AN ACT concerning driving under the influence; relating to testing; administrative penalties; crimes, punishment and criminal procedure; amending K.S.A. 22-4704 and 22-4705 and K.S.A. 2010 Supp. 8-1001, 8-1014, 8-1015, 8-1567, 12-4106 and 75-5291 and repealing the existing sections; also repealing K.S.A. 2009 Supp. 8-1567, as amended by section 3 of chapter 153 of the 2010 Session Laws of Kansas.

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

Section 1. K.S.A. 2010 Supp. 8-1001 is hereby amended to read as follows: 8-1001. (a) Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent, subject to the provisions of this act, to submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The testing deemed consented to herein shall include all quantitative and qualitative tests for alcohol and drugs. A person who is dead or unconscious shall be deemed not to have withdrawn the person's consent to such test or tests, which shall be administered in the manner provided by this section.

(b) A law enforcement officer shall request a person to submit to a test or tests deemed consented to under subsection (a): (1) If the officer has reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person was driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, or was under the age of 21 years while having alcohol or other drugs in such person's system; and one of the following conditions exists: (A) The person has been arrested or otherwise taken into custody for any offense involving operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both, or for a violation of K.S.A. 8-1567a, and amendments thereto, or involving driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, in violation of a state statute or a city ordinance; or (B) the person has been involved in a vehicle accident or collision resulting in property damage or personal injury other than serious injury;
or (2) if the person was operating or attempting to operate a vehicle and
such vehicle has been involved in an accident or collision resulting in
serious injury or death of any person and the operator could be cited for
any traffic offense, as defined in K.S.A. 8-2117, and amendments thereto.
The traffic offense violation shall constitute probable cause for purposes of
paragraph (2). The test or tests under paragraph (2) shall not be required if
a law enforcement officer has reasonable grounds to believe the actions of
the operator did not contribute to the accident or collision. The law
enforcement officer directing administration of the test or tests may act on
personal knowledge or on the basis of the collective information available
to law enforcement officers involved in the accident investigation or arrest.

(c) If a law enforcement officer requests a person to submit to a test
of blood under this section, the withdrawal of blood at the direction of the
officer may be performed only by: (1) A person licensed to practice
medicine and surgery, licensed as a physician's assistant, or a person acting
under the direction of any such licensed person; (2) a registered nurse or a
licensed practical nurse; (3) any qualified medical technician, including,
but not limited to, an emergency medical technician-intermediate, mobile
intensive care technician, an emergency medical technician-intermediate
defibrillator, an advanced emergency medical technician or a paramedic,
as those terms are defined in K.S.A. 65-6112, and amendments thereto,
authorized by medical protocol or (4) a phlebotomist.

(d) A law enforcement officer may direct a medical professional
described in this section to draw a sample of blood from a person:
(1) If the person has given consent and meets the requirements of
subsection (b);
(2) if medically unable to consent, if the person meets the
requirements of paragraph (2) of subsection (b); or
(3) if the person refuses to submit to and complete a test, if the person
meets the requirements of paragraph (2) of subsection (b).

(e) When so directed by a law enforcement officer through a written
statement, the medical professional shall withdraw the sample as soon as
practical and shall deliver the sample to the law enforcement officer or
another law enforcement officer as directed by the requesting law
enforcement officer as soon as practical, provided the collection of the
sample does not jeopardize the person's life, cause serious injury to the
person or seriously impede the person's medical assessment, care or
treatment. The medical professional authorized herein to withdraw the
blood and the medical care facility where the blood is drawn may act on
good faith that the requirements have been met for directing the
withdrawing of blood once presented with the written statement provided
for under this subsection. The medical professional shall not require the
person to sign any additional consent or waiver form. In such a case, the
person authorized to withdraw blood and the medical care facility shall not
be liable in any action alleging lack of consent or lack of informed
consent.
(f) Such sample or samples shall be an independent sample and not
be a portion of a sample collected for medical purposes. The person
collecting the blood sample shall complete the collection portion of a
document provided by law enforcement.
(g) If a person must be restrained to collect the sample pursuant to
this section, law enforcement shall be responsible for applying any such
restraint utilizing acceptable law enforcement restraint practices. The
restraint shall be effective in controlling the person in a manner not to
jeopardize the person's safety or that of the medical professional or
attending medical or health care staff during the drawing of the sample and
without interfering with medical treatment.
(h) A law enforcement officer may request a urine sample upon
meeting the requirements of paragraph (1) of subsection (b) and shall
request a urine sample upon meeting the requirements of paragraph (2) of
subsection (b).
(i) If a law enforcement officer requests a person to submit to a test of
urine under this section, the collection of the urine sample shall be
supervised by persons of the same sex as the person being tested and shall
be conducted out of the view of any person other than the persons
supervising the collection of the sample and the person being tested, unless
the right to privacy is waived by the person being tested. When possible,
the supervising person shall be a law enforcement officer. The results of
qualitative testing for drug presence shall be admissible in evidence and
questions of accuracy or reliability shall go to the weight rather than the
admissibility of the evidence. If the person is medically unable to provide
a urine sample in such manner due to the injuries or treatment of the
injuries, the same authorization and procedure as used for the collection of
blood in subsections (d) and (e) shall apply to the collection of a urine
sample.
(j) No law enforcement officer who is acting in accordance with this
section shall be liable in any civil or criminal proceeding involving the
action.
(k) Before a test or tests are administered under this section, the
person shall be given oral and written notice that: (1) Kansas law requires
the person to submit to and complete one or more tests of breath, blood or
urine to determine if the person is under the influence of alcohol or drugs,
or both;
(2) the opportunity to consent to or refuse a test is not a constitutional
right;
(3) there is no constitutional right to consult with an attorney
regarding whether to submit to testing;

