

SENATE BILL No. 281

By Committee on Ways and Means

2-17

9 AN ACT concerning crimes, punishment and criminal procedure; relat-
10 ing to sentencing; severity level 4 drug crimes; amending K.S.A. 21-
11 4611 and repealing the existing section.
12

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

14 Section 1. K.S.A. 21-4611 is hereby amended to read as follows: 21-
15 4611. (a) The period of suspension of sentence, probation or assignment
16 to community corrections fixed by the court shall not exceed five years
17 in felony cases involving crimes committed prior to July 1, 1993, or two
18 years in misdemeanor cases, subject to renewal and extension for addi-
19 tional fixed periods not exceeding five years in such felony cases, nor two
20 years in misdemeanor cases. In no event shall the total period of proba-
21 tion, suspension of sentence or assignment to community corrections for
22 a felony committed prior to July 1, 1993, exceed the greatest maximum
23 term provided by law for the crime, except that where the defendant is
24 convicted of nonsupport of a child, the period may be continued as long
25 as the responsibility for support continues. Probation, suspension of sen-
26 tence or assignment to community corrections may be terminated by the
27 court at any time and upon such termination or upon termination by
28 expiration of the term of probation, suspension of sentence or assignment
29 to community corrections, an order to this effect shall be entered by the
30 court. The provisions of K.S.A. 75-5291, and amendments thereto, shall
31 be applicable to any assignment to a community correctional services
32 program pursuant to this section.

33 (b) The district court having jurisdiction of the offender may parole
34 any misdemeanant sentenced to confinement in the county jail. The pe-
35 riod of such parole shall be fixed by the court and shall not exceed two
36 years and shall be terminated in the manner provided for termination of
37 suspended sentence and probation.

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

- 42 (1) For nondrug crimes the recommended duration of probations is:
43 (A) Thirty-six months for crimes in crime severity levels 1 through 5;

1 and

2 (B) 24 months for crimes in crime severity levels 6 and 7.

3 (2) For drug crimes the recommended duration of probation is 36
4 months for crimes in crime severity levels 1 and 2.

5 (3) In felony cases sentenced at severity levels 9 and 10 on the sen-
6 tencing guidelines grid for nondrug crimes ~~and severity level 4 on the~~
7 ~~sentencing guidelines grid for drug crimes, if a nonprison sanction is im-~~
8 ~~posed, the court shall order the defendant to serve a period of probation;~~
9 ~~or assignment to a community correctional services program as provided~~
10 ~~under K.S.A. 75-5291 et seq., and amendments thereto, of up to 12~~
11 months in length.

12 (4) In felony cases sentenced at severity level 8 on the sentencing
13 guidelines grid for nondrug crimes and severity ~~level 3~~ *levels 3 and 4* on
14 the sentencing guidelines grid for drug crimes, if a nonprison sanction is
15 imposed, the court shall order the defendant to serve a period of pro-
16 bation, or assignment to a community correctional services program, as
17 provided under K.S.A. 75-5291 et seq., and amendments thereto, of up
18 to 18 months in length.

19 (5) If the court finds and sets forth with particularity the reasons for
20 finding that the safety of the members of the public will be jeopardized
21 or that the welfare of the inmate will not be served by the length of the
22 probation terms provided in subsections (c)(3) and (c)(4), the court may
23 impose a longer period of probation. Such an increase shall not be con-
24 sidered a departure and shall not be subject to appeal.

25 (6) Except as provided in subsections (c)(7) and (c)(8), the total pe-
26 riod in all cases shall not exceed 60 months, or the maximum period of
27 the prison sentence that could be imposed whichever is longer. Nonprison
28 sentences may be terminated by the court at any time.

29 (7) If the defendant is convicted of nonsupport of a child, the period
30 may be continued as long as the responsibility for support continues. If
31 the defendant is ordered to pay full or partial restitution, the period may
32 be continued as long as the amount of restitution ordered has not been
33 paid.

34 (8) The court may modify or extend the offender's period of super-
35 vision, pursuant to a modification hearing and a judicial finding of neces-
36 sity. Such extensions may be made for a maximum period of five years or
37 the maximum period of the prison sentence that could be imposed,
38 whichever is longer, inclusive of the original supervision term.

39 (d) The provisions of subsection (c), as amended by this act, shall be
40 applied retroactively. The sentencing court shall direct that a review of
41 all persons serving a nonprison sanction for a crime in severity levels 8,
42 9 or 10 of the sentencing guidelines grid for nondrug crimes or a crime
43 in severity levels 3 or 4 of the sentencing guidelines grid for drug crimes

1 be conducted. On or before September 1, 2000, the duration of such
2 person's probation shall be modified in conformity with the provisions of
3 subsection (c).

4 Sec. 2. K.S.A. 21-4611 is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its
6 publication in the statute book.