualifications as may be established by~~
40 ~~the attorney general by rules and regulations.~~

41 ~~(d) (c)~~ If in evaluating an applicant's application the attorney general
42 finds any deficiency in the applicant's qualifications, the attorney general
43 may require such applicant to fulfill such remedial or other requirements

1 as the attorney general may prescribe.

2 ~~(e)~~ **(d)** Certification as a batterer intervention program shall expire on
3 the second anniversary of the date of certification.

4 ~~(f)~~ **(e)** Certification as a batterer intervention program may be
5 renewed every two years upon submission of a completed renewal
6 application to the attorney general on or before the expiration date of such
7 certification, payment of the renewal fee and verification of continuing
8 compliance with the requirements of this act and the rules and regulations
9 adopted thereunder by the attorney general.

10 ~~(g)~~ **(f)** Any batterer intervention program that fails to secure a
11 renewal certification within the time specified in subsection (f) may
12 request reinstatement of such lapsed certification by submitting to the
13 attorney general a completed application on a form approved by the
14 attorney general, furnishing proof that the applicant is qualified to act as a
15 certified batterer intervention program and satisfying all of the
16 requirements for reinstatement including payment of a reinstatement fee to
17 the attorney general.

18 ~~(h)~~ **(g)** The attorney general may issue a temporary permit to act as a
19 certified batterer intervention program for a period not to exceed 180 days
20 to an applicant requesting initial certification if the attorney general
21 determines the applicant qualifies under subsections (b) and (c), except for
22 program requirements regarding agency structure, personnel
23 qualifications, education requirements or training requirements established
24 in rules and regulations, and such deficiencies can be remedied within
25 such time period. The temporary permit shall expire upon the applicant
26 meeting all of the program requirements and the applicant's program being
27 certified as required by this section, or upon the expiration date of the
28 temporary permit, whichever occurs first.

29 ~~(i)~~ **(h)** No certification as a batterer intervention program or
30 temporary permit to act as a certified batterer intervention program shall
31 be assignable or transferable.

32 **(i)** *A batterer intervention program may be exempted from the*
33 *initial application for certification as a certified batterer intervention*
34 *program if such program had been previously certified or certified by*
35 *the attorney general as a batterer intervention program on the day*
36 *preceding the effective date of this act.*

37 **(j) (1)** *Except as provided further, the program director, program*
38 *supervisor or program coordinator of any batterer intervention program*
39 *shall be licensed to practice in Kansas as a licensed psychologist,*
40 *licensed baccalaureate social worker, licensed master social worker,*
41 *licensed specialist clinical social worker, licensed marriage and family*
42 *therapist, licensed clinical marriage and family therapist, licensed*
43 *professional counselor, licensed clinical professional counselor, licensed*

1 ~~master~~ masters level psychologist or licensed clinical psychotherapist.

2 (2) Any person not licensed as required in subsection (j)(1) who is a
3 program director, program supervisor or program coordinator
4 immediately prior to ~~the effective date of this act~~ January 1, 2013, may
5 continue to be a program director, program supervisor or program
6 coordinator on and after ~~the effective date of this act~~ January 1, 2013, if
7 such person remains employed or contracted by the same program, and
8 such program remains a certified batterer intervention program. When
9 such person is no longer employed or contracted by the program in
10 which they were a program director, program supervisor or program
11 coordinator immediately prior to ~~the effective date of this act~~ January 1,
12 2013, such person shall not be a program director, program supervisor
13 or program coordinator for any certified batterer intervention program
14 without meeting the license requirements prescribed in subsection (j)(1).

15 New Sec. 3. Each applicant, certified batterer intervention program or
16 holder of a temporary permit shall notify the attorney general in writing of:

17 (a) A change in name or address, both residential and business, within
18 30 days of the change; or

19 (b) a conviction of or entering into a diversion agreement in lieu of
20 further criminal proceedings alleging a violation of:

21 (1) A felony offense in the Kansas Statutes Annotated, and
22 amendments thereto, or similar conviction in another jurisdiction:

23 (A) Involving dishonesty or false statement;

24 (B) involving alcohol or a controlled substance; or

25 (C) designated as a person offense in article 54 of chapter 21 of the
26 Kansas Statutes Annotated, and amendments thereto; or

27 (2) a misdemeanor offense in the Kansas Statutes Annotated, and
28 amendments thereto, or similar conviction in another jurisdiction or an
29 ordinance of any city of this state, or resolution of any county of this state:

30 (A) Involving dishonesty or false statement;

31 (B) involving alcohol or a controlled substance; or

32 (C) designated as a person offense in article 54 of chapter 21 of the
33 Kansas Statutes Annotated, and amendments thereto.

34 New Sec. 4. The fee for an initial application, renewal application or
35 reinstatement application for a batterer intervention program certification
36 shall be \$100. The fee for an initial application, renewal application or
37 reinstatement fee for temporary permit shall be \$50. The attorney general
38 may increase the amount of fee for an initial application, renewal
39 application or reinstatement application for a batterer intervention program
40 certification by rules and regulations, except that the fee for a batterer
41 intervention program certification shall not exceed \$250. The attorney
42 general may increase the amount of fee for an initial application renewal,
43 application or reinstatement application for temporary permit by rules and

1 regulations, except that the fee for a temporary permit shall not exceed
2 \$250.

3 New Sec. 5. (a) The attorney general shall establish by rules and
4 regulations the requirements for a batterer intervention certification
5 program. These requirements may include, but not be limited to:

6 (1) Standards;
7 (2) program elements and goals;
8 (3) the role of the certified batterer intervention program in the
9 community;

10 (4) technical considerations which may include, but not be limited to,
11 consideration of any combination of:

12 (A) Expectations of batterers;
13 (B) group composition;
14 (C) facilitation;
15 (D) curriculum;
16 (E) prohibited and restricted practices;
17 (F) batterer confidentiality, victim confidentiality and safety checks;
18 (G) program length;
19 (H) victim notification;
20 (I) victim involvement;
21 (J) public relations;
22 (K) research;
23 (L) agency structure; and
24 (M) ~~personnel qualifications~~ **policies and procedures**;

25 (5) the assessment of batterer participants and the utilization of the
26 Kansas domestic violence offender assessment;

27 ~~(6) training and education requirements, continuing or otherwise,~~
28 **orientation training and continuing education requirements** for program
29 facilitators, program supervisors and program coordinators, **and any agent**
30 **or employee of a certified batterer intervention program who directly**
31 **provides intervention services to clients of such program**; and

32 (7) any other requirements or conditions as may be required by the
33 attorney general.

