

As Amended by House Committee

Session of 2014

HOUSE BILL No. 2495

By Committee on Corrections and Juvenile Justice

1-23

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to sentencing; probation and postrelease supervision; amending K.S.A.  
3 2013 Supp. 21-6604, **21-6608** and 22-3716 and repealing the existing  
4 sections.

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

7 Section 1. K.S.A. 2013 Supp. 21-6604 is hereby amended to read as  
8 follows: 21-6604. (a) Whenever any person has been found guilty of a  
9 crime, the court may adjudge any of the following:

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

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

17 (3) release the defendant on probation if the current crime of  
18 conviction and criminal history fall within a presumptive nonprison  
19 category or through a departure for substantial and compelling reasons  
20 subject to such conditions as the court may deem appropriate. In felony  
21 cases except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2013  
22 Supp. 8-1025, and amendments thereto, the court may include  
23 confinement in a county jail not to exceed 60 days, which need not be  
24 served consecutively, as a condition of an original probation sentence ~~and~~  
25 ~~up to 60 days in a county jail upon each revocation of the probation~~  
26 ~~sentence, or community corrections placement;~~

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

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

1 (6) assign the defendant to a house arrest program pursuant to K.S.A.  
2 2013 Supp. 21-6609, and amendments thereto;

3 (7) order the defendant to attend and satisfactorily complete an  
4 alcohol or drug education or training program as provided by subsection  
5 (c) of K.S.A. 2013 Supp. 21-6602, and amendments thereto;

6 (8) order the defendant to repay the amount of any reward paid by  
7 any crime stoppers chapter, individual, corporation or public entity which  
8 materially aided in the apprehension or conviction of the defendant; repay  
9 the amount of any costs and expenses incurred by any law enforcement  
10 agency in the apprehension of the defendant, if one of the current crimes  
11 of conviction of the defendant includes escape from custody or aggravated  
12 escape from custody, as defined in K.S.A. 2013 Supp. 21-5911, and  
13 amendments thereto; repay expenses incurred by a fire district, fire  
14 department or fire company responding to a fire which has been  
15 determined to be arson or aggravated arson as defined in K.S.A. 2013  
16 Supp. 21-5812, and amendments thereto, if the defendant is convicted of  
17 such crime; repay the amount of any public funds utilized by a law  
18 enforcement agency to purchase controlled substances from the defendant  
19 during the investigation which leads to the defendant's conviction; or repay  
20 the amount of any medical costs and expenses incurred by any law  
21 enforcement agency or county. Such repayment of the amount of any such  
22 costs and expenses incurred by a county, law enforcement agency, fire  
23 district, fire department or fire company or any public funds utilized by a  
24 law enforcement agency shall be deposited and credited to the same fund  
25 from which the public funds were credited to prior to use by the county,  
26 law enforcement agency, fire district, fire department or fire company;

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

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

31 (11) if the defendant is convicted of a misdemeanor or convicted of a  
32 felony specified in subsection (i) of K.S.A. 2013 Supp. 21-6804, and  
33 amendments thereto, assign the defendant to work release program, other  
34 than a program at a correctional institution under the control of the  
35 secretary of corrections as defined in K.S.A. 75-5202, and amendments  
36 thereto, provided such work release program requires such defendant to  
37 return to confinement at the end of each day in the work release program.  
38 On a second or subsequent conviction of K.S.A. 8-1567, and amendments  
39 thereto, an offender placed into a work release program shall serve the  
40 total number of hours of confinement mandated by that section;

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

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

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

4 (b) (1) In addition to or in lieu of any of the above, the court shall  
5 order the defendant to pay restitution, which shall include, but not be  
6 limited to, damage or loss caused by the defendant's crime, unless the  
7 court finds compelling circumstances which would render a plan of  
8 restitution unworkable. In regard to a violation of K.S.A. 2013 Supp. 21-  
9 6107, and amendments thereto, such damage or loss shall include, but not  
10 be limited to, attorney fees and costs incurred to repair the credit history or  
11 rating of the person whose personal identification documents were  
12 obtained and used in violation of such section, and to satisfy a debt, lien or  
13 other obligation incurred by the person whose personal identification  
14 documents were obtained and used in violation of such section. If the court  
15 finds a plan of restitution unworkable, the court shall state on the record in  
16 detail the reasons therefor.

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

29 (c) In addition to or in lieu of any of the above, the court shall order  
30 the defendant to submit to and complete an alcohol and drug evaluation,  
31 and pay a fee therefor, when required by subsection (d) of K.S.A. 2013  
32 Supp. 21-6602, and amendments thereto.

