

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2465

By Committee on Judiciary

1-17

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to lifetime electronic monitoring of certain offenders; amending K.S.A.
3 2011 Supp. 21-6604 and 22-3717 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 2011 Supp. 21-6604 is hereby amended to read as
7 follows: 21-6604. (a) Whenever any person has been found guilty of a
8 crime, the court may adjudge any of the following:

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

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

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

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

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

35 (6) assign the defendant to a house arrest program pursuant to K.S.A.
36 2011 Supp. 21-6609, and amendments thereto;

1 (7) order the defendant to attend and satisfactorily complete an
2 alcohol or drug education or training program as provided by subsection
3 (c) of K.S.A. 2011 Supp. 21-6602, and amendments thereto;

4 (8) order the defendant to repay the amount of any reward paid by
5 any crime stoppers chapter, individual, corporation or public entity which
6 materially aided in the apprehension or conviction of the defendant; repay
7 the amount of any costs and expenses incurred by any law enforcement
8 agency in the apprehension of the defendant, if one of the current crimes
9 of conviction of the defendant includes escape from custody or aggravated
10 escape from custody, as defined in K.S.A. 2011 Supp. 21-5911, and
11 amendments thereto; repay expenses incurred by a fire district, fire
12 department or fire company responding to a fire which has been
13 determined to be arson or aggravated arson as defined in K.S.A. 2011
14 Supp. 21-5812, and amendments thereto, if the defendant is convicted of
15 such crime; repay the amount of any public funds utilized by a law
16 enforcement agency to purchase controlled substances from the defendant
17 during the investigation which leads to the defendant's conviction; or repay
18 the amount of any medical costs and expenses incurred by any law
19 enforcement agency or county. Such repayment of the amount of any such
20 costs and expenses incurred by a county, law enforcement agency, fire
21 district, fire department or fire company or any public funds utilized by a
22 law enforcement agency shall be deposited and credited to the same fund
23 from which the public funds were credited to prior to use by the county,
24 law enforcement agency, fire district, fire department or fire company;

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

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

29 (11) if the defendant is convicted of a misdemeanor or convicted of a
30 felony specified in subsection (i) of K.S.A. 2011 Supp. 21-6804, and
31 amendments thereto, assign the defendant to work release program, other
32 than a program at a correctional institution under the control of the
33 secretary of corrections as defined in K.S.A. 75-5202, and amendments
34 thereto, provided such work release program requires such defendant to
35 return to confinement at the end of each day in the work release program.
36 On a second conviction of K.S.A. 8-1567, and amendments thereto, an
37 offender placed into a work release program must serve a total of 120
38 hours of confinement. Such 120 hours of confinement shall be a period of
39 at least 48 consecutive hours of imprisonment followed by confinement
40 hours at the end of and continuing to the beginning of the offender's work
41 day. On a third or subsequent conviction of K.S.A. 8-1567, and
42 amendments thereto, an offender placed into a work release program must
43 serve a total of 240 hours of confinement. Such 240 hours of confinement

1 shall be a period of at least 48 consecutive hours of imprisonment
2 followed by confinement hours at the end of and continuing to the
3 beginning of the offender's work day;

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

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

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

10 (b) (1) In addition to or in lieu of any of the above, the court shall
11 order the defendant to pay restitution, which shall include, but not be
12 limited to, damage or loss caused by the defendant's crime, unless the
13 court finds compelling circumstances which would render a plan of
14 restitution unworkable. In regard to a violation of K.S.A. 2011 Supp. 21-
15 6107, and amendments thereto, such damage or loss shall include, but not
16 be limited to, attorney fees and costs incurred to repair the credit history or
17 rating of the person whose personal identification documents were
18 obtained and used in violation of such section, and to satisfy a debt, lien or
19 other obligation incurred by the person whose personal identification
20 documents were obtained and used in violation of such section. If the court
21 finds a plan of restitution unworkable, the court shall state on the record in
22 detail the reasons therefor.

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

35 (c) In addition to or in lieu of any of the above, the court shall order
36 the defendant to submit to and complete an alcohol and drug evaluation,
37 and pay a fee therefor, when required by subsection (d) of K.S.A. 2011
38 Supp. 21-6602, and amendments thereto.

