

HOUSE BILL No. 2118

By Committee on Corrections and Juvenile Justice

1-27

1 AN ACT concerning crimes, criminal procedure and punishment; relating
2 to supervision fees for appearance bonds; amending K.S.A. 2010 Supp.
3 **21-4603d and 22-2802** and section 244 of chapter 136 of the 2010
4 Session Laws of Kansas and repealing the existing sections.
5

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

7 **Section 1. K.S.A. 2010 Supp. 21-4603d is hereby amended to read**
8 **as follows: 21-4603d. (a) Whenever any person has been found guilty**
9 **of a crime, the court may adjudge any of the following:**

10 **(1) Commit the defendant to the custody of the secretary of**
11 **corrections if the current crime of conviction is a felony and the**
12 **sentence presumes imprisonment, or the sentence imposed is a**
13 **dispositional departure to imprisonment; or, if confinement is for a**
14 **misdemeanor, to jail for the term provided by law;**

15 **(2) impose the fine applicable to the offense;**

16 **(3) release the defendant on probation if the current crime of**
17 **conviction and criminal history fall within a presumptive nonprison**
18 **category or through a departure for substantial and compelling**
19 **reasons subject to such conditions as the court may deem appropriate.**
20 **In felony cases except for violations of K.S.A. 8-1567, and amendments**
21 **thereto, the court may include confinement in a county jail not to**
22 **exceed 60 days, which need not be served consecutively, as a condition**
23 **of an original probation sentence and up to 60 days in a county jail**
24 **upon each revocation of the probation sentence, or community**
25 **corrections placement;**

26 **(4) assign the defendant to a community correctional services**
27 **program as provided in K.S.A. 75-5291, and amendments thereto, or**
28 **through a departure for substantial and compelling reasons subject to**
29 **such conditions as the court may deem appropriate, including orders**
30 **requiring full or partial restitution;**

31 **(5) assign the defendant to a conservation camp for a period not**
32 **to exceed six months as a condition of probation followed by a six-**
33 **month period of follow-up through adult intensive supervision by a**
34 **community correctional services program, if the offender successfully**

1 completes the conservation camp program;

2 (6) assign the defendant to a house arrest program pursuant to
3 K.S.A. 21-4603b and amendments thereto;

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

7 (8) order the defendant to repay the amount of any reward paid
8 by any crime stoppers chapter, individual, corporation or public entity
9 which materially aided in the apprehension or conviction of the
10 defendant; repay the amount of any costs and expenses incurred by
11 any law enforcement agency in the apprehension of the defendant, if
12 one of the current crimes of conviction of the defendant includes
13 escape, as defined in K.S.A. 21-3809, and amendments thereto, or
14 aggravated escape, as defined in K.S.A. 21-3810, and amendments
15 thereto; repay expenses incurred by a fire district, fire department or
16 fire company responding to a fire which has been determined to be
17 arson under K.S.A. 21-3718 or 21-3719, and amendments thereto, if
18 the defendant is convicted of such crime; repay the amount of any
19 public funds utilized by a law enforcement agency to purchase
20 controlled substances from the defendant during the investigation
21 which leads to the defendant's conviction; or repay the amount of any
22 medical costs and expenses incurred by any law enforcement agency
23 or county. Such repayment of the amount of any such costs and
24 expenses incurred by a county, law enforcement agency, fire district,
25 fire department or fire company or any public funds utilized by a law
26 enforcement agency shall be deposited and credited to the same fund
27 from which the public funds were credited to prior to use by the
28 county, law enforcement agency, fire district, fire department or fire
29 company;

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

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

35 (11) if the defendant is convicted of a misdemeanor or *convicted of*
36 a felony ~~provision of~~ *specified in* subsection (i) of K.S.A. 21-4704, and
37 amendments thereto, assign the defendant to a work release program,
38 other than a program at a correctional institution under the control of
39 the secretary of corrections as defined in K.S.A. 75-5202, and
40 amendments thereto, provided such work release program requires
41 such defendant to return to confinement at the end of each day in the
42 work release program;

43 (12) *pay the full amount of unpaid costs associated with the*

1 *conditions of release of the appearance bond under K.S.A. 22-2802, and*
2 *amendments thereto;*

3 ~~(12)~~ (13) **impose any appropriate combination of (1), (2), (3), (4),**
4 **(5), (6), (7), (8), (9), (10), and (11) and (12); or**

5 ~~(13)~~ (14) **suspend imposition of sentence in misdemeanor cases.**

6 **(b) (1) In addition to or in lieu of any of the above, the court shall**
7 **order the defendant to pay restitution, which shall include, but not be**
8 **limited to, damage or loss caused by the defendant's crime, unless the**
9 **court finds compelling circumstances which would render a plan of**
10 **restitution unworkable. In regard to a violation of K.S.A. 21-4018, and**
11 **amendments thereto, such damage or loss shall include, but not be**
12 **limited to, attorney fees and costs incurred to repair the credit history**
13 **or rating of the person whose personal identification documents were**
14 **obtained and used in violation of such section, and to satisfy a debt,**
15 **lien or other obligation incurred by the person whose personal**
16 **identification documents were obtained and used in violation of such**
17 **section. If the court finds a plan of restitution unworkable, the court**
18 **shall state on the record in detail the reasons therefor.**

