

HOUSE BILL No. 2090

By Committee on Corrections and Juvenile Justice

1-18

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sentencing; possession of a controlled substance; amending K.S.A.
3 2016 Supp. 21-6604 and 21-6805 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 2016 Supp. 21-6805 is hereby amended to read as
7 follows: 21-6805. (a) The provisions of this section shall be applicable to
8 the sentencing guidelines grid for drug crimes. The following sentencing
9 guidelines grid for drug crimes shall be applicable to felony crimes under
10 K.S.A. 2016 Supp. 21-5701 through 21-5717, and amendments thereto,
11 except as otherwise provided by law:

SENTENCING RANGE - DRUG OFFENSES

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

LEGEND
Presumptive Probation
Presumptive Imprisonment

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

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

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

13 (A) Prison sentence;

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

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

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

22 (d) Each grid block states the presumptive sentencing range for an
23 offender whose crime of conviction and criminal history place such
24 offender in that grid block. If an offense is classified in a grid block below
25 the dispositional line, the presumptive disposition shall be
26 nonimprisonment. If an offense is classified in a grid block above the
27 dispositional line, the presumptive disposition shall be imprisonment. If an
28 offense is classified in grid blocks 4-E, 4-F, 4-G, 4-H, 4-I, 5-C or 5-D, the
29 court may impose an optional nonprison sentence as provided in
30 subsection (q) of K.S.A. 2016 Supp. 21-6804(q), and amendments thereto.

31 (e) The sentence for a second or subsequent conviction for unlawful
32 manufacturing of a controlled substance, K.S.A. 65-4159, prior to its
33 repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, K.S.A. 2016
34 Supp. 21-5703, and amendments thereto, or a substantially similar offense
35 from another jurisdiction, if the controlled substance in any prior
36 conviction was methamphetamine, as defined by ~~subsection (d)(3) or (f)(1)~~
37 of K.S.A. 65-4107(d)(3) or (f)(1), and amendments thereto, or an analog
38 thereof, shall be a presumptive term of imprisonment of two times the
39 maximum duration of the presumptive term of imprisonment. The court
40 may impose an optional reduction in such sentence of not to exceed 50%
41 of the mandatory increase provided by this subsection upon making a
42 finding on the record that one or more of the mitigating factors as specified
43 in K.S.A. 2016 Supp. 21-6815, and amendments thereto, justify such a

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

4 ~~(f) (1) The sentence for a third or subsequent felony conviction of~~
5 ~~K.S.A. 65-4160 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-~~
6 ~~36a06, prior to its transfer, or K.S.A. 2016 Supp. 21-5706, and~~
7 ~~amendments thereto, shall be a presumptive term of imprisonment and the~~
8 ~~defendant shall be sentenced to prison as provided by this section. The~~
9 ~~defendant's term of imprisonment shall be served in the custody of the~~
10 ~~secretary of corrections in a facility designated by the secretary. Subject to~~
11 ~~appropriations therefore, the defendant shall participate in an intensive~~
12 ~~substance abuse treatment program, of at least four months duration,~~
13 ~~selected by the secretary of corrections. If the secretary determines that~~
14 ~~substance abuse treatment resources are otherwise available, such term of~~
15 ~~imprisonment may be served in a facility designated by the secretary of~~
16 ~~corrections in the custody of the secretary of corrections to participate in~~
17 ~~an intensive substance abuse treatment program. The secretary's~~
18 ~~determination regarding the availability of treatment resources shall not be~~
19 ~~subject to review. Upon the successful completion of such intensive~~
20 ~~treatment program, the offender shall be returned to the court and the court~~
21 ~~may modify the sentence by directing that a less severe penalty be~~
22 ~~imposed in lieu of that originally adjudged. If the offender's term of~~
23 ~~imprisonment expires, the offender shall be placed under the applicable~~
24 ~~period of postrelease supervision.~~

