

Senate Substitute for HOUSE BILL No. 2010

AN ACT concerning crimes, punishment and criminal procedure; relating to trials; updating a statutory cross reference related to persons found not guilty by reason of mental disease or defect; pertaining to housing, jury instructions and annual hearings on continued commitment; relating to criminal discharge of a firearm; increasing the penalty for violations when a person was present in the dwelling, building, structure or motor vehicle at which the offender discharged a firearm; enacting the reduce armed violence act; increasing criminal penalties for certain violations of criminal possession of a weapon by a convicted felon that involve firearms; relating to sentencing; allowing certain nondrug offenders to participate in a certified drug abuse treatment program; relating to postrelease supervision; providing that such term does not toll except as provided by law; amending K.S.A. 12-736 and K.S.A. 2022 Supp. 21-6308, 21-6804, 21-6824, 22-3428, 22-3428a and 22-3722 and repealing the existing sections.

WHEREAS, The provisions of K.S.A. 2022 Supp. 21-6804(z), as amended by this act, shall be known as the reduce armed violence act.

Now, therefore:

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

Section 1. K.S.A. 12-736 is hereby amended to read as follows: 12-736. (a) It is hereby declared to be the policy of the state of Kansas that persons with a disability shall not be excluded from the benefits of single family residential surroundings by any municipal zoning ordinance, resolution or regulation.

(b) For the purpose of this act:

(1) "Group home" means any dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of this state;

(2) "municipality" means any township, city or county located in Kansas;

(3) "disability" means, with respect to a person:

(A) A physical or mental impairment that substantially limits one or more of such person's major life activities;

(B) a record of having such an impairment; or

(C) being regarded as having such an impairment. Such term does not include current, illegal use of or addiction to a controlled substance, as defined in section 102 of the controlled substance act, 21 U.S.C. § 802; *and*

(4) "licensed provider" means a person or agency who provides mental health services and is licensed by:

(A) The Kansas department for aging and disability services pursuant to K.S.A. 39-2001 *et seq.* or 65-425 *et seq.* ~~or K.S.A. 39-2001 *et seq.*~~, and amendments thereto; or

(B) the behavioral sciences regulatory board pursuant to K.S.A. 74-5301 *et seq.* or 75-5346 *et seq.* ~~or 74-5301 *et seq.*~~, and amendments thereto; or

(C) the state board of healing arts pursuant to K.S.A. 65-2801 *et seq.*, and amendments thereto.

(c) (1) No mentally ill person shall be eligible for placement in a group home unless such person has been evaluated by a licensed provider and such provider determines that the mentally ill person is not dangerous to others and is suitable for group-home placement. A group home shall not be a licensed provider for the purposes of evaluating or approving for placement a mentally ill person in a group home.

(2) No person shall be eligible for placement in a group home if such person is: (A) Assigned to a community corrections program or a diversion program; (B) on parole from a correctional institution or on probation for a felony offense; or (C) in a state mental institution following a finding of mental disease or defect excluding criminal responsibility, pursuant to K.S.A. ~~22-3220~~ and 22-3221, and amendments thereto, *and K.S.A. 2022 Supp. 21-5209, and amendments thereto.*

(d) No person shall be placed in a group home under this act unless such dwelling is licensed as a group home by the Kansas

department for aging and disability services or the department of health and environment.

(e) No municipality shall prohibit the location of a group home in any zone or area where single family dwellings are permitted. Any zoning ordinance, resolution or regulation that prohibits the location of a group home in such zone or area or that subjects group homes to regulations not applicable to other single family dwellings in the same zone or area is invalid. Notwithstanding the provisions of this act, group homes shall be subject to all other regulations applicable to other property and buildings located in the zone or area that are imposed by any municipality through zoning ordinance, resolution or regulation, its building regulatory codes, subdivision regulations or other nondiscriminatory regulations.

(f) No person or entity shall contract or enter into a contract, restrictive covenant, equitable servitude or such similar restriction that would restrict group homes or their location in a manner inconsistent with the provisions of subsection (e).

