

SENATE BILL No. 306

By Senator Thomas

1-8

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to driving under the influence offenses; directing courts to approve
3 victim impact panel programs for driving under the influence offenses;
4 requiring persons convicted of or given diversion agreements for
5 driving under the influence offenses to attend victim impact panel
6 programs; amending K.S.A. 8-2,144, 12-4416 and 22-2909 and K.S.A.
7 2025 Supp. 8-1567 and repealing the existing sections.
8

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

10 New Section 1. (a) (1) On and after January 1, 2027, any person
11 convicted of a violation of K.S.A. 8-2,144 or 8-1567, and amendments
12 thereto, or a violation of a city ordinance or county resolution prohibiting
13 the acts prohibited by K.S.A. 8-2,144 or 8-1567, and amendments thereto,
14 shall be ordered by the court to attend an in-person victim impact panel
15 program, except as provided in subsection (b). Such program shall be
16 developed and conducted by a nonprofit organization approved by the
17 court.

18 (2) This section shall apply to any diversion agreement that is entered
19 into in lieu of further criminal proceedings on a complaint alleging a
20 violation of K.S.A. 8-1567, and amendments thereto.

21 (b) If a court makes a finding that in-person attendance for a victim
22 impact panel program is not practicable, then the court may allow a person
23 to attend an online victim impact panel program. Such online program
24 shall be developed and conducted by a nonprofit organization approved by
25 the court.

26 (c) The nonprofit organization conducting the victim impact panel
27 program may charge a fee in an amount not to exceed \$100 to a person
28 ordered to attend such program.

29 Sec. 2. K.S.A. 8-2,144 is hereby amended to read as follows: 8-2,144.

30 (a) Driving a commercial motor vehicle under the influence is operating or
31 attempting to operate any commercial motor vehicle, as defined in K.S.A.
32 8-2,128, and amendments thereto, within this state while:

33 (1) The alcohol concentration in the person's blood or breath, as
34 shown by any competent evidence, including other competent evidence, as
35 defined in K.S.A. 8-1013(f)(1), and amendments thereto, is 0.04 or more;

36 (2) the alcohol concentration in the person's blood or breath, as

1 measured within three hours of the time of driving a commercial motor
2 vehicle, is 0.04 or more; or

3 (3) committing a violation of K.S.A. 8-1567(a), and amendments
4 thereto, or the ordinance of a city or resolution of a county ~~which~~ *that*
5 prohibits any of the acts prohibited thereunder or is otherwise comparable.

6 (b) (1) Driving a commercial motor vehicle under the influence is:

7 (A) On a first conviction, a class B, nonperson misdemeanor. The
8 person convicted shall be sentenced to not less than 48 consecutive hours
9 nor more than six months' imprisonment, or in the court's discretion, 100
10 hours of public service, and fined not less than \$750 nor more than \$1,000;

11 (B) on a second conviction, a class A, nonperson misdemeanor. The
12 person convicted shall be sentenced to not less than 90 days nor more than
13 one year's imprisonment and fined not less than \$1,250 nor more than
14 \$1,750. The following conditions shall apply to such sentence:

15 (i) As a condition of any probation granted under this subsection, the
16 person shall serve at least 120 hours of confinement. The hours of
17 confinement shall include at least 48 hours of imprisonment and otherwise
18 may be served by a combination of: Imprisonment; a work release
19 program, if such work release program requires such person to return to
20 the confinement at the end of each day in the work release program; or a
21 house arrest program pursuant to K.S.A. 21-6609, and amendments
22 thereto; and

23 (ii) (a) if the person is placed into a work release program or placed
24 under a house arrest program for any portion of the minimum of 120 hours
25 of confinement mandated by this subsection, the person shall receive hour-
26 for-hour credit for time served in such program until the minimum
27 sentence is met. If the person is placed into a work release program or
28 placed under a house arrest program for more than the minimum of 120
29 hours of confinement mandated by this subsection, the person shall receive
30 hour-for-hour credit for time served in such program until the minimum of
31 120 hours of confinement is completed, and thereafter, the person shall
32 receive day-for-day credit for time served in such program unless
33 otherwise ordered by the court; and

34 (b) when in a work release program, the person shall only be given
35 credit for the time served in confinement at the end of and continuing to
36 the beginning of the person's work day. When under a house arrest
37 program, the person shall be monitored by an electronic monitoring device
38 that verifies the person's location and shall only be given credit for the
39 time served within the boundaries of the person's residence; and

40 (C) on a third or subsequent conviction, a severity level 6, nonperson
41 felony. The following conditions shall apply to such sentence:

42 (i) As a condition of any probation granted under this subsection, the
43 person shall serve at least 30 days of confinement. After at least 48

1 consecutive hours of imprisonment, the remainder of the period of
2 confinement may be served by a combination of: Imprisonment; a work
3 release program, if such work release program requires such person to
4 return to the confinement at the end of each day in the work release
5 program; or a house arrest program pursuant to K.S.A. 21-6609, and
6 amendments thereto; and

7 (ii) (a) if the person is placed into a work release program or placed
8 under a house arrest program for any portion of the minimum of 30 days
9 of confinement mandated by this subsection, the person shall receive hour-
10 for-hour credit for time served in such program for the first 240 hours of
11 confinement, and thereafter, the person shall receive day-for-day credit for
12 time served in such program unless otherwise ordered by the court; and

13 (b) when in a work release program, the person shall only be given
14 credit for the time served in confinement at the end of and continuing to
15 the beginning of the person's work day. When under a house arrest
16 program, the person shall be monitored by an electronic monitoring device
17 that verifies the person's location and shall only be given credit for the
18 time served within the boundaries of the person's residence.

19 (2) In addition, prior to sentencing for any conviction pursuant to
20 subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to
21 participate in an alcohol and drug evaluation conducted by a provider in
22 accordance with K.S.A. 8-1008, and amendments thereto. The person shall
23 be required to follow any recommendation made by the provider after such
24 evaluation, unless otherwise ordered by the court.

