AN ACT concerning driving; relating to driving under the influence; authorizing reinstatement of a driver's license for certain persons with an ignition interlock device restriction; removing the motorized bicycle license option for persons whose driving privileges are suspended for a DUI-related offense; allowing certain persons disqualified from driving a commercial motor vehicle to have commercial driving privileges restored; modifying the criminal penalties for driving a commercial motor vehicle under the influence and driving under the influence, authorizing courts to waive certain fines and clarifying that amendment or dismissal of certain charges is permitted; allowing persons with suspended driving privileges to seek driving privileges restricted to driving only a motor vehicle equipped with an ignition interlock device earlier in the suspension period; requiring persons with an ignition interlock device restriction to complete the ignition interlock device program before driving privileges are fully reinstated; requiring the secretary of revenue to adopt certain rules and regulations related to ignition interlock devices; providing for reduced ignition interlock device program costs for certain persons; reducing the restricted driving privileges period for certain persons less than 21 years of age; clarifying that a city attorney or a county or district attorney shall not enter into a diversion agreement for certain traffic violations if the defendant is a commercial driver's license holder; amending K.S.A. 8-1016 and K.S.A. 2020 Supp. 8-235, 8-2,142, 8-2,144, 8-1015, 8-1567, 8-1567a, 12-4415 and 22-2908 and repealing the existing sections.

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

New Section 1. (a) Any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed and who meets the requirements of subsection (b) may request reinstatement of such person's driver's license by submitting a request to the division in a form and manner prescribed by the division.

(b) The division shall approve the request for reinstatement of the person's driver's license if the division determines all the following conditions are met:

(1) The person's ignition interlock device restriction period has been extended at least five years, not including any period of incarceration,
beyond the initial ignition interlock device restriction period required by law due to the person's failure to provide the division with proof of completion of the ignition interlock device program as required by K.S.A. 8-1015, and amendments thereto;

(2) during the person's ignition interlock device restriction period and any extension thereof, the person has not had an alcohol or drug-related conviction or occurrence, as those terms are defined by K.S.A. 8-1013, and amendments thereto, or a conviction of a violation of K.S.A. 8-1017, and amendments thereto, or of a law of another state, or of a political subdivision thereof, that prohibits the acts prohibited by K.S.A. 8-1017, and amendments thereto;

(3) during the person's ignition interlock device restriction period and any extension thereof, the person has not had any of the following:
   (A) Conviction of a violation of K.S.A. 8-1599, and amendments thereto;
   (B) conviction of a violation of K.S.A. 41-727, and amendments thereto;
   (C) conviction of any violation listed in K.S.A. 8-285(a), and amendments thereto;
   (D) conviction of two or more moving traffic violations committed on separate occasions; or
   (E) revocation, suspension, cancellation or withdrawal of the person's driving privileges due to another action by the division or a court; and

(4) at the time of submitting the request to the division, the person does not have any pending charges or proceedings involving any violation listed in subsection (b)(2) or (3).

Sec. 2. K.S.A. 2020 Supp. 8-235 is hereby amended to read as follows: 8-235. (a) No person, except those expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person has a valid driver's license. No person shall receive a driver's license unless and until such person surrenders or with the approval of the division, lists to the division all valid licenses in such person's possession issued to such person by any other jurisdiction. All surrendered licenses or the information listed on foreign licenses shall be returned by the division to the issuing department, together with information that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid license at any time.

(b) Any person licensed under the motor vehicle drivers' license act may exercise the privilege granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any local authority. Nothing herein shall prevent cities from requiring licenses of persons who drive taxicabs or municipally franchised transit systems for hire upon city streets, to protect the public from drivers
whose character or habits make them unfit to transport the public. If a license is denied, the applicant may appeal such decision to the district court of the county in which such city is located by filing within 14 days after such denial, a notice of appeal with the clerk of the district court and by filing a copy of such notice with the city clerk of the involved city. The city clerk shall certify a copy of such decision of the city governing body to the clerk of the district court and the matter shall be docketed as any other cause and the applicant shall be granted a trial of such person's character and habits. The matter shall be heard by the court de novo in accordance with the code of civil procedure. The cost of such appeal shall be assessed in such manner as the court may direct.

(c) Any person operating in this state a motor vehicle shall be the holder of a driver's license that is classified for the operation of such motor vehicle, and any person operating in this state a motorcycle that is registered in this state shall be the holder of a class M driver's license.

(d) No person shall drive any motorized bicycle upon a highway of this state unless such person:

(1) Has a valid driver's license that entitles the licensee to drive a motor vehicle in any class or classes;

(2) is at least 15 years of age and has passed the written and visual examinations required for obtaining a class C driver's license, in which case the division shall issue to such person a class C license, which shall clearly indicate that such license is valid only for the operation of motorized bicycles; or

(3) has had their driving privileges suspended, for a violation other than a violation of K.S.A. 8-2,144, and amendments thereto, or a second or subsequent violation of K.S.A. 8-1567 or 8-1567a, and amendments thereto, and such person: (A) Has completed the mandatory period of suspension as provided in K.S.A. 8-1014, and amendments thereto; and (B) has made application and submitted a $40 nonrefundable application fee to the division for the issuance of a class C license for the operation of motorized bicycles, in accordance with paragraph (2), in which case the division shall issue to such person a class C license, which shall clearly indicate that such license is valid only for the operation of motorized bicycles; or

(4) has had their driving privileges revoked under K.S.A. 8-286, and amendments thereto, has not had a test refusal or test failure or alcohol or drug-related conviction, as those terms are defined in K.S.A. 8-1013, and amendments thereto, in the last five years, has not been convicted of a violation of K.S.A. 8-1568(b), and amendments thereto, in the last five years and has made application to the division for issuance of a class C license for the operation of motorized bicycles, in accordance with paragraph (2), in which case the division shall issue such person a class C license, which shall clearly indicate that such license is valid only
for the operation of motorized bicycles. As used in this subsection, "motorized bicycle" shall have the meaning ascribed to it in K.S.A. 8-126, and amendments thereto.

(e)—All moneys received under subsection (d) from the nonrefundable application fee shall be applied by the division of vehicles for the additional administrative costs to implement restricted driving privileges. The division shall remit all restricted driving privilege application fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the division of vehicles operating fund.

(f) Violation of this section shall constitute a class B nonperson misdemeanor.

Sec. 3. K.S.A. 2020 Supp. 8-2,142 is hereby amended to read as follows: 8-2,142. (a) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year upon a first occurrence of any one of the following:

(1) While operating a commercial motor vehicle:
   (A) The person is convicted of violating K.S.A. 8-2,144, and amendments thereto;
   (B) the person is convicted of violating K.S.A. 8-2,132(b), and amendments thereto;
   (C) the person is convicted of causing a fatality through the negligent operation of a commercial motor vehicle;
   (D) the person’s test refusal or test failure, as defined in subsection (m); or
   (E) the person is convicted of a violation identified in subsection (a) (2)(A); or
   (2)(A); or
   (2) while operating a noncommercial motor vehicle:
      (A) The person is convicted of a violation of K.S.A. 8-1567, and amendments thereto, or of a violation of an ordinance of any city in this state, a resolution of any county in this state or any law of another state, which ordinance or law declares to be unlawful the acts prohibited by that statute; or
      (B) the person’s test refusal or test failure, as defined in K.S.A. 8-1013, and amendments thereto; or
      (3) while operating any motor vehicle:
         (A) The person is convicted of leaving the scene of an accident; or
         (B) the person is convicted of a felony, other than a felony described in subsection (e), while using a motor vehicle to commit such felony.
         (b) If any offenses, test refusal or test failure specified in subsection (a) occurred in a commercial motor vehicle while transporting a hazardous material required to be placarded, the person is disqualified for a period of
not less than three years.