(4) if the person refuses to submit to and complete any test of breath, blood or urine hereafter requested by a law enforcement officer, the person's driving privileges will be suspended for one year for the first occurrence, two years for the second occurrence, three years for the third occurrence, 10 years for the fourth occurrence and permanently revoked for a fifth or subsequent occurrence;

(5) if the person submits to and completes the test or tests and the test results show for the first occurrence:

(A) An alcohol concentration of .08 or greater, the person's driving privileges will be suspended for 30 days for the first occurrence and one year for the second or subsequent occurrence; or

(B) an alcohol concentration of .15 or greater, the person's driving privileges will be suspended for one year for the first or subsequent occurrence;

(6) if the person submits to and completes the test or tests and the test results show an alcohol concentration of .08 or greater, the person's driving privileges will be suspended for one year for the second, third or fourth occurrence and permanently revoked for a fifth or subsequent occurrence;

(7) if the person is less than 21 years of age at the time of the test request and submits to and completes the tests and the test results show an alcohol concentration of .08 or greater, the person's driving privileges will be suspended for one year except the person's driving privileges will be permanently revoked for a fifth or subsequent occurrence;

(8) refusal to submit to testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both;

(9) the results of the testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both; and

(10) after the completion of the testing, the person has the right to consult with an attorney and may secure additional testing, which, if desired, should be done as soon as possible and is customarily available from medical care facilities willing to conduct such testing.

(I) If a law enforcement officer has reasonable grounds to believe that the person has been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, the person shall also be provided the oral and written notice pursuant to K.S.A. 8-2,145 and amendments thereto. Any failure to give the notices required by K.S.A. 8-2,145 and amendments thereto shall not invalidate any action taken as a result of the requirements of this section. If a law enforcement officer has reasonable grounds to believe that the person has been driving or attempting to drive a
vehicle while having alcohol or other drugs in such person's system and such person was under 21 years of age, the person also shall be given the notices required by K.S.A. 8-1567a, and amendments thereto. Any failure to give the notices required by K.S.A. 8-1567a, and amendments thereto, shall not invalidate any action taken as a result of the requirements of this section.

(m) After giving the foregoing information, a law enforcement officer shall request the person to submit to testing. The selection of the test or tests shall be made by the officer. If the test results show a blood or breath alcohol concentration of .08 or greater, the person's driving privileges shall be subject to suspension, or suspension and restriction, as provided in K.S.A. 8-1002 and 8-1014, and amendments thereto.

(n) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of the alleged operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both.

(o) If a law enforcement officer had reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .04 or greater, the person shall be disqualified from driving a commercial motor vehicle, pursuant to K.S.A. 8-2,142, and amendments thereto. If a law enforcement officer had reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .08 or greater, or the person refuses a test, the person's driving privileges shall be subject to suspension, or suspension and restriction, pursuant to this section, in addition to being disqualified from driving a commercial motor vehicle pursuant to K.S.A. 8-2,142, and amendments thereto.

(p) An officer shall have probable cause to believe that the person operated a vehicle while under the influence of alcohol or drugs, or both, if the vehicle was operated by such person in such a manner as to have caused the death of or serious injury to a person. In such event, such test or tests may be made pursuant to a search warrant issued under the authority of K.S.A. 22-2502, and amendments thereto, or without a search warrant under the authority of K.S.A. 22-2501, and amendments thereto.

(q) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(r) It shall not be a defense that the person did not understand the written or oral notice required by this section.

(s) No test results shall be suppressed because of technical
irregularities in the consent or notice required pursuant to this act.

(t) Nothing in this section shall be construed to limit the admissibility at any trial of alcohol or drug concentration testing results obtained pursuant to a search warrant.

(u) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.

(v) This act is remedial law and shall be liberally construed to promote public health, safety and welfare.

(w) As used in this section, "serious injury" means a physical injury to a person, as determined by law enforcement, which has the effect of, prior to the request for testing:

1. Disabling a person from the physical capacity to remove themselves from the scene;
2. renders a person unconscious;
3. the immediate loss of or absence of the normal use of at least one limb;
4. an injury determined by a physician to require surgery; or
5. otherwise indicates the person may die or be permanently disabled by the injury.

Sec. 2. K.S.A. 2010 Supp. 8-1014 is hereby amended to read as follows: 8-1014. (a) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person refuses a test, the division, pursuant to K.S.A. 8-1002, and amendments thereto, shall:

(1) On the person's first occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;

(2) on the person's second occurrence, suspend the person's driving privileges for two years and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(3) on the person's third occurrence, suspend the person's driving privileges for three years and at the end of the suspension, restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device;

(4) on the person's fourth occurrence, suspend the person's driving privileges for 10 years and at the end of the suspension, restrict the person's driving privileges for four years to driving only a motor vehicle equipped with an ignition interlock device; and

(5) on the person's fifth or subsequent occurrence, revoke suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges permanently to driving
(b) (1) Except as provided by subsections (b)(2), (c) and (e) and K.S.A. 8-2,142, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state, the division shall:
(A) On the person's first occurrence, suspend the person's driving privileges for 30 days and at the end of the suspension, then restrict the person's driving privileges as provided by subsection (b) of K.S.A. 8-1015, and amendments thereto, for an additional 330 days [to driving only a motor vehicle equipped with an ignition interlock device];
(B) on the person's second, third or fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device; and
(C) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;
(D) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device; and
(E) on the person's fifth or subsequent occurrence, the person's driving privileges shall be permanently revoked.

