

## HOUSE BILL No. 2552

By Committee on Appropriations

Requested by Scott Schultz on behalf of the Kansas Sentencing Commission

1-27

AN ACT concerning crimes, punishment and criminal procedure; relating to reports and records; requiring presentence investigation reports and journal entries to be completed and submitted in the form and manner prescribed by the Kansas sentencing commission; amending K.S.A. 21-6813, 22-3426, 22-3426a and 22-3439 and repealing the existing sections.

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

Section 1. K.S.A. 21-6813 is hereby amended to read as follows: 21-6813. (a) The court shall order the preparation of the presentence investigation report by the court services officer as soon as possible after conviction of the defendant.

(b) Each presentence investigation report prepared for an offender to be sentenced for one or more felonies committed on or after July 1, 1993, shall be limited to the following information:

(1) A summary of the factual circumstances of the crime or crimes of conviction.

(2) If the defendant desires to do so, a summary of the defendant's version of the crime.

(3) When there is an identifiable victim, a victim report. The person preparing the victim report shall submit the report to the victim and request that the information be returned to be submitted as a part of the presentence investigation. To the extent possible, the report shall include a complete listing of restitution for damages suffered by the victim.

(4) An appropriate classification of each crime of conviction on the crime severity scale.

(5) A listing of prior adult convictions or juvenile adjudications for felony or misdemeanor crimes or violations of county resolutions or city ordinances comparable to any misdemeanor defined by state law. Such listing shall include an assessment of the appropriate classification of the criminal history on the criminal history scale and the source of information regarding each listed prior conviction and any available source of journal entries or other documents through which the listed convictions may be verified. If any such journal entries or other documents are obtained by the court services officer, they shall be attached to the presentence

1 investigation report. Any prior criminal history worksheets of the  
2 defendant shall also be attached.

3 (6) A proposed grid block classification for each crime, or crimes of  
4 conviction and the presumptive sentence for each crime, or crimes of  
5 conviction.

6 (7) If the proposed grid block classification is a grid block that  
7 presumes imprisonment, the presumptive prison term range and the  
8 presumptive duration of postprison supervision as it relates to the crime  
9 severity scale.

10 (8) If the proposed grid block classification does not presume prison,  
11 the presumptive prison term range and the presumptive duration of the  
12 nonprison sanction as it relates to the crime severity scale and the court  
13 services officer's professional assessment as to recommendations for  
14 conditions to be mandated as part of the nonprison sanction.

15 (9) For defendants who are being sentenced for a conviction of a  
16 felony violation of K.S.A. 65-4160 or 65-4162, prior to their repeal, or  
17 K.S.A. 21-5706, and amendments thereto, and meet the requirements of  
18 K.S.A. 21-6824, and amendments thereto, the drug abuse assessment as  
19 provided in K.S.A. 21-6824, and amendments thereto.

20 (10) For defendants who are being sentenced for a third or subsequent  
21 felony conviction of a violation of K.S.A. 65-4160 or 65-4162, prior to  
22 their repeal, or K.S.A. 21-5706, and amendments thereto, the drug abuse  
23 assessment as provided in K.S.A. 21-6824, and amendments thereto.

24 (c) The presentence investigation report will become part of the court  
25 record and shall be accessible to the public, except that the official version,  
26 defendant's version and the victim's statement, any psychological reports,  
27 risk and needs assessments and drug and alcohol reports and assessments  
28 shall be accessible only to: The parties; the sentencing judge; the  
29 department of corrections; community correctional services; any entity  
30 required to receive the information under the interstate compact for adult  
31 offender supervision; and, if requested, the Kansas sentencing  
32 commission. If the offender is committed to the custody of the secretary of  
33 corrections, the report shall be sent to the secretary and, in accordance  
34 with K.S.A. 75-5220, and amendments thereto, to the warden of the state  
35 correctional institution to which the defendant is conveyed.

36 (d) The criminal history worksheet will not substitute as a  
37 presentence investigation report.

38 (e) The presentence investigation report will not include optional  
39 report components, which would be subject to the discretion of the  
40 sentencing court in each district except for psychological reports and drug  
41 and alcohol reports.

42 (f) Except as provided in K.S.A. 21-6814, and amendments thereto,  
43 the court may take judicial notice in a subsequent felony proceeding of an

1 earlier presentence investigation report criminal history worksheet  
2 prepared for a prior sentencing of the defendant for a felony committed on  
3 or after July 1, 1993.

4 (g) All presentence investigation reports in any case in which the  
5 defendant has been convicted of a felony ~~shall be on a form approved~~ *must*  
6 *be completed and submitted in the form and manner prescribed* by the  
7 Kansas sentencing commission.

