

HOUSE BILL No. 2608

By Committee on Judiciary

2-7

1 AN ACT concerning judgments; relating to criminal restitution; removing
2 civil enforcement provisions; authorizing contracts for collection
3 services for restitution; wage garnishment; providing that undisputed
4 payments are not subject to refund or recoupment; amending K.S.A.
5 2021 Supp. 20-169, 21-6604, 22-3424, 60-2310 and 60-2403 and
6 repealing the existing sections; also repealing K.S.A. 60-4301, 60-
7 4302, 60-4303 and 60-4304 and K.S.A. 2021 Supp. 60-4305.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2021 Supp. 20-169 is hereby amended to read as
11 follows: 20-169. (a) The judicial administrator is authorized to enter into
12 contracts in accordance with this section for collection services for debts
13 owed to courts or restitution owed under an order of restitution. On and
14 after July 1, 1999, the cost of collection shall be paid by the responsible
15 party as an additional court cost in all cases where such party fails to pay
16 any debts owed to courts or restitution owed under an order of restitution
17 and the court utilizes the services of a contracting agent pursuant to this
18 section. The cost of collection shall be deemed an administrative fee to pay
19 the actual costs of collection made necessary by such party's failure to pay
20 court debt and restitution.

21 (b) As used in this section:

22 (1) "Beneficiary under an order of restitution" means the victim or
23 victims of a crime to whom a district court has ordered restitution be paid;

24 (2) "contracting agent" means a person, firm, agency or other entity
25 who contracts hereunder to provide collection services;

26 (3) "cost of collection" means the fee specified in contracts hereunder
27 to be paid to or retained by a contracting agent for collection services. Cost
28 of collection also includes any filing fee required under K.S.A. 60-4303,
29 and amendments thereto, or administrative costs prescribed by rules of the
30 supreme court; and

31 (4) "debts owed to courts" means any assessment of court costs, fines,
32 fees, moneys expended by the state in providing counsel and other defense
33 services to indigent defendants or other charges which a district court
34 judgment has ordered to be paid to the court, and which remain unpaid
35 whole or in part, and includes any interest or penalties on such unpaid
36 amounts as provided for in the judgment or by law. "Debts owed to courts"

1 also includes: (A) The cost of collection when collection services of a
2 contracting agent hereunder are utilized; and (B) court costs, fines, fees or
3 other charges arising from failure to comply with a traffic citation within
4 30 days from the date of the mailing of the notice pursuant to K.S.A. 8-
5 2110(b)(1), and amendments thereto.

6 (c) (1) Contracts authorized by this section may be entered into with
7 state or federal agencies or political subdivisions of the state of Kansas,
8 including contracts for participation in the collection program authorized
9 by K.S.A. 75-6201 et seq., and amendments thereto. Such contracts also
10 may be entered into with private firms or individuals selected by a
11 procurement negotiation committee in accordance with K.S.A. 75-37,102,
12 and amendments thereto, except that the judicial administrator shall
13 designate a representative to serve as the chief administrative officer
14 member of such committee and that the other two members of such
15 committee shall be designated by the director of purchases and the judicial
16 administrator.

17 (2) Prior to negotiating any contract for collection services, this
18 procurement negotiation committee shall advertise for proposals, negotiate
19 with firms and individuals submitting proposals and select among those
20 submitting such proposals the party or parties to contract with for the
21 purpose of collection services.

22 (3) The supreme court may adopt rules as deemed appropriate for the
23 administration of this section, including procedures to be used in the
24 negotiation and execution of contracts pursuant to this section and
25 procedures to be followed by those who utilize collection services under
26 such contracts.

27 (4) For purposes of this section, the agencies, firms or individuals
28 with whom contracts are entered under this section shall be known as
29 contracting agents. The judicial administrator shall publish a list of the
30 contracting agents for use by courts or beneficiaries under orders of
31 restitution who desire to utilize the collection services of such agents.

32 (5) Each contract entered pursuant to this section shall provide for a
33 fee to be paid to or retained by the contracting agent for collection
34 services. Such fee shall be designated as the cost of collection hereunder,
35 and shall not exceed 33% of the amount collected. The cost of collection
36 shall be paid from the amount collected, but shall not be deducted from the
37 debts owed to courts or restitution. If a contracting agent uses the debt
38 setoff procedures pursuant to K.S.A. 75-6202 et seq., and amendments
39 thereto, to recover debts owed to the courts, the contracting agent's cost of
40 collection for debt recovered through that program shall be the amount
41 established by contract minus the collection assistance fee imposed by the
42 director of accounts and reports of the department of administration
43 pursuant to K.S.A. 75-6210, and amendments thereto.