(2) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state and the person's blood or breath alcohol concentration is .15 or greater, the division shall:
(A) On the person's first occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;
(B) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;
(C) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges permanently to driving only a motor vehicle equipped with an ignition interlock device.

(D) on the person's fourth occurrence, suspend the person's driving
privileges for one year and at the end of the suspension, restrict the
person's driving privileges for four years to driving only a motor vehicle
equipped with an ignition interlock device; and

(E) on the person's fifth or subsequent occurrence, the person's
driving privileges shall be permanently revoked.

(3) Whenever a person's driving privileges have been restricted to
driving only a motor vehicle equipped with an ignition interlock device,
proof of the installation of such device, for the entire restriction period,
shall be provided to the division before the person's driving privileges are
fully reinstated.

(4) Whenever a person's driving privileges have been suspended for
one year on the second occurrence of an alcohol or drug-related conviction
in this state as provided in subsection (b)(1), after 45 days of such
suspension, such person may apply to the division for such person's
driving privileges to be restricted for the remainder of the one-year period
to driving only a motor vehicle equipped with an ignition interlock and
only for the purposes of getting to and from work, school, or an alcohol
treatment program or to go to and from the ignition interlock provider for
maintenance and downloading of data from the device. If such person
violates the restrictions, such person's driving privileges shall be
suspended for an additional year, in addition to any term of restriction as
provided in subsection (b)(1).

(c) Except as provided by subsection (e) and K.S.A. 8-2,142, and
amendments thereto, if a person who is less than 21 years of age fails a test
or has an alcohol or drug-related conviction in this state, the division shall:

(1) On the person's first occurrence, suspend the person's driving
privileges for one year. If the person's blood or breath alcohol
concentration is .15 or greater, the division shall at the end of the
suspension, restrict the person's driving privileges for one year to driving
only a motor vehicle equipped with an ignition interlock device;

(2) on the person's second and subsequent occurrences, penalties shall
be imposed pursuant to subsection (b).

(d) Whenever the division is notified by an alcohol and drug safety
action program that a person has failed to complete any alcohol and drug
safety action education or treatment program ordered by a court for a
conviction of a violation of K.S.A. 8-1567, and amendments thereto, the
division shall suspend the person's driving privileges until the division
receives notice of the person's completion of such program.

(e) Except as provided in K.S.A. 8-2,142, and amendments thereto, if
a person's driving privileges are subject to suspension pursuant to this
section for a test refusal, test failure or alcohol or drug-related conviction arising from the same arrest, the period of such suspension shall not exceed the longest applicable period authorized by subsection (a), (b) or (c), and such suspension periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of such suspension as authorized by subsection (a), (b) or (c), such person shall receive credit for any period of time for which such person's driving privileges were suspended while awaiting any hearing or final order authorized by this act.

If a person's driving privileges are subject to restriction pursuant to this section for a test failure or alcohol or drug-related conviction arising from the same arrest, the restriction periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of restriction, the person shall receive credit for any period of suspension imposed for a test refusal arising from the same arrest.

(f) If the division has taken action under subsection (a) for a test refusal or under subsection (b) or (c) for a test failure and such action is stayed pursuant to K.S.A. 8-259, and amendments thereto, or if temporary driving privileges are issued pursuant to K.S.A. 8-1020, and amendments thereto, the stay or temporary driving privileges shall not prevent the division from taking the action required by subsection (b) or (c) for an alcohol or drug-related conviction.

(g) Upon restricting a person's driving privileges pursuant to this section, the division shall issue a copy of the order imposing the restrictions which is required to be carried by the person at any time the person is operating a motor vehicle on the highways of this state.

(h) Except as provided further, any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may operate an employer's vehicle without an ignition interlock device installed during normal business activities, provided that the person does not partly or entirely own or control the employer's vehicle or business. The provisions of this subsection shall not apply to any person whose driving privileges have been restricted for the remainder of the one-year period on the second occurrence of an alcohol or drug-related conviction in this state as provided in subsection (b)(1).

(g) The provisions of subsections (a), (b) and (c), as amended by this act, may be applied retroactively only if requested by a person who has had such person's driving privileges suspended or restricted pursuant to subsection (a), (b) or (c) prior to such amendment. Such person may apply to the division to have the penalties applied retroactively, as provided under subsection (g)(f) of K.S.A. 8-1015, and amendments thereto.

(h) As used in this section, "suspension" includes any period of suspension and any period of restriction as provided in subsection (a) of
K.S.A. 8-1015, and amendments thereto.

Sec. 3. K.S.A. 2010 Supp. 8-1015 is hereby amended to read as follows: 8-1015. (a) When subsection (b)(1) of K.S.A. 8-1014, and amendments thereto, requires or authorizes the division to place restrictions on a person's driving privileges, the division shall restrict the person's driving privileges to driving only under the circumstances provided by subsections (a)(1), (2), (3) and (4) of K.S.A. 8-292 and amendments thereto.

(b) In lieu of the restrictions set out in subsection (a), the division, upon request of the person whose driving privileges are to be restricted, may restrict the person's driving privileges to driving only a motor vehicle equipped with an ignition interlock device, approved by the division and obtained, installed and maintained at the person's expense. Prior to issuing such restricted license, the division shall receive proof of the installation of such device.