(c) A person shall be disqualified for life upon the second or a subsequent occurrence of any offense, test refusal or test failure specified in subsection (a), or any combination thereof, arising from two or more separate incidents occurring on or after July 1, 2003.

(d) (1) The secretary of revenue may adopt rules and regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (c) may be reduced to a period of not less than 10 years. Any person disqualified for life under subsection (c) who seeks to have commercial driving privileges restored after such person has been disqualified for at least 10 years shall apply in writing to the division.

(2) The division shall restore a person's commercial driving privileges if the division determines:

(A) None of the occurrences that led to the person's lifetime disqualification under subsection (c) included violations described in subsection (a)(1)(A) or (a)(1)(E);

(B) the person has had no occurrence of any offense, test refusal or test failure specified in subsection (a) during the 10-year period preceding the application;

(C) the person has had no alcohol or drug related convictions as defined in K.S.A. 8-2,128, and amendments thereto, in Kansas or any other jurisdiction during the 10-year period preceding the application;

(D) the person has no pending alcohol or drug related criminal charges in Kansas or any other jurisdiction;

(E) the person has had no convictions for violations that occurred while operating a commercial motor vehicle in Kansas or any other jurisdiction during the 10-year period preceding the application;

(F) the person has successfully completed an alcohol or drug treatment program, or a comparable program, that meets or exceeds the minimum standards approved by the Kansas department for aging and disability services if any of the disqualifying offenses were drug or alcohol related;

(G) the person is no longer a threat to the public safety of this state. The division may request, and the person shall provide, any additional information or documentation which the division deems necessary to determine the person's fitness for relicensure;

(H) the person is otherwise eligible for licensure; and

(I) the person has not previously been restored to commercial motor vehicle privileges following a prior 10-year-minimum disqualification.

(3) For purposes of verifying a person's prior 10-year alcohol and drug history, the person shall provide a copy of the person's closed criminal history from any jurisdiction to the division.
(4) If the division finds the person is eligible for restoration to commercial driving status, such person shall complete the written and driving skills examinations as specified in K.S.A. 8-2,133, and amendments thereto, before a commercial driver license is issued.

(5) If the person is found ineligible for restoration of commercial driving privileges, the division shall notify the person of such findings by certified mail and continue the denial of commercial driving privilege until such ineligibility has been disproven to the division's satisfaction.

(6) Any person who previously had such person's commercial motor vehicle privileges restored pursuant to this statute shall not be eligible to apply for restoration if such person receives another lifetime disqualification.

(7) Any person who is aggrieved by the decision of the division may appeal for review in accordance with the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto.

(8) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection.

(e) (1) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle or noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.

(2) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons. The term "severe forms of trafficking in persons" means:

(A) Sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.

(f) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period. Any disqualification period under this paragraph shall be in addition to any other previous period of disqualification. The beginning date for any three-year period within a ten-year period, required by this subsection, shall be the issuance date of the citation which resulted in a conviction.

(g) A person is disqualified from driving a commercial motor vehicle
for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a noncommercial motor vehicle arising from separate incidents occurring within a three-year period, if such convictions result in the revocation, cancellation or suspension of the person's driving privileges.

(h) (1) A person who is convicted of operating a commercial motor vehicle in violation of an out-of-service order shall be disqualified from driving a commercial motor vehicle for a period of not less than:

(A) Ninety days nor more than one year, if the driver is convicted of a first violation of an out-of-service order;

(B) one year nor more than five years if the person has one prior conviction for violating an out-of-service order in a separate incident and such prior offense was committed within the 10 years immediately preceding the date of the present violation; or

(C) three years nor more than five years if the person has two or more prior convictions for violating out-of-service orders in separate incidents and such prior offenses were committed within the 10 years immediately preceding the date of the present violation.

(2) A person who is convicted of operating a commercial motor vehicle in violation of an out-of-service order while transporting a hazardous material required to be placarded under 49 U.S.C. § 5101 et seq. or while operating a motor vehicle designed to transport more than 15 passengers, including the driver, shall be disqualified from driving a commercial motor vehicle for a period of not less than:

(A) One hundred and eighty days nor more than two years if the driver is convicted of a first violation of an out-of-service order; or

(B) three years nor more than five years if the person has a prior conviction for violating an out-of-service order in a separate incident and such prior offense was committed within the 10 years immediately preceding the date of the present violation.

(i) (1) A person who is convicted of operating a commercial motor vehicle in violation of a federal, state or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing shall be disqualified from driving a commercial motor vehicle for the period of time specified in paragraph (2) for persons:

(A) for persons who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(B) for persons who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(C) for persons who are always required to stop, failing to stop before driving onto the crossing;

(D) for all persons failing to have sufficient space to drive completely
through the crossing without stopping;
(E) for all persons failing to obey a traffic control device or the
directions of an enforcement official at the crossing; or
(F) for all persons failing to negotiate a crossing because of
insufficient undercarriage clearance.
(2) A driver shall be disqualified from driving a commercial motor
vehicle for not less than:
(A) Sixty days if the driver is convicted of a first violation of a
railroad-highway grade crossing violation;
(B) one hundred and twenty days if, during any three-year period, the
driver is convicted of a second railroad-highway grade crossing violation
in separate incidents; or
(C) one year if, during any three-year period, the driver is convicted
of a third or subsequent railroad-highway grade crossing violation in
separate incidents.
(j) After suspending, revoking or canceling a commercial driver's
license, the division shall update its records to reflect that action within 10
days. After suspending, revoking or canceling a nonresident commercial
driver's privileges, the division shall notify the licensing authority of the
state which issued the commercial driver's license or nonresident
commercial driver's license within 10 days. The notification shall include
both the disqualification and the violation that resulted in the
disqualification, suspension, revocation or cancellation.
(k) Upon receiving notification from the licensing authority of
another state, that it has disqualified a commercial driver's license holder
licensed by this state, or has suspended, revoked or canceled such
commercial driver's license holder's commercial driver's license, the
division shall record such notification and the information such
notification provides on the driver's record.
(l) Upon suspension, revocation, cancellation or disqualification of a
commercial driver's license under this act, the license shall be immediately
surrendered to the division if still in the licensee's possession. If otherwise
eligible, and upon payment of the required fees, the licensee may be issued
a noncommercial driver's license for the period of suspension, revocation,
cancellation or disqualification of the commercial driver's license under
the same identifier number.
(m) As used in this section, "test refusal" means a person's refusal to
submit to and complete a test requested pursuant to K.S.A. 8-2,145, and
amendments thereto; "test failure" means a person's submission to and
completion of a test which determines that the person's alcohol
concentration is .04 or greater, pursuant to K.S.A. 8-2,145, and
amendments thereto.
(n) If a person is disqualified for life under on subsection (c), and at
least one of the disqualifying incidents occurred prior to July 1, 2003, the
person may apply to the secretary of revenue for review of the incidents
and modification of the disqualification. The secretary shall adopt rules
and regulations establishing guidelines, including conditions, to
administer this subsection.

