

HOUSE BILL No. 2724

By Committee on Judiciary

2-8

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to controlled substances; possession; amending K.S.A. 2017 Supp. 12-
3 4104, 21-5402, 21-5706, 21-5707, 21-6604, 21-6805, 21-6812, 21-
4 6813, 21-6824, 75-5291 and 75-52,144 and repealing the existing
5 sections.
6

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

8 Section 1. K.S.A. 2017 Supp. 21-5706 is hereby amended to read as
9 follows: 21-5706. (a) It shall be unlawful for any person to possess ~~any~~
10 ~~opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-~~
11 ~~4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled~~
12 ~~substance analog thereof.~~

13 ~~(b) It shall be unlawful for any person to possess any of the following~~
14 ~~controlled substances or controlled substance analogs thereof:~~

15 (1) ~~Any~~ Depressant designated in K.S.A. 65-4105(e), K.S.A. 65-
16 4107(e), K.S.A. 65-4109(b) or (c) or K.S.A. 65-4111(b), and amendments
17 thereto;

18 (2) ~~any~~ stimulant designated in K.S.A. 65-4105(f), K.S.A. 65-4107(d)
19 (2), (d)(4), (d)(5) or (f)(2) or K.S.A. 65-4109(e), and amendments thereto;

20 (3) ~~any~~ hallucinogenic drug designated in K.S.A. 65-4105(d), K.S.A.
21 65-4107(g) or K.S.A. 65-4109(g), and amendments thereto;

22 (4) ~~any~~ substance designated in K.S.A. 65-4105(g) and K.S.A. 65-
23 4111(c), (d), (e), (f) or (g), and amendments thereto;

24 (5) ~~any~~ anabolic steroids as defined in K.S.A. 65-4109(f), and
25 amendments thereto;

26 (6) ~~any~~ substance designated in K.S.A. 65-4113, and amendments
27 thereto; ~~or~~

28 (7) ~~any~~ substance designated in K.S.A. 65-4105(h), and amendments
29 thereto; *or*

30 (8) *opiates, opium or narcotic drugs, or any stimulant designated in*
31 *K.S.A. 65-4107(d)(1), (d)(3) or (f)(1), and amendments thereto.*

32 *(b) It shall be unlawful for any person to possess marijuana as*
33 *designated in K.S.A. 65-4105(d), and amendments thereto.*

34 (c) (1) Violation of subsection (a) is ~~a drug severity level 5 felony.~~

35 ~~(2) Except as provided in subsection (c)(3):~~

36 ~~(A) Violation of subsection (b) is a class A nonperson misdemeanor;~~

1 except as provided in subsection (c)(2)(B); and

2 ~~(B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug~~
3 ~~severity level 5 felony if that person has a prior conviction under such~~
4 ~~subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially~~
5 ~~similar offense from another jurisdiction, or under any city ordinance or~~
6 ~~county resolution for a substantially similar offense if the substance~~
7 ~~involved was 3, 4-methylenedioxymethamphetamine (MDMA), marijuana~~
8 ~~as designated in K.S.A. 65-4105(d), and amendments thereto, or any~~
9 ~~substance designated in K.S.A. 65-4105(h), and amendments thereto, or an~~
10 ~~analog thereof.~~

11 ~~(3) If the substance involved is marijuana, as designated in K.S.A.~~
12 ~~65-4105(d), and amendments thereto, violation of subsection (b) is a:~~

13 ~~(A) Class B nonperson misdemeanor, except as provided in (c)(3)(B)~~
14 ~~and (c)(3)(C);~~

15 ~~(B) class A nonperson misdemeanor if that person has a prior~~
16 ~~conviction under such subsection, under K.S.A. 65-4162, prior to its~~
17 ~~repeal, under a substantially similar offense from another jurisdiction, or~~
18 ~~under any city ordinance or county resolution for a substantially similar~~
19 ~~offense; and~~

20 ~~(C) drug severity level 5 felony if that person has two or more prior~~
21 ~~convictions under such subsection, under K.S.A. 65-4162, prior to its~~
22 ~~repeal, under a substantially similar offense from another jurisdiction, or~~
23 ~~under any city ordinance or county resolution for a substantially similar~~
24 ~~offense a class A nonperson misdemeanor; and~~

25 ~~(2) violation of subsection (b) is a class B nonperson misdemeanor.~~

26 ~~(d) It shall not be a defense to charges arising under this section that~~
27 ~~the defendant was acting in an agency relationship on behalf of any other~~
28 ~~party in a transaction involving a controlled substance or controlled~~
29 ~~substance analog.~~

30 ~~Sec. 2. K.S.A. 2017 Supp. 12-4104 is hereby amended to read as~~
31 ~~follows: 12-4104. (a) The municipal court of each city shall have~~
32 ~~jurisdiction to hear and determine cases involving violations of the~~
33 ~~ordinances of the city, including concurrent jurisdiction to hear and~~
34 ~~determine a violation of an ordinance when the elements of such ordinance~~
35 ~~violation are the same as the elements of a violation of one of the~~
36 ~~following state statutes and would constitute, and be punished as, a felony~~
37 ~~if charged in district court:~~

38 ~~(1) K.S.A. 8-1567, and amendments thereto, driving under the~~
39 ~~influence;~~

40 ~~(2) K.S.A. 2017 Supp. 21-5414, and amendments thereto, domestic~~
41 ~~battery;~~

42 ~~(3) K.S.A. 2017 Supp. 21-5801, and amendments thereto, theft; or~~

43 ~~(4) K.S.A. 2017 Supp. 21-5821, and amendments thereto, giving a~~

1 worthless check; ~~or~~
2 (5) ~~subsection (b)(3) of K.S.A. 2017 Supp. 21-5706, and amendments~~
3 ~~thereto, possession of marijuana.~~
4 (b) Search warrants shall not issue out of a municipal court.
5 Sec. 3. K.S.A. 2017 Supp. 21-5402 is hereby amended to read as
6 follows: 21-5402. (a) Murder in the first degree is the killing of a human
7 being committed:
8 (1) Intentionally, and with premeditation; or
9 (2) in the commission of, attempt to commit, or flight from any
10 inherently dangerous felony.
11 (b) Murder in the first degree is an off-grid person felony.
12 (c) As used in this section, an "inherently dangerous felony" means:
13 (1) Any of the following felonies, whether such felony is so distinct
14 from the homicide alleged to be a violation of subsection (a)(2) as not to
15 be an ingredient of the homicide alleged to be a violation of subsection (a)
16 (2):
17 (A) Kidnapping, as defined in ~~subsection (a) of K.S.A. 2017 Supp.~~
18 ~~21-5408(a), and amendments thereto;~~
19 (B) aggravated kidnapping, as defined in ~~subsection (b) of K.S.A.~~
20 ~~2017 Supp. 21-5408(b), and amendments thereto;~~
21 (C) robbery, as defined in ~~subsection (a) of K.S.A. 2017 Supp. 21-~~
22 ~~5420(a), and amendments thereto;~~
23 (D) aggravated robbery, as defined in ~~subsection (b) of K.S.A. 2017~~
24 ~~Supp. 21-5420(b), and amendments thereto;~~
25 (E) rape, as defined in K.S.A. 2017 Supp. 21-5503, and amendments
26 thereto;
27 (F) aggravated criminal sodomy, as defined in ~~subsection (b) of~~
28 ~~K.S.A. 2017 Supp. 21-5504(b), and amendments thereto;~~
29 (G) abuse of a child, as defined in K.S.A. 2017 Supp. 21-5602, and
30 amendments thereto;
31 (H) felony theft of property, as defined in ~~subsection (a)(1) or (a)(3)~~
32 ~~of K.S.A. 2017 Supp. 21-5801(a)(1) or (a)(3), and amendments thereto;~~
33 (I) burglary, as defined in ~~subsection (a) of K.S.A. 2017 Supp. 21-~~
34 ~~5807(a), and amendments thereto;~~
35 (J) aggravated burglary, as defined in ~~subsection (b) of K.S.A. 2017~~
36 ~~Supp. 21-5807(b), and amendments thereto;~~
37 (K) arson, as defined in ~~subsection (a) of K.S.A. 2017 Supp. 21-~~
38 ~~5812(a), and amendments thereto;~~
39 (L) aggravated arson, as defined in ~~subsection (b) of K.S.A. 2017~~
40 ~~Supp. 21-5812(b), and amendments thereto;~~
41 (M) treason, as defined in K.S.A. 2017 Supp. 21-5901, and
42 amendments thereto;
43 (N) any felony offense as provided in K.S.A. 2017 Supp. 21-5703; *or*