(a) (1) Whenever a person's driving privileges have been suspended for one year as provided in subsection (a), (b) or (c) of K.S.A. 8-1014, and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(2) The division shall approve the request for such restricted license unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court. If the request is approved, upon receipt of proof of the installation of such device, the division shall issue a copy of the order imposing such restrictions on the person's driving privileges and such order shall be carried by the person at any time the person is operating a motor vehicle on the highways of this state. Except as provided in K.S.A. 8-1017, and amendments thereto, if such person is convicted of a violation of the restrictions, such person's driving privileges shall be suspended for an additional year, in addition to any term of suspension or restriction as provided in subsection (a), (b) or (c) of K.S.A. 8-1014, and amendments thereto.

(b) (1) When a person has completed the suspension pursuant to subsection (b)(1)(A) of K.S.A. 8-1014, and amendments thereto, the division shall restrict the person's driving privileges pursuant to subsection (b)(1)(A) of K.S.A. 8-1014, and amendments thereto, to driving only under the circumstances provided by subsections (a)(1), (2), (3) and (4) of K.S.A. 8-292, and amendments thereto. Except as provided in K.S.A. 8-
amendments thereto, if such person is convicted of a violation of the restrictions, such person’s driving privileges shall be suspended for an additional year, in addition to any term of suspension or restriction as provided in subsection (b)(1)(A) of K.S.A. 8-1014, and amendments thereto.

(2) In lieu of the restrictions set out in subsection (b)(1), the division, upon request of the person whose driving privileges are to be restricted, may restrict the person’s driving privileges to driving only a motor vehicle equipped with an ignition interlock device. Upon restricting a person’s driving privileges pursuant to this subsection, the division shall issue a copy of the order imposing the restrictions which is required to be carried by the person at any time the person is operating a motor vehicle on the highways of this state.

(b) Except as provided in subsection (b), when a person has completed the suspension pursuant to subsection (b) (a), (b) or (c) of K.S.A. 8-1014, and amendments thereto, the division shall restrict the person’s driving privileges pursuant to subsection (b) (a), (b) or (c) of K.S.A. 8-1014, and amendments thereto, to driving only a motor vehicle equipped with an ignition interlock device, approved by the division and maintained at the person’s expense. Proof of the installation of such device, for the entire restriction period, shall be provided to the division before the person’s driving privileges are fully reinstated. Upon restricting a person’s driving privileges pursuant to this subsection, the division shall issue a copy of the order imposing the restrictions which is required to be carried by the person at any time the person is operating a motor vehicle on the highways of this state.

(c) Whenever an ignition interlock device is required by law, such ignition interlock device shall be approved by the division and maintained at the person’s expense. Proof of the installation of such ignition interlock device, for the entire period required by the applicable law, shall be provided to the division before the person’s driving privileges are fully reinstated.

(d) Except as provided further, any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may operate an employer’s vehicle without an ignition interlock device installed during normal business activities, provided that the person does not partly or entirely own or control the employer’s vehicle or business. The provisions of this subsection shall not apply to any person whose driving privileges have been restricted for the remainder of the one-year suspension period as provided in subsection (a).

(e) Upon expiration of the period of time for which restrictions are imposed pursuant to this section, the licensee may apply to
the division for the return of any license previously surrendered by the
licensee. If the license has expired, the person may apply to the division
for a new license, which shall be issued by the division upon payment of
the proper fee and satisfaction of the other conditions established by law,
unless the person's driving privileges have been suspended or revoked
prior to expiration.

Any person who has had the person's driving privileges
suspended or restricted pursuant to subsection (a), (b) or (c) of K.S.A. 8-
1014, prior to the amendments by this act, may apply to the division to
have the suspension and restriction penalties modified in conformity with
the provisions of subsection (a), (b) or (c) of K.S.A. 8-1014, and
amendments thereto. The division shall assess an application fee of $59
for a person to apply to modify the suspension and restriction penalties
previously issued. The division shall remit all application fees to the state
treasurer in accordance with the provisions of K.S.A. 75-4215, and
amendments thereto. Upon receipt of such remittance, the state treasurer
shall deposit the entire amount in the state treasury and shall credit such
moneys to the division of vehicles operating fund. The application fee
established in this section shall be the only fee collected or moneys in the
nature of a fee collected for such application. Such fee shall only be
established by an act of the legislature and no other authority is
established by law or otherwise to collect a fee. The division shall modify
the suspension and restriction penalties, unless such person's driving
privileges have been restricted, suspended, revoked or disqualified
pursuant to another action by the division or a court.

Sec. 4. K.S.A. 2010 Supp. 8-1567 is hereby amended to read as
follows: 8-1567. (a) No person shall operate or attempt to operate any
vehicle within this state while:

(1) The alcohol concentration in the person's blood or breath as
shown by any competent evidence, including other competent evidence, as
defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and
amendments thereto, is .08 or more;

(2) the alcohol concentration in the person's blood or breath, as
measured within two hours of the time of operating or attempting to
operate a vehicle, is .08 or more;

(3) under the influence of alcohol to a degree that renders the person
incapable of safely driving a vehicle;

(4) under the influence of any drug or combination of drugs to a
degree that renders the person incapable of safely driving a vehicle; or

(5) under the influence of a combination of alcohol and any drug or
drugs to a degree that renders the person incapable of safely driving a
vehicle.

(b) No person shall operate or attempt to operate any vehicle within
this state if the person is a habitual user of any narcotic, hypnotic, somnifacient or stimulating drug.

(c) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(d) (1) Upon a first conviction of a violation of this section, a person shall be guilty of a class B, nonperson misdemeanor and sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than $500 nor more than $1,000. The person convicted must serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. [The court may place the person convicted under a house arrest program pursuant to section 249 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.]