1 (d) Judicial districts of the state of Kansas are authorized to utilize the
2 collection services of contracting agents pursuant to this section for the
3 purpose of collecting all outstanding debts owed to courts. Subject to rules
4 and orders of the Kansas supreme court, each judicial district may
5 establish by local rule guidelines for the compromise of court costs, fines,
6 attorney fees and other charges assessed in district court cases.

7 (e) *Judicial districts of the state of Kansas are authorized to utilize*
8 *the collection services of contracting agents pursuant to this section for*
9 *the purpose of collecting restitution owed under an order of restitution.*

10 Any beneficiary under an order of restitution entered by a court ~~after this~~
11 ~~section takes effect~~ is authorized to utilize the collection services of
12 contracting agents pursuant to this section for the purpose of collecting all
13 outstanding amounts owed under such order of restitution.

14 (f) Contracts entered hereunder shall provide for the payment of any
15 amounts collected to the clerk of the district court for the court in which
16 the debt being collected originated, after first deducting the collection fee.
17 In accounting for amounts collected from any person pursuant to this
18 section, the district court clerk shall credit the person's amount owed in the
19 amount of the net proceeds collected and shall not reduce the amount
20 owed by any person by that portion of any payment which constitutes the
21 cost of collection pursuant to this section.

22 (g) With the appropriate cost of collection paid to the contracting
23 agent as agreed upon in the contract hereunder, the clerk shall then
24 distribute amounts collected hereunder as follows:

25 (1) When collection services are utilized pursuant to subsection (d),
26 all amounts shall be applied against the debts owed to the court as
27 specified in the original judgment creating the debt;

28 (2) when collection services are utilized pursuant to subsection (e), all
29 amounts shall be paid to the beneficiary under the order of restitution
30 designated to receive such restitution, except where that beneficiary has
31 received recovery from the Kansas crime victims compensation board and
32 such board has subrogation rights pursuant to K.S.A. 74-7312, and
33 amendments thereto, in which case all amounts shall be paid to the board
34 until its subrogation lien is satisfied.

35 (h) Whenever collection services are being utilized against the same
36 debtor pursuant to both subsections (d) and (e), any amounts collected by a
37 contracting agent shall be first applied to satisfy subsection (e) debts, debts
38 pursuant to an order of restitution. Upon satisfaction of all such debts,
39 amounts received from the same debtor shall then be applied to satisfy
40 subsection (d) debts, debts owed to courts.

41 Sec. 2. K.S.A. 2021 Supp. 21-6604 is hereby amended to read as
42 follows: 21-6604. (a) Whenever any person has been found guilty of a
43 crime, the court may adjudge any of the following:

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

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

8 (3) release the defendant on probation if the current crime of
9 conviction and criminal history fall within a presumptive nonprison
10 category or through a departure for substantial and compelling reasons
11 subject to such conditions as the court may deem appropriate. In felony
12 cases except for violations of K.S.A. 8-1567 or 8-2,144, and amendments
13 thereto, the court may include confinement in a county jail not to exceed
14 60 days, which need not be served consecutively, as a condition of an
15 original probation sentence;

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

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

26 (6) assign the defendant to a house arrest program pursuant to K.S.A.
27 2021 Supp. 21-6609, and amendments thereto;

28 (7) order the defendant to attend and satisfactorily complete an
29 alcohol or drug education or training program as provided by K.S.A. 2021
30 Supp. 21-6602(c), and amendments thereto;

31 (8) order the defendant to repay the amount of any reward paid by
32 any crime stoppers chapter, individual, corporation or public entity that
33 materially aided in the apprehension or conviction of the defendant; repay
34 the amount of any costs and expenses incurred by any law enforcement
35 agency in the apprehension of the defendant, if one of the current crimes
36 of conviction of the defendant includes escape from custody or aggravated
37 escape from custody, as defined in K.S.A. 2021 Supp. 21-5911, and
38 amendments thereto; repay expenses incurred by a fire district, fire
39 department or fire company responding to a fire that has been determined
40 to be arson or aggravated arson as defined in K.S.A. 2021 Supp. 21-5812,
41 and amendments thereto, if the defendant is convicted of such crime; repay
42 the amount of any public funds utilized by a law enforcement agency to
43 purchase controlled substances from the defendant during the investigation

1 that leads to the defendant's conviction; or repay the amount of any
2 medical costs and expenses incurred by any law enforcement agency or
3 county. Such repayment of the amount of any such costs and expenses
4 incurred by a county, law enforcement agency, fire district, fire department
5 or fire company or any public funds utilized by a law enforcement agency
6 shall be deposited and credited to the same fund from which the public
7 funds were credited to prior to use by the county, law enforcement agency,
8 fire district, fire department or fire company;