1 21-5705 ~~or 21-5706~~, and amendments thereto;

2 (O) any felony offense as provided in ~~subsection (a) or (b)~~ of K.S.A.
3 2017 Supp. 21-6308(a) *or (b)*, and amendments thereto;

4 (P) endangering the food supply, as defined in ~~subsection (a)~~ of
5 K.S.A. 2017 Supp. 21-6317(a), and amendments thereto;

6 (Q) aggravated endangering the food supply, as defined in ~~subsection~~
7 ~~(b)~~ of K.S.A. 2017 Supp. 21-6317(b), and amendments thereto;

8 (R) fleeing or attempting to elude a police officer, as defined in
9 ~~subsection (b)~~ of K.S.A. 8-1568(b), and amendments thereto;

10 (S) aggravated endangering a child, as defined in ~~subsection (b)(1)~~ of
11 K.S.A. 2017 Supp. 21-5601(b)(1), and amendments thereto;

12 (T) abandonment of a child, as defined in ~~subsection (a)~~ of K.S.A.
13 2017 Supp. 21-5605(a), and amendments thereto; or

14 (U) aggravated abandonment of a child, as defined in ~~subsection (b)~~
15 ~~of~~ K.S.A. 2017 Supp. 21-5605(b), and amendments thereto; and

16 (2) any of the following felonies, only when such felony is so distinct
17 from the homicide alleged to be a violation of subsection (a)(2) as to not
18 be an ingredient of the homicide alleged to be a violation of subsection (a)
19 (2):

20 (A) Murder in the first degree, as defined in subsection (a)(1);

21 (B) murder in the second degree, as defined in ~~subsection (a)(1)~~ of
22 K.S.A. 2017 Supp. 21-5403(a)(1), and amendments thereto;

23 (C) voluntary manslaughter, as defined in ~~subsection (a)(1)~~ of K.S.A.
24 2017 Supp. 21-5404(a)(1), and amendments thereto;

25 (D) aggravated assault, as defined in ~~subsection (b)~~ of K.S.A. 2017
26 Supp. 21-5412(b), and amendments thereto;

27 (E) aggravated assault of a law enforcement officer, as defined in
28 ~~subsection (d)~~ of K.S.A. 2017 Supp. 21-5412(d), and amendments thereto;

29 (F) aggravated battery, as defined in ~~subsection (b)(1)~~ of K.S.A. 2017
30 Supp. 21-5413(b)(1), and amendments thereto; or

31 (G) aggravated battery against a law enforcement officer, as defined
32 in ~~subsection (d)~~ of K.S.A. 2017 Supp. 21-5413(d), and amendments
33 thereto.

34 (d) Murder in the first degree as defined in subsection (a)(2) is an
35 alternative method of proving murder in the first degree and is not a
36 separate crime from murder in the first degree as defined in subsection (a)
37 (1). The provisions of K.S.A. 2017 Supp. 21-5109, and amendments
38 thereto, are not applicable to murder in the first degree as defined in
39 subsection (a)(2). Murder in the first degree as defined in subsection (a)(2)
40 is not a lesser included offense of murder in the first degree as defined in
41 subsection (a)(1), and is not a lesser included offense of capital murder as
42 defined in K.S.A. 2017 Supp. 21-5401, and amendments thereto. As set
43 forth in ~~subsection (b)~~ of K.S.A. 2017 Supp. 21-5109(b), and amendments

1 thereto, there are no lesser included offenses of murder in the first degree
2 under subsection (a)(2).

3 (e) The amendments to this section by ~~this act~~ *section 2 of chapter 96*
4 *of the 2013 Session Laws of Kansas* establish a procedural rule for the
5 conduct of criminal prosecutions and shall be construed and applied
6 retroactively to all cases currently pending.

7 Sec. 4. K.S.A. 2017 Supp. 21-5707 is hereby amended to read as
8 follows: 21-5707. (a) It shall be unlawful for any person to knowingly or
9 intentionally use any communication facility:

10 (1) In committing, causing, or facilitating the commission of any
11 felony under K.S.A. 2017 Supp. 21-5703; *or* 21-5705 ~~or 21-5706~~, and
12 amendments thereto; or

13 (2) in any attempt to commit, any conspiracy to commit, or any
14 criminal solicitation of any felony under K.S.A. 2017 Supp. 21-5703; *or*
15 21-5705 ~~or 21-5706~~, and amendments thereto. Each separate use of a
16 communication facility may be charged as a separate offense under this
17 subsection.

18 (b) Violation of subsection (a) is a nondrug severity level 8,
19 nonperson felony.

20 (c) As used in this section, "communication facility" means any and
21 all public and private instrumentalities used or useful in the transmission
22 of writing, signs, signals, pictures or sounds of all kinds and includes
23 telephone, wire, radio, computer, computer networks, beepers, pagers and
24 all other means of communication.

25 Sec. 5. K.S.A. 2017 Supp. 21-6604 is hereby amended to read as
26 follows: 21-6604. (a) Whenever any person has been found guilty of a
27 crime, the court may adjudge any of the following:

28 (1) Commit the defendant to the custody of the secretary of
29 corrections if the current crime of conviction is a felony and the sentence
30 presumes imprisonment, or the sentence imposed is a dispositional
31 departure to imprisonment; or, if confinement is for a misdemeanor, to jail
32 for the term provided by law;

33 (2) impose the fine applicable to the offense and may impose the
34 provisions of subsection (q);

35 (3) release the defendant on probation if the current crime of
36 conviction and criminal history fall within a presumptive nonprison
37 category or through a departure for substantial and compelling reasons
38 subject to such conditions as the court may deem appropriate. In felony
39 cases except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2017
40 Supp. 8-1025, and amendments thereto, the court may include
41 confinement in a county jail not to exceed 60 days, which need not be
42 served consecutively, as a condition of an original probation sentence;

43 (4) assign the defendant to a community correctional services

1 program as provided in K.S.A. 75-5291, and amendments thereto, or
2 through a departure for substantial and compelling reasons subject to such
3 conditions as the court may deem appropriate, including orders requiring
4 full or partial restitution;

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

10 (6) assign the defendant to a house arrest program pursuant to K.S.A.
11 2017 Supp. 21-6609, and amendments thereto;

12 (7) order the defendant to attend and satisfactorily complete an
13 alcohol or drug education or training program as provided by K.S.A. 2017
14 Supp. 21-6602(c), and amendments thereto;

15 (8) order the defendant to repay the amount of any reward paid by
16 any crime stoppers chapter, individual, corporation or public entity which
17 materially aided in the apprehension or conviction of the defendant; repay
18 the amount of any costs and expenses incurred by any law enforcement
19 agency in the apprehension of the defendant, if one of the current crimes
20 of conviction of the defendant includes escape from custody or aggravated
21 escape from custody, as defined in K.S.A. 2017 Supp. 21-5911, and
22 amendments thereto; repay expenses incurred by a fire district, fire
23 department or fire company responding to a fire which has been
24 determined to be arson or aggravated arson as defined in K.S.A. 2017
25 Supp. 21-5812, and amendments thereto, if the defendant is convicted of
26 such crime; repay the amount of any public funds utilized by a law
27 enforcement agency to purchase controlled substances from the defendant
28 during the investigation which leads to the defendant's conviction; or repay
29 the amount of any medical costs and expenses incurred by any law
30 enforcement agency or county. Such repayment of the amount of any such
31 costs and expenses incurred by a county, law enforcement agency, fire
32 district, fire department or fire company or any public funds utilized by a
33 law enforcement agency shall be deposited and credited to the same fund
34 from which the public funds were credited to prior to use by the county,
35 law enforcement agency, fire district, fire department or fire company;