Sec. 2. K.S.A. 2022 Supp. 21-6308 is hereby amended to read as follows: 21-6308. (a) Criminal discharge of a firearm is the:

(1) Reckless and unauthorized discharge of any firearm *at*:

(A) ~~At~~ A dwelling, building or structure in which there is a human being, *regardless of whether the person discharging the firearm knows or has reason to know that there is a human being present;*

(B) ~~at~~ a motor vehicle; *in which there is a human being, regardless of whether the person discharging the firearm knows or has reason to know that there is a human being present; or*

(C) *an aircraft, watercraft, train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock or other means of conveyance of persons, other than a motor vehicle, or property in which there is a human being, regardless of whether the person discharging the firearm knows or has reason to know that there is a human being present;*

(2) reckless and unauthorized discharge of any firearm at a dwelling in which there is no human being; or

(3) discharge of any firearm:

(A) Upon any land or nonnavigable body of water of another, without having obtained permission of the owner or person in possession of such land; or

(B) upon or from any public road, public road right-of-way or railroad right-of-way except as otherwise authorized by law.

(b) Criminal discharge of a firearm as defined in:

(1) Subsection (a)(1) is a:

(A) Severity level 7, person felony except as provided in subsection (b)(1)(B) or (b)(1)(C);

(B) *severity level 5, person felony if such criminal discharge results in bodily harm to a person during the commission thereof; and*

(C) *severity level 3, person felony if such criminal discharge results in great bodily harm to a person during the commission thereof;*

~~or~~
~~(C) severity level 5, person felony if such criminal discharge results in bodily harm to a person during the commission thereof;~~

(2) subsection (a)(2) is a severity level 8, person felony; and

(3) subsection (a)(3) is a class C *nonperson* misdemeanor.

(c) Subsection (a)(1) shall not apply if the act is a violation of K.S.A. 2022 Supp. 21-5412(d), and amendments thereto.

(d) Subsection (a)(3) shall not apply to any of the following:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United

States or the national guard while in the performance of their official duty;

(4) watchmen, while actually engaged in the performance of the duties of their employment;

(5) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(6) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;

(7) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto; or

(8) the United States attorney for the district of Kansas, the attorney general, or any district attorney or county attorney, while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant United States attorney if authorized by the United States attorney for the district of Kansas and while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant attorney general if authorized by the attorney general and while actually engaged in the duties of their employment or any activities incidental to such duties; or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed and while actually engaged in the duties of their employment or any activities incidental to such duties.

Sec. 3. K.S.A. 2022 Supp. 21-6804 is hereby amended to read as follows: 21-6804. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. The following sentencing guidelines grid shall be applicable to nondrug felony crimes:

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level	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	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	6 5 4

LEGEND
Presumptive Probation
Greater Than
Presumptive Imprisonment

(b) Sentences expressed in the sentencing guidelines grid for nondrug crimes represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to the sentencing court's discretion to enter a departure sentence. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

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

(A) Prison sentence;

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

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

(3) In presumptive nonprison cases, the sentencing court shall pronounce the:

(A) Prison sentence; and

(B) duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence as provided in subsection (q).

(g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or a violation of K.S.A. 2022 Supp. 21-5412(d), and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(i) (1) The sentence for the violation of the felony provision of K.S.A. 2022 Supp. 21-5414~~(b)(3)(c)(1)(C)~~, 21-5823(b)(3) and (b)(4), 21-6412 and 21-6416, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 2022 Supp. 21-6807, and amendments thereto.

(2) If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 2022 Supp. 21-6807, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 2022 Supp. 21-5823, and amendments thereto.

(3) Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 2022 Supp. 21-5414~~(b)(3)(c)(1)(C)~~, 21-5823(b)(3) and (b)(4),

21-6412 and 21-6416, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections. Prior to imposing any sentence pursuant to this subsection, the court may consider assigning the defendant to a house arrest program pursuant to K.S.A. 2022 Supp. 21-6609, and amendments thereto.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who:

(A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto; and

(ii) at the time of the conviction under ~~subsection (j)(2)(A)(i) clause (i)~~ has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, in this state or comparable felony under the laws of another state, the federal government or a foreign government; or

(B) (i) has been convicted of rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-5503, and amendments thereto; and

(ii) at the time of the conviction under ~~subsection (j)(2)(B)(i) clause (i)~~ has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in subsection (j)(2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) (1) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(2) As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities:

(A) The commission of one or more person felonies; or

(B) the commission of felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; and

(C) its members have a common name or common identifying sign or symbol; and

(D) its members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of K.S.A. 2022 Supp. 21-5807(a)(1), and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2022 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-3715(a) or (b), prior to its repeal, 21-3716, prior to its repeal, K.S.A. 2022 Supp. 21-5807(a)(1) or (a)(2) or 21-5807(b), and amendments thereto, or any attempt or conspiracy to commit such

offense, shall be presumptive imprisonment.

