

SENATE BILL No. 497

By Committee on Assessment and Taxation

3-11

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to restitution; time of payment; amending K.S.A. 2019 Supp. 21-6604
3 and 21-6607 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 2019 Supp. 21-6604 is hereby amended to read as
7 follows: 21-6604. (a) Whenever any person has been found guilty of a
8 crime, the court may adjudge any of the following:

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

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

16 (3) release the defendant on probation if the current crime of
17 conviction and criminal history fall within a presumptive nonprison
18 category or through a departure for substantial and compelling reasons
19 subject to such conditions as the court may deem appropriate. In felony
20 cases except for violations of K.S.A. 8-1567 or 8-2,144, and amendments
21 thereto, the court may include confinement in a county jail not to exceed
22 60 days, which need not be served consecutively, as a condition of an
23 original probation sentence;

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

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

34 (6) assign the defendant to a house arrest program pursuant to K.S.A.
35 2019 Supp. 21-6609, and amendments thereto;

36 (7) order the defendant to attend and satisfactorily complete an

1 alcohol or drug education or training program as provided by K.S.A. 2019
2 Supp. 21-6602(c), and amendments thereto;

3 (8) order the defendant to repay the amount of any reward paid by
4 any crime stoppers chapter, individual, corporation or public entity that
5 materially aided in the apprehension or conviction of the defendant; repay
6 the amount of any costs and expenses incurred by any law enforcement
7 agency in the apprehension of the defendant, if one of the current crimes
8 of conviction of the defendant includes escape from custody or aggravated
9 escape from custody, as defined in K.S.A. 2019 Supp. 21-5911, and
10 amendments thereto; repay expenses incurred by a fire district, fire
11 department or fire company responding to a fire that has been determined
12 to be arson or aggravated arson as defined in K.S.A. 2019 Supp. 21-5812,
13 and amendments thereto, if the defendant is convicted of such crime; repay
14 the amount of any public funds utilized by a law enforcement agency to
15 purchase controlled substances from the defendant during the investigation
16 that leads to the defendant's conviction; or repay the amount of any
17 medical costs and expenses incurred by any law enforcement agency or
18 county. Such repayment of the amount of any such costs and expenses
19 incurred by a county, law enforcement agency, fire district, fire department
20 or fire company or any public funds utilized by a law enforcement agency
21 shall be deposited and credited to the same fund from which the public
22 funds were credited to prior to use by the county, law enforcement agency,
23 fire district, fire department or fire company;

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

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

28 (11) if the defendant is convicted of a misdemeanor or convicted of a
29 felony specified in K.S.A. 2019 Supp. 21-6804(i), and amendments
30 thereto, assign the defendant to work release program, other than a
31 program at a correctional institution under the control of the secretary of
32 corrections as defined in K.S.A. 75-5202, and amendments thereto,
33 provided such work release program requires such defendant to return to
34 confinement at the end of each day in the work release program. On a
35 second or subsequent conviction of K.S.A. 8-1567, and amendments
36 thereto, an offender placed into a work release program shall serve the
37 total number of hours of confinement mandated by that section;

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

41 (13) impose any appropriate combination of (1), (2), (3), (4), (5), (6),
42 (7), (8), (9), (10), (11) and (12); or

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

1 (b) (1) In addition to or in lieu of any of the above, the court shall
2 order the defendant to pay restitution, which shall include, but not be
3 limited to, damage or loss caused by the defendant's crime~~;~~ *Restitution*
4 *shall be due immediately* unless: (A) *The court orders that the defendant*
5 *be given a specified time to pay or be allowed to pay in specified*
6 *installments; or (B) the court finds compelling circumstances that would*
7 ~~render a plan of restitution unworkable, either in whole or in part.~~ In
8 regard to a violation of K.S.A. 2019 Supp. 21-6107, and amendments
9 thereto, such damage or loss shall include, but not be limited to, attorney
10 fees and costs incurred to repair the credit history or rating of the person
11 whose personal identification documents were obtained and used in
12 violation of such section, and to satisfy a debt, lien or other obligation
13 incurred by the person whose personal identification documents were
14 obtained and used in violation of such section. In regard to a violation of
15 K.S.A. 2019 Supp. 21-5801, 21-5807 or 21-5813, and amendments
16 thereto, such damage or loss shall include the cost of repair or replacement
17 of the property that was damaged, the reasonable cost of any loss of
18 production, crops and livestock, reasonable labor costs of any kind,
19 reasonable material costs of any kind and any reasonable costs that are
20 attributed to equipment that is used to abate or repair the damage to the
21 property. If the court finds ~~a plan of restitution unworkable, either in~~
22 *whole or in part*, the court shall state on the record in detail the reasons
23 therefor.