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

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

40 (11) if the defendant is convicted of a misdemeanor or convicted of a
41 felony specified in K.S.A. 2017 Supp. 21-6804(i), and amendments
42 thereto, assign the defendant to work release program, other than a
43 program at a correctional institution under the control of the secretary of

1 corrections as defined in K.S.A. 75-5202, and amendments thereto,
2 provided such work release program requires such defendant to return to
3 confinement at the end of each day in the work release program. On a
4 second or subsequent conviction of K.S.A. 8-1567, and amendments
5 thereto, an offender placed into a work release program shall serve the
6 total number of hours of confinement mandated by that section;

7 (12) order the defendant to pay the full amount of unpaid costs
8 associated with the conditions of release of the appearance bond under
9 K.S.A. 22-2802, and amendments thereto;

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

12 (14) suspend imposition of sentence in misdemeanor cases.

13 (b) (1) In addition to or in lieu of any of the above, the court shall
14 order the defendant to pay restitution, which shall include, but not be
15 limited to, damage or loss caused by the defendant's crime, unless the
16 court finds compelling circumstances which would render a plan of
17 restitution unworkable. In regard to a violation of K.S.A. 2017 Supp. 21-
18 6107, and amendments thereto, such damage or loss shall include, but not
19 be limited to, attorney fees and costs incurred to repair the credit history or
20 rating of the person whose personal identification documents were
21 obtained and used in violation of such section, and to satisfy a debt, lien or
22 other obligation incurred by the person whose personal identification
23 documents were obtained and used in violation of such section. In regard
24 to a violation of K.S.A. 2017 Supp. 21-5801, 21-5807 or 21-5813, and
25 amendments thereto, such damage or loss shall include the cost of repair or
26 replacement of the property that was damaged, the reasonable cost of any
27 loss of production, crops and livestock, reasonable labor costs of any kind,
28 reasonable material costs of any kind and any reasonable costs that are
29 attributed to equipment that is used to abate or repair the damage to the
30 property. If the court finds a plan of restitution unworkable, the court shall
31 state on the record in detail the reasons therefor.

32 (2) If the court orders restitution, the restitution shall be a judgment
33 against the defendant which may be collected by the court by garnishment
34 or other execution as on judgments in civil cases. If, after 60 days from the
35 date restitution is ordered by the court, a defendant is found to be in
36 noncompliance with the plan established by the court for payment of
37 restitution, and the victim to whom restitution is ordered paid has not
38 initiated proceedings in accordance with K.S.A. 60-4301 et seq., and
39 amendments thereto, the court shall assign an agent procured by the
40 attorney general pursuant to K.S.A. 75-719, and amendments thereto, to
41 collect the restitution on behalf of the victim. The chief judge of each
42 judicial district may assign such cases to an appropriate division of the
43 court for the conduct of civil collection proceedings.

1 (c) In addition to or in lieu of any of the above, the court shall order
2 the defendant to submit to and complete an alcohol and drug evaluation,
3 and pay a fee therefor, when required by K.S.A. 2017 Supp. 21-6602(d),
4 and amendments thereto.

5 (d) In addition to any of the above, the court shall order the defendant
6 to reimburse the county general fund for all or a part of the expenditures
7 by the county to provide counsel and other defense services to the
8 defendant. Any such reimbursement to the county shall be paid only after
9 any order for restitution has been paid in full. In determining the amount
10 and method of payment of such sum, the court shall take account of the
11 financial resources of the defendant and the nature of the burden that
12 payment of such sum will impose. A defendant who has been required to
13 pay such sum and who is not willfully in default in the payment thereof
14 may at any time petition the court which sentenced the defendant to waive
15 payment of such sum or any unpaid portion thereof. If it appears to the
16 satisfaction of the court that payment of the amount due will impose
17 manifest hardship on the defendant or the defendant's immediate family,
18 the court may waive payment of all or part of the amount due or modify
19 the method of payment.

20 (e) In releasing a defendant on probation, the court shall direct that
21 the defendant be under the supervision of a court services officer. If the
22 court commits the defendant to the custody of the secretary of corrections
23 or to jail, the court may specify in its order the amount of restitution to be
24 paid and the person to whom it shall be paid if restitution is later ordered
25 as a condition of parole, conditional release or postrelease supervision.

26 (f) (1) When a new felony is committed while the offender is
27 incarcerated and serving a sentence for a felony, or while the offender is on
28 probation, assignment to a community correctional services program,
29 parole, conditional release or postrelease supervision for a felony, a new
30 sentence shall be imposed consecutively pursuant to the provisions of
31 K.S.A. 2017 Supp. 21-6606, and amendments thereto, and the court may
32 sentence the offender to imprisonment for the new conviction, even when
33 the new crime of conviction otherwise presumes a nonprison sentence. In
34 this event, imposition of a prison sentence for the new crime does not
35 constitute a departure.

36 (2) When a new felony is committed during a period of time during
37 which the defendant would have been on probation, assignment to a
38 community correctional services program, parole, conditional release or
39 postrelease supervision for a felony had the defendant not been granted
40 release by the court pursuant to K.S.A. 2017 Supp. 21-6608(d), and
41 amendments thereto, or the prisoner review board pursuant to K.S.A. 22-
42 3717, and amendments thereto, the court may sentence the offender to
43 imprisonment for the new conviction, even when the new crime of

1 conviction otherwise presumes a nonprison sentence. In this event,
2 imposition of a prison sentence for the new crime does not constitute a
3 departure.

4 (3) When a new felony is committed while the offender is
5 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671,
6 prior to its repeal, or K.S.A. 2017 Supp. 38-2373, and amendments
7 thereto, for an offense, which if committed by an adult would constitute
8 the commission of a felony, upon conviction, the court shall sentence the
9 offender to imprisonment for the new conviction, even when the new
10 crime of conviction otherwise presumes a nonprison sentence. In this
11 event, imposition of a prison sentence for the new crime does not
12 constitute a departure. The conviction shall operate as a full and complete
13 discharge from any obligations, except for an order of restitution, imposed
14 on the offender arising from the offense for which the offender was
15 committed to a juvenile correctional facility.

16 (4) When a new felony is committed while the offender is on release
17 for a felony pursuant to the provisions of article 28 of chapter 22 of the
18 Kansas Statutes Annotated, and amendments thereto, or similar provisions
19 of the laws of another jurisdiction, a new sentence may be imposed
20 consecutively pursuant to the provisions of K.S.A. 2017 Supp. 21-6606,
21 and amendments thereto, and the court may sentence the offender to
22 imprisonment for the new conviction, even when the new crime of
23 conviction otherwise presumes a nonprison sentence. In this event,
24 imposition of a prison sentence for the new crime does not constitute a
25 departure.

