

As Amended by Senate Committee

Session of 2012

SENATE BILL No. 304

By Joint Committee on Administrative Rules and Regulations

1-19

1 AN ACT concerning domestic violence; enacting the batterer intervention
2 program certification act; amending K.S.A. 2011 Supp. 12-4509, **21-**
3 **5414, 21-6604** and 22-4616 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) There is hereby created in the office of the
7 attorney general a batterer intervention program certification unit.

8 (b) Except as otherwise provided by law, the books, documents,
9 papers, records or other sources of information obtained and the
10 investigations conducted by the unit shall be confidential as required by
11 state or federal law.

12 (c) The purpose of the batterer intervention program certification unit
13 is to certify and inspect batterer intervention programs in Kansas. To
14 accomplish this purpose, upon request of the unit, the unit shall have
15 access to all records of reports, investigation documents and written
16 reports of findings related to confirmed cases of domestic violence or
17 exploitation of persons or cases in which there is reasonable suspicion to
18 believe domestic violence has occurred which are received or generated by
19 the department of social and rehabilitation services, department on aging,
20 department of health and environment; *or* Kansas bureau of investigation
21 ~~or the behavioral sciences regulatory board.~~

22 (d) The attorney general shall develop a set of tools, methodologies,
23 requirements and forms for the domestic violence offender assessment
24 required by subsection (p) of K.S.A. 2011 Supp. 21-6604, and
25 amendments thereto. The batterer intervention program tools,
26 methodologies, requirements and forms shall be developed in consultation
27 with the agency certified by the centers for disease control and prevention
28 and the department of health and human services as the domestic violence
29 coalition for the state and with local domestic violence victims' services
30 organizations.

31 (e) The attorney general may appoint a panel to assist the attorney
32 general by making recommendations regarding the:

33 (1) Content and development of a batterer intervention certification
34 program; and

35 (2) rules and regulations.

36 (f) The attorney general may appoint such advisory committees as the

1 attorney general deems necessary to carry out the purposes of this act.
2 Except as provided in K.S.A. 75-3212, and amendments thereto, no
3 member of any such advisory committee shall receive any compensation,
4 subsistence, mileage or other allowance for serving on an advisory
5 committee or attending any meeting thereof.

6 New Sec. 2. (a) No person shall operate or provide services as a
7 batterer intervention program unless such program has been certified as
8 required by this section.

9 (b) ***Except as provided in subsection (i)***, any program desiring to be
10 certified in Kansas as a batterer intervention program shall submit an
11 application thereof to the attorney general. All completed applications for
12 initial, renewal, or reinstatement certification shall be verified and on a
13 form approved by the attorney general. The completed application shall
14 include:

15 (1) The full name and resident address of the applicant;

16 (2) the name under which the applicant intends to do business and the
17 business address;

18 (3) a statement as to the general nature of the business in which the
19 applicant intends to engage;

20 (4) a statement of the educational and work experience ~~qualifications~~
21 of each individual, including any employee or agent of applicant, who will
22 be directly providing intervention services to clients of a batterer
23 intervention program;

24 ***(5) a statement that the applicant has complied with such other***
25 ***qualifications as may be established by the attorney general by rules and***
26 ***regulations;***

27 ~~(5) (6)~~ payment of the application fee; and

28 ~~(6) (7)~~ such other information, evidence, statements or documents as
29 may be required by the attorney general.

30 ~~(e) Before an application for a certification may be approved and~~
31 ~~granted, the applicant shall:~~

32 ~~(1) Have attained the age of 21;~~

33 ~~(2) have satisfied the attorney general that the applicant is a person~~
34 ~~who merits the public trust;~~

35 ~~(3) have paid the certification fee; and~~

36 ~~(4) complied with such other qualifications as may be established by~~
37 ~~the attorney general by rules and regulations.~~

38 ~~(d) (c)~~ If in evaluating an applicant's application the attorney general
39 finds any deficiency in the applicant's qualifications, the attorney general
40 may require such applicant to fulfill such remedial or other requirements
41 as the attorney general may prescribe.

42 ~~(e) (d)~~ Certification as a batterer intervention program shall expire on
43 the second anniversary of the date of certification.

1 ~~(f)~~ **(e)** Certification as a batterer intervention program may be
2 renewed every two years upon submission of a completed renewal
3 application to the attorney general on or before the expiration date of such
4 certification, payment of the renewal fee and verification of continuing
5 compliance with the requirements of this act and the rules and regulations
6 adopted thereunder by the attorney general.

7 ~~(g)~~ **(f)** Any batterer intervention program that fails to secure a
8 renewal certification within the time specified in subsection (f) may
9 request reinstatement of such lapsed certification by submitting to the
10 attorney general a completed application on a form approved by the
11 attorney general, furnishing proof that the applicant is qualified to act as a
12 certified batterer intervention program and satisfying all of the
13 requirements for reinstatement including payment of a reinstatement fee to
14 the attorney general.

15 ~~(h)~~ **(g)** The attorney general may issue a temporary permit to act as a
16 certified batterer intervention program for a period not to exceed 180 days
17 to an applicant requesting initial certification if the attorney general
18 determines the applicant qualifies under subsections (b) and (c), except for
19 program requirements regarding agency structure, personnel
20 qualifications, education requirements or training requirements established
21 in rules and regulations, and such deficiencies can be remedied within
22 such time period. The temporary permit shall expire upon the applicant
23 meeting all of the program requirements and the applicant's program being
24 certified as required by this section, or upon the expiration date of the
25 temporary permit, whichever occurs first.

26 ~~(i)~~ **(h)** No certification as a batterer intervention program or
27 temporary permit to act as a certified batterer intervention program shall
28 be assignable or transferable.