19 **(2) If the court orders restitution, the restitution shall be a**
20 **judgment against the defendant which may be collected by the court**
21 **by garnishment or other execution as on judgments in civil cases. If,**
22 **after 60 days from the date restitution is ordered by the court, a**
23 **defendant is found to be in noncompliance with the plan established**
24 **by the court for payment of restitution, and the victim to whom**
25 **restitution is ordered paid has not initiated proceedings in accordance**
26 **with K.S.A. 60-4301 et seq., and amendments thereto, the court shall**
27 **assign an agent procured by the attorney general pursuant to K.S.A.**
28 **75-719, and amendments thereto, to collect the restitution on behalf of**
29 **the victim. The administrative judge of each judicial district may**
30 **assign such cases to an appropriate division of the court for the**
31 **conduct of civil collection proceedings.**

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

36 **(d) In addition to any of the above, the court shall order the**
37 **defendant to reimburse the county general fund for all or a part of the**
38 **expenditures by the county to provide counsel and other defense**
39 **services to the defendant. Any such reimbursement to the county shall**
40 **be paid only after any order for restitution has been paid in full. In**
41 **determining the amount and method of payment of such sum, the**
42 **court shall take account of the financial resources of the defendant**
43 **and the nature of the burden that payment of such sum will impose. A**

1 defendant who has been required to pay such sum and who is not
2 willfully in default in the payment thereof may at any time petition the
3 court which sentenced the defendant to waive payment of such sum or
4 any unpaid portion thereof. If it appears to the satisfaction of the
5 court that payment of the amount due will impose manifest hardship
6 on the defendant or the defendant's immediate family, the court may
7 waive payment of all or part of the amount due or modify the method
8 of payment.

9 (e) In imposing a fine the court may authorize the payment
10 thereof in installments. In releasing a defendant on probation, the
11 court shall direct that the defendant be under the supervision of a
12 court services officer. If the court commits the defendant to the
13 custody of the secretary of corrections or to jail, the court may specify
14 in its order the amount of restitution to be paid and the person to
15 whom it shall be paid if restitution is later ordered as a condition of
16 parole, conditional release or postrelease supervision.

17 (f) (1) When a new felony is committed while the offender is
18 incarcerated and serving a sentence for a felony, or while the offender
19 is on probation, assignment to a community correctional services
20 program, parole, conditional release, or postrelease supervision for a
21 felony, a new sentence shall be imposed pursuant to the consecutive
22 sentencing requirements of K.S.A. 21-4608, and amendments thereto,
23 and the court may sentence the offender to imprisonment for the new
24 conviction, even when the new crime of conviction otherwise presumes
25 a nonprison sentence. In this event, imposition of a prison sentence for
26 the new crime does not constitute a departure.

27 (2) When a new felony is committed while the offender is
28 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-
29 1671, prior to its repeal, or K.S.A. 2010 Supp. 38-2373, and
30 amendments thereto, for an offense, which if committed by an adult
31 would constitute the commission of a felony, upon conviction, the
32 court shall sentence the offender to imprisonment for the new
33 conviction, even when the new crime of conviction otherwise presumes
34 a nonprison sentence. In this event, imposition of a prison sentence for
35 the new crime does not constitute a departure. The conviction shall
36 operate as a full and complete discharge from any obligations, except
37 for an order of restitution, imposed on the offender arising from the
38 offense for which the offender was committed to a juvenile
39 correctional facility.

40 (3) When a new felony is committed while the offender is on
41 release for a felony pursuant to the provisions of article 28 of chapter
42 22 of the Kansas Statutes Annotated, *and amendments thereto*, or
43 similar provisions of the laws of another jurisdiction, a new sentence

1 may be imposed pursuant to the consecutive sentencing requirements
2 of K.S.A. 21-4608, and amendments thereto, and the court may
3 sentence the offender to imprisonment for the new conviction, even
4 when the new crime of conviction otherwise presumes a nonprison
5 sentence. In this event, imposition of a prison sentence for the new
6 crime does not constitute a departure.

7 (g) Prior to imposing a dispositional departure for a defendant
8 whose offense is classified in the presumptive nonprison grid block of
9 either sentencing guideline grid, prior to sentencing a defendant to
10 incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G
11 of the sentencing guidelines grid for nondrug crimes or in grid blocks
12 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug
13 crimes, prior to sentencing a defendant to incarceration whose offense
14 is classified in grid blocks 4-E or 4-F of the sentencing guideline grid
15 for drug crimes and whose offense does not meet the requirements of
16 K.S.A. 21-4729, and amendments thereto, prior to revocation of a
17 nonprison sanction of a defendant whose offense is classified in grid
18 blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and
19 whose offense does not meet the requirements of K.S.A. 21-4729, and
20 amendments thereto, or prior to revocation of a nonprison sanction of
21 a defendant whose offense is classified in the presumptive nonprison
22 grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or
23 6-G of the sentencing guidelines grid for nondrug crimes or in grid
24 blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for
25 drug crimes, the court shall consider placement of the defendant in the
26 Labette correctional conservation camp, conservation camps
27 established by the secretary of corrections pursuant to K.S.A. 75-
28 52,127, and amendment thereto or a community intermediate sanction
29 center. Pursuant to this paragraph the defendant shall not be
30 sentenced to imprisonment if space is available in a conservation camp
31 or a community intermediate sanction center and the defendant meets
32 all of the conservation camp's or a community intermediate sanction
33 center's placement criteria unless the court states on the record the
34 reasons for not placing the defendant in a conservation camp or a
35 community intermediate sanction center.