39 (d) In addition to any of the above, the court shall order the defendant
40 to reimburse the county general fund for all or a part of the expenditures
41 by the county to provide counsel and other defense services to the
42 defendant. Any such reimbursement to the county shall be paid only after
43 any order for restitution has been paid in full. In determining the amount

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

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

17 (f) (1) When a new felony is committed while the offender is
18 incarcerated and serving a sentence for a felony, or while the offender is on
19 probation, assignment to a community correctional services program,
20 parole, conditional release or postrelease supervision for a felony, a new
21 sentence shall be imposed pursuant to the consecutive sentencing
22 requirements of K.S.A. 2011 Supp. 21-6606, and amendments thereto, and
23 the court may sentence the offender to imprisonment for the new
24 conviction, even when the new crime of conviction otherwise presumes a
25 nonprison sentence. In this event, imposition of a prison sentence for the
26 new crime does not constitute a departure.

27 (2) When a new felony is committed while the offender is
28 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671,
29 prior to its repeal, or K.S.A. 2011 Supp. 38-2373, and amendments thereto,
30 for an offense, which if committed by an adult would constitute the
31 commission of a felony, upon conviction, the court shall sentence the
32 offender to imprisonment for the new conviction, even when the new
33 crime of conviction otherwise presumes a nonprison sentence. In this
34 event, imposition of a prison sentence for the new crime does not
35 constitute a departure. The conviction shall operate as a full and complete
36 discharge from any obligations, except for an order of restitution, imposed
37 on the offender arising from the offense for which the offender was
38 committed to a juvenile correctional facility.

39 (3) When a new felony is committed while the offender is on release
40 for a felony pursuant to the provisions of article 28 of chapter 22 of the
41 Kansas Statutes Annotated, and amendments thereto, or similar provisions
42 of the laws of another jurisdiction, a new sentence may be imposed
43 pursuant to the consecutive sentencing requirements of K.S.A. 2011 Supp.

1 21-6606, and amendments thereto, and the court may sentence the offender
2 to imprisonment for the new conviction, even when the new crime of
3 conviction otherwise presumes a nonprison sentence. In this event,
4 imposition of a prison sentence for the new crime does not constitute a
5 departure.

6 (g) Prior to imposing a dispositional departure for a defendant whose
7 offense is classified in the presumptive nonprison grid block of either
8 sentencing guideline grid, prior to sentencing a defendant to incarceration
9 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing
10 guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or
11 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a
12 defendant to incarceration whose offense is classified in grid blocks 4-E or
13 4-F of the sentencing guideline grid for drug crimes and whose offense
14 does not meet the requirements of K.S.A. 2011 Supp. 21-6824, and
15 amendments thereto, prior to revocation of a nonprison sanction of a
16 defendant whose offense is classified in grid blocks 4-E or 4-F of the
17 sentencing guideline grid for drug crimes and whose offense does not meet
18 the requirements of K.S.A. 2011 Supp. 21-6824, and amendments thereto,
19 or prior to revocation of a nonprison sanction of a defendant whose offense
20 is classified in the presumptive nonprison grid block of either sentencing
21 guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines
22 grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the
23 sentencing guidelines grid for drug crimes, the court shall consider
24 placement of the defendant in the Labette correctional conservation camp,
25 conservation camps established by the secretary of corrections pursuant to
26 K.S.A. 75-52,127, and amendment thereto, or a community intermediate
27 sanction center. Pursuant to this paragraph the defendant shall not be
28 sentenced to imprisonment if space is available in a conservation camp or
29 a community intermediate sanction center and the defendant meets all of
30 the conservation camp's or a community intermediate sanction center's
31 placement criteria unless the court states on the record the reasons for not
32 placing the defendant in a conservation camp or a community intermediate
33 sanction center.

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

39 (i) In addition to any of the above, the court shall order the defendant
40 to reimburse the state general fund for all or a part of the expenditures by
41 the state board of indigents' defense services to provide counsel and other
42 defense services to the defendant. In determining the amount and method
43 of payment of such sum, the court shall take account of the financial

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

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

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

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

29 (1) Has been sentenced to the secretary for a probation revocation, as
30 a departure from the presumptive nonimprisonment grid block of either
31 sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I,
32 or 6-G of the sentencing guidelines grid for nondrug crimes or in grid
33 blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug
34 crimes, or for an offense which is classified in grid blocks 4-E or 4-F of
35 the sentencing guidelines grid for drug crimes and such offense does not
36 meet the requirements of K.S.A. 2011 Supp. 21-6824, and amendments
37 thereto; and

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

39 If the inmate successfully completes a conservation camp program, the
40 secretary of corrections shall report such completion to the sentencing
41 court and the county or district attorney. The inmate shall then be assigned
42 by the court to six months of follow-up supervision conducted by the
43 appropriate community corrections services program. The court may also

1 order that supervision continue thereafter for the length of time authorized
2 by K.S.A. 2011 Supp. 21-6608, and amendments thereto.