(2) In addition, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program or treatment program as provided in K.S.A. 8-1008, and amendments thereto, or both the education and treatment programs.

(e) (1) On a second conviction of a violation of this section, a person shall be guilty of a class A, nonperson misdemeanor and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,000 nor more than $1,500. The person convicted must serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b section 249 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.

(2) As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008, and amendments thereto.

(f) (1) On the third conviction of a violation of this section, a person shall be guilty of a nonperson felony and sentenced to not less than 90
days nor more than one year's imprisonment and fined not less than $1,500
nor more than $2,500. The person convicted shall not be eligible for
release on probation, suspension or reduction of sentence or parole until
the person has served at least 90 days' imprisonment. The 90 days'
imprisonment mandated by this paragraph may be served in a work release
program only after such person has served 48 consecutive hours'
imprisonment, provided such work release program requires such person
to return to confinement at the end of each day in the work release
program. The court may place the person convicted under a house arrest
program pursuant to K.S.A. 21-4603b section 249 of chapter 136 of the
2010 Session Laws of Kansas, and amendments thereto, to serve the
remainder of the minimum sentence only after such person has served 48
consecutive hours' imprisonment.

(2) The court may order that the term of imprisonment imposed
pursuant to paragraph (1) be served in a state facility in the custody of the
secretary of corrections in a facility designated by the secretary for the
provision of substance abuse treatment pursuant to the provisions of
K.S.A. 21-4704 section 285 of chapter 136 of the 2010 Session Laws of
Kansas, and amendments thereto. The person shall remain imprisoned at
the state facility only while participating in the substance abuse treatment
program designated by the secretary and shall be returned to the custody of
the sheriff for execution of the balance of the term of imprisonment upon
completion of or the person's discharge from the substance abuse treatment
program. Custody of the person shall be returned to the sheriff for
execution of the sentence imposed in the event the secretary of corrections
determines: (A) That substance abuse treatment resources or the capacity
of the facility designated by the secretary for the incarceration and
treatment of the person is not available; (B) the person fails to
meaningfully participate in the treatment program of the designated
facility; (C) the person is disruptive to the security or operation of the
designated facility; or (D) the medical or mental health condition of the
person renders the person unsuitable for confinement at the designated
facility. The determination by the secretary that the person either is not to
be admitted into the designated facility or is to be transferred from the
designated facility is not subject to review. The sheriff shall be responsible
for all transportation expenses to and from the state correctional facility.

The court shall also require as a condition of parole that such person
enter into and complete a treatment program for alcohol and drug abuse as
provided by K.S.A. 8-1008, and amendments thereto.

(3) At the time of the filing of the judgment form or journal entry as
required by K.S.A. 22-3426 or section 280 of chapter 136 of the 2010
Session Laws of Kansas, and amendments thereto, the court shall cause a
certified copy to be sent to the officer having the offender in charge. The
law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the director of the community corrections program for the county of conviction when the term of imprisonment expires and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the director of the community corrections program. After the term of imprisonment imposed by the court, the person shall be placed in the custody of the community correctional services program for a mandatory one-year period of community corrections supervision, which such period of community corrections supervision shall not be reduced. During such community corrections supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a department of social and rehabilitation services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the community corrections officer, the social and rehabilitation services department designated treatment provider and the offender. Any violation of the conditions of such community corrections supervision may subject such person to revocation of community corrections supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the community corrections supervision period, or any combination or portion thereof.

(g) (1) On the fourth or subsequent conviction of a violation of this section, a person shall be guilty of a nonperson felony and sentenced to not less than 90 days nor more than one year's imprisonment and fined $2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this paragraph may be served in a work release program only after such person has served 72 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. [The court may place the person convicted under a house arrest program pursuant to section 249 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 72 consecutive hours' imprisonment.]

(2) The court may order that the term of imprisonment imposed pursuant to paragraph (1) be served in a state facility in the custody of the secretary of corrections in a facility designated by the secretary for the provision of substance abuse treatment pursuant to the provisions of
K.S.A. 21-4704 section 285 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto. The person shall remain imprisoned at the state facility only while participating in the substance abuse treatment program designated by the secretary and shall be returned to the custody of the sheriff for execution of the balance of the term of imprisonment upon completion of or the person's discharge from the substance abuse treatment program. Custody of the person shall be returned to the sheriff for execution of the sentence imposed in the event the secretary of corrections determines: (A) That substance abuse treatment resources or the capacity of the facility designated by the secretary for the incarceration and treatment of the person is not available; (B) the person fails to meaningfully participate in the treatment program of the designated facility; (C) the person is disruptive to the security or operation of the designated facility; or (D) the medical or mental health condition of the person renders the person unsuitable for confinement at the designated facility. The determination by the secretary that the person either is not to be admitted into the designated facility or is to be transferred from the designated facility is not subject to review. The sheriff shall be responsible for all transportation expenses to and from the state correctional facility.

At the time of the filing of the judgment form or journal entry as required by K.S.A. 21-4620 or 22-3426, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the secretary of corrections within three business days of receipt of the judgment form or journal entry from the court and notify the secretary of corrections when the term of imprisonment expires and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the secretary. After the term of imprisonment imposed by the court, the person shall be placed in the custody of the secretary of corrections for a mandatory one-year period of postrelease supervision, which such period of postrelease supervision shall not be reduced. During such postrelease supervision, the person shall be required to participate in an inpatient or outpatient program for alcohol and drug abuse, including, but not limited to, an approved aftercare plan or mental health counseling, as determined by the secretary and satisfy conditions imposed by the Kansas parole board as provided by K.S.A. 22-3717, and amendments thereto. Any violation of the conditions of such postrelease supervision may subject such person to revocation of postrelease supervision pursuant to K.S.A. 75-5217 et seq., and amendments thereto and as otherwise provided by law.