36 (h) The court in committing a defendant to the custody of the
37 secretary of corrections shall fix a term of confinement within the
38 limits provided by law. In those cases where the law does not fix a
39 term of confinement for the crime for which the defendant was
40 convicted, the court shall fix the term of such confinement.

41 (i) In addition to any of the above, the court shall order the
42 defendant to reimburse the state general fund for all or a part of the
43 expenditures by the state board of indigents' defense services to

1 provide counsel and other defense services to the defendant. In
2 determining the amount and method of payment of such sum, the
3 court shall take account of the financial resources of the defendant
4 and the nature of the burden that payment of such sum will impose. A
5 defendant who has been required to pay such sum and who is not
6 willfully in default in the payment thereof may at any time petition the
7 court which sentenced the defendant to waive payment of such sum or
8 any unpaid portion thereof. If it appears to the satisfaction of the
9 court that payment of the amount due will impose manifest hardship
10 on the defendant or the defendant's immediate family, the court may
11 waive payment of all or part of the amount due or modify the method
12 of payment. The amount of attorney fees to be included in the court
13 order for reimbursement shall be the amount claimed by appointed
14 counsel on the payment voucher for indigents' defense services or the
15 amount prescribed by the board of indigents' defense services
16 reimbursement tables as provided in K.S.A. 22-4522, and amendments
17 thereto, whichever is less.

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

22 (k) An application for or acceptance of probation or assignment
23 to a community correctional services program shall not constitute an
24 acquiescence in the judgment for purpose of appeal, and any
25 convicted person may appeal from such conviction, as provided by
26 law, without regard to whether such person has applied for probation,
27 suspended sentence or assignment to a community correctional
28 services program.

29 (l) The secretary of corrections is authorized to make direct
30 placement to the Labette correctional conservation camp or a
31 conservation camp established by the secretary pursuant to K.S.A. 75-
32 52,127, and amendments thereto, of an inmate sentenced to the
33 secretary's custody if the inmate: (1) Has been sentenced to the
34 secretary for a probation revocation, as a departure from the
35 presumptive nonimprisonment grid block of either sentencing grid,
36 for an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the
37 sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-
38 F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, or
39 for an offense which is classified in gridblocks 4-E or 4-F of the
40 sentencing guidelines grid for drug crimes and such offense does not
41 meet the requirements of K.S.A. 21-4729, and amendments thereto,
42 and (2) otherwise meets admission criteria of the camp. If the inmate
43 successfully completes a conservation camp program, the secretary of

1 corrections shall report such completion to the sentencing court and
2 the county or district attorney. The inmate shall then be assigned by
3 the court to six months of follow-up supervision conducted by the
4 appropriate community corrections services program. The court may
5 also order that supervision continue thereafter for the length of time
6 authorized by K.S.A. 21-4611, and amendments thereto.

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

10 (n) Except as provided by subsection (f) of K.S.A. 21-4705, and
11 amendments thereto, in addition to any of the above, for felony
12 violations of K.S.A. 2010 Supp. 21-36a06, and amendments thereto,
13 the court shall require the defendant who meets the requirements
14 established in K.S.A. 21-4729, and amendments thereto, to participate
15 in a certified drug abuse treatment program, as provided in K.S.A.
16 2010 Supp. 75-52,144, and amendments thereto, including but not
17 limited to, an approved after-care plan. If the defendant fails to
18 participate in or has a pattern of intentional conduct that
19 demonstrates the offender's refusal to comply with or participate in
20 the treatment program, as established by judicial finding, the
21 defendant shall be subject to revocation of probation and the
22 defendant shall serve the underlying prison sentence as established in
23 K.S.A. 21-4705, and amendments thereto. For those offenders who are
24 convicted on or after the effective date of this act, upon completion of
25 the underlying prison sentence, the defendant shall not be subject to a
26 period of postrelease supervision. The amount of time spent
27 participating in such program shall not be credited as service on the
28 underlying prison sentence.

29 (o) (1) Except as provided in paragraph (3), in addition to any
30 other penalty or disposition imposed by law, upon a conviction for
31 unlawful possession of a controlled substance or controlled substance
32 analog in violation of K.S.A. 2010 Supp. 21-36a06, and amendments
33 thereto, in which the trier of fact makes a finding that the unlawful
34 possession occurred while transporting the controlled substance or
35 controlled substance analog in any vehicle upon a highway or street,
36 the offender's driver's license or privilege to operate a motor vehicle
37 on the streets and highways of this state shall be suspended for one
38 year.

39 (2) Upon suspension of a license pursuant to this subsection, the
40 court shall require the person to surrender the license to the court,
41 which shall transmit the license to the division of motor vehicles of the
42 department of revenue, to be retained until the period of suspension
43 expires. At that time, the licensee may apply to the division for return

1 of the license. If the license has expired, the person may apply for a
2 new license, which shall be issued promptly upon payment of the
3 proper fee and satisfaction of other conditions established by law for
4 obtaining a license unless another suspension or revocation of the
5 person's privilege to operate a motor vehicle is in effect.