(m) The sentence for a violation of K.S.A. 22-4903 or K.S.A. 2022 Supp. 21-5913(a)(2), and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence as provided in subsection (q).

(n) The sentence for a violation of criminal deprivation of property, as defined in K.S.A. 2022 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, and when such person being sentenced has any combination of two or more prior convictions of K.S.A. 21-3705(b), prior to its repeal, or of criminal deprivation of property, as defined in K.S.A. 2022 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(o) (1) The sentence for a felony violation of theft of property as defined in K.S.A. 2022 Supp. 21-5801, and amendments thereto, or burglary as defined in K.S.A. 2022 Supp. 21-5807(a), and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as defined in K.S.A. 2022 Supp. 21-5801, and amendments thereto, or burglary as defined in K.S.A. 2022 Supp. 21-5807(a), and amendments thereto; or the sentence for a felony violation of theft of property as defined in K.S.A. 2022 Supp. 21-5801, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2022 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2022 Supp. 21-5807, and amendments thereto; or the sentence for a felony violation of burglary as defined in K.S.A. 2022 Supp. 21-5807(a), and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2022 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2022 Supp. 21-5807, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved aftercare plan, if the court makes the following findings on the record:

(~~1~~)(A) Substance abuse was an underlying factor in the commission of the crime;

(~~2~~)(B) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(~~3~~)(C) participation in an intensive substance abuse treatment program will serve community safety interests.

(2) A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of K.S.A. 2022 Supp. 21-6824(f)(1), and amendments thereto, shall apply to a defendant sentenced under this subsection. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(p) (1) The sentence for a felony violation of theft of property as defined in K.S.A. 2022 Supp. 21-5801, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2022 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2022 Supp. 21-5807, and amendments thereto; or the sentence for a violation of burglary as defined in K.S.A. 2022 Supp. 21-5807(a), and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-

3716, prior to their repeal, or theft of property as defined in K.S.A. 2022 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2022 Supp. 21-5807, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

(+) (A) Substance abuse was an underlying factor in the commission of the crime;

(-) (B) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(-) (C) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

(2) The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(q) (1) As used in this section, an "optional nonprison sentence" is a sentence which the court may impose, in lieu of the presumptive sentence, upon making the following findings on the record:

(+) (A) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(-) (B) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(-) (C) the nonprison sanction will serve community safety interests by promoting offender reformation.

(2) Any decision made by the court regarding the imposition of an optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(r) The sentence for a violation of K.S.A. 2022 Supp. 21-5413(c) (2), and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(s) The sentence for a violation of K.S.A. 2022 Supp. 21-5512, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(t) (1) If the trier of fact makes a finding beyond a reasonable doubt that an offender wore or used ballistic resistant material in the commission of, or attempt to commit, or flight from any felony, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 30 months' imprisonment.

(2) The sentence imposed pursuant to ~~subsection (t)(1)~~ *paragraph (1)* shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) As used in this subsection, "ballistic resistant material" means *any*:

(A) ~~Any~~—Commercially produced material designed with the

purpose of providing ballistic and trauma protection, including, but not limited to, bulletproof vests and kevlar vests; and

(B) ~~any~~ homemade or fabricated substance or item designed with the purpose of providing ballistic and trauma protection.

(u) The sentence for a violation of K.S.A. 2022 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2022 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2022 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(v) The sentence for a third or subsequent violation of K.S.A. 8-1568, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(w) The sentence for aggravated criminal damage to property as defined in K.S.A. 2022 Supp. 21-5813(b), and amendments thereto, when such person being sentenced has a prior conviction for any nonperson felony shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(x) The sentence for a violation of K.S.A. 2022 Supp. 21-5807(a)(1), and amendments thereto, shall be presumptive imprisonment if the offense under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such sentence shall not be considered a departure and shall not be subject to appeal.

(y) (1) Except as provided in ~~subsection (y)(3) paragraph (3)~~, if the trier of fact makes a finding beyond a reasonable doubt that an offender committed a nondrug felony offense, or any attempt or conspiracy, as defined in K.S.A. 2022 Supp. 21-5301 and 21-5302, and amendments thereto, to commit a nondrug felony offense, against a law enforcement officer, as defined in K.S.A. 2022 Supp. 21-5111(p)(1) and (3), and amendments thereto, while such officer was engaged in the performance of such officer's duty, or in whole or in any part because of such officer's status as a law enforcement officer, the sentence for such offense shall be:

(A) If such offense is classified in severity level 2 through 10, one severity level above the appropriate level for such offense; and

(B) (i) if such offense is classified in severity level 1, except as otherwise provided in ~~subsection (y)(1)(B)(ii) clause (ii)~~, imprisonment for life, and such offender shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, such offender shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(ii) The provisions of ~~subsection (y)(1)(B)(i) clause (i)~~ requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the offender, because of the offender's criminal history classification, is subject to presumptive imprisonment and the sentencing range exceeds 300 months. In such case, the offender is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(2) The sentence imposed pursuant to ~~subsection (y)(1) paragraph (1)~~ shall not be considered a departure and shall not be subject to appeal.