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

6 (n) Except as provided by subsection (f) of K.S.A. 2011 Supp. 21-
7 6805, and amendments thereto, in addition to any of the above, for felony
8 violations of K.S.A. 2011 Supp. 21-5706, and amendments thereto, the
9 court shall require the defendant who meets the requirements established
10 in K.S.A. 2011 Supp. 21-6824, and amendments thereto, to participate in a
11 certified drug abuse treatment program, as provided in K.S.A. 2011 Supp.
12 75-52,144, and amendments thereto, including, but not limited to, an
13 approved after-care plan. If the defendant fails to participate in or has a
14 pattern of intentional conduct that demonstrates the offender's refusal to
15 comply with or participate in the treatment program, as established by
16 judicial finding, the defendant shall be subject to revocation of probation
17 and the defendant shall serve the underlying prison sentence as established
18 in K.S.A. 2011 Supp. 21-6805, and amendments thereto. For those
19 offenders who are convicted on or after July 1, 2003, upon completion of
20 the underlying prison sentence, the defendant shall not be subject to a
21 period of postrelease supervision. The amount of time spent participating
22 in such program shall not be credited as service on the underlying prison
23 sentence.

24 (o) (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. 2011 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" means the
40 same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

41 (p) In addition to any of the above, for any criminal offense that
42 includes the domestic violence designation pursuant to K.S.A. 2011 Supp.
43 22-4616, and amendments thereto, the court shall require the defendant to

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

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

33 (r) *In addition to any other penalty or disposition imposed by law, for*
34 *any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643,*
35 *prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments*
36 *thereto, for crimes committed on or after July 1, 2006, the court shall*
37 *order that the defendant be electronically monitored **upon release from***
38 ***imprisonment** for the duration of the defendant's natural life and that the*
39 *defendant shall reimburse the state for all or part of the cost of such*
40 *monitoring as **determined by the prisoner review board.** ~~In determining~~*
41 *~~the amount and method of payment of such sum, the court shall take~~*
42 *~~account of the financial resources of the defendant and the nature of the~~*
43 *~~burden that the payment of such sum will impose.~~*

1 Sec. 2. K.S.A. 2011 Supp. 22-3717 is hereby amended to read as
2 follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.
3 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through 21-4638,
4 prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642,
5 prior to its repeal; K.S.A. 2011 Supp. 21-6617, 21-6620, 21-6623, 21-
6 6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567,
7 and amendments thereto; an inmate, including an inmate sentenced
8 pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2011 Supp. 21-
9 6707, and amendments thereto, shall be eligible for parole after serving the
10 entire minimum sentence imposed by the court, less good time credits.

11 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, prior
12 to their repeal, and K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-
13 6625, and amendments thereto, an inmate sentenced to imprisonment for
14 the crime of capital murder, or an inmate sentenced for the crime of
15 murder in the first degree based upon a finding of premeditated murder,
16 committed on or after July 1, 1994, shall be eligible for parole after
17 serving 25 years of confinement, without deduction of any good time
18 credits.

19 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
20 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior
21 to their repeal, and K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-
22 6625, and amendments thereto, an inmate sentenced to imprisonment for
23 an off-grid offense committed on or after July 1, 1993, but prior to July 1,
24 1999, shall be eligible for parole after serving 15 years of confinement,
25 without deduction of any good time credits and an inmate sentenced to
26 imprisonment for an off-grid offense committed on or after July 1, 1999,
27 shall be eligible for parole after serving 20 years of confinement without
28 deduction of any good time credits.

29 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
30 repeal, an inmate sentenced for a class A felony committed before July 1,
31 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
32 its repeal, or K.S.A. 2011 Supp. 21-6707, and amendments thereto, shall
33 be eligible for parole after serving 15 years of confinement, without
34 deduction of any good time credits.

35 (4) An inmate sentenced to imprisonment for a violation of
36 subsection (a) of K.S.A. 21-3402, prior to its repeal, committed on or after
37 July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after
38 serving 10 years of confinement without deduction of any good time
39 credits.