6 (3) (A) In lieu of suspending the driver's license or privilege to
7 operate a motor vehicle on the highways of this state of any person as
8 provided in paragraph (1), the judge of the court in which such person
9 was convicted may enter an order which places conditions on such
10 person's privilege of operating a motor vehicle on the highways of this
11 state, a certified copy of which such person shall be required to carry
12 any time such person is operating a motor vehicle on the highways of
13 this state. Any such order shall prescribe the duration of the
14 conditions imposed, which in no event shall be for a period of more
15 than one year.

16 (B) Upon entering an order restricting a person's license
17 hereunder, the judge shall require such person to surrender such
18 person's driver's license to the judge who shall cause it to be
19 transmitted to the division of vehicles, together with a copy of the
20 order. Upon receipt thereof, the division of vehicles shall issue without
21 charge a driver's license which shall indicate on its face that
22 conditions have been imposed on such person's privilege of operating
23 a motor vehicle and that a certified copy of the order imposing such
24 conditions is required to be carried by the person for whom the license
25 was issued any time such person is operating a motor vehicle on the
26 highways of this state. If the person convicted is a nonresident, the
27 judge shall cause a copy of the order to be transmitted to the division
28 and the division shall forward a copy of it to the motor vehicle
29 administrator, of such person's state of residence. Such judge shall
30 furnish to any person whose driver's license has had conditions
31 imposed on it under this paragraph a copy of the order, which shall be
32 recognized as a valid Kansas driver's license until such time as the
33 division shall issue the restricted license provided for in this
34 paragraph.

35 (C) Upon expiration of the period of time for which conditions
36 are imposed pursuant to this subsection, the licensee may apply to the
37 division for the return of the license previously surrendered by such
38 licensee. In the event such license has expired, such person may apply
39 to the division for a new license, which shall be issued immediately by
40 the division upon payment of the proper fee and satisfaction of the
41 other conditions established by law, unless such person's privilege to
42 operate a motor vehicle on the highways of this state has been
43 suspended or revoked prior thereto. If any person shall violate any of

1 the conditions imposed under this paragraph, such person's driver's
2 license or privilege to operate a motor vehicle on the highways of this
3 state shall be revoked for a period of not less than 60 days nor more
4 than one year by the judge of the court in which such person is
5 convicted of violating such conditions.

6 (4) As used in this subsection, "highway" and "street" have the
7 meanings provided by K.S.A. 8-1424 and 8-1473, and amendments
8 thereto.

9 ~~Section 4.~~ **Sec. 2.** K.S.A. 2010 Supp. 22-2802 is hereby amended to
10 read as follows: 22-2802. (1) Any person charged with a crime shall, at
11 the person's first appearance before a magistrate, be ordered released
12 pending preliminary examination or trial upon the execution of an
13 appearance bond in an amount specified by the magistrate and sufficient to
14 assure the appearance of such person before the magistrate when ordered
15 and to assure the public safety. If the person is being bound over for a
16 felony, the bond shall also be conditioned on the person's appearance in the
17 district court or by way of a two-way electronic audio-video
18 communication as provided in subsection (14) at the time required by the
19 court to answer the charge against such person and at any time thereafter
20 that the court requires. Unless the magistrate makes a specific finding
21 otherwise, if the person is being bonded out for a person felony or a person
22 misdemeanor, the bond shall be conditioned on the person being prohibited
23 from having any contact with the alleged victim of such offense for a
24 period of at least 72 hours. The magistrate may impose such of the
25 following additional conditions of release as will reasonably assure the
26 appearance of the person for preliminary examination or trial:

27 (a) Place the person in the custody of a designated person or
28 organization agreeing to supervise such person;

29 (b) place restrictions on the travel, association or place of abode of
30 the person during the period of release;

31 (c) impose any other condition deemed reasonably necessary to
32 assure appearance as required, including a condition requiring that the
33 person return to custody during specified hours;

34 (d) place the person under a house arrest program pursuant to K.S.A.
35 21-4603b, and amendments thereto; or

36 (e) place the person under the supervision of a court services officer
37 responsible for monitoring the person's compliance with any conditions of
38 release ordered by the magistrate. *The magistrate may order the person to*
39 *pay for any costs associated with the supervision provided by the court*
40 *services department in an amount not to exceed \$15 per week of such*
41 *supervision. The magistrate may also order the person to pay for all*
42 *other costs associated with the supervision and conditions for*
43 *compliance in addition to the \$15 per week.*

1 (2) In addition to any conditions of release provided in subsection (1),
2 for any person charged with a felony, the magistrate may order such
3 person to submit to a drug *and alcohol* abuse examination and evaluation
4 in a public or private treatment facility or state institution and, if
5 determined by the head of such facility or institution that such person is a
6 drug *or alcohol* abuser or *is* incapacitated by drugs *or alcohol*, to submit to
7 treatment for such drug *or alcohol* abuse, as a condition of release.

8 (3) The appearance bond shall be executed with sufficient solvent
9 sureties who are residents of the state of Kansas, unless the magistrate
10 determines, in the exercise of such magistrate's discretion, that requiring
11 sureties is not necessary to assure the appearance of the person at the time
12 ordered.

