

HOUSE BILL No. 2452

By Committee on Corrections and Juvenile Justice

1-14

9 AN ACT concerning crimes, criminal procedure and punishment; relat-
10 ing to reimbursement by indigent defendants for court services re-
11 ceived; amending K.S.A. 21-4610, 22-4507 and 22-4513 and K.S.A.
12 2009 Supp. 21-4603d and repealing the existing sections.
13

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

15 Section 1. K.S.A. 2009 Supp. 21-4603d is hereby amended to read
16 as follows: 21-4603d. (a) Whenever any person has been found guilty of
17 a crime, the court may adjudge any of the following:

18 (1) Commit the defendant to the custody of the secretary of correc-
19 tions if the current crime of conviction is a felony and the sentence pre-
20 sumes imprisonment, or the sentence imposed is a dispositional departure
21 to imprisonment; or, if confinement is for a misdemeanor, to jail for the
22 term provided by law;

23 (2) impose the fine applicable to the offense;

24 (3) release the defendant on probation if the current crime of con-
25 viction and criminal history fall within a presumptive nonprison category
26 or through a departure for substantial and compelling reasons subject to
27 such conditions as the court may deem appropriate. In felony cases except
28 for violations of K.S.A. 8-1567, and amendments thereto, the court may
29 include confinement in a county jail not to exceed 60 days, which need
30 not be served consecutively, as a condition of an original probation sen-
31 tence and up to 60 days in a county jail upon each revocation of the
32 probation sentence, or community corrections placement;

33 (4) assign the defendant to a community correctional services pro-
34 gram as provided in K.S.A. 75-5291, and amendments thereto, or through
35 a departure for substantial and compelling reasons subject to such con-
36 ditions as the court may deem appropriate, including orders requiring full
37 or partial restitution;

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

43 (6) assign the defendant to a house arrest program pursuant to K.S.A.

1 21-4603b and amendments thereto;

2 (7) order the defendant to attend and satisfactorily complete an al-
3cohol or drug education or training program as provided by subsection
4(3) of K.S.A. 21-4502, and amendments thereto;

5 (8) order the defendant to repay the amount of any reward paid by
6any crime stoppers chapter, individual, corporation or public entity which
7materially aided in the apprehension or conviction of the defendant; repay
8the amount of any costs and expenses incurred by any law enforcement
9agency in the apprehension of the defendant, if one of the current crimes
10of conviction of the defendant includes escape, as defined in K.S.A. 21-
113809, and amendments thereto, or aggravated escape, as defined in K.S.A.
1221-3810, and amendments thereto; repay expenses incurred by a fire dis-
13trict, fire department or fire company responding to a fire which has been
14determined to be arson under K.S.A. 21-3718 or 21-3719, and amend-
15ments thereto, if the defendant is convicted of such crime; repay the
16amount of any public funds utilized by a law enforcement agency to pur-
17chase controlled substances from the defendant during the investigation
18which leads to the defendant's conviction; or repay the amount of any
19medical costs and expenses incurred by any law enforcement agency or
20county. Such repayment of the amount of any such costs and expenses
21incurred by a county, law enforcement agency, fire district, fire depart-
22ment or fire company or any public funds utilized by a law enforcement
23agency shall be deposited and credited to the same fund from which the
24public funds were credited to prior to use by the county, law enforcement
25agency, fire district, fire department or fire company;

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

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

30 (11) impose any appropriate combination of (1), (2), (3), (4), (5), (6),
31(7), (8), (9) and (10); or

32 (12) suspend imposition of sentence in misdemeanor cases.

33 (b) (1) In addition to or in lieu of any of the above, the court shall
34order the defendant to pay restitution, which shall include, but not be
35limited to, damage or loss caused by the defendant's crime, unless the
36court finds compelling circumstances which would render a plan of res-
37titution unworkable. In regard to a violation of K.S.A. 21-4018, and
38amendments thereto, such damage or loss shall include, but not be limited
39to, attorney fees and costs incurred to repair the credit history or rating
40of the person whose personal identification documents were obtained and
41used in violation of such section, and to satisfy a debt, lien or other ob-
42ligation incurred by the person whose personal identification documents
43were obtained and used in violation of such section. If the court finds a

1 plan of restitution unworkable, the court shall state on the record in detail
2 the reasons therefor.