29 ***(i) A batterer intervention program may be exempted from the***
30 ***initial application for certification as a certified batterer intervention***
31 ***program if such program had been previously certified or certified by***
32 ***the attorney general as a batterer intervention program on the day***
33 ***preceding the effective date of this act.***

34 ***(j) (1) Except as provided further, the program director, program***
35 ***supervisor or program coordinator of any batterer intervention program***
36 ***shall be licensed to practice in Kansas as a licensed psychologist,***
37 ***licensed baccalaureate social worker, licensed master social worker,***
38 ***licensed specialist clinical social worker, licensed marriage and family***
39 ***therapist, licensed clinical marriage and family therapist, licensed***
40 ***professional counselor, licensed clinical professional counselor, licensed***
41 ***master level psychologist or licensed clinical psychotherapist.***

42 ***(2) Any person not licensed as required in subsection (j)(1) who is a***
43 ***program director, program supervisor or program coordinator***

1 *immediately prior to the effective date of this act may continue to be a*
2 *program director, program supervisor or program coordinator on and*
3 *after the effective date of this act if such person remains employed or*
4 *contracted by the same program, and such program remains a certified*
5 *batterer intervention program. When such person is no longer employed*
6 *or contracted by the program in which they were a program director,*
7 *program supervisor or program coordinator immediately prior to the*
8 *effective date of this act, such person shall not be a program director,*
9 *program supervisor or program coordinator for any certified batterer*
10 *intervention program without meeting the license requirements*
11 *prescribed in subsection (j)(1).*

12 New Sec. 3. Each applicant, certified batterer intervention program or
13 holder of a temporary permit shall notify the attorney general in writing of:

14 (a) A change in name or address, both residential and business, within
15 30 days of the change; or

16 (b) a conviction of or entering into a diversion agreement in lieu of
17 further criminal proceedings alleging a violation of:

18 (1) A felony offense in the Kansas Statutes Annotated, and
19 amendments thereto, or similar conviction in another jurisdiction:

20 (A) Involving dishonesty or false statement;

21 (B) involving alcohol or a controlled substance; or

22 (C) designated as a person offense in article 54 of chapter 21 of the
23 Kansas Statutes Annotated, and amendments thereto; or

24 (2) a misdemeanor offense in the Kansas Statutes Annotated, and
25 amendments thereto, or similar conviction in another jurisdiction or an
26 ordinance of any city of this state, or resolution of any county of this state:

27 (A) Involving dishonesty or false statement;

28 (B) involving alcohol or a controlled substance; or

29 (C) designated as a person offense in article 54 of chapter 21 of the
30 Kansas Statutes Annotated, and amendments thereto.

31 New Sec. 4. The fee for an initial application, renewal application or
32 reinstatement application for a batterer intervention program certification
33 shall be \$100. The fee for an initial application, renewal application or
34 reinstatement fee for temporary permit shall be \$50. The attorney general
35 may increase the amount of fee for an initial application, renewal
36 application or reinstatement application for a batterer intervention program
37 certification by rules and regulations, except that the fee for a batterer
38 intervention program certification shall not exceed \$250. The attorney
39 general may increase the amount of fee for an initial application renewal,
40 application or reinstatement application for temporary permit by rules and
41 regulations, except that the fee for a temporary permit shall not exceed
42 \$250.

43 New Sec. 5. (a) The attorney general shall establish by rules and

1 regulations the requirements for a batterer intervention certification
2 program. These requirements may include, but not be limited to:

- 3 (1) Standards;
- 4 (2) program elements and goals;
- 5 (3) the role of the certified batterer intervention program in the
6 community;
- 7 (4) technical considerations which may include, but not be limited to,
8 consideration of any combination of:
 - 9 (A) Expectations of batterers;
 - 10 (B) group composition;
 - 11 (C) facilitation;
 - 12 (D) curriculum;
 - 13 (E) prohibited and restricted practices;
 - 14 (F) batterer confidentiality, victim confidentiality and safety checks;
 - 15 (G) program length;
 - 16 (H) victim notification;
 - 17 (I) victim involvement;
 - 18 (J) public relations;
 - 19 (K) research;
 - 20 (L) agency structure; and
 - 21 (M) personnel ~~qualifications~~ **policies and procedures**;
- 22 (5) the assessment of batterer participants and the utilization of the
23 Kansas domestic violence offender assessment;
- 24 (6) ~~training and education requirements, continuing or otherwise,~~
25 **orientation training and continuing education requirements** for program
26 facilitators, program supervisors and program coordinators, **and any agent**
27 **or employee of a certified batterer intervention program who directly**
28 **provides intervention services to clients of such program**; and
- 29 (7) any other requirements or conditions as may be required by the
30 attorney general.

31 ~~(b) A batterer intervention program may be exempted from the initial~~
32 ~~application for certification as a certified batterer intervention program if~~
33 ~~such program had been previously certified or certified by the attorney~~
34 ~~general as a batterer intervention program on the day preceding the~~
35 ~~effective date of this act.~~

36 **(b) Such rules and regulations shall require the following:**

37 **(1) The Kansas domestic violence offender assessment shall be**
38 **completed by: (A) An individual who is licensed to practice in Kansas as**
39 **a licensed psychologist, licensed baccalaureate social worker, licensed**
40 **master social worker, licensed specialist clinical social worker, licensed**
41 **marriage and family therapist, licensed clinical marriage and family**
42 **therapist, licensed professional counselor, licensed clinical professional**
43 **counselor, licensed master level psychologist or licensed clinical**

1 *psychotherapist; or (B) an individual who meets the requirements of*
 2 *subsection (b)(2).*

3 *(2) Any person who is not licensed as required in subsection (b)(1)*
 4 *(A) who is completing domestic violence offender assessments as an*
 5 *employee of or volunteer for a batterer intervention program*
 6 *immediately prior to the effective date of this act may continue to*
 7 *complete such assessments on and after the effective date of this act if*
 8 *such person remains an employee of or volunteer for the same program,*
 9 *and such program remains a certified batterer intervention program.*
 10 *When such person is no longer an employee of or volunteer for the*
 11 *program in which they were employed or volunteering immediately prior*
 12 *to the effective date of this act, such person shall not be allowed to*
 13 *complete the Kansas domestic violence offender assessment for any*
 14 *certified batterer intervention program without meeting the license*
 15 *requirements prescribed in subsection (b)(1)(A).*

16 New Sec. 6. (a) The attorney general may suspend, limit, condition,
 17 deny, revoke or refuse renewal or reinstatement of any certification or
 18 permit issued under this act if the attorney general determines that an
 19 applicant, a person operating or providing services as a certified batterer
 20 intervention program or holder of a temporary permit has:

21 (1) Made any false statement or given any false information in
 22 connection with an application for an initial, renewal or reinstatement of a
 23 certification or temporary permit issued under this act;

24 (2) failed to meet or maintain compliance with program requirements;

25 (3) been found guilty or convicted of fraud or deceit in connection
 26 with services rendered;

27 (4) been found guilty of negligence or wrongful actions in the
 28 performance of services rendered;

29 (5) allowed the use of the attorney general's domestic violence
 30 offender assessment by any person who is not an employee or agent of
 31 either a current certified batterer intervention program or a holder of a
 32 temporary permit issued under this act;

33 (6) committed an act of unprofessional conduct as defined by rules
 34 and regulations adopted by the attorney general;

35 (7) been convicted of any offense as defined in section 3, and
 36 ~~amendment~~ **amendments** thereto; or

37 (8) failed or refused to allow inspection of records pursuant to section
 38 8, and amendments thereto.