26 (g) Prior to imposing a dispositional departure for a defendant whose
27 offense is classified in the presumptive nonprison grid block of either
28 sentencing guideline grid, prior to sentencing a defendant to incarceration
29 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing
30 guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I
31 of the sentencing guidelines grid for drug crimes committed prior to July
32 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing
33 guidelines grid for drug crimes committed on or after July 1, 2012, prior to
34 sentencing a defendant to incarceration whose offense is classified in grid
35 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
36 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of
37 the sentencing guidelines grid for drug crimes committed on or after July
38 1, 2012, and whose offense does not meet the requirements of K.S.A. 2017
39 Supp. 21-6824, and amendments thereto, prior to revocation of a
40 nonprison sanction of a defendant whose offense is classified in grid
41 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
42 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of
43 the sentencing guidelines grid for drug crimes committed on or after July

1 1, 2012, and whose offense does not meet the requirements of K.S.A. 2017
2 Supp. 21-6824, and amendments thereto, or prior to revocation of a
3 nonprison sanction of a defendant whose offense is classified in the
4 presumptive nonprison grid block of either sentencing guideline grid or
5 grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug
6 crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing
7 guidelines grid for drug crimes committed prior to July 1, 2012, or in grid
8 blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug
9 crimes committed on or after July 1, 2012, the court shall consider
10 placement of the defendant in the Labette correctional conservation camp,
11 conservation camps established by the secretary of corrections pursuant to
12 K.S.A. 75-52,127, and amendments thereto, or a community intermediate
13 sanction center. Pursuant to this subsection the defendant shall not be
14 sentenced to imprisonment if space is available in a conservation camp or
15 community intermediate sanction center and the defendant meets all of the
16 conservation camp's or community intermediate sanction center's
17 placement criteria unless the court states on the record the reasons for not
18 placing the defendant in a conservation camp or community intermediate
19 sanction center.

20 (h) In committing a defendant to the custody of the secretary of
21 corrections, the court shall fix a term of confinement within the limits
22 provided by law. In those cases where the law does not fix a term of
23 confinement for the crime for which the defendant was convicted, the
24 court shall fix the term of such confinement.

25 (i) In addition to any of the above, the court shall order the defendant
26 to reimburse the state general fund for all or part of the expenditures by the
27 state board of indigents' defense services to provide counsel and other
28 defense services to the defendant. In determining the amount and method
29 of payment of such sum, the court shall take account of the financial
30 resources of the defendant and the nature of the burden that payment of
31 such sum will impose. A defendant who has been required to pay such sum
32 and who is not willfully in default in the payment thereof may at any time
33 petition the court which sentenced the defendant to waive payment of such
34 sum or any unpaid portion thereof. If it appears to the satisfaction of the
35 court that payment of the amount due will impose manifest hardship on the
36 defendant or the defendant's immediate family, the court may waive
37 payment of all or part of the amount due or modify the method of
38 payment. The amount of attorney fees to be included in the court order for
39 reimbursement shall be the amount claimed by appointed counsel on the
40 payment voucher for indigents' defense services or the amount prescribed
41 by the board of indigents' defense services reimbursement tables as
42 provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

43 (j) This section shall not deprive the court of any authority conferred

1 by any other Kansas statute to decree a forfeiture of property, suspend or
2 cancel a license, remove a person from office or impose any other civil
3 penalty as a result of conviction of crime.

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

10 (l) The secretary of corrections is authorized to make direct
11 placement to the Labette correctional conservation camp or a conservation
12 camp established by the secretary pursuant to K.S.A. 75-52,127, and
13 amendments thereto, of an inmate sentenced to the secretary's custody if
14 the inmate:

15 (1) Has been sentenced to the secretary for a probation revocation, as
16 a departure from the presumptive nonimprisonment grid block of either
17 sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I
18 or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks
19 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes
20 committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of
21 the sentencing guidelines grid for drug crimes committed on or after July
22 1, 2012, or for an offense which is classified in grid blocks 4-E or 4-F of
23 the sentencing guidelines grid for drug crimes committed prior to July 1,
24 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines
25 grid for drug crimes committed on or after July 1, 2012, and such offense
26 does not meet the requirements of K.S.A. 2017 Supp. 21-6824, and
27 amendments thereto; and

28 (2) otherwise meets admission criteria of the camp.

29 If the inmate successfully completes a conservation camp program, the
30 secretary of corrections shall report such completion to the sentencing
31 court and the county or district attorney. The inmate shall then be assigned
32 by the court to six months of follow-up supervision conducted by the
33 appropriate community corrections services program. The court may also
34 order that supervision continue thereafter for the length of time authorized
35 by K.S.A. 2017 Supp. 21-6608, and amendments thereto.

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

39 (n) (1) Except as provided by K.S.A. 2017 Supp. 21-6630 ~~and 21-~~
40 ~~6805(f)~~, and amendments thereto, in addition to any of the above, for
41 felony violations of K.S.A. 2017 Supp. 21-5706, and amendments thereto,
42 the court shall require the defendant who meets the requirements
43 established in K.S.A. 2017 Supp. 21-6824, and amendments thereto, to

1 participate in a certified drug abuse treatment program, as provided in
2 K.S.A. 2017 Supp. 75-52,144, and amendments thereto, including, but not
3 limited to, an approved after-care plan. The amount of time spent
4 participating in such program shall not be credited as service on the
5 underlying prison sentence.

6 (2) If the defendant fails to participate in or has a pattern of
7 intentional conduct that demonstrates the defendant's refusal to comply
8 with or participate in the treatment program, as established by judicial
9 finding, the defendant shall be subject to sanction or revocation pursuant
10 to the provisions of K.S.A. 22-3716, and amendments thereto. ~~If the~~
11 ~~defendant's probation is revoked, the defendant shall serve the underlying~~
12 ~~prison sentence as established in K.S.A. 2017 Supp. 21-6805, and~~
13 ~~amendments thereto.~~

14 ~~(A) Except as provided in subsection (n)(2)(B), for those offenders~~
15 ~~who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon~~
16 ~~completion of the underlying prison sentence, the offender shall not be~~
17 ~~subject to a period of postrelease supervision.~~

18 ~~(B) Offenders whose crime of conviction was committed on or after~~
19 ~~July 1, 2013, and whose probation is revoked pursuant to K.S.A. 22-~~
20 ~~3716(e), and amendments thereto, or whose underlying prison term expires~~
21 ~~while serving a sanction pursuant to K.S.A. 22-3716(e)(1)(C) or (e)(1)(D),~~
22 ~~and amendments thereto, shall serve a period of postrelease supervision~~
23 ~~upon the completion of the underlying prison term.~~

24 ~~(c) (1) Except as provided in paragraph (3), in addition to any other~~
25 ~~penalty or disposition imposed by law, upon a conviction for unlawful~~
26 ~~possession of a controlled substance or controlled substance analog in~~
27 ~~violation of K.S.A. 2017 Supp. 21-5706, and amendments thereto, in~~
28 ~~which the trier of fact makes a finding that the unlawful possession~~
29 ~~occurred while transporting the controlled substance or controlled~~
30 ~~substance analog in any vehicle upon a highway or street, the offender's~~
31 ~~driver's license or privilege to operate a motor vehicle on the streets and~~
32 ~~highways of this state shall be suspended for one year.~~

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

43 (3) (A) ~~In lieu of suspending the driver's license or privilege to~~

1 operate a motor vehicle on the highways of this state of any person as
2 provided in paragraph (1), the judge of the court in which such person was
3 convicted may enter an order which places conditions on such person's
4 privilege of operating a motor vehicle on the highways of this state, a
5 certified copy of which such person shall be required to carry any time
6 such person is operating a motor vehicle on the highways of this state. Any
7 such order shall prescribe the duration of the conditions imposed, which in
8 no event shall be for a period of more than one year.

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

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

39 (4) ~~As used in this subsection, "highway" and "street" mean the same~~
40 ~~as in K.S.A. 8-1424 and 8-1473, and amendments thereto.~~

41 (p)(o) In addition to any of the above, for any criminal offense that
42 includes the domestic violence designation pursuant to K.S.A. 2017 Supp.
43 22-4616, and amendments thereto, the court shall require the defendant to:

1 (1) Undergo a domestic violence offender assessment conducted by a
2 certified batterer intervention program; and (2) follow all
3 recommendations made by such program, unless otherwise ordered by the
4 court or the department of corrections. The court may order a domestic
5 violence offender assessment and any other evaluation prior to sentencing
6 if the assessment or evaluation would assist the court in determining an
7 appropriate sentence. The entity completing the assessment or evaluation
8 shall provide the assessment or evaluation and recommendations to the
9 court and the court shall provide the domestic violence offender
10 assessment to any entity responsible for supervising such defendant. A
11 defendant ordered to undergo a domestic violence offender assessment
12 shall be required to pay for the assessment and, unless otherwise ordered
13 by the court or the department of corrections, for completion of all
14 recommendations.