3 (2) If the court orders restitution, the restitution shall be a judgment
4 against the defendant which may be collected by the court by garnishment
5 or other execution as on judgments in civil cases. If, after 60 days from
6 the date restitution is ordered by the court, a defendant is found to be in
7 noncompliance with the plan established by the court for payment of
8 restitution, and the victim to whom restitution is ordered paid has not
9 initiated proceedings in accordance with K.S.A. 60-4301 et seq., and
10 amendments thereto, the court shall assign an agent procured by the
11 attorney general pursuant to K.S.A. 75-719, and amendments thereto, to
12 collect the restitution on behalf of the victim. The administrative judge
13 of each judicial district may assign such cases to an appropriate division
14 of the court for the conduct of civil collection proceedings.

15 (c) In addition to or in lieu of any of the above, the court shall order
16 the defendant to submit to and complete an alcohol and drug evaluation,
17 and pay a fee therefor, when required by subsection (4) of K.S.A. 21-
18 4502, and amendments thereto.

19 (d) In addition to any of the above, the court shall order the defend-
20 ant to reimburse the county general fund for all or a part of the expend-
21 itures by the county to provide counsel and other defense services to the
22 defendant. Any such reimbursement to the county shall be paid only after
23 any order for restitution has been paid in full. In determining the ~~amount~~
24 ~~and method of payment of~~ *defendant's current and future ability to make*
25 *payments on* such sum, the court shall take account of the financial re-
26 sources of the defendant and the nature of the burden that payment of
27 such sum will impose. A defendant who has been required to pay such
28 sum and who is not willfully in default in the payment thereof may at any
29 time petition the court which sentenced the defendant to waive *or post-*
30 *pone* payment of such sum or any unpaid portion thereof. If it appears
31 to the satisfaction of the court that payment of the amount due will im-
32 pose manifest hardship on the defendant or the defendant's immediate
33 family, the court may waive payment of all or part of the amount due or
34 modify the method *or time* of payment.

35 (e) In imposing a fine the court may authorize the payment thereof
36 in installments. In releasing a defendant on probation, the court shall
37 direct that the defendant be under the supervision of a court services
38 officer. If the court commits the defendant to the custody of the secretary
39 of corrections or to jail, the court may specify in its order the amount of
40 restitution to be paid and the person to whom it shall be paid if restitution
41 is later ordered as a condition of parole, conditional release or postrelease
42 supervision.

43 (f) (1) When a new felony is committed while the offender is incar-

1 cerated and serving a sentence for a felony, or while the offender is on
2 probation, assignment to a community correctional services program, pa-
3 role, conditional release, or postrelease supervision for a felony, a new
4 sentence shall be imposed pursuant to the consecutive sentencing
5 requirements of K.S.A. 21-4608, and amendments thereto, and the court
6 may sentence the offender to imprisonment for the new conviction, even
7 when the new crime of conviction otherwise presumes a nonprison sen-
8 tence. In this event, imposition of a prison sentence for the new crime
9 does not constitute a departure.

10 (2) When a new felony is committed while the offender is incarcer-
11 ated in a juvenile correctional facility pursuant to K.S.A. 38-1671 prior to
12 its repeal or K.S.A. 2009 Supp. 38-2373, and amendments thereto, for an
13 offense, which if committed by an adult would constitute the commission
14 of a felony, upon conviction, the court shall sentence the offender to
15 imprisonment for the new conviction, even when the new crime of con-
16 viction otherwise presumes a nonprison sentence. In this event, imposi-
17 tion of a prison sentence for the new crime does not constitute a depart-
18 ure. The conviction shall operate as a full and complete discharge from
19 any obligations, except for an order of restitution, imposed on the of-
20 fender arising from the offense for which the offender was committed to
21 a juvenile correctional facility.

22 (3) When a new felony is committed while the offender is on release
23 for a felony pursuant to the provisions of article 28 of chapter 22 of the
24 Kansas Statutes Annotated, or similar provisions of the laws of another
25 jurisdiction, a new sentence may be imposed pursuant to the consecutive
26 sentencing requirements of K.S.A. 21-4608, and amendments thereto,
27 and the court may sentence the offender to imprisonment for the new
28 conviction, even when the new crime of conviction otherwise presumes
29 a nonprison sentence. In this event, imposition of a prison sentence for
30 the new crime does not constitute a departure.