39 (b) (1) For purposes of this section, "conviction" means:

40 (A) The entry of a plea or verdict of guilty or a conviction following a
 41 plea of nolo contendere and without regard to whether the sentence was
 42 suspended or probation granted after such conviction;

43 (B) a forfeiture of bail, bond or collateral deposited to secure a

1 defendant's appearance in court, which forfeiture has not been vacated; or
2 (C) entering into a diversion agreement in lieu of further criminal
3 proceedings alleging a violation of any offense specified in subsection (b)
4 of section 3, and amendments thereto.

5 (2) The record of conviction, or a certified copy thereof, shall be
6 conclusive evidence of such conviction.

7 (c) Proceedings under this section shall be conducted in accordance
8 with the Kansas administrative procedure act. Judicial review and civil
9 enforcement of agency actions under this act shall be in accordance with
10 the Kansas judicial review act.

11 New Sec. 7. (a) Any applicant, person who operates or provides
12 services as a batterer intervention program or holder of a temporary permit
13 who violates any provision of this act or any rules and regulations adopted
14 thereunder, in addition to any other penalty provided by law, may incur a
15 civil penalty imposed under subsection (b) in an amount not less than \$100
16 nor more than \$5,000 for each violation and, in the case of a continuing
17 violation, every day such violation continues may be deemed a separate
18 violation.

19 (b) No civil penalty shall be imposed pursuant to this section except
20 upon the written order of the attorney general to the applicant, person who
21 operates or provides services as a certified batterer intervention program or
22 holder of a temporary permit who committed the violation. Such order
23 shall state the violation, the penalty to be imposed and the right of the
24 applicant, person who operates or provides services as a certified batterer
25 intervention program or holder of a temporary permit to appeal to the
26 attorney general. Any such applicant, person who operates or provides
27 services as a certified batterer intervention program or holder of a
28 temporary permit, within 20 days after notification, may make written
29 request to the attorney general for a hearing in accordance with the
30 provisions of the Kansas administrative procedure act. The attorney
31 general shall affirm, reverse or modify the order and shall specify the
32 reasons therefor.

33 (c) Any applicant, person who operates or provides services as a
34 certified batterer intervention program or holder of a temporary permit
35 aggrieved by a final order of the attorney general made under this section
36 may appeal such order to the district court in the manner provided by the
37 Kansas judicial review act.

38 (d) Any civil penalty ~~recovered~~ **imposed** pursuant to the provisions of
39 this section shall be **recovered by the attorney general**, remitted to the
40 state treasurer, deposited in the state treasury and credited to the state
41 general fund.

42 (e) Any action taken pursuant to this section shall be in addition to
43 and not in lieu of any other penalty prescribed by law.

1 New Sec. 8. (a) Each certified batterer intervention program and each
2 holder of a temporary permit issued pursuant to this act shall keep and
3 maintain for a period of two years, each book, document, paper, record or
4 other information pertaining to services rendered as a certified batterer
5 intervention program.

6 (b) Regardless of the form or media in which such books,
7 documents, paper, record or other source of information is kept, each book,
8 document, paper, record and other source of information concerning the
9 compliance with the requirements established in this act and the rules and
10 regulations adopted thereunder by each certified batterer intervention
11 program or holder of a temporary permit shall be inspected at least once
12 every certification period by the attorney general. The attorney general
13 may order other or additional inspections as deemed necessary by the
14 attorney general. The attorney general shall at all times be given free
15 access to all such books, documents, papers, records or other sources of
16 information concerning the compliance with the requirements established
17 in this act and the rules and regulations adopted thereunder.

18 (c) (1) Any information or copy thereof obtained by the attorney
19 general pursuant to this section or pursuant to an investigation pursuant to
20 this act shall not be public and shall not be subject to disclosure pursuant
21 to the Kansas open records act, and amendments thereto.

22 (2) The provisions of subsection (c)(1) shall expire on July 1, 2017,
23 unless the legislature acts to reenact such provision. The provisions of
24 subsection (c)(1) shall be reviewed by the legislature prior to July 1, 2017.

25 New Sec. 9. (a) The attorney general may bring an action to restrain
26 or enjoin any violation of this act or any rule and regulation promulgated
27 thereunder. The district courts of this state shall have jurisdiction to
28 restrain violations of this act or the rules and regulations promulgated
29 thereunder. The court may issue such orders, including temporary
30 restraining orders, as the facts may warrant without first requiring proof
31 that an adequate remedy at law does not exist. Any orders issued pursuant
32 to this section shall be issued without bond. Proceedings may be instituted
33 under this section without any criminal proceedings, administrative
34 proceedings or civil penalty proceedings being first initiated.

35 (b) In any civil action brought by the attorney general pursuant to this
36 section in which a temporary restraining order, preliminary injunction or
37 permanent injunction is sought, it shall be sufficient to show that a
38 violation of the provisions of this act, or the rules and regulations adopted
39 thereunder, has occurred or is imminent. It shall not be necessary to allege
40 or prove at any stage of the proceeding that irreparable damage will occur
41 should the temporary restraining order, preliminary injunction or
42 permanent injunction not be issued or that the remedy at law is inadequate.

43 New Sec. 10. Except for a certified batterer intervention program or a

1 holder of a temporary permit authorized under this act, and amendments
2 thereto, no person shall use any of the tools, methodologies, and forms for
3 the domestic violence offender assessment required by subsection (p) of
4 K.S.A. 2011 Supp. 21-6604, and amendments thereto, developed by the
5 attorney general pursuant to section 1, and amendments thereto.