Sec. 4. K.S.A. 2020 Supp. 8-2,144 is hereby amended to read as
follows: 8-2,144. (a) Driving a commercial motor vehicle under the
influence is operating or attempting to operate any commercial motor
vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, within this
state while:

(1) The alcohol concentration in the person's blood or breath, as
shown by any competent evidence, including other competent evidence, as
defined in K.S.A. 8-1013(f)(1), and amendments thereto, is 0.04 or more;
(2) the alcohol concentration in the person's blood or breath, as
measured within three hours of the time of driving a commercial motor
vehicle, is 0.04 or more; or
(3) committing a violation of K.S.A. 8-1567(a), and amendments
thereto, or the ordinance of a city or resolution of a county which prohibits
any of the acts prohibited thereunder or is otherwise comparable.

(b) (1) Driving a commercial motor vehicle under the influence is:

(A) On a first conviction, a class B, nonperson misdemeanor. The
person convicted shall be sentenced to not less than 48 consecutive hours
nor more than six months' imprisonment, or in the court's discretion, 100
hours of public service, and fined not less than $750 nor more than $1,000.
The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition
of any grant of probation, suspension or reduction of sentence or parole or
other release;

(B) on a second conviction, a class A, nonperson misdemeanor. The
person convicted shall be sentenced to not less than 90 days nor more than
one year's imprisonment and fined not less than $1,250 nor more than
$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or
reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work
release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person
to return to confinement at the end of each day in the work release
program. The person convicted, if placed into a work release program,
shall serve a minimum of 120 hours of confinement. Such 120 hours of
confinement shall be a period of at least 48 consecutive hours of
imprisonment followed by confinement hours at the end of and continuing
to the beginning of the offender's work day. The court may place the-
person convicted under a house arrest program pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto, to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours; The following conditions shall apply to such sentence:

(i) As a condition of any probation granted under this subsection, the person shall serve at least 120 hours of confinement. The hours of confinement shall include at least 48 hours imprisonment and otherwise may be served by a combination of: Imprisonment; a work release program, provided such work release program requires such person to return to the confinement at the end of each day in the work release program; or a house arrest program pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto; and

(ii) (a) if the person is placed into a work release program or placed under a house arrest program for any portion of the minimum 120 hours confinement mandated by this subsection, the person shall receive hour-for-hour credit for time served in such program until the minimum sentence is met. If the person is placed into a work release program or placed under a house arrest program for more than the minimum 120 hours confinement mandated by this subsection, the person shall receive hour-for-hour credit for time served in such program until the minimum 120 hours confinement is completed, and thereafter the person shall receive day-for-day credit for time served in such program unless otherwise ordered by the court; and

(b) when in a work release program, the person shall only be given credit for the time served in confinement at the end of and continuing to the beginning of the person's work day. When under a house arrest program, the person shall be monitored by an electronic monitoring device that verifies the person's location and shall only be given credit for the time served within the boundaries of the person's residence; and

(C) on a third or subsequent conviction, a severity level 6, nonperson felony. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,750 nor more than $2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only
after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's workday. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(2) In addition, for any conviction pursuant to subsection (b)(1)(C), at the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426, and amendments thereto, or K.S.A. 2020 Supp. 21-6711, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The court shall determine whether the offender, upon release from imprisonment, shall be supervised by community correctional services or court services based upon the risk and needs of the offender. The risk and needs of the offender shall be determined by use of a risk assessment tool specified by the Kansas sentencing commission. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the supervision office designated by the court and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the supervision office designated by the court. After the term of imprisonment imposed by the court, the person shall be placed on supervision to community correctional services or court services, as determined by the court, for a mandatory one-year period of supervision, which such period of supervision shall not be reduced. During such supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a Kansas department for aging and disability services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the supervision officer, the aging and
disability services department designated treatment provider and the
offender. An offender for whom a warrant has been issued by the court
alleging a violation of such supervision shall be considered a fugitive from
justice if it is found that the warrant cannot be served. If it is found the
offender has violated the provisions of this supervision, the court shall
determine whether the time from the issuing of the warrant to the date of
the court's determination of an alleged violation, or any part of it, shall be
counted as time served on supervision. Any violation of the conditions of
such supervision may subject such person to revocation of supervision and
imprisonment in jail for the remainder of the period of imprisonment, the
remainder of the supervision period, or any combination or portion
thereof. The term of supervision may be extended at the court's discretion
beyond one year, and any violation of the conditions of such extended term
of supervision may subject such person to the revocation of supervision
and imprisonment in jail of up to the remainder of the original sentence,
not the term of the extended supervision.
(3) In addition, prior to sentencing for any conviction pursuant to
subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to
participate in an alcohol and drug evaluation conducted by a provider in
accordance with K.S.A. 8-1008, and amendments thereto. The person shall
be required to follow any recommendation made by the provider after such
evaluation, unless otherwise ordered by the court.
(c) Any person 18 years of age or older convicted of a violation of
this section, or a violation of a city ordinance or county resolution
prohibiting the acts prohibited by this section, who had one or more
children under the age of 18 years in the vehicle at the time of the offense
shall have such person's punishment enhanced by one month of
imprisonment. This imprisonment shall be served consecutively to any
other minimum mandatory penalty imposed for a violation of this section,
or a violation of a city ordinance or county resolution prohibiting the acts
prohibited by this section. Any enhanced penalty imposed shall not exceed
the maximum sentence allowable by law. During the service of the
enhanced penalty, the judge may order the person on house arrest, work
release or other conditional release.
(d) If a person is charged with a violation of K.S.A. 8-1567(a)(4) or
(a)(5), and amendments thereto, as incorporated in this section, the fact
that the person is or has been entitled to use the drug under the laws of this
state shall not constitute a defense against the charge.
(e) The court may establish the terms and time for payment of any
fines, fees, assessments and costs imposed pursuant to this section. Any
assessment and costs shall be required to be paid not later than 90 days
after imposed, and any remainder of the fine shall be paid prior to the final
release of the defendant by the court.
In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to $5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(2) The court may, in its discretion, waive any portion of a fine imposed pursuant to this section, except the $250 required to be remitted to the state treasurer pursuant to subsection (q), upon a showing that the person successfully completed court-ordered education or treatment.

(g) Prior to filing a complaint alleging a violation of this section, a prosecutor shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(h) The court shall electronically report every conviction of a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(i) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall:

(1) Disqualify the person from driving a commercial motor vehicle under K.S.A. 8-2,142, and amendments thereto; and

(2) suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(j) (1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this section as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

(2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this
section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

(3) Any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(k) (1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated a city ordinance prohibiting the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(A) Division of vehicles a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(B) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(2) If the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the appropriate county or district attorney for prosecution. The county or district attorney shall accept such referral and pursue a disposition of such violation, and shall not refer any such violation back to the city attorney.

(l) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance or resolution. This subsection shall not be construed to prohibit an amendment or dismissal of any charge where the admissible evidence is not sufficient to support a conviction beyond a reasonable doubt on such charge.