31 (g) Prior to imposing a dispositional departure for a defendant whose
32 offense is classified in the presumptive nonprison grid block of either
33 sentencing guideline grid, prior to sentencing a defendant to incarceration
34 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing
35 guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H
36 or 3-I of the sentencing guidelines grid for drug crimes, prior to sen-
37 tencing a defendant to incarceration whose offense is classified in grid
38 blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and
39 whose offense does not meet the requirements of K.S.A. 21-4729, and
40 amendments thereto, prior to revocation of a nonprison sanction of a
41 defendant whose offense is classified in grid blocks 4-E or 4-F of the
42 sentencing guideline grid for drug crimes and whose offense does not
43 meet the requirements of K.S.A. 21-4729, and amendments thereto, or

1 prior to revocation of a nonprison sanction of a defendant whose offense
2 is classified in the presumptive nonprison grid block of either sentencing
3 guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines
4 grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the
5 sentencing guidelines grid for drug crimes, the court shall consider place-
6 ment of the defendant in the Labette correctional conservation camp,
7 conservation camps established by the secretary of corrections pursuant
8 to K.S.A. 75-52,127, and amendment thereto or a community interme-
9 diate sanction center. Pursuant to this paragraph the defendant shall not
10 be sentenced to imprisonment if space is available in a conservation camp
11 or a community intermediate sanction center and the defendant meets
12 all of the conservation camp's or a community intermediate sanction cen-
13 ter's placement criteria unless the court states on the record the reasons
14 for not placing the defendant in a conservation camp or a community
15 intermediate sanction center.

16 (h) The court in committing a defendant to the custody of the sec-
17 retary of corrections shall fix a term of confinement within the limits
18 provided by law. In those cases where the law does not fix a term of
19 confinement for the crime for which the defendant was convicted, the
20 court shall fix the term of such confinement.

21 (i) In addition to any of the above, the court shall order the defendant
22 to reimburse the state general fund for all or a part of the expenditures
23 by the state board of indigents' defense services to provide counsel and
24 other defense services to the defendant. In determining the amount and
25 method of payment of such sum, the court shall take account of the
26 financial resources of the defendant and the nature of the burden that
27 payment of such sum will impose. A defendant who has been required
28 to pay such sum and who is not willfully in default in the payment thereof
29 may at any time petition the court which sentenced the defendant to
30 waive payment of such sum or any unpaid portion thereof. If it appears
31 to the satisfaction of the court that payment of the amount due will im-
32 pose manifest hardship on the defendant or the defendant's immediate
33 family, the court may waive payment of all or part of the amount due or
34 modify the method of payment. The amount of attorney fees to be in-
35 cluded in the court order for reimbursement shall be the amount claimed
36 by appointed counsel on the payment voucher for indigents' defense serv-
37 ices or the amount prescribed by the board of indigents' defense services
38 reimbursement tables as provided in K.S.A. 22-4522, and amendments
39 thereto, whichever is less.

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

1 (k) An application for or acceptance of probation or assignment to a
2 community correctional services program shall not constitute an acqui-
3 escence in the judgment for purpose of appeal, and any convicted person
4 may appeal from such conviction, as provided by law, without regard to
5 whether such person has applied for probation, suspended sentence or
6 assignment to a community correctional services program.

7 (l) The secretary of corrections is authorized to make direct place-
8 ment to the Labette correctional conservation camp or a conservation
9 camp established by the secretary pursuant to K.S.A. 75-52,127, and
10 amendments thereto, of an inmate sentenced to the secretary's custody
11 if the inmate: (1) Has been sentenced to the secretary for a probation
12 revocation, as a departure from the presumptive nonimprisonment grid
13 block of either sentencing grid, for an offense which is classified in grid
14 blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug
15 crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing
16 guidelines grid for drug crimes, or for an offense which is classified in
17 gridblocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
18 and such offense does not meet the requirements of K.S.A. 21-4729, and
19 amendments thereto, and (2) otherwise meets admission criteria of the
20 camp. If the inmate successfully completes a conservation camp program,
21 the secretary of corrections shall report such completion to the sentencing
22 court and the county or district attorney. The inmate shall then be as-
23 signed by the court to six months of follow-up supervision conducted by
24 the appropriate community corrections services program. The court may
25 also order that supervision continue thereafter for the length of time
26 authorized by K.S.A. 21-4611 and amendments thereto.