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

1 satisfaction of the court that payment of the amount due will impose  
2 manifest hardship on the defendant or the defendant's immediate family,  
3 the court may waive payment of all or part of the amount due or modify  
4 the method of payment.

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

11 (f) (1) When a new felony is committed while the offender is  
12 incarcerated and serving a sentence for a felony, or while the offender is on  
13 probation, assignment to a community correctional services program,  
14 parole, conditional release or postrelease supervision for a felony, a new  
15 sentence shall be imposed consecutively pursuant to the provisions of  
16 K.S.A. 2013 Supp. 21-6606, and amendments thereto, and the court may  
17 sentence the offender to imprisonment for the new conviction, even when  
18 the new crime of conviction otherwise presumes a nonprison sentence. In  
19 this event, imposition of a prison sentence for the new crime does not  
20 constitute a departure.

21 (2) When a new felony is committed during a period of time during  
22 which the defendant would have been on probation, assignment to a  
23 community correctional services program, parole, conditional release or  
24 postrelease supervision for a felony had the defendant not been granted  
25 release by the court pursuant to subsection (d) of K.S.A. 2013 Supp. 21-  
26 6608, and amendments thereto, or the prisoner review board pursuant to  
27 K.S.A. 22-3717, and amendments thereto, the court may sentence the  
28 offender to imprisonment for the new conviction, even when the new  
29 crime of conviction otherwise presumes a nonprison sentence. In this  
30 event, imposition of a prison sentence for the new crime does not  
31 constitute a departure.

32 (3) When a new felony is committed while the offender is  
33 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671,  
34 prior to its repeal, or K.S.A. 2013 Supp. 38-2373, and amendments  
35 thereto, for an offense, which if committed by an adult would constitute  
36 the commission of a felony, upon conviction, the court shall sentence the  
37 offender to imprisonment for the new conviction, even when the new  
38 crime of conviction otherwise presumes a nonprison sentence. In this  
39 event, imposition of a prison sentence for the new crime does not  
40 constitute a departure. The conviction shall operate as a full and complete  
41 discharge from any obligations, except for an order of restitution, imposed  
42 on the offender arising from the offense for which the offender was  
43 committed to a juvenile correctional facility.

1 (4) When a new felony is committed while the offender is on release  
2 for a felony pursuant to the provisions of article 28 of chapter 22 of the  
3 Kansas Statutes Annotated, and amendments thereto, or similar provisions  
4 of the laws of another jurisdiction, a new sentence may be imposed  
5 consecutively pursuant to the provisions of K.S.A. 2013 Supp. 21-6606,  
6 and amendments thereto, and the court may sentence the offender to  
7 imprisonment for the new conviction, even when the new crime of  
8 conviction otherwise presumes a nonprison sentence. In this event,  
9 imposition of a prison sentence for the new crime does not constitute a  
10 departure.

11 (g) Prior to imposing a dispositional departure for a defendant whose  
12 offense is classified in the presumptive nonprison grid block of either  
13 sentencing guideline grid, prior to sentencing a defendant to incarceration  
14 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing  
15 guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I  
16 of the sentencing guidelines grid for drug crimes committed prior to July  
17 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing  
18 guidelines grid for drug crimes committed on or after July 1, 2012, prior to  
19 sentencing a defendant to incarceration whose offense is classified in grid  
20 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes  
21 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of  
22 the sentencing guidelines grid for drug crimes committed on or after July  
23 1, 2012, and whose offense does not meet the requirements of K.S.A. 2013  
24 Supp. 21-6824, and amendments thereto, prior to revocation of a  
25 nonprison sanction of a defendant whose offense is classified in grid  
26 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes  
27 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of  
28 the sentencing guidelines grid for drug crimes committed on or after July  
29 1, 2012, and whose offense does not meet the requirements of K.S.A. 2013  
30 Supp. 21-6824, and amendments thereto, or prior to revocation of a  
31 nonprison sanction of a defendant whose offense is classified in the  
32 presumptive nonprison grid block of either sentencing guideline grid or  
33 grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug  
34 crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing  
35 guidelines grid for drug crimes committed prior to July 1, 2012, or in grid  
36 blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug  
37 crimes committed on or after July 1, 2012, the court shall consider  
38 placement of the defendant in the Labette correctional conservation camp,  
39 conservation camps established by the secretary of corrections pursuant to  
40 K.S.A. 75-52,127, and amendments thereto, or a community intermediate  
41 sanction center. Pursuant to this subsection the defendant shall not be  
42 sentenced to imprisonment if space is available in a conservation camp or  
43 community intermediate sanction center and the defendant meets all of the

1 conservation camp's or community intermediate sanction center's  
2 placement criteria unless the court states on the record the reasons for not  
3 placing the defendant in a conservation camp or community intermediate  
4 sanction center.