6 New Sec. 11. In accordance with the provisions of the rules and
7 regulations filing act, K.S.A. 77-415 et seq., and amendments thereto, the
8 attorney general shall adopt, amend and revoke rules and regulations
9 governing the administration and enforcement of this act, including but not
10 limited to:

11 (a) Criteria for the evaluation, certification and monitoring of any
12 certified batterer intervention program;

13 (b) any form required to implement this act;

14 (c) any ~~educational requirement for~~ ***orientation training and***
15 ***continuing education requirements for staff who will be directly***
16 ***providing intervention services to clients of*** any certified batterer
17 intervention program;

18 (d) any fee required under this act;

19 (e) any report, record or other information which may be required to
20 be kept, and maintained pursuant to this act; and

21 (f) such other rules and regulations as the attorney general may deem
22 necessary to carry out the provisions of this act.

23 Rules and regulations required for the administration of this act shall be
24 adopted on or before the first anniversary of the effective date of this act.

25 New Sec. 12. (a) There is hereby created in the state treasury the
26 Kansas attorney general batterer intervention program certification fund.
27 The attorney general shall remit all amounts received under this act to the
28 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
29 amendments thereto. Upon receipt of each such remittance, the attorney
30 general shall remit the entire amount to the state treasurer pursuant to the
31 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
32 each such remittance, the state treasurer shall deposit the entire amount in
33 the state treasury to the credit of the Kansas attorney general batterer
34 intervention program certification fund.

35 (b) Moneys in the Kansas attorney general batterer intervention
36 program certification fund shall be expended only for the purposes of
37 administering this act.

38 (c) All expenditures from the Kansas attorney general batterer
39 intervention program certification fund shall be made in accordance with
40 appropriation acts upon warrants of the director of accounts and reports
41 issued pursuant to vouchers approved by the attorney general or by a
42 person designated by the attorney general.

43 New Sec. 13. (a) As used in this act, unless the context otherwise

1 requires, the following words and phrases shall have the meanings
2 ascribed to them in this section:

3 (1) "Agent or employee thereof," in the context of either a certified
4 batterer intervention program or the holder of a temporary permit, means
5 any individual who acts or aids in any manner in directly providing
6 intervention related service to a client of a certified batterer intervention
7 program. The term "agent or employee thereof" shall not include an
8 individual working as an officer for a certified batterer intervention
9 program, or in a clerical, administrative or service capacity for a certified
10 batterer intervention program, provided that such individual does not
11 provide intervention services to clients under such program.

12 (2) "Attorney general" means the attorney general of the state of
13 Kansas and any authorized agent or designee thereof.

14 (3) "Certified batterer intervention program" includes any agent or
15 employee thereof.

16 (4) "Holder of a temporary permit" includes any agent or employee
17 thereof.

18 (5) "Person" means an individual, partnership, corporation, limited
19 liability company, association, business entity, legal representative,
20 trustee, trustee in bankruptcy or receiver, partnership, joint venture,
21 company, firm, corporation, institution, governmental subdivision, state or
22 federal department or agency or other legal entity.

23 (b) Sections 1 through 13, and amendments thereto, shall be cited as
24 the batterer intervention program certification act.

25 Sec. 14. K.S.A. 2011 Supp. 12-4509 is hereby amended to read as
26 follows: 12-4509. (a) Whenever a person is found guilty of the violation of
27 an ordinance, the municipal judge may:

28 (1) Release the person without imposition of sentence;

29 (2) release the person on probation after the imposition of sentence,
30 without imprisonment or the payment of a fine or a portion thereof, subject
31 to conditions imposed by the court as provided in subsection (e);

32 (3) impose such sentence of fine or imprisonment, or both, as
33 authorized for the ordinance violation; or

34 (4) impose a sentence of house arrest as provided in K.S.A. 2011
35 Supp. 21-6609, and amendments thereto.

36 (b) In addition to or in lieu of any other sentence authorized by law,
37 whenever a person is found guilty of the violation of an ordinance and
38 there is evidence that the act constituting the violation of the ordinance
39 was substantially related to the possession, use or ingestion of cereal malt
40 beverage or alcoholic liquor by such person, the judge may order such
41 person to attend and satisfactorily complete an alcohol or drug education
42 or training program certified by the chief judge of the judicial district or
43 licensed by the secretary of social and rehabilitation services.

1 (c) Except as provided in subsection (d), in addition to or in lieu of
2 any other sentence authorized by law, whenever a person is convicted of
3 having violated, while under 21 years of age, an ordinance prohibiting an
4 act prohibited by K.S.A. 2011 Supp. 21-5701 through 21-5717, and
5 amendments thereto, or K.S.A. 8-1599, 41-719 or 41-727, and
6 amendments thereto, the municipal judge shall order such person to submit
7 to and complete an alcohol and drug evaluation by a community-based
8 alcohol and drug safety action program certified pursuant to K.S.A. 8-
9 1008, and amendments thereto, and to pay a fee not to exceed the fee
10 established by that statute for such evaluation. If the judge finds that the
11 person is indigent, the fee may be waived.

12 (d) If the person is 18 or more years of age but less than 21 years of
13 age and is convicted of a violation of K.S.A. 41-727, and amendments
14 thereto, involving cereal malt beverage, the provisions of subsection (c)
15 are permissive and not mandatory.