40 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
41 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
42 thereto, committed on or after July 1, 2006, shall be eligible for parole
43 after serving the mandatory term of imprisonment without deduction of

1 any good time credits.

2 (c) (1) Except as provided in subsection (e), if an inmate is sentenced
3 to imprisonment for more than one crime and the sentences run
4 consecutively, the inmate shall be eligible for parole after serving the total
5 of:

6 (A) The aggregate minimum sentences, as determined pursuant to
7 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2011 Supp. 21-6606, and
8 amendments thereto, less good time credits for those crimes which are not
9 class A felonies; and

10 (B) an additional 15 years, without deduction of good time credits,
11 for each crime which is a class A felony.

12 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
13 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
14 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
15 eligible for parole after serving the mandatory term of imprisonment.

16 (d) (1) Persons sentenced for crimes, other than off-grid crimes,
17 committed on or after July 1, 1993, or persons subject to subparagraph
18 (G), will not be eligible for parole, but will be released to a mandatory
19 period of postrelease supervision upon completion of the prison portion of
20 their sentence as follows:

21 (A) Except as provided in subparagraphs (D) and (E), persons
22 sentenced for nondrug severity level 1 through 4 crimes and drug severity
23 levels 1 and 2 crimes must serve 36 months, plus the amount of good time
24 and program credit earned and retained pursuant to K.S.A. 21-4722, prior
25 to its repeal, or K.S.A. 2011 Supp. 21-6821, and amendments thereto, on
26 postrelease supervision.

27 (B) Except as provided in subparagraphs (D) and (E), persons
28 sentenced for nondrug severity levels 5 and 6 crimes and drug severity
29 level 3 crimes must serve 24 months, plus the amount of good time and
30 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
31 repeal, or K.S.A. 2011 Supp. 21-6821, and amendments thereto, on
32 postrelease supervision.

33 (C) Except as provided in subparagraphs (D) and (E), persons
34 sentenced for nondrug severity level 7 through 10 crimes and drug severity
35 level 4 crimes must serve 12 months, plus the amount of good time and
36 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
37 repeal, or K.S.A. 2011 Supp. 21-6821, and amendments thereto, on
38 postrelease supervision.

39 (D) (i) The sentencing judge shall impose the postrelease supervision
40 period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless
41 the judge finds substantial and compelling reasons to impose a departure
42 based upon a finding that the current crime of conviction was sexually
43 motivated. In that event, departure may be imposed to extend the

1 postrelease supervision to a period of up to 60 months.

2 (ii) If the sentencing judge departs from the presumptive postrelease
3 supervision period, the judge shall state on the record at the time of
4 sentencing the substantial and compelling reasons for the departure.
5 Departures in this section are subject to appeal pursuant to K.S.A. 21-
6 4721, prior to its repeal, or K.S.A. 2011 Supp. 21-6820, and amendments
7 thereto.

8 (iii) In determining whether substantial and compelling reasons exist,
9 the court shall consider:

10 (a) Written briefs or oral arguments submitted by either the defendant
11 or the state;

12 (b) any evidence received during the proceeding;

13 (c) the presentence report, the victim's impact statement and any
14 psychological evaluation as ordered by the court pursuant to subsection (e)
15 of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 2011
16 Supp. 21-6813, and amendments thereto; and

17 (d) any other evidence the court finds trustworthy and reliable.

18 (iv) The sentencing judge may order that a psychological evaluation
19 be prepared and the recommended programming be completed by the
20 offender. The department of corrections or the ~~parole~~ *prisoner review*
21 board shall ensure that court ordered sex offender treatment be carried out.

22 (v) In carrying out the provisions of subparagraph (d)(1)(D), the court
23 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2011 Supp. 21-
24 6817, and amendments thereto.

25 (vi) Upon petition, the ~~parole~~ *prisoner review* board may provide for
26 early discharge from the postrelease supervision period upon completion
27 of court ordered programs and completion of the presumptive postrelease
28 supervision period, as determined by the crime of conviction, pursuant to
29 subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
30 postrelease supervision is at the discretion of the ~~parole~~ *prisoner review*
31 board.

32 (vii) Persons convicted of crimes deemed sexually violent or sexually
33 motivated, shall be registered according to the offender registration act,
34 K.S.A. 22-4901 through 22-4910, and amendments thereto.