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

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

13 (11) if the defendant is convicted of a misdemeanor or convicted of a
14 felony specified in K.S.A. 2021 Supp. 21-6804(i), and amendments
15 thereto, assign the defendant to work release program, other than a
16 program at a correctional institution under the control of the secretary of
17 corrections as defined in K.S.A. 75-5202, and amendments thereto,
18 provided such work release program requires such defendant to return to
19 confinement at the end of each day in the work release program. On a
20 second or subsequent conviction of K.S.A. 8-1567, and amendments
21 thereto, an offender placed into a work release program shall serve the
22 total number of hours of confinement mandated by that section;

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

26 (13) impose any appropriate combination of *paragraph* (1), (2), (3),
27 (4), (5), (6), (7), (8), (9), (10), (11) and (12); or

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

29 (b) (1) In addition to or in lieu of any of the above, the court shall
30 order the defendant to pay restitution, which shall include, but not be
31 limited to, damage or loss caused by the defendant's crime. Restitution
32 shall be due immediately unless: (A) The court orders that the defendant
33 be given a specified time to pay or be allowed to pay in specified
34 installments; or (B) the court finds compelling circumstances that would
35 render restitution unworkable, either in whole or in part. In regard to a
36 violation of K.S.A. 2021 Supp. 21-6107, and amendments thereto, such
37 damage or loss shall include, but not be limited to, attorney fees and costs
38 incurred to repair the credit history or rating of the person whose personal
39 identification documents were obtained and used in violation of such
40 section, and to satisfy a debt, lien or other obligation incurred by the
41 person whose personal identification documents were obtained and used in
42 violation of such section. In regard to a violation of K.S.A. 2021 Supp. 21-
43 5801, 21-5807, 21-5813 or 21-5818, and amendments thereto, such

1 damage or loss shall include the cost of repair or replacement of the
2 property that was damaged, the reasonable cost of any loss of production,
3 crops and livestock, reasonable labor costs of any kind, reasonable
4 material costs of any kind and any reasonable costs that are attributed to
5 equipment that is used to abate or repair the damage to the property. If the
6 court finds restitution unworkable, either in whole or in part, the court
7 shall state on the record in detail the reasons therefor.

8 (2) If the court orders restitution, the restitution shall be a judgment
9 against the defendant that may be collected by the court by garnishment *as*
10 *provided in article 7 of chapter 60 of the Kansas Statutes Annotated, and*
11 *amendments thereto*, or other execution ~~as on judgments in civil cases~~. If,
12 after 60 days from the date restitution is ordered by the court, a defendant
13 is found to be in noncompliance with the restitution order, ~~and the victim~~
14 ~~to whom restitution is ordered paid has not initiated proceedings in~~
15 ~~accordance with K.S.A. 60-4301 et seq., and amendments thereto~~, the
16 court shall assign an agent procured by the judicial administrator pursuant
17 to K.S.A. 20-169, and amendments thereto, to collect the restitution on
18 behalf of the victim. The chief judge of each judicial district may assign
19 such cases to an appropriate division of the court for the conduct of ~~civil~~
20 collection proceedings.

21 (3) If a restitution order entered prior to ~~the effective date of this act~~
22 *June 11, 2020*, does not give the defendant a specified time to pay or set
23 payment in specified installments, the defendant may file a motion with
24 the court prior to December 31, 2020, proposing payment of restitution in
25 specified installments. The court may recall the restitution order from the
26 agent assigned pursuant to K.S.A. 20-169, and amendments thereto, until
27 the court rules on such motion. If the court does not order payment in
28 specified installments or if the defendant does not file a motion prior to
29 December 31, 2020, the restitution shall be due immediately.

30 (c) In addition to or in lieu of any of the above, the court shall order
31 the defendant to submit to and complete an alcohol and drug evaluation,
32 and pay a fee therefor, when required by K.S.A. 2021 Supp. 21-6602(d),
33 and amendments thereto.

34 (d) In addition to any of the above, the court shall order the defendant
35 to reimburse the county general fund for all or a part of the expenditures
36 by the county to provide counsel and other defense services to the
37 defendant. Any such reimbursement to the county shall be paid only after
38 any order for restitution has been paid in full. In determining the amount
39 and method of payment of such sum, the court shall take account of the
40 financial resources of the defendant and the nature of the burden that
41 payment of such sum will impose. A defendant who has been required to
42 pay such sum and who is not willfully in default in the payment thereof
43 may at any time petition the court that sentenced the defendant to waive

1 payment of such sum or any unpaid portion thereof. If it appears to the
2 satisfaction of the court that payment of the amount due will impose
3 manifest hardship on the defendant or the defendant's immediate family,
4 the court may waive payment of all or part of the amount due or modify
5 the method of payment.