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

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

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

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

38 (l) The secretary of corrections is authorized to make direct  
39 placement to the Labette correctional conservation camp or a conservation  
40 camp established by the secretary pursuant to K.S.A. 75-52,127, and  
41 amendments thereto, of an inmate sentenced to the secretary's custody if  
42 the inmate:

43 (1) Has been sentenced to the secretary for a probation revocation, as

1 a departure from the presumptive nonimprisonment grid block of either  
2 sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I  
3 or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks  
4 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes  
5 committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of  
6 the sentencing guidelines grid for drug crimes committed on or after July  
7 1, 2012, or for an offense which is classified in grid blocks 4-E or 4-F of  
8 the sentencing guidelines grid for drug crimes committed prior to July 1,  
9 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines  
10 grid for drug crimes committed on or after July 1, 2012, and such offense  
11 does not meet the requirements of K.S.A. 2013 Supp. 21-6824, and  
12 amendments thereto; and

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

14 If the inmate successfully completes a conservation camp program, the  
15 secretary of corrections shall report such completion to the sentencing  
16 court and the county or district attorney. The inmate shall then be assigned  
17 by the court to six months of follow-up supervision conducted by the  
18 appropriate community corrections services program. The court may also  
19 order that supervision continue thereafter for the length of time authorized  
20 by K.S.A. 2013 Supp. 21-6608, and amendments thereto.

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

24 (n) (1) Except as provided by subsection (f) of K.S.A. 2013 Supp. 21-  
25 6805, and amendments thereto, in addition to any of the above, for felony  
26 violations of K.S.A. 2013 Supp. 21-5706, and amendments thereto, the  
27 court shall require the defendant who meets the requirements established  
28 in K.S.A. 2013 Supp. 21-6824, and amendments thereto, to participate in a  
29 certified drug abuse treatment program, as provided in K.S.A. 2013 Supp.  
30 75-52,144, and amendments thereto, including, but not limited to, an  
31 approved after-care plan. The amount of time spent participating in such  
32 program shall not be credited as service on the underlying prison sentence.

33 (2) If the defendant fails to participate in or has a pattern of  
34 intentional conduct that demonstrates the defendant's refusal to comply  
35 with or participate in the treatment program, as established by judicial  
36 finding, the defendant shall be subject to sanction or revocation pursuant  
37 to the provisions of K.S.A. 22-3716, and amendments thereto. If the  
38 defendant's probation is revoked, the defendant shall serve the underlying  
39 prison sentence as established in K.S.A. 2013 Supp. 21-6805, and  
40 amendments thereto.

41 (A) Except as provided in subsection (n)(2)(B), for those offenders  
42 who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon  
43 completion of the underlying prison sentence, the offender shall not be

1 subject to a period of postrelease supervision.

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

9 (o) (1) Except as provided in paragraph (3), in addition to any other  
10 penalty or disposition imposed by law, upon a conviction for unlawful  
11 possession of a controlled substance or controlled substance analog in  
12 violation of K.S.A. 2013 Supp. 21-5706, and amendments thereto, in  
13 which the trier of fact makes a finding that the unlawful possession  
14 occurred while transporting the controlled substance or controlled  
15 substance analog in any vehicle upon a highway or street, the offender's  
16 driver's license or privilege to operate a motor vehicle on the streets and  
17 highways of this state shall be suspended for one year.

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

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

37 (B) Upon entering an order restricting a person's license hereunder,  
38 the judge shall require such person to surrender such person's driver's  
39 license to the judge who shall cause it to be transmitted to the division of  
40 vehicles, together with a copy of the order. Upon receipt thereof, the  
41 division of vehicles shall issue without charge a driver's license which  
42 shall indicate on its face that conditions have been imposed on such  
43 person's privilege of operating a motor vehicle and that a certified copy of

1 the order imposing such conditions is required to be carried by the person  
2 for whom the license was issued any time such person is operating a motor  
3 vehicle on the highways of this state. If the person convicted is a  
4 nonresident, the judge shall cause a copy of the order to be transmitted to  
5 the division and the division shall forward a copy of it to the motor vehicle  
6 administrator of such person's state of residence. Such judge shall furnish  
7 to any person whose driver's license has had conditions imposed on it  
8 under this paragraph a copy of the order, which shall be recognized as a  
9 valid Kansas driver's license until such time as the division shall issue the  
10 restricted license provided for in this paragraph.

