

## HOUSE BILL No. 2070

By Committee on Corrections and Juvenile Justice

1-18

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to sentencing; allowing certain nondrug offenders to participate in a  
3 certified drug abuse treatment program; amending K.S.A. 2022 Supp.  
4 21-6824 and repealing the existing section.

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

7 Section 1. K.S.A. 2022 Supp. 21-6824 is hereby amended to read as  
8 follows: 21-6824. (a) There is hereby established a nonprison sanction of  
9 certified drug abuse treatment programs for certain offenders who are  
10 sentenced on or after November 1, 2003. Placement of offenders in  
11 certified drug abuse treatment programs by the court shall be limited to  
12 placement of adult offenders; *who meet the requirements of this*  
13 *subsection.*

14 (1) *Offenders* convicted of a felony violation of K.S.A. 2022 Supp.  
15 21-5705 or 21-5706, and amendments thereto, whose offense is classified  
16 in grid blocks:

17 ~~(A)~~(A) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing  
18 guidelines grid for drug crimes and such offender has no felony conviction  
19 of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their  
20 repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their  
21 transfer, or K.S.A. 2022 Supp. 21-5703, 21-5705 or 21-5716, and  
22 amendments thereto, or any substantially similar offense from another  
23 jurisdiction; or

24 ~~(B)~~(B) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing  
25 guidelines grid for drug crimes; *and:*

26 (i) Such offender has no felony conviction of K.S.A. 65-4142, 65-  
27 4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010  
28 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A.  
29 2022 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any  
30 substantially similar offense from another jurisdiction; ~~if:~~

31 (ii) the person felonies in the offender's criminal history were severity  
32 level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for  
33 nondrug crimes; and

34 (iii) the court finds and sets forth with particularity the reasons for  
35 finding that the safety of the members of the public will not be jeopardized  
36 by such placement in a drug abuse treatment program.

1       (2) *Offenders convicted of a nonperson felony whose offense is*  
2 *classified in grid blocks:*

3       (A) *10-C, 10-D, 10-E, 10-F, 10-G, 10-H, 10-I, 9-C, 9-D, 9-E, 9-F, 9-*  
4 *G, 9-H, 9-I, 8-C, 8-D, 8-E, 8-F, 8-G, 8-H, 8-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H*  
5 *or 7-I of the sentencing guidelines grid for nondrug crimes and such*  
6 *offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161,*  
7 *65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03,*  
8 *21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2022 Supp. 21-*  
9 *5703, 21-5705 or 21-5716, and amendments thereto, or any substantially*  
10 *similar offense from another jurisdiction; or*

11       (B) *10-A, 10-B, 9-A, 9-B, 8-A, 8-B, 7-A or 7-B of the sentencing*  
12 *guidelines grid for nondrug crimes and:*

13       (i) *Such offender has no felony conviction of K.S.A. 65-4142, 65-*  
14 *4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010*  
15 *Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A.*  
16 *2022 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or*  
17 *any substantially similar offense from another jurisdiction;*

18       (ii) *the person felonies in the offender's criminal history were severity*  
19 *level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for*  
20 *nondrug crimes; and*

21       (iii) *the court finds and sets forth with particularity the reasons for*  
22 *finding that the safety of the members of the public will not be jeopardized*  
23 *by such placement in a drug abuse treatment program.*

24       (b) *As a part of the presentence investigation pursuant to K.S.A. 2022*  
25 *Supp. 21-6813, and amendments thereto, offenders who meet the*  
26 *requirements of subsection (a), unless otherwise specifically ordered by*  
27 *the court, shall be subject to:*

28       (1) *A drug abuse assessment—~~which~~ that shall include a clinical*  
29 *interview with a mental health professional and a recommendation*  
30 *concerning drug abuse treatment for the offender; and*

31       (2) *a criminal risk-need assessment. The criminal risk-need*  
32 *assessment shall assign a risk status to the offender.*

33       (c) *If the offender is assigned a risk status as determined by the drug*  
34 *abuse assessment performed pursuant to subsection (b)(1) and a risk status*  
35 *as determined by the criminal risk-need assessment performed pursuant to*  
36 *subsection (b)(2) that meets the criteria for participation in a drug abuse*  
37 *treatment program as determined by the Kansas sentencing commission,*  
38 *the sentencing court shall commit the offender to treatment in a drug abuse*  
39 *treatment program until the court determines the offender is suitable for*  
40 *discharge by the court. The term of treatment shall not exceed 18 months.*  
41 *The court may extend the term of probation; pursuant to K.S.A. 2022*  
42 *Supp. 21-6608(c)(3), and amendments thereto. The term of treatment may*  
43 *not exceed the term of probation.*

1 (d) (1) Offenders who are committed to a drug abuse treatment  
2 program pursuant to subsection (c) shall be supervised by community  
3 correctional services.

4 (2) Offenders who are not committed to a drug abuse treatment  
5 program pursuant to subsection (c) shall be supervised by community  
6 correctional services or court services based on the result of the criminal  
7 risk assessment.

8 (3) If the offender is permitted to go from the judicial district of the  
9 sentencing court, the court may, pursuant to K.S.A. 2022 Supp. 21-6610,  
10 and amendments thereto:

11 (A) Transfer supervision of the offender from that judicial district to  
12 another; and

13 (B) either transfer or retain jurisdiction of the offender.

14 (e) Placement of offenders under subsection ~~(a)(2)~~ *(a)(1)(B) or (a)(2)*  
15 *(B)* shall be subject to the departure sentencing statutes of the revised  
16 Kansas sentencing guidelines act.

17 (f) (1) Offenders in drug abuse treatment programs shall be  
18 discharged from such program if the offender:

19 (A) Is convicted of a new felony; or

20 (B) has a pattern of intentional conduct that demonstrates the  
21 offender's refusal to comply with or participate in the treatment program,  
22 as established by judicial finding.

23 (2) Offenders who are discharged from such program shall be subject  
24 to the revocation provisions of K.S.A. 2022 Supp. 21-6604(n), and  
25 amendments thereto.

26 (g) As used in this section, "mental health professional" includes  
27 licensed social workers, persons licensed to practice medicine and surgery,  
28 licensed psychologists, licensed professional counselors or registered  
29 alcohol and other drug abuse counselors licensed or certified as addiction  
30 counselors who have been certified by the Kansas sentencing commission  
31 to treat offenders pursuant to K.S.A. 75-52,144, and amendments thereto.

32 (h) (1) Offenders who meet the requirements of subsection (a) shall  
33 not be subject to the provisions of this section and shall be sentenced as  
34 otherwise provided by law, if such offenders:

35 (A) Are residents of another state and are returning to such state  
36 pursuant to the interstate corrections compact or the interstate compact for  
37 adult offender supervision;

38 (B) are not lawfully present in the United States and being detained  
39 for deportation; or

40 (C) do not meet the risk assessment levels provided in subsection (c).

41 (2) Such sentence shall not be considered a departure and shall not be  
42 subject to appeal.

43 (i) The court may order an offender who otherwise does not meet the

1 requirements of subsection (c) to undergo one additional drug abuse  
2 assessment while such offender is on probation. Such offender may be  
3 ordered to undergo drug abuse treatment pursuant to subsection (a) if such  
4 offender is determined to meet the requirements of subsection (c). The cost  
5 of such assessment shall be paid by such offender.

6       Sec. 2. K.S.A. 2022 Supp. 21-6824 is hereby repealed.

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