25 (c) Any person 18 years of age or older convicted of a violation of
26 this section; or a violation of a city ordinance or county resolution
27 prohibiting the acts prohibited by this section, who had one or more
28 children under the age of 18 years in the vehicle at the time of the offense,
29 shall have such person's punishment enhanced by one month of
30 imprisonment. This imprisonment shall be served consecutively to any
31 other minimum mandatory penalty imposed for a violation of this section,
32 or a violation of a city ordinance or county resolution prohibiting the acts
33 prohibited by this section. Any enhanced penalty imposed shall not exceed
34 the maximum sentence allowable by law. During the service of the
35 enhanced penalty, the judge may order the person on house arrest, work
36 release or other conditional release.

37 (d) If a person is charged with a violation of K.S.A. 8-1567(a)(4) or
38 (a)(5), and amendments thereto, as incorporated in this section, the fact
39 that the person is or has been entitled to use the drug under the laws of this
40 state shall not constitute a defense against the charge.

41 (e) The court may establish the terms and time for payment of any
42 fines, fees, assessments and costs imposed pursuant to this section. Any
43 assessment and costs shall be required to be paid not later than 90 days

1 after imposed, and any remainder of the fine shall be paid prior to the final
2 release of the defendant by the court.

3 (f) (1) In lieu of payment of a fine imposed pursuant to this section,
4 the court may order that the person perform community service specified
5 by the court. The person shall receive a credit on the fine imposed in an
6 amount equal to \$5 for each full hour spent by the person in the specified
7 community service. The community service ordered by the court shall be
8 required to be performed not later than one year after the fine is imposed
9 or by an earlier date specified by the court. If by the required date the
10 person performs an insufficient amount of community service to reduce to
11 zero the portion of the fine required to be paid by the person, the
12 remaining balance of the fine shall become due on that date.

13 (2) The court may, in its discretion, waive any portion of a fine
14 imposed pursuant to this section, except the \$250 required to be remitted
15 to the state treasurer pursuant to subsection (q), upon a showing that the
16 person successfully completed court-ordered education or treatment.

17 (g) Prior to filing a complaint alleging a violation of this section, a
18 prosecutor shall request and shall receive from the:

19 (1) Division a record of all prior convictions obtained against such
20 person for any violations of any of the motor vehicle laws of this state; and

21 (2) Kansas bureau of investigation central repository all criminal
22 history record information concerning such person.

23 (h) The court shall electronically report every conviction of a
24 violation of this section to the division. Prior to sentencing under the
25 provisions of this section, the court shall request and shall receive from
26 the:

27 (1) Division a record of all prior convictions obtained against such
28 person for any violation of any of the motor vehicle laws of this state; and

29 (2) Kansas bureau of investigation central repository all criminal
30 history record information concerning such person.

31 (i) Upon conviction of a person of a violation of this section or a
32 violation of a city ordinance or county resolution prohibiting the acts
33 prohibited by this section, the division, upon receiving a report of
34 conviction, shall:

35 (1) Disqualify the person from driving a commercial motor vehicle
36 under K.S.A. 8-2,142, and amendments thereto; and

37 (2) suspend, restrict or suspend and restrict the person's driving
38 privileges as provided by K.S.A. 8-1014, and amendments thereto.

39 (j) (1) Nothing contained in this section shall be construed as
40 preventing any city from enacting ordinances, or any county from adopting
41 resolutions, declaring acts prohibited or made unlawful by this section as
42 unlawful or prohibited in such city or county and prescribing penalties for
43 violation thereof.

1 (2) The minimum penalty prescribed by any such ordinance or
2 resolution shall not be less than the minimum penalty prescribed by this
3 section for the same violation, and the maximum penalty in any such
4 ordinance or resolution shall not exceed the maximum penalty prescribed
5 for the same violation.

6 (3) Any such ordinance or resolution shall authorize the court to order
7 that the convicted person pay restitution to any victim who suffered loss
8 due to the violation for which the person was convicted.

9 (k) (1) Upon the filing of a complaint, citation or notice to appear
10 alleging a person has violated a city ordinance prohibiting the acts
11 prohibited by this section, and prior to conviction thereof, a city attorney
12 shall request and shall receive from the:

13 (A) Division of vehicles a record of all prior convictions obtained
14 against such person for any violations of any of the motor vehicle laws of
15 this state; and

16 (B) Kansas bureau of investigation central repository all criminal
17 history record information concerning such person.

18 (2) If the elements of such ordinance violation are the same as the
19 elements of a violation of this section that would constitute, and be
20 punished as, a felony, the city attorney shall refer the violation to the
21 appropriate county or district attorney for prosecution. The county or
22 district attorney shall accept such referral and pursue a disposition of such
23 violation, and shall not refer any such violation back to the city attorney.

24 (l) No plea bargaining agreement shall be entered into nor shall any
25 judge approve a plea bargaining agreement entered into for the purpose of
26 permitting a person charged with a violation of this section, or a violation
27 of any ordinance of a city or resolution of any county in this state ~~which~~
28 *that* prohibits the acts prohibited by this section, to avoid the mandatory
29 penalties established by this section or by the ordinance or resolution. This
30 subsection shall not be construed to prohibit an amendment or dismissal of
31 any charge where the admissible evidence is not sufficient to support a
32 conviction beyond a reasonable doubt on such charge.

33 (m) The alternatives set out in subsection (a) may be pleaded in the
34 alternative, and the state, city or county may, but shall not be required to,
35 elect one or more of such alternatives prior to submission of the case to the
36 fact finder.