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

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

26 (p) In addition to any of the above, for any criminal offense that  
27 includes the domestic violence designation pursuant to K.S.A. 2013 Supp.  
28 22-4616, and amendments thereto, the court shall require the defendant to:  
29 (1) Undergo a domestic violence offender assessment conducted by a  
30 certified batterer intervention program; and (2) follow all  
31 recommendations made by such program, unless otherwise ordered by the  
32 court or the department of corrections. The court may order a domestic  
33 violence offender assessment and any other evaluation prior to sentencing  
34 if the assessment or evaluation would assist the court in determining an  
35 appropriate sentence. The entity completing the assessment or evaluation  
36 shall provide the assessment or evaluation and recommendations to the  
37 court and the court shall provide the domestic violence offender  
38 assessment to any entity responsible for supervising such defendant. A  
39 defendant ordered to undergo a domestic violence offender assessment  
40 shall be required to pay for the assessment and, unless otherwise ordered  
41 by the court or the department of corrections, for completion of all  
42 recommendations.

43 (q) In imposing a fine, the court may authorize the payment thereof in

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

19 (r) In addition to any other penalty or disposition imposed by law, for  
20 any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643,  
21 prior to its repeal, or K.S.A. 2013 Supp. 21-6627, and amendments  
22 thereto, for crimes committed on or after July 1, 2006, the court shall order  
23 that the defendant be electronically monitored upon release from  
24 imprisonment for the duration of the defendant's natural life and that the  
25 defendant shall reimburse the state for all or part of the cost of such  
26 monitoring as determined by the prisoner review board.

27 (s) Whenever the court has released the defendant on probation  
28 pursuant to subsection (a)(3), the defendant's supervising court services  
29 officer, with the concurrence of the chief court services officer, may  
30 impose the violation sanctions as provided in subsection (c)(1)(B) of  
31 K.S.A. 22-3716, and amendments thereto, without further order of the  
32 court, unless:

33 (1) The court has specifically withheld this authority in its sentencing  
34 order; or

35 (2) the defendant, after being apprised of the right to a revocation  
36 hearing before the court pursuant to subsection (b) of K.S.A. 22-3716, and  
37 amendments thereto, refuses to waive such right.

38 (t) Whenever the court has assigned the defendant to a community  
39 correctional services program pursuant to subsection (a)(4), the defendant's  
40 community corrections officer, with the concurrence of the community  
41 corrections director, may impose the violation sanctions as provided in  
42 subsection (c)(1)(B) of K.S.A. 22-3716, and amendments thereto, without  
43 further order of the court unless:

1 (1) The court has specifically withheld this authority in its sentencing  
2 order; or

3 (2) the defendant, after being apprised of the right to a revocation  
4 hearing before the court pursuant to subsection (b) of K.S.A. 22-3716, and  
5 amendments thereto, refuses to waive such right.

6 **Sec. 2. K.S.A. 2013 Supp. 21-6608 is hereby amended to read as**  
7 **follows: 21-6608. (a) The period of suspension of sentence, probation**  
8 **or assignment to community corrections fixed by the court shall not**  
9 **exceed two years in misdemeanor cases, subject to renewal and**  
10 **extension for additional fixed periods of two years. Probation,**  
11 **suspension of sentence or assignment to community corrections may**  
12 **be terminated by the court at any time and upon such termination or**  
13 **upon termination by expiration of the term of probation, suspension**  
14 **of sentence or assignment to community corrections, an order to this**  
15 **effect shall be entered by the court.**

16 (b) The district court having jurisdiction of the offender may  
17 parole any misdemeanant sentenced to confinement in the county jail.  
18 The period of such parole shall be fixed by the court and shall not  
19 exceed two years and shall be terminated in the manner provided for  
20 termination of suspended sentence and probation.