16 (e) *In addition to any other sentence authorized by law, whenever a*
17 *person is convicted of any criminal offense, the municipal judge shall*
18 *determine whether the defendant committed a domestic violence offense as*
19 *defined in K.S.A. 2011 Supp. 21-3110 and 21-5111, and amendments*
20 *thereto, and shall sentence the defendant pursuant to K.S.A. 2011 Supp.*
21 *22-4616, and amendments thereto.*

22 (f) The court may impose any conditions of probation or suspension
23 of sentence that the court deems proper, including, but not limited to,
24 requiring that the defendant:

25 (1) Avoid such injurious or vicious habits, as directed by the court or
26 the probation officer;

27 (2) avoid such persons or places of disreputable or harmful character,
28 as directed by the court or the probation officer;

29 (3) report to the probation officer as directed;

30 (4) permit the probation officer to visit the defendant at home or
31 elsewhere;

32 (5) work faithfully at suitable employment insofar as possible;

33 (6) remain within the state unless the court grants permission to
34 leave;

35 (7) pay a fine or costs, applicable to the ordinance violation, in one or
36 several sums and in the manner as directed by the court;

37 (8) support the defendant's dependents;

38 (9) reside in a residential facility located in the community and
39 participate in educational counseling, work and other correctional or
40 rehabilitative programs;

41 (10) perform community or public service work for local
42 governmental agencies, private corporations organized not for profit, or
43 charitable or social service organizations performing services for the

1 community;

2 (11) perform services under a system of day fines whereby the
3 defendant is required to satisfy fines, costs or reparation or restitution
4 obligations by performing services for a period of days determined by the
5 court on the basis of ability to pay, standard of living, support obligations
6 and other factors;

7 (12) make reparation or restitution to the aggrieved party for the
8 damage or loss caused by the defendant's crime, in an amount and manner
9 determined by the court and to the person specified by the court; or

10 (13) reimburse the city, in accordance with any order made under
11 subsection ~~(f)~~ (g), for all or a part of the reasonable expenditures by the
12 city to provide counsel and other defense services to the defendant.

13 ~~(f)~~ (g) In addition to or in lieu of any other sentence authorized by
14 law, whenever a person is found guilty of the violation of an ordinance the
15 judge may order such person to reimburse the city for all or a part of the
16 reasonable expenditures by the city to provide counsel and other defense
17 services to the defendant. In determining the amount and method of
18 payment of such sum, the court shall take account of the financial
19 resources of the defendant and the nature of the burden that payment of
20 such sum will impose. A defendant who has been required to pay such sum
21 and who is not willfully in default in the payment thereof may at any time
22 petition the court which sentenced the defendant to waive payment of such
23 sum or of any unpaid portion thereof. If it appears to the satisfaction of the
24 court that payment of the amount due will impose manifest hardship on the
25 defendant or the defendant's immediate family, the court may waive
26 payment of all or part of the amount due or modify the method of
27 payment.

28 ***Sec. 15. K.S.A. 2011 Supp. 21-5414 is hereby amended to read as***
29 ***follows: 21-5414. (a) Domestic battery is:***

30 ***(1) Knowingly or recklessly causing bodily harm by a family or***
31 ***household member against a family or household member; or***

32 ***(2) knowingly causing physical contact with a family or household***
33 ***member by a family or household member when done in a rude,***
34 ***insulting or angry manner.***

35 ***(b) Domestic battery is a:***

36 ***(1) Except as provided in subsection (b)(2) or (b)(3), a Class B***
37 ***person misdemeanor and the offender shall be sentenced to not less than***
38 ***48 consecutive hours nor more than six months' imprisonment and***
39 ***fined not less than \$200, nor more than \$500 or in the court's discretion***
40 ***the court may enter an order which requires the offender enroll in and***
41 ***successfully complete a domestic violence prevention program, except as***
42 ***provided in subsection (b)(2) or (b)(3) to undergo a domestic violence***
43 ***offender assessment conducted by a certified batterer intervention***

1 *program and follow all recommendations made by such program;*

2 *(2) except as provided in subsection (b)(3), a class A person*
3 *misdemeanor, if, within five years immediately preceding commission of*
4 *the crime, an offender is convicted of domestic battery a second time and*
5 *the offender shall be sentenced to not less than 90 days nor more than*
6 *one year's imprisonment and fined not less than \$500 nor more than*
7 *\$1,000, ~~except as provided in subsection (b)(3).~~ The five days*
8 *imprisonment mandated by this paragraph may be served in a work*
9 *release program only after such offender has served 48 consecutive*
10 *hours imprisonment, provided such work release program requires such*
11 *offender to return to confinement at the end of each day in the work*
12 *release program. The offender shall serve at least five consecutive days*
13 *imprisonment before the offender is granted probation, suspension or*
14 *reduction of sentence or parole or is otherwise released. As a condition*
15 *of any grant of probation, suspension of sentence or parole or of any*
16 *other release, the offender shall be required to enter into and complete a*
17 *treatment program for domestic violence ~~prevention~~ undergo a domestic*
18 *violence offender assessment conducted by a certified batterer*
19 *intervention program and follow all recommendations made by such*
20 *program; and*

21 *(3) a person felony, if, within five years immediately preceding*
22 *commission of the crime, an offender is convicted of domestic battery a*
23 *third or subsequent time, and the offender shall be sentenced to not less*
24 *than 90 days nor more than one year's imprisonment and fined not less*
25 *than \$1,000 nor more than \$7,500. The offender convicted shall not be*
26 *eligible for release on probation, suspension or reduction of sentence or*
27 *parole until the offender has served at least 90 days imprisonment. The*
28 *court shall require as a condition of parole that such offender enter into*
29 *and complete a treatment program for domestic violence As a condition of*
30 *any grant of probation, suspension of sentence or parole or of any other*
31 *release, the offender shall be required to undergo a domestic violence*
32 *offender assessment conducted by a certified batterer intervention*
33 *program and follow all recommendations made by such program. If the*
34 *offender does not enter into and complete a treatment program for*
35 *domestic violence undergo a domestic violence offender assessment*
36 *conducted by a certified batterer intervention program and follow all*
37 *recommendations made by such program, the offender shall serve not less*
38 *than 180 days nor more than one year's imprisonment. The 90 days*
39 *imprisonment mandated by this paragraph may be served in a work*
40 *release program only after such offender has served 48 consecutive*
41 *hours imprisonment, provided such work release program requires such*
42 *offender to return to confinement at the end of each day in the work*
43 *release program.*

1 (c) *As used in this section:*

2 (1) *"Family or household member" means persons 18 years of age*
3 *or older who are spouses, former spouses, parents or stepparents and*
4 *children or stepchildren, and persons who are presently residing*
5 *together or who have resided together in the past, and persons who have*
6 *a child in common regardless of whether they have been married or who*
7 *have lived together at any time. "Family or household member" also*
8 *includes a man and woman if the woman is pregnant and the man is*
9 *alleged to be the father, regardless of whether they have been married or*
10 *have lived together at any time; and*