34 (b) ~~A batterer intervention program may be exempted from the initial~~
35 ~~application for certification as a certified batterer intervention program if~~
36 ~~such program had been previously certified or certified by the attorney~~
37 ~~general as a batterer intervention program on the day preceding the~~
38 ~~effective date of this act.~~

39 (b) **Such rules and regulations shall require the following:**

40 (1) **The Kansas domestic violence offender assessment shall be**
41 **completed by: (A) An individual who is licensed to practice in Kansas as**
42 **a licensed psychologist, licensed baccalaureate social worker, licensed**
43 **master social worker, licensed specialist clinical social worker, licensed**

1 *marriage and family therapist, licensed clinical marriage and family*
 2 *therapist, licensed professional counselor, licensed clinical professional*
 3 *counselor, licensed ~~master~~ masters level psychologist or licensed clinical*
 4 *psychotherapist; or (B) an individual who meets the requirements of*
 5 *subsection (b)(2).*

6 *(2) Any person who is not licensed as required in subsection (b)(1)*
 7 *(A) who is completing domestic violence offender assessments as an*
 8 *employee of or volunteer for a batterer intervention program*
 9 *immediately prior to ~~the effective date of this act~~ January 1, 2013, may*
 10 *continue to complete such assessments on and after ~~the effective date of~~*
 11 *~~this act~~ January 1, 2013, if such person remains an employee of or*
 12 *volunteer for the same program, and such program remains a certified*
 13 *batterer intervention program. When such person is no longer an*
 14 *employee of or volunteer for the program in which they were employed*
 15 *or volunteering immediately prior to ~~the effective date of this act~~*
 16 *January 1, 2013, such person shall not be allowed to complete the*
 17 *Kansas domestic violence offender assessment for any certified batterer*
 18 *intervention program without meeting the license requirements*
 19 *prescribed in subsection (b)(1)(A).*

20 New Sec. 6. (a) The attorney general may suspend, limit, condition,
 21 deny, revoke or refuse renewal or reinstatement of any certification or
 22 permit issued under this act if the attorney general determines that an
 23 applicant, a person operating or providing services as a certified batterer
 24 intervention program or holder of a temporary permit has:

25 (1) Made any false statement or given any false information in
 26 connection with an application for an initial, renewal or reinstatement of a
 27 certification or temporary permit issued under this act;

28 (2) failed to meet or maintain compliance with program requirements;

29 (3) been found guilty or convicted of fraud or deceit in connection
 30 with services rendered;

31 (4) been found guilty of negligence or wrongful actions in the
 32 performance of services rendered;

33 (5) allowed the use of the attorney general's domestic violence
 34 offender assessment by any person who is not an employee or agent of
 35 either a current certified batterer intervention program or a holder of a
 36 temporary permit issued under this act;

37 (6) committed an act of unprofessional conduct as defined by rules
 38 and regulations adopted by the attorney general;

39 (7) been convicted of any offense as defined in section 3, and
 40 ~~amendment~~ **amendments** thereto; or

41 (8) failed or refused to allow inspection of records pursuant to section
 42 8, and amendments thereto.

43 (b) (1) For purposes of this section, "conviction" means:

1 (A) The entry of a plea or verdict of guilty or a conviction following a
2 plea of nolo contendere and without regard to whether the sentence was
3 suspended or probation granted after such conviction;

4 (B) a forfeiture of bail, bond or collateral deposited to secure a
5 defendant's appearance in court, which forfeiture has not been vacated; or

6 (C) entering into a diversion agreement in lieu of further criminal
7 proceedings alleging a violation of any offense specified in subsection (b)
8 of section 3, and amendments thereto.

9 (2) The record of conviction, or a certified copy thereof, shall be
10 conclusive evidence of such conviction.

11 (c) Proceedings under this section shall be conducted in accordance
12 with the Kansas administrative procedure act. Judicial review and civil
13 enforcement of agency actions under this act shall be in accordance with
14 the Kansas judicial review act.

15 New Sec. 7. (a) Any applicant, person who operates or provides
16 services as a batterer intervention program or holder of a temporary permit
17 who violates any provision of this act or any rules and regulations adopted
18 thereunder, in addition to any other penalty provided by law, may incur a
19 civil penalty imposed under subsection (b) in an amount not less than \$100
20 nor more than \$5,000 for each violation and, in the case of a continuing
21 violation, every day such violation continues may be deemed a separate
22 violation.

23 (b) No civil penalty shall be imposed pursuant to this section except
24 upon the written order of the attorney general to the applicant, person who
25 operates or provides services as a certified batterer intervention program or
26 holder of a temporary permit who committed the violation. Such order
27 shall state the violation, the penalty to be imposed and the right of the
28 applicant, person who operates or provides services as a certified batterer
29 intervention program or holder of a temporary permit to appeal to the
30 attorney general. Any such applicant, person who operates or provides
31 services as a certified batterer intervention program or holder of a
32 temporary permit, within 20 days after notification, may make written
33 request to the attorney general for a hearing in accordance with the
34 provisions of the Kansas administrative procedure act. The attorney
35 general shall affirm, reverse or modify the order and shall specify the
36 reasons therefor.

37 (c) Any applicant, person who operates or provides services as a
38 certified batterer intervention program or holder of a temporary permit
39 aggrieved by a final order of the attorney general made under this section
40 may appeal such order to the district court in the manner provided by the
41 Kansas judicial review act.

42 (d) Any civil penalty ~~recovered~~ **imposed** pursuant to the provisions of
43 this section shall be **recovered by the attorney general**, remitted to the

1 state treasurer, deposited in the state treasury and credited to the state
2 general fund.

3 (e) Any action taken pursuant to this section shall be in addition to
4 and not in lieu of any other penalty prescribed by law.

5 New Sec. 8. (a) Each certified batterer intervention program and each
6 holder of a temporary permit issued pursuant to this act shall keep and
7 maintain for a period of two years, each book, document, paper, record or
8 other information pertaining to services rendered as a certified batterer
9 intervention program.

10 (b) Regardless of the form or media in which such books,
11 documents, paper, record or other source of information is kept, each book,
12 document, paper, record and other source of information concerning the
13 compliance with the requirements established in this act and the rules and
14 regulations adopted thereunder by each certified batterer intervention
15 program or holder of a temporary permit shall be inspected at least once
16 every certification period by the attorney general. The attorney general
17 may order other or additional inspections as deemed necessary by the
18 attorney general. The attorney general shall at all times be given free
19 access to all such books, documents, papers, records or other sources of
20 information concerning the compliance with the requirements established
21 in this act and the rules and regulations adopted thereunder.