24 (2) If the court orders restitution, the restitution shall be a judgment
25 against the defendant, ~~which that~~ may be collected by the court by
26 garnishment or other execution as on judgments in civil cases. If, after 60
27 days from the date restitution is ordered by the court, a defendant is found
28 to be in noncompliance with the ~~plan established by the court for payment~~
29 ~~of restitution order~~, and the victim to whom restitution is ordered paid has
30 not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and
31 amendments thereto, the court shall assign an agent procured by the
32 ~~attorney general~~ *judicial administrator* pursuant to K.S.A. ~~75-719~~ *20-169*,
33 and amendments thereto, to collect the restitution on behalf of the victim.
34 The chief judge of each judicial district may assign such cases to an
35 appropriate division of the court for the conduct of civil collection
36 proceedings.

37 (3) *If a restitution order entered prior to the effective date of this act*
38 *does not give the defendant a specified time to pay or set payment in*
39 *specified installments, the defendant may file a motion with the court prior*
40 *to December 31, 2020, proposing payment of restitution in specified*
41 *installments. The court may recall the restitution order from the agent*
42 *assigned pursuant to K.S.A. 20-169, and amendments thereto, until the*
43 *court rules on such motion. If the court does not order payment in*

1 *specified installments or if the defendant does not file a motion prior to*
2 *December 31, 2020, the restitution shall be due immediately.*

3 (c) In addition to or in lieu of any of the above, the court shall order
4 the defendant to submit to and complete an alcohol and drug evaluation,
5 and pay a fee therefor, when required by K.S.A. 2019 Supp. 21-6602(d),
6 and amendments thereto.

7 (d) In addition to any of the above, the court shall order the defendant
8 to reimburse the county general fund for all or a part of the expenditures
9 by the county to provide counsel and other defense services to the
10 defendant. Any such reimbursement to the county shall be paid only after
11 any order for restitution has been paid in full. In determining the amount
12 and method of payment of such sum, the court shall take account of the
13 financial resources of the defendant and the nature of the burden that
14 payment of such sum will impose. A defendant who has been required to
15 pay such sum and who is not willfully in default in the payment thereof
16 may at any time petition the court that sentenced the defendant to waive
17 payment of such sum or any unpaid portion thereof. If it appears to the
18 satisfaction of the court that payment of the amount due will impose
19 manifest hardship on the defendant or the defendant's immediate family,
20 the court may waive payment of all or part of the amount due or modify
21 the method of payment.

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

28 (f) (1) When a new felony is committed while the offender is
29 incarcerated and serving a sentence for a felony, or while the offender is on
30 probation, assignment to a community correctional services program,
31 parole, conditional release or postrelease supervision for a felony, a new
32 sentence shall be imposed consecutively pursuant to the provisions of
33 K.S.A. 2019 Supp. 21-6606, and amendments thereto, and the court may
34 sentence the offender to imprisonment for the new conviction, even when
35 the new crime of conviction otherwise presumes a nonprison sentence. In
36 this event, imposition of a prison sentence for the new crime does not
37 constitute a departure.

