

HOUSE BILL No. 2052

By Committee on Corrections and Juvenile Justice

1-22

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to probation; hearing; credit toward early discharge; amending K.S.A.
3 2018 Supp. 21-6608 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2018 Supp. 21-6608 is hereby amended to read as
7 follows: 21-6608. (a) The period of suspension of sentence, probation or
8 assignment to community corrections fixed by the court shall not exceed
9 two years in misdemeanor cases, subject to renewal and extension for
10 additional fixed periods of two years. Probation, suspension of sentence or
11 assignment to community corrections may be terminated by the court at
12 any time and upon such termination or upon termination by expiration of
13 the term of probation, suspension of sentence or assignment to community
14 corrections, an order to this effect shall be entered by the court.

15 (b) The district court having jurisdiction of the offender may parole
16 any misdemeanant sentenced to confinement in the county jail. The period
17 of such parole shall be fixed by the court and shall not exceed two years
18 and shall be terminated in the manner provided for termination of
19 suspended sentence and probation.

20 (c) For all crimes committed on or after July 1, 1993, the duration of
21 probation in felony cases sentenced for the following severity levels on the
22 sentencing guidelines grid for nondrug crimes and the sentencing
23 guidelines grid for drug crimes is as follows:

24 (1) For nondrug crimes the recommended duration of probation is:

25 (A) 36 months for crimes in crime severity levels 1 through 5; and

26 (B) 24 months for crimes in crime severity levels 6 and 7;

27 (2) for drug crimes the recommended duration of probation is 36
28 months for crimes in crime severity levels 1 and 2 committed prior to July
29 1, 2012, and crimes in crime severity levels 1, 2 and 3 committed on or
30 after July 1, 2012;

31 (3) except as provided further, in felony cases sentenced at severity
32 levels 9 and 10 on the sentencing guidelines grid for nondrug crimes,
33 severity level 4 on the sentencing guidelines grid for drug crimes
34 committed prior to July 1, 2012, and severity level 5 of the sentencing
35 guidelines grid for drug crimes committed on or after July 1, 2012, if a
36 nonprison sanction is imposed, the court shall order the defendant to serve

1 a period of probation of up to 12 months in length;

2 (4) in felony cases sentenced at severity level 8 on the sentencing
3 guidelines grid for nondrug crimes, severity level 3 on the sentencing
4 guidelines grid for drug crimes committed prior to July 1, 2012, and
5 severity level 4 of the sentencing guidelines grid for drug crimes
6 committed on or after July 1, 2012, and felony cases sentenced pursuant to
7 K.S.A. 2018 Supp. 21-6824, and amendments thereto, if a nonprison
8 sanction is imposed, the court shall order the defendant to serve a period of
9 probation, or assignment to a community correctional services program, as
10 provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to
11 18 months in length;

12 (5) if the court finds and sets forth with particularity the reasons for
13 finding that the safety of the members of the public will be jeopardized or
14 that the welfare of the inmate will not be served by the length of the
15 probation terms provided in subsections (c)(3) and (c)(4), the court may
16 impose a longer period of probation. Such an increase shall not be
17 considered a departure and shall not be subject to appeal;

18 (6) except as provided in subsections (c)(7) and (c)(8), the total
19 period in all cases shall not exceed 60 months, or the maximum period of
20 the prison sentence that could be imposed whichever is longer. Nonprison
21 sentences may be terminated by the court at any time;

22 (7) if the defendant is convicted of nonsupport of a child, the period
23 may be continued as long as the responsibility for support continues. If the
24 defendant is ordered to pay full or partial restitution, the period may be
25 continued as long as the amount of restitution ordered has not been paid;
26 and

27 (8) the court may modify or extend the offender's period of
28 supervision, pursuant to a modification hearing and a judicial finding of
29 necessity. Such extensions may be made for a maximum period of five
30 years or the maximum period of the prison sentence that could be imposed,
31 whichever is longer, inclusive of the original supervision term.

32 (d) ~~In addition to the provisions of subsection (a), a defendant who~~
33 ~~has a risk assessment of low risk, has paid all restitution and has been~~
34 ~~compliant with the terms of~~ *may be discharged early from* probation,
35 assignment to a community correctional services program, suspension of
36 sentence or nonprison sanction ~~for a period of 12 months shall be eligible~~
37 ~~for discharge from such period of supervision by the court if such~~
38 ~~defendant is found to be in substantial compliance with the conditions of~~
39 ~~such supervision. The court shall set a hearing at sentencing for the date~~
40 ~~when the defendant will have served 50% of such defendant's term of~~
41 ~~supervision to determine if a defendant has been in substantial compliance~~
42 ~~with the defendant's term of supervision. The court shall grant such~~
43 discharge unless the court finds by clear and convincing evidence that

1 denial of such discharge will serve community safety interests.

2 *(e) A defendant shall earn credit to reduce such defendant's term of*
3 *probation, assignment to a community correctional services program,*
4 *suspension of sentence or nonprison sanction when the defendant has*
5 *substantially complied with the conditions of such defendant's supervision.*
6 *A defendant shall be awarded seven days earned discharge credit for each*
7 *full calendar month of substantial compliance with the conditions of such*
8 *defendant's supervision.*

9 *(f) The Kansas sentencing commission shall adopt procedures and*
10 *forms to standardize the process for calculating earned discharge credit*
11 *pursuant to this section.*

12 *(g) For the purposes of this section, "substantial compliance" means:*

13 *(1) The defendant has made significant progress in meeting the*
14 *conditions of probation, assignment to a community correctional services*
15 *program, suspension of sentence or nonprison sanction; and*

16 *(2) the defendant has no violations of conditions of probation,*
17 *assignment to a community correctional services program, suspension of*
18 *sentence or nonprison sanction filed with the court pursuant to K.S.A. 22-*
19 *3716, and amendments thereto.*

20 *(h) The state of Kansas or any agents or employees of the state shall*
21 *not be liable for damages caused by any negligent or wrongful act or*
22 *omission in making the earned discharge calculations authorized by this*
23 *section.*

24 Sec. 2. K.S.A. 2018 Supp. 21-6608 is hereby repealed.

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