

HOUSE BILL No. 2658

By Committee on Corrections and Juvenile Justice

2-9

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sentencing; conditions of probation or suspended sentence; replacing
3 the list of standard conditions of probation and allowing for special
4 conditions to be imposed; amending K.S.A. 2021 Supp. 21-6607 and
5 repealing the existing section.
6

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

8 Section 1. K.S.A. 2021 Supp. 21-6607 is hereby amended to read as
9 follows: 21-6607. (a) Except as required by subsection (c), nothing in this
10 section shall be construed to limit the authority of the court to impose or
11 modify any ~~general or specific~~ *special* conditions of probation, suspension
12 of sentence or assignment to a community correctional services program.
13 The court services officer or community correctional services officer may
14 recommend, and the court may order, the imposition of any *special*
15 conditions of probation, suspension of sentence or assignment to a
16 community correctional services program. For crimes committed on or
17 after July 1, 1993, in presumptive nonprison cases, the court services
18 officer or community correctional services officer may recommend, and
19 the court may order, the imposition of any *special* conditions of probation
20 or assignment to a community correctional services program. The court
21 may at any time order the modification of such *special* conditions, after
22 notice to the court services officer or community correctional services
23 officer and an opportunity for such officer to be heard thereon. The court
24 shall cause a copy of any such order to be delivered to the court services
25 officer and the probationer or to the community correctional services
26 officer and the community corrections participant, as the case may be. The
27 provisions of K.S.A. 75-5291, and amendments thereto, shall be applicable
28 to any assignment to a community correctional services program pursuant
29 to this section.

30 (b) The court may impose any *special* conditions of probation,
31 suspension of sentence or assignment to a community correctional services
32 program that the court deems proper, ~~including, but not limited to,~~ *In*
33 *addition to any special conditions of supervision, the court shall impose*
34 *the following general conditions of supervision* requiring that the
35 defendant:

36 ~~(1) Avoid such injurious or vicious habits, as directed by the court,~~

1 court services officer or community correctional services officer;

2 ~~(2) avoid such persons or places of disreputable or harmful character,~~
3 ~~as directed by the court, court services officer or community correctional~~
4 ~~services officer;~~

5 ~~(3) report to the court services officer or community correctional~~
6 ~~services officer as directed;~~

7 ~~(4) permit the court services officer or community correctional~~
8 ~~services officer to visit the defendant at home or elsewhere;~~

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

10 ~~(6) remain within the state unless the court grants permission to~~
11 ~~leave;~~

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

14 ~~(8) support the defendant's dependents;~~

15 ~~(9) reside in a residential facility located in the community and~~
16 ~~participate in educational, counseling, work and other correctional or~~
17 ~~rehabilitative programs;~~

18 ~~(10) perform community or public service work for local~~
19 ~~governmental agencies, private corporations organized not for profit, or~~
20 ~~charitable or social service organizations performing services for the~~
21 ~~community;~~

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

27 ~~(12) participate in a house arrest program pursuant to K.S.A. 2021~~
28 ~~Supp. 21-6609, and amendments thereto;~~

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

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

34 ~~(e) In addition to any other conditions of probation, suspension of~~
35 ~~sentence or assignment to a community correctional services program, the~~
36 ~~court shall order the defendant to comply with each of the following~~
37 ~~conditions:~~

38 ~~(1) The defendant shall obey all laws of the United States, the state of~~
39 ~~Kansas and any other jurisdiction to the laws of which the defendant may~~
40 ~~be subject;~~

41 ~~(1) Obey all laws and ordinances and report any law enforcement~~
42 ~~contact within 24 hours to the defendant's supervision officer;~~

43 ~~(2) not engage in physical violence or threats of violence;~~

1 (3) not use, purchase or possess a dangerous weapon, including a
2 firearm, if the defendant has been convicted of a felony or is otherwise
3 prohibited by law from possessing such dangerous weapon;

4 (4) report to the defendant's supervision officer as directed and be
5 truthful in all matters;

6 (5) remain within the state of Kansas and other specified areas as
7 defined by the defendant's supervision officer;

8 (6) reside at the defendant's approved residence unless the
9 defendant's supervision officer has authorized the defendant to relocate
10 and notify such supervision officer of any emergency changes in residence
11 or contact information within 24 hours;

12 (7) not possess, use or distribute any illegal drugs or controlled
13 substances, except that a defendant may possess and use medications
14 prescribed by a licensed healthcare provider;

15 (8) not possess or consume any form of alcohol or intoxicating
16 substance and not enter any establishment where alcohol is sold or
17 consumed as the primary business;