21 (c) For all crimes committed on or after July 1, 1993, the duration  
22 of probation in felony cases sentenced for the following severity levels  
23 on the sentencing guidelines grid for nondrug crimes and the  
24 sentencing guidelines grid for drug crimes is as follows:

25 (1) For nondrug crimes the recommended duration of probation  
26 is:

27 (A) 36 months for crimes in crime severity levels 1 through 5; and

28 (B) 24 months for crimes in crime severity levels 6 and 7;

29 (2) for drug crimes the recommended duration of probation is 36  
30 months for crimes in crime severity levels 1 and 2 committed prior to  
31 July 1, 2012, and crimes in crime severity levels 1, 2 and 3 committed  
32 on or after July 1, 2012;

33 (3) except as provided further, in felony cases sentenced at  
34 severity levels 9 and 10 on the sentencing guidelines grid for nondrug  
35 crimes, severity level 4 on the sentencing guidelines grid for drug  
36 crimes committed prior to July 1, 2012, and severity level 5 of the  
37 sentencing guidelines grid for drug crimes committed on or after July  
38 1, 2012, if a nonprison sanction is imposed, the court shall order the  
39 defendant to serve a period of probation of up to 12 months in length;

40 (4) in felony cases sentenced at severity level 8 on the sentencing  
41 guidelines grid for nondrug crimes, severity level 3 on the sentencing  
42 guidelines grid for drug crimes committed prior to July 1, 2012, and  
43 severity level 4 of the sentencing guidelines grid for drug crimes

1 committed on or after July 1, 2012, and felony cases sentenced  
2 pursuant to K.S.A. 2013 Supp. 21-6824, and amendments thereto, if a  
3 nonprison sanction is imposed, the court shall order the defendant to  
4 serve a period of probation, or assignment to a community  
5 correctional services program, as provided under K.S.A. 75-5291 et  
6 seq., and amendments thereto, of up to 18 months in length;

7 (5) if the court finds and sets forth with particularity the reasons  
8 for finding that the safety of the members of the public will be  
9 jeopardized or that the welfare of the inmate will not be served by the  
10 length of the probation terms provided in subsections (c)(3) and (c)(4),  
11 the court may impose a longer period of probation. Such an increase  
12 shall not be considered a departure and shall not be subject to appeal;

13 (6) except as provided in subsections (c)(7) and (c)(8), the total  
14 period in all cases shall not exceed 60 months, or the maximum period  
15 of the prison sentence that could be imposed whichever is longer.  
16 Nonprison sentences may be terminated by the court at any time;

17 (7) if the defendant is convicted of nonsupport of a child, the  
18 period may be continued as long as the responsibility for support  
19 continues. If the defendant is ordered to pay full or partial restitution,  
20 the period may be continued as long as the amount of restitution  
21 ordered has not been paid; and

22 (8) the court may modify or extend the offender's period of  
23 supervision, pursuant to a modification hearing and a judicial finding  
24 of necessity. Such extensions may be made for a maximum period of  
25 five years or the maximum period of the prison sentence that could be  
26 imposed, whichever is longer, inclusive of the original supervision  
27 term.

28 (d) In addition to the provisions of subsection (a), a defendant  
29 who has a risk assessment of low risk, has paid all restitution and has  
30 been compliant with the terms of probation, assignment to a  
31 community correctional services program, suspension of sentence or  
32 nonprison sanction for a period of 12 months shall be eligible for  
33 discharge from such period of supervision by the court. The court  
34 shall grant such discharge unless the court finds ~~substantial and~~  
35 ~~compelling reasons for~~ *by clear and convincing evidence that denial of*  
36 *such discharge will serve community safety interests.*

37 Sec. ~~2~~. 3. K.S.A. 2013 Supp. 22-3716 is hereby amended to read as  
38 follows: 22-3716. (a) At any time during probation, assignment to a  
39 community correctional services program, suspension of sentence or  
40 pursuant to subsection (e) for defendants who committed a crime prior to  
41 July 1, 1993, and at any time during which a defendant is serving a  
42 nonprison sanction for a crime committed on or after July 1, 1993, or  
43 pursuant to subsection (e), the court may issue a warrant for the arrest of a

1 defendant for violation of any of the conditions of release or assignment, a  
2 notice to appear to answer to a charge of violation or a violation of the  
3 defendant's nonprison sanction. The notice shall be personally served upon  
4 the defendant. The warrant shall authorize all officers named in the  
5 warrant to return the defendant to the custody of the court or to any  
6 certified detention facility designated by the court. Any court services  
7 officer or community correctional services officer may arrest the defendant  
8 without a warrant or may deputize any other officer with power of arrest to  
9 do so by giving the officer a written or verbal statement setting forth that  
10 the defendant has, in the judgment of the court services officer or  
11 community correctional services officer, violated the conditions of the  
12 defendant's release or a nonprison sanction. A written statement delivered  
13 to the official in charge of a county jail or other place of detention shall be  
14 sufficient warrant for the detention of the defendant. After making an  
15 arrest, the court services officer or community correctional services officer  
16 shall present to the detaining authorities a similar statement of the  
17 circumstances of violation. Provisions regarding release on bail of persons  
18 charged with a crime shall be applicable to defendants arrested under these  
19 provisions.