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

12 (f) (1) When a new felony is committed while the offender is
13 incarcerated and serving a sentence for a felony, or while the offender is on
14 probation, assignment to a community correctional services program,
15 parole, conditional release or postrelease supervision for a felony, a new
16 sentence shall be imposed consecutively pursuant to the provisions of
17 K.S.A. 2021 Supp. 21-6606, and amendments thereto, and the court may
18 sentence the offender to imprisonment for the new conviction, even when
19 the new crime of conviction otherwise presumes a nonprison sentence. In
20 this event, imposition of a prison sentence for the new crime does not
21 constitute a departure.

22 (2) When a new felony is committed during a period of time when the
23 defendant would have been on probation, assignment to a community
24 correctional services program, parole, conditional release or postrelease
25 supervision for a felony had the defendant not been granted release by the
26 court pursuant to K.S.A. 2021 Supp. 21-6608(d), and amendments thereto,
27 or the prisoner review board pursuant to K.S.A. 22-3717, and amendments
28 thereto, the court may sentence the offender to imprisonment for the new
29 conviction, even when the new crime of conviction otherwise presumes a
30 nonprison sentence. In this event, imposition of a prison sentence for the
31 new crime does not constitute a departure.

32 (3) When a new felony is committed while the offender is
33 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671,
34 prior to its repeal, or K.S.A. 38-2373, and amendments thereto, for an
35 offense, which if committed by an adult would constitute the commission
36 of a felony, upon conviction, the court shall sentence the offender to
37 imprisonment for the new conviction, even when the new crime of
38 conviction otherwise presumes a nonprison sentence. In this event,
39 imposition of a prison sentence for the new crime does not constitute a
40 departure. The conviction shall operate as a full and complete discharge
41 from any obligations, except for an order of restitution, imposed on the
42 offender arising from the offense for which the offender was committed to
43 a juvenile correctional facility.

1 (4) When a new felony is committed while the offender is on release
2 for a felony pursuant to the provisions of article 28 of chapter 22 of the
3 Kansas Statutes Annotated, and amendments thereto, or similar provisions
4 of the laws of another jurisdiction, a new sentence may be imposed
5 consecutively pursuant to the provisions of K.S.A. 2021 Supp. 21-6606,
6 and amendments thereto, and the court may sentence the offender to
7 imprisonment for the new conviction, even when the new crime of
8 conviction otherwise presumes a nonprison sentence. In this event,
9 imposition of a prison sentence for the new crime does not constitute a
10 departure.

11 (g) Prior to imposing a dispositional departure for a defendant whose
12 offense is classified in the presumptive nonprison grid block of either
13 sentencing guideline grid, prior to sentencing a defendant to incarceration
14 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing
15 guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I
16 of the sentencing guidelines grid for drug crimes committed prior to July
17 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing
18 guidelines grid for drug crimes committed on or after July 1, 2012, prior to
19 sentencing a defendant to incarceration whose offense is classified in grid
20 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
21 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of
22 the sentencing guidelines grid for drug crimes committed on or after July
23 1, 2012, and whose offense does not meet the requirements of K.S.A. 2021
24 Supp. 21-6824, and amendments thereto, prior to revocation of a
25 nonprison sanction of a defendant whose offense is classified in grid
26 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
27 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of
28 the sentencing guidelines grid for drug crimes committed on or after July
29 1, 2012, and whose offense does not meet the requirements of K.S.A. 2021
30 Supp. 21-6824, and amendments thereto, or prior to revocation of a
31 nonprison sanction of a defendant whose offense is classified in the
32 presumptive nonprison grid block of either sentencing guideline grid or
33 grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug
34 crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing
35 guidelines grid for drug crimes committed prior to July 1, 2012, or in grid
36 blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug
37 crimes committed on or after July 1, 2012, the court shall consider
38 placement of the defendant in the Labette correctional conservation camp,
39 conservation camps established by the secretary of corrections pursuant to
40 K.S.A. 75-52,127, and amendments thereto, or a community intermediate
41 sanction center. Pursuant to this subsection the defendant shall not be
42 sentenced to imprisonment if space is available in a conservation camp or
43 community intermediate sanction center and the defendant meets all of the

1 conservation camp's or community intermediate sanction center's
2 placement criteria unless the court states on the record the reasons for not
3 placing the defendant in a conservation camp or community intermediate
4 sanction center.