37 (n) For the purpose of determining whether a conviction is a first,
38 second, third or subsequent conviction in sentencing under this section:

39 (1) Convictions for a violation of K.S.A. 8-1567, and amendments
40 thereto, or a violation of an ordinance of any city or resolution of any
41 county that prohibits the acts that such section prohibits, or entering into a
42 diversion agreement in lieu of further criminal proceedings on a complaint
43 alleging any such violations, shall be taken into account, but only

1 convictions or diversions occurring on or after July 1, 2001. Nothing in
2 this provision shall be construed as preventing any court from considering
3 any convictions or diversions occurring during the person's lifetime in
4 determining the sentence to be imposed within the limits provided for a
5 first, second, third, fourth or subsequent offense;

6 (2) any convictions for a violation of the following sections occurring
7 during a person's lifetime shall be taken into account:

8 (A) This section;

9 (B) operating a vessel under the influence of alcohol or drugs, K.S.A.
10 32-1131, and amendments thereto;

11 (C) involuntary manslaughter while driving under the influence of
12 alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 21-5405(a)
13 (3) or (a)(5), and amendments thereto;

14 (D) aggravated battery as described in K.S.A. 21-5413(b)(3) or (b)
15 (4), and amendments thereto; and

16 (E) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its
17 repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the
18 crime was committed while committing a violation of K.S.A. 8-1567, and
19 amendments thereto;

20 (3) "conviction" includes:

21 (A) Entering into a diversion agreement in lieu of further criminal
22 proceedings on a complaint alleging a violation of a crime described in
23 subsection (n)(2); and

24 (B) conviction of a violation of an ordinance of a city in this state, a
25 resolution of a county in this state or any law of another jurisdiction that
26 would constitute an offense that is comparable to the offense described in
27 subsection (n)(1) or (n)(2);

28 (4) it is irrelevant whether an offense occurred before or after
29 conviction for a previous offense; and

30 (5) multiple convictions of any crime described in subsection (n)(1)
31 or (n)(2) arising from the same arrest shall only be counted as one
32 conviction.

33 (o) For the purposes of determining whether an offense is
34 comparable, the following shall be considered:

35 (1) The name of the out-of-jurisdiction offense;

36 (2) the elements of the out-of-jurisdiction offense; and

37 (3) whether the out-of-jurisdiction offense prohibits similar conduct
38 to the conduct prohibited by the closest approximate Kansas offense.

39 (p) For the purpose of this section:

40 (1) "Alcohol concentration" means the number of grams of alcohol
41 per 100 milliliters of blood or per 210 liters of breath;

42 (2) "imprisonment" includes any restrained environment in which the
43 court and law enforcement agency intend to retain custody and control of a

1 defendant and such environment has been approved by the board of county
2 commissioners or the governing body of a city; and

3 (3) "drug" includes toxic vapors as such term is defined in K.S.A. 21-
4 5712, and amendments thereto.

5 (q) On and after July 1, 2011, the amount of \$250 from each fine
6 imposed pursuant to this section shall be remitted by the clerk of the
7 district court to the state treasurer in accordance with the provisions of
8 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
9 remittance, the state treasurer shall credit the entire amount to the
10 community corrections supervision fund established by K.S.A. 75-52,113,
11 and amendments thereto.

12 *(r) On and after January 1, 2027, any person convicted of a violation*
13 *of this section or a violation of a city ordinance or county resolution*
14 *prohibiting the acts prohibited by this section shall be ordered by the court*
15 *to attend a victim impact panel program approved by the court pursuant to*
16 *section 1, and amendments thereto.*

17 Sec. 3. K.S.A. 2025 Supp. 8-1567 is hereby amended to read as
18 follows: 8-1567. (a) Driving under the influence is operating or attempting
19 to operate any vehicle within this state while:

20 (1) The alcohol concentration in the person's blood or breath as
21 shown by any competent evidence, including other competent evidence, as
22 defined in K.S.A. 8-1013(f)(1), and amendments thereto, is 0.08 or more;

23 (2) the alcohol concentration in the person's blood or breath, as
24 measured within three hours of the time of operating or attempting to
25 operate a vehicle, is 0.08 or more;

26 (3) under the influence of alcohol to a degree that renders the person
27 incapable of safely driving a vehicle;

28 (4) under the influence of any drug or combination of drugs to a
29 degree that renders the person incapable of safely driving a vehicle; or

30 (5) under the influence of a combination of alcohol and any drug or
31 drugs to a degree that renders the person incapable of safely driving a
32 vehicle.

33 (b) (1) Driving under the influence is:

34 (A) On a first conviction, a class B, nonperson misdemeanor. The
35 person convicted shall be sentenced to not less than 48 consecutive hours
36 nor more than six months' imprisonment, or in the court's discretion 100
37 hours of public service, and fined not less than \$750 nor more than \$1,000;

38 (B) on a second conviction, a class A, nonperson misdemeanor. The
39 person convicted shall be sentenced to not less than 90 days nor more than
40 one year's imprisonment and fined not less than \$1,250 nor more than
41 \$1,750. The following conditions shall apply to such sentence:

42 (i) As a condition of any probation granted under this subsection, the
43 person shall serve at least 120 hours of confinement. The hours of

1 confinement shall include at least 48 hours of imprisonment and otherwise
2 may be served by a combination of: Imprisonment; a work release
3 program, if such work release program requires such person to return to
4 the confinement at the end of each day in the work release program; or a
5 house arrest program pursuant to K.S.A. 21-6609, and amendments
6 thereto;

7 (ii) (a) if the person is placed into a work release program or placed
8 under a house arrest program for any portion of the minimum of 120 hours
9 of confinement mandated by this subsection, the person shall receive hour-
10 for-hour credit for time served in such program until the minimum
11 sentence is met. If the person is placed into a work release program or
12 placed under a house arrest program for more than the minimum of 120
13 hours of confinement mandated by this subsection, the person shall receive
14 hour-for-hour credit for time served in such program until the minimum of
15 120 hours of confinement is completed, and thereafter, the person shall
16 receive day-for-day credit for time served in such program unless
17 otherwise ordered by the court; and

18 (b) when in a work release program, the person shall only be given
19 credit for the time served in confinement at the end of and continuing to
20 the beginning of the person's work day. When under a house arrest
21 program, the person shall be monitored by an electronic monitoring device
22 that verifies the person's location and shall only be given credit for the
23 time served within the boundaries of the person's residence;

24 (C) on a third conviction, a class A, nonperson misdemeanor, except
25 as provided in subsection (b)(1)(D). The person convicted shall be
26 sentenced to not less than 90 days nor more than one year's imprisonment
27 and fined not less than \$1,750 nor more than \$2,500. The following
28 conditions shall apply to such sentence:

29 (i) As a condition of any probation granted under this subsection, the
30 person shall serve at least 30 days of confinement. After at least 48
31 consecutive hours of imprisonment, the remainder of the period of
32 confinement may be served by a combination of: Imprisonment; a work
33 release program, if such work release program requires such person to
34 return to the confinement at the end of each day in the work release
35 program; or a house arrest program pursuant to K.S.A. 21-6609, and
36 amendments thereto; and

37 (ii) (a) if the person is placed into a work release program or placed
38 under a house arrest program for any portion of the minimum of 30 days
39 of confinement mandated by this subsection, the person shall receive hour-
40 for-hour credit for time served in such program for the first 240 hours of
41 confinement, and thereafter, the person shall receive day-for-day credit for
42 time served in such program unless otherwise ordered by the court; and

43 (b) when in a work release program, the person shall only be given

1 credit for the time served in confinement at the end of and continuing to
2 the beginning of the person's work day. When under a house arrest
3 program, the person shall be monitored by an electronic monitoring device
4 that verifies the person's location and shall only be given credit for the
5 time served within the boundaries of the person's residence;

6 (D) on a third conviction, a severity level 6, nonperson felony if the
7 person has a prior conviction ~~which~~ that occurred within the preceding 10
8 years, not including any period of incarceration. The following conditions
9 shall apply to such sentence:

10 (i) As a condition of any probation granted under this subsection, the
11 person shall serve at least 30 days of confinement. After at least 48
12 consecutive hours of imprisonment, the remainder of the period of
13 confinement may be served by a combination of: Imprisonment; a work
14 release program, if such work release program requires such person to
15 return to the confinement at the end of each day in the work release
16 program; or a house arrest program pursuant to K.S.A. 21-6609, and
17 amendments thereto; and

18 (ii) (a) if the person is placed into a work release program or placed
19 under a house arrest program for any portion of the minimum of 30 days
20 of confinement mandated by this subsection, the person shall receive hour-
21 for-hour credit for time served in such program for the first 240 hours of
22 confinement, and thereafter, the person shall receive day-for-day credit for
23 time served in such program unless otherwise ordered by the court; and

24 (b) when in a work release program, the person shall only be given
25 credit for the time served in confinement at the end of and continuing to
26 the beginning of the person's work day. When under a house arrest
27 program, the person shall be monitored by an electronic monitoring device
28 that verifies the person's location and shall only be given credit for the
29 time served within the boundaries of the person's residence; and

30 (E) on a fourth or subsequent conviction, a severity level 6,
31 nonperson felony. The following conditions shall apply to such sentence:

32 (i) As a condition of any probation granted under this subsection, the
33 person shall serve at least 30 days of confinement. After at least 48
34 consecutive hours of imprisonment, the remainder of the period of
35 confinement may be served by a combination of: Imprisonment; a work
36 release program, if such work release program requires such person to
37 return to the confinement at the end of each day in the work release
38 program; or a house arrest program pursuant to K.S.A. 21-6609, and
39 amendments thereto; and

40 (ii) (a) if the person is placed into a work release program or placed
41 under a house arrest program for any portion of the minimum of 30 days
42 of confinement mandated by this subsection, the person shall receive hour-
43 for-hour credit for time served in such program for the first 240 hours of

1 confinement, and thereafter, the person shall receive day-for-day credit for
2 time served in such program unless otherwise ordered by the court; and

3 (b) when in a work release program, the person shall only be given
4 credit for the time served in confinement at the end of and continuing to
5 the beginning of the person's work day. When under a house arrest
6 program, the person shall be monitored by an electronic monitoring device
7 that verifies the person's location and shall only be given credit for the
8 time served within the boundaries of the person's residence.

9 (2) (A) The court may order that the term of imprisonment imposed
10 pursuant to subsection (b)(1)(D) or (b)(1)(E) be served in a state facility in
11 the custody of the secretary of corrections in a facility designated by the
12 secretary for the provision of substance abuse treatment pursuant to the
13 provisions of K.S.A. 21-6804, and amendments thereto. The secretary of
14 corrections may refuse to admit the person to the designated facility and
15 place the person in a different state facility, or admit the person and
16 subsequently transfer the person to a different state facility, if the secretary
17 determines: (i) That substance abuse treatment resources or the capacity of
18 the facility designated by the secretary for the incarceration and treatment
19 of the person is not available; (ii) the person has failed to meaningfully
20 participate in the treatment program of the designated facility; (iii) the
21 person is disruptive to the security or operation of the designated facility;
22 or (iv) the medical or mental health condition of the person renders the
23 person unsuitable for confinement at the designated facility. The
24 determination by the secretary that the person either is not to be admitted
25 into the designated facility or is to be transferred from the designated
26 facility is not subject to review.

27 (B) In addition to the provisions of subsection (b)(1), for any
28 conviction pursuant to subsection (b)(1)(D) or (b)(1)(E), if the person is
29 granted probation, the court shall determine whether the person shall be
30 supervised by community correctional services or court services based on
31 the risk and needs of the person. The risk and needs of the person shall be
32 determined by use of a risk assessment tool specified by the Kansas
33 sentencing commission. During the probation supervision, the person shall
34 be required to participate in a multidisciplinary model of services for
35 substance use disorders facilitated by a Kansas department for aging and
36 disability services designated care coordination agency to include
37 assessment and, if appropriate, referral to a community based substance
38 use disorder treatment including recovery management and mental health
39 counseling as needed. The multidisciplinary team shall include the
40 designated care coordination agency, the supervision officer, the Kansas
41 department for aging and disability services designated treatment provider
42 and the person.