13 (4) A deposit of cash in the amount of the bond may be made in lieu
14 of the execution of the bond pursuant to paragraph (3). Except as provided
15 in paragraph (5), such deposit shall be in the full amount of the bond and
16 in no event shall a deposit of cash in less than the full amount of bond be
17 permitted. Any person charged with a crime who is released on a cash
18 bond shall be entitled to a refund of all moneys paid for the cash bond,
19 after deduction of any outstanding restitution, costs, fines and fees, after
20 the final disposition of the criminal case if the person complies with all
21 requirements to appear in court. The court may not exclude the option of
22 posting bond pursuant to paragraph (3).

23 (5) Except as provided further, the amount of the appearance bond
24 shall be the same whether executed as described in subsection (3) or
25 posted with a deposit of cash as described in subsection (4). When the
26 appearance bond has been set at \$2,500 or less and the most serious charge
27 against the person is a misdemeanor, a severity level 8, 9 or 10 nonperson
28 felony, a drug severity level 4 felony or a violation of K.S.A. 8-1567, and
29 amendments thereto, the magistrate may allow the person to deposit cash
30 with the clerk in the amount of 10% of the bond, provided the person
31 meets at least the following qualifications:

- 32 (A) Is a resident of the state of Kansas;
- 33 (B) has a criminal history score category of G, H or I;
- 34 (C) has no prior history of failure to appear for any court
35 appearances;
- 36 (D) has no detainer or hold from any other jurisdiction;
- 37 (E) has not been extradited from, and is not awaiting extradition to,
38 another state; and
- 39 (F) has not been detained for an alleged violation of probation.

40 (6) In the discretion of the court, a person charged with a crime may
41 be released upon the person's own recognizance by guaranteeing payment
42 of the amount of the bond for the person's failure to comply with all
43 requirements to appear in court. The release of a person charged with a

1 crime upon the person's own recognizance shall not require the deposit of
2 any cash by the person.

3 (7) The court shall not impose any administrative fee.

4 (8) In determining which conditions of release will reasonably assure
5 appearance and the public safety, the magistrate shall, on the basis of
6 available information, take into account the nature and circumstances of
7 the crime charged; the weight of the evidence against the defendant; the
8 defendant's family ties, employment, financial resources, character, mental
9 condition, length of residence in the community, record of convictions,
10 record of appearance or failure to appear at court proceedings or of flight
11 to avoid prosecution; the likelihood or propensity of the defendant to
12 commit crimes while on release, including whether the defendant will be
13 likely to threaten, harass or cause injury to the victim of the crime or any
14 witnesses thereto; and whether the defendant is on probation or parole
15 from a previous offense at the time of the alleged commission of the
16 subsequent offense.

17 (9) The appearance bond shall set forth all of the conditions of
18 release.

19 (10) A person for whom conditions of release are imposed and who
20 continues to be detained as a result of the person's inability to meet the
21 conditions of release shall be entitled, upon application, to have the
22 conditions reviewed without unnecessary delay by the magistrate who
23 imposed them. If the magistrate who imposed conditions of release is not
24 available, any other magistrate in the county may review such conditions.

25 (11) A magistrate ordering the release of a person on any conditions
26 specified in this section may at any time amend the order to impose
27 additional or different conditions of release. If the imposition of additional
28 or different conditions results in the detention of the person, the provisions
29 of subsection (10) shall apply.

30 (12) Statements or information offered in determining the conditions
31 of release need not conform to the rules of evidence. No statement or
32 admission of the defendant made at such a proceeding shall be received as
33 evidence in any subsequent proceeding against the defendant.

34 (13) The appearance bond and any security required as a condition of
35 the defendant's release shall be deposited in the office of the magistrate or
36 the clerk of the court where the release is ordered. If the defendant is
37 bound to appear before a magistrate or court other than the one ordering
38 the release, the order of release, together with the bond and security shall
39 be transmitted to the magistrate or clerk of the court before whom the
40 defendant is bound to appear.

41 (14) Proceedings before a magistrate as provided in this section to
42 determine the release conditions of a person charged with a crime
43 including release upon execution of an appearance bond may be conducted

1 by two-way electronic audio-video communication between the defendant
2 and the judge in lieu of personal presence of the defendant or defendant's
3 counsel in the courtroom in the discretion of the court. The defendant may
4 be accompanied by the defendant's counsel. The defendant shall be
5 informed of the defendant's right to be personally present in the courtroom
6 during such proceeding if the defendant so requests. Exercising the right to
7 be present shall in no way prejudice the defendant.

8 (15) The magistrate may order the person to pay for any costs
9 associated with the supervision of the conditions of release of the
10 appearance bond in an amount not to exceed \$15 per week of such
11 supervision. *As a condition of sentencing under section 244 of chapter 136*
12 *of the 2010 Session Laws of Kansas, and amendments thereto, the court*
13 *may impose the full amount of any such costs in excess of addition to the*
14 *\$15 per week, including, but not limited to, costs for treatment and*
15 *evaluation under subsection (2).*

16 ~~Sec. 2.~~ **3. On and after July 1, 2011**, section 244 of chapter 136 of
17 the 2010 Session Laws of Kansas is hereby amended to read as follows:
18 Sec. 244. (a) Whenever any person has been found guilty of a crime, the
19 court may adjudge any of the following:

20 (1) Commit the defendant to the custody of the secretary of
21 corrections if the current crime of conviction is a felony and the sentence
22 presumes imprisonment, or the sentence imposed is a dispositional
23 departure to imprisonment; or, if confinement is for a misdemeanor, to jail
24 for the term provided by law;