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

30 (n) Except as provided by subsection (f) of K.S.A. 21-4705, and
31 amendments thereto, in addition to any of the above, for felony violations
32 of K.S.A. 2009 Supp. 21-36a06, and amendments thereto, the court shall
33 require the defendant who meets the requirements established in K.S.A.
34 21-4729, and amendments thereto, to participate in a certified drug abuse
35 treatment program, as provided in K.S.A. 2009 Supp. 75-52,144, and
36 amendments thereto, including but not limited to, an approved after-care
37 plan. If the defendant fails to participate in or has a pattern of intentional
38 conduct that demonstrates the offender's refusal to comply with or par-
39 ticipate in the treatment program, as established by judicial finding, the
40 defendant shall be subject to revocation of probation and the defendant
41 shall serve the underlying prison sentence as established in K.S.A. 21-
42 4705, and amendments thereto. For those offenders who are convicted
43 on or after the effective date of this act, upon completion of the under-

1 lying prison sentence, the defendant shall not be subject to a period of
2 postrelease supervision. The amount of time spent participating in such
3 program shall not be credited as service on the underlying prison
4 sentence.

5 (o) (1) Except as provided in paragraph (3), in addition to any other
6 penalty or disposition imposed by law, upon a conviction for unlawful
7 possession of a controlled substance or controlled substance analog in
8 violation of K.S.A. 2009 Supp. 21-36a06, and amendments thereto, in
9 which the trier of fact makes a finding that the unlawful possession oc-
10 curred while transporting the controlled substance or controlled sub-
11 stance analog in any vehicle upon a highway or street, the offender's
12 driver's license or privilege to operate a motor vehicle on the streets and
13 highways of this state shall be suspended for one year.

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

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

33 (B) Upon entering an order restricting a person's license hereunder,
34 the judge shall require such person to surrender such person's driver's
35 license to the judge who shall cause it to be transmitted to the division
36 of vehicles, together with a copy of the order. Upon receipt thereof, the
37 division of vehicles shall issue without charge a driver's license which shall
38 indicate on its face that conditions have been imposed on such person's
39 privilege of operating a motor vehicle and that a certified copy of the
40 order imposing such conditions is required to be carried by the person
41 for whom the license was issued any time such person is operating a motor
42 vehicle on the highways of this state. If the person convicted is a nonres-
43 ident, the judge shall cause a copy of the order to be transmitted to the

1 division and the division shall forward a copy of it to the motor vehicle
2 administrator, of such person's state of residence. Such judge shall furnish
3 to any person whose driver's license has had conditions imposed on it
4 under this paragraph a copy of the order, which shall be recognized as a
5 valid Kansas driver's license until such time as the division shall issue the
6 restricted license provided for in this paragraph.

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

20 (4) As used in this subsection, "highway" and "street" have the mean-
21 ings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto.

22 Sec. 2. K.S.A. 21-4610 is hereby amended to read as follows: 21-
23 4610. (a) Except as required by this subsection and subsection (d), noth-
24 ing in this section shall be construed to limit the authority of the court to
25 impose or modify any general or specific conditions of probation, sus-
26 pension of sentence or assignment to a community correctional services
27 program, except that the court shall condition any order granting proba-
28 tion, suspension of sentence or assignment to a community correctional
29 services program on the defendant's obedience of the laws of the United
30 States, the state of Kansas and any other jurisdiction to the laws of which
31 the defendant may be subject. The provisions of K.S.A. 75-5291, and
32 amendments thereto, shall be applicable to any assignment to a com-
33 munity correctional services program pursuant to this section.

34 (b) The court services officer or community correctional services of-
35 ficer may recommend, and the court may order, the imposition of any
36 conditions of probation, suspension of sentence or assignment to a com-
37 munity correctional services program. For crimes committed on or after
38 July 1, 1993, in presumptive nonprison cases, the court services officer
39 or community correctional services officer may recommend, and the
40 court may order, the imposition of any conditions of probation or assign-
41 ment to a community correctional services program. The court may at
42 any time order the modification of such conditions, after notice to the
43 court services officer or community correctional services officer and an

1 opportunity for such officer to be heard thereon. The court shall cause a
2 copy of any such order to be delivered to the court services officer and
3 the probationer or to the community correctional services officer and the
4 community corrections participant, as the case may be. The provisions of
5 K.S.A. 75-5291, and amendments thereto, shall be applicable to any as-
6 signment to a community correctional services program pursuant to this
7 section.