22 (c) (1) Any information or copy thereof obtained by the attorney
23 general pursuant to this section or pursuant to an investigation pursuant to
24 this act shall not be public and shall not be subject to disclosure pursuant
25 to the Kansas open records act, and amendments thereto.

26 (2) The provisions of subsection (c)(1) shall expire on July 1, 2017,
27 unless the legislature acts to reenact such provision. The provisions of
28 subsection (c)(1) shall be reviewed by the legislature prior to July 1, 2017.

29 New Sec. 9. (a) The attorney general may bring an action to restrain
30 or enjoin any violation of this act or any rule and regulation promulgated
31 thereunder. The district courts of this state shall have jurisdiction to
32 restrain violations of this act or the rules and regulations promulgated
33 thereunder. The court may issue such orders, including temporary
34 restraining orders, as the facts may warrant without first requiring proof
35 that an adequate remedy at law does not exist. Any orders issued pursuant
36 to this section shall be issued without bond. Proceedings may be instituted
37 under this section without any criminal proceedings, administrative
38 proceedings or civil penalty proceedings being first initiated.

39 (b) In any civil action brought by the attorney general pursuant to this
40 section in which a temporary restraining order, preliminary injunction or
41 permanent injunction is sought, it shall be sufficient to show that a
42 violation of the provisions of this act, or the rules and regulations adopted
43 thereunder, has occurred or is imminent. It shall not be necessary to allege

1 or prove at any stage of the proceeding that irreparable damage will occur
2 should the temporary restraining order, preliminary injunction or
3 permanent injunction not be issued or that the remedy at law is inadequate.

4 New Sec. 10. Except for a certified batterer intervention program or a
5 holder of a temporary permit authorized under this act, and amendments
6 thereto, no person shall use any of the tools, methodologies, and forms for
7 the domestic violence offender assessment required by subsection (p) of
8 K.S.A. 2011 Supp. 21-6604, and amendments thereto, developed by the
9 attorney general pursuant to section 1, and amendments thereto.

10 New Sec. 11. In accordance with the provisions of the rules and
11 regulations filing act, K.S.A. 77-415 et seq., and amendments thereto, the
12 attorney general shall adopt, amend and revoke rules and regulations
13 governing the administration and enforcement of this act, including but not
14 limited to:

15 (a) Criteria for the evaluation, certification and monitoring of any
16 certified batterer intervention program;

17 (b) any form required to implement this act;

18 (c) any ~~educational requirement for~~ ***orientation training and***
19 ***continuing education requirements for staff who will be directly***
20 ***providing intervention services to clients of*** any certified batterer
21 intervention program;

22 (d) any fee required under this act;

23 (e) any report, record or other information which may be required to
24 be kept, and maintained pursuant to this act; and

25 (f) such other rules and regulations as the attorney general may deem
26 necessary to carry out the provisions of this act.

27 Rules and regulations required for the administration of this act shall be
28 adopted on or before the first anniversary of the effective date of this act.

29 New Sec. 12. (a) There is hereby created in the state treasury the
30 Kansas attorney general batterer intervention program certification fund.
31 The attorney general shall remit all amounts received under this act to the
32 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
33 amendments thereto. Upon receipt of each such remittance, the attorney
34 general shall remit the entire amount to the state treasurer pursuant to the
35 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
36 each such remittance, the state treasurer shall deposit the entire amount in
37 the state treasury to the credit of the Kansas attorney general batterer
38 intervention program certification fund.

39 (b) Moneys in the Kansas attorney general batterer intervention
40 program certification fund shall be expended only for the purposes of
41 administering this act.

42 (c) All expenditures from the Kansas attorney general batterer
43 intervention program certification fund shall be made in accordance with

1 appropriation acts upon warrants of the director of accounts and reports
2 issued pursuant to vouchers approved by the attorney general or by a
3 person designated by the attorney general.

4 New Sec. 13. (a) As used in this act, unless the context otherwise
5 requires, the following words and phrases shall have the meanings
6 ascribed to them in this section:

7 (1) "Agent or employee thereof," in the context of either a certified
8 batterer intervention program or the holder of a temporary permit, means
9 any individual who acts or aids in any manner in directly providing
10 intervention related service to a client of a certified batterer intervention
11 program. The term "agent or employee thereof" shall not include an
12 individual working as an officer for a certified batterer intervention
13 program, or in a clerical, administrative or service capacity for a certified
14 batterer intervention program, provided that such individual does not
15 provide intervention services to clients under such program.

16 (2) "Attorney general" means the attorney general of the state of
17 Kansas and any authorized agent or designee thereof.

18 (3) "Certified batterer intervention program" includes any agent or
19 employee thereof.

20 (4) "Holder of a temporary permit" includes any agent or employee
21 thereof.

22 (5) "Person" means an individual, partnership, corporation, limited
23 liability company, association, business entity, legal representative,
24 trustee, trustee in bankruptcy or receiver, partnership, joint venture,
25 company, firm, corporation, institution, governmental subdivision, state or
26 federal department or agency or other legal entity.

27 (b) Sections 1 through 13, and amendments thereto, shall be cited as
28 the batterer intervention program certification act.

29 ~~Sec. 14. K.S.A. 2011 Supp. 12-4509 is hereby amended to read as~~
30 ~~follows: 12-4509. (a) Whenever a person is found guilty of the violation of~~
31 ~~an ordinance, the municipal judge may:~~

32 ~~(1) Release the person without imposition of sentence;~~

33 ~~(2) release the person on probation after the imposition of sentence,~~
34 ~~without imprisonment or the payment of a fine or a portion thereof, subject~~
35 ~~to conditions imposed by the court as provided in subsection (c);~~

36 ~~(3) impose such sentence of fine or imprisonment, or both, as~~
37 ~~authorized for the ordinance violation; or~~

38 ~~(4) impose a sentence of house arrest as provided in K.S.A. 2011-~~
39 ~~Supp. 21-6609, and amendments thereto.~~

40 ~~(b) In addition to or in lieu of any other sentence authorized by law,~~
41 ~~whenever a person is found guilty of the violation of an ordinance and~~
42 ~~there is evidence that the act constituting the violation of the ordinance~~
43 ~~was substantially related to the possession, use or ingestion of cereal malt~~