5 (h) In committing a defendant to the custody of the secretary of
6 corrections, the court shall fix a term of confinement within the limits
7 provided by law. In those cases where the law does not fix a term of
8 confinement for the crime for which the defendant was convicted, the
9 court shall fix the term of such confinement.

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

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

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

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

43 (1) Has been sentenced to the secretary for a probation revocation, as

1 a departure from the presumptive nonimprisonment grid block of either
2 sentencing grid, for an offense that is classified in grid blocks 5-H, 5-I or
3 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-
4 E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes
5 committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of
6 the sentencing guidelines grid for drug crimes committed on or after July
7 1, 2012, or for an offense that is classified in grid blocks 4-E or 4-F of the
8 sentencing guidelines grid for drug crimes committed prior to July 1, 2012,
9 or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for
10 drug crimes committed on or after July 1, 2012, and such offense does not
11 meet the requirements of K.S.A. 2021 Supp. 21-6824, and amendments
12 thereto; and

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

14 If the inmate successfully completes a conservation camp program, the
15 secretary of corrections shall report such completion to the sentencing
16 court and the county or district attorney. The inmate shall then be assigned
17 by the court to six months of follow-up supervision conducted by the
18 appropriate community corrections services program. The court may also
19 order that supervision continue thereafter for the length of time authorized
20 by K.S.A. 2021 Supp. 21-6608, and amendments thereto.

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

24 (n) (1) Except as provided by K.S.A. 2021 Supp. 21-6630 and 21-
25 6805(f), and amendments thereto, in addition to any of the above, for
26 felony violations of K.S.A. 2021 Supp. 21-5706, and amendments thereto,
27 the court shall require the defendant who meets the requirements
28 established in K.S.A. 2021 Supp. 21-6824, and amendments thereto, to
29 participate in a certified drug abuse treatment program, as provided in
30 K.S.A. 75-52,144, and amendments thereto, including, but not limited to,
31 an approved after-care plan. The amount of time spent participating in
32 such program shall not be credited as service on the underlying prison
33 sentence.

34 (2) If the defendant fails to participate in or has a pattern of
35 intentional conduct that demonstrates the defendant's refusal to comply
36 with or participate in the treatment program, as established by judicial
37 finding, the defendant shall be subject to sanction or revocation pursuant
38 to the provisions of K.S.A. 22-3716, and amendments thereto. If the
39 defendant's probation is revoked, the defendant shall serve the underlying
40 prison sentence as established in K.S.A. 2021 Supp. 21-6805, and
41 amendments thereto.

42 (A) Except as provided in subsection (n)(2)(B), for those offenders
43 who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon

1 completion of the underlying prison sentence, the offender shall not be
2 subject to a period of postrelease supervision.

3 (B) Offenders whose crime of conviction was committed on or after
4 July 1, 2013, and whose probation is revoked pursuant to K.S.A. 22-
5 3716(c), and amendments thereto, or whose underlying prison term expires
6 while serving a sanction pursuant to K.S.A. 22-3716(c)(1), and
7 amendments thereto, shall serve a period of postrelease supervision upon
8 the completion of the underlying prison term.

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. 2021 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 court
19 shall require the person to surrender the license to the court, which shall
20 transmit the license to the division of motor vehicles of the department of
21 revenue, to be retained until the period of suspension expires. At that time,
22 the licensee may apply to the division for return of the license. If the
23 license has expired, the person may apply for a new license, which shall be
24 issued promptly upon payment of the proper fee and satisfaction of other
25 conditions established by law for obtaining a license unless another
26 suspension or revocation of the person's privilege to operate a motor
27 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 was
31 convicted may enter an order that places conditions on such person's
32 privilege of operating a motor vehicle on the highways of this state, a
33 certified copy of which such person shall be required to carry any time
34 such person is operating a motor vehicle on the highways of this state. Any
35 such order shall prescribe the duration of the conditions imposed, which in
36 no event shall be for a period of more than one year.

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

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

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

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

26 (p) In addition to any of the above, for any criminal offense that
27 includes the domestic violence designation pursuant to K.S.A. 2021 Supp.
28 22-4616, and amendments thereto, the court shall require the defendant to:
29 (1) Undergo a domestic violence offender assessment conducted by a
30 certified batterer intervention program; and (2) follow all
31 recommendations made by such program, unless otherwise ordered by the
32 court or the department of corrections. The court may order a domestic
33 violence offender assessment and any other evaluation prior to sentencing
34 if the assessment or evaluation would assist the court in determining an
35 appropriate sentence. The entity completing the assessment or evaluation
36 shall provide the assessment or evaluation and recommendations to the
37 court and the court shall provide the domestic violence offender
38 assessment to any entity responsible for supervising such defendant. A
39 defendant ordered to undergo a domestic violence offender assessment
40 shall be required to pay for the assessment and, unless otherwise ordered
41 by the court or the department of corrections, for completion of all
42 recommendations.

