

HOUSE BILL No. 2269

By Committee on Corrections and Juvenile Justice

2-12

1 AN ACT concerning credit for release from custody or supervision; good
2 time credit; program credit; earned discharge credit for juvenile
3 probationers; amending K.S.A. 2018 Supp. 21-6821 and 38-2398 and
4 repealing the existing sections.

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

7 Section 1. K.S.A. 2018 Supp. 21-6821 is hereby amended to read as
8 follows: 21-6821. (a) The secretary of corrections is hereby authorized to
9 adopt rules and regulations providing for a system of good time
10 calculations. Such rules and regulations shall provide circumstances upon
11 which an inmate may earn good time credits and for the forfeiture of
12 earned credits. Such circumstances may include factors related to program
13 and work participation and conduct and the inmate's willingness to
14 examine and confront past behavioral patterns that resulted in the
15 commission of the inmate's crimes.

16 (b) For purposes of determining release of an inmate, the following
17 shall apply with regard to good time calculations:

18 (1) Good behavior by inmates is the expected norm and negative
19 behavior will be punished; and

20 (2) the amount of good time which can be earned by an inmate and
21 subtracted from any sentence is limited to:

22 (A) For a crime committed on or after July 1, 1993, an amount equal
23 to 15% of the prison part of the sentence;

24 (B) for a nondrug severity level 7 through 10 crime committed on or
25 after January 1, 2008, an amount equal to 20% of the prison part of the
26 sentence; or

27 (C) for a drug severity level 3 or 4 crime committed on or after
28 January 1, 2008, but prior to July 1, 2012, or a drug severity level 3
29 through 5 crime committed on or after July 1, 2012, an amount equal to
30 20% of the prison part of the sentence.

31 (c) The postrelease supervision term of a person sentenced to a term
32 of imprisonment that includes a sentence for a sexually violent crime as
33 defined in K.S.A. 22-3717, and amendments thereto, a sexually motivated
34 crime in which the offender has been ordered to register pursuant to
35 K.S.A. 22-3717(d)(1)(D)(vii), and amendments thereto, electronic
36 solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 2018 Supp. 21-

1 5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-
2 3520, prior to its repeal, or K.S.A. 2018 Supp. 21-5512, and amendments
3 thereto, shall have any time which is earned and subtracted from the prison
4 part of such sentence and any other consecutive or concurrent sentence
5 pursuant to good time calculation added to such inmate's postrelease
6 supervision term.

7 (d) An inmate shall not be awarded good time credits pursuant to this
8 section for any review period established by the secretary of corrections in
9 which a court finds that the inmate has done any of the following while in
10 the custody of the secretary of corrections:

- 11 (1) Filed a false or malicious action or claim with the court;
- 12 (2) brought an action or claim with the court solely or primarily for
13 delay or harassment;
- 14 (3) testified falsely or otherwise submitted false evidence or
15 information to the court;
- 16 (4) attempted to create or obtain a false affidavit, testimony or
17 evidence; or
- 18 (5) abused the discovery process in any judicial action or proceeding.

19 (e) (1) For purposes of determining release of an inmate who is
20 serving only a sentence for a nondrug severity level 4 through 10 crime or
21 a drug severity level 3 or 4 crime committed on or after January 1, 2008,
22 but prior to July 1, 2012, or an inmate who is serving only a sentence for a
23 nondrug severity level 4 through 10 crime or a drug severity level 3
24 through 5 crime committed on or after July 1, 2012, the secretary of
25 corrections is hereby authorized to adopt rules and regulations regarding
26 program credit calculations. Such rules and regulations shall provide
27 circumstances upon which an inmate may earn program credits and for the
28 forfeiture of earned credits and such circumstances may include factors
29 substantially related to program participation and conduct. In addition to
30 any good time credits earned and retained, the following shall apply with
31 regard to program credit calculations:

32 (A) A system shall be developed whereby program credits may be
33 earned by inmates for the successful completion of requirements for a
34 general education diploma, a technical or vocational training program, a
35 substance abuse treatment program or any other program designated by the
36 secretary which has been shown to reduce offenders' risk after release; and

37 (B) the amount of time which can be earned and retained by an
38 inmate for the successful completion of programs and subtracted from any
39 sentence is limited to not more than 120 days.

40 (2) Any time which is earned and subtracted from the prison part of
41 the sentence of any inmate pursuant to program credit calculation shall not
42 be added to such inmate's postrelease supervision term, if applicable,
43 except that the postrelease supervision term of a person sentenced to a

1 term of imprisonment that includes a sentence for a sexually violent crime
2 as defined in K.S.A. 22-3717, and amendments thereto, a sexually
3 motivated crime in which the offender has been ordered to register
4 pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and amendments thereto,
5 electronic solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 2018
6 Supp. 21-5509, and amendments thereto, or unlawful sexual relations,
7 K.S.A. 21-3520, prior to its repeal, or K.S.A. 2018 Supp. 21-5512, and
8 amendments thereto, shall have any time which is earned and subtracted
9 from the prison part of such sentence and any other consecutive or
10 concurrent sentence pursuant to program credit calculation added to such
11 inmate's postrelease supervision term.

12 (3) When separate sentences of imprisonment for different crimes are
13 imposed on a defendant on the same date, a defendant shall only be
14 eligible for program credits if such crimes are a nondrug severity level 4
15 through 10, a drug severity level 3 or 4 committed prior to July 1, 2012, or
16 a drug severity level 3 through 5 committed on or after July 1, 2012.

17 (4) Program credits shall not be earned by any offender successfully
18 completing a sex offender treatment program.

19 (5) The secretary of corrections shall report to the Kansas sentencing
20 commission and the Kansas reentry policy council the data on the program
21 credit calculations.

22 (f) The state of Kansas, the secretary of corrections and the
23 secretary's agents or employees shall not be liable for damages caused by
24 any negligent or wrongful act or omission in making the good time and
25 program credit calculations authorized by this section.

26 (g) (1) The secretary of corrections shall make the good time and
27 program credit calculations authorized by section 1 of chapter 54 of the
28 2015 Session Laws of Kansas no later than January 1, 2016.

29 (2) The secretary of corrections shall make the program credit
30 calculations authorized by the amendments to this section by this act no
31 later than January 1, 2017.

32 (h) The amendments to this section by section 1 of chapter 54 of the
33 2015 session laws of Kansas and this act shall be construed and applied
34 retroactively.

35 Sec. 2. K.S.A. 2018 Supp. 38-2398 is hereby amended to read as
36 follows: 38-2398. (a) For purposes of determining release of a juvenile
37 from probation, the supreme court, in consultation with the department of
38 corrections, shall establish rules for a system of earned discharge for
39 juvenile probationers to be applied by all community supervision officers.
40 A probationer shall be awarded earned discharge credits while on
41 probation for each full calendar month of compliance with terms of
42 supervised probation pursuant to the rules developed by the supreme court.

43 (b) The state of Kansas, the secretary of corrections, the secretary's

1 agents or employees, the office of judicial administration and court
2 services officers shall not be liable for damages caused by any negligent or
3 wrongful act or omission in making the earned discharge credit
4 calculations authorized by this section.

5 Sec. 3. K.S.A. 2018 Supp. 21-6821 and 38-2398 are hereby repealed.

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