15 ~~(p)~~(p) In imposing a fine, the court may authorize the payment
16 thereof in installments. In lieu of payment of any fine imposed, the court
17 may order that the person perform community service specified by the
18 court. The person shall receive a credit on the fine imposed in an amount
19 equal to \$5 for each full hour spent by the person in the specified
20 community service. The community service ordered by the court shall be
21 required to be performed by the later of one year after the fine is imposed
22 or one year after release from imprisonment or jail, or by an earlier date
23 specified by the court. If by the required date the person performs an
24 insufficient amount of community service to reduce to zero the portion of
25 the fine required to be paid by the person, the remaining balance shall
26 become due on that date. If conditional reduction of any fine is rescinded
27 by the court for any reason, then pursuant to the court's order the person
28 may be ordered to perform community service by one year after the date of
29 such rescission or by an earlier date specified by the court. If by the
30 required date the person performs an insufficient amount of community
31 service to reduce to zero the portion of the fine required to be paid by the
32 person, the remaining balance of the fine shall become due on that date.
33 All credits for community service shall be subject to review and approval
34 by the court.

35 ~~(q)~~(q) In addition to any other penalty or disposition imposed by law,
36 for any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643,
37 prior to its repeal, or K.S.A. 2017 Supp. 21-6627, and amendments
38 thereto, for crimes committed on or after July 1, 2006, the court shall order
39 that the defendant be electronically monitored upon release from
40 imprisonment for the duration of the defendant's natural life and that the
41 defendant shall reimburse the state for all or part of the cost of such
42 monitoring as determined by the prisoner review board.

43 ~~(r)~~(r) Whenever the court has released the defendant on probation

1 pursuant to subsection (a)(3), the defendant's supervising court services
 2 officer, with the concurrence of the chief court services officer, may
 3 impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B),
 4 and amendments thereto, without further order of the court, unless:

5 (1) The court has specifically withheld this authority in its sentencing
 6 order; or

7 (2) the defendant, after being apprised of the right to a revocation
 8 hearing before the court pursuant to K.S.A. 22-3716(b), and amendments
 9 thereto, refuses to waive such right.

10 ~~(t)~~(s) Whenever the court has assigned the defendant to a community
 11 correctional services program pursuant to subsection (a)(4), the defendant's
 12 community corrections officer, with the concurrence of the community
 13 corrections director, may impose the violation sanctions as provided in
 14 K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order
 15 of the court unless:

16 (1) The court has specifically withheld this authority in its sentencing
 17 order; or

18 (2) the defendant, after being apprised of the right to a revocation
 19 hearing before the court pursuant to K.S.A. 22-3716(b), and amendments
 20 thereto, refuses to waive such right.

21 Sec. 6. K.S.A. 2017 Supp. 21-6805 is hereby amended to read as
 22 follows: 21-6805. (a) The provisions of this section shall be applicable to
 23 the sentencing guidelines grid for drug crimes. The following sentencing
 24 guidelines grid for drug crimes shall be applicable to felony crimes under
 25 K.S.A. 2017 Supp. 21-5701 through 21-5717, and amendments thereto,
 26 except as otherwise provided by law:

SENTENCING RANGE - DRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level I	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	144 136 130	137 130 122	130 123 117	124 117 111	116 111 105	113 108 101	110 104 99	108 100 96	103 98 92
III	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
IV	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	30 28 26	28 26 24	26 24 22	24 22 20
V	42 40 37	36 34 32	32 30 28	28 26 24	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

LEGEND
Presumptive Probation
Presumptive Probation
Presumptive Probation
Presumptive Imprisonment

1 (b) Sentences expressed in the sentencing guidelines grid for drug
2 crimes in subsection (a) represent months of imprisonment.

3 (c) (1) The sentencing court has discretion to sentence at any place
4 within the sentencing range. In the usual case it is recommended that the
5 sentencing judge select the center of the range and reserve the upper and
6 lower limits for aggravating and mitigating factors insufficient to warrant a
7 departure. The sentencing court shall not distinguish between the
8 controlled substances cocaine base (9041L000) and cocaine hydrochloride
9 (9041L005) when sentencing within the sentencing range of the grid
10 block.

11 (2) In presumptive imprisonment cases, the sentencing court shall
12 pronounce the complete sentence which shall include the:

13 (A) Prison sentence;

14 (B) maximum potential reduction to such sentence as a result of good
15 time; and

16 (C) period of postrelease supervision at the sentencing hearing.
17 Failure to pronounce the period of postrelease supervision shall not negate
18 the existence of such period of postrelease supervision.

19 (3) In presumptive nonprison cases, the sentencing court shall
20 pronounce the prison sentence as well as the duration of the nonprison
21 sanction at the sentencing hearing.

22 (d) Each grid block states the presumptive sentencing range for an
23 offender whose crime of conviction and criminal history place such
24 offender in that grid block. If an offense is classified in a grid block below
25 the dispositional line, the presumptive disposition shall be
26 nonimprisonment. If an offense is classified in a grid block above the
27 dispositional line, the presumptive disposition shall be imprisonment. If an
28 offense is classified in grid blocks 4-E, 4-F, 4-G, 4-H, 4-I, 5-C or 5-D, the
29 court may impose an optional nonprison sentence as provided in
30 subsection (q) of K.S.A. 2017 Supp. 21-6804(q), and amendments thereto.

31 (e) The sentence for a second or subsequent conviction for unlawful
32 manufacturing of a controlled substance, K.S.A. 65-4159, prior to its
33 repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, K.S.A. 2017
34 Supp. 21-5703, and amendments thereto, or a substantially similar offense
35 from another jurisdiction, if the controlled substance in any prior
36 conviction was methamphetamine, as defined by ~~subsection (d)(3) or (f)(1)~~
37 of K.S.A. 65-4107(d)(3) or (f)(1), and amendments thereto, or an analog
38 thereof, shall be a presumptive term of imprisonment of two times the
39 maximum duration of the presumptive term of imprisonment. The court
40 may impose an optional reduction in such sentence of not to exceed 50%
41 of the mandatory increase provided by this subsection upon making a
42 finding on the record that one or more of the mitigating factors as specified
43 in K.S.A. 2017 Supp. 21-6815, and amendments thereto, justify such a

1 reduction in sentence. Any decision made by the court regarding the
2 reduction in such sentence shall not be considered a departure and shall
3 not be subject to appeal.

4 ~~(f) (1) The sentence for a third or subsequent felony conviction of~~
5 ~~K.S.A. 65-4160 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-~~
6 ~~36a06, prior to its transfer, or K.S.A. 2017 Supp. 21-5706, and~~
7 ~~amendments thereto, shall be a presumptive term of imprisonment and the~~
8 ~~defendant shall be sentenced to prison as provided by this section. The~~
9 ~~defendant's term of imprisonment shall be served in the custody of the~~
10 ~~secretary of corrections in a facility designated by the secretary. Subject to~~
11 ~~appropriations therefore, the defendant shall participate in an intensive~~
12 ~~substance abuse treatment program, of at least four months duration,~~
13 ~~selected by the secretary of corrections. If the secretary determines that~~
14 ~~substance abuse treatment resources are otherwise available, such term of~~
15 ~~imprisonment may be served in a facility designated by the secretary of~~
16 ~~corrections in the custody of the secretary of corrections to participate in~~
17 ~~an intensive substance abuse treatment program. The secretary's~~
18 ~~determination regarding the availability of treatment resources shall not be~~
19 ~~subject to review. Upon the successful completion of such intensive~~
20 ~~treatment program, the offender shall be returned to the court and the court~~
21 ~~may modify the sentence by directing that a less severe penalty be~~
22 ~~imposed in lieu of that originally adjudged. If the offender's term of~~
23 ~~imprisonment expires, the offender shall be placed under the applicable~~
24 ~~period of postrelease supervision.~~