38 (2) When a new felony is committed during a period of time when the
39 defendant would have been on probation, assignment to a community
40 correctional services program, parole, conditional release or postrelease
41 supervision for a felony had the defendant not been granted release by the
42 court pursuant to K.S.A. 2019 Supp. 21-6608(d), and amendments thereto,
43 or the prisoner review board pursuant to K.S.A. 22-3717, and amendments

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

5 (3) When a new felony is committed while the offender is
6 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671,
7 prior to its repeal, or K.S.A. 2019 Supp. 38-2373, and amendments
8 thereto, for an offense, which if committed by an adult would constitute
9 the commission of a felony, upon conviction, the court shall sentence the
10 offender to imprisonment for the new conviction, even when the new
11 crime of conviction otherwise presumes a nonprison sentence. In this
12 event, imposition of a prison sentence for the new crime does not
13 constitute a departure. The conviction shall operate as a full and complete
14 discharge from any obligations, except for an order of restitution, imposed
15 on the offender arising from the offense for which the offender was
16 committed to a juvenile correctional facility.

17 (4) When a new felony is committed while the offender is on release
18 for a felony pursuant to the provisions of article 28 of chapter 22 of the
19 Kansas Statutes Annotated, and amendments thereto, or similar provisions
20 of the laws of another jurisdiction, a new sentence may be imposed
21 consecutively pursuant to the provisions of K.S.A. 2019 Supp. 21-6606,
22 and amendments thereto, and the court may sentence the offender to
23 imprisonment for the new conviction, even when the new crime of
24 conviction otherwise presumes a nonprison sentence. In this event,
25 imposition of a prison sentence for the new crime does not constitute a
26 departure.

27 (g) Prior to imposing a dispositional departure for a defendant whose
28 offense is classified in the presumptive nonprison grid block of either
29 sentencing guideline grid, prior to sentencing a defendant to incarceration
30 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing
31 guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I
32 of the sentencing guidelines grid for drug crimes committed prior to July
33 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing
34 guidelines grid for drug crimes committed on or after July 1, 2012, prior to
35 sentencing a defendant to incarceration whose offense is classified in grid
36 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
37 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of
38 the sentencing guidelines grid for drug crimes committed on or after July
39 1, 2012, and whose offense does not meet the requirements of K.S.A. 2019
40 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 guidelines grid for drug crimes
43 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of

1 the sentencing guidelines grid for drug crimes committed on or after July
2 1, 2012, and whose offense does not meet the requirements of K.S.A. 2019
3 Supp. 21-6824, and amendments thereto, or prior to revocation of a
4 nonprison sanction of a defendant whose offense is classified in the
5 presumptive nonprison grid block of either sentencing guideline grid or
6 grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug
7 crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing
8 guidelines grid for drug crimes committed prior to July 1, 2012, or in grid
9 blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug
10 crimes committed on or after July 1, 2012, the court shall consider
11 placement of the defendant in the Labette correctional conservation camp,
12 conservation camps established by the secretary of corrections pursuant to
13 K.S.A. 75-52,127, and amendments thereto, or a community intermediate
14 sanction center. Pursuant to this subsection the defendant shall not be
15 sentenced to imprisonment if space is available in a conservation camp or
16 community intermediate sanction center and the defendant meets all of the
17 conservation camp's or community intermediate sanction center's
18 placement criteria unless the court states on the record the reasons for not
19 placing the defendant in a conservation camp or community intermediate
20 sanction center.

21 (h) In committing a defendant to the custody of the secretary of
22 corrections, the court shall fix a term of confinement within the limits
23 provided by law. In those cases where the law does not fix a term of
24 confinement for the crime for which the defendant was convicted, the
25 court shall fix the term of such confinement.

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

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

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

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

16 (1) Has been sentenced to the secretary for a probation revocation, as
17 a departure from the presumptive nonimprisonment grid block of either
18 sentencing grid, for an offense that is classified in grid blocks 5-H, 5-I or
19 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-
20 E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes
21 committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of
22 the sentencing guidelines grid for drug crimes committed on or after July
23 1, 2012, or for an offense that is classified in grid blocks 4-E or 4-F of the
24 sentencing guidelines grid for drug crimes committed prior to July 1, 2012,
25 or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for
26 drug crimes committed on or after July 1, 2012, and such offense does not
27 meet the requirements of K.S.A. 2019 Supp. 21-6824, and amendments
28 thereto; and

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

30 If the inmate successfully completes a conservation camp program, the
31 secretary of corrections shall report such completion to the sentencing
32 court and the county or district attorney. The inmate shall then be assigned
33 by the court to six months of follow-up supervision conducted by the
34 appropriate community corrections services program. The court may also
35 order that supervision continue thereafter for the length of time authorized
36 by K.S.A. 2019 Supp. 21-6608, and amendments thereto.