1 ~~beverage or alcoholic liquor by such person, the judge may order such~~
2 ~~person to attend and satisfactorily complete an alcohol or drug education~~
3 ~~or training program certified by the chief judge of the judicial district or~~
4 ~~licensed by the secretary of social and rehabilitation services.~~

5 ~~(e) Except as provided in subsection (d), in addition to or in lieu of~~
6 ~~any other sentence authorized by law, whenever a person is convicted of~~
7 ~~having violated, while under 21 years of age, an ordinance prohibiting an~~
8 ~~act prohibited by K.S.A. 2011 Supp. 21-5701 through 21-5717, and~~
9 ~~amendments thereto, or K.S.A. 8-1599, 41-719 or 41-727, and~~
10 ~~amendments thereto, the municipal judge shall order such person to submit~~
11 ~~to and complete an alcohol and drug evaluation by a community-based~~
12 ~~alcohol and drug safety action program certified pursuant to K.S.A. 8-~~
13 ~~1008, and amendments thereto, and to pay a fee not to exceed the fee~~
14 ~~established by that statute for such evaluation. If the judge finds that the~~
15 ~~person is indigent, the fee may be waived.~~

16 ~~(d) If the person is 18 or more years of age but less than 21 years of~~
17 ~~age and is convicted of a violation of K.S.A. 41-727, and amendments~~
18 ~~thereto, involving cereal malt beverage, the provisions of subsection (e)~~
19 ~~are permissive and not mandatory.~~

20 ~~(e) In addition to any other sentence authorized by law, whenever a~~
21 ~~person is convicted of any criminal offense, the municipal judge shall~~
22 ~~determine whether the defendant committed a domestic violence offense as~~
23 ~~defined in K.S.A. 2011 Supp. 21-3110 and 21-5111, and amendments~~
24 ~~thereto, and shall sentence the defendant pursuant to K.S.A. 2011 Supp.~~
25 ~~22-4616, and amendments thereto.~~

26 ~~(f) The court may impose any conditions of probation or suspension~~
27 ~~of sentence that the court deems proper, including, but not limited to,~~
28 ~~requiring that the defendant:~~

29 ~~(1) Avoid such injurious or vicious habits, as directed by the court or~~
30 ~~the probation officer;~~

31 ~~(2) avoid such persons or places of disreputable or harmful character,~~
32 ~~as directed by the court or the probation officer;~~

33 ~~(3) report to the probation officer as directed;~~

34 ~~(4) permit the probation officer to visit the defendant at home or~~
35 ~~elsewhere;~~

36 ~~(5) work faithfully at suitable employment insofar as possible;~~

37 ~~(6) remain within the state unless the court grants permission to~~
38 ~~leave;~~

39 ~~(7) pay a fine or costs, applicable to the ordinance violation, in one or~~
40 ~~several sums and in the manner as directed by the court;~~

41 ~~(8) support the defendant's dependents;~~

42 ~~(9) reside in a residential facility located in the community and~~
43 ~~participate in educational counseling, work and other correctional or~~

1 rehabilitative programs:

2 ~~(10) perform community or public service work for local~~
3 ~~governmental agencies, private corporations organized not for profit, or~~
4 ~~charitable or social service organizations performing services for the~~
5 ~~community;~~

6 ~~(11) perform services under a system of day fines whereby the~~
7 ~~defendant is required to satisfy fines, costs or reparation or restitution~~
8 ~~obligations by performing services for a period of days determined by the~~
9 ~~court on the basis of ability to pay, standard of living, support obligations~~
10 ~~and other factors;~~

11 ~~(12) make reparation or restitution to the aggrieved party for the~~
12 ~~damage or loss caused by the defendant's crime, in an amount and manner~~
13 ~~determined by the court and to the person specified by the court; or~~

14 ~~(13) reimburse the city, in accordance with any order made under~~
15 ~~subsection (f) (g), for all or a part of the reasonable expenditures by the~~
16 ~~city to provide counsel and other defense services to the defendant.~~

17 ~~(f) (g) In addition to or in lieu of any other sentence authorized by~~
18 ~~law, whenever a person is found guilty of the violation of an ordinance the~~
19 ~~judge may order such person to reimburse the city for all or a part of the~~
20 ~~reasonable expenditures by the city to provide counsel and other defense~~
21 ~~services to the defendant. In determining the amount and method of~~
22 ~~payment of such sum, the court shall take account of the financial~~
23 ~~resources of the defendant and the nature of the burden that payment of~~
24 ~~such sum will impose. A defendant who has been required to pay such sum~~
25 ~~and who is not willfully in default in the payment thereof may at any time~~
26 ~~petition the court which sentenced the defendant to waive payment of such~~
27 ~~sum or of any unpaid portion thereof. If it appears to the satisfaction of the~~
28 ~~court that payment of the amount due will impose manifest hardship on the~~
29 ~~defendant or the defendant's immediate family, the court may waive~~
30 ~~payment of all or part of the amount due or modify the method of~~
31 ~~payment.~~

32 *Sec. ~~15~~ 14. K.S.A. 2011 Supp. 21-5414 is hereby amended to read*
33 *as follows: 21-5414. (a) Domestic battery is:*

34 *(1) Knowingly or recklessly causing bodily harm by a family or*
35 *household member against a family or household member; or*

36 *(2) knowingly causing physical contact with a family or household*
37 *member by a family or household member when done in a rude,*
38 *insulting or angry manner.*

39 *(b) Domestic battery is a:*

40 *(1) Except as provided in subsection (b)(2) or (b)(3), a Class B*
41 *person misdemeanor and the offender shall be sentenced to not less than*
42 *48 consecutive hours nor more than six months' imprisonment and*
43 *fined not less than \$200, nor more than \$500 or in the court's discretion*

1 *the court may enter an order which requires the offender enroll in and*
2 *successfully complete a domestic violence prevention program, except as*
3 *provided in subsection (b)(2) or (b)(3) to undergo a domestic violence*
4 *offender assessment conducted by a certified batterer intervention*
5 *program and follow all recommendations made by such program;*