20 (b) (1) Upon arrest and detention pursuant to subsection (a), the court  
21 services officer or community correctional services officer shall  
22 immediately notify the court and shall submit in writing a report showing  
23 in what manner the defendant has violated the conditions of release or  
24 assignment or a nonprison sanction.

25 (2) Unless the defendant, after being apprised of the right to a hearing  
26 by the supervising court services or community correctional services  
27 officer, waives such hearing, the court shall cause the defendant to be  
28 brought before it without unnecessary delay for a hearing on the violation  
29 charged. The hearing shall be in open court and the state shall have the  
30 burden of establishing the violation. The defendant shall have the right to  
31 be represented by counsel and shall be informed by the judge that, if the  
32 defendant is financially unable to obtain counsel, an attorney will be  
33 appointed to represent the defendant. The defendant shall have the right to  
34 present the testimony of witnesses and other evidence on the defendant's  
35 behalf. Relevant written statements made under oath may be admitted and  
36 considered by the court along with other evidence presented at the hearing.

37 (3) (A) Except as otherwise provided, if the original crime of  
38 conviction was a felony and a violation is established, the court may  
39 impose the violation sanctions as provided in subsection (c)(1).

40 (B) Except as otherwise provided, if the original crime of conviction  
41 was a misdemeanor and a violation is established, the court may:

42 (i) Continue or ~~revoke~~ *modify* the probation, assignment to a  
43 community correctional services program, suspension of sentence or

1 nonprison sanction and ~~may impose confinement in a county jail not to~~  
2 ~~exceed 60 days. If an offender is serving multiple probation terms~~  
3 ~~concurrently, any confinement periods imposed shall be imposed~~  
4 ~~concurrently; or~~

5 (ii) *revoke the probation, assignment to a community correctional*  
6 *services program, suspension of sentence or nonprison sanction and*  
7 *require the defendant to serve the sentence imposed, or any lesser*  
8 *sentence, and, if imposition of sentence was suspended, may impose any*  
9 *sentence which might originally have been imposed.*

10 (4) Except as otherwise provided, if *the original crime of conviction*  
11 *was a felony*, the defendant waives the right to a hearing and the  
12 sentencing court has not specifically withheld the authority from court  
13 services or community correctional services to impose sanctions, the  
14 following sanctions may be imposed without further order of the court:

15 (A) If the defendant was on probation at the time of the violation, the  
16 defendant's supervising court services officer, with the concurrence of the  
17 chief court services officer, may impose ~~the violation sanctions as~~  
18 ~~provided in subsection (e)(1)(B)~~ *an intermediate sanction of confinement*  
19 *in a county jail, to be imposed as a two-day or three-day consecutive*  
20 *period. The total of all such sanctions imposed pursuant to this*  
21 *subparagraph and subsections (b)(4)(B) and (c)(1)(B) shall not exceed 18*  
22 *total days during the term of supervision; and*

23 (B) if the defendant was assigned to a community correctional  
24 services program at the time of the violation, the defendant's community  
25 corrections officer, with the concurrence of the community corrections  
26 director, may impose ~~the violation sanctions as provided in subsection (e)~~  
27 ~~(1)(B)~~ *an intermediate sanction of confinement in a county jail, to be*  
28 *imposed as a two-day or three-day consecutive period. The total of all*  
29 *such sanctions imposed pursuant to this subparagraph and subsections (b)*  
30 *(4)(A) and (c)(1)(B) shall not exceed 18 total days during the term of*  
31 *supervision.*

32 (c) (1) Except as otherwise provided, *if the original crime of*  
33 *conviction was a felony and a violation is established, the following*  
34 ~~violation sanctions may be imposed~~ **court may impose the following**  
35 **sanctions:**

36 (A) Continuation or modification of the release conditions of the  
37 probation, assignment to a community correctional services program,  
38 suspension of sentence or nonprison sanction;

39 (B) *continuation or modification of the release conditions of the*  
40 *probation, assignment to a community correctional services program,*  
41 *suspension of sentence or nonprison sanction and an intermediate sanction*  
42 *of confinement in a county jail for a total of not more than six days per*  
43 ~~month in any three separate months during the period of release~~