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

40 (n) (1) Except as provided by K.S.A. 2019 Supp. 21-6630 and 21-
41 6805(f), and amendments thereto, in addition to any of the above, for
42 felony violations of K.S.A. 2019 Supp. 21-5706, and amendments thereto,
43 the court shall require the defendant who meets the requirements

1 established in K.S.A. 2019 Supp. 21-6824, and amendments thereto, to
2 participate in a certified drug abuse treatment program, as provided in
3 K.S.A. 75-52,144, and amendments thereto, including, but not limited to,
4 an approved after-care plan. The amount of time spent participating in
5 such program shall not be credited as service on the underlying prison
6 sentence.

7 (2) If the defendant fails to participate in or has a pattern of
8 intentional conduct that demonstrates the defendant's refusal to comply
9 with or participate in the treatment program, as established by judicial
10 finding, the defendant shall be subject to sanction or revocation pursuant
11 to the provisions of K.S.A. 22-3716, and amendments thereto. If the
12 defendant's probation is revoked, the defendant shall serve the underlying
13 prison sentence as established in K.S.A. 2019 Supp. 21-6805, and
14 amendments thereto.

15 (A) Except as provided in subsection (n)(2)(B), for those offenders
16 who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon
17 completion of the underlying prison sentence, the offender shall not be
18 subject to a period of postrelease supervision.

19 (B) Offenders whose crime of conviction was committed on or after
20 July 1, 2013, and whose probation is revoked pursuant to K.S.A. 22-
21 3716(c), and amendments thereto, or whose underlying prison term expires
22 while serving a sanction pursuant to K.S.A. 22-3716(c)(1), and
23 amendments thereto, shall serve a period of postrelease supervision upon
24 the completion of the underlying prison term.

25 (o) (1) Except as provided in paragraph (3), in addition to any other
26 penalty or disposition imposed by law, upon a conviction for unlawful
27 possession of a controlled substance or controlled substance analog in
28 violation of K.S.A. 2019 Supp. 21-5706, and amendments thereto, in
29 which the trier of fact makes a finding that the unlawful possession
30 occurred while transporting the controlled substance or controlled
31 substance analog in any vehicle upon a highway or street, the offender's
32 driver's license or privilege to operate a motor vehicle on the streets and
33 highways of this state shall be suspended for one year.

34 (2) Upon suspension of a license pursuant to this subsection, the court
35 shall require the person to surrender the license to the court, which shall
36 transmit the license to the division of motor vehicles of the department of
37 revenue, to be retained until the period of suspension expires. At that time,
38 the licensee may apply to the division for return of the license. If the
39 license has expired, the person may apply for a new license, which shall be
40 issued promptly upon payment of the proper fee and satisfaction of other
41 conditions established by law for obtaining a license unless another
42 suspension or revocation of the person's privilege to operate a motor
43 vehicle is in effect.

1 (3) (A) In lieu of suspending the driver's license or privilege to
2 operate a motor vehicle on the highways of this state of any person as
3 provided in paragraph (1), the judge of the court in which such person was
4 convicted may enter an order that places conditions on such person's
5 privilege of operating a motor vehicle on the highways of this state, a
6 certified copy of which such person shall be required to carry any time
7 such person is operating a motor vehicle on the highways of this state. Any
8 such order shall prescribe the duration of the conditions imposed, which in
9 no event shall be for a period of more than one year.