8 Sec. 2. K.S.A. 22-3426 is hereby amended to read as follows: 22-  
9 3426. (a) When judgment is rendered or sentence of imprisonment is  
10 imposed, upon a plea or verdict of guilty, a record thereof shall be made  
11 upon the journal of the court, reflecting, if applicable, conviction or other  
12 judgment, the sentence if imposed, and the commitment, which record  
13 among other things shall contain a statement of the crime charged, and  
14 under what statute; the plea or verdict and the judgment rendered or  
15 sentence imposed, and under what statute, and a statement that the  
16 defendant was duly represented by counsel naming such counsel, or a  
17 statement that the defendant has stated on the record or in writing that the  
18 defendant did not want representation of counsel.

19 (b) If defendant is sentenced to the custody of the secretary of  
20 corrections the journal entry shall record, ~~in a judgment form, if used,~~ all  
21 the information required under K.S.A. 21-6711, and amendments thereto,  
22 unless such section is not applicable.

23 (c) It shall be the duty of the court personally to examine *and sign* the  
24 journal entry ~~and to sign the same~~.

25 (d) For felony convictions for crimes committed on or after July 1,  
26 1993, in addition to the provisions of subsections (a) through (c), the  
27 journal entry shall contain the following information:

- 28 (1) Court case number;
- 29 (2) Kansas bureau of investigation number;
- 30 (3) case transaction number;
- 31 (4) court O.R.I. number;
- 32 (5) the type of counsel;
- 33 (6) type of trial, if any;
- 34 (7) pretrial status of the offender;
- 35 (8) the date of the sentencing hearing;
- 36 (9) a listing of offenses for which the defendant is convicted;
- 37 (10) the criminal history classification;
- 38 (11) the sentence imposed for each offense including postrelease or  
39 probation supervision durations;
- 40 (12) whether the sentences run concurrently or consecutively;
- 41 (13) amount of credit for time spent incarcerated;
- 42 (14) period ordered in county jail as a condition of probation;
- 43 (15) a listing of offenses in which a departure sentence is imposed;

1 (16) type of departure sentence; and

2 (17) factors cited as a basis for departure sentence.

3 (e) The journal entry ~~shall be recorded on a form approved~~ *must be*  
4 *completed and submitted in the form and manner prescribed* by the Kansas  
5 sentencing commission.

6 Sec. 3. K.S.A. 22-3426a is hereby amended to read as follows: 22-  
7 3426a. (a) For crimes committed on or after July 1, 1993, when a  
8 convicted person is revoked for a probation violation, a record thereof  
9 shall be made upon the journal of the court. Such journal entry shall  
10 include:

11 (1) Court case number;

12 (2) Kansas bureau of investigation number;

13 (3) case transaction number;

14 (4) court O.R.I. number;

15 (5) name of the judge who heard the evidence;

16 (6) those present and whether defendant's counsel was appointed or  
17 retained;

18 (7) date violator was sentenced to department of corrections;

19 (8) offenses for which defendant was sentenced and time to be served  
20 for each crime;

21 (9) total imprisonment term;

22 (10) supervision revoked;

23 (11) date motion to revoke defendant's probation was filed; and

24 (12) whether there are sufficient evidence and grounds for the court  
25 to revoke defendant's probation.

26 (b) It shall be the duty of the court to personally examine *and sign* the  
27 journal entry ~~and sign the same~~.

28 (c) The journal entry ~~shall be recorded on a form approved~~ *must be*  
29 *completed and submitted in the form and manner prescribed* by the Kansas  
30 sentencing commission.

31 Sec. 4. K.S.A. 22-3439 is hereby amended to read as follows: 22-  
32 3439. (a) For all felony convictions for offenses committed on or after July  
33 1, 1993, the court ~~shall~~ *must* forward a signed copy of the journal entry,  
34 attached together with the presentence investigation report as provided by  
35 K.S.A. 21-6813, and amendments thereto, to the Kansas sentencing  
36 commission within 30 days after sentencing.

37 (b) For probation revocations which result in the defendant's  
38 imprisonment in the custody of the department of corrections, the court  
39 ~~shall~~ *must* forward a signed copy of the journal entry of revocation to the  
40 Kansas sentencing commission within 30 days of final disposition.

41 (c) The court ~~shall insure~~ *must ensure* that information concerning  
42 dispositions for all other felony probation revocations based upon crimes  
43 committed on or after July 1, 1993, and for all class A and B misdemeanor

1 crimes and assault as defined in K.S.A. 21-3408, prior to its repeal, or  
2 ~~subsection (a) of K.S.A. 21-5412(a)~~, and amendments thereto, committed  
3 on or after July 1, 1993, is forwarded to the Kansas bureau of investigation  
4 central repository. Such information ~~shall~~ *must* be transmitted on a form or  
5 in a format approved by the attorney general within 30 days of that final  
6 disposition.

7 *(d) All documents required to be forwarded to the Kansas sentencing*  
8 *commission pursuant to this section must be completed and submitted in*  
9 *the form and manner prescribed by the commission. The court must not*  
10 *receive or recognize as valid such documents that are completed and*  
11 *submitted in any other form and manner.*

12 Sec. 5. K.S.A. 21-6813, 22-3426, 22-3426a and 22-3439 are hereby  
13 repealed.

14 Sec. 6. This act shall take effect and be in force from and after its  
15 publication in the Kansas register.