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

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

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

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

1 conservation camp program;

2 (6) assign the defendant to a house arrest program pursuant to section
3 249 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
4 thereto;

5 (7) order the defendant to attend and satisfactorily complete an
6 alcohol or drug education or training program as provided by subsection
7 (c) of section 242 of chapter 136 of the 2010 Session Laws of Kansas, and
8 amendments thereto;

9 (8) order the defendant to repay the amount of any reward paid by any
10 crime stoppers chapter, individual, corporation or public entity which
11 materially aided in the apprehension or conviction of the defendant; repay
12 the amount of any costs and expenses incurred by any law enforcement
13 agency in the apprehension of the defendant, if one of the current crimes
14 of conviction of the defendant includes escape or aggravated escape, as
15 defined in section 136 of chapter 136 of the 2010 Session Laws of Kansas,
16 and amendments thereto; repay expenses incurred by a fire district, fire
17 department or fire company responding to a fire which has been
18 determined to be arson under section 98 of chapter 136 of the 2010
19 Session Laws of Kansas, and amendments thereto, if the defendant is
20 convicted of such crime; repay the amount of any public funds utilized by
21 a law enforcement agency to purchase controlled substances from the
22 defendant during the investigation which leads to the defendant's
23 conviction; or repay the amount of any medical costs and expenses
24 incurred by any law enforcement agency or county. Such repayment of the
25 amount of any such costs and expenses incurred by a county, law
26 enforcement agency, fire district, fire department or fire company or any
27 public funds utilized by a law enforcement agency shall be deposited and
28 credited to the same fund from which the public funds were credited to
29 prior to use by the county, law enforcement agency, fire district, fire
30 department or fire company;

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

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

35 (11) pay the full amount of unpaid costs associated with the
36 conditions of release of the appearance bond under K.S.A. 22-2802, and
37 amendments thereto;

38 ~~(11)~~(12) impose any appropriate combination of (1), (2), (3), (4), (5),
39 (6), (7), (8), (9), ~~and~~ (10) and (11); or

40 ~~(12)~~(13) suspend imposition of sentence in misdemeanor cases.

41 (b) (1) In addition to or in lieu of any of the above, the court shall
42 order the defendant to pay restitution, which shall include, but not be
43 limited to, damage or loss caused by the defendant's crime, unless the

1 court finds compelling circumstances which would render a plan of
2 restitution unworkable. In regard to a violation of section 177 *of chapter*
3 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, such
4 damage or loss shall include, but not be limited to, attorney fees and costs
5 incurred to repair the credit history or rating of the person whose personal
6 identification documents were obtained and used in violation of such
7 section, and to satisfy a debt, lien or other obligation incurred by the
8 person whose personal identification documents were obtained and used in
9 violation of such section. If the court finds a plan of restitution
10 unworkable, the court shall state on the record in detail the reasons
11 therefor.

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

24 (c) In addition to or in lieu of any of the above, the court shall order
25 the defendant to submit to and complete an alcohol and drug evaluation,
26 and pay a fee therefor, when required by subsection (d) of section 242 *of*
27 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

28 (d) In addition to any of the above, the court shall order the defendant
29 to reimburse the county general fund for all or a part of the expenditures
30 by the county to provide counsel and other defense services to the
31 defendant. Any such reimbursement to the county shall be paid only after
32 any order for restitution has been paid in full. In determining the amount
33 and method of payment of such sum, the court shall take account of the
34 financial resources of the defendant and the nature of the burden that
35 payment of such sum will impose. A defendant who has been required to
36 pay such sum and who is not willfully in default in the payment thereof
37 may at any time petition the court which sentenced the defendant to waive
38 payment of such sum or any unpaid portion thereof. If it appears to the
39 satisfaction of the court that payment of the amount due will impose
40 manifest hardship on the defendant or the defendant's immediate family,
41 the court may waive payment of all or part of the amount due or modify
42 the method of payment.

43 (e) In imposing a fine the court may authorize the payment thereof in

1 installments. In releasing a defendant on probation, the court shall direct
2 that the defendant be under the supervision of a court services officer. If
3 the court commits the defendant to the custody of the secretary of
4 corrections or to jail, the court may specify in its order the amount of
5 restitution to be paid and the person to whom it shall be paid if restitution
6 is later ordered as a condition of parole, conditional release or postrelease
7 supervision.

8 (f) (1) When a new felony is committed while the offender is
9 incarcerated and serving a sentence for a felony, or while the offender is on
10 probation, assignment to a community correctional services program,
11 parole, conditional release or postrelease supervision for a felony, a new
12 sentence shall be imposed pursuant to the consecutive sentencing
13 requirements of section 246 of *chapter 136 of the 2010 Session Laws of*
14 *Kansas*, and amendments thereto, and the court may sentence the offender
15 to imprisonment for the new conviction, even when the new crime of
16 conviction otherwise presumes a nonprison sentence. In this event,
17 imposition of a prison sentence for the new crime does not constitute a
18 departure.

