



**Senate Judiciary Committee
February 13, 2025
Senate Bill 155
Testimony of the BIDS Legislative Committee
Presented by Emily Brandt and Jennifer Roth
Opponent**

Dear Chair Warren and Members of the Committee:

Senate Bill 155 amends K.S.A. 21-5913 (the crime of obstructing apprehension or prosecution) to make it a severity level 8 felony for someone to harbor, conceal, or aid a person who is alleged to have violated their probation, postrelease, or parole supervision. This bill would:

- criminalize people who had no idea they were committing a crime
- discourage supporting people on supervision
- punish aiding people on supervision who have not committed new crimes the same as aiding someone who has completed a crime

SB 155 criminalizes people who had no idea they were committing a crime

There is no requirement that the accused is aware that the person is on supervision. There is no requirement that the accused is aware it has been alleged that the person on supervision has violated conditions of that supervision. And, unlike K.S.A. 21-5913(a)(1)-(2), there is no requirement that the accused has harbored, concealed, or aided with the intent to have the person on supervision avoid arrest or a violation proceeding. In fact, as currently drafted, SB 155 creates a strict liability crime that covers *anyone* who aids a person who has allegedly violated their supervision, including people whose job it is to help people on probation, *e.g.*, probation officers, specialty court judges, service providers, support systems, etc.

SB 155 discourages supporting people on supervision

Even if SB 155 was amended to include an intent requirement(s), an accused who lives with a person on supervision could face prosecution for not reporting a violation, which includes things like not paying court costs, missing treatment, having a beer, missing curfew, not working 40 hours a week, etc. Give your son a ride to detox because he had a relapse? That violates SB 155. SB 155 will ruin support systems that people on supervision rely on to be successful. And to avoid criminal punishment—which could be harsher than the punishment faced by the person on supervision—those support systems would be forced to snitch on the people they are trying to help succeed on supervision.

SB 155 punishes aiding in noncriminal conduct the same as aiding after a crime

SB 155 expands K.S.A. 21-5913, the purpose of which is to punish an accessory after the fact as a separate crime. Historically, a conviction for that crime requires that “the felony must be complete, the accused must have knowledge that the principal committed the felony, and the accused must act with the intent to enable the principal to avoid or escape from arrest, trial, conviction or punishment for the felony.” *State v. Rider, Edens & Lemons*, 229 Kan. 394, 401, 625 P.2d 425 (1981). In other words, the two ways to currently commit the crime of obstructing apprehension or prosecution require that someone has committed a crime.

But most standard conditions of probation or postrelease are not crimes. See K.S.A. 21-6607, K.S.A. 22-3717 (both attached) (examples: report to supervision officer, reside at a certain location, don’t drink alcohol, pay court costs, do community service, abide by curfew). The list of standard conditions is non-exhaustive; courts have the authority to add other conditions, and frequently do. Yet SB 155 would punish an accused for “aiding” a person on supervision the same as a person who aids a principal who has committed a felony crime of any severity level. Simply put, SB 155 adds apples to an orange statute—especially as drafted, where there is no requirement that the accused is aware of anything the person on supervision did or didn’t do. SB 155 contains none of the safeguards that K.S.A. 21-5913(a)(1)-(2) have.

SB 155 is unnecessary

First, it is already a felony to obstruct during the execution of a felony arrest warrant, including one for a probation or parole violation. See K.S.A. 21-5904(a)(3) (the crime interference with law enforcement; makes it a crime to knowingly obstruct, resist or oppose any authorized person who is trying to execute a warrant or order of a court). It is a severity level 9 felony “in the case of a felony, or resulting from parole *or any authorized disposition for a felony*” and a class A misdemeanor in the case of a misdemeanor, *authorized disposition for a misdemeanor*, or civil case. K.S.A. 21-5904(b)(5) (emphasis added).

Second, if the alleged probation violation is a new crime, then it is already illegal under K.S.A. 21-5913(a)(1) to harbor, conceal, or aid a person to avoid conviction or punishment for it.

Thank you for your careful consideration of the shortcomings of SB 155. We encourage this Committee to not pass this bill, in any form, out of committee.