35 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
36 repeal, or K.S.A. 2011 Supp. 21-5508, and amendments thereto, shall be
37 required to participate in a treatment program for sex offenders during the
38 postrelease supervision period.

39 (E) The period of postrelease supervision provided in subparagraphs
40 (A) and (B) may be reduced by up to 12 months and the period of
41 postrelease supervision provided in subparagraph (C) may be reduced by
42 up to six months based on the offender's compliance with conditions of
43 supervision and overall performance while on postrelease supervision. The

1 reduction in the supervision period shall be on an earned basis pursuant to
2 rules and regulations adopted by the secretary of corrections.

3 (F) In cases where sentences for crimes from more than one severity
4 level have been imposed, the offender shall serve the longest period of
5 postrelease supervision as provided by this section available for any crime
6 upon which sentence was imposed irrespective of the severity level of the
7 crime. Supervision periods will not aggregate.

8 (G) Except as provided in subsection (u), persons convicted of a
9 sexually violent crime committed on or after July 1, 2006, and who are
10 released from prison, shall be released to a mandatory period of
11 postrelease supervision for the duration of the person's natural life.

12 (2) As used in this section, "sexually violent crime" means:

13 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2011 Supp.
14 21-5503, and amendments thereto;

15 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
16 or subsection (a) of K.S.A. 2011 Supp. 21-5506, and amendments thereto;

17 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
18 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5506, and
19 amendments thereto;

20 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
21 prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2011 Supp. 21-
22 5504, and amendments thereto;

23 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
24 or subsection (b) of K.S.A. 2011 Supp. 21-5504, and amendments thereto;

25 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
26 or subsection (a) of K.S.A. 2011 Supp. 21-5508, and amendments thereto;

27 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
28 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5508, and
29 amendments thereto;

30 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
31 or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

32 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
33 subsection (b) of K.S.A. 2011 Supp. 21-5505, and amendments thereto;

34 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or
35 subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments thereto; or

36 (K) an attempt, conspiracy or criminal solicitation, as defined in
37 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011
38 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
39 sexually violent crime as defined in this section.

40 "Sexually motivated" means that one of the purposes for which the
41 defendant committed the crime was for the purpose of the defendant's
42 sexual gratification.

43 (e) If an inmate is sentenced to imprisonment for a crime committed

1 while on parole or conditional release, the inmate shall be eligible for
2 parole as provided by subsection (c), except that the ~~Kansas parole~~
3 *prisoner review* board may postpone the inmate's parole eligibility date by
4 assessing a penalty not exceeding the period of time which could have
5 been assessed if the inmate's parole or conditional release had been
6 violated for reasons other than conviction of a crime.

7 (f) If a person is sentenced to prison for a crime committed on or after
8 July 1, 1993, while on probation, parole, conditional release or in a
9 community corrections program, for a crime committed prior to July 1,
10 1993, and the person is not eligible for retroactive application of the
11 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
12 4724, prior to its repeal, the new sentence shall not be aggregated with the
13 old sentence, but shall begin when the person is paroled or reaches the
14 conditional release date on the old sentence. If the offender was past the
15 offender's conditional release date at the time the new offense was
16 committed, the new sentence shall not be aggregated with the old sentence
17 but shall begin when the person is ordered released by the ~~Kansas parole~~
18 *prisoner review* board or reaches the maximum sentence expiration date on
19 the old sentence, whichever is earlier. The new sentence shall then be
20 served as otherwise provided by law. The period of postrelease supervision
21 shall be based on the new sentence, except that those offenders whose old
22 sentence is a term of imprisonment for life, imposed pursuant to K.S.A.
23 1993 Supp. 21-4628, prior to its repeal, or an indeterminate sentence with
24 a maximum term of life imprisonment, for which there is no conditional
25 release or maximum sentence expiration date, shall remain on postrelease
26 supervision for life or until discharged from supervision by the ~~Kansas~~
27 *parole prisoner review* board.