11 (2) *for the purpose of determining whether a conviction is a first,*
12 *second, third or subsequent conviction in sentencing under this section:*

13 (A) *"Conviction" includes being convicted of a violation of K.S.A.*
14 *21-3412a, prior to its repeal, this section or entering into a diversion or*
15 *deferred judgment agreement in lieu of further criminal proceedings on*
16 *a complaint alleging a violation of this section;*

17 (B) *"conviction" includes being convicted of a violation of a law of*
18 *another state, or an ordinance of any city, or resolution of any county,*
19 *which prohibits the acts that this section prohibits or entering into a*
20 *diversion or deferred judgment agreement in lieu of further criminal*
21 *proceedings in a case alleging a violation of such law, ordinance or*
22 *resolution;*

23 (C) *only convictions occurring in the immediately preceding five*
24 *years including prior to July 1, 2001 shall be taken into account, but the*
25 *court may consider other prior convictions in determining the sentence*
26 *to be imposed within the limits provided for a first, second, third or*
27 *subsequent offender, whichever is applicable; and*

28 (D) *it is irrelevant whether an offense occurred before or after*
29 *conviction for a previous offense.*

30 (d) *A person may enter into a diversion agreement in lieu of further*
31 *criminal proceedings for a violation of this section or an ordinance of*
32 *any city or resolution of any county which prohibits the acts that this*
33 *section prohibits only twice during any five-year period.*

34 Sec. 16. *K.S.A. 2011 Supp. 21-6604 is hereby amended to read as*
35 *follows: 21-6604. (a) Whenever any person has been found guilty of a*
36 *crime, the court may adjudge any of the following:*

37 (1) *Commit the defendant to the custody of the secretary of*
38 *corrections if the current crime of conviction is a felony and the*
39 *sentence presumes imprisonment, or the sentence imposed is a*
40 *dispositional departure to imprisonment; or, if confinement is for a*
41 *misdemeanor, to jail for the term provided by law;*

42 (2) *impose the fine applicable to the offense and may impose the*
43 *provisions of subsection (q);*

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

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

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

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

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

26 (8) *order the defendant to repay the amount of any reward paid by*
27 *any crime stoppers chapter, individual, corporation or public entity*
28 *which materially aided in the apprehension or conviction of the*
29 *defendant; repay the amount of any costs and expenses incurred by any*
30 *law enforcement agency in the apprehension of the defendant, if one of*
31 *the current crimes of conviction of the defendant includes escape from*
32 *custody or aggravated escape from custody, as defined in K.S.A. 2011*
33 *Supp. 21-5911, and amendments thereto; repay expenses incurred by a*
34 *fire district, fire department or fire company responding to a fire which*
35 *has been determined to be arson or aggravated arson as defined in*
36 *K.S.A. 2011 Supp. 21-5812, and amendments thereto, if the defendant is*
37 *convicted of such crime; repay the amount of any public funds utilized*
38 *by a law enforcement agency to purchase controlled substances from the*
39 *defendant during the investigation which leads to the defendant's*
40 *conviction; or repay the amount of any medical costs and expenses*
41 *incurred by any law enforcement agency or county. Such repayment of*
42 *the amount of any such costs and expenses incurred by a county, law*
43 *enforcement agency, fire district, fire department or fire company or any*

1 *public funds utilized by a law enforcement agency shall be deposited and*
2 *credited to the same fund from which the public funds were credited to*
3 *prior to use by the county, law enforcement agency, fire district, fire*
4 *department or fire company;*

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

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

9 *(11) if the defendant is convicted of a misdemeanor or convicted of*
10 *a felony specified in subsection (i) of K.S.A. 2011 Supp. 21-6804, and*
11 *amendments thereto, assign the defendant to work release program,*
12 *other than a program at a correctional institution under the control of*
13 *the secretary of corrections as defined in K.S.A. 75-5202, and*
14 *amendments thereto, provided such work release program requires such*
15 *defendant to return to confinement at the end of each day in the work*
16 *release program. On a second conviction of K.S.A. 8-1567, and*
17 *amendments thereto, an offender placed into a work release program*
18 *must serve a total of 120 hours of confinement. Such 120 hours of*
19 *confinement shall be a period of at least 48 consecutive hours of*
20 *imprisonment followed by confinement hours at the end of and*
21 *continuing to the beginning of the offender's work day. On a third or*
22 *subsequent conviction of K.S.A. 8-1567, and amendments thereto, an*
23 *offender placed into a work release program must serve a total of 240*
24 *hours of confinement. Such 240 hours of confinement shall be a period*
25 *of at least 48 consecutive hours of imprisonment followed by*
26 *confinement hours at the end of and continuing to the beginning of the*
27 *offender's work day;*

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

31 *(13) impose any appropriate combination of (1), (2), (3), (4), (5),*
32 *(6), (7), (8), (9), (10), (11) and (12); or*

33 *(14) suspend imposition of sentence in misdemeanor cases.*

34 *(b) (1) In addition to or in lieu of any of the above, the court shall*
35 *order the defendant to pay restitution, which shall include, but not be*
36 *limited to, damage or loss caused by the defendant's crime, unless the*
37 *court finds compelling circumstances which would render a plan of*
38 *restitution unworkable. In regard to a violation of K.S.A. 2011 Supp. 21-*
39 *6107, and amendments thereto, such damage or loss shall include, but*
40 *not be limited to, attorney fees and costs incurred to repair the credit*
41 *history or rating of the person whose personal identification documents*
42 *were obtained and used in violation of such section, and to satisfy a debt,*
43 *lien or other obligation incurred by the person whose personal*

1 *identification documents were obtained and used in violation of such*
2 *section. If the court finds a plan of restitution unworkable, the court*
3 *shall state on the record in detail the reasons therefor.*

4 *(2) If the court orders restitution, the restitution shall be a*
5 *judgment against the defendant which may be collected by the court by*
6 *garnishment or other execution as on judgments in civil cases. If, after*
7 *60 days from the date restitution is ordered by the court, a defendant is*
8 *found to be in noncompliance with the plan established by the court for*
9 *payment of restitution, and the victim to whom restitution is ordered paid*
10 *has not initiated proceedings in accordance with K.S.A. 60-4301 et seq.,*
11 *and amendments thereto, the court shall assign an agent procured by the*
12 *attorney general pursuant to K.S.A. 75-719, and amendments thereto, to*
13 *collect the restitution on behalf of the victim. The chief judge of each*
14 *judicial district may assign such cases to an appropriate division of the*
15 *court for the conduct of civil collection proceedings.*