6 *(2) except as provided in subsection (b)(3), a class A person*
7 *misdemeanor, if, within five years immediately preceding commission of*
8 *the crime, an offender is convicted of domestic battery a second time and*
9 *the offender shall be sentenced to not less than 90 days nor more than*
10 *one year's imprisonment and fined not less than \$500 nor more than*
11 *\$1,000, except as provided in subsection (b)(3). The five days*
12 *imprisonment mandated by this paragraph may be served in a work*
13 *release program only after such offender has served 48 consecutive*
14 *hours imprisonment, provided such work release program requires such*
15 *offender to return to confinement at the end of each day in the work*
16 *release program. The offender shall serve at least five consecutive days*
17 *imprisonment before the offender is granted probation, suspension or*
18 *reduction of sentence or parole or is otherwise released. As a condition*
19 *of any grant of probation, suspension of sentence or parole or of any*
20 *other release, the offender shall be required to enter into and complete a*
21 *treatment program for domestic violence prevention undergo a domestic*
22 *violence offender assessment conducted by a certified batterer*
23 *intervention program and follow all recommendations made by such*
24 *program, unless otherwise ordered by the court or department of*
25 *corrections; and*

26 *(3) a person felony, if, within five years immediately preceding*
27 *commission of the crime, an offender is convicted of domestic battery a*
28 *third or subsequent time, and the offender shall be sentenced to not less*
29 *than 90 days nor more than one year's imprisonment and fined not less*
30 *than \$1,000 nor more than \$7,500. The offender convicted shall not be*
31 *eligible for release on probation, suspension or reduction of sentence or*
32 *parole until the offender has served at least 90 days imprisonment. The*
33 *court shall require as a condition of parole that such offender enter into*
34 *and complete a treatment program for domestic violence As a condition of*
35 *any grant of probation, suspension of sentence or parole or of any other*
36 *release, the offender shall be required to undergo a domestic violence*
37 *offender assessment conducted by a certified batterer intervention*
38 *program and follow all recommendations made by such program, unless*
39 *otherwise ordered by the court or department of corrections. If the*
40 *offender does not enter into and complete a treatment program for*
41 *domestic violence undergo a domestic violence offender assessment*
42 *conducted by a certified batterer intervention program and follow all*
43 *recommendations made by such program, the offender shall serve not less*

1 *than 180 days nor more than one year's imprisonment. The 90 days*
2 *imprisonment mandated by this paragraph may be served in a work*
3 *release program only after such offender has served 48 consecutive*
4 *hours imprisonment, provided such work release program requires such*
5 *offender to return to confinement at the end of each day in the work*
6 *release program.*

7 *(c) As used in this section:*

8 *(1) "Family or household member" means persons 18 years of age*
9 *or older who are spouses, former spouses, parents or stepparents and*
10 *children or stepchildren, and persons who are presently residing*
11 *together or who have resided together in the past, and persons who have*
12 *a child in common regardless of whether they have been married or who*
13 *have lived together at any time. "Family or household member" also*
14 *includes a man and woman if the woman is pregnant and the man is*
15 *alleged to be the father, regardless of whether they have been married or*
16 *have lived together at any time; and*

17 *(2) for the purpose of determining whether a conviction is a first,*
18 *second, third or subsequent conviction in sentencing under this section:*

19 *(A) "Conviction" includes being convicted of a violation of K.S.A.*
20 *21-3412a, prior to its repeal, this section or entering into a diversion or*
21 *deferred judgment agreement in lieu of further criminal proceedings on*
22 *a complaint alleging a violation of this section;*

23 *(B) "conviction" includes being convicted of a violation of a law of*
24 *another state, or an ordinance of any city, or resolution of any county,*
25 *which prohibits the acts that this section prohibits or entering into a*
26 *diversion or deferred judgment agreement in lieu of further criminal*
27 *proceedings in a case alleging a violation of such law, ordinance or*
28 *resolution;*

29 *(C) only convictions occurring in the immediately preceding five*
30 *years including prior to July 1, 2001 shall be taken into account, but the*
31 *court may consider other prior convictions in determining the sentence*
32 *to be imposed within the limits provided for a first, second, third or*
33 *subsequent offender, whichever is applicable; and*

34 *(D) it is irrelevant whether an offense occurred before or after*
35 *conviction for a previous offense.*

36 *(d) A person may enter into a diversion agreement in lieu of further*
37 *criminal proceedings for a violation of this section or an ordinance of*
38 *any city or resolution of any county which prohibits the acts that this*
39 *section prohibits only twice during any five-year period.*

40 *Sec. ~~16~~ 15. K.S.A. 2011 Supp. 21-6604 is hereby amended to read*
41 *as follows: 21-6604. (a) Whenever any person has been found guilty of a*
42 *crime, the court may adjudge any of the following:*

43 *(1) Commit the defendant to the custody of the secretary of*

1 *corrections if the current crime of conviction is a felony and the*
2 *sentence presumes imprisonment, or the sentence imposed is a*
3 *dispositional departure to imprisonment; or, if confinement is for a*
4 *misdemeanor, to jail for the term provided by law;*

5 *(2) impose the fine applicable to the offense and may impose the*
6 *provisions of subsection (q);*

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

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

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

27 *(6) assign the defendant to a house arrest program pursuant to*
28 *K.S.A. 2011 Supp. 21-6609, and amendments thereto;*

29 *(7) order the defendant to attend and satisfactorily complete an*
30 *alcohol or drug education or training program as provided by subsection*
31 *(c) of K.S.A. 2011 Supp. 21-6602, and amendments thereto;*

32 *(8) order the defendant to repay the amount of any reward paid by*
33 *any crime stoppers chapter, individual, corporation or public entity*
34 *which materially aided in the apprehension or conviction of the*
35 *defendant; repay the amount of any costs and expenses incurred by any*
36 *law enforcement agency in the apprehension of the defendant, if one of*
37 *the current crimes of conviction of the defendant includes escape from*
38 *custody or aggravated escape from custody, as defined in K.S.A. 2011*
39 *Supp. 21-5911, and amendments thereto; repay expenses incurred by a*
40 *fire district, fire department or fire company responding to a fire which*
41 *has been determined to be arson or aggravated arson as defined in*
42 *K.S.A. 2011 Supp. 21-5812, and amendments thereto, if the defendant is*
43 *convicted of such crime; repay the amount of any public funds utilized*

1 *by a law enforcement agency to purchase controlled substances from the*
2 *defendant during the investigation which leads to the defendant's*
3 *conviction; or repay the amount of any medical costs and expenses*
4 *incurred by any law enforcement agency or county. Such repayment of*
5 *the amount of any such costs and expenses incurred by a county, law*
6 *enforcement agency, fire district, fire department or fire company or any*
7 *public funds utilized by a law enforcement agency shall be deposited and*
8 *credited to the same fund from which the public funds were credited to*
9 *prior to use by the county, law enforcement agency, fire district, fire*
10 *department or fire company;*