1 supervision. ~~The six days per month confinement may only to be imposed~~  
2 ~~as a two-day or three-day consecutive periods, not to exceed 18 days of~~  
3 ~~total confinement period. The total of all such sanctions imposed pursuant~~  
4 ~~to this subparagraph and subsections (b)(4)(A) and (b)(4)(B) shall not~~  
5 ~~exceed 18 total days during the term of supervision;~~

6 (C) if the violator already had at least one intermediate sanction  
7 imposed pursuant to subsection **(b)(4)(A)**, **(b)(4)(B)** or (c)(1)(B) related to  
8 the felony crime for which the original supervision was imposed, *continuation or modification of the release conditions of the probation,*  
9 *assignment to a community correctional services program, suspension of*  
10 *sentence or nonprison sanction and remanding the defendant to the*  
11 *custody of the secretary of corrections for a period of 120 days, subject to*  
12 *a reduction of up to 60 days in the discretion of the secretary. This sanction*  
13 *shall not be imposed more than once during the term of supervision. The*  
14 *sanction imposed pursuant to this subparagraph shall begin upon*  
15 *pronouncement by the court and shall not be served by prior confinement*  
16 *credit, except as provided in subsection (c)(7);*

17  
18 (D) if the violator already had a sanction imposed pursuant to  
19 subsection **(b)(4)(A)**, **(b)(4)(B)**, (c)(1)(B) or (c)(1)(C) related to the felony  
20 crime for which the original supervision was imposed, *continuation or*  
21 *modification of the release conditions of the probation, assignment to a*  
22 *community correctional services program, suspension of sentence or*  
23 *nonprison sanction and remanding the defendant to the custody of the*  
24 *secretary of corrections for a period of 180 days, subject to a reduction of*  
25 *up to 90 days in the discretion of the secretary. This sanction shall not be*  
26 *imposed more than once during the term of supervision. The sanction*  
27 *imposed pursuant to this subparagraph shall begin upon pronouncement*  
28 *by the court and shall not be served by prior confinement credit, except as*  
29 *provided in subsection (c)(7); or*

30 (E) if the violator already had a sanction imposed pursuant to  
31 subsection (c)(1)(C) or (c)(1)(D) related to the felony crime for which the  
32 original supervision was imposed, revocation of the probation, assignment  
33 to a community corrections services program, suspension of sentence or  
34 nonprison sanction and requiring such violator to serve the sentence  
35 imposed, or any lesser sentence and, if imposition of sentence was  
36 suspended, imposition of any sentence which might originally have been  
37 imposed.

38 (2) Except as otherwise provided in subsections (c)(3), (c)(8) and (c)  
39 (9), no offender for whom a violation of conditions of release or  
40 assignment or a nonprison sanction has been established as provided in  
41 this section shall be required to serve any time for the sentence imposed or  
42 which might originally have been imposed in a state facility in the custody  
43 of the secretary of corrections for such violation, unless such person has

1 already at least one prior assignment to a community correctional services  
2 program related to the crime for which the original sentence was imposed.

3 (3) The provisions of subsection (c)(2) shall not apply to adult felony  
4 offenders as described in subsection (a)(3) of K.S.A. 75-5291, and  
5 amendments thereto.

6 (4) The court may require an offender for whom a violation of  
7 conditions of release or assignment or a nonprison sanction has been  
8 established as provided in this section to serve any time for the sentence  
9 imposed or which might originally have been imposed in a state facility in  
10 the custody of the secretary of corrections without a prior assignment to a  
11 community correctional services program if the court finds and sets forth  
12 with particularity the reasons for finding that the safety of the members of  
13 the public will be jeopardized or that the welfare of the inmate will not be  
14 served by such assignment to a community correctional services program.

15 (5) When a new felony is committed while the offender is on  
16 probation or assignment to a community correctional services program, the  
17 new sentence shall be imposed consecutively pursuant to the provisions of  
18 K.S.A. 2013 Supp. 21-6606, and amendments thereto, and the court may  
19 sentence the offender to imprisonment for the new conviction, even when  
20 the new crime of conviction otherwise presumes a nonprison sentence. In  
21 this event, imposition of a prison sentence for the new crime does not  
22 constitute a departure.

23 (6) Except as provided in subsection (f), upon completion of a  
24 violation sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D)  
25 such offender shall return to community correctional services supervision.  
26 The sheriff shall not be responsible for the return of the offender to the  
27 county where the community correctional services supervision is assigned.

28 (7) A violation sanction imposed pursuant to subsection (c)(1)(B), (c)  
29 (1)(C) or (c)(1)(D) shall not be longer than the amount of time remaining  
30 on the ~~defendant's~~ *offender's* underlying prison sentence.