(3) The provisions of this subsection shall not apply to an offense described in ~~subsection (y)(1) paragraph (1)~~ if the factual aspect concerning a law enforcement officer is a statutory element of such offense.

(z) (1) *Notwithstanding K.S.A. 2022 Supp. 21-5109(b)(2), and amendments thereto, or any other provision of law to the contrary, the*

sentence for a violation of criminal possession of a weapon by a convicted felon as defined in K.S.A. 2022 Supp. 21-6304, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed if the trier of fact makes a finding beyond a reasonable doubt that:

(A) The weapon the offender possessed during such violation was a firearm; and

(B) such firearm was used by the offender during the commission of any violent felony.

(2) The sentence imposed pursuant to paragraph (1) shall not be considered a departure and shall not be subject to appeal. No other sentence shall be permitted.

(3) The provisions of this subsection shall not apply to an offender who is prohibited from possessing a weapon pursuant to K.S.A. 2022 Supp. 21-6304, and amendments thereto, as a result of a juvenile adjudication.

(4) As used in this subsection, "violent felony" means any of the following:

(A) Capital murder, as defined in K.S.A. 2022 Supp. 21-5401, and amendments thereto;

(B) murder in the first degree, as defined in K.S.A. 2022 Supp. 21-5402, and amendments thereto;

(C) murder in the second degree, as defined in K.S.A. 2022 Supp. 21-5403, and amendments thereto;

(D) voluntary manslaughter, as defined in K.S.A. 2022 Supp. 21-5404, and amendments thereto;

(E) kidnapping, as defined in K.S.A. 2022 Supp. 21-5408(a)(1), and amendments thereto, or aggravated kidnapping, as defined in K.S.A. 2022 Supp. 21-5408(b), and amendments thereto;

(F) aggravated assault, as defined in K.S.A. 2022 Supp. 21-5412(b)(1), and amendments thereto, and aggravated assault of a law enforcement officer, as defined in K.S.A. 2022 Supp. 21-5412(d)(1), and amendments thereto;

(G) aggravated battery, as defined in K.S.A. 2022 Supp. 21-5413(b)(1)(A) or (b)(1)(B), and amendments thereto, and aggravated battery against a law enforcement officer, as defined in K.S.A. 2022 Supp. 21-5413(d)(1) or (d)(2), and amendments thereto;

(H) mistreatment of a dependent adult or mistreatment of an elder person, as defined in K.S.A. 2022 Supp. 21-5417(a)(1), and amendments thereto;

(I) rape, as defined in K.S.A. 2022 Supp. 21-5503, and amendments thereto;

(J) aggravated criminal sodomy, as defined in K.S.A. 2022 Supp. 21-5504(b), and amendments thereto;

(K) abuse of a child, as defined in K.S.A. 2022 Supp. 21-5602(a)(1) or (a)(3), and amendments thereto;

(L) any felony offense described in K.S.A. 2022 Supp. 21-5703 or 21-5705, and amendments thereto;

(M) treason, as defined in K.S.A. 2022 Supp. 21-5901, and amendments thereto;

(N) criminal discharge of a firearm, as defined in K.S.A. 2022 Supp. 21-6308(a)(1), and amendments thereto;

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

(P) any felony that includes the domestic violence designation pursuant to K.S.A. 2022 Supp. 22-4616, and amendments thereto; or

(Q) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2022 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of any felony offense defined in this subsection.

(aa) (1) The sentence for a violation of K.S.A. 2022 Supp. 21-6308(a)(1)(A) or (a)(1)(B), and amendments thereto, if the trier of fact makes a finding beyond a reasonable doubt that the offender discharged a firearm and that the offender knew or reasonably should

have known that:

(A) A person was present in the dwelling, building, structure or motor vehicle at which the offender discharged a firearm, shall be presumptive imprisonment and, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 60 months of imprisonment; and

(B) a person less than 14 years of age was present in the dwelling, building, structure or motor vehicle at which the offender discharged a firearm, shall be presumptive imprisonment and, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 120 months of imprisonment.