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

27 ~~(A) The defendant has previously completed a certified drug abuse~~
28 ~~treatment program, as provided in K.S.A. 2016 Supp. 75-52,144, and~~
29 ~~amendments thereto;~~

30 ~~(B) has been discharged or refused to participate in a certified drug~~
31 ~~abuse treatment program, as provided in K.S.A. 2016 Supp. 75-52,144,~~
32 ~~and amendments thereto;~~

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

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

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

39 ~~(g) (f) (1) Except as provided further, if the trier of fact makes a~~
40 ~~finding that an offender carried a firearm to commit a drug felony, or in~~
41 ~~furtherance of a drug felony, possessed a firearm, in addition to the~~
42 ~~sentence imposed pursuant to K.S.A. 2016 Supp. 21-6801 through 21-~~
43 ~~6824, and amendments thereto, the offender shall be sentenced to:~~

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

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

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

8 (3) The provisions of this subsection shall not apply to violations of
9 K.S.A. 2016 Supp. 21-5706 or 21-5713, and amendments thereto.

10 Sec. 2. K.S.A. 2016 Supp. 21-6604 is hereby amended to read as
11 follows: 21-6604. (a) Whenever any person has been found guilty of a
12 crime, the court may adjudge any of the following:

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

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

20 (3) release the defendant on probation if the current crime of
21 conviction and criminal history fall within a presumptive nonprison
22 category or through a departure for substantial and compelling reasons
23 subject to such conditions as the court may deem appropriate. In felony
24 cases except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2016
25 Supp. 8-1025, and amendments thereto, the court may include
26 confinement in a county jail not to exceed 60 days, which need not be
27 served consecutively, as a condition of an original probation sentence;

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

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

38 (6) assign the defendant to a house arrest program pursuant to K.S.A.
39 2016 Supp. 21-6609, and amendments thereto;

40 (7) order the defendant to attend and satisfactorily complete an
41 alcohol or drug education or training program as provided by K.S.A. 2016
42 Supp. 21-6602(c), and amendments thereto;

43 (8) order the defendant to repay the amount of any reward paid by

1 any crime stoppers chapter, individual, corporation or public entity which
2 materially aided in the apprehension or conviction of the defendant; repay
3 the amount of any costs and expenses incurred by any law enforcement
4 agency in the apprehension of the defendant, if one of the current crimes
5 of conviction of the defendant includes escape from custody or aggravated
6 escape from custody, as defined in K.S.A. 2016 Supp. 21-5911, and
7 amendments thereto; repay expenses incurred by a fire district, fire
8 department or fire company responding to a fire which has been
9 determined to be arson or aggravated arson as defined in K.S.A. 2016
10 Supp. 21-5812, and amendments thereto, if the defendant is convicted of
11 such crime; repay the amount of any public funds utilized by a law
12 enforcement agency to purchase controlled substances from the defendant
13 during the investigation which leads to the defendant's conviction; or repay
14 the amount of any medical costs and expenses incurred by any law
15 enforcement agency or county. Such repayment of the amount of any such
16 costs and expenses incurred by a county, law enforcement agency, fire
17 district, fire department or fire company or any public funds utilized by a
18 law enforcement agency shall be deposited and credited to the same fund
19 from which the public funds were credited to prior to use by the county,
20 law enforcement agency, fire district, fire department or fire company;

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

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

25 (11) if the defendant is convicted of a misdemeanor or convicted of a
26 felony specified in K.S.A. 2016 Supp. 21-6804(i), and amendments
27 thereto, assign the defendant to work release program, other than a
28 program at a correctional institution under the control of the secretary of
29 corrections as defined in K.S.A. 75-5202, and amendments thereto,
30 provided such work release program requires such defendant to return to
31 confinement at the end of each day in the work release program. On a
32 second or subsequent conviction of K.S.A. 8-1567, and amendments
33 thereto, an offender placed into a work release program shall serve the
34 total number of hours of confinement mandated by that section;