31 (8) If the offender commits a new felony or misdemeanor or absconds  
32 from supervision while the offender is on probation, assignment to a  
33 community correctional services program, suspension of sentence or  
34 nonprison sanction, the court may revoke the probation, assignment to a  
35 community correctional services program, suspension of sentence or  
36 nonprison sanction of an offender pursuant to subsection (c)(1)(E) without  
37 having previously imposed a sanction pursuant to subsection (c)(1)(B), (c)  
38 (1)(C) or (c)(1)(D).

39 (9) The court may revoke the probation, assignment to a community  
40 correctional services program, suspension of sentence or nonprison  
41 sanction of an offender pursuant to subsection (c)(1)(E) without having  
42 previously imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C)  
43 or (c)(1)(D) if the court finds and sets forth with particularity the reasons

1 for finding that the safety of members of the public will be jeopardized or  
2 that the welfare of the offender will not be served by such sanction.

3 (10) *If an offender is serving multiple probation terms concurrently,*  
4 *any violation sanctions imposed pursuant to subsection (c)(1)(B), (c)(1)*  
5 *(C) or (c)(1)(D), or any sanction imposed pursuant to subsection (c)(11),*  
6 *shall be imposed concurrently.*

7 (11) *If the original crime of conviction was a felony, except for*  
8 *violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2013 Supp. 8-1025, and*  
9 *amendments thereto, and the court makes a finding that the offender has*  
10 *committed one or more violations of the release conditions of the*  
11 *probation, assignment to a community correctional services program,*  
12 *suspension of sentence or nonprison sanction, the court may impose*  
13 *confinement in a county jail not to exceed 60 days upon each such finding.*  
14 *Such confinement is separate and distinct from the violation sanctions*  
15 *provided in subsection (c)(1)(B), (c)(1)(C), (c)(1)(D) and (c)(1)(E) and*  
16 *shall not be imposed at the same time as any such violation sanction.*

17 (12) *The violation sanctions provided in this subsection shall apply to*  
18 *any violation of conditions of release or assignment or a nonprison*  
19 *sanction occurring on and after July 1, 2013, regardless of ~~the date of~~*  
20 *conviction for the original crime* **when the offender was sentenced for**  
21 **the original crime or committed the original crime for which**  
22 **sentenced.**

23 (d) A defendant who is on probation, assigned to a community  
24 correctional services program, under suspension of sentence or serving a  
25 nonprison sanction and for whose return a warrant has been issued by the  
26 court shall be considered a fugitive from justice if it is found that the  
27 warrant cannot be served. If it appears that the defendant has violated the  
28 provisions of the defendant's release or assignment or a nonprison  
29 sanction, the court shall determine whether the time from the issuing of the  
30 warrant to the date of the defendant's arrest, or any part of it, shall be  
31 counted as time served on probation, assignment to a community  
32 correctional services program, suspended sentence or pursuant to a  
33 nonprison sanction.

34 (e) The court shall have 30 days following the date probation,  
35 assignment to a community correctional service program, suspension of  
36 sentence or a nonprison sanction was to end to issue a warrant for the  
37 arrest or notice to appear for the defendant to answer a charge of a  
38 violation of the conditions of probation, assignment to a community  
39 correctional service program, suspension of sentence or a nonprison  
40 sanction.

41 (f) For crimes committed on and after July 1, 2013, ~~an~~ *a felony*  
42 *offender whose nonprison sanction is revoked pursuant to subsection (c) or*  
43 *whose underlying prison term expires while serving a sanction pursuant to*

1 subsection (c)(1)(C) or (c)(1)(D) shall serve a period of postrelease  
2 supervision upon the completion of the prison portion of the underlying  
3 sentence.

4 (g) Offenders who have been sentenced pursuant to K.S.A. 2013  
5 Supp. 21-6824, and amendments thereto, and who subsequently violate a  
6 condition of the drug and alcohol abuse treatment program shall be subject  
7 to an additional nonprison sanction for any such subsequent violation.  
8 Such nonprison sanctions shall include, but not be limited to, up to 60 days  
9 in a county jail, fines, community service, intensified treatment, house  
10 arrest and electronic monitoring.

11 ~~Sec.-3:~~ **4.** K.S.A. 2013 Supp. 21-6604, **21-6608** and 22-3716 are  
12 hereby repealed.

13 ~~Sec.-4:~~ **5.** This act shall take effect and be in force from and after its  
14 publication in the ~~statute book~~ **Kansas register**.