(m) The alternatives set out in subsection (a) may be pleaded in the alternative, and the state, city or county may, but shall not be required to, elect one or more of such alternatives prior to submission of the case to the fact finder.

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

(1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county that prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering
any convictions or diversions occurring during the person's lifetime in
determining the sentence to be imposed within the limits provided for a
first, second, third, fourth or subsequent offense;
(2) any convictions for a violation of the following sections occurring
during a person's lifetime shall be taken into account:
(A) This section;
(B) operating a vessel under the influence of alcohol or drugs, K.S.A.
32-1131, and amendments thereto;
(C) involuntary manslaughter while driving under the influence of
alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 2020 Supp.
21-5405(a)(3) or (a)(5), and amendments thereto;
(D) aggravated battery as described in K.S.A. 2020 Supp. 21-5413(b)
(3) or (b)(4), and amendments thereto; and
(E) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its
repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the
crime was committed while committing a violation of K.S.A. 8-1567, and
amendments thereto;
(3) "conviction" includes:
(A) Entering into a diversion agreement in lieu of further criminal
proceedings on a complaint alleging a violation of a crime described in
subsection (n)(2); and
(B) conviction of a violation of an ordinance of a city in this state, a
resolution of a county in this state or any law of another jurisdiction that
would constitute an offense that is comparable to the offense described in
subsection (n)(1) or (n)(2);
(4) it is irrelevant whether an offense occurred before or after
conviction for a previous offense; and
(5) multiple convictions of any crime described in subsection (n)(1)
or (n)(2) arising from the same arrest shall only be counted as one
conviction.
(o) For the purposes of determining whether an offense is
comparable, the following shall be considered:
(1) The name of the out-of-jurisdiction offense;
(2) the elements of the out-of-jurisdiction offense; and
(3) whether the out-of-jurisdiction offense prohibits similar conduct
to the conduct prohibited by the closest approximate Kansas offense.
(p) For the purpose of this section:
(1) "Alcohol concentration" means the number of grams of alcohol
per 100 milliliters of blood or per 210 liters of breath;
(2) "imprisonment" shall include includes any restrained environment
in which the court and law enforcement agency intend to retain custody
and control of a defendant and such environment has been approved by the
board of county commissioners or the governing body of a city; and
(3) "drug" includes toxic vapors as such term is defined in K.S.A. 2020 Supp. 21-5712, and amendments thereto.

(q) On and after July 1, 2011, the amount of $250 from each fine imposed pursuant to this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the community corrections supervision fund established by K.S.A. 75-52,113, and amendments thereto.

Sec. 5. K.S.A. 2020 Supp. 8-1015 is hereby amended to read as follows:

8-1015. (a) (1) Except as provided in subsection (a)(2), whenever a person's driving privileges have been suspended for one year as provided in K.S.A. 8-1014(a), and amendments thereto, after 90 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(2) Whenever a person's driving privileges have been suspended for one year as provided in K.S.A. 8-1014(a)(1), and amendments thereto, after 90 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only: Under the circumstances provided by K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; and for the purpose of getting to and from the ignition interlock provider for maintenance and downloading of data from the device.

(3) Except as provided in subsection (a)(4), whenever a person's driving privileges have been suspended for one year as provided in K.S.A. 8-1014(b), and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(4) Whenever a person's driving privileges have been suspended for one year as provided in K.S.A. 8-1014(b)(2)(A), and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only: Under the circumstances provided
by K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; and for
the purpose of getting to and from the ignition interlock provider for
maintenance and downloading of data from the device.

5/2) The division shall assess an application fee of $100 for a
person to apply to modify the suspension to restricted ignition interlock
status.

6/3) The division shall approve the request for such restricted
license unless such person's driving privileges have been restricted,
suspended, revoked or disqualified pursuant to another action by the
division or a court. If the request is approved, upon receipt of proof of the
installation of such device, the division shall issue a copy of the order
imposing such restrictions on the person's driving privileges and such
order shall be carried by the person at any time the person is operating a
motor vehicle on the highways of this state. Except as provided in K.S.A.
8-1017, and amendments thereto, if such person is convicted of a violation
of the restrictions, such person's driving privileges shall be suspended for
an additional year, in addition to any term of suspension or restriction as
provided in K.S.A. 8-1014(a) or (b), and amendments thereto.

b) (1) Except as provided in subsection (b)(2), when a person has
completed the suspension pursuant to K.S.A. 8-1014(b)(1)(A), and
amendments thereto, the division shall restrict the person's driving
privileges for 180 days to driving only a motor vehicle equipped with an
ignition interlock device.

(2) When a person has completed the suspension pursuant to K.S.A.
8-1014(b)(1)(A), and amendments thereto, the division shall restrict the
person's driving privileges for one year to driving only a motor vehicle
equipped with an ignition interlock device if the records maintained by the
division indicate that such person has previously:

A) Been convicted of a violation of K.S.A. 8-1599, and amendments
thereto;

B) been convicted of a violation of K.S.A. 41-727, and amendments
thereto;

C) been convicted of any violations listed in K.S.A. 8-285(a), and
amendments thereto;

D) been convicted of three or more moving traffic violations
committed on separate occasions within a 12-month period; or

E) had such person's driving privileges revoked, suspended, canceled
or withdrawn.

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

(d) (1) Whenever an ignition interlock device is required by law, such ignition interlock device shall be approved by the division and maintained at the person's expense. Proof of the installation of such ignition interlock device, for the entire period required by the applicable law, shall be provided to the division before the person's driving privileges are fully reinstated.

(2) Every person who has an ignition interlock device installed as required by law shall be required to complete the ignition interlock device program pursuant to this section and rules and regulations adopted by the secretary of revenue, and proof of completion shall be provided to the division by. A person may only complete the ignition interlock device program if the person has not more than three standard violations and no serious violation in the 90 consecutive days prior to application for reinstatement and the application occurs upon or after expiration of the applicable ignition interlock period required by law. The approved service provider shall provide proof of completion to the division before the person's driving privileges are fully reinstated.

(3) As used in this subsection:

(A) "Standard violation" means any of the following, as reported by the approved service provider:

(i) The driver has blown a BrAC fail when attempting an initial engine start-up breath test;

(ii) the driver has blown a BrAC fail when attempting a required rolling retest;

(iii) the driver fails to execute a valid rolling retest;

(iv) the driver fails to submit to a requested rolling retest by turning the vehicle off to avoid submitting to the rolling retest; or

(v) the driver has blown a high BrAC during an initial engine start-up breath test;

(B) "serious violation" means any of the following, as reported by the approved service provider:

(i) Tampering with the ignition interlock device;

(ii) circumventing the ignition interlock device; or

(iii) the driver has blown a high BrAC during a rolling retest;

(C) "BrAC" means the breath alcohol concentration expressed as weight divided by volume, based upon grams of alcohol per 210 liters of breath;

(D) "BrAC fail" means the ignition interlock device registers a BrAC value equal to or greater than the alcohol setpoint, as defined in rules and
regulations adopted by the secretary of revenue, when the intended driver conducts an initial test or retest;

(E) "high BrAC" means a BrAC fail result that registers an alcohol setpoint of 0.08 or greater; and

(F) "rolling retest" means a breath test that is required after the initial engine start-up breath test and while the engine is running.