28 (g) Subject to the provisions of this section, the ~~Kansas parole~~
29 *prisoner review* board may release on parole those persons confined in
30 institutions who are eligible for parole when: (1) The board believes that
31 the inmate should be released for hospitalization, for deportation or to
32 answer the warrant or other process of a court and is of the opinion that
33 there is reasonable probability that the inmate can be released without
34 detriment to the community or to the inmate; or (2) the secretary of
35 corrections has reported to the board in writing that the inmate has
36 satisfactorily completed the programs required by any agreement entered
37 under K.S.A. 75-5210a, and amendments thereto, or any revision of such
38 agreement, and the board believes that the inmate is able and willing to
39 fulfill the obligations of a law abiding citizen and is of the opinion that
40 there is reasonable probability that the inmate can be released without
41 detriment to the community or to the inmate. Parole shall not be granted as
42 an award of clemency and shall not be considered a reduction of sentence
43 or a pardon.

1 (h) The ~~Kansas parole~~ *prisoner review* board shall hold a parole
2 hearing at least the month prior to the month an inmate will be eligible for
3 parole under subsections (a), (b) and (c). At least the month preceding the
4 parole hearing, the county or district attorney of the county where the
5 inmate was convicted shall give written notice of the time and place of the
6 public comment sessions for the inmate to any victim of the inmate's crime
7 who is alive and whose address is known to the county or district attorney
8 or, if the victim is deceased, to the victim's family if the family's address is
9 known to the county or district attorney. Except as otherwise provided,
10 failure to notify pursuant to this section shall not be a reason to postpone a
11 parole hearing. In the case of any inmate convicted of an off-grid felony or
12 a class A felony the secretary of corrections shall give written notice of the
13 time and place of the public comment session for such inmate at least one
14 month preceding the public comment session to any victim of such
15 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
16 amendments thereto. If notification is not given to such victim or such
17 victim's family in the case of any inmate convicted of an off-grid felony or
18 a class A felony, the board shall postpone a decision on parole of the
19 inmate to a time at least 30 days after notification is given as provided in
20 this section. Nothing in this section shall create a cause of action against
21 the state or an employee of the state acting within the scope of the
22 employee's employment as a result of the failure to notify pursuant to this
23 section. If granted parole, the inmate may be released on parole on the date
24 specified by the board, but not earlier than the date the inmate is eligible
25 for parole under subsections (a), (b) and (c). At each parole hearing and, if
26 parole is not granted, at such intervals thereafter as it determines
27 appropriate, the ~~Kansas parole~~ board shall consider: (1) Whether the
28 inmate has satisfactorily completed the programs required by any
29 agreement entered under K.S.A. 75-5210a, and amendments thereto, or
30 any revision of such agreement; and (2) all pertinent information regarding
31 such inmate, including, but not limited to, the circumstances of the offense
32 of the inmate; the presentence report; the previous social history and
33 criminal record of the inmate; the conduct, employment, and attitude of the
34 inmate in prison; the reports of such physical and mental examinations as
35 have been made, including, but not limited to, risk factors revealed by any
36 risk assessment of the inmate; comments of the victim and the victim's
37 family including in person comments, contemporaneous comments and
38 prerecorded comments made by any technological means; comments of
39 the public; official comments; any recommendation by the staff of the
40 facility where the inmate is incarcerated; proportionality of the time the
41 inmate has served to the sentence a person would receive under the Kansas
42 sentencing guidelines for the conduct that resulted in the inmate's
43 incarceration; and capacity of state correctional institutions.

1 (i) In those cases involving inmates sentenced for a crime committed
2 after July 1, 1993, the ~~parole~~ *prisoner review* board will review the
3 inmates proposed release plan. The board may schedule a hearing if they
4 desire. The board may impose any condition they deem necessary to insure
5 public safety, aid in the reintegration of the inmate into the community, or
6 items not completed under the agreement entered into under K.S.A. 75-
7 5210a, and amendments thereto. The board may not advance or delay an
8 inmate's release date. Every inmate while on postrelease supervision shall
9 remain in the legal custody of the secretary of corrections and is subject to
10 the orders of the secretary.