43 (3) In addition to the provisions of subsection (b)(1), for any

1 conviction pursuant to subsection (b)(1)(C), at the time of the filing of the
2 judgment form or journal entry as required by K.S.A. 21-6711 or 22-3426,
3 and amendments thereto, the court shall cause a certified copy to be sent to
4 the officer having the person in charge. The court shall determine whether
5 the person, upon release from imprisonment, shall be supervised by
6 community correctional services or court services based upon the risk and
7 needs of the person. The risk and needs of the person shall be determined
8 by use of a risk assessment tool specified by the Kansas sentencing
9 commission. The law enforcement agency maintaining custody and control
10 of a person for imprisonment shall cause a certified copy of the judgment
11 form or journal entry to be sent to the supervision office designated by the
12 court and upon expiration of the term of imprisonment shall deliver the
13 person to a location designated by the supervision office designated by the
14 court. After the term of imprisonment imposed by the court, the person
15 shall be placed on supervision to community correctional services or court
16 services, as determined by the court, for a mandatory one-year period of
17 supervision, which such period of supervision shall not be reduced. During
18 such supervision, the person shall be required to participate in a
19 multidisciplinary model of services for substance use disorders facilitated
20 by a Kansas department for aging and disability services designated care
21 coordination agency to include assessment and, if appropriate, referral to a
22 community based substance use disorder treatment including recovery
23 management and mental health counseling as needed. The
24 multidisciplinary team shall include the designated care coordination
25 agency, the supervision officer, the Kansas department for aging and
26 disability services designated treatment provider and the person. A person
27 for whom a warrant has been issued by the court alleging a violation of
28 this supervision shall be considered a fugitive from justice if it is found
29 that the warrant cannot be served. If it is found that the person has violated
30 the provisions of this supervision, the court shall determine whether the
31 time from the issuing of the warrant to the date of the court's determination
32 of an alleged violation, or any part of it, shall be counted as time served on
33 supervision. Any violation of the conditions of such supervision may
34 subject such person to revocation of supervision and imprisonment in jail
35 for the remainder of the period of imprisonment, the remainder of the
36 supervision period, or any combination or portion thereof. The term of
37 supervision may be extended at the court's discretion beyond one year, and
38 any violation of the conditions of such extended term of supervision may
39 subject such person to the revocation of supervision and imprisonment in
40 jail of up to the remainder of the original sentence, not the term of the
41 extended supervision.

42 (4) In addition to the provisions of subsection (b)(1), prior to
43 sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)

1 (B), the court shall order the person to participate in an alcohol and drug
2 evaluation conducted by a provider in accordance with K.S.A. 8-1008, and
3 amendments thereto. The person shall be required to follow any
4 recommendation made by the provider after such evaluation, unless
5 otherwise ordered by the court.

6 (c) Any person 18 years of age or older convicted of violating this
7 section or an ordinance ~~which~~ that prohibits the acts that this section
8 prohibits who had one or more children under the age of 18 years in the
9 vehicle at the time of the offense shall have such person's punishment
10 enhanced by one month of imprisonment. This imprisonment must be
11 served consecutively to any other minimum mandatory penalty imposed
12 for a violation of this section or an ordinance ~~which~~ that prohibits the acts
13 that this section prohibits. Any enhanced penalty imposed shall not exceed
14 the maximum sentence allowable by law. During the service of the
15 enhanced penalty, the judge may order the person on house arrest, work
16 release or other conditional release.

17 (d) If a person is charged with a violation of subsection (a)(4) or (a)
18 (5), the fact that the person is or has been entitled to use the drug under the
19 laws of this state shall not constitute a defense against the charge.

20 (e) The court may establish the terms and time for payment of any
21 fines, fees, assessments and costs imposed pursuant to this section. Any
22 assessment and costs shall be required to be paid not later than 90 days
23 after imposed, and any remainder of the fine shall be paid prior to the final
24 release of the person by the court.

25 (f) (1) In lieu of payment of a fine imposed pursuant to this section,
26 the court may order that the person perform community service specified
27 by the court. The person shall receive a credit on the fine imposed in an
28 amount equal to \$5 for each full hour spent by the person in the specified
29 community service. The community service ordered by the court shall be
30 required to be performed not later than one year after the fine is imposed
31 or by an earlier date specified by the court. If by the required date the
32 person performs an insufficient amount of community service to reduce to
33 zero the portion of the fine required to be paid by the person, the
34 remaining balance of the fine shall become due on that date.

35 (2) The court may, in its discretion, waive any portion of a fine
36 imposed pursuant to this section, except the \$250 required to be remitted
37 to the state treasurer pursuant to subsection (q)(3), upon a showing that the
38 person successfully completed court-ordered education or treatment.

39 (g) Prior to filing a complaint alleging a violation of this section, a
40 prosecutor shall request and shall receive from the:

41 (1) Division a record of all prior convictions obtained against such
42 person for any violations of any of the motor vehicle laws of this state; and

43 (2) Kansas bureau of investigation central repository all criminal

1 history record information concerning such person.

2 (h) The court shall electronically report every conviction of a
3 violation of this section and every diversion agreement entered into in lieu
4 of further criminal proceedings on a complaint alleging a violation of this
5 section to the division including any finding regarding the alcohol
6 concentration in the person's blood or breath. Prior to sentencing under the
7 provisions of this section, the court shall request and shall receive from the
8 division a record of all prior convictions obtained against such person for
9 any violations of any of the motor vehicle laws of this state.

10 (i) For the purpose of determining whether a conviction is a first,
11 second, third, fourth or subsequent conviction in sentencing under this
12 section:

13 (1) Convictions for a violation of this section, or a violation of an
14 ordinance of any city or resolution of any county that prohibits the acts
15 that this section prohibits, or entering into a diversion agreement in lieu of
16 further criminal proceedings on a complaint alleging any such violations,
17 shall be taken into account, but only convictions or diversions occurring
18 on or after July 1, 2001. Nothing in this provision shall be construed as
19 preventing any court from considering any convictions or diversions
20 occurring during the person's lifetime in determining the sentence to be
21 imposed within the limits provided for a first, second, third, fourth or
22 subsequent offense;

23 (2) any convictions for a violation of the following sections occurring
24 during a person's lifetime shall be taken into account:

25 (A) Driving a commercial motor vehicle under the influence, K.S.A.
26 8-2,144, and amendments thereto;

27 (B) operating a vessel under the influence of alcohol or drugs, K.S.A.
28 32-1131, and amendments thereto;

29 (C) involuntary manslaughter while driving under the influence of
30 alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 21-5405(a)
31 (3) or (a)(5), and amendments thereto;

32 (D) aggravated battery as described in K.S.A. 21-5413(b)(3) or (b)
33 (4), and amendments thereto; and

34 (E) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its
35 repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the
36 crime was committed while committing a violation of K.S.A. 8-1567, and
37 amendments thereto;

38 (3) "conviction" includes:

39 (A) Entering into a diversion agreement in lieu of further criminal
40 proceedings on a complaint alleging an offense described in subsection (i)
41 (2); and

42 (B) conviction of a violation of an ordinance of a city in this state, a
43 resolution of a county in this state or any law of another jurisdiction that

1 would constitute an offense that is comparable to the offense described in
2 subsection (i)(1) or (i)(2);

3 (4) multiple convictions of any crime described in subsection (i)(1) or
4 (i)(2) arising from the same arrest shall only be counted as one conviction;

5 (5) it is irrelevant whether an offense occurred before or after
6 conviction for a previous offense; and

7 (6) a person may enter into a diversion agreement in lieu of further
8 criminal proceedings for a violation of this section, and amendments
9 thereto, or an ordinance ~~which~~ *that* prohibits the acts of this section, and
10 amendments thereto, only once during the person's lifetime.