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

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

15 *(11) if the defendant is convicted of a misdemeanor or convicted of*
16 *a felony specified in subsection (i) of K.S.A. 2011 Supp. 21-6804, and*
17 *amendments thereto, assign the defendant to work release program,*
18 *other than a program at a correctional institution under the control of*
19 *the secretary of corrections as defined in K.S.A. 75-5202, and*
20 *amendments thereto, provided such work release program requires such*
21 *defendant to return to confinement at the end of each day in the work*
22 *release program. On a second conviction of K.S.A. 8-1567, and*
23 *amendments thereto, an offender placed into a work release program*
24 *must serve a total of 120 hours of confinement. Such 120 hours of*
25 *confinement shall be a period of at least 48 consecutive hours of*
26 *imprisonment followed by confinement hours at the end of and*
27 *continuing to the beginning of the offender's work day. On a third or*
28 *subsequent conviction of K.S.A. 8-1567, and amendments thereto, an*
29 *offender placed into a work release program must serve a total of 240*
30 *hours of confinement. Such 240 hours of confinement shall be a period*
31 *of at least 48 consecutive hours of imprisonment followed by*
32 *confinement hours at the end of and continuing to the beginning of the*
33 *offender's work day;*

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

37 *(13) impose any appropriate combination of (1), (2), (3), (4), (5),*
38 *(6), (7), (8), (9), (10), (11) and (12); or*

39 *(14) suspend imposition of sentence in misdemeanor cases.*

40 *(b) (1) In addition to or in lieu of any of the above, the court shall*
41 *order the defendant to pay restitution, which shall include, but not be*
42 *limited to, damage or loss caused by the defendant's crime, unless the*
43 *court finds compelling circumstances which would render a plan of*

1 *restitution unworkable. In regard to a violation of K.S.A. 2011 Supp. 21-*
2 *6107, and amendments thereto, such damage or loss shall include, but*
3 *not be limited to, attorney fees and costs incurred to repair the credit*
4 *history or rating of the person whose personal identification documents*
5 *were obtained and used in violation of such section, and to satisfy a debt,*
6 *lien or other obligation incurred by the person whose personal*
7 *identification documents were obtained and used in violation of such*
8 *section. If the court finds a plan of restitution unworkable, the court*
9 *shall state on the record in detail the reasons therefor.*

10 *(2) If the court orders restitution, the restitution shall be a*
11 *judgment against the defendant which may be collected by the court by*
12 *garnishment or other execution as on judgments in civil cases. If, after*
13 *60 days from the date restitution is ordered by the court, a defendant is*
14 *found to be in noncompliance with the plan established by the court for*
15 *payment of restitution, and the victim to whom restitution is ordered paid*
16 *has not initiated proceedings in accordance with K.S.A. 60-4301 et seq.,*
17 *and amendments thereto, the court shall assign an agent procured by the*
18 *attorney general pursuant to K.S.A. 75-719, and amendments thereto, to*
19 *collect the restitution on behalf of the victim. The chief judge of each*
20 *judicial district may assign such cases to an appropriate division of the*
21 *court for the conduct of civil collection proceedings.*

22 *(c) In addition to or in lieu of any of the above, the court shall*
23 *order the defendant to submit to and complete an alcohol and drug*
24 *evaluation, and pay a fee therefor, when required by subsection (d) of*
25 *K.S.A. 2011 Supp. 21-6602, and amendments thereto.*

26 *(d) In addition to any of the above, the court shall order the*
27 *defendant to reimburse the county general fund for all or a part of the*
28 *expenditures by the county to provide counsel and other defense services*
29 *to the defendant. Any such reimbursement to the county shall be paid*
30 *only after any order for restitution has been paid in full. In determining*
31 *the amount and method of payment of such sum, the court shall take*
32 *account of the financial resources of the defendant and the nature of the*
33 *burden that payment of such sum will impose. A defendant who has been*
34 *required to pay such sum and who is not willfully in default in the*
35 *payment thereof may at any time petition the court which sentenced the*
36 *defendant to waive payment of such sum or any unpaid portion thereof.*
37 *If it appears to the satisfaction of the court that payment of the amount*
38 *due will impose manifest hardship on the defendant or the defendant's*
39 *immediate family, the court may waive payment of all or part of the*
40 *amount due or modify the method of payment.*

41 *(e) In releasing a defendant on probation, the court shall direct that*
42 *the defendant be under the supervision of a court services officer. If the*
43 *court commits the defendant to the custody of the secretary of*

1 *corrections or to jail, the court may specify in its order the amount of*
2 *restitution to be paid and the person to whom it shall be paid if*
3 *restitution is later ordered as a condition of parole, conditional release*
4 *or postrelease supervision.*

5 *(f) (1) When a new felony is committed while the offender is*
6 *incarcerated and serving a sentence for a felony, or while the offender is*
7 *on probation, assignment to a community correctional services program,*
8 *parole, conditional release or postrelease supervision for a felony, a new*
9 *sentence shall be imposed pursuant to the consecutive sentencing*
10 *requirements of K.S.A. 2011 Supp. 21-6606, and amendments thereto,*
11 *and the court may sentence the offender to imprisonment for the new*
12 *conviction, even when the new crime of conviction otherwise presumes a*
13 *nonprison sentence. In this event, imposition of a prison sentence for the*
14 *new crime does not constitute a departure.*

15 *(2) When a new felony is committed while the offender is*
16 *incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-*
17 *1671, prior to its repeal, or K.S.A. 2011 Supp. 38-2373, and amendments*
18 *thereto, for an offense, which if committed by an adult would constitute*
19 *the commission of a felony, upon conviction, the court shall sentence the*
20 *offender to imprisonment for the new conviction, even when the new*
21 *crime of conviction otherwise presumes a nonprison sentence. In this*
22 *event, imposition of a prison sentence for the new crime does not*
23 *constitute a departure. The conviction shall operate as a full and*
24 *complete discharge from any obligations, except for an order of*
25 *restitution, imposed on the offender arising from the offense for which*
26 *the offender was committed to a juvenile correctional facility.*

27 *(3) When a new felony is committed while the offender is on release*
28 *for a felony pursuant to the provisions of article 28 of chapter 22 of the*
29 *Kansas Statutes Annotated, and amendments thereto, or similar*
30 *provisions of the laws of another jurisdiction, a new sentence may be*
31 *imposed pursuant to the consecutive sentencing requirements of K.S.A.*
32 *2011 Supp. 21-6606, and amendments thereto, and the court may*
33 *sentence the offender to imprisonment for the new conviction, even*
34 *when the new crime of conviction otherwise presumes a nonprison*
35 *sentence. In this event, imposition of a prison sentence for the new crime*
36 *does not constitute a departure.*