(3) At the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426 or section 280 of chapter 136 of the 2010
Session Laws of Kansas, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the director of the community corrections program for the county of conviction when the term of imprisonment expires and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the director of the community corrections program. After the term of imprisonment imposed by the court, the person shall be placed in the custody of the community corrections program for a mandatory one-year period of community corrections supervision, which such period of community corrections supervision shall not be reduced. During such community corrections supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a department of social and rehabilitation services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the community corrections officer, the social and rehabilitation services department designated treatment provider and the offender. Any violation of the conditions of such community corrections supervision may subject such person to revocation of community corrections supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the community corrections supervision period, or any combination or portion thereof.

(h) Any person convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section prohibits. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(i) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
(j) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to $5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(k) (1) Except as provided in paragraph (5), in addition to any other penalty which may be imposed upon a first conviction of a violation of this section, the court may order that the convicted person's motor vehicle or vehicles be impounded or immobilized for a period not to exceed one year and that the convicted person pay all towing, impoundment and storage fees or other immobilization costs.

(2) The court shall not order the impoundment or immobilization of a motor vehicle driven by a person convicted of a violation of this section if the motor vehicle had been stolen or converted at the time it was driven in violation of this section.

(3) Prior to ordering the impoundment or immobilization of a motor vehicle or vehicles owned by a person convicted of a violation of this section, the court shall consider, but not be limited to, the following:

(A) Whether the impoundment or immobilization of the motor vehicle would result in the loss of employment by the convicted person or a member of such person's family; and

(B) whether the ability of the convicted person or a member of such person's family to attend school or obtain medical care would be impaired.

(4) Any personal property in a vehicle impounded or immobilized pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.

(5) As used in this subsection, the convicted person's motor vehicle or vehicles shall include any vehicle leased by such person. If the lease on the convicted person's motor vehicle subject to impoundment or immobilization expires in less than one year from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of time remaining on the lease.

(l) (1) Except as provided in paragraph (3), in addition to any other penalty which may be imposed upon a second or subsequent conviction of a violation of this section, the court shall order that each motor vehicle owned or leased by the convicted person shall either be equipped with an ignition interlock device or be impounded or immobilized for a period of
two years. The convicted person shall pay all costs associated with the
installation, maintenance and removal of the ignition interlock device and
all towing, impoundment and storage fees or other immobilization costs.

(2) Any personal property in a vehicle impounded or immobilized
pursuant to this subsection may be retrieved prior to or during the period
of such impoundment or immobilization.

(3) As used in this subsection, the convicted person's motor vehicle or
vehicles shall include any vehicle leased by such person. If the lease on the
convicted person's motor vehicle subject to impoundment or
immobilization expires in less than two years from the date of the
impoundment or immobilization, the time of impoundment or
immobilization of such vehicle shall be the amount of time remaining on
the lease.

(m) (1) Prior to filing a complaint alleging a violation of this section,
a prosecutor shall request and shall receive from the division a record of
all prior convictions obtained against such person for any violations of any
of the motor vehicle laws of this state.

(2) Prior to filing a complaint alleging a violation of this section, a
prosecutor shall request and shall receive from the Kansas bureau of
investigation central repository all criminal history record information
concerning such person.

(n) The court shall electronically report every conviction of a
violation of this section and every diversion agreement entered into in lieu
of further criminal proceedings or a complaint alleging a violation of this
section to the division. Prior to sentencing under the provisions of this
section, the court shall request and shall receive from the division a record
of all prior convictions obtained against such person for any violations of
any of the motor vehicle laws of this state.

(o) For the purpose of determining whether a conviction is a first,
second, third, fourth or subsequent conviction in sentencing under this
section:

(1) "Conviction" includes being convicted of a violation of this
section or entering into a diversion agreement in lieu of further criminal
proceedings on a complaint alleging a violation of this section;

(2) "Conviction" includes being convicted of a violation of a law of
another state or an ordinance of any city, or resolution of any county,
which prohibits the acts that this section prohibits or entering into a
diversion agreement in lieu of further criminal proceedings in a case
alleging a violation of such law, ordinance or resolution;

(3) any convictions occurring during a person's lifetime shall be taken
into account when determining the sentence to be imposed for a first,
second, third, fourth or subsequent offender;