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

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

35 *(e) In releasing a defendant on probation, the court shall direct that*
36 *the defendant be under the supervision of a court services officer. If the*
37 *court commits the defendant to the custody of the secretary of*
38 *corrections or to jail, the court may specify in its order the amount of*
39 *restitution to be paid and the person to whom it shall be paid if*
40 *restitution is later ordered as a condition of parole, conditional release*
41 *or postrelease supervision.*

42 *(f) (1) When a new felony is committed while the offender is*
43 *incarcerated and serving a sentence for a felony, or while the offender is*

1 *on probation, assignment to a community correctional services program,*
2 *parole, conditional release or postrelease supervision for a felony, a new*
3 *sentence shall be imposed pursuant to the consecutive sentencing*
4 *requirements of K.S.A. 2011 Supp. 21-6606, and amendments thereto,*
5 *and the court may sentence the offender to imprisonment for the new*
6 *conviction, even when the new crime of conviction otherwise presumes a*
7 *nonprison sentence. In this event, imposition of a prison sentence for the*
8 *new crime does not constitute a departure.*

9 (2) *When a new felony is committed while the offender is*
10 *incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-*
11 *1671, prior to its repeal, or K.S.A. 2011 Supp. 38-2373, and amendments*
12 *thereto, for an offense, which if committed by an adult would constitute*
13 *the commission of a felony, upon conviction, the court shall sentence the*
14 *offender to imprisonment for the new conviction, even when the new*
15 *crime of conviction otherwise presumes a nonprison sentence. In this*
16 *event, imposition of a prison sentence for the new crime does not*
17 *constitute a departure. The conviction shall operate as a full and*
18 *complete discharge from any obligations, except for an order of*
19 *restitution, imposed on the offender arising from the offense for which*
20 *the offender was committed to a juvenile correctional facility.*

21 (3) *When a new felony is committed while the offender is on release*
22 *for a felony pursuant to the provisions of article 28 of chapter 22 of the*
23 *Kansas Statutes Annotated, and amendments thereto, or similar*
24 *provisions of the laws of another jurisdiction, a new sentence may be*
25 *imposed pursuant to the consecutive sentencing requirements of K.S.A.*
26 *2011 Supp. 21-6606, and amendments thereto, and the court may*
27 *sentence the offender to imprisonment for the new conviction, even*
28 *when the new crime of conviction otherwise presumes a nonprison*
29 *sentence. In this event, imposition of a prison sentence for the new crime*
30 *does not constitute a departure.*

31 (g) *Prior to imposing a dispositional departure for a defendant*
32 *whose offense is classified in the presumptive nonprison grid block of*
33 *either sentencing guideline grid, prior to sentencing a defendant to*
34 *incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G*
35 *of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-*
36 *E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes,*
37 *prior to sentencing a defendant to incarceration whose offense is*
38 *classified in grid blocks 4-E or 4-F of the sentencing guideline grid for*
39 *drug crimes and whose offense does not meet the requirements of K.S.A.*
40 *2011 Supp. 21-6824, and amendments thereto, prior to revocation of a*
41 *nonprison sanction of a defendant whose offense is classified in grid*
42 *blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and*
43 *whose offense does not meet the requirements of K.S.A. 2011 Supp. 21-*

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

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

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

41 (j) This section shall not deprive the court of any authority
42 conferred by any other Kansas statute to decree a forfeiture of property,
43 suspend or cancel a license, remove a person from office or impose any

1 *other civil penalty as a result of conviction of crime.*

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

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

13 *(1) Has been sentenced to the secretary for a probation revocation,*
14 *as a departure from the presumptive nonimprisonment grid block of*
15 *either sentencing grid, for an offense which is classified in grid blocks 5-*
16 *H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in*
17 *grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid*
18 *for drug crimes, or for an offense which is classified in grid blocks 4-E*
19 *or 4-F of the sentencing guidelines grid for drug crimes and such*
20 *offense does not meet the requirements of K.S.A. 2011 Supp. 21-6824,*
21 *and amendments thereto; and*

22 *(2) otherwise meets admission criteria of the camp.*

23 *If the inmate successfully completes a conservation camp program,*
24 *the secretary of corrections shall report such completion to the*
25 *sentencing court and the county or district attorney. The inmate shall*
26 *then be assigned by the court to six months of follow-up supervision*
27 *conducted by the appropriate community corrections services program.*
28 *The court may also order that supervision continue thereafter for the*
29 *length of time authorized by K.S.A. 2011 Supp. 21-6608, and*
30 *amendments thereto.*

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

34 *(n) Except as provided by subsection (f) of K.S.A. 2011 Supp. 21-*
35 *6805, and amendments thereto, in addition to any of the above, for*
36 *felony violations of K.S.A. 2011 Supp. 21-5706, and amendments*
37 *thereto, the court shall require the defendant who meets the*
38 *requirements established in K.S.A. 2011 Supp. 21-6824, and*
39 *amendments thereto, to participate in a certified drug abuse treatment*
40 *program, as provided in K.S.A. 2011 Supp. 75-52,144, and amendments*
41 *thereto, including, but not limited to, an approved after-care plan. If the*
42 *defendant fails to participate in or has a pattern of intentional conduct*
43 *that demonstrates the offender's refusal to comply with or participate in*

1 *the treatment program, as established by judicial finding, the defendant*
2 *shall be subject to revocation of probation and the defendant shall serve*
3 *the underlying prison sentence as established in K.S.A. 2011 Supp. 21-*
4 *6805, and amendments thereto. For those offenders who are convicted*
5 *on or after July 1, 2003, upon completion of the underlying prison*
6 *sentence, the defendant shall not be subject to a period of postrelease*
7 *supervision. The amount of time spent participating in such program*
8 *shall not be credited as service on the underlying prison sentence.*