11 (j) (1) Before ordering the parole of any inmate, the ~~Kansas parole~~
12 *prisoner review* board shall have the inmate appear either in person or via
13 a video conferencing format and shall interview the inmate unless
14 impractical because of the inmate's physical or mental condition or
15 absence from the institution. Every inmate while on parole shall remain in
16 the legal custody of the secretary of corrections and is subject to the orders
17 of the secretary. Whenever the ~~Kansas parole~~ *prisoner review* board
18 formally considers placing an inmate on parole and no agreement has been
19 entered into with the inmate under K.S.A. 75-5210a, and amendments
20 thereto, the board shall notify the inmate in writing of the reasons for not
21 granting parole. If an agreement has been entered under K.S.A. 75-5210a,
22 and amendments thereto, and the inmate has not satisfactorily completed
23 the programs specified in the agreement, or any revision of such
24 agreement, the board shall notify the inmate in writing of the specific
25 programs the inmate must satisfactorily complete before parole will be
26 granted. If parole is not granted only because of a failure to satisfactorily
27 complete such programs, the board shall grant parole upon the secretary's
28 certification that the inmate has successfully completed such programs. If
29 an agreement has been entered under K.S.A. 75-5210a, and amendments
30 thereto, and the secretary of corrections has reported to the board in
31 writing that the inmate has satisfactorily completed the programs required
32 by such agreement, or any revision thereof, the board shall not require
33 further program participation. However, if the board determines that other
34 pertinent information regarding the inmate warrants the inmate's not being
35 released on parole, the board shall state in writing the reasons for not
36 granting the parole. If parole is denied for an inmate sentenced for a crime
37 other than a class A or class B felony or an off-grid felony, the board shall
38 hold another parole hearing for the inmate not later than one year after the
39 denial unless the ~~parole~~ board finds that it is not reasonable to expect that
40 parole would be granted at a hearing if held in the next three years or
41 during the interim period of a deferral. In such case, the ~~parole~~ board may
42 defer subsequent parole hearings for up to three years but any such
43 deferral by the board shall require the board to state the basis for its

1 findings. If parole is denied for an inmate sentenced for a class A or class
2 B felony or an off-grid felony, the board shall hold another parole hearing
3 for the inmate not later than three years after the denial unless the ~~parole~~
4 board finds that it is not reasonable to expect that parole would be granted
5 at a hearing if held in the next 10 years or during the interim period of a
6 deferral. In such case, the ~~parole~~ board may defer subsequent parole
7 hearings for up to 10 years but any such deferral shall require the board to
8 state the basis for its findings.

9 (2) Inmates sentenced for a class A or class B felony who have not
10 had a parole board hearing in the five years prior to July 1, 2010, shall
11 have such inmates' cases reviewed by the ~~parole~~ *prisoner review* board on
12 or before July 1, 2012. Such review shall begin with the inmates with the
13 oldest deferral date and progress to the most recent. Such review shall be
14 done utilizing existing resources unless the ~~parole~~ *prisoner review* board
15 determines that such resources are insufficient. If the ~~parole~~ *prisoner*
16 *review* board determines that such resources are insufficient, then the
17 provisions of this paragraph are subject to appropriations therefor.

18 (k) Parolees and persons on postrelease supervision shall be assigned,
19 upon release, to the appropriate level of supervision pursuant to the criteria
20 established by the secretary of corrections.

21 (l) The ~~Kansas parole~~ *prisoner review* board shall adopt rules and
22 regulations in accordance with K.S.A. 77-415 et seq., and amendments
23 thereto, not inconsistent with the law and as it may deem proper or
24 necessary, with respect to the conduct of parole hearings, postrelease
25 supervision reviews, revocation hearings, orders of restitution,
26 reimbursement of expenditures by the state board of indigents' defense
27 services and other conditions to be imposed upon parolees or releasees.
28 Whenever an order for parole or postrelease supervision is issued it shall
29 recite the conditions thereof.

30 (m) Whenever the ~~Kansas parole~~ *prisoner review* board orders the
31 parole of an inmate or establishes conditions for an inmate placed on
32 postrelease supervision, the board:

33 (1) Unless it finds compelling circumstances which would render a
34 plan of payment unworkable, shall order as a condition of parole or
35 postrelease supervision that the parolee or the person on postrelease
36 supervision pay any transportation expenses resulting from returning the
37 parolee or the person on postrelease supervision to this state to answer
38 criminal charges or a warrant for a violation of a condition of probation,
39 assignment to a community correctional services program, parole,
40 conditional release or postrelease supervision;

41 (2) to the extent practicable, shall order as a condition of parole or
42 postrelease supervision that the parolee or the person on postrelease
43 supervision make progress towards or successfully complete the

1 equivalent of a secondary education if the inmate has not previously
2 completed such educational equivalent and is capable of doing so;

3 (3) may order that the parolee or person on postrelease supervision
4 perform community or public service work for local governmental
5 agencies, private corporations organized not-for-profit or charitable or
6 social service organizations performing services for the community;