25 ~~(2) Such defendant's term of imprisonment shall not be subject to~~
26 ~~modification under paragraph (1) if:~~

27 ~~(A) The defendant has previously completed a certified drug abuse~~
28 ~~treatment program, as provided in K.S.A. 2017 Supp. 75-52,144, and~~
29 ~~amendments thereto;~~

30 ~~(B) has been discharged or refused to participate in a certified drug~~
31 ~~abuse treatment program, as provided in K.S.A. 2017 Supp. 75-52,144,~~
32 ~~and amendments thereto;~~

33 ~~(C) has completed an intensive substance abuse treatment program~~
34 ~~under paragraph (1); or~~

35 ~~(D) has been discharged or refused to participate in an intensive~~
36 ~~substance abuse treatment program under paragraph (1).~~

37 ~~The sentence under this subsection shall not be considered a departure~~
38 ~~and shall not be subject to appeal.~~

39 ~~(g) (1) Except as provided further, if the trier of fact makes a~~
40 ~~finding that an offender carried a firearm to commit a drug felony, or in~~
41 ~~furtherance of a drug felony, possessed a firearm, in addition to the~~
42 ~~sentence imposed pursuant to K.S.A. 2017 Supp. 21-6801 through 21-~~
43 ~~6824, and amendments thereto, the offender shall be sentenced to:~~

1 (A) Except as provided in subsection ~~(g)(1)~~(1)(B), an additional 6
2 months' imprisonment; and

3 (B) if the trier of fact makes a finding that the firearm was
4 discharged, an additional 18 months' imprisonment.

5 (2) The sentence imposed pursuant to subsection ~~(g)(1)~~(1) shall be
6 presumptive imprisonment. Such sentence shall not be considered a
7 departure and shall not be subject to appeal.

8 (3) The provisions of this subsection shall not apply to violations of
9 K.S.A. 2017 Supp. ~~21-5706 or 21-5713~~, and amendments thereto.

10 Sec. 7. K.S.A. 2017 Supp. 21-6812 is hereby amended to read as
11 follows: 21-6812. The prosecutor and the attorney for the defendant, or
12 the defendant when acting pro se, may engage in discussions with a view
13 toward reaching an agreement that, upon the entering of a plea to a
14 charged offense or to a lesser or related offense, the prosecutor may do any
15 of the following:

16 (a) Move for dismissal of other charges or counts;

17 (b) recommend a particular sentence within the sentencing range
18 applicable to the offense or to the offense to which the offender pled
19 guilty;

20 (c) recommend a particular sentence outside of the sentencing range
21 only when departure factors exist and such factors are stated on the record;

22 (d) agree to file a particular charge or count;

23 (e) agree not to file charges or counts; or

24 (f) make any other promise to the defendant, except that the
25 prosecutor shall not enter into any agreement to decline to use a prior drug
26 conviction of the defendant to elevate or enhance the severity level of a
27 drug crime as provided in K.S.A. 2017 Supp. 21-5703; *or* 21-5705 ~~or 21-~~
28 ~~5706~~, and amendments thereto, or make any agreement to exclude any
29 prior conviction from the criminal history of the defendant.

30 Sec. 8. K.S.A. 2017 Supp. 21-6813 is hereby amended to read as
31 follows: 21-6813. (a) The court shall order the preparation of the
32 presentence investigation report by the court services officer as soon as
33 possible after conviction of the defendant.

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

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

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

41 (3) When there is an identifiable victim, a victim report. The person
42 preparing the victim report shall submit the report to the victim and
43 request that the information be returned to be submitted as a part of the

1 presentence investigation. To the extent possible, the report shall include a
2 complete listing of restitution for damages suffered by the victim.

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

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

16 (6) A proposed grid block classification for each crime, or crimes of
17 conviction and the presumptive sentence for each crime, or crimes of
18 conviction.

19 (7) If the proposed grid block classification is a grid block which
20 presumes imprisonment, the presumptive prison term range and the
21 presumptive duration of postprison supervision as it relates to the crime
22 severity scale.

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

28 ~~(9) For defendants who are being sentenced for a conviction of a
29 felony violation of K.S.A. 65-4160 or 65-4162, prior to their repeal or
30 K.S.A. 2017 Supp. 21-5706, and amendments thereto, and meet the
31 requirements of K.S.A. 2017 Supp. 21-6824, and amendments thereto, the
32 drug abuse assessment as provided in K.S.A. 2017 Supp. 21-6824, and
33 amendments thereto.~~

34 ~~(10) For defendants who are being sentenced for a third or subsequent
35 felony conviction of a violation of K.S.A. 65-4160 or 65-4162, prior to
36 their repeal or K.S.A. 2017 Supp. 21-5706, and amendments thereto, the
37 drug abuse assessment as provided in K.S.A. 2017 Supp. 21-6824, and
38 amendments thereto.~~

39 (c) The presentence report will become part of the court record and
40 shall be accessible to the public, except that the official version,
41 defendant's version and the victim's statement, any psychological reports,
42 risk and needs assessments and drug and alcohol reports and assessments
43 shall be accessible only to the parties, the sentencing judge, the department

1 of corrections, and if requested, the Kansas sentencing commission. If the
2 offender is committed to the custody of the secretary of corrections, the
3 report shall be sent to the secretary and, in accordance with K.S.A. 75-
4 5220, and amendments thereto, to the warden of the state correctional
5 institution to which the defendant is conveyed.

6 (d) The criminal history worksheet will not substitute as a
7 presentence report.

8 (e) The presentence report will not include optional report
9 components, which would be subject to the discretion of the sentencing
10 court in each district except for psychological reports and drug and alcohol
11 reports.

12 (f) Except as provided in K.S.A. 2017 Supp. 21-6814, and
13 amendments thereto, the court may take judicial notice in a subsequent
14 felony proceeding of an earlier presentence report criminal history
15 worksheet prepared for a prior sentencing of the defendant for a felony
16 committed on or after July 1, 1993.

17 (g) All presentence reports in any case in which the defendant has
18 been convicted of a felony shall be on a form approved by the Kansas
19 sentencing commission.

20 (h) *For defendants who are being sentenced for a conviction of a*
21 *violation of K.S.A. 2017 Supp. 21-5706(a)(8) or (b), and amendments*
22 *thereto, or a second or subsequent violation of K.S.A. 2017 Supp. 21-*
23 *5706(a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7) or (b) and*
24 *amendments thereto, the presentence report shall include the drug abuse*
25 *assessment as provided in K.S.A. 2017 Supp. 21-6824, and amendments*
26 *thereto.*

27 Sec. 9. K.S.A. 2017 Supp. 21-6824 is hereby amended to read as
28 follows: 21-6824. (a) There is hereby established a ~~nonprison~~ sanction of
29 certified drug abuse treatment programs for certain offenders ~~who are~~
30 ~~sentenced on or after November 1, 2003~~. Placement of offenders in
31 certified drug abuse treatment programs by the court shall be limited to
32 placement of adult offenders, convicted of a ~~felony violation of K.S.A. 65-~~
33 ~~4160 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-36a06, prior~~
34 ~~to its transfer, or violation of K.S.A. 2017 Supp. 21-5706(a)(8), and~~
35 ~~amendments thereto, or a second or subsequent violation of K.S.A. 2017~~
36 ~~Supp. 21-5706(a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7) or (b), and~~
37 ~~amendments thereto:~~

38 (1) ~~Whose offense is classified in grid blocks 5-C, 5-D, 5-E, 5-F, 5-G,~~
39 ~~5-H or 5-I of the sentencing guidelines grid for drug crimes and~~ *If the*
40 *offender does not have a prior conviction for a person felony and such*
41 *offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161,*
42 *65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03,*
43 *21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2017 Supp. 21-*

1 5703, 21-5705 or 21-5716, and amendments thereto, or any substantially
2 similar offense from another jurisdiction; or