9 (o) (1) *Except as provided in paragraph (3), in addition to any other*
10 *penalty or disposition imposed by law, upon a conviction for unlawful*
11 *possession of a controlled substance or controlled substance analog in*
12 *violation of K.S.A. 2011 Supp. 21-5706, and amendments thereto, in*
13 *which the trier of fact makes a finding that the unlawful possession*
14 *occurred while transporting the controlled substance or controlled*
15 *substance analog in any vehicle upon a highway or street, the offender's*
16 *driver's license or privilege to operate a motor vehicle on the streets and*
17 *highways of this state shall be suspended for one year.*

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

28 (3) (A) *In lieu of suspending the driver's license or privilege to*
29 *operate a motor vehicle on the highways of this state of any person as*
30 *provided in paragraph (1), the judge of the court in which such person*
31 *was convicted may enter an order which places conditions on such*
32 *person's privilege of operating a motor vehicle on the highways of this*
33 *state, a certified copy of which such person shall be required to carry*
34 *any time such person is operating a motor vehicle on the highways of*
35 *this state. Any such order shall prescribe the duration of the conditions*
36 *imposed, which in no event shall be for a period of more than one year.*

37 (B) *Upon entering an order restricting a person's license*
38 *hereunder, the judge shall require such person to surrender such*
39 *person's driver's license to the judge who shall cause it to be transmitted*
40 *to the division of vehicles, together with a copy of the order. Upon*
41 *receipt thereof, the division of vehicles shall issue without charge a*
42 *driver's license which shall indicate on its face that conditions have been*
43 *imposed on such person's privilege of operating a motor vehicle and that*

1 *a certified copy of the order imposing such conditions is required to be*
2 *carried by the person for whom the license was issued any time such*
3 *person is operating a motor vehicle on the highways of this state. If the*
4 *person convicted is a nonresident, the judge shall cause a copy of the*
5 *order to be transmitted to the division and the division shall forward a*
6 *copy of it to the motor vehicle administrator, of such person's state of*
7 *residence. Such judge shall furnish to any person whose driver's license*
8 *has had conditions imposed on it under this paragraph a copy of the*
9 *order, which shall be recognized as a valid Kansas driver's license until*
10 *such time as the division shall issue the restricted license provided for in*
11 *this paragraph.*

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

26 *(4) As used in this subsection, "highway" and "street" means the*
27 *same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.*

28 *(p) In addition to any of the above, for any criminal offense that*
29 *includes the domestic violence designation pursuant to K.S.A. 2011*
30 *Supp. 22-4616, and amendments thereto, the court shall require the*
31 *defendant to: (1) Undergo a domestic violence offender assessment*
32 *conducted by a certified batterer intervention program; and (2) follow all*
33 *recommendations made by such program, unless otherwise ordered by*
34 *the court or the department of corrections. The court may order a*
35 *domestic violence offender assessment and any other evaluation prior to*
36 *sentencing if the assessment or evaluation would assist the court in*
37 *determining an appropriate sentence. The entity completing the*
38 *assessment or evaluation shall provide the assessment or evaluation and*
39 *recommendations to the court and the court shall provide the domestic*
40 *violence offender assessment and any other evaluation to any entity*
41 *responsible for supervising such defendant. A defendant ordered to*
42 *undergo a domestic violence offender assessment shall be required to*
43 *pay for the assessment and, unless otherwise ordered by the court or the*

1 *department of corrections, for completion of all recommendations.*

2 *(g) In imposing a fine, the court may authorize the payment thereof*
3 *in installments. In lieu of payment of any fine imposed, the court may*
4 *order that the person perform community service specified by the court.*
5 *The person shall receive a credit on the fine imposed in an amount*
6 *equal to \$5 for each full hour spent by the person in the specified*
7 *community service. The community service ordered by the court shall be*
8 *required to be performed by the later of one year after the fine is*
9 *imposed or one year after release from imprisonment or jail, or by an*
10 *earlier date specified by the court. If by the required date the person*
11 *performs an insufficient amount of community service to reduce to zero*
12 *the portion of the fine required to be paid by the person, the remaining*
13 *balance shall become due on that date. If conditional reduction of any*
14 *fine is rescinded by the court for any reason, then pursuant to the*
15 *court's order the person may be ordered to perform community service*
16 *by one year after the date of such rescission or by an earlier date*
17 *specified by the court. If by the required date the person performs an*
18 *insufficient amount of community service to reduce to zero the portion*
19 *of the fine required to be paid by the person, the remaining balance of*
20 *the fine shall become due on that date. All credits for community service*
21 *shall be subject to review and approval by the court.*

22 Sec. ~~15~~. 17. K.S.A. 22-4616 is hereby amended to read as follows:
23 22-4616. (a) On and after July 1, 2011, in all criminal cases *filed in the*
24 *district court or in the municipal court*, if there is evidence that the
25 defendant committed a domestic violence offense, the trier of fact shall
26 determine whether the defendant committed a domestic violence offense.

27 (1) Except as provided further, if the trier of fact determines that the
28 defendant committed a domestic violence offense, the court shall place a
29 domestic violence designation on the criminal case and the defendant shall
30 be subject to the provisions of subsection (p) of K.S.A. 2011 Supp. 21-
31 6604, and amendments thereto.

32 (2) The court shall not place a domestic violence designation on the
33 criminal case and the defendant shall not be subject to the provisions of
34 subsection (p) of K.S.A. 2011 Supp. 21-6604, and amendments thereto,
35 only if the court finds on the record that:

36 (A) The defendant has not previously committed a domestic violence
37 offense or participated in a diversion upon a complaint alleging a domestic
38 violence offense; and

39 (B) the domestic violence offense was not used to coerce, control,
40 punish, intimidate or take revenge against a person with whom the
41 offender is involved or has been involved in a dating relationship or
42 against a family or household member.

43 (b) The term "domestic violence offense" shall have the meaning

1 provided in K.S.A. 2011 Supp. 21-5111, and amendments thereto.

2 (c) This section shall be a part of and supplemental to the Kansas
3 code for criminal procedure.

4 ~~Sec. 16.~~ **18.** K.S.A. 2011 Supp. 12-4509, **21-5414**, **21-6604** and 22-
5 4616 are hereby repealed.

6 ~~Sec. 17.~~ **19.** This act shall take effect and be in force from and after
7 its publication in the Kansas register.