(2) The sentence imposed pursuant to paragraph (1) shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

Sec. 4. K.S.A. 2022 Supp. 21-6824 is hereby amended to read as follows: 21-6824. (a) There is hereby established a nonprison sanction of certified drug abuse treatment programs for certain offenders who are sentenced on or after November 1, 2003. Placement of offenders in certified drug abuse treatment programs by the court shall be limited to placement of adult offenders; *who meet the requirements of this subsection.*

(1) Offenders convicted of a felony violation of K.S.A. 2022 Supp. 21-5705 or 21-5706, and amendments thereto, whose offense is classified in grid blocks:

(~~1~~)(A) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines grid for drug crimes and such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2022 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction; or

(~~2~~)(B) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes; *and:*

(i) Such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2022 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction; *if:*

(ii) the person felonies in the offender's criminal history were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes; *and*

(iii) the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not be jeopardized by such placement in a drug abuse treatment program.

(2) Offenders convicted of a nonperson felony whose offense is classified in grid blocks:

(A) 10-C, 10-D, 10-E, 10-F, 10-G, 10-H, 10-I, 9-C, 9-D, 9-E, 9-F, 9-G, 9-H, 9-I, 8-C, 8-D, 8-E, 8-F, 8-G, 8-H, 8-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes and such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2022 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction; or

(B) 10-A, 10-B, 9-A, 9-B, 8-A, 8-B, 7-A or 7-B of the sentencing guidelines grid for nondrug crimes *and:*

(i) Such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2022 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction;

(ii) *the person felonies in the offender's criminal history were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes; and*

(iii) *the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not be jeopardized by such placement in a drug abuse treatment program.*

(b) As a part of the presentence investigation pursuant to K.S.A. 2022 Supp. 21-6813, and amendments thereto, offenders who meet the requirements of subsection (a), unless otherwise specifically ordered by the court, shall be subject to:

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

(2) a criminal risk-need assessment. The criminal risk-need assessment shall assign a risk status to the offender.

(c) If the offender is assigned a risk status as determined by the drug abuse assessment performed pursuant to subsection (b)(1) and a risk status as determined by the criminal risk-need assessment performed pursuant to subsection (b)(2) that meets the criteria for participation in a drug abuse treatment program as determined by the Kansas sentencing commission, the sentencing court shall commit the offender to treatment in a drug abuse treatment program until the court determines the offender is suitable for discharge by the court. The term of treatment shall not exceed 18 months. The court may extend the term of probation; pursuant to K.S.A. 2022 Supp. 21-6608(c)(3), and amendments thereto. The term of treatment may not exceed the term of probation.

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

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

(3) If the offender is permitted to go from the judicial district of the sentencing court, the court may, pursuant to K.S.A. 2022 Supp. 21-6610, and amendments thereto:

(A) Transfer supervision of the offender from that judicial district to another; and

(B) either transfer or retain jurisdiction of the offender.

(e) Placement of offenders under subsection ~~(a)(2)~~ *(a)(1)(B) or (a)(2)(B)* shall be subject to the departure sentencing statutes of the revised Kansas sentencing guidelines act.

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

(A) Is convicted of a new felony; or

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

(2) Offenders who are discharged from such program shall be subject to the revocation provisions of K.S.A. 2022 Supp. 21-6604(n), and amendments thereto.

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

(h) (1) Offenders who meet the requirements of subsection (a) shall not be subject to the provisions of this section and shall be sentenced as otherwise provided by law, if such offenders:

(A) Are residents of another state and are returning to such state pursuant to the interstate corrections compact or the interstate compact

for adult offender supervision;

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

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

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

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

Sec. 5. K.S.A. 2022 Supp. 22-3428 is hereby amended to read as follows: 22-3428. (a) (1) When a defendant is acquitted and the jury answers in the affirmative to the special question asked pursuant to K.S.A. 22-3221, and amendments thereto, the defendant shall be committed to the state security hospital or an appropriate secure facility for safekeeping and treatment and the prosecuting attorney shall provide victim notification. A finding of not guilty and the jury answering in the affirmative to the special question asked pursuant to K.S.A. 22-3221, and amendments thereto, shall be prima facie evidence that the acquitted defendant is presently likely to cause harm to self or others.