3 ~~(2) whose offense is classified in grid blocks 5-A or 5-B of the~~
4 ~~sentencing guidelines grid for drug crimes, such offender has no felony~~
5 ~~conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164,~~
6 ~~prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16,~~
7 ~~prior to their transfer, or K.S.A. 2017 Supp. 21-5703, 21-5705 or 21-5716,~~
8 ~~and amendments thereto, or any substantially similar offense from another~~
9 ~~jurisdiction, If the offender has a prior conviction for a person felony, any~~
10 ~~person felonies in the offender's criminal history were severity level 8, 9 or~~
11 ~~10 or nongrid offenses of the sentencing guidelines grid for nondrug~~
12 ~~crimes, and the court finds and sets forth with particularity the reasons for~~
13 ~~finding that the safety of the members of the public will not be jeopardized~~
14 ~~by such placement in a drug abuse treatment program.~~

15 (b) As a part of the presentence investigation pursuant to K.S.A. 2017
16 Supp. 21-6813, and amendments thereto, offenders who meet the
17 requirements of subsection (a), unless otherwise specifically ordered by
18 the court, shall be subject to:

19 (1) A drug abuse assessment which shall include a clinical interview
20 with a mental health professional and a recommendation concerning drug
21 abuse treatment for the offender; and

22 (2) a criminal risk-need assessment. The criminal risk-need
23 assessment shall assign a high or low risk status to the offender.

24 (c) If the offender is assigned a high risk status as determined by the
25 drug abuse assessment performed pursuant to subsection (b)(1) and a
26 moderate or high risk status as determined by the criminal risk-need
27 assessment performed pursuant to subsection (b)(2), the sentencing court
28 shall commit the offender to treatment in a drug abuse treatment program
29 until the court determines the offender is suitable for discharge by the
30 court. The term of treatment shall not exceed ~~18~~ 12 months. ~~The court may~~
31 ~~extend the term of probation, pursuant to subsection (e)(3) of K.S.A. 2017~~
32 ~~Supp. 21-6608, and amendments thereto. The term of treatment may not~~
33 ~~exceed the term of probation.~~

34 (d) (1) Offenders who are committed to a drug abuse treatment
35 program pursuant to subsection (c) shall be supervised by community
36 correctional services.

37 (2) Offenders who are not committed to a drug abuse treatment
38 program pursuant to subsection (c) shall be supervised by community
39 correctional services or court services based on the result of the criminal
40 risk assessment.

41 ~~(e) Placement of offenders under subsection (a)(2) shall be subject to~~
42 ~~the departure sentencing statutes of the revised Kansas sentencing~~
43 ~~guidelines act.~~

1 ~~(f)~~ (1) Offenders in drug abuse treatment programs shall be
2 discharged from such program if the offender:

3 (A) Is convicted of a new felony; or

4 (B) has a pattern of intentional conduct that demonstrates the
5 offender's refusal to comply with or participate in the treatment program,
6 as established by judicial finding.

7 (2) Offenders who are discharged from such program shall be subject
8 to the revocation provisions of ~~subsection (n)~~ of K.S.A. 2017 Supp. 21-
9 6604(n), and amendments thereto.

10 ~~(g)~~(f) As used in this section, "mental health professional" includes
11 licensed social workers, persons licensed to practice medicine and surgery,
12 licensed psychologists, licensed professional counselors or registered
13 alcohol and other drug abuse counselors licensed or certified as addiction
14 counselors who have been certified by the secretary of corrections to treat
15 offenders pursuant to K.S.A. 2017 Supp. 75-52,144, and amendments
16 thereto.

17 ~~(h)~~(+)(g) Offenders who meet the requirements of subsection (a)
18 shall not be subject to the provisions of this section and shall be sentenced
19 as otherwise provided by law, if such offenders:

20 ~~(A)~~(1) Are residents of another state and are returning to such state
21 pursuant to the interstate corrections compact or the interstate compact for
22 adult offender supervision; ~~or~~

23 ~~(B)~~(2) are not lawfully present in the United States and being
24 detained for deportation; or

25 ~~(C)~~(3) do not meet the risk assessment levels provided in subsection
26 (c).

27 ~~(2) Such sentence shall not be considered a departure and shall not be
28 subject to appeal.~~

29 (h) *Offenders who meet the requirements of subsection (a) but have
30 two or more prior convictions for violations of K.S.A. 65-4160 or 65-4162,
31 prior to their repeal, K.S.A. 21-36a06, prior to its transfer, or K.S.A. 2017
32 Supp. 21-5706, and amendments thereto, may be sentenced according to
33 the provisions of this section at the discretion of the sentencing court. If
34 the court does not sentence the offender according to the provisions of this
35 subsection, the court shall sentence the offender as otherwise provided by
36 law.*

37 (i) The court may order an offender who otherwise does not meet the
38 requirements of subsection (c) to undergo one additional drug abuse
39 assessment while such offender is on probation. Such offender may be
40 ordered to undergo drug abuse treatment pursuant to subsection (a) if such
41 offender is determined to meet the requirements of subsection (c). The cost
42 of such assessment shall be paid by such offender.

43 Sec. 10. K.S.A. 2017 Supp. 75-52,144 is hereby amended to read as

1 follows: 75-52,144. (a) Drug abuse treatment programs certified in
2 accordance with subsection (b) shall provide:

3 (1) Presentence drug abuse assessments of any person who is
4 convicted of a felony violation of ~~K.S.A. 65-4160 or 65-4162, prior to~~
5 ~~such section's repeal, K.S.A. 2010 Supp. 21-36a06, prior to its transfer, or~~
6 ~~violation of~~ K.S.A. 2017 Supp. 21-5706(a)(8), and amendments thereto, or
7 a second or subsequent violation of K.S.A. 2017 Supp. 21-5706(a)(1), (a)
8 (2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7) or (b), and amendments thereto,
9 and meets the requirements of K.S.A. 21-4729, prior to its repeal, or
10 subsection (a) of K.S.A. 2012 Supp. 21-6824(a), and amendments thereto;

11 (2) treatment of all persons who are convicted of a felony violation of
12 ~~K.S.A. 65-4160 or 65-4162, prior to such section's repeal, K.S.A. 2010~~
13 ~~Supp. 21-36a06, prior to its transfer, or violation of~~ K.S.A. 2017 Supp. 21-
14 5706(a)(8), and amendments thereto, or a second or subsequent violation
15 of K.S.A. 2017 Supp. 21-5706(a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6),
16 (a)(7) or (b), and amendments thereto, meet the requirements of ~~K.S.A.~~
17 ~~21-4729, prior to its repeal, or K.S.A. 2012~~ 2017 Supp. 21-6824, and
18 amendments thereto, and whose sentence requires completion of a
19 certified drug abuse treatment program, as provided in this section;

20 (3) one or more treatment options in the continuum of services
21 needed to reach recovery: Detoxification, rehabilitation, continuing care
22 and aftercare, and relapse prevention;

23 (4) treatment options to incorporate family and auxiliary support
24 services; and

25 (5) treatment options for alcohol abuse when indicated by the
26 assessment of the offender or required by the court.

27 (b) The presentence criminal risk-need assessment shall be conducted
28 by a court services officer or a community corrections officer. The
29 presentence drug abuse treatment program placement assessment shall be
30 conducted by a drug abuse treatment program certified in accordance with
31 the provisions of this subsection to provide assessment and treatment
32 services. A drug abuse treatment program shall be certified by the
33 secretary of corrections. The secretary may establish qualifications for the
34 certification of programs, which may include requirements for supervision
35 and monitoring of clients; fee reimbursement procedures; handling of
36 conflicts of interest; delivery of services to clients unable to pay; and other
37 matters relating to quality and delivery of services by the program. Drug
38 abuse treatment may include community based and faith based programs.
39 The certification shall be for a four-year period. Recertification of a
40 program shall be by the secretary. To be eligible for certification under this
41 subsection, the secretary shall determine that a drug abuse treatment
42 program: (1) Meets the qualifications established by the secretary; (2) is
43 capable of providing the assessments, supervision and monitoring required

1 under subsection (a); (3) has employed or contracted with certified
2 treatment providers; and (4) meets any other functions and duties specified
3 by law.

