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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: March 10, 2025
Subject: Bill Brief for HB 2312 (As Introduced)

House Bill 2312 excludes certain offenders convicted of a nonperson felony from participation in certified drug abuse treatment programs and authorizes community correctional services officers to complete criminal risk-need assessments for divertees who are committed to such programs.

Section 1 amends K.S.A. 21-6824, the criminal code sentencing statute that establishes a nonprison sanction of certified drug abuse treatment programs and limits placement of offenders in such programs to adult offenders who meet the requirements of this section. Current law in subsection (a)(2) requires placement of certain adult offenders whose current offense is a severity level 7, 8, 9, or 10 offense on the sentencing guidelines grid for nondrug crimes. The bill adds a new provision that excludes such offenders from the program when the provisions of K.S.A. 21-6804(n), (p), (u), or (x) apply. See page 2 for the text of the provisions.

Section 2 amends K.S.A. 75-52,144, the statute that provides the requirements and procedures for implementing the certified drug abuse treatment programs. Current law in subsection (b) provides that the criminal risk-need assessment for offenders shall be conducted by a court services officer. The bill provides that such assessment for use pursuant to K.S.A. 21-6825, the statute that establishes a certified drug abuse treatment program for certain persons who enter into a diversion agreement, may be conducted by a court services officer or a community correctional services officer.

The bill would take effect from and after publication in the statute book, July 1, 2025.

K.S.A. 21-6804. Sentencing grid for nondrug crimes; authority and responsibility of sentencing court; presumptive disposition.

*(n) The sentence for a violation of criminal deprivation of property, as defined in K.S.A. 21-5803, and amendments thereto, when such property is a motor vehicle, and when such person being sentenced has any combination of two or more prior convictions of K.S.A. 21-3705(b), prior to its repeal, or of criminal deprivation of property, as defined in K.S.A. 21-5803, and amendments thereto, when such property is a motor vehicle, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

*(p) (1) The sentence for a felony violation of theft of property as defined in K.S.A. 21-5801, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 21-5807, and amendments thereto; or the sentence for a violation of burglary as defined in K.S.A. 21-5807(a), and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 21-5807, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

(A) Substance abuse was an underlying factor in the commission of the crime;

(B) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(C) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

(2) The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

*(u) The sentence for a violation of K.S.A. 21-6107, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 21-6107, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

*(x) The sentence for a violation of K.S.A. 21-5807(a)(1), and amendments thereto, shall be presumptive imprisonment if the offense under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such sentence shall not be considered a departure and shall not be subject to appeal.