Sincerely,
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K.S.A. 21-6607
(standard conditions of probation; passed in 2024 in SB 414)

21-6607. Conditions of probation, suspension of sentence or assignment to community correctional services program; correctional supervision fee; correctional supervision fund; searches; written reports. (a) Except as required by subsection (c), nothing in this section shall be construed to limit the authority of the court to impose or modify any general or specific conditions of probation, suspension of sentence or assignment to a community correctional services program. The court services officer or community correctional services officer may recommend, and the court may order, the imposition of any conditions of probation, suspension of sentence or assignment to a community correctional services program. For crimes committed on or after July 1, 1993, in presumptive nonprison cases, the court services officer or community correctional services officer may recommend, and the court may order, the imposition of any conditions of probation or assignment to a community correctional services program. The court may at any time order the modification of such conditions, after notice to the court services officer or community correctional services officer and an opportunity for such officer to be heard thereon. The court shall cause a copy of any such order to be delivered to the court services officer and the probationer or to the community correctional services officer and the community corrections participant, as the case may be. The provisions of K.S.A. 75-5291, and amendments thereto, shall be applicable to any assignment to a community correctional services program pursuant to this section.

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

- (1) Obey all laws and ordinances and report any law enforcement contact to the defendant's supervision officer within 24 hours after such contact;
- (2) not engage in physical violence or threats of violence of any kind and, if the defendant is being supervised for conviction of a felony, not purchase or possess a dangerous weapon, including a firearm, while on supervision;
- (3) report to the defendant's supervision officer as directed and be truthful in all matters;
- (4) remain within the state of Kansas or other specified areas as defined by the defendant's supervision officer;
- (5) reside at the defendant's approved residence unless the defendant receives permission from the defendant's supervision officer to relocate and notify the defendant's supervision officer within 24 hours after any emergency changes in residence or contact information;
- (6) not possess, use or distribute any controlled substances except those prescribed by a licensed medical professional;
- (7) not possess or consume any form of alcohol or intoxicating substance or enter any establishment where alcohol is sold or consumed as the primary business;
- (8) submit to any form of alcohol or substance use testing directed by the defendant's supervision officer and not alter or tamper with the specimen or test;
- (9) participate in assessment, treatment, programming and other directives of the court or the defendant's supervision officer;
- (10) be subject to searches of the defendant's person, effects, vehicle, residence and property by a court services officer, community correctional services officer or any other law enforcement officer based on reasonable suspicion that the defendant violated conditions of probation or engaged in criminal activity; or
- (11) refrain from contacting victims unless authorized by the court to contact a victim as part of rehabilitative or therapeutic purposes.

See also K.S.A. 21-6604 for additional possible conditions (examples: complete drug treatment, pay off costs from bond supervision, participate in a specialty court program, pay off restitution, pay off fines)

K.S.A. 22-3717(i), (k), (m)

(standard conditions of postrelease supervision and parole; passed in 2024 in SB 414)

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the prisoner review board will review the inmate's proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on postrelease supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(k) (1) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(2) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to searches of the person and the person's effects, vehicle, residence and property by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment.

(3) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to searches of the person and the person's effects, vehicle, residence and property by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity. Any law enforcement officer who conducts such a search shall submit a written report to the appropriate parole officer no later than the close of the next business day after such search. The written report shall include the facts leading to such search, the scope of such search and any findings resulting from such search.

(m) Whenever the prisoner review board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board shall require that the inmate:

(1) Obey all laws and ordinances and report any law enforcement contact to the inmate's supervision officer within 24 hours after such contact;

(2) not engage in physical violence or threats of violence of any kind and, if the inmate is being supervised for conviction of a felony, not purchase or possess a dangerous weapon, including a firearm, while on supervision;

(3) report to the inmate's supervision officer as directed and be truthful in all matters;

(4) remain within the state of Kansas or other specified areas as defined by the defendant's supervision officer;

(5) reside at the inmate's approved residence unless the defendant receives permission from the inmate's supervision officer to relocate and notify the inmate's supervision officer within 24 hours after any emergency changes in residence or

contact information;

(6) not possess, use or distribute any controlled substances except those prescribed by a licensed medical professional;

(7) not possess or consume any form of alcohol or intoxicating substance or enter any establishment where alcohol is sold or consumed as the primary business;

(8) submit to any form of alcohol or substance use testing directed by the inmate's supervision officer and not alter or tamper with the specimen or test;

(9) participate in assessment, treatment, programming and other directives of the court or the inmate's supervision officer;

(10) submit to searches of the person and the person's effects, vehicle, residence and property by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause, except that nothing in this paragraph shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment;

(11) submit to searches of the person and the person's effects, vehicle, residence and property by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity;

(12) refrain from contacting victims unless authorized by the board to contact a victim as part of rehabilitative or therapeutic purposes;

(13) pay the administrative fee imposed pursuant to K.S.A. 22-4529, and amendments thereto, unless the board finds compelling circumstances that would render payment unworkable; and

(14) unless the board finds compelling circumstances that would render a plan of payment unworkable, reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the prisoner review board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services.