(4) it is irrelevant whether an offense occurred before or after
conviction for a previous offense; and
(5) a person may enter into a diversion agreement in lieu of further
criminal proceedings for a violation of this section, and amendments
thereto, or an ordinance which prohibits the acts of this section, and
amendments thereto, only once during the person's lifetime.
(p) Upon conviction of a person of a violation of this section or a
violation of a city ordinance or county resolution prohibiting the acts
prohibited by this section, the division, upon receiving a report of
conviction, shall suspend, restrict or suspend and restrict the person's
driving privileges as provided by K.S.A. 8-1014, and amendments thereto.
(q) (1) (A) Nothing contained in this section shall be construed as
preventing any city from enacting ordinances, or any county from adopting
resolutions, declaring acts prohibited or made unlawful by this act as
unlawful or prohibited in such city or county and prescribing penalties for
violation thereof. Except as specifically provided by this subsection, the
minimum penalty prescribed by any such ordinance or resolution shall not
be less than the minimum penalty prescribed by this act for the same
violation, and the maximum penalty in any such ordinance or resolution
shall not exceed the maximum penalty prescribed for the same violation.
(B) On and after July 1, 2007, and retroactive for ordinance violations
committed on or after July 1, 2006, an ordinance may grant to a municipal
court jurisdiction over a violation of such ordinance which is concurrent
with the jurisdiction of the district court over a violation of this section,
notwithstanding that the elements of such ordinance violation are the same
as the elements of a violation of this section that would constitute, and be
punished as, a felony.
(C) Any such ordinance or resolution shall authorize the court to
order that the convicted person pay restitution to any victim who suffered
loss due to the violation for which the person was convicted. Except as
provided in paragraph (5), any such ordinance or resolution may require or
authorize the court to order that the convicted person's motor vehicle or
vehicles be impounded or immobilized for a period not to exceed one year
and that the convicted person pay all towing, impoundment and storage
fees or other immobilization costs.
(2) The court shall not order the impoundment or immobilization of a
motor vehicle driven by a person convicted of a violation of this section if
the motor vehicle had been stolen or converted at the time it was driven in
violation of this section.
(3) Prior to ordering the impoundment or immobilization of a motor
vehicle or vehicles owned by a person convicted of a violation of this
section, the court shall consider, but not be limited to, the following:
(A) Whether the impoundment or immobilization of the motor
vehicle would result in the loss of employment by the convicted person or
a member of such person's family; and

(B) whether the ability of the convicted person or a member of such person's family to attend school or obtain medical care would be impaired.

(4) Any personal property in a vehicle impounded or immobilized pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.

(5) As used in this subsection, the convicted person's motor vehicle or vehicles shall include any vehicle leased by such person. If the lease on the convicted person's motor vehicle subject to impoundment or immobilization expires in less than one year from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of time remaining on the lease.

(r) (1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated a city ordinance prohibiting the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(2) Upon the filing of a complaint, citation or notice to appear alleging a person has violated a city ordinance prohibiting the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the Kansas bureau of investigation central repository all criminal history record information concerning such person.

(3) If the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the appropriate county or district attorney for prosecution.

(s) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

(t) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the state, city or county, but shall not be required to, may elect one or two of the three prior to submission of the case to the fact finder.

(u) Upon a fourth or subsequent conviction, the judge of any court in
which any person is convicted of violating this section, may revoke the
person's license plate or temporary registration certificate of the motor
vehicle driven during the violation of this section for a period of one year.
Upon revoking any license plate or temporary registration certificate
pursuant to this subsection, the court shall require that such license plate or
temporary registration certificate be surrendered to the court.

(v) For the purpose of this section: (1) "Alcohol concentration" means
the number of grams of alcohol per 100 milliliters of blood or per 210
liters of breath.

(2) "Imprisonment" shall include any restrained environment in
which the court and law enforcement agency intend to retain custody and
control of a defendant and such environment has been approved by the
board of county commissioners or the governing body of a city.

(3) "Drug" includes toxic vapors as such term is defined in K.S.A.
2010 Supp. 21-36a12, and amendments thereto.

(w) The amount of the increase in fines as specified in this section
shall be remitted by the clerk of the district court to the state treasurer in
accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of remittance of the increase provided in this act, the
state treasurer shall deposit the entire amount in the state treasury and the
state treasurer shall credit 50% to the community alcoholism and
intoxication programs fund and 50% to the department of corrections
alcohol and drug abuse treatment fund, which is hereby created in the state
treasury.

(x) Upon every conviction of a violation of this section, the court
shall order such person to submit to a pre-sentence alcohol and drug abuse
evaluation pursuant to K.S.A. 8-1008, and amendments thereto. Such pre-
sentence evaluation shall be made available, and shall be considered by the
sentencing court.

Sec. 5. K.S.A. 2010 Supp. 12-4106 is hereby amended to read as
follows: 12-4106. (a) The municipal judge shall have the power to
administer the oaths and enforce all orders, rules and judgments made by
such municipal judge, and may fine or imprison for contempt in the same
manner and to the same extent as a judge of the district court.

(b) The municipal judge shall have the power to hear and determine
all cases properly brought before such municipal judge to: Grant
continuances; sentence those found guilty to a fine or confinement in jail,
or both; commit accused persons to jail in default of bond; determine
applications for parole; release on probation; grant time in which a fine
may be paid; correct a sentence; suspend imposition of a sentence; set
aside a judgment; permit time for post trial motions; and discharge accused
persons.

(c) The municipal judge shall maintain a docket in which every cause
commenced before such municipal judge shall be entered. Such docket shall contain the names of the accused persons and complainant, the nature or character of the offense, the date of trial, the names of all witnesses sworn and examined, the finding of the court, the judgment and sentence, the date of payment, the date of issuing commitment, if any, and every other fact necessary to show the full proceedings in each case.

(d) The municipal judge shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the supreme court.

(e) The municipal judge shall ensure that information concerning dispositions of city ordinance violations that result in convictions comparable to convictions for class A and B misdemeanors under Kansas criminal statutes is forwarded to the Kansas bureau of investigation central repository. This information shall be transmitted, on a form or in a format approved by the attorney general, within 30 days of final disposition.

(f) In all cases alleging a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, the municipal court judge shall ensure that information concerning persons arrested or charged with a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, is forwarded to the Kansas bureau of investigation central repository. The municipal court reports the filing and disposition of such case to the Kansas bureau of investigation central repository, and, on and after July 1, 2013, reports the filing and disposition of such case electronically to the Kansas bureau of investigation central repository.