43 (q) In imposing a fine, the court may authorize the payment thereof in

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

19 (r) In addition to any other penalty or disposition imposed by law, for
20 any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643,
21 prior to its repeal, or K.S.A. 2021 Supp. 21-6627, and amendments
22 thereto, for crimes committed on or after July 1, 2006, the court shall order
23 that the defendant be electronically monitored upon release from
24 imprisonment for the duration of the defendant's natural life and that the
25 defendant shall reimburse the state for all or part of the cost of such
26 monitoring as determined by the prisoner review board.

27 (s) Whenever the court has released the defendant on probation
28 pursuant to subsection (a)(3), the defendant's supervising court services
29 officer, with the concurrence of the chief court services officer, may
30 impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B),
31 and amendments thereto, without further order of the court, unless the
32 defendant, after being apprised of the right to a revocation hearing before
33 the court pursuant to K.S.A. 22-3716(b), and amendments thereto, refuses
34 to waive such right.

35 (t) Whenever the court has assigned the defendant to a community
36 correctional services program pursuant to subsection (a)(4), the defendant's
37 community corrections officer, with the concurrence of the community
38 corrections director, may impose the violation sanctions as provided in
39 K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order
40 of the court unless the defendant, after being apprised of the right to a
41 revocation hearing before the court pursuant to K.S.A. 22-3716(b), and
42 amendments thereto, refuses to waive such right.

43 (u) In addition to any of the above, the court shall authorize an

1 additional 18 days of confinement in a county jail to be reserved for
2 sanctions as set forth in K.S.A. 22-3716(b)(3)(B), (b)(4) or (c)(1)(B), and
3 amendments thereto.

4 (v) The amendments made to this section by *chapter 9 of the 2020*
5 *Session Laws of Kansas* and this act are procedural in nature and shall be
6 construed and applied retroactively.

7 Sec. 3. K.S.A. 2021 Supp. 22-3424 is hereby amended to read as
8 follows: 22-3424. (a) The judgment shall be rendered and sentence
9 imposed in open court.

10 (b) If the verdict or finding is not guilty, judgment shall be rendered
11 immediately and the defendant shall be discharged from custody and the
12 obligation of the defendant's appearance bond.

13 (c) If the verdict or finding is guilty, judgment shall be rendered and
14 sentence pronounced without unreasonable delay, allowing adequate time
15 for the filing and disposition of post-trial motions and for completion of
16 such presentence investigation as the court may require.

17 (d) (1) If the verdict or finding is guilty, upon request of the victim or
18 the victim's family and before imposing sentence, the court shall hold a
19 hearing to establish restitution. The defendant may waive the right to the
20 hearing and accept the amount of restitution as established by the court. If
21 the court orders restitution to be paid to the victim or the victim's family,
22 the order shall be enforced as a judgment of restitution pursuant to K.S.A.
23 ~~60-4301 through 60-4304~~ 20-169, and amendments thereto, and K.S.A.
24 2021 Supp. 21-6604(b)(2), and amendments thereto.

25 (2) (A) The court shall order a person convicted of human trafficking
26 or aggravated human trafficking, K.S.A. 21-3446 or 21-3447, prior to their
27 repeal, or K.S.A. 2021 Supp. 21-5426, and amendments thereto, or
28 commercial sexual exploitation of a child, K.S.A. 2021 Supp. 21-6422,
29 and amendments thereto, to pay restitution to the victim of the offense for:

30 (i) Expenses incurred or reasonably certain to be incurred by the
31 victim as a result of the offense, including reasonable attorney fees and
32 costs; and

33 (ii) an amount equal to three times the greatest of the following, with
34 no reduction for expenses the defendant incurred to maintain the victim:

35 (a) The gross income to the defendant for, or the value to the
36 defendant of, the victim's labor or services or sexual activity;

37 (b) the amount the defendant contracted to pay the victim; or

38 (c) the value of the victim's labor or services or sexual activity,
39 calculated under the minimum wage and overtime provisions of the federal
40 fair labor standards act, 29 U.S.C. § 201 et seq., or under K.S.A. 44-1203,
41 and amendments thereto, whichever is higher, even if the provisions do not
42 apply to the victim's labor or services or sexual activity.

