

## HOUSE BILL No. 2374

By Committee on Corrections and Juvenile Justice

2-12

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1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to the certified drug abuse treatment program; authorizing the  
3 sentencing commission to determine risk levels for participation in  
4 program; amending K.S.A. 75-5291 and K.S.A. 2020 Supp. 21-6824  
5 and repealing the existing sections.  
6

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

8 Section 1. K.S.A. 2020 Supp. 21-6824 is hereby amended to read as  
9 follows: 21-6824. (a) There is hereby established a nonprison sanction of  
10 certified drug abuse treatment programs for certain offenders who are  
11 sentenced on or after November 1, 2003. Placement of offenders in  
12 certified drug abuse treatment programs by the court shall be limited to  
13 placement of adult offenders, convicted of a felony violation of K.S.A.  
14 2020 Supp. 21-5705 or 21-5706, and amendments thereto, whose offense  
15 is classified in grid blocks:

16 (1) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines  
17 grid for drug crimes and such offender has no felony conviction of K.S.A.  
18 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal,  
19 K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer,  
20 or K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5716, and amendments  
21 thereto, or any substantially similar offense from another jurisdiction; or

22 (2) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines  
23 grid for drug crimes, such offender has no felony conviction of K.S.A. 65-  
24 4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A.  
25 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or  
26 K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5716, and amendments  
27 thereto, or any substantially similar offense from another jurisdiction, if  
28 the person felonies in the offender's criminal history were severity level 8,  
29 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug  
30 crimes, and the court finds and sets forth with particularity the reasons for  
31 finding that the safety of the members of the public will not be jeopardized  
32 by such placement in a drug abuse treatment program.

33 (b) As a part of the presentence investigation pursuant to K.S.A. 2020  
34 Supp. 21-6813, and amendments thereto, offenders who meet the  
35 requirements of subsection (a), unless otherwise specifically ordered by  
36 the court, shall be subject to:

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

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

6 (c) If the offender is assigned a ~~high~~ risk status as determined by the  
7 drug abuse assessment performed pursuant to subsection (b)(1) and a  
8 ~~moderate or high~~ risk status as determined by the criminal risk-need  
9 assessment performed pursuant to subsection (b)(2) *that meets the criteria*  
10 *for participation in a drug abuse treatment program as determined by the*  
11 *Kansas sentencing commission*, the sentencing court shall commit the  
12 offender to treatment in a drug abuse treatment program until the court  
13 determines the offender is suitable for discharge by the court. The term of  
14 treatment shall not exceed 18 months. The court may extend the term of  
15 probation, pursuant to K.S.A. 2020 Supp. 21-6608(c)(3), and amendments  
16 thereto. The term of treatment may not exceed the term of probation.

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

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

24 (e) Placement of offenders under subsection (a)(2) shall be subject to  
25 the departure sentencing statutes of the revised Kansas sentencing  
26 guidelines act.

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

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

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

33 (2) Offenders who are discharged from such program shall be subject  
34 to the revocation provisions of K.S.A. 2020 Supp. 21-6604(n), and  
35 amendments thereto.

36 (g) As used in this section, "mental health professional" includes  
37 licensed social workers, persons licensed to practice medicine and surgery,  
38 licensed psychologists, licensed professional counselors or registered  
39 alcohol and other drug abuse counselors licensed or certified as addiction  
40 counselors who have been certified by the secretary of corrections to treat  
41 offenders pursuant to K.S.A. 75-52,144, and amendments thereto.

42 (h) (1) Offenders who meet the requirements of subsection (a) shall  
43 not be subject to the provisions of this section and shall be sentenced as

1 otherwise provided by law, if such offenders:

2 (A) Are residents of another state and are returning to such state  
3 pursuant to the interstate corrections compact or the interstate compact for  
4 adult offender supervision; or

5 (B) are not lawfully present in the United States and being detained  
6 for deportation; or

7 (C) do not meet the risk assessment levels provided in subsection (c).

8 (2) Such sentence shall not be considered a departure and shall not be  
9 subject to appeal.