(e) Except as provided further, any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may operate an employer's vehicle without an ignition interlock device installed during normal business activities, provided that the person does not partly or entirely own or control the employer's vehicle or business. The provisions of this subsection shall not apply to any person whose driving privileges have been restricted for the remainder of the one-year suspension period as provided in subsection (a)(1) or (a)(2).

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

(g) Any person who has had the person's driving privileges suspended, restricted or revoked pursuant to K.S.A. 8-1014(a), (b) or (c), prior to the amendments by section 16 of chapter 172 of the 2012 Session Laws of Kansas and section 14 of chapter 105 of the 2011 Session Laws of Kansas, may apply to the division to have the suspension, restriction or revocation penalties modified in conformity with the provisions of K.S.A. 8-1014(a), (b) or (c), and amendments thereto. The division shall assess an application fee of $100 for a person to apply to modify the suspension, restriction or revocation penalties previously issued. The division shall modify the suspension, restriction or revocation penalties, unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court.

(h) The division shall remit all application fees collected pursuant to subsections (a) and (g) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such moneys to the division of vehicles operating fund until an aggregate amount of $100,000 is credited to the division of vehicles operating fund each fiscal year. On and after an aggregate amount of $100,000 is credited to such fund each fiscal year, the
entire amount of such remittance shall be credited to the community

...
of at least 2% of the gross program revenues in the state as a credit for those persons who have otherwise qualified to obtain an ignition interlock restricted license under this act who are indigent as evidenced by qualification and eligibility for the federal food stamp program.

(b) (c) (1) If the division approves an ignition interlock device in accordance with rules and regulations adopted under this section, the division shall give written notice of the approval to the manufacturer of the device. Such notice shall be admissible in any civil or criminal proceeding in this state.

(e) (2) The manufacturer of an ignition interlock device shall reimburse the division for any cost incurred in approving or disapproving such device under this section.

(d) Neither the state nor any agency, officer or employee thereof shall be liable in any civil or criminal proceeding arising out of the use of an ignition interlock device approved under this section.

(e) (1) Any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may request reduced ignition interlock device program costs by submitting a request to the division in a form and manner prescribed by the division. The division shall review each request submitted pursuant to this subsection to determine whether the person is eligible for reduced ignition interlock device program costs. A person shall be eligible for reduced ignition interlock device program costs if the:

(A) Person's annual household income is less than or equal to 300% of the federal poverty level;

(B) person is enrolled in the food assistance, child care subsidy or cash assistance program pursuant to K.S.A. 39-709, and amendments thereto; or

(C) person is currently eligible for the low income energy assistance program as determined by the department for children and families.

(2) If the division determines that the person is eligible for reduced ignition interlock device program costs, the person shall be responsible for paying the following amounts, and the manufacturer providing the person's device shall adjust the manufacturer's charge for services accordingly:

(A) Except as provided in subsection (e)(2)(B), for a person whose household income is less than or equal to:

(i) 300% but greater than 200% of the federal poverty level, 90% of the program costs;

(ii) 200% but greater than 150% of the federal poverty level, 75% of the program costs;

(iii) 150% but greater than 100% of the federal poverty level, 50% of the program costs; and
(iv) 100% of the federal poverty level, 25% of the program costs; and
(B) for a person who is enrolled in the food assistance, child care
subsidy or cash assistance program pursuant to K.S.A. 39-709, and
amendments thereto, or currently eligible for the low income energy
assistance program as determined by the department for children and
families, 25% of the program costs.
(f) As used in this section, "federal poverty level" means the most
recent poverty income guidelines published in the calendar year by the
United States department of health and human services.
Sec. 7. K.S.A. 2020 Supp. 8-1567 is hereby amended to read as
follows: 8-1567. (a) Driving under the influence is operating or attempting
to operate any vehicle within this state while:
(1) The alcohol concentration in the person's blood or breath as
shown by any competent evidence, including other competent evidence, as
defined in K.S.A. 8-1013(f)(1), and amendments thereto, is 0.08 or more;
(2) the alcohol concentration in the person's blood or breath, as
measured within three hours of the time of operating or attempting to
operate a vehicle, is 0.08 or more;
(3) under the influence of alcohol to a degree that renders the person
incapable of safely driving a vehicle;
(4) under the influence of any drug or combination of drugs to a
degree that renders the person incapable of safely driving a vehicle; or
(5) under the influence of a combination of alcohol and any drug or
drugs to a degree that renders the person incapable of safely driving a
vehicle.
(b) (1) Driving under the influence is:
(A) On a first conviction, a class B, nonperson misdemeanor. The
person convicted shall be sentenced to not less than 48 consecutive hours
nor more than six months' imprisonment, or in the court's discretion 100
hours of public service, and fined not less than $750 nor more than $1,000.
The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.
The court may place the person convicted under a house arrest program
pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto, to serve
the remainder of the sentence only after such person has served 48
consecutive hours' imprisonment;
(B) on a second conviction, a class A, nonperson misdemeanor. The
person convicted shall be sentenced to not less than 90 days nor more than
one year's imprisonment and fined not less than $1,250 nor more than
$1,750. The person convicted shall serve at least five consecutive days'
imprisonment before the person is granted probation, suspension or
reduction of sentence or parole or is otherwise released. The five days'
imprisonment mandated by this subsection may be served in a work-release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto, to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours; The following conditions shall apply to such sentence:

(i) As a condition of any probation granted under this subsection, the person shall serve at least 120 hours of confinement. The hours of confinement shall include at least 48 hours imprisonment and otherwise may be served by a combination of: Imprisonment; a work release program, provided such work release program requires such person to return to the confinement at the end of each day in the work release program; or a house arrest program pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto;

(ii) (a) if the person is placed into a work release program or placed under a house arrest program for any portion of the minimum 120 hours confinement mandated by this subsection, the person shall receive hour-for-hour credit for time served in such program until the minimum sentence is met. If the person is placed into a work release program or placed under a house arrest program for more than the minimum 120 hours confinement mandated by this subsection, the person shall receive hour-for-hour credit for time served in such program until the minimum 120 hours is complete and thereafter, the person shall receive day-for-day credit for time served in such program unless otherwise ordered by the court; and

(b) when in a work release program, the person shall only be given credit for the time served in confinement at the end of and continuing to the beginning of the person's work day. When under a house arrest program, the person shall be monitored by an electronic monitoring
device that verifies the person's location and shall only be given credit for
the time served within the boundaries of the person's residence;

(C) on a third conviction, a class A, nonperson misdemeanor, except
as provided in subsection (b)(1)(D). The person convicted shall be
sentenced to not less than 90 days nor more than one year's imprisonment
and fined not less than $1,750 nor more than $2,500. The person convicted
shall not be eligible for release on probation, suspension or reduction of
sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection
may be served in a work release program only after such person has served
48 consecutive hours' imprisonment, provided such work release program
requires such person to return to confinement at the end of each day in the
work release program. The person convicted, if placed into a work release
program, shall serve a minimum of 2,160 hours of confinement. Such
2,160 hours of confinement shall be a period of at least 48 consecutive
hours of imprisonment followed by confinement hours at the end of and
continuing to the beginning of the offender's work day. The court may
place the person convicted under a house arrest program pursuant to
K.S.A. 2020 Supp. 21-6609, and amendments thereto, to serve the 90 days'
imprisonment mandated by this subsection only after such person has
served 48 consecutive hours' imprisonment. The person convicted, if
placed under house arrest, shall be monitored by an electronic monitoring
device, which verifies the offender's location. The offender shall serve a
minimum of 2,160 hours of confinement within the boundaries of the
offender's residence. Any exceptions to remaining within the boundaries of
the offender's residence provided for in the house arrest agreement shall
not be counted as part of the 2,160 hours; The following conditions shall
apply to such sentence:

(i) As a condition of any probation granted under this subsection, the
person shall serve at least 30 days of confinement. After at least 48
consecutive hours imprisonment the remainder of the period of
confinement may be served by a combination of: Imprisonment; a work
release program, provided such work release program requires such
person to return to the confinement at the end of each day in the work
release program; or a house arrest program pursuant to K.S.A. 2020
Supp. 21-6609, and amendments thereto; and

(ii) (a) if the person is placed into a work release program or placed
under a house arrest program for any portion of the minimum 30 days
confinement mandated by this subsection, the person shall receive hour-
for-hour credit for time served in such program for the first 240 hours,
and thereafter the person shall receive day-for day-credit for time served
in such program unless otherwise ordered by the court; and

(b) when in a work release program, the person shall only be given
credit for the time served in confinement at the end of and continuing to
the beginning of the person's work day. When under a house arrest
program, the person shall be monitored by an electronic monitoring
device that verifies the person's location and shall only be given credit for
the time served within the boundaries of the person's residence;

(D) on a third conviction, a severity level 6, nonperson felony if the
person has a prior conviction which occurred within the preceding 10
years, not including any period of incarceration. The person convicted
shall be sentenced to not less than 90 days nor more than one year's
imprisonment and fined not less than $1,750 nor more than $2,500. The
person convicted shall not be eligible for release on probation, suspension
or reduction of sentence or parole until the person has served at least 90-
days' imprisonment. The 90 days' imprisonment mandated by this
subsection may be served in a work release program only after such person
has served 48 consecutive hours' imprisonment, provided such work-
release program requires such person to return to confinement at the end of
each day in the work release program. The person convicted, if placed into
a work release program, shall serve a minimum of 2,160 hours of
imprisonment. Such 2,160 hours of confinement shall be a period of at least
48 consecutive hours of imprisonment followed by confinement hours at
the end of and continuing to the beginning of the offender's work day. The
court may place the person convicted under a house arrest program
pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto, to serve
the 90 days' imprisonment mandated by this subsection only after such
person has served 48 consecutive hours' imprisonment. The person
convicted, if placed under house arrest, shall be monitored by an electronic
monitoring device, which verifies the offender's location. The offender
shall serve a minimum of 2,160 hours of confinement within the
boundaries of the offender's residence. Any exceptions to remaining within
the boundaries of the offender's residence provided for in the house arrest
agreement shall not be counted as part of the 2,160 hours; and

(E) on a fourth or subsequent conviction, a severity level 6, nonperson
felony. The person convicted shall be sentenced to not less than 90 days
nor more than one year's imprisonment and fined $2,500. The person
convicted shall not be eligible for release on probation, suspension or
reduction of sentence or parole until the person has served at least 90 days'
imprisonment. The 90 days' imprisonment mandated by this subsection
may be served in a work release program only after such person has served
72 consecutive hours' imprisonment, provided such work release program
requires such person to return to confinement at the end of each day in the
work release program. The person convicted, if placed into a work release
program, shall serve a minimum of 2,160 hours of confinement. Such
2,160 hours of confinement shall be a period of at least 72 consecutive-
hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 72 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(2) The court may order that the term of imprisonment imposed pursuant to subsection (b)(1)(D) or (b)(1)(E) be served in a state facility in the custody of the secretary of corrections in a facility designated by the secretary for the provision of substance abuse treatment pursuant to the provisions of K.S.A. 2020 Supp. 21-6804, and amendments thereto. The person shall remain imprisoned at the state facility only while participating in the substance abuse treatment program designated by the secretary and shall be returned to the custody of the sheriff for execution of the balance of the term of imprisonment upon completion of or the person's discharge from the substance abuse treatment program. Custody of the person shall be returned to the sheriff for execution of the sentence imposed in the event the secretary of corrections may refuse to admit the person to the designated facility and place the person in a different state facility, or admit the person and subsequently transfer the person to a different state facility, if the secretary determines: (A) That substance abuse treatment resources or the capacity of the facility designated by the secretary for the incarceration and treatment of the person is not available; (B) the person has failed to meaningfully participate in the treatment program of the designated facility; (C) the person is disruptive to the security or operation of the designated facility; or (D) the medical or mental health condition of the person renders the person unsuitable for confinement at the designated facility. The determination by the secretary that the person either is not to be admitted into the designated facility or is to be transferred from the designated facility is not subject to review. The sheriff shall be responsible for all transportation expenses to and from the state correctional facility.

(3) In addition, for any conviction pursuant to subsection (b)(1)(C) or (b)(1)(D) or (b)(1)(E), at the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426 or K.S.A. 2020 Supp. 21-6711, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The court shall determine whether the offender, upon release from imprisonment, shall be supervised
by community correctional services or court services based upon the risk and needs of the offender. The risk and needs of the offender shall be determined by use of a risk assessment tool specified by the Kansas sentencing commission. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the supervision office designated by the court and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the supervision office designated by the court. After the term of imprisonment imposed by the court, the person shall be placed on supervision to community correctional services or court services, as determined by the court, for a mandatory one-year period of supervision, which such period of supervision shall not be reduced. During such supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a Kansas department for aging and disability services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the supervision officer, the Kansas department for aging and disability services designated treatment provider and the offender. An offender for whom a warrant has been issued by the court alleging a violation of this supervision shall be considered a fugitive from justice if it is found that the warrant cannot be served. If it is found the offender has violated the provisions of this supervision, the court shall determine whether the time from the issuing of the warrant to the date of the court's determination of an alleged violation, or any part of it, shall be counted as time served on supervision. Any violation of the conditions of such supervision may subject such person to revocation of supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the supervision period, or any combination or portion thereof. The term of supervision may be extended at the court's discretion beyond one year, and any violation of the conditions of such extended term of supervision may subject such person to the revocation of supervision and imprisonment in jail of up to the remainder of the original sentence, not the term of the extended supervision.

(4) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person 18 years of age or older convicted of violating this
section or an ordinance which prohibits the acts that this section prohibits
who had one or more children under the age of 18 years in the vehicle at
the time of the offense shall have such person's punishment enhanced by
one month of imprisonment. This imprisonment must be served
consecutively to any other minimum mandatory penalty imposed for a
violation of this section or an ordinance which prohibits the acts that this
section prohibits. Any enhanced penalty imposed shall not exceed the
maximum sentence allowable by law. During the service of the enhanced
penalty, the judge may order the person on house arrest, work release or
other conditional release.

(d) If a person is charged with a violation of subsection (a)(4) or (a)
(5), the fact that the person is or has been entitled to use the drug under
the laws of this state shall not constitute a defense against the charge.