43 (B) The court shall order restitution under subsection (d)(2) even if

1 the victim is unavailable to accept payment of restitution.

2 (C) If the victim does not claim restitution ordered under subsection
3 (d)(2) for five years after entry of the order, the restitution must be paid to
4 the human trafficking victim assistance fund created by K.S.A. 75-758,
5 and amendments thereto, to help victims.

6 (e) Before imposing sentence the court shall: (1) Allow the
7 prosecuting attorney to address the court, if the prosecuting attorney so
8 requests; (2) afford counsel an opportunity to speak on behalf of the
9 defendant; (3) allow the victim or such members of the victim's family as
10 the court deems appropriate to address the court, if the victim or the
11 victim's family so requests; and (4) address the defendant personally and
12 ask the defendant if the defendant wishes to make a statement on the
13 defendant's own behalf and to present any evidence in mitigation of
14 punishment.

15 (f) After imposing sentence in a case which has gone to trial on a plea
16 of not guilty, the court shall advise the defendant of the defendant's right to
17 appeal and of the right of a person who is unable to pay the costs of an
18 appeal to appeal in forma pauperis.

19 Sec. 4. K.S.A. 2021 Supp. 60-2310 is hereby amended to read as
20 follows: 60-2310. (a) *Definitions*. As used in this act and the acts of which
21 this act is amendatory, unless the context otherwise requires, the following
22 words and phrases shall have the meanings respectively ascribed to them:

23 (1) "Earnings" means compensation ~~paid or~~ payable for personal
24 services, whether denominated as wages, salary, commission, bonus or
25 otherwise;

26 (2) "disposable earnings" means that part of the earnings of any
27 individual remaining after the deduction from such earnings of any
28 amounts required by law to be withheld;

29 (3) "wage garnishment" means any legal or equitable procedure
30 through which the earnings of any individual are required to be withheld
31 for payment of any debt; and

32 (4) "federal minimum hourly wage" means that wage prescribed by
33 subsection (a)(1) of section 6 of the federal fair labor standards act of
34 1938, and any amendments thereto.

35 (b) *Restriction on wage garnishment*. Subject to the provisions of
36 subsection (e), only the aggregate disposable earnings of an individual
37 may be subjected to wage garnishment. The maximum part of such
38 earnings of any wage earning individual which may be subjected to wage
39 garnishment for any workweek or multiple thereof may not exceed the
40 lesser of: (1) Twenty-five percent of the individual's aggregate disposable
41 earnings for that workweek or multiple thereof; (2) the amount by which
42 the individual's aggregate disposable earnings for that workweek or
43 multiple thereof exceed an amount equal to 30 times the federal minimum

1 hourly wage, or equivalent multiple thereof for such longer period; or (3)
2 the amount of the plaintiff's claim as found in the order for garnishment.
3 No one creditor may issue more than one garnishment against the earnings
4 of the same judgment debtor during any one 30-day period, but the court
5 shall allow the creditor to file amendments or corrections of names or
6 addresses of any party to the order of garnishment at any time. In
7 answering such order the garnishee-employer shall withhold from all
8 earnings of the judgment-debtor for any pay period or periods ending
9 during such 30-day period an amount or amounts as are allowed and
10 required by law. Nothing in this act shall be construed as charging the
11 plaintiff in any garnishment action with the knowledge of the amount of
12 any defendant's earnings prior to the commencement of such garnishment
13 action.

14 (c) *Sickness preventing work.* If any debtor is prevented from working
15 at the debtor's regular trade, profession or calling for any period greater
16 than two weeks because of illness of the debtor or any member of the
17 family of the debtor, and this fact is shown by the affidavit of the debtor,
18 the provisions of this section shall not be invoked against any such debtor
19 until after the expiration of two months after recovery from such illness.

20 (d) *Assignment of account.* If any person, firm or corporation sells or
21 assigns an account to any person or collecting agency, that person, firm or
22 corporation or their assignees shall not have or be entitled to the benefits
23 of wage garnishment. The provision of this subsection shall not apply to
24 the following:

25 (1) Assignments of support rights to the secretary for children and
26 families pursuant to K.S.A. 39-709 and 39-756, and amendments thereto,
27 and support enforcement actions conducted by court trustees pursuant to
28 K.S.A. 23-492 et seq., and amendments thereto;

29 (2) support rights which have been assigned to any other state
30 pursuant to title IV-D of the federal social security act, 42 U.S.C. § 651 et
31 seq.;

32 (3) assignments of accounts receivable or taxes receivable to the
33 director of accounts and reports made under K.S.A. 75-3728b, and
34 amendments thereto; or

35 (4) collections pursuant to contracts entered into in accordance with
36 K.S.A. ~~75-719~~ 20-169, and amendments thereto, involving the collection
37 of restitution or debts to district courts.