4 (c) Any treatment provider who is employed or has contracted with a
5 certified drug abuse treatment program who provides services to offenders
6 shall be certified by the secretary of corrections. The secretary shall
7 require education and training which shall include, but not be limited to,
8 case management and cognitive behavior training. The duties of providers
9 who prepare the presentence drug abuse assessment may also include
10 appearing at sentencing and probation hearings in accordance with the
11 orders of the court, monitoring offenders in the treatment programs,
12 notifying the probation department and the court of any offender failing to
13 meet the conditions of probation or referrals to treatment, appearing at
14 revocation hearings as may be required and providing assistance and data
15 reporting and program evaluation.

16 (d) The cost for all drug abuse assessments performed pursuant to
17 subsection (a)(1), and the cost for all certified drug abuse treatment
18 programs for any person who meets the requirements of K.S.A. 2017
19 Supp. 21-6824, and amendments thereto, shall be paid by the Kansas
20 sentencing commission from funds appropriated for such purpose. The
21 Kansas sentencing commission shall contract for payment for such
22 services with the supervising agency. The sentencing court shall determine
23 the extent, if any, that such person is able to pay for such assessment and
24 treatment. Such payments shall be used by the supervising agency to offset
25 costs to the state. If such financial obligations are not met or cannot be
26 met, the sentencing court shall be notified for the purpose of collection or
27 review and further action on the offender's sentence.

28 (e) The community corrections staff shall work with the substance
29 abuse treatment staff to ensure effective supervision and monitoring of the
30 offender.

31 (f) The secretary of corrections is hereby authorized to adopt rules
32 and regulations to carry out the provisions of this section.

33 Sec. 11. K.S.A. 2017 Supp. 75-5291 is hereby amended to read as
34 follows: 75-5291. (a) (1) The secretary of corrections may make grants to
35 counties for the development, implementation, operation and improvement
36 of community correctional services that address the criminogenic needs of
37 ~~felony~~ offenders including, but not limited to, adult intensive supervision,
38 substance abuse and mental health services, employment and residential
39 services, and facilities for the detention or confinement, care or treatment
40 of offenders as provided in this section except that no community
41 corrections funds shall be expended by the secretary for the purpose of
42 establishing or operating a conservation camp as provided by K.S.A. 75-
43 52,127, and amendments thereto.

1 (2) Except as otherwise provided, placement of offenders in a
2 community correctional services program by the court shall be limited to
3 placement of adult offenders, convicted of a felony offense:

4 (A) Who, on or after July 1, 2014, are determined to be moderate
5 risk, high risk or very high risk by use of a statewide, mandatory,
6 standardized risk assessment tool or instrument which shall be specified by
7 the Kansas sentencing commission;

8 (B) whose severity level and criminal history score designate a
9 presumptive prison sentence on either sentencing guidelines grid but
10 receive a nonprison sentence as a result of departure;

11 (C) all offenders convicted of an offense which satisfies the definition
12 of offender pursuant to K.S.A. 22-4902, and amendments thereto, and
13 which is classified as a severity level 7 or higher offense and who receive a
14 nonprison sentence, regardless of the manner in which the sentence is
15 imposed;

16 (D) any offender for whom a violation of conditions of release or
17 assignment or a nonprison sanction has been established as provided in
18 K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in
19 the offender being required to serve any time for the sentence imposed or
20 which might originally have been imposed in a state facility in the custody
21 of the secretary of corrections;

22 (E) placed in a community correctional services program as a
23 condition of supervision following the successful completion of a
24 conservation camp program; *or*

25 ~~(F) who have been sentenced to community corrections supervision~~
26 ~~pursuant to K.S.A. 21-4729, prior to its repeal, or K.S.A. 2017 Supp. 21-~~
27 ~~6824, and amendments thereto; *or*~~

28 ~~(G) who have been placed in a community correctional services~~
29 ~~program for supervision by the court pursuant to K.S.A. 8-1567, and~~
30 ~~amendments thereto.~~

31 ~~(3) Notwithstanding any law to the contrary and subject to the~~
32 ~~availability of funding therefor, adult offenders sentenced to community~~
33 ~~supervision in Johnson county for felony crimes that occurred on or after~~
34 ~~July 1, 2002, but before July 1, 2013, shall be placed under court services~~
35 ~~or community corrections supervision based upon court rules issued by the~~
36 ~~chief judge of the 10th judicial district. The provisions contained in this~~
37 ~~subsection shall not apply to offenders transferred by the assigned agency~~
38 ~~to an agency located outside of Johnson county. The provisions of this~~
39 ~~paragraph shall expire on July 1, 2013.~~

40 (4) Nothing in this act shall prohibit a community correctional
41 services program from providing services to juvenile offenders upon
42 approval by the local community corrections advisory board. Grants from
43 community corrections funds administered by the secretary of corrections

1 shall not be expended for such services.

2 ~~(5)~~(4) The court may require an offender for whom a violation of
3 conditions of release or assignment or a nonprison sanction has been
4 established, as provided in K.S.A. 22-3716, and amendments thereto, to
5 serve any time for the sentence imposed or which might originally have
6 been imposed in a state facility in the custody of the secretary of
7 corrections without a prior assignment to a community correctional
8 services program if the court finds and sets forth with particularity the
9 reasons for finding that the safety of the members of the public will be
10 jeopardized or that the welfare of the inmate will not be served by such
11 assignment to a community correctional services program.

12 *(5) Placement of offenders in a community correctional services*
13 *program by the court may include any adult offender who has been*
14 *sentenced to supervision by community correctional services pursuant to*
15 *K.S.A. 2017 Supp. 21-6824, and amendments thereto.*

16 (b) (1) In order to establish a mechanism for community correctional
17 services to participate in the department of corrections annual budget
18 planning process, the secretary of corrections shall establish a community
19 corrections advisory committee to identify new or enhanced correctional
20 or treatment interventions designed to divert offenders from prison.

21 (2) The secretary shall appoint one member from the southeast
22 community corrections region, one member from the northeast community
23 corrections region, one member from the central community corrections
24 region and one member from the western community corrections region.
25 The deputy secretary of community and field services shall designate two
26 members from the state at large. The secretary shall have final
27 appointment approval of the members designated by the deputy secretary.
28 The committee shall reflect the diversity of community correctional
29 services with respect to geographical location and average daily population
30 of offenders under supervision.

31 (3) Each member shall be appointed for a term of three years and
32 such terms shall be staggered as determined by the secretary. Members
33 shall be eligible for reappointment.

34 (4) The committee, in collaboration with the deputy secretary of
35 community and field services or the deputy secretary's designee, shall
36 routinely examine and report to the secretary on the following issues:

- 37 (A) Efficiencies in the delivery of field supervision services;
38 (B) effectiveness and enhancement of existing interventions;
39 (C) identification of new interventions; and
40 (D) statewide performance indicators.

41 (5) The committee's report concerning enhanced or new interventions
42 shall address:

- 43 (A) Goals and measurable objectives;

- 1 (B) projected costs;
- 2 (C) the impact on public safety; and
- 3 (D) the evaluation process.

4 (6) The committee shall submit its report to the secretary annually on
5 or before July 15 in order for the enhanced or new interventions to be
6 considered for inclusion within the department of corrections budget
7 request for community correctional services or in the department's
8 enhanced services budget request for the subsequent fiscal year.

9 Sec. 12. K.S.A. 2017 Supp. 12-4104, 21-5402, 21-5706, 21-5707, 21-
10 6604, 21-6805, 21-6812, 21-6813, 21-6824, 75-5291 and 75-52,144 are
11 hereby repealed.

12 Sec. 13. This act shall take effect and be in force from and after its
13 publication in the statute book.