(e) The court may establish the terms and time for payment of any
fines, fees, assessments and costs imposed pursuant to this section. Any
assessment and costs shall be required to be paid not later than 90 days
after imposed, and any remainder of the fine shall be paid prior to the final
release of the defendant by the court.

(f) (1) In lieu of payment of a fine imposed pursuant to this section,
the court may order that the person perform community service specified
by the court. The person shall receive a credit on the fine imposed in an
amount equal to $5 for each full hour spent by the person in the specified
community service. The community service ordered by the court shall be
required to be performed not later than one year after the fine is imposed
or by an earlier date specified by the court. If by the required date the
person performs an insufficient amount of community service to reduce to
zero the portion of the fine required to be paid by the person, the
remaining balance of the fine shall become due on that date.

(2) The court may, in its discretion, waive any portion of a fine
imposed pursuant to this section, except the $250 required to be remitted
to the state treasurer pursuant to subsection (q)(2), upon a showing that
the person successfully completed court-ordered education or treatment.

(g) Prior to filing a complaint alleging a violation of this section, a
prosecutor shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such
person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal
history record information concerning such person.

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

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

(1) Convictions for a violation of this section, or a violation of an
ordinance of any city or resolution of any county that prohibits the acts
that this section prohibits, or entering into a diversion agreement in lieu of
further criminal proceedings on a complaint alleging any such violations,
shall be taken into account, but only convictions or diversions occurring
on or after July 1, 2001. Nothing in this provision shall be construed as
preventing any court from considering any convictions or diversions
occurring during the person's lifetime in determining the sentence to be
imposed within the limits provided for a first, second, third, fourth or
subsequent offense;

(2) any convictions for a violation of the following sections occurring
during a person's lifetime shall be taken into account:

(A) Driving a commercial motor vehicle under the influence, K.S.A.
8-2,144, and amendments thereto;
(B) operating a vessel under the influence of alcohol or drugs, K.S.A.
32-1131, and amendments thereto;
(C) involuntary manslaughter while driving under the influence of
alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 2020 Supp.
21-5405(a)(3) or (a)(5), and amendments thereto;
(D) aggravated battery as described in K.S.A. 2020 Supp. 21-5413(b)
(3) or (b)(4), and amendments thereto; and
(E) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its
repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the
crime was committed while committing a violation of K.S.A. 8-1567, and
amendments thereto;

(3) "conviction" includes:

(A) Entering into a diversion agreement in lieu of further criminal
proceedings on a complaint alleging an offense described in subsection (i)
(2); and
(B) conviction of a violation of an ordinance of a city in this state, a
resolution of a county in this state or any law of another jurisdiction that
would constitute an offense that is comparable to the offense described in
subsection (i)(1) or (i)(2);

(4) multiple convictions of any crime described in subsection (i)(1) or
(i)(2) arising from the same arrest shall only be counted as one conviction;

(5) it is irrelevant whether an offense occurred before or after
conviction for a previous offense; and
(6) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, or an ordinance which prohibits the acts of this section, and amendments thereto, only once during the person's lifetime.

(j) For the purposes of determining whether an offense is comparable, the following shall be considered:

(1) The name of the out-of-jurisdiction offense;

(2) the elements of the out-of-jurisdiction offense; and

(3) whether the out-of-jurisdiction offense prohibits similar conduct to the conduct prohibited by the closest approximate Kansas offense.

(k) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(l) (1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

(2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

(3) On and after July 1, 2007, and retroactive for ordinance violations committed on or after July 1, 2006, an ordinance may grant to a municipal court jurisdiction over a violation of such ordinance which is concurrent with the jurisdiction of the district court over a violation of this section, notwithstanding that the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony.

(4) Any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(m) (1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated a city ordinance prohibiting the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(A) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(B) Kansas bureau of investigation central repository all criminal history record information concerning such person.
(2) If the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the appropriate county or district attorney for prosecution.

(n) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining. This subsection shall not be construed to prohibit an amendment or dismissal of any charge where the admissible evidence is not sufficient to support a conviction beyond a reasonable doubt on such charge.

(o) The alternatives set out in subsection (a) may be pleaded in the alternative, and the state, city or county may, but shall not be required to, elect one or more of such alternatives prior to submission of the case to the fact finder.

(p) As used in this section:

(1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath;

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

(3) "drug" includes toxic vapors as such term is defined in K.S.A. 2020 Supp. 21-5712, and amendments thereto.

(q) (1) The amount of the increase in fines as specified in this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of remittance of the increase provided in this act, the state treasurer shall deposit the entire amount in the state treasury and the state treasurer shall credit 50% to the community alcoholism and intoxication programs fund and 50% to the department of corrections alcohol and drug abuse treatment fund, which is hereby created in the state treasury.

(2) On and after July 1, 2011, the amount of $250 from each fine imposed pursuant to this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the
community corrections supervision fund established by K.S.A. 75-52,113, and amendments thereto.

Sec. 8. K.S.A. 2020 Supp. 8-1567a is hereby amended to read as follows: 8-1567a. (a) It shall be unlawful for any person less than 21 years of age to operate or attempt to operate a vehicle in this state with a breath or blood alcohol content of .02 or greater.

(b) Whenever a law enforcement officer determines that a breath or blood alcohol test is to be required of a person less than 21 years of age pursuant to K.S.A. 8-1001 or K.S.A. 8-2,142, and amendments thereto, in addition to any other notices required by law, the law enforcement officer shall provide written and oral notice that:

(1) It is unlawful for any person less than 21 years of age to operate or attempt to operate a vehicle in this state with a breath or blood alcohol content of .02 or greater; and

(2) if the person is less than 21 years of age at the time of the test request and submits to and completes the test or tests and the test results show an alcohol concentration of .02 or greater, but less than .08, on the person's first occurrence, the person's driving privileges will be suspended for 30 days and on the person's second or subsequent occurrence, the person's driving privileges shall be suspended for one year.

(c) Any suspension and restriction of driving privileges pursuant to this section shall be in addition to any disqualification from driving a commercial motor vehicle pursuant to K.S.A. 8-2,142, and amendments thereto.

(d) Whenever a breath or blood alcohol test is requested pursuant to K.S.A. 8-1001, and amendments thereto, from a person less than 21 years of age, and results in a test result of .02 or greater, but less than .08, a law enforcement officer's certification under this section shall be prepared. The certification required by this section shall be signed by one or more officers to certify that:

(1) (A) There existed reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system or was under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system;

(B) the person had been placed under arrest, was in custody or had been involved in a vehicle accident or collision;

(C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto, and the oral and written notice required by this section;

(D) that the person was less than 21 years of age at the time of the
test request; and

(E) the result of the test showed that the person had an alcohol concentration of .02 or greater in such person's blood or breath.

(2) With regard to a breath test, in addition to those matters required to be certified under subsection (d)(1), that:

(A) The testing equipment used was certified by the Kansas department of health and environment;

(B) the testing procedures used were in accordance with the requirements set out by the Kansas department of health and environment;

and

(C) the person who operated the testing equipment was certified by the Kansas department of health and environment to operate such equipment.