18 (9) submit to any form of alcohol or substance use testing at the
19 direction of the defendant's supervision officer and not alter or tamper
20 with the specimen or test;

21 (10) participate in assessments, treatment, programming or other
22 directives by the court or the defendant's supervision officer;

23 (11) pay restitution, court costs, supervision fees and other costs as
24 directed by the court or the defendant's supervision officer;

25 (12) submit to searches of the defendant's person, effects, vehicle,
26 residence and property by the defendant's supervision officer or a law
27 enforcement officer based on reasonable suspicion that the defendant
28 violated conditions of supervision or engaged in criminal activity;

29 ~~(13)~~ (13) make reparation or restitution to the aggrieved party for the
30 damage or loss caused by the defendant's crime in accordance with K.S.A.
31 2021 Supp. 21-6604(b), and amendments thereto;

32 ~~(14)~~ (14) (A) pay a correctional supervision fee of \$60 if the person
33 was convicted of a misdemeanor or a fee of \$120 if the person was
34 convicted of a felony. In any case the amount of the correctional
35 supervision fee specified by this paragraph may be reduced or waived by
36 the judge if the person is unable to pay that amount;

37 (B) the correctional supervision fee imposed by this paragraph shall
38 be charged and collected by the district court. The clerk of the district
39 court shall remit all revenues received under this paragraph from
40 correctional supervision fees to the state treasurer in accordance with the
41 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
42 each such remittance, the state treasurer shall deposit the entire amount in
43 the state treasury to the credit of the state general fund, a sum equal to

1 41.67% of such remittance, and to the correctional supervision fund, a sum
2 equal to 58.33% of such remittance;

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

7 (D) this paragraph shall not apply to persons placed on probation or
8 released on parole to reside in Kansas under the uniform act for out-of-
9 state parolee supervision; *and*

10 ~~(4)~~(15) reimburse the state general fund for all or a part of the
11 expenditures by the state board of indigents' defense services to provide
12 counsel and other defense services to the defendant. In determining the
13 amount and method of payment of such sum, the court shall take account
14 of the financial resources of the defendant and the nature of the burden that
15 payment of such sum will impose. A defendant who has been required to
16 pay such sum and who is not willfully in default in the payment thereof
17 may at any time petition the court which sentenced the defendant to waive
18 payment of such sum or of any unpaid portion thereof. If it appears to the
19 satisfaction of the court that payment of the amount due will impose
20 manifest hardship on the defendant or the defendant's immediate family,
21 the court may waive payment of all or part of the amount due or modify
22 the method of payment. The amount of attorney fees to be included in the
23 court order for reimbursement shall be the amount claimed by appointed
24 counsel on the payment voucher for indigents' defense services or the
25 amount prescribed by the board of indigents' defense services
26 reimbursement tables as provided in K.S.A. 22-4522, and amendments
27 thereto, whichever is less;

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

33 ~~(6) be subject to random, but reasonable, tests for drug and alcohol~~
34 ~~consumption as ordered by a court services officer or community~~
35 ~~correctional services officer.~~

36 (d) Any law enforcement officer conducting a search pursuant to
37 subsection ~~(e)~~(5) (b)(12) shall submit a written report to the appropriate
38 court services officer or community correctional services officer no later
39 than the close of the next business day after such search. The written report
40 shall include the facts leading to such search, the scope of such search and
41 any findings resulting from such search.

42 (e) There is hereby established in the state treasury the correctional
43 supervision fund. All moneys credited to the correctional supervision fund

1 shall be used for: (1) The implementation of and training for use of a
2 statewide, mandatory, standardized risk assessment tool or instrument as
3 specified by the Kansas sentencing commission, pursuant to K.S.A. 75-
4 5291, and amendments thereto; (2) the implementation of and training for
5 use of a statewide, mandatory, standardized risk assessment tool or
6 instrument for juveniles adjudicated to be juvenile offenders; and (3)
7 evidence-based adult and juvenile offender supervision programs by
8 judicial branch personnel. If all expenditures for the program have been
9 paid and moneys remain in the correctional supervision fund for a fiscal
10 year, remaining moneys may be expended from the correctional
11 supervision fund to support adult and juvenile offender supervision by
12 court services officers. All expenditures from the correctional supervision
13 fund shall be made in accordance with appropriation acts upon warrants of
14 the director of accounts and reports issued pursuant to vouchers approved
15 by the chief justice of the Kansas supreme court or by a person or persons
16 designated by the chief justice.

17 Sec. 2. K.S.A. 2021 Supp. 21-6607 is hereby repealed.

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