19 (2) When a new felony is committed while the offender is
20 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671
21 prior to its repeal or K.S.A. ~~2009~~2010 Supp. 38-2373, and amendments
22 thereto, for an offense, which if committed by an adult would constitute
23 the commission of a felony, upon conviction, the court shall sentence the
24 offender to imprisonment for the new conviction, even when the new
25 crime of conviction otherwise presumes a nonprison sentence. In this
26 event, imposition of a prison sentence for the new crime does not
27 constitute a departure. The conviction shall operate as a full and complete
28 discharge from any obligations, except for an order of restitution, imposed
29 on the offender arising from the offense for which the offender was
30 committed to a juvenile correctional facility.

31 (3) When a new felony is committed while the offender is on release
32 for a felony pursuant to the provisions of article 28 of chapter 22 of the
33 Kansas Statutes Annotated, and amendments thereto, or similar provisions
34 of the laws of another jurisdiction, a new sentence may be imposed
35 pursuant to the consecutive sentencing requirements of section 246 of
36 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,
37 and the court may sentence the offender to imprisonment for the new
38 conviction, even when the new crime of conviction otherwise presumes a
39 nonprison sentence. In this event, imposition of a prison sentence for the
40 new crime does not constitute a departure.

41 (g) Prior to imposing a dispositional departure for a defendant whose
42 offense is classified in the presumptive nonprison grid block of either
43 sentencing guideline grid, prior to sentencing a defendant to incarceration

1 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing
2 guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or
3 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a
4 defendant to incarceration whose offense is classified in grid blocks 4-E or
5 4-F of the sentencing guideline grid for drug crimes and whose offense
6 does not meet the requirements of section 305 of chapter 136 of the 2010
7 Session Laws of Kansas, and amendments thereto, prior to revocation of a
8 nonprison sanction of a defendant whose offense is classified in grid
9 blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and
10 whose offense does not meet the requirements of section 305 of chapter
11 136 of the 2010 Session Laws of Kansas, and amendments thereto, or prior
12 to revocation of a nonprison sanction of a defendant whose offense is
13 classified in the presumptive nonprison grid block of either sentencing
14 guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines
15 grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the
16 sentencing guidelines grid for drug crimes, the court shall consider
17 placement of the defendant in the Labette correctional conservation camp,
18 conservation camps established by the secretary of corrections pursuant to
19 K.S.A. 75-52,127, and amendment thereto, or a community intermediate
20 sanction center. Pursuant to this paragraph the defendant shall not be
21 sentenced to imprisonment if space is available in a conservation camp or
22 a community intermediate sanction center and the defendant meets all of
23 the conservation camp's or a community intermediate sanction center's
24 placement criteria unless the court states on the record the reasons for not
25 placing the defendant in a conservation camp or a community intermediate
26 sanction center.

27 (h) The court in committing a defendant to the custody of the
28 secretary of corrections shall fix a term of confinement within the limits
29 provided by law. In those cases where the law does not fix a term of
30 confinement for the crime for which the defendant was convicted, the
31 court shall fix the term of such confinement.

32 (i) In addition to any of the above, the court shall order the defendant
33 to reimburse the state general fund for all or a part of the expenditures by
34 the state board of indigents' defense services to provide counsel and other
35 defense services to the defendant. In determining the amount and method
36 of payment of such sum, the court shall take account of the financial
37 resources of the defendant and the nature of the burden that payment of
38 such sum will impose. A defendant who has been required to pay such sum
39 and who is not willfully in default in the payment thereof may at any time
40 petition the court which sentenced the defendant to waive payment of such
41 sum or any unpaid portion thereof. If it appears to the satisfaction of the
42 court that payment of the amount due will impose manifest hardship on the
43 defendant or the defendant's immediate family, the court may waive

1 payment of all or part of the amount due or modify the method of
2 payment. The amount of attorney fees to be included in the court order for
3 reimbursement shall be the amount claimed by appointed counsel on the
4 payment voucher for indigents' defense services or the amount prescribed
5 by the board of indigents' defense services reimbursement tables as
6 provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

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

11 (k) An application for or acceptance of probation or assignment to a
12 community correctional services program shall not constitute an
13 acquiescence in the judgment for purpose of appeal, and any convicted
14 person may appeal from such conviction, as provided by law, without
15 regard to whether such person has applied for probation, suspended
16 sentence or assignment to a community correctional services program.

17 (l) The secretary of corrections is authorized to make direct placement
18 to the Labette correctional conservation camp or a conservation camp
19 established by the secretary pursuant to K.S.A. 75-52,127, and
20 amendments thereto, of an inmate sentenced to the secretary's custody if
21 the inmate: (1) Has been sentenced to the secretary for a probation
22 revocation, as a departure from the presumptive nonimprisonment grid
23 block of either sentencing grid, for an offense which is classified in grid
24 blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug
25 crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing
26 guidelines grid for drug crimes, or for an offense which is classified in grid
27 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes and
28 such offense does not meet the requirements of section 305 of *chapter 136*
29 *of the 2010 Session Laws of Kansas*, and amendments thereto, and (2)
30 otherwise meets admission criteria of the camp. If the inmate successfully
31 completes a conservation camp program, the secretary of corrections shall
32 report such completion to the sentencing court and the county or district
33 attorney. The inmate shall then be assigned by the court to six months of
34 follow-up supervision conducted by the appropriate community
35 corrections services program. The court may also order that supervision
36 continue thereafter for the length of time authorized by section 305 of
37 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.