(e) If a hearing is requested as a result of a law enforcement officer's certification under this section, the scope of the hearing shall be limited to whether:

(1) A law enforcement officer had reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system or was under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system;

(2) the person had been placed under arrest, was in custody or was involved in a motor vehicle accident or collision resulting in property damage, personal injury or death;

(3) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto, and the oral and written notice required by this section;

(4) the testing equipment used was reliable;

(5) the person who operated the testing equipment was qualified;

(6) the testing procedures used were reliable;

(7) the test result determined that the person had an alcohol concentration of .02 or greater in such person's blood or breath;

(8) the person was operating a vehicle; and

(9) the person was less than 21 years of age at the time a test was requested.

(f) If a person less than 21 years of age submits to a breath or blood alcohol test requested pursuant to K.S.A. 8-1001 or K.S.A. 8-2,142, and amendments thereto, and produces a test result of .02 or greater, but less than .08, on the person's first occurrence, the person's driving privileges shall be suspended for 30 days and then restricted as provided by K.S.A. 8-1015, and amendments thereto, for an additional 180 days, and on
the person's second or subsequent occurrence, the person's driving privileges shall be suspended for one year.

(g) Except where there is a conflict between this section and K.S.A. 8-1001 and 8-1002, and amendments thereto, the provisions of K.S.A. 8-1001 and 8-1002, and amendments thereto, shall be applicable to proceedings under this section.

(h) Any determination under this section that a person less than 21 years of age had a test result of .02 or greater, but less than .08, and any resulting administrative action upon the person's driving privileges, upon the first occurrence of such test result and administrative action, shall not be considered by any insurance company in determining the rate charged for any automobile liability insurance policy or whether to cancel any such policy under the provisions of subsection (4)(a) of K.S.A. 40-277(4)(a), and amendments thereto.

Sec. 9. K.S.A. 2020 Supp. 12-4415 is hereby amended to read as follows: 12-4415. (a) In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the city attorney shall consider at least the following factors among all factors considered:

(1) The nature of the crime charged and the circumstances surrounding it;

(2) any special characteristics or circumstances of the defendant;

(3) whether the defendant is a first-time offender of an alcohol related offense as defined in K.S.A. 12-4413, and amendments thereto, and if the defendant has previously participated in diversion, according to the certification of the division of vehicles of the state department of revenue;

(4) whether there is a probability that the defendant will cooperate with and benefit from diversion;

(5) whether there is a probability that the defendant committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America;

(6) if subsection (a)(5) applies to the defendant, whether there is a probability that the defendant will cooperate with and benefit from inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the United States department of veterans affairs or the Kansas national guard with the consent of the defendant, as a condition of diversion;

(7) whether the available diversion program is appropriate to the needs of the defendant;

(8) the impact of the diversion of the defendant upon the community;
(9) recommendations, if any, of the involved law enforcement agency;
(10) recommendations, if any, of the victim;
(11) provisions for restitution; and
(12) any mitigating circumstances.
(b) A city attorney shall not enter into a diversion agreement in lieu of further criminal proceedings on a complaint alleging an alcohol related offense as defined in K.S.A. 12-4413, and amendments thereto, if the defendant:
(1) Has previously participated in diversion of an alcohol related offense;
(2) has previously been convicted of or pleaded nolo contendere to an alcohol related offense in this state or has previously been convicted of or pleaded nolo contendere to a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or of a law of another state, or of a political subdivision thereof, which prohibits the acts prohibited by those statutes; or
(3) during the time of the alleged alcohol related offense was involved in a motor vehicle accident or collision resulting in personal injury to another person or death.
(c) A city attorney shall not enter into a diversion agreement in lieu of further criminal proceedings on a complaint or traffic citation alleging a violation of an ordinance of any city or resolution of any county that prohibits the acts prohibited under chapter 8 of the Kansas Statutes Annotated, and amendments thereto, if the defendant was a commercial driver's license holder at the time the violation was committed or at any subsequent time prior to being considered for diversion.
(d) As used in this section, "major depressive disorder," "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury"—shall mean the same as such terms are defined in K.S.A. 2020 Supp. 21-6630, and amendments thereto.

Sec. 10. K.S.A. 2020 Supp. 22-2908 is hereby amended to read as follows: 22-2908. (a) In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the county or district attorney shall consider at least the following factors among all factors considered:
(1) The nature of the crime charged and the circumstances surrounding it;
(2) any special characteristics or circumstances of the defendant;
(3) whether the defendant is a first-time offender and if the defendant has previously participated in diversion, according to the certification of the Kansas bureau of investigation or the division of vehicles of the department of revenue;
(4) whether there is a probability that the defendant will cooperate with and benefit from diversion;
(5) whether the available diversion program is appropriate to the needs of the defendant;
(6) whether there is a probability that the defendant committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America;
(7) if subsection (a)(6) applies to the defendant, whether there is a probability that the defendant will cooperate with and benefit from inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the United States department of veterans affairs or the Kansas national guard with the consent of the defendant, as a condition of diversion;
(8) the impact of the diversion of the defendant upon the community;
(9) recommendations, if any, of the involved law enforcement agency;
(10) recommendations, if any, of the victim;
(11) provisions for restitution; and
(12) any mitigating circumstances.

(b) A county or district attorney shall not enter into a diversion agreement in lieu of further criminal proceedings on a complaint if the complaint alleges that the defendant committed a:
(1) The complaint alleges a—Violation of K.S.A. 8-1567, and amendments thereto, and the defendant:
(A) Has previously participated in diversion upon a complaint alleging a violation of that statute or an ordinance of a city in this state which prohibits the acts prohibited by that statute;
(B) has previously been convicted of or pleaded nolo contendere to a violation of that statute or a violation of a law of another state or of a political subdivision of this or any other state, which law prohibits the acts prohibited by that statute; or
(C) during the time of the alleged violation was involved in a motor vehicle accident or collision resulting in personal injury to another person or death;
(2) the complaint alleges that the defendant committed a violation under chapter 8 of the Kansas Statutes Annotated, and amendments thereto, and the defendant was a commercial driver's license holder at the time the violation was committed or at any subsequent time prior to being considered for diversion;
(3) class A or B felony or for crimes committed on or after July 1,
an off-grid crime, a severity level 1, 2 or 3 felony for nondrug crimes, a drug severity level 1 or 2 felony for drug crimes committed on or after July 1, 1993, but prior to July 1, 2012, or a drug severity level 1, 2 or 3 felony committed on or after July 1, 2012; or

(3)(4) the complaint alleges a domestic violence offense, as defined in K.S.A. 2020 Supp. 21-5111, and amendments thereto, and the defendant has participated in two or more diversions in the previous five year period upon complaints alleging a domestic violence offense.

(c) A county or district attorney may enter into a diversion agreement in lieu of further criminal proceedings on a complaint for violations of article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, if such diversion carries the same penalties as the conviction for the corresponding violations. If the defendant has previously participated in one or more diversions for violations of article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, then each subsequent diversion shall carry the same penalties as the conviction for the corresponding violations.

(d) As used in this section, "major depressive disorder," "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury" shall mean the same as such terms are defined in K.S.A. 2020 Supp. 21-6630, and amendments thereto.

Sec. 11. K.S.A. 8-1016 and K.S.A. 2020 Supp. 8-235, 8-2,142, 8-2,144, 8-1015, 8-1567, 8-1567a, 12-4415 and 22-2908 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.