10 (B) Upon entering an order restricting a person's license hereunder,
11 the judge shall require such person to surrender such person's driver's
12 license to the judge who shall cause it to be transmitted to the division of
13 vehicles, together with a copy of the order. Upon receipt thereof, the
14 division of vehicles shall issue without charge a driver's license, which
15 shall indicate on its face that conditions have been imposed on such
16 person's privilege of operating a motor vehicle and that a certified copy of
17 the order imposing such conditions is required to be carried by the person
18 for whom the license was issued any time such person is operating a motor
19 vehicle on the highways of this state. If the person convicted is a
20 nonresident, the judge shall cause a copy of the order to be transmitted to
21 the division and the division shall forward a copy of it to the motor vehicle
22 administrator of such person's state of residence. Such judge shall furnish
23 to any person whose driver's license has had conditions imposed on it
24 under this paragraph a copy of the order, which shall be recognized as a
25 valid Kansas driver's license until such time as the division shall issue the
26 restricted license provided for in this paragraph.

27 (C) Upon expiration of the period of time for which conditions are
28 imposed pursuant to this subsection, the licensee may apply to the division
29 for the return of the license previously surrendered by such licensee. In the
30 event such license has expired, such person may apply to the division for a
31 new license, which shall be issued immediately by the division upon
32 payment of the proper fee and satisfaction of the other conditions
33 established by law, unless such person's privilege to operate a motor
34 vehicle on the highways of this state has been suspended or revoked prior
35 thereto. If any person shall violate any of the conditions imposed under
36 this paragraph, such person's driver's license or privilege to operate a
37 motor vehicle on the highways of this state shall be revoked for a period of
38 not less than 60 days nor more than one year by the judge of the court in
39 which such person is convicted of violating such conditions.

40 (4) As used in this subsection, "highway" and "street" mean the same
41 as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

42 (p) In addition to any of the above, for any criminal offense that
43 includes the domestic violence designation pursuant to K.S.A. 2019 Supp.

1 22-4616, and amendments thereto, the court shall require the defendant to:
2 (1) Undergo a domestic violence offender assessment conducted by a
3 certified batterer intervention program; and (2) follow all
4 recommendations made by such program, unless otherwise ordered by the
5 court or the department of corrections. The court may order a domestic
6 violence offender assessment and any other evaluation prior to sentencing
7 if the assessment or evaluation would assist the court in determining an
8 appropriate sentence. The entity completing the assessment or evaluation
9 shall provide the assessment or evaluation and recommendations to the
10 court and the court shall provide the domestic violence offender
11 assessment to any entity responsible for supervising such defendant. A
12 defendant ordered to undergo a domestic violence offender assessment
13 shall be required to pay for the assessment and, unless otherwise ordered
14 by the court or the department of corrections, for completion of all
15 recommendations.

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

35 (r) In addition to any other penalty or disposition imposed by law, for
36 any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643,
37 prior to its repeal, or K.S.A. 2019 Supp. 21-6627, and amendments
38 thereto, for crimes committed on or after July 1, 2006, the court shall order
39 that the defendant be electronically monitored upon release from
40 imprisonment for the duration of the defendant's natural life and that the
41 defendant shall reimburse the state for all or part of the cost of such
42 monitoring as determined by the prisoner review board.

43 (s) Whenever the court has released the defendant on probation

1 pursuant to subsection (a)(3), the defendant's supervising court services
2 officer, with the concurrence of the chief court services officer, may
3 impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B),
4 and amendments thereto, without further order of the court, unless the
5 defendant, after being apprised of the right to a revocation hearing before
6 the court pursuant to K.S.A. 22-3716(b), and amendments thereto, refuses
7 to waive such right.

8 (t) Whenever the court has assigned the defendant to a community
9 correctional services program pursuant to subsection (a)(4), the defendant's
10 community corrections officer, with the concurrence of the community
11 corrections director, may impose the violation sanctions as provided in
12 K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order
13 of the court unless the defendant, after being apprised of the right to a
14 revocation hearing before the court pursuant to K.S.A. 22-3716(b), and
15 amendments thereto, refuses to waive such right.