8 (c) The court may impose any conditions of probation, suspension of
9 sentence or assignment to a community correctional services program
10 that the court deems proper, including but not limited to requiring that
11 the defendant:

12 (1) Avoid such injurious or vicious habits, as directed by the court,
13 court services officer or community correctional services officer;

14 (2) avoid such persons or places of disreputable or harmful character,
15 as directed by the court, court services officer or community correctional
16 services officer;

17 (3) report to the court services officer or community correctional
18 services officer as directed;

19 (4) permit the court services officer or community correctional serv-
20 ices officer to visit the defendant at home or elsewhere;

21 (5) work faithfully at suitable employment insofar as possible;

22 (6) remain within the state unless the court grants permission to
23 leave;

24 (7) pay a fine or costs, applicable to the offense, in one or several
25 sums and in the manner as directed by the court;

26 (8) support the defendant's dependents;

27 (9) reside in a residential facility located in the community and par-
28 ticipate in educational, counseling, work and other correctional or reha-
29 bilitative programs;

30 (10) perform community or public service work for local govern-
31 mental agencies, private corporations organized not for profit, or chari-
32 table or social service organizations performing services for the
33 community;

34 (11) perform services under a system of day fines whereby the de-
35 fendant is required to satisfy fines, costs or reparation or restitution ob-
36 ligations by performing services for a period of days determined by the
37 court on the basis of ability to pay, standard of living, support obligations
38 and other factors;

39 (12) participate in a house arrest program pursuant to K.S.A. 21-
40 4603b, and amendments thereto;

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

43 (14) in felony cases, except for violations of K.S.A. 8-1567 and amend-

1 ments thereto, be confined in a county jail not to exceed 60 days, which
2 need not be served consecutively.

3 (d) In addition to any other conditions of probation, suspension of
4 sentence or assignment to a community correctional services program,
5 the court shall order the defendant to comply with each of the following
6 conditions:

7 (1) Make reparation or restitution to the aggrieved party for the dam-
8 age or loss caused by the defendant's crime, in an amount and manner
9 determined by the court and to the person specified by the court, unless
10 the court finds compelling circumstances which would render a plan of
11 restitution unworkable. If the court finds a plan of restitution unworkable,
12 the court shall state on the record in detail the reasons therefor;

13 (2) pay the probation or community correctional services fee pursu-
14 ant to K.S.A. 21-4610a, and amendments thereto; and

15 (3) reimburse the state general fund for all or a part of the expendi-
16 tures by the state board of indigents' defense services to provide counsel
17 and other defense services to the defendant. In determining the ~~amount~~
18 ~~and method of payment of~~ *defendant's current and future ability to make*
19 *payments on* such sum, the court shall take account of the financial re-
20 sources of the defendant and the nature of the burden that payment of
21 such sum will impose. A defendant who has been required to pay such
22 sum and who is not willfully in default in the payment thereof may at any
23 time petition the court which sentenced the defendant to waive *or post-*
24 *pone* payment of such sum or of any unpaid portion thereof. If it appears
25 to the satisfaction of the court that payment of the amount due will im-
26 pose manifest hardship on the defendant or the defendant's immediate
27 family, the court may waive payment of all or part of the amount due or
28 modify the method *or time* of payment. The amount of attorney fees to
29 be included in the court order for reimbursement shall be the amount
30 claimed by appointed counsel on the payment voucher for indigents' de-
31 fense services or the amount prescribed by the board of indigents' defense
32 services reimbursement tables as provided in K.S.A. 22-4522, and amend-
33 ments thereto, whichever is less.

34 Sec. 3. K.S.A. 22-4507 is hereby amended to read as follows: 22-
35 4507. (a) An attorney, other than a public defender or assistant public
36 defender or contract counsel, who is appointed by the court to perform
37 services for an indigent person, as provided by article 45 of chapter 22 of
38 the Kansas Statutes Annotated, and amendments thereto, shall at the
39 conclusion of such service or any part thereof be entitled to compensation
40 for such services and to be reimbursed for expenses reasonably incurred
41 by such person in performing such services. Compensation for services
42 shall be paid in accordance with standards and guidelines contained in
43 rules and regulations adopted by the state board of indigents' defense

1 services under this section.