7 (4) may order the parolee or person on postrelease supervision to pay
8 the administrative fee imposed pursuant to K.S.A. 22-4529, and
9 amendments thereto, unless the board finds compelling circumstances
10 which would render payment unworkable; and

11 (5) unless it finds compelling circumstances which would render a
12 plan of payment unworkable, shall order that the parolee or person on
13 postrelease supervision reimburse the state for all or part of the
14 expenditures by the state board of indigents' defense services to provide
15 counsel and other defense services to the person. In determining the
16 amount and method of payment of such sum, the ~~parole~~ *prisoner review*
17 board shall take account of the financial resources of the person and the
18 nature of the burden that the payment of such sum will impose. Such
19 amount shall not exceed the amount claimed by appointed counsel on the
20 payment voucher for indigents' defense services or the amount prescribed
21 by the board of indigents' defense services reimbursement tables as
22 provided in K.S.A. 22-4522, and amendments thereto, whichever is less,
23 minus any previous payments for such services.

24 (n) If the court which sentenced an inmate specified at the time of
25 sentencing the amount and the recipient of any restitution ordered as a
26 condition of parole or postrelease supervision, the ~~Kansas parole~~ *prisoner review*
27 board shall order as a condition of parole or postrelease supervision
28 that the inmate pay restitution in the amount and manner provided in the
29 journal entry unless the board finds compelling circumstances which
30 would render a plan of restitution unworkable.

31 (o) Whenever the ~~Kansas parole~~ *prisoner review* board grants the
32 parole of an inmate, the board, within 14 days of the date of the decision to
33 grant parole, shall give written notice of the decision to the county or
34 district attorney of the county where the inmate was sentenced.

35 (p) When an inmate is to be released on postrelease supervision, the
36 secretary, within 30 days prior to release, shall provide the county or
37 district attorney of the county where the inmate was sentenced written
38 notice of the release date.

39 (q) Inmates shall be released on postrelease supervision upon the
40 termination of the prison portion of their sentence. Time served while on
41 postrelease supervision will vest.

42 (r) An inmate who is allocated regular good time credits as provided
43 in K.S.A. 22-3725, and amendments thereto, may receive meritorious

1 good time credits in increments of not more than 90 days per meritorious
2 act. These credits may be awarded by the secretary of corrections when an
3 inmate has acted in a heroic or outstanding manner in coming to the
4 assistance of another person in a life threatening situation, preventing
5 injury or death to a person, preventing the destruction of property or taking
6 actions which result in a financial savings to the state.

7 (s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and
8 (d)(1)(E) shall be applied retroactively as provided in subsection (t).

9 (t) For offenders sentenced prior to May 25, 2000, who are eligible
10 for modification of their postrelease supervision obligation, the department
11 of corrections shall modify the period of postrelease supervision as
12 provided for by this section for offenders convicted of severity level 9 and
13 10 crimes on the sentencing guidelines grid for nondrug crimes and
14 severity level 4 crimes on the sentencing guidelines grid for drug crimes
15 on or before September 1, 2000; for offenders convicted of severity level 7
16 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or
17 before November 1, 2000; and for offenders convicted of severity level 5
18 and 6 crimes on the sentencing guidelines grid for nondrug crimes and
19 severity level 3 crimes on the sentencing guidelines grid for drug crimes
20 on or before January 1, 2001.

21 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
22 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
23 thereto, for crimes committed on or after July 1, 2006, shall be placed on
24 parole for life and shall not be discharged from supervision by the ~~Kansas~~
25 ~~parole prisoner review~~ board. When the board orders the parole of an
26 inmate pursuant to this subsection, the board shall order as a condition of
27 parole that the inmate be electronically monitored for the duration of the
28 inmate's natural life.

29 (v) Whenever the ~~Kansas parole prisoner review board or the court~~
30 orders a person to be electronically monitored *pursuant to this section, or*
31 *the court orders a person to be electronically monitored pursuant to*
32 **subsection (r) of K.S.A. 2011 Supp. 21-6604, and amendments thereto**, the
33 board ~~or court~~ shall order the person to reimburse the state for all or part of
34 the cost of such monitoring. In determining the amount and method of
35 payment of such sum, the board ~~or court~~ shall take account of the financial
36 resources of the person and the nature of the burden that the payment of
37 such sum will impose.

38 Sec. 3. K.S.A. 2011 Supp. 21-6604 and 22-3717 are hereby repealed.

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

41