10 (i) The court may order an offender who otherwise does not meet the  
11 requirements of subsection (c) to undergo one additional drug abuse  
12 assessment while such offender is on probation. Such offender may be  
13 ordered to undergo drug abuse treatment pursuant to subsection (a) if such  
14 offender is determined to meet the requirements of subsection (c). The cost  
15 of such assessment shall be paid by such offender.

16 Sec. 2. K.S.A. 75-5291 is hereby amended to read as follows: 75-  
17 5291. (a) (1) The secretary of corrections may make grants to counties for  
18 the development, implementation, operation and improvement of  
19 community correctional services that address the criminogenic needs of  
20 felony offenders including, but not limited to, adult intensive supervision,  
21 substance abuse and mental health services, employment and residential  
22 services, and facilities for the detention or confinement, care or treatment  
23 of offenders as provided in this section except that no community  
24 corrections funds shall be expended by the secretary for the purpose of  
25 establishing or operating a conservation camp as provided by K.S.A. 75-  
26 52,127, and amendments thereto.

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

30 (A) Who, on or after July 1, 2014, are determined to be ~~moderate~~  
31 ~~risk, high risk or very high risk~~ *an appropriate risk level as determined by*  
32 *the Kansas sentencing commission* by use of a statewide, mandatory,  
33 standardized risk assessment tool or instrument which shall be specified by  
34 the Kansas sentencing commission;

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

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

43 (D) any offender for whom a violation of conditions of release or

1 assignment or a nonprison sanction has been established as provided in  
2 K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in  
3 the offender being required to serve any time for the sentence imposed or  
4 which might originally have been imposed in a state facility in the custody  
5 of the secretary of corrections;

6 (E) placed in a community correctional services program as a  
7 condition of supervision following the successful completion of a  
8 conservation camp program;

9 (F) who have been sentenced to community corrections supervision  
10 pursuant to K.S.A. 21-4729, prior to its repeal, or K.S.A. 2020 Supp. 21-  
11 6824, and amendments thereto; or

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

15 (3) Notwithstanding any law to the contrary and subject to the  
16 availability of funding therefor, adult offenders sentenced to community  
17 supervision in Johnson county for felony crimes that occurred on or after  
18 July 1, 2002, but before July 1, 2013, shall be placed under court services  
19 or community corrections supervision based upon court rules issued by the  
20 chief judge of the 10<sup>th</sup> judicial district. The provisions contained in this  
21 subsection shall not apply to offenders transferred by the assigned agency  
22 to an agency located outside of Johnson county. The provisions of this  
23 paragraph shall expire on July 1, 2013.

24 (4) Nothing in this act shall prohibit a community correctional  
25 services program from providing services to juvenile offenders upon  
26 approval by the local community corrections advisory board. Grants from  
27 community corrections funds administered by the secretary of corrections  
28 shall not be expended for such services.

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

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

1 (2) The secretary shall appoint one member from the southeast  
2 community corrections region, one member from the northeast community  
3 corrections region, one member from the central community corrections  
4 region and one member from the western community corrections region.  
5 The deputy secretary of community and field services shall designate two  
6 members from the state at large. The secretary shall have final  
7 appointment approval of the members designated by the deputy secretary.  
8 The committee shall reflect the diversity of community correctional  
9 services with respect to geographical location and average daily population  
10 of offenders under supervision.

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

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

- 17 (A) Efficiencies in the delivery of field supervision services;
- 18 (B) effectiveness and enhancement of existing interventions;
- 19 (C) identification of new interventions; and
- 20 (D) statewide performance indicators.

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

- 23 (A) Goals and measurable objectives;
- 24 (B) projected costs;
- 25 (C) the impact on public safety; and
- 26 (D) the evaluation process.

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

32 Sec. 3. K.S.A. 75-5291 and K.S.A. 2020 Supp. 21-6824 are hereby  
33 repealed.

34 Sec. 4. This act shall take effect and be in force from and after its  
35 publication in the statute book.