11 (j) For the purposes of determining whether an offense is comparable,
12 the following shall be considered:

13 (1) The name of the out-of-jurisdiction offense;

14 (2) the elements of the out-of-jurisdiction offense; and

15 (3) whether the out-of-jurisdiction offense prohibits similar conduct
16 to the conduct prohibited by the closest approximate Kansas offense.

17 (k) Upon conviction of a person of a violation of this section or a
18 violation of a city ordinance or county resolution prohibiting the acts
19 prohibited by this section, the division, upon receiving a report of
20 conviction, shall suspend, restrict or suspend and restrict the person's
21 driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

22 (l) (1) Nothing contained in this section shall be construed as
23 preventing any city from enacting ordinances, or any county from adopting
24 resolutions, declaring acts prohibited or made unlawful by this act as
25 unlawful or prohibited in such city or county and prescribing penalties for
26 violation thereof.

27 (2) The minimum penalty prescribed by any such ordinance or
28 resolution shall not be less than the minimum penalty prescribed by this
29 section for the same violation, and the maximum penalty in any such
30 ordinance or resolution shall not exceed the maximum penalty prescribed
31 for the same violation.

32 (3) On and after July 1, 2007, and retroactive for ordinance violations
33 committed on or after July 1, 2006, an ordinance may grant to a municipal
34 court jurisdiction over a violation of such ordinance ~~which~~ *that* is
35 concurrent with the jurisdiction of the district court over a violation of this
36 section, notwithstanding that the elements of such ordinance violation are
37 the same as the elements of a violation of this section that would
38 constitute, and be punished as, a felony.

39 (4) Any such ordinance or resolution shall authorize the court to order
40 that the convicted person pay restitution to any victim who suffered loss
41 due to the violation for which the person was convicted.

42 (m) (1) Upon the filing of a complaint, citation or notice to appear
43 alleging a person has violated a city ordinance prohibiting the acts

1 prohibited by this section, and prior to conviction thereof, a city attorney
2 shall request and shall receive from the:

3 (A) Division a record of all prior convictions obtained against such
4 person for any violations of any of the motor vehicle laws of this state; and

5 (B) Kansas bureau of investigation central repository all criminal
6 history record information concerning such person.

7 (2) If the elements of such ordinance violation are the same as the
8 elements of a violation of this section that would constitute, and be
9 punished as, a felony, the city attorney shall refer the violation to the
10 appropriate county or district attorney for prosecution.

11 (n) No plea bargaining agreement shall be entered into nor shall any
12 judge approve a plea bargaining agreement entered into for the purpose of
13 permitting a person charged with a violation of this section, or a violation
14 of any ordinance of a city or resolution of any county in this state ~~which~~
15 *that* prohibits the acts prohibited by this section, to avoid the mandatory
16 penalties established by this section or by the ordinance. For the purpose
17 of this subsection, entering into a diversion agreement pursuant to K.S.A.
18 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not
19 constitute plea bargaining. This subsection shall not be construed to
20 prohibit an amendment or dismissal of any charge where the admissible
21 evidence is not sufficient to support a conviction beyond a reasonable
22 doubt on such charge.

23 (o) The alternatives set out in subsection (a) may be pleaded in the
24 alternative, and the state, city or county may, but shall not be required to,
25 elect one or more of such alternatives prior to submission of the case to the
26 fact finder.

27 (p) As used in this section:

28 (1) "Alcohol concentration" means the number of grams of alcohol
29 per 100 milliliters of blood or per 210 liters of breath;

30 (2) "imprisonment" includes any restrained environment in which the
31 court and law enforcement agency intend to retain custody and control of a
32 person and such environment has been approved by the board of county
33 commissioners or the governing body of a city; and

34 (3) "drug" includes toxic vapors as such term is defined in K.S.A. 21-
35 5712, and amendments thereto.

36 (q) (1) The amount of the increase in fines as specified in this section
37 shall be remitted by the clerk of the district court to the state treasurer in
38 accordance with the provisions of K.S.A. 75-4215, and amendments
39 thereto. Upon receipt of remittance of the increase provided in this act, the
40 state treasurer shall deposit the entire amount in the state treasury and the
41 state treasurer shall credit 50% to the community alcoholism and
42 intoxication programs fund and 50% to the Kansas department for aging
43 and disability services alcohol and drug abuse treatment fund, which is

1 hereby created in the state treasury.

2 (2) On July 1, 2025, the director of accounts and reports shall transfer
3 all moneys in the department of corrections alcohol and drug abuse
4 treatment fund to the Kansas department for aging and disability services
5 alcohol and drug abuse treatment fund. On July 1, 2025, all liabilities of
6 the department of corrections alcohol and drug abuse treatment fund are
7 hereby transferred and imposed on the Kansas department for aging and
8 disability services alcohol and drug abuse treatment fund, and the
9 department of corrections alcohol and drug abuse treatment fund is hereby
10 abolished.

11 (3) On and after July 1, 2011, the amount of \$250 from each fine
12 imposed pursuant to this section shall be remitted by the clerk of the
13 district court to the state treasurer in accordance with the provisions of
14 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
15 remittance, the state treasurer shall credit the entire amount to the
16 community corrections supervision fund established by K.S.A. 75-52,113,
17 and amendments thereto.

