

HOUSE BILL No. 2741

By Committee on Corrections and Juvenile Justice

Requested by Jennifer King on behalf of the Department of Corrections

2-7

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to supervision of offenders; updating the terms of supervision for
3 offenders on probation and postrelease supervision; amending K.S.A.
4 21-6607, 22-2907 and 22-3717 and repealing the existing sections.
5

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

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

28 (b) The court may impose any conditions of probation, suspension of
29 sentence or assignment to a community correctional services program that
30 the court deems proper, including, but not limited to, requiring that the
31 defendant:

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

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

1 services officer;

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

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

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

7 ~~(6) remain within the state unless the court grants permission to~~
8 ~~leave;~~

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

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

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

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

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

24 ~~(12) participate in a house arrest program pursuant to K.S.A. 21-~~
25 ~~6609, and amendments thereto;~~

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

28 ~~(14) in felony cases, except for violations of K.S.A. 8-1567, and~~
29 ~~amendments thereto, be confined in a county jail not to exceed 60 days,~~
30 ~~which need not be served consecutively~~*Obey all laws and ordinances and*
31 *report any law enforcement contact to the defendant's supervision officer*
32 *within 24 hours after such contact;*

33 *(2) not engage in physical violence or threats of violence of any kind*
34 *and, if the defendant is being supervised for conviction of a felony, not*
35 *purchase or possess a dangerous weapon, including a firearm, while on*
36 *supervision;*

37 *(3) report to the defendant's supervision officer as directed and be*
38 *truthful in all matters;*

39 *(4) remain within the state of Kansas or other specified areas as*
40 *defined by the defendant's supervision officer;*

41 *(5) reside at the defendant's approved residence unless the defendant*
42 *receives permission from the defendant's supervision officer to relocate*
43 *and notify the defendant's supervision officer within 24 hours after any*

- 1 *emergency changes in residence or contact information;*
- 2 *(6) not possess, use or distribute any controlled substances except*
- 3 *those prescribed by a licensed medical professional;*
- 4 *(7) not possess or consume any form of alcohol or intoxicating*
- 5 *substance or enter any establishment where alcohol is sold or consumed*
- 6 *as the primary business;*
- 7 *(8) submit to any form of alcohol or substance use testing directed by*
- 8 *the defendant's supervision officer and not alter or tamper with the*
- 9 *specimen or test;*
- 10 *(9) participate in assessment, treatment, programming and other*
- 11 *directives of the court or the defendant's supervision officer;*
- 12 *(10) submit to searches of the defendant's person, effects, vehicle,*
- 13 *residence or property by the defendant's supervision officer or any law*
- 14 *enforcement officer based on reasonable suspicion that the defendant*
- 15 *violated conditions of supervision or engaged in criminal activity; or*
- 16 *(11) refrain from contacting victims unless authorized by the court to*
- 17 *contact a victim as part of rehabilitative or therapeutic purposes.*
- 18 *(c) In addition to any—~~other~~ conditions of probation, suspension of*
- 19 *sentence or assignment to a community correctional services program*
- 20 *ordered pursuant to subsection (b), the court shall order the defendant to*
- 21 *comply with each of the following conditions:*
- 22 *(1) The defendant shall obey all laws of the United States, the state of*
- 23 *Kansas and any other jurisdiction to the laws of which the defendant may*
- 24 *be subject;*
- 25 *(2)—Make reparation or restitution to the aggrieved party for the*
- 26 *damage or loss caused by the defendant's crime in accordance with K.S.A.*
- 27 *21-6604(b), and amendments thereto;*
- 28 *(~~3~~)2 (A) pay a correctional supervision fee of \$60 if the person was*
- 29 *convicted of a misdemeanor or a fee of \$120 if the person was convicted*
- 30 *of a felony. In any case the amount of the correctional supervision fee*
- 31 *specified by this paragraph may be reduced or waived by the judge if the*
- 32 *person is unable to pay that amount;*
- 33 *(B) the correctional supervision fee imposed by this paragraph shall*
- 34 *be charged and collected by the district court. The clerk of the district*
- 35 *court shall remit all revenues received under this paragraph from*
- 36 *correctional supervision fees to the state treasurer in accordance with the*
- 37 *provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of*
- 38 *each such remittance, the state treasurer shall deposit the entire amount in*
- 39 *the state treasury to the credit of the state general fund, a sum equal to*
- 40 *41.67% of such remittance, and to the correctional supervision fund, a sum*
- 41 *equal to 58.33% of such remittance;*
- 42 *(C) this paragraph shall apply to persons placed on felony or*
- 43 *misdemeanor probation or released on misdemeanor parole to reside in*