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

38 (13) impose any appropriate combination of (1), (2), (3), (4), (5), (6),
39 (7), (8), (9), (10), (11) and (12); or

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

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

1 court finds compelling circumstances which would render a plan of
2 restitution unworkable. In regard to a violation of K.S.A. 2016 Supp. 21-
3 6107, and amendments thereto, such damage or loss shall include, but not
4 be limited to, attorney fees and costs incurred to repair the credit history or
5 rating of the person whose personal identification documents were
6 obtained and used in violation of such section, and to satisfy a debt, lien or
7 other obligation incurred by the person whose personal identification
8 documents were obtained and used in violation of such section. In regard
9 to a violation of K.S.A. 2016 Supp. 21-5801, 21-5807 or 21-5813, and
10 amendments thereto, such damage or loss shall include the cost of repair or
11 replacement of the property that was damaged, the reasonable cost of any
12 loss of production, crops and livestock, reasonable labor costs of any kind,
13 reasonable material costs of any kind and any reasonable costs that are
14 attributed to equipment that is used to abate or repair the damage to the
15 property. If the court finds a plan of restitution unworkable, the court shall
16 state on the record in 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 K.S.A. 2016 Supp. 21-6602(d),
32 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. 2016 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 K.S.A. 2016 Supp. 21-6608(d), and
26 amendments thereto, or the prisoner review board pursuant to K.S.A. 22-
27 3717, and amendments thereto, the court may sentence the offender to
28 imprisonment for the new conviction, even when the new crime of
29 conviction otherwise presumes a nonprison sentence. In this event,
30 imposition of a prison sentence for the new crime does not constitute a
31 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. 2016 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. 2016 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. 2016
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. 2016
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. 2016 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. 2016 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 K.S.A. 2016 Supp. 21-6630 ~~and 21-~~
25 ~~6805(F)~~, and amendments thereto, in addition to any of the above, for
26 felony violations of K.S.A. 2016 Supp. 21-5706, and amendments thereto,
27 the court shall require the defendant who meets the requirements
28 established in K.S.A. 2016 Supp. 21-6824, and amendments thereto, to
29 participate in a certified drug abuse treatment program, as provided in
30 K.S.A. 2016 Supp. 75-52,144, and amendments thereto, including, but not
31 limited to, an approved after-care plan. The amount of time spent
32 participating in such program shall not be credited as service on the
33 underlying prison sentence.

34 (2) If the defendant fails to participate in or has a pattern of
35 intentional conduct that demonstrates the defendant's refusal to comply
36 with or participate in the treatment program, as established by judicial
37 finding, the defendant shall be subject to sanction or revocation pursuant
38 to the provisions of K.S.A. 22-3716, and amendments thereto. If the
39 defendant's probation is revoked, the defendant shall serve the underlying
40 prison sentence as established in K.S.A. 2016 Supp. 21-6805, and
41 amendments thereto.

42 (A) Except as provided in subsection (n)(2)(B), for those offenders
43 who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon

1 completion of the underlying prison sentence, the offender shall not be
2 subject to a period of postrelease supervision.

3 (B) Offenders whose crime of conviction was committed on or after
4 July 1, 2013, and whose probation is revoked pursuant to K.S.A. 22-
5 3716(c), and amendments thereto, or whose underlying prison term expires
6 while serving a sanction pursuant to K.S.A. 22-3716(c)(1)(C) or (c)(1)(D),
7 and amendments thereto, shall serve a period of postrelease supervision
8 upon the completion of the underlying prison 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. 2016 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. 2016 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. 2016 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 K.S.A. 22-3716(c)(1)(B),
31 and amendments thereto, without further order of the court, unless:

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

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

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

43 (1) The court has specifically withheld this authority in its sentencing

1 order; or

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

5 Sec. 3. K.S.A. 2016 Supp. 21-6604 and 21-6805 are hereby repealed.

6 Sec. 4. This act shall take effect and be in force from and after its
7 publication in the statute book.