18 *(r) On and after January 1, 2027, any person convicted of a violation*
19 *of this section or a violation of a city ordinance or county resolution*
20 *prohibiting the acts prohibited by this section shall be ordered by the court*
21 *to attend a victim impact panel program approved by the court pursuant to*
22 *section I, and amendments thereto.*

23 Sec. 4. K.S.A. 12-4416 is hereby amended to read as follows: 12-
24 4416. (a) A diversion agreement shall provide that if the defendant fulfills
25 the obligations of the program described therein, as determined by the city
26 attorney, the city attorney shall act to have the criminal charges against the
27 defendant dismissed with prejudice. The diversion agreement shall include
28 specifically the waiver of all rights under the law or the constitution of
29 Kansas or of the United States to counsel, a speedy arraignment, a speedy
30 trial, and the right to trial by jury. The diversion agreement may include,
31 but is not limited to, provisions concerning payment of restitution,
32 including court costs and diversion costs, residence in a specified facility,
33 maintenance of gainful employment, and participation in programs
34 offering medical, educational, vocational, social and psychological
35 services, corrective and preventive guidance and other rehabilitative
36 services. The diversion agreement shall state:

- 37 (1) The defendant's full name;
38 (2) the defendant's full name at the time the complaint was filed, if
39 different from the defendant's current name;
40 (3) the defendant's sex, race and date of birth;
41 (4) the crime with which the defendant is charged;
42 (5) the date the complaint was filed; and
43 (6) the municipal court with which the agreement is filed.

1 (b) If a diversion agreement is entered into in lieu of further criminal
2 proceedings on a complaint alleging a violation of a city ordinance
3 prohibiting the acts prohibited by K.S.A. 21-6421, and amendments
4 thereto, the agreement:

5 (1) Shall include a requirement that the defendant pay a fine specified
6 by the agreement in an amount equal to an amount authorized by K.S.A.
7 21-6421, and amendments thereto; and

8 (2) may include a requirement that the defendant enter into and
9 complete a suitable educational or treatment program regarding
10 commercial sexual exploitation.

11 (c) If a diversion agreement is entered into in lieu of further criminal
12 proceedings on a complaint alleging an alcohol related offense, the
13 diversion agreement shall include a stipulation, agreed to by the defendant
14 and the city attorney, of the facts upon which the charge is based and a
15 provision that if the defendant fails to fulfill the terms of the specific
16 diversion agreement and the criminal proceedings on the complaint are
17 resumed, the proceedings, including any proceedings on appeal, shall be
18 conducted on the record of the stipulation of facts relating to the
19 complaint. In addition, the agreement shall include a requirement that the
20 defendant:

21 (1) Pay a fine specified by the agreement in an amount equal to an
22 amount authorized by K.S.A. 8-1567, and amendments thereto, for a first
23 offense or, in lieu of payment of the fine, perform community service
24 specified by the agreement, consonant with K.S.A. 8-1567, and
25 amendments thereto;~~and~~

26 (2) participate in an alcohol and drug evaluation conducted by a
27 licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and
28 follow any recommendation made by the provider after such evaluation;
29 *and*

30 (3) *on and after January 1, 2027, attend a victim impact panel*
31 *program approved by the court pursuant to section 1, and amendments*
32 *thereto.*

33 (d) If the person entering into a diversion agreement is a nonresident,
34 the city attorney shall transmit a copy of the diversion agreement to the
35 division. The division shall forward a copy of the diversion agreement to
36 the motor vehicle administrator of the person's state of residence.

37 (e) If the city attorney elects to offer diversion in lieu of further
38 criminal proceedings on the complaint and the defendant agrees to all of
39 the terms of the proposed agreement, the diversion agreement shall be
40 filed with the municipal court and the municipal court shall stay further
41 proceedings on the complaint. If the defendant declines to accept
42 diversion, the municipal court shall resume the criminal proceedings on
43 the complaint.

1 (f) The city attorney shall forward to the division of vehicles of the
2 state department of revenue a copy of the diversion agreement at the time
3 such agreement is filed with the municipal court. The copy of the
4 agreement shall be made available upon request to any county, district or
5 city attorney or court.

6 Sec. 5. K.S.A. 22-2909 is hereby amended to read as follows: 22-
7 2909. (a) (1) A diversion agreement shall provide that if the defendant
8 fulfills the obligations of the program described therein, as determined by
9 the attorney general or county or district attorney, such attorney shall act to
10 have the criminal charges against the defendant dismissed with prejudice.
11 The diversion agreement shall include specifically the waiver of all rights
12 under the law or the constitution of Kansas or of the United States to a
13 speedy arraignment, preliminary examinations and hearings, and a speedy
14 trial, and in the case of diversion under subsection (c) waiver of the rights
15 to counsel and trial by jury. The diversion agreement may include, but is
16 not limited to, provisions concerning:

17 (A) Payment of restitution, including court costs and diversion costs;
18 (B) residence in a specified facility;
19 (C) maintenance of gainful employment;
20 (D) participation in programs offering medical, educational,
21 vocational, social and psychological services, corrective and preventive
22 guidance and other rehabilitative services; and
23 (E) supervision by the county or district attorney, or by court services
24 or community correctional services pursuant to a memorandum of
25 understanding entered into by the county or district attorney pursuant to
26 K.S.A. 22-2907, and amendments thereto, including the diversion
27 supervision fee and urinalysis costs described in K.S.A. 22-2907, and
28 amendments thereto, when applicable.

29 (2) If a county creates a local fund under the property crime
30 restitution and compensation act, a county or district attorney may require
31 in all diversion agreements as a condition of diversion the payment of a
32 diversion fee in an amount not to exceed \$100. Such fees shall be
33 deposited into the local fund and disbursed pursuant to recommendations
34 of the local board under the property crime restitution and victims
35 compensation act.

36 (3) If the attorney general enters into a diversion agreement:

37 (A) Any diversion costs or fees collected pursuant to such agreement
38 shall be deposited in the fraud and abuse criminal prosecution fund
39 established by K.S.A. 75-765, and amendments thereto; and

40 (B) the attorney general may enter into agreements with the
41 appropriate county or district attorney or other appropriate parties
42 regarding the supervision of conditions of such diversion agreement.