38 (e) *Exceptions to restrictions on wage garnishment.* The restrictions
39 on the amount of disposable earnings subject to wage garnishment as
40 provided in subsection (b) shall not apply in the following instances:

41 (1) Any order of any court for the support of any person, including
42 any order for support in the form of alimony, but the foregoing shall be
43 subject to the restriction provided for in subsection (g);

1 (2) any order of any court of bankruptcy under chapter XIII of the
2 federal bankruptcy act; and

3 (3) any debt due for any state or federal tax.

4 (f) *Prohibition on courts.* No court of this state may make, execute or
5 enforce any order or process in violation of this section.

6 (g) The maximum part of the aggregate disposable earnings of an
7 individual for any workweek which is subject to garnishment to enforce
8 any order for the support of any person shall not exceed:

9 (1) If the individual is supporting a spouse or dependent child (other
10 than a spouse or child with respect to whose support such order is used),
11 50% of the individual's disposable earnings for that week;

12 (2) if the individual is not supporting a spouse or dependent child
13 described in ~~clause~~ *paragraph* (1), 60% of such individual's disposable
14 earnings for that week; and

15 (3) with respect to the disposable earnings of any individual for any
16 workweek, the 50% specified in ~~clause~~ *paragraph* (1) shall be 55% and
17 the 60% specified in ~~clause~~ *paragraph* (2) shall be 65%, if such earnings
18 are subject to garnishment to enforce a support order for a period which is
19 prior to the twelve-week period which ends with the beginning of such
20 workweek.

21 Sec. 5. K.S.A. 2021 Supp. 60-2403 is hereby amended to read as
22 follows: 60-2403. (a) (1) Except as provided in subsection (b), if a renewal
23 affidavit is not filed or if execution, including any garnishment proceeding,
24 support enforcement proceeding or proceeding in aid of execution, is not
25 issued, within five years from the date of the entry of any judgment in any
26 court of record in this state, including judgments in favor of the state or
27 any municipality in the state, or within five years from the date of any
28 order reviving the judgment or, if five years have intervened between the
29 date of the last renewal affidavit filed or execution proceedings undertaken
30 on the judgment and the time of filing another renewal affidavit or
31 undertaking execution proceedings on it, the judgment, including court
32 costs and fees therein shall become dormant, and shall cease to operate as
33 a lien on the real estate of the judgment debtor. When a judgment becomes
34 and remains dormant for a period of two years, it shall be the duty of the
35 judge to release the judgment of record when requested to do so.
36 *Undisputed payments made prior to a request for a release of judgment*
37 *are voluntary and not subject to refund or recoupment.*

38 (2) A "renewal affidavit" is a statement under oath, signed by the
39 judgment creditor or the judgment creditor's attorney, filed in the
40 proceedings in which the judgment was entered and stating the remaining
41 balance due and unpaid on the judgment.

42 (3) A "support enforcement proceeding" means any civil proceeding
43 to enforce any judgment for payment of child support or maintenance and

1 includes, but is not limited to, any income withholding proceeding under
2 the income withholding act, K.S.A. 2021 Supp. 23-3101 et seq., and
3 amendments thereto, any contempt proceeding and any civil proceeding
4 under the uniform interstate family support act, K.S.A. 2021 Supp. 23-
5 36,101 et seq., and amendments thereto.

6 (b) Except for those judgments which have become void as of July 1,
7 2007, no judgment for the support of a child shall be or become dormant
8 for any purpose except as provided in this subsection. Except for those
9 judgments which have become void as of July 1, 2015, no judgment for
10 court costs, fees, fines or restitution shall be or become dormant for any
11 purpose except as provided in this subsection. If a judgment would have
12 become dormant under the conditions set forth in subsection (a), the
13 judgment shall cease to operate as a lien on the real estate of the judgment
14 debtor as of the date the judgment would have become dormant, but the
15 judgment shall not be released of record pursuant to subsection (a).

16 (c) The time within which action must be taken to prevent a judgment
17 from becoming dormant does not run during any period in which the
18 enforcement of the judgment by legal process is stayed or prohibited.

19 Sec. 6. K.S.A. 60-4301, 60-4302, 60-4303 and 60-4304 and K.S.A.
20 2021 Supp. 20-169, 21-6604, 22-3424, 60-2310, 60-2403 and 60-4305 are
21 hereby repealed.

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