

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2128

By Committee on Corrections and Juvenile Justice

1-25

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to certified drug abuse treatment programs; supervision and
3 jurisdiction; ~~allowing certain nondrug offenders to participate in the~~
4 ~~certified drug abuse treatment program~~; amending K.S.A. 2020 Supp.
5 21-6610 and 21-6824 and repealing the existing sections.

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

8 Section 1. K.S.A. 2020 Supp. 21-6610 is hereby amended to read as
9 follows: 21-6610. (a) When a defendant is placed on parole by the district
10 court, on probation, assigned to a community correctional services
11 program by a district court or under suspended sentence and such
12 defendant is permitted to go from the judicial district of that court,
13 supervision over the defendant may be transferred from that judicial
14 district to another with the concurrence of the receiving chief court
15 services officer, or if in a community corrections services program, by the
16 concurrence of the director of the receiving program.

17 (b) The district court from which the defendant is on parole,
18 probation, community correctional services program or suspended
19 sentence may retain jurisdiction of the defendant.

20 (c) *When a defendant described in subsection (a) is sentenced*
21 *pursuant to K.S.A. 2020 Supp. 21-6824, and amendments thereto, the*
22 *district court from which the defendant is on parole, on probation,*
23 *assigned to a community correctional services program or under*
24 *suspended sentence may transfer jurisdiction of the defendant with the*
25 *concurrence of the receiving district court and all parties.*

26 Sec. 2. K.S.A. 2020 Supp. 21-6824 is hereby amended to read as
27 follows: 21-6824. (a) There is hereby established a nonprison sanction of
28 certified drug abuse treatment programs for certain offenders who are
29 sentenced on or after November 1, 2003. Placement of offenders in
30 certified drug abuse treatment programs by the court shall be limited to
31 placement of adult offenders, convicted of a felony violation of K.S.A.
32 2020 Supp. 21-5705 or 21-5706, and amendments thereto, ~~whose offense~~
33 ~~is classified in grid blocks, whose offense is classified in grid blocks:~~

34 (1) ~~(A) Whose offense is classified in grid blocks:~~

35 ~~(i) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines~~
36 ~~grid for drug crimes; or~~

1 ~~(ii) 10-C, 10-D, 10-E, 10-F, 10-G, 10-H, 10-I, 9-C, 9-D, 9-E, 9-F, 9-~~
2 ~~G, 9-H, 9-I, 8-C, 8-D, 8-E, 8-F, 8-G, 8-H, 8-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H~~
3 ~~or 7-I of the sentencing guidelines grid for nondrug crimes and classified~~
4 ~~as a nonperson offense; and~~

5 ~~(B) such offender who~~ **such offender** has no felony conviction of
6 K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their
7 repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their
8 transfer, or K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5716, and
9 amendments thereto, or any substantially similar offense from another
10 jurisdiction; or

11 ~~(2)(A) Whose offense is classified in grid block:~~

12 ~~(i) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines~~
13 ~~grid for drug crimes; such offender; or~~

14 ~~(ii) 10-A, 10-B, 9-A, 9-B, 8-A, 8-B, 7-A or 7-B of the sentencing~~
15 ~~guidelines for nondrug crimes and classified as a nonperson offense; and~~

16 ~~(B) who,~~ **such offender** has no felony conviction of K.S.A. 65-4142,
17 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010
18 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A.
19 2020 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any
20 substantially similar offense from another jurisdiction, if the person
21 felonies in the offender's criminal history were severity level 8, 9 or 10 or
22 nongrid offenses of the sentencing guidelines grid for nondrug crimes;,
23 and

24 ~~(C) the court finds and sets forth with particularity the reasons for~~
25 ~~finding that the safety of the members of the public will not be jeopardized~~
26 ~~by such placement in a drug abuse treatment program.~~

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

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

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

36 (c) If the offender is assigned a high risk status as determined by the
37 drug abuse assessment performed pursuant to subsection (b)(1) and a
38 moderate or high risk status as determined by the criminal risk-need
39 assessment performed pursuant to subsection (b)(2), the sentencing court
40 shall commit the offender to treatment in a drug abuse treatment program
41 until the court determines the offender is suitable for discharge by the
42 court. The term of treatment shall not exceed 18 months. The court may
43 extend the term of probation, pursuant to K.S.A. 2020 Supp. 21-6608(c)

1 (3), and amendments thereto. The term of treatment may not exceed the
2 term of probation.

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

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

10 (3) *If the offender is permitted to go from the judicial district of the*
11 *sentencing court, the court may, pursuant to K.S.A. 2020 Supp. 21-6610,*
12 *and amendments thereto: (A) Transfer supervision of the offender from*
13 *that judicial district to another; and (B) either transfer or retain*
14 *jurisdiction of the offender.*

15 (e) Placement of offenders under subsection (a)(2) shall be subject to
16 the departure sentencing statutes of the revised Kansas sentencing
17 guidelines act.

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

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

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

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

27 (g) As used in this section, "mental health professional" includes
28 licensed social workers, persons licensed to practice medicine and surgery,
29 licensed psychologists, licensed professional counselors or registered
30 alcohol and other drug abuse counselors licensed or certified as addiction
31 counselors who have been certified by the secretary of corrections to treat
32 offenders pursuant to K.S.A. 75-52,144, and amendments thereto.

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

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

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

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

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

1 (i) The court may order an offender who otherwise does not meet the
2 requirements of subsection (c) to undergo one additional drug abuse
3 assessment while such offender is on probation. Such offender may be
4 ordered to undergo drug abuse treatment pursuant to subsection (a) if such
5 offender is determined to meet the requirements of subsection (c). The cost
6 of such assessment shall be paid by such offender.

7 Sec. 3. K.S.A. 2020 Supp. 21-6610 and 21-6824 are hereby repealed.

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