(2) Within 90 days of the defendant's admission, the chief medical officer of the state security hospital or licensed psychologist at the appropriate secure facility shall send to the court a written evaluation report. Upon receipt of the report, the court shall set a hearing to determine whether or not the defendant is currently a mentally ill person. The hearing shall be held within 30 days after the receipt by the court of the chief medical officer's report unless the court finds that exceptional circumstances warrant delay of the hearing.

(3) The court shall give notice of the hearing to the chief medical officer of the state security hospital or licensed psychologist at the appropriate secure facility, the prosecuting attorney, the defendant and the defendant's attorney. The prosecuting attorney shall provide victim notification. The court shall inform the defendant that such defendant is entitled to counsel and that counsel will be appointed to represent the defendant if the defendant is not financially able to employ an attorney as provided in K.S.A. 22-4503 et seq., and amendments thereto. The defendant shall remain at the state security hospital pending the hearing.

(4) At the hearing, the defendant shall have the right to present evidence and cross-examine witnesses. At the conclusion of the hearing, if the court finds by clear and convincing evidence that the defendant is not currently a mentally ill person, the court shall dismiss the criminal proceeding and discharge the defendant, otherwise the court may commit the defendant to the state security hospital or an appropriate secure facility for treatment or may place the defendant on conditional release pursuant to subsection (d). The prosecuting attorney shall provide victim notification regarding the outcome of the hearing.

(b) Subject to the provisions of subsection (c):

(1) Whenever it appears to the chief medical officer of the state security hospital or a licensed psychologist at the appropriate secure facility that a person committed under subsection (a)(4) is not likely to cause harm to other persons in a less restrictive hospital environment, the officer may transfer the person to any state hospital, subject to the provisions of subsection (c). At any time subsequent thereto during which such person is still committed to a state hospital, if the chief medical officer of that hospital or the licensed psychologist at the appropriate secure facility finds that the person may be likely to cause harm or has caused harm, to others, such officer may transfer the person back to the state security hospital.

(2) Any person committed under subsection (a)(4) may be granted

conditional release or discharge as an involuntary patient.

(c) Before transfer of a person from the state security hospital or appropriate secure facility pursuant to subsection (b)(1) or conditional release or discharge of a person pursuant to subsection (b)(2), the chief medical officer of the state security hospital or the state hospital where the patient is under commitment or the licensed psychologist at the appropriate secure facility shall give notice to the district court of the county from which the person was committed that transfer of the patient is proposed or that the patient is ready for proposed conditional release or discharge. Such notice shall include, but not be limited to: (1) Identification of the patient; (2) the course of treatment; (3) a current assessment of the defendant's mental illness; (4) recommendations for future treatment, if any; and (5) recommendations regarding conditional release or discharge, if any. Upon receiving notice, the district court shall order that a hearing be held on the proposed transfer, conditional release or discharge. The court shall give notice of the hearing to the appropriate secure facility, state hospital or state security hospital where the patient is under commitment, to the prosecuting attorney of the county from which the person was originally ordered committed. The prosecuting attorney shall provide victim notification regarding the hearing. The court shall order the involuntary patient to undergo a mental evaluation by a person designated by the court. A copy of all orders of the court shall be sent to the involuntary patient and the patient's attorney. The report of the court ordered mental evaluation shall be given to the prosecuting attorney, the involuntary patient and the patient's attorney at least seven days prior to the hearing. The hearing shall be held within 30 days after the receipt by the court of the chief medical officer's notice unless the court finds that exceptional circumstances warrant delay of the hearing. The involuntary patient shall remain in the appropriate secure facility, state hospital or state security hospital where the patient is under commitment until the hearing on the proposed transfer, conditional release or discharge is to be held. At the hearing, the court shall receive all relevant evidence, including the written findings and recommendations of the chief medical officer of the state security hospital or the state hospital or the licensed psychologist of the appropriate secure facility where the patient is under commitment, and shall determine whether the patient shall be transferred to a less restrictive hospital environment or whether the patient shall be conditionally released or discharged. The patient shall have the right to present evidence at such hearing and to cross-examine any witnesses called by the prosecuting attorney. At the conclusion of the hearing, if the court finds by clear and convincing evidence that the patient will not be likely to cause harm to self or others if transferred to a less restrictive hospital environment, the court shall order the patient transferred. If the court finds by clear and convincing evidence that the patient is not currently a mentally ill person, the court shall order the patient discharged or conditionally released; otherwise, the court shall order the patient to remain in the state security hospital or state hospital where the patient is under commitment. If the court orders the conditional release of the patient in accordance with subsection (d), the court may order as an additional condition to the release that the patient continue to take prescribed medication and report as directed to a person licensed to practice medicine and surgery to determine whether or not the patient is taking the medication or that the patient continue to receive periodic psychiatric or psychological treatment. The prosecuting attorney shall notify any victims of the outcome of the hearing.