2 (b) Claims for compensation and reimbursement shall be certified by
3 the claimant and shall be presented to the court at sentencing *or on a*
4 *date no later than 90 days after sentencing if the court determines that*
5 *such a delay would be appropriate.* A supplemental claim may be filed at
6 such later time as the court may in the interest of justice determine if
7 good cause is shown why the claim was not presented at sentencing. In
8 accordance with standards and guidelines adopted by the state board of
9 indigents' defense services under this section, all such claims shall be
10 reviewed and approved by one or more judges of the district court before
11 whom the service was performed, or, in the case of proceedings in the
12 court of appeals, by the chief judge of the court of appeals and in the
13 case of proceedings in the supreme court, by the departmental justice for
14 the department in which the appeal originated. Each claim shall be sup-
15 ported by a written statement, specifying in detail the time expended, the
16 services rendered, the expenses incurred in connection with the case and
17 any other compensation or reimbursement received. When properly cer-
18 tified and reviewed and approved, each claim for compensation and re-
19 imbursement shall be filed in the office of the state board of indigents'
20 defense services. If the claims meet the standards established by the
21 board, the board shall authorize payment of the claim.

22 (c) Such attorney shall be compensated at the rate of \$80 per hour,
23 except that:

24 (1) The chief judge of any judicial district may negotiate an hourly
25 rate less than \$80 per hour for attorneys who voluntarily accept appoint-
26 ments in that district; or

27 (2) contract counsel shall be compensated at the rate or rates speci-
28 fied in the contract between the board and the assigned counsel.

29 If the state board of indigents' defense services determines that the
30 appropriations for indigents' defense services or the moneys allocated by
31 the board for a county or judicial district will be insufficient in any fiscal
32 year to pay in full claims filed and reasonably anticipated to be filed in
33 such year under this section, the board may adopt a formula for prorating
34 the payment of pending and anticipated claims under this section.

35 (d) The state board of indigents' defense services may make expend-
36 itures for payment of claims filed under this section from appropriations
37 for the current fiscal year regardless of when the services were rendered.

38 (e) The state board of indigents' defense services shall adopt rules
39 and regulations prescribing standards and guidelines governing the filing,
40 processing and payment of claims under this section.

41 (f) An attorney, other than a public defender, assistant public de-
42 fender or contract counsel, who is appointed by the court to perform
43 services for an indigent person and who accesses electronic court records

1 for an indigent person, as provided by this act, shall be exempt from
2 paying fees to access electronic court records.

3 Sec. 4. K.S.A. 22-4513 is hereby amended to read as follows: 22-
4 4513. (a) If the defendant is convicted, all expenditures made by the state
5 board of indigents' defense services to provide counsel and other defense
6 services to such defendant or the amount allowed by the board of indi-
7 gents' defense reimbursement tables as provided in K.S.A. 22-4522, and
8 amendments thereto, whichever is less, shall be taxed against the de-
9 fendant and shall be enforced as judgments for payment of money in civil
10 cases. *Such sum shall be assessed at sentencing or on a date no later than*
11 *90 days after sentencing if the court determines that such a delay would*
12 *be appropriate.*

13 (b) In determining the ~~amount and method of payment of~~ *defendant's*
14 *current and future ability to make payments on* such sum, the court shall
15 take account of the financial resources of the defendant and the nature
16 of the burden that payment of such sum will impose. A defendant who
17 has been required to pay such sum and who is not willfully in default in
18 the payment thereof may at any time petition the court which sentenced
19 the defendant to waive *or postpone* payment of such sum or of any unpaid
20 portion thereof. If it appears to the satisfaction of the court that payment
21 of the amount due will impose manifest hardship on the defendant or the
22 defendant's immediate family, the court may waive payment of all or part
23 of the amount due or modify the method *or time* of payment.

24 (c) Whenever any judgment has been entered pursuant to subsection
25 ~~(a) of this section,~~ a sum equal to such judgment may be recovered by
26 the state of Kansas for the benefit of the state general fund from any
27 persons to whom the indigent defendant shall have transferred any of the
28 defendant's property without adequate monetary consideration after the
29 commission of the alleged crime, to the extent of the value of such trans-
30 fer, and such persons are hereby made liable to reimburse the state of
31 Kansas with interest at 6% per annum. Any action to recover judgment
32 for such expenditures shall be prosecuted by the attorney general, who
33 may require the assistance of the county attorney of the county in which
34 the action is to be filed, and such action shall be governed by the provi-
35 sions of the code of civil procedure relating to actions for the recovery of
36 money. No action shall be brought against any person under the provi-
37 sions of this section to recover for sums expended on behalf of an indigent
38 defendant, unless such action shall have been filed within two years after
39 the date of the expenditure by the state board of indigents' defense
40 services.

41 Sec. 5. K.S.A. 21-4610, 22-4507 and 22-4513 and K.S.A. 2009 Supp.
42 21-4603d are hereby repealed.

43

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