

HOUSE BILL No. 2107

By Committee on Corrections and Juvenile Justice

1-23

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to delinquent time lost on parole; amending K.S.A. 2014 Supp. 75-
3 5217 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2014 Supp. 75-5217 is hereby amended to read as
7 follows: 75-5217. (a) At any time during release on parole, conditional
8 release or postrelease supervision, the secretary of corrections may issue a
9 warrant for the arrest of a released inmate for violation of any of the
10 conditions of release, or a notice to appear to answer to a charge of
11 violation. Such notice shall be served personally upon the released inmate.
12 The warrant shall authorize any law enforcement officer to arrest and
13 deliver the released inmate to a place as provided by subsection (g). Any
14 parole officer may arrest such released inmate without a warrant, or may
15 deputize any other officer with power of arrest to do so by giving such
16 officer a written or verbal arrest and detain order setting forth that the
17 released inmate, in the judgment of the parole officer, has violated the
18 conditions of the inmate's release. A written arrest and detain order
19 delivered to the official in charge of the institution or place to which the
20 released inmate is brought for detention shall be sufficient warrant for
21 detaining the inmate. After making an arrest the parole officer shall present
22 to the detaining authorities a similar arrest and detain order and statement
23 of the circumstances of violation. Pending a hearing, as provided in this
24 section, upon any charge of violation the released inmate shall remain
25 incarcerated in the institution or place to which the inmate is taken for
26 detention.

27 (b) Upon such arrest and detention, the parole officer shall notify the
28 secretary of corrections, or the secretary's designee, within five days and
29 shall submit in writing a report showing in what manner the released
30 inmate had violated the conditions of release. After such notification is
31 given to the secretary of corrections, or upon an arrest by warrant as herein
32 provided, and the finding of probable cause pursuant to procedures
33 established by the secretary of a violation of the released inmate's
34 conditions of release, the secretary or the secretary's designee may cause
35 the released inmate to be brought before the prisoner review board, its
36 designee or designees, for a hearing on the violation charged, under such

1 rules and regulations as the board may adopt, or may dismiss the charges
2 that the released inmate has violated the conditions of release and order the
3 released inmate to remain on parole, conditional release or post release
4 supervision. *A dismissal of charges may be conditioned on the released*
5 *inmate agreeing to the withholding of credit for the period of time from the*
6 *date of the issuance of the secretary's warrant and the offender's arrest or*
7 *return to Kansas as provided by subsection (f).* It is within the discretion of
8 the board whether such hearing requires the released inmate to appear
9 personally before the board when such inmate's violation results from a
10 conviction for a new felony or misdemeanor. An offender under
11 determinative sentencing whose violation does not result from a conviction
12 of a new felony or misdemeanor may waive the right to a final revocation
13 hearing before the board under such conditions and terms as may be
14 prescribed by rules and regulations promulgated by the secretary of
15 corrections. Relevant written statements made under oath shall be admitted
16 and considered by the board, its designee or designees, along with other
17 evidence presented at the hearing. If the violation is established to the
18 satisfaction of the board, the board may continue or revoke the parole or
19 conditional release, or enter such other order as the board may see fit. The
20 revocation of release of inmates who are on a specified period of
21 postrelease supervision shall be for a six-month period of confinement
22 from the date of the revocation hearing before the board or the effective
23 date of waiver of such hearing by the offender pursuant to rules and
24 regulations promulgated by the board, if the violation does not result from
25 a conviction for a new felony or misdemeanor. Such period of confinement
26 may be reduced by not more than three months based on the inmate's
27 conduct, work and program participation during the incarceration period.
28 The reduction in the incarceration period shall be on an earned basis
29 pursuant to rules and regulations adopted by the secretary of corrections.

30 (c) If the violation results from a conviction for a new felony, upon
31 revocation, the inmate shall serve a period of confinement, to be
32 determined by the prisoner review board, which shall not exceed the
33 remaining balance of the period of postrelease supervision, even if the new
34 conviction did not result in the imposition of a new term of imprisonment.