(d) In order to ensure the safety and welfare of a patient who is to be conditionally released and the citizenry of the state, the court may allow the patient to remain in custody at a facility under the supervision of the secretary for aging and disability services or the head of the appropriate secure facility for a period of time not to exceed 45 days in order to permit sufficient time for the secretary to prepare recommendations to the court for a suitable reentry program for the

patient and allow adequate time for the prosecuting attorney to provide victim notification. The reentry program shall be specifically designed to facilitate the return of the patient to the community as a functioning, self-supporting citizen, and may include appropriate supportive provisions for assistance in establishing residency, securing gainful employment, undergoing needed vocational rehabilitation, receiving marital and family counseling, and such other outpatient services that appear beneficial. If a patient who is to be conditionally released will be residing in a county other than the county where the district court that ordered the conditional release is located, the court shall transfer venue of the case to the district court of the other county and send a copy of all of the court's records of the proceedings to the other court. In all cases of conditional release the court shall:

(1) Order that the patient be placed under the temporary supervision of district court probation and parole services, community treatment facility or any appropriate private agency; and

(2) require as a condition precedent to the release that the patient agree in writing to waive extradition in the event a warrant is issued pursuant to K.S.A. 22-3428b, and amendments thereto.

(e) At any time during the conditional release period, a conditionally released patient, through the patient's attorney, or the prosecuting attorney of the county where the district court having venue is located may file a motion for modification of the conditions of release, and the court shall hold an evidentiary hearing on the motion within 14 days of its filing. The court shall give notice of the time for the hearing to the patient and the prosecuting attorney. If the court finds from the evidence at the hearing that the conditional provisions of release should be modified or vacated, it shall so order. If at any time during the transitional period the designated medical officer or supervisory personnel or the treatment facility informs the court that the patient is not satisfactorily complying with the provisions of the conditional release, the court, after a hearing for which notice has been given to the prosecuting attorney and the patient, may make orders: (1) For additional conditions of release designed to effect the ends of the reentry program; (2) requiring the prosecuting attorney to file a petition to determine whether the patient is a mentally ill person as provided in K.S.A. 59-2957, and amendments thereto; or (3) requiring that the patient be committed to the appropriate secure facility, state security hospital or any state hospital. In cases where a petition is ordered to be filed, the court shall proceed to hear and determine the petition pursuant to the care and treatment act for mentally ill persons and that act shall apply to all subsequent proceedings. If a patient is committed to any state hospital pursuant to this act the prosecuting attorney shall provide victim notification. The costs of all proceedings, the mental evaluation and the reentry program authorized by this section shall be paid by the county from which the person was committed.

(f) In any case in which the defense that the defendant lacked the required mental state pursuant to K.S.A. ~~22-3220~~ 2022 *Supp.* 21-5209, and amendments thereto, is relied on, the court shall instruct the jury on the substance of this section.

(g) As used in this section and K.S.A. 22-3428a, and amendments thereto:

(1) "Likely to cause harm to self or others" means that the person is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, or evidenced by behavior causing, attempting or threatening such injury, abuse or neglect.

(2) "Mentally ill person" means any person who:

(A) Is suffering from a severe mental disorder to the extent that such person is in need of treatment; and

(B) is likely to cause harm to self or others.

(3) "Treatment facility" means any mental health center or clinic, psychiatric unit of a medical care facility, psychologist, physician or other institution or individual authorized or licensed by law to provide

either inpatient or outpatient treatment to any patient.

Sec. 6. K.S.A. 2022 Supp. 22-3428a is hereby amended to read as follows: 22-3428a. ~~(1)~~ (a) Any person found not guilty, pursuant to K.S.A. ~~22-3220~~ and 22-3221, and amendments thereto, and K.S.A. 2022 Supp. 21-5209, and amendments thereto, who remains in the state security hospital or a state hospital for over one year pursuant to a commitment under K.S.A. 22-3428, and amendments thereto, shall be entitled annually to request a hearing to determine whether or not the person continues to be a mentally ill person. The request shall be made in writing to the district court of the county where the person is hospitalized and shall be signed by the committed person or the person's counsel. When the request is filed, the court shall give notice of the request to: ~~(a)~~ (1) The county or district attorney of the county in which the person was originally ordered committed; and ~~(b)~~ (2) the chief medical officer of the state security hospital or state hospital where the person is committed. The chief medical officer receiving the notice, or the officer's designee, shall conduct a mental examination of the person and shall send to the district court of the county where the person is hospitalized and to the county or district attorney of the county in which the person was originally ordered committed a report of the examination within 21 days from the date when notice from the court was received. Within 14 days after receiving the report of the examination, the county or district attorney receiving it may file a motion with the district court that gave the notice, requesting the court to change the venue of the hearing to the district court of the county in which the person was originally committed, or the court that gave the notice on its own motion may change the venue of the hearing to the district court of the county in which the person was originally committed. Upon receipt of that motion and the report of the mental examination or upon the court's own motion, the court shall transfer the hearing to the district court specified in the motion and send a copy of the court's records of the proceedings to that court.