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

41 (n) Except as provided by subsection (f) of section 286 of *chapter 136*
42 *of the 2010 Session Laws of Kansas*, and amendments thereto, in addition
43 to any of the above, for felony violations of K.S.A. 20092010 Supp. 21-

1 36a06, and amendments thereto, the court shall require the defendant who
2 meets the requirements established in section 305 of *chapter 136 of the*
3 *2010 Session Laws of Kansas*, and amendments thereto, to participate in a
4 certified drug abuse treatment program, as provided in K.S.A. ~~2009~~2010
5 Supp. 75-52,144, and amendments thereto, including, but not limited to, an
6 approved after-care plan. If the defendant fails to participate in or has a
7 pattern of intentional conduct that demonstrates the offender's refusal to
8 comply with or participate in the treatment program, as established by
9 judicial finding, the defendant shall be subject to revocation of probation
10 and the defendant shall serve the underlying prison sentence as established
11 in section 305 of *chapter 136 of the 2010 Session Laws of Kansas*, and
12 amendments thereto. For those offenders who are convicted on or after the
13 effective date of this act, upon completion of the underlying prison
14 sentence, the defendant shall not be subject to a period of postrelease
15 supervision. The amount of time spent participating in such program shall
16 not be credited as service on the underlying prison sentence.

17 (o) (1) Except as provided in paragraph (3), in addition to any other
18 penalty or disposition imposed by law, upon a conviction for unlawful
19 possession of a controlled substance or controlled substance analog in
20 violation of K.S.A. ~~2009~~2010 Supp. 21-36a06, and amendments thereto, in
21 which the trier of fact makes a finding that the unlawful possession
22 occurred while transporting the controlled substance or controlled
23 substance analog in any vehicle upon a highway or street, the offender's
24 driver's license or privilege to operate a motor vehicle on the streets and
25 highways of this state shall be suspended for one year.

26 (2) Upon suspension of a license pursuant to this subsection, the court
27 shall require the person to surrender the license to the court, which shall
28 transmit the license to the division of motor vehicles of the department of
29 revenue, to be retained until the period of suspension expires. At that time,
30 the licensee may apply to the division for return of the license. If the
31 license has expired, the person may apply for a new license, which shall be
32 issued promptly upon payment of the proper fee and satisfaction of other
33 conditions established by law for obtaining a license unless another
34 suspension or revocation of the person's privilege to operate a motor
35 vehicle is in effect.

36 (3) (A) In lieu of suspending the driver's license or privilege to
37 operate a motor vehicle on the highways of this state of any person as
38 provided in paragraph (1), the judge of the court in which such person was
39 convicted may enter an order which places conditions on such person's
40 privilege of operating a motor vehicle on the highways of this state, a
41 certified copy of which such person shall be required to carry any time
42 such person is operating a motor vehicle on the highways of this state. Any
43 such order shall prescribe the duration of the conditions imposed, which in

1 no event shall be for a period of more than one year.

2 (B) Upon entering an order restricting a person's license hereunder,
3 the judge shall require such person to surrender such person's driver's
4 license to the judge who shall cause it to be transmitted to the division of
5 vehicles, together with a copy of the order. Upon receipt thereof, the
6 division of vehicles shall issue without charge a driver's license which
7 shall indicate on its face that conditions have been imposed on such
8 person's privilege of operating a motor vehicle and that a certified copy of
9 the order imposing such conditions is required to be carried by the person
10 for whom the license was issued any time such person is operating a motor
11 vehicle on the highways of this state. If the person convicted is a
12 nonresident, the judge shall cause a copy of the order to be transmitted to
13 the division and the division shall forward a copy of it to the motor vehicle
14 administrator, of such person's state of residence. Such judge shall furnish
15 to any person whose driver's license has had conditions imposed on it
16 under this paragraph a copy of the order, which shall be recognized as a
17 valid Kansas driver's license until such time as the division shall issue the
18 restricted license provided for in this paragraph.

19 (C) Upon expiration of the period of time for which conditions are
20 imposed pursuant to this subsection, the licensee may apply to the division
21 for the return of the license previously surrendered by such licensee. In the
22 event such license has expired, such person may apply to the division for a
23 new license, which shall be issued immediately by the division upon
24 payment of the proper fee and satisfaction of the other conditions
25 established by law, unless such person's privilege to operate a motor
26 vehicle on the highways of this state has been suspended or revoked prior
27 thereto. If any person shall violate any of the conditions imposed under
28 this paragraph, such person's driver's license or privilege to operate a
29 motor vehicle on the highways of this state shall be revoked for a period of
30 not less than 60 days nor more than one year by the judge of the court in
31 which such person is convicted of violating such conditions.

32 (4) As used in this subsection, "highway" and "street" have the
33 meanings provided by K.S.A. 8-1424 and 8-1473, and amendments
34 thereto.

35 ~~Sec. 3: 4. K.S.A. 2010 Supp. 21-4603d and 22-2802 and section 244~~
36 ~~of chapter 136 of the 2010 Session Laws of Kansas are hereby repealed.~~

37 **Sec. 5. On and after July 1, 2011, section 244 of chapter 136 of the**
38 **2010 Session Laws of Kansas is hereby repealed.**

39 ~~Sec. 4: 6. This act shall take effect and be in force from and after its~~
40 ~~publication in the statute book~~ **Kansas Register.**