16 (u) In addition to any of the above, the court shall authorize an
17 additional 18 days of confinement in a county jail to be reserved for
18 sanctions as set forth in K.S.A. 22-3716(b)(3)(B), (b)(4) or (c)(1)(B), and
19 amendments thereto.

20 (v) *The amendments made to this section by this act are procedural in*
21 *nature and shall be construed and applied retroactively.*

22 Sec. 2. K.S.A. 2019 Supp. 21-6607 is hereby amended to read as
23 follows: 21-6607. (a) Except as required by subsection (c), nothing in this
24 section shall be construed to limit the authority of the court to impose or
25 modify any general or specific conditions of probation, suspension of
26 sentence or assignment to a community correctional services program. The
27 court services officer or community correctional services officer may
28 recommend, and the court may order, the imposition of any conditions of
29 probation, suspension of sentence or assignment to a community
30 correctional services program. For crimes committed on or after July 1,
31 1993, in presumptive nonprison cases, the court services officer or
32 community correctional services officer may recommend, and the court
33 may order, the imposition of any conditions of probation or assignment to
34 a community correctional services program. The court may at any time
35 order the modification of such conditions, after notice to the court services
36 officer or community correctional services officer and an opportunity for
37 such officer to be heard thereon. The court shall cause a copy of any such
38 order to be delivered to the court services officer and the probationer or to
39 the community correctional services officer and the community corrections
40 participant, as the case may be. The provisions of K.S.A. 75-5291, and
41 amendments thereto, shall be applicable to any assignment to a community
42 correctional services program pursuant to this section.

43 (b) The court may impose any conditions of probation, suspension of

1 sentence or assignment to a community correctional services program that
2 the court deems proper, including, but not limited to, requiring that the
3 defendant:

4 (1) Avoid such injurious or vicious habits, as directed by the court,
5 court services officer or community correctional services officer;

6 (2) avoid such persons or places of disreputable or harmful character,
7 as directed by the court, court services officer or community correctional
8 services officer;

9 (3) report to the court services officer or community correctional
10 services officer as directed;

11 (4) permit the court services officer or community correctional
12 services officer to visit the defendant at home or elsewhere;

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

14 (6) remain within the state unless the court grants permission to
15 leave;

16 (7) pay a fine or costs, applicable to the offense, in one or several
17 sums and in the manner as directed by the court;

18 (8) support the defendant's dependents;

19 (9) reside in a residential facility located in the community and
20 participate in educational, counseling, work and other correctional or
21 rehabilitative programs;

22 (10) perform community or public service work for local
23 governmental agencies, private corporations organized not for profit, or
24 charitable or social service organizations performing services for the
25 community;

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

31 (12) participate in a house arrest program pursuant to K.S.A. 2019
32 Supp. 21-6609, and amendments thereto;

33 (13) order the defendant to pay the administrative fee authorized by
34 K.S.A. 22-4529, and amendments thereto, unless waived by the court; or

35 (14) in felony cases, except for violations of K.S.A. 8-1567, and
36 amendments thereto, be confined in a county jail not to exceed 60 days,
37 which need not be served consecutively.

38 (c) In addition to any other conditions of probation, suspension of
39 sentence or assignment to a community correctional services program, the
40 court shall order the defendant to comply with each of the following
41 conditions:

42 (1) The defendant shall obey all laws of the United States, the state of
43 Kansas and any other jurisdiction to the laws of which the defendant may

1 be subject;

2 (2) make reparation or restitution to the aggrieved party for the
3 damage or loss caused by the defendant's crime, ~~in an amount and manner~~
4 ~~determined by the court and to the person specified by the court, unless the~~
5 ~~court finds compelling circumstances which would render a plan of~~
6 ~~restitution unworkable. If the court finds a plan of restitution unworkable,~~
7 ~~the court shall state on the record in detail the reasons therefore in~~
8 ~~accordance with K.S.A. 2019 Supp. 21-6604(b), and amendments thereto;~~

9 (3) (A) pay a correctional supervision fee of \$60 if the person was
10 convicted of a misdemeanor or a fee of \$120 if the person was convicted
11 of a felony. In any case the amount of the correctional supervision fee
12 specified by this paragraph may be reduced or waived by the judge if the
13 person is unable to pay that amount;