~~(2)~~(b) After the time in which a change of venue may be requested has elapsed, the court having venue shall set a date for the hearing, giving notice thereof to the county or district attorney of the county, the committed person and the person's counsel. The county or district attorney shall provide victim notification. If there is no counsel of record, the court shall appoint a counsel for the committed person. The committed person shall have the right to procure, at the person's own expense, a mental examination by a physician or licensed psychologist of the person's own choosing. If a committed person is financially unable to procure such an examination, the aid to indigent defendants provisions of article 45 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, shall be applicable to that person. A committed person requesting a mental examination pursuant to K.S.A. 22-4508, and amendments thereto, may request a physician or licensed psychologist of the person's own choosing and the court shall request the physician or licensed psychologist to provide an estimate of the cost of the examination. If the physician or licensed psychologist agrees to accept compensation in an amount in accordance with the compensation standards set by the board of supervisors of panels to aid indigent defendants, the judge shall appoint the requested physician or licensed psychologist; otherwise, the court shall designate a physician or licensed psychologist to conduct the examination. Copies of each mental examination of the committed person shall be filed with the court at least seven days prior to the hearing and shall be supplied to the county or district attorney receiving notice pursuant to this section and the committed person's counsel.

~~(3)~~(c) At the hearing the committed person shall have the right to present evidence and cross-examine the witnesses. The court shall receive all relevant evidence, including the written findings and recommendations of the chief medical officer of the state security hospital or state hospital where the person is under commitment, and shall determine whether the committed person continues to be a

mentally ill person. At the hearing the court may make any order that a court is empowered to make pursuant to ~~subsections (3), (4) and (5) of~~ K.S.A. 22-3428(c), (d) and (e), and amendments thereto. If the court finds by clear and convincing evidence the committed person is not a mentally ill person, the court shall order the person discharged; otherwise, the person shall remain committed or be conditionally released. The county or district attorney shall provide victim notification regarding the outcome of the hearing.

~~(4)(d)~~ Costs of a hearing held pursuant to this section shall be assessed against and paid by the county in which the person was originally ordered committed.

Sec. 7. K.S.A. 2022 Supp. 22-3722 is hereby amended to read as follows: 22-3722. (a) The period served on parole or conditional release shall be deemed service of the term of confinement, and, subject to the provisions contained in K.S.A. 75-5217, and amendments thereto, relating to an inmate who is a fugitive from or has fled from justice, the total time served may not exceed the maximum term or sentence. The period served on postrelease supervision shall vest in and be subject to the provisions contained in K.S.A. 75-5217, and amendments thereto, relating to an inmate who is a fugitive from or has fled from justice. *The service of the postrelease supervision period shall not toll except as provided by K.S.A. 75-5217, and amendments thereto.* The total time served shall not exceed the postrelease supervision period established at sentencing.

(b) When an inmate on parole or conditional release has performed the obligations of the release for such time as shall satisfy the prisoner review board that final release is not incompatible with the best interest of society and the welfare of the individual, the board may make a final order of discharge and issue a certificate of discharge to the inmate but no such order of discharge shall be made in any case within a period of less than one year after the date of release except where the sentence expires earlier thereto. When an inmate has reached the end of the postrelease supervision period, the board shall issue a certificate of discharge to the releasee. Such discharge, and the discharge of an inmate who has served the inmate's term of imprisonment, shall have the effect of restoring all civil rights lost by operation of law upon commitment, and the certification of discharge shall so state. Nothing herein contained shall be held to impair the power of the governor to grant a pardon or commutation of sentence in any case.

Sec. 8. K.S.A. 12-736 and K.S.A. 2022 Supp. 21-6308, 21-6804, 21-6824, 22-3428, 22-3428a and 22-3722 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.