43 (b) The diversion agreement shall state:

- 1 (1) The defendant's full name;
- 2 (2) the defendant's full name at the time the complaint was filed, if
- 3 different from the defendant's current name;
- 4 (3) the defendant's sex, race and date of birth;
- 5 (4) the crime with which the defendant is charged;
- 6 (5) the date the complaint was filed; and
- 7 (6) the district court with which the agreement is filed.
- 8 (c) If a diversion agreement is entered into in lieu of further criminal
- 9 proceedings on a complaint alleging a violation of K.S.A. 8-1567, and
- 10 amendments thereto, the diversion agreement shall include a stipulation,
- 11 agreed to by the defendant, the defendant's attorney if the defendant is
- 12 represented by an attorney and the attorney general or county or district
- 13 attorney, of the facts upon which the charge is based and a provision that if
- 14 the defendant fails to fulfill the terms of the specific diversion agreement
- 15 and the criminal proceedings on the complaint are resumed, the
- 16 proceedings, including any proceedings on appeal, shall be conducted on
- 17 the record of the stipulation of facts relating to the complaint. In addition,
- 18 the agreement shall include a requirement that the defendant:
- 19 (1) Pay a fine specified by the agreement in an amount equal to an
- 20 amount authorized by K.S.A. 8-1567, and amendments thereto, for a first
- 21 offense or, in lieu of payment of the fine, perform community service
- 22 specified by the agreement, in accordance with K.S.A. 8-1567, and
- 23 amendments thereto; ~~and~~
- 24 (2) participate in an alcohol and drug evaluation conducted by a
- 25 licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and
- 26 follow any recommendation made by the provider after such evaluation;
- 27 *and*
- 28 (3) *on and after January 1, 2027, attend a victim impact panel*
- 29 *program approved by the court pursuant to section 1, and amendments*
- 30 *thereto.*
- 31 (d) If a diversion agreement is entered into in lieu of further criminal
- 32 proceedings on a complaint alleging a domestic violence offense, as
- 33 defined in K.S.A. 21-5111, and amendments thereto, the diversion
- 34 agreement shall include a requirement that the defendant undergo a
- 35 domestic violence offender assessment and follow all recommendations
- 36 unless otherwise agreed to with the prosecutor in the diversion agreement.
- 37 The defendant shall be required to pay for such assessment and, unless
- 38 otherwise agreed to with the prosecutor in the diversion agreement, for
- 39 completion of all recommendations.
- 40 (e) If a diversion agreement is entered into in lieu of further criminal
- 41 proceedings on a complaint alleging a violation other than K.S.A. 8-1567,
- 42 and amendments thereto, the diversion agreement may include a
- 43 stipulation, agreed to by the defendant, the defendant's attorney if the

1 defendant is represented by an attorney and the attorney general or county
2 or district attorney, of the facts upon which the charge is based and a
3 provision that if the defendant fails to fulfill the terms of the specific
4 diversion agreement and the criminal proceedings on the complaint are
5 resumed, the proceedings, including any proceedings on appeal, shall be
6 conducted on the record of the stipulation of facts relating to the
7 complaint.

8 (f) If the person entering into a diversion agreement is a nonresident,
9 the attorney general or county or district attorney shall transmit a copy of
10 the diversion agreement to the division. The division shall forward a copy
11 of the diversion agreement to the motor vehicle administrator of the
12 person's state of residence.

13 (g) If the attorney general or county or district attorney elects to offer
14 diversion in lieu of further criminal proceedings on the complaint and the
15 defendant agrees to all of the terms of the proposed agreement, the
16 diversion agreement shall be filed with the district court and the district
17 court shall stay further proceedings on the complaint. If the defendant
18 declines to accept diversion, the district court shall resume the criminal
19 proceedings on the complaint.

20 (h) Except as provided in subsection (i), if a diversion agreement is
21 entered into in lieu of further criminal proceedings alleging commission of
22 a misdemeanor by the defendant, while under 21 years of age, under
23 K.S.A. 21-5701 through 21-5717, and amendments thereto, or K.S.A. 41-
24 719, 41-727, 41-804, 41-2719 or 41-2720, and amendments thereto, the
25 agreement shall require the defendant to participate in an alcohol and drug
26 evaluation conducted by a licensed provider pursuant to K.S.A. 8-1008,
27 and amendments thereto, and follow any recommendation made by the
28 provider after such evaluation.

29 (i) If the defendant is 18 or more years of age but less than 21 years
30 of age and allegedly committed a violation of K.S.A. 41-727, and
31 amendments thereto, involving cereal malt beverage, the provisions of
32 subsection (h) are permissive and not mandatory.

33 (j) If a diversion agreement is entered into in lieu of further criminal
34 proceedings on a complaint alleging a violation of K.S.A. 21-6421, and
35 amendments thereto, the agreement:

36 (1) Shall include a requirement that the defendant pay a fine specified
37 by the agreement in an amount equal to an amount authorized by K.S.A.
38 21-6421, and amendments thereto; and

39 (2) may include a requirement that the defendant enter into and
40 complete a suitable educational or treatment program regarding
41 commercial sexual exploitation.

42 (k) Except diversion agreements reported under subsection (l), the
43 attorney general or county or district attorney shall forward to the Kansas

1 bureau of investigation a copy of the diversion agreement at the time such
2 agreement is filed with the district court. The copy of the agreement shall
3 be made available upon request to the attorney general or any county,
4 district or city attorney or court.

5 (l) At the time of filing the diversion agreement with the district
6 court, the attorney general or county or district attorney shall forward to
7 the division of vehicles of the state department of revenue a copy of any
8 diversion agreement entered into in lieu of further criminal proceedings on
9 a complaint alleging a violation of K.S.A. 8-1567, and amendments
10 thereto. The copy of the agreement shall be made available upon request to
11 the attorney general or any county, district or city attorney or court.

12 Sec. 6. K.S.A. 8-2,144, 12-4416 and 22-2909 and K.S.A. 2025 Supp.
13 8-1567 are hereby repealed.

14 Sec. 7. This act shall take effect and be in force from and after its
15 publication in the statute book.