14 (B) the correctional supervision fee imposed by this paragraph shall
15 be charged and collected by the district court. The clerk of the district
16 court shall remit all revenues received under this paragraph from
17 correctional supervision fees to the state treasurer in accordance with the
18 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
19 each such remittance, the state treasurer shall deposit the entire amount in
20 the state treasury to the credit of the state general fund, a sum equal to
21 41.67% of such remittance, and to the correctional supervision fund, a sum
22 equal to 58.33% of such remittance;

23 (C) this paragraph shall apply to persons placed on felony or
24 misdemeanor probation or released on misdemeanor parole to reside in
25 Kansas and supervised by Kansas court services officers under the
26 interstate compact for offender supervision; and

27 (D) this paragraph shall not apply to persons placed on probation or
28 released on parole to reside in Kansas under the uniform act for out-of-
29 state parolee supervision;

30 (4) reimburse the state general fund for all or a part of the
31 expenditures by the state board of indigents' defense services to provide
32 counsel and other defense services to the defendant. In determining the
33 amount and method of payment of such sum, the court shall take account
34 of the financial resources of the defendant and the nature of the burden that
35 payment of such sum will impose. A defendant who has been required to
36 pay such sum and who is not willfully in default in the payment thereof
37 may at any time petition the court which sentenced the defendant to waive
38 payment of such sum or of any unpaid portion thereof. If it appears to the
39 satisfaction of the court that payment of the amount due will impose
40 manifest hardship on the defendant or the defendant's immediate family,
41 the court may waive payment of all or part of the amount due or modify
42 the method of payment. The amount of attorney fees to be included in the
43 court order for reimbursement shall be the amount claimed by appointed

1 counsel on the payment voucher for indigents' defense services or the
2 amount prescribed by the board of indigents' defense services
3 reimbursement tables as provided in K.S.A. 22-4522, and amendments
4 thereto, whichever is less;

5 (5) be subject to searches of the defendant's person, effects, vehicle,
6 residence and property by a court services officer, a community
7 correctional services officer and any other law enforcement officer based
8 on reasonable suspicion of the defendant violating conditions of probation
9 or criminal activity; and

10 (6) be subject to random, but reasonable, tests for drug and alcohol
11 consumption as ordered by a court services officer or community
12 correctional services officer.

13 (d) Any law enforcement officer conducting a search pursuant to
14 subsection (c)(5) shall submit a written report to the appropriate court
15 services officer or community correctional services officer no later than
16 the close of the next business day after such search. The written report
17 shall include the facts leading to such search, the scope of such search and
18 any findings resulting from such search.

19 (e) There is hereby established in the state treasury the correctional
20 supervision fund. All moneys credited to the correctional supervision fund
21 shall be used for: (1) The implementation of and training for use of a
22 statewide, mandatory, standardized risk assessment tool or instrument as
23 specified by the Kansas sentencing commission, pursuant to K.S.A. 75-
24 5291, and amendments thereto; (2) the implementation of and training for
25 use of a statewide, mandatory, standardized risk assessment tool or
26 instrument for juveniles adjudicated to be juvenile offenders; and (3)
27 evidence-based adult and juvenile offender supervision programs by
28 judicial branch personnel. If all expenditures for the program have been
29 paid and moneys remain in the correctional supervision fund for a fiscal
30 year, remaining moneys may be expended from the correctional
31 supervision fund to support adult and juvenile offender supervision by
32 court services officers. All expenditures from the correctional supervision
33 fund shall be made in accordance with appropriation acts upon warrants of
34 the director of accounts and reports issued pursuant to vouchers approved
35 by the chief justice of the Kansas supreme court or by a person or persons
36 designated by the chief justice.

37 Sec. 3. K.S.A. 2019 Supp. 21-6604 and 21-6607 are hereby repealed.

38 Sec. 4. This act shall take effect and be in force from and after its
39 publication in the Kansas register.