Sec. 6. K.S.A. 22-4704 is hereby amended to read as follows: 22-4704. (a) In accordance with the provisions of K.S.A. 77-415 et seq., and amendments thereto, the director shall adopt appropriate rules and regulations for agencies in the executive branch of government and for criminal justice agencies other than those that are part of the judicial branch of government to implement the provisions of this act.

(b) The director shall develop procedures to permit and encourage the transfer of criminal history record information among and between courts and affected agencies in the executive branch, and especially between courts and the central repository.

(c) The rules and regulations adopted by the director shall include those: (1) Governing the collection, reporting, and dissemination of criminal history record information by criminal justice agencies;

(2) necessary to insure the security of all criminal history record information reported, collected and disseminated by and through the criminal justice information system;

(3) necessary for the coordination of all criminal justice data and
information processing activities as they relate to criminal history record
information;
(4) governing the dissemination of criminal history record
information;
(5) governing the procedures for inspection and challenging of
criminal history record information;
(6) governing the auditing of criminal justice agencies to insure that
criminal history record information is accurate and complete and that it is
collected, reported, and disseminated in accordance with this act;
(7) governing the development and content of agreements between
the central repository and criminal justice and noncriminal justice
agencies;
(8) governing the exercise of the rights of inspection and challenge
provided in this act.
(d) The rules and regulations adopted by the director shall not include
any provision that allows the charging of a fee for information requests for
the purpose of participating in a block parent program, including but not
limited to, the McGruff house program.
(e) Rules and regulations adopted by the director may not be
inconsistent with the provisions of this act.
(f) (1) On or before July 1, 2012, the director shall adopt rules and
regulations requiring district courts to report the filing of all cases
alleging a violation of K.S.A. 8-1567, and amendments thereto, to the
central repository.
(2) On or before July 1, 2013, the director shall adopt rules and
regulations requiring district courts to electronically report all case filings
for violations of K.S.A. 8-1567, and amendments thereto, to the central
repository.
Sec. 7. K.S.A. 22-4705 is hereby amended to read as follows: 22-
4705. (a) The following events are reportable events under this act:
(1) Issuance of an arrest warrant;
(2) an arrest;
(3) release of a person after arrest without the filing of a charge;
(4) the filing of a charge;
(5) dismissal or quashing of an indictment or criminal
information;
(6) an acquittal, conviction or other disposition at or following
trial, including a finding of probation before judgment;
(7) imposition of a sentence;
(8) commitment to a correctional facility, whether state or locally
operated;
(9) release from detention or confinement;
(10) an escape from confinement;
(10) a pardon, reprieve, commutation of sentence or other change in a sentence, including a change ordered by a court;
(11) judgment of an appellate court that modifies or reverses the lower court decision;
(12) order of a court in a collateral proceeding that affects a person's conviction, sentence or confinement, including any expungement or annulment of arrests or convictions pursuant to state statute; and
(13) any other event arising out of or occurring during the course of criminal justice proceedings declared to be reportable by rule or regulation of the director.

(b) There is hereby established a criminal justice information system central repository for the collection, storage, and dissemination of criminal history record information. The central repository shall be operated by the Kansas bureau of investigation under the administrative control of the director.

(c) Except as otherwise provided by this subsection, every criminal justice agency shall report criminal history record information, whether collected manually or by means of an automated system, to the central repository, in accordance with rules and regulations adopted pursuant to this act. A criminal justice agency shall report to the central repository those reportable events involving a violation of a county resolution or city ordinance only when required by rules and regulations adopted by the director.

(d) Reporting methods may include:

(1) Submittal of criminal history record information by a criminal justice agency directly to the central repository;
(2) if the information can readily be collected and reported through the court system, submittal to the central repository by the administrative office of the courts; or
(3) if the information can readily be collected and reported through criminal justice agencies that are part of a geographically based information system, submittal to the central repository by the agencies.

(e) Nothing in this section shall prevent a criminal justice agency from maintaining more detailed information than is required to be reported to the central repository. However, the dissemination of that criminal history record information is governed by the provisions of this act.

(f) The director may determine, by rule and regulation, the reportable events to be reported by each criminal justice agency, in order to avoid duplication in reporting.

Sec. 8. K.S.A. 2010 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a) (1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the criminogenic needs of
felony offenders including, but not limited to, adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52,127 and amendments thereto.

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

(A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In addition, the court may place in a community correctional services program adult offenders, convicted of a felony offense, whose offense is classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes;

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

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

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

(E) on and after January 1, 2011, for offenders who are expected to be subject to supervision in Kansas, who are determined to be "high risk or needs, or both" by the use of a statewide, mandatory, standardized risk assessment tool or instrument which shall be specified by the Kansas sentencing commission;

(F) placed in community correctional services programs as a condition of supervision following the successful completion of a conservation camp program; or

(G) who has been sentenced to community corrections supervision pursuant to K.S.A. 21-4729, prior to its repeal, or section 305 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto; or

(H) who has been placed in community correctional services
programs for supervision by the court pursuant to K.S.A. 8-1567, and amendements thereto.

(3) Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before January 1, 2011, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this paragraph shall expire on January 1, 2011.

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

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

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

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

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

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

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

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

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

(6) The committee shall submit its report to the secretary annually on or before July 15 in order for the enhanced or new interventions to be considered for inclusion within the department of corrections budget request for community correctional services or in the department's enhanced services budget request for the subsequent fiscal year.

Sec. 9. K.S.A. 22-4704 and 22-4705 and K.S.A. 2009 Supp. 8-1567, as amended by section 3 of chapter 153 of the 2010 Session Laws of Kansas and K.S.A. 2010 Supp. 8-1001, 8-1014, 8-1015, 8-1567, 12-4106 and 75-5291 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.