37 *(g) Prior to imposing a dispositional departure for a defendant*
38 *whose offense is classified in the presumptive nonprison grid block of*
39 *either sentencing guideline grid, prior to sentencing a defendant to*
40 *incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G*
41 *of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-*
42 *E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes,*
43 *prior to sentencing a defendant to incarceration whose offense is*

1 *classified in grid blocks 4-E or 4-F of the sentencing guideline grid for*
2 *drug crimes and whose offense does not meet the requirements of K.S.A.*
3 *2011 Supp. 21-6824, and amendments thereto, prior to revocation of a*
4 *nonprison sanction of a defendant whose offense is classified in grid*
5 *blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and*
6 *whose offense does not meet the requirements of K.S.A. 2011 Supp. 21-*
7 *6824, and amendments thereto, or prior to revocation of a nonprison*
8 *sanction of a defendant whose offense is classified in the presumptive*
9 *nonprison grid block of either sentencing guideline grid or grid blocks*
10 *5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or*
11 *in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid*
12 *for drug crimes, the court shall consider placement of the defendant in*
13 *the Labette correctional conservation camp, conservation camps*
14 *established by the secretary of corrections pursuant to K.S.A. 75-52,127,*
15 *and amendment thereto, or a community intermediate sanction center.*
16 *Pursuant to this paragraph the defendant shall not be sentenced to*
17 *imprisonment if space is available in a conservation camp or a*
18 *community intermediate sanction center and the defendant meets all of*
19 *the conservation camp's or a community intermediate sanction center's*
20 *placement criteria unless the court states on the record the reasons for*
21 *not placing the defendant in a conservation camp or a community*
22 *intermediate sanction center.*

23 *(h) The court in committing a defendant to the custody of the*
24 *secretary of corrections shall fix a term of confinement within the limits*
25 *provided by law. In those cases where the law does not fix a term of*
26 *confinement for the crime for which the defendant was convicted, the*
27 *court shall fix the term of such confinement.*

28 *(i) In addition to any of the above, the court shall order the*
29 *defendant to reimburse the state general fund for all or a part of the*
30 *expenditures by the state board of indigents' defense services to provide*
31 *counsel and other defense services to the defendant. In determining the*
32 *amount and method of payment of such sum, the court shall take*
33 *account of the financial resources of the defendant and the nature of the*
34 *burden that payment of such sum will impose. A defendant who has been*
35 *required to pay such sum and who is not willfully in default in the*
36 *payment thereof may at any time petition the court which sentenced the*
37 *defendant to waive payment of such sum or any unpaid portion thereof.*
38 *If it appears to the satisfaction of the court that payment of the amount*
39 *due will impose manifest hardship on the defendant or the defendant's*
40 *immediate family, the court may waive payment of all or part of the*
41 *amount due or modify the method of payment. The amount of attorney*
42 *fees to be included in the court order for reimbursement shall be the*
43 *amount claimed by appointed counsel on the payment voucher for*

1 *indigents' defense services or the amount prescribed by the board of*
2 *indigents' defense services reimbursement tables as provided in K.S.A.*
3 *22-4522, and amendments thereto, whichever is less.*

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

8 *(k) An application for or acceptance of probation or assignment to*
9 *a community correctional services program shall not constitute an*
10 *acquiescence in the judgment for purpose of appeal, and any convicted*
11 *person may appeal from such conviction, as provided by law, without*
12 *regard to whether such person has applied for probation, suspended*
13 *sentence or assignment to a community correctional services program.*

14 *(l) The secretary of corrections is authorized to make direct*
15 *placement to the Labette correctional conservation camp or a*
16 *conservation camp established by the secretary pursuant to K.S.A. 75-*
17 *52,127, and amendments thereto, of an inmate sentenced to the*
18 *secretary's custody if the inmate:*

19 *(1) Has been sentenced to the secretary for a probation revocation,*
20 *as a departure from the presumptive nonimprisonment grid block of*
21 *either sentencing grid, for an offense which is classified in grid blocks 5-*
22 *H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in*
23 *grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid*
24 *for drug crimes, or for an offense which is classified in grid blocks 4-E*
25 *or 4-F of the sentencing guidelines grid for drug crimes and such*
26 *offense does not meet the requirements of K.S.A. 2011 Supp. 21-6824,*
27 *and amendments thereto; and*

28 *(2) otherwise meets admission criteria of the camp.*

29 *If the inmate successfully completes a conservation camp program,*
30 *the secretary of corrections shall report such completion to the*
31 *sentencing court and the county or district attorney. The inmate shall*
32 *then be assigned by the court to six months of follow-up supervision*
33 *conducted by the appropriate community corrections services program.*
34 *The court may also order that supervision continue thereafter for the*
35 *length of time authorized by K.S.A. 2011 Supp. 21-6608, and*
36 *amendments thereto.*

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

40 *(n) Except as provided by subsection (f) of K.S.A. 2011 Supp. 21-*
41 *6805, and amendments thereto, in addition to any of the above, for*
42 *felony violations of K.S.A. 2011 Supp. 21-5706, and amendments*
43 *thereto, the court shall require the defendant who meets the*

1 requirements established in K.S.A. 2011 Supp. 21-6824, and
2 amendments thereto, to participate in a certified drug abuse treatment
3 program, as provided in K.S.A. 2011 Supp. 75-52,144, and amendments
4 thereto, including, but not limited to, an approved after-care plan. If the
5 defendant fails to participate in or has a pattern of intentional conduct
6 that demonstrates the offender's refusal to comply with or participate in
7 the treatment program, as established by judicial finding, the defendant
8 shall be subject to revocation of probation and the defendant shall serve
9 the underlying prison sentence as established in K.S.A. 2011 Supp. 21-
10 6805, and amendments thereto. For those offenders who are convicted
11 on or after July 1, 2003, upon completion of the underlying prison
12 sentence, the defendant shall not be subject to a period of postrelease
13 supervision. The amount of time spent participating in such program
14 shall not be credited as service on the underlying prison sentence.

15 (o) (1) Except as provided in paragraph (3), in addition to any other
16 penalty or disposition imposed by law, upon a conviction for unlawful
17 possession of a controlled substance or controlled substance analog in
18 violation of K.S.A. 2011 Supp. 21-5706, and amendments thereto, in
19 which the trier of fact makes a finding that the unlawful possession
20 occurred while transporting the controlled substance or controlled
21 substance analog in any vehicle upon a highway or street, the offender's
22 driver's license or privilege to operate a motor vehicle on the streets and
23 highways of this state shall be suspended for one year.