35 (d) If the violation results from a conviction for a new misdemeanor,
36 upon revocation, the inmate shall serve a period of confinement, to be
37 determined by the prisoner review board, which shall not exceed the
38 remaining balance of the period of postrelease supervision.

39 (e) In the event the released inmate reaches conditional release date as
40 provided by K.S.A. 22-3718, and amendments thereto, after a finding of
41 probable cause, pursuant to procedures established by the secretary of
42 corrections of a violation of the released inmate's conditions of release, but
43 prior to a hearing before the prisoner review board, the secretary of

1 corrections shall be authorized to detain the inmate until the hearing by the
2 board. The secretary shall then enforce the order issued by the board.

3 (f) If the secretary of corrections issues a warrant for the arrest of a
4 released inmate for violation of any of the conditions of release and the
5 released inmate is subsequently arrested in the state of Kansas, either
6 pursuant to the warrant issued by the secretary of corrections or for any
7 other reason, the released inmate's sentence shall not be credited with the
8 period of time from the date of the issuance of the secretary's warrant to
9 the date of the released inmate's arrest, *except as provided by subsection*
10 *(i)*.

11 If a released inmate for whom a warrant has been issued by the
12 secretary of corrections for violation of the conditions of release is
13 subsequently arrested in another state, and the released inmate has been
14 authorized as a condition of such inmate's release to reside in or travel to
15 the state in which the released inmate was arrested, and the released
16 inmate has not absconded from supervision, the released inmate's sentence
17 shall not be credited with the period of time from the date of the issuance
18 of the warrant to the date of the released inmate's arrest, *except as*
19 *provided by subsection (i)*. If the released inmate for whom a warrant has
20 been issued by the secretary of corrections for violation of the conditions
21 of release is subsequently arrested in another state for reasons other than
22 the secretary's warrant and the released inmate does not have authorization
23 to be in the other state or if authorized to be in the other state has been
24 charged by the secretary with having absconded from supervision, the
25 released inmate's sentence shall not be credited with the period of time
26 from the date of the issuance of the warrant by the secretary to the date the
27 released inmate is first available to be returned to the state of Kansas,
28 *except as provided by subsection (i)*. If the released inmate for whom a
29 warrant has been issued by the secretary of corrections for violation of a
30 condition of release is subsequently arrested in another state pursuant only
31 to the secretary's warrant, the released inmate's sentence shall not be
32 credited with the period of time from the date of the issuance of the
33 secretary's warrant to the date of the released inmate's arrest, regardless of
34 whether the released inmate's presence in the other state was authorized or
35 the released inmate had absconded from supervision, *except as provided*
36 *by subsection (i)*.

37 The secretary may issue a warrant for the arrest of a released inmate for
38 violation of any of the conditions of release and may direct that all
39 reasonable means to serve the warrant and detain such released inmate be
40 employed including, but not limited to, notifying the federal bureau of
41 investigation of such violation and issuance of warrant and requesting
42 from the federal bureau of investigation any pertinent information it may
43 possess concerning the whereabouts of the released inmate.

1 (g) Law enforcement officers shall execute warrants issued by the
2 secretary of corrections, and shall deliver the inmate named in the warrant
3 to the jail used by the county where the inmate is arrested unless some
4 other place is designated by the secretary, in the same manner as for the
5 execution of any arrest warrant.

6 (h) For the purposes of this section, an inmate or released inmate is an
7 individual under the supervision of the secretary of corrections, including,
8 but not limited to, an individual on parole, conditional release, postrelease
9 supervision, probation granted by another state or an individual supervised
10 under any interstate compact in accordance with the provisions of the
11 uniform act for out-of-state parolee supervision, K.S.A. 22-4101 et seq.,
12 and amendments thereto.

13 *(i) Time not credited to the released inmate's sentence pursuant to*
14 *subsection (f) shall be credited if the violation charges are dismissed*
15 *without an agreement providing otherwise or the violations are not*
16 *established to the satisfaction of the board.*

17 Sec. 2. K.S.A. 2014 Supp. 75-5217 is hereby repealed.

18 Sec. 3. This act shall take effect and be in force from and after its
19 publication in the statute book.