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

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

43 (B) Upon entering an order restricting a person's license

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

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

32 (4) *As used in this subsection, "highway" and "street" means the*
33 *same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.*

34 (p) *In addition to any of the above, for any criminal offense that*
35 *includes the domestic violence designation pursuant to K.S.A. 2011*
36 *Supp. 22-4616, and amendments thereto, the court shall require the*
37 *defendant to: (1) Undergo a domestic violence offender assessment*
38 *conducted by a certified batterer intervention program; and (2) follow all*
39 *recommendations made by such program, unless otherwise ordered by*
40 *the court or the department of corrections. The court may order a*
41 *domestic violence offender assessment and any other evaluation prior to*
42 *sentencing if the assessment or evaluation would assist the court in*
43 *determining an appropriate sentence. The entity completing the*

1 *assessment or evaluation shall provide the assessment or evaluation and*
2 *recommendations to the court and the court shall provide the domestic*
3 *violence offender assessment ~~and any other evaluation~~ to any entity*
4 *responsible for supervising such defendant. A defendant ordered to*
5 *undergo a domestic violence offender assessment shall be required to*
6 *pay for the assessment and, unless otherwise ordered by the court or the*
7 *department of corrections, for completion of all recommendations.*

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

28 ~~Sec. 15-17.~~ 16. K.S.A. 22-4616 is hereby amended to read as follows:

29 22-4616. (a) On and after July 1, 2011, in all criminal cases *filed in the*
30 *district court* ~~or in the municipal court~~, if there is evidence that the
31 defendant committed a domestic violence offense, the trier of fact shall
32 determine whether the defendant committed a domestic violence offense.

33 (1) Except as provided further, if the trier of fact determines that the
34 defendant committed a domestic violence offense, the court shall place a
35 domestic violence designation on the criminal case and the defendant shall
36 be subject to the provisions of subsection (p) of K.S.A. 2011 Supp. 21-
37 6604, and amendments thereto.

38 (2) The court shall not place a domestic violence designation on the
39 criminal case and the defendant shall not be subject to the provisions of
40 subsection (p) of K.S.A. 2011 Supp. 21-6604, and amendments thereto,
41 only if the court finds on the record that:

42 (A) The defendant has not previously committed a domestic violence
43 offense or participated in a diversion upon a complaint alleging a domestic

1 violence offense; and

2 (B) the domestic violence offense was not used to coerce, control,
3 punish, intimidate or take revenge against a person with whom the
4 offender is involved or has been involved in a dating relationship or
5 against a family or household member.

6 (b) The term "domestic violence offense" shall have the meaning
7 provided in K.S.A. 2011 Supp. 21-5111, and amendments thereto.

8 (c) This section shall be a part of and supplemental to the Kansas
9 code for criminal procedure.

10 **Sec. 17. On July 1, 2012, K.S.A. 2011 Supp. 23-3508 is hereby**
11 **amended to read as follows: 23-3508. (a) The court may order case**
12 **management, when appropriate, of any contested issue of child**
13 **custody or parenting time at any time, upon the motion of a party or**
14 **on the court's own motion. A hearing officer in a proceeding pursuant**
15 **to K.S.A. 2011 Supp. 23-3401, and amendments thereto, may order**
16 **case management, if appropriate, of a contested issue of child**
17 **visitation or parenting time in such a proceeding.**

18 (b) Cases in which case management is appropriate shall include
19 one or more of the following circumstances:

20 (1) Private or public neutral dispute resolution services have been
21 tried and failed to resolve the disputes;

22 (2) other neutral services have been determined to be
23 inappropriate for the family;

24 (3) repetitive conflict occurs within the family, as evidenced by
25 the filing of at least two motions in a six-month period for
26 enforcement, modification or change of residency, visitation, parenting
27 time or custody which are denied by the court; or

28 (4) a parent exhibits diminished capacity to parent.

29 (c) If the court or hearing officer orders case management under
30 subsection (a), the court or hearing officer shall appoint a case
31 manager, taking into consideration the following:

32 (1) An agreement by the parties to have a specific case manager
33 appointed by the court or hearing officer;

34 (2) the financial circumstances of the parties and the costs
35 assessed by the case manager;

36 (3) the case manager's knowledge of (A) the Kansas judicial
37 system and the procedure used in domestic relations cases, (B) other
38 resources in the community to which parties can be referred for
39 assistance, (C) child development, (D) clinical issues relating to
40 children, (E) the effects of divorce on children and (F) the psychology
41 of families; and

42 (4) the case manager's training and experience in the process and
43 techniques of alternative dispute resolution and case management.

1 **(d) To qualify as an appointed case manager, an individual shall:**

2 (1) (A) *Be currently licensed in Kansas as a licensed psychologist,*
3 *licensed masters level psychologist, licensed clinical psychotherapist,*
4 *licensed professional counselor, licensed clinical professional counselor,*
5 *licensed marriage and family therapist, licensed clinical marriage and*
6 *family therapist, licensed master social worker or licensed specialist*
7 *social worker; or*

8 (B) *be currently licensed to practice law in Kansas and have at least*
9 *five years of experience in the field of domestic relations law or family*
10 *law;*

11 (+) (2) **be qualified to conduct mediation;**

12 (2) (3) ~~have experience as a mediator~~ *mediated at least five domestic*
13 *relations cases;*

14 (3) (4) ~~attend a workshop~~ *attend one or more workshops, approved and*
15 *as ordered by the district court in which the case is filed, on case*
16 **management; and**

17 (4) (5) ~~participate in continuing education~~ *complete a minimum number*
18 *of continuing education hours regarding case management issues as*
19 *established and approved by the supreme court.*

20 (e) *On and after September 1, 2012, any case manager appointed by*
21 *the court prior to, on or after the effective date of this section shall meet*
22 *the requirements of subsection (d).*

23 **Sec. 18. On July 1, 2012, K.S.A. 2011 Supp. 23-3508 is hereby**
24 **repealed.**

25 ~~Sec. 16-18. 19.~~ K.S.A. 2011 Supp. ~~12-4509,~~ 21-5414, 21-6604 and 22-
26 4616 are hereby repealed.

27 ~~Sec. 17. 19.~~ **20.** This act shall take effect and be in force from and
28 after its publication in the Kansas register.