1 Kansas and supervised by Kansas court services officers under the
2 interstate compact for offender supervision; and

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

6 ~~(4)(3)~~ reimburse the state general fund for all or a part of the
7 expenditures by the state board of indigents' defense services to provide
8 counsel and other defense services to the defendant. In determining the
9 amount and method of payment of such sum, the court shall take account
10 of the financial resources of the defendant and the nature of the burden that
11 payment of such sum will impose. A defendant who has been required to
12 pay such sum and who is not willfully in default in the payment thereof
13 may at any time petition the court which sentenced the defendant to waive
14 payment of such sum or of any unpaid portion thereof. If it appears to the
15 satisfaction of the court that payment of the amount due will impose
16 manifest hardship on the defendant or the defendant's immediate family,
17 the court may waive payment of all or part of the amount due or modify
18 the method of payment. The amount of attorney fees to be included in the
19 court order for reimbursement shall be the amount claimed by appointed
20 counsel on the payment voucher for indigents' defense services or the
21 amount prescribed by the board of indigents' defense services
22 reimbursement tables as provided in K.S.A. 22-4522, and amendments
23 thereto, whichever is less;

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

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

32 (d) *The office of judicial administration and the department of*
33 *corrections shall collaborate to develop documentation related to*
34 *conditions of supervision.*

35 (e) Any law enforcement officer conducting a search pursuant to
36 subsection ~~(e)(5)~~ (b)(10) shall submit a written report to the appropriate
37 court services officer or community correctional services officer no later
38 than the close of the next business day after such search. The written report
39 shall include the facts leading to such search, the scope of such search and
40 any findings resulting from such search.

41 ~~(e)(f)~~ There is hereby established in the state treasury the correctional
42 supervision fund. All moneys credited to the correctional supervision fund
43 shall be used for: (1) The implementation of and training for use of a

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

16 Sec. 2. K.S.A. 22-2907 is hereby amended to read as follows: 22-
17 2907. (a) After a complaint has been filed charging a defendant with
18 commission of a crime and prior to conviction thereof, and after the
19 district attorney has considered the factors listed in K.S.A. 22-2908, if it
20 appears to the district attorney that diversion of the defendant would be in
21 the interests of justice and of benefit to the defendant and the community,
22 the district attorney may propose a diversion agreement to the defendant.
23 The terms of each diversion agreement shall be established by the district
24 attorney in accordance with K.S.A. 22-2909, and amendments thereto.

25 (b) Each district attorney shall adopt written policies and guidelines
26 for the implementation of a diversion program in accordance with this act.
27 Such policies and guidelines shall provide for a diversion conference and
28 other procedures in those cases where the district attorney elects to offer
29 diversion in lieu of further criminal proceedings on the complaint.

30 (c) Each defendant shall be informed in writing of the diversion
31 program and the policies and guidelines adopted by the district attorney.
32 The district attorney may require any defendant requesting diversion to
33 provide information regarding prior criminal charges, education, work
34 experience and training, family, residence in the community, medical
35 history, including any psychiatric or psychological treatment or
36 counseling, and other information relating to the diversion program. In all
37 cases, the defendant shall be present and shall have the right to be
38 represented by counsel at the diversion conference with the district
39 attorney.

40 (d) (1) A county or district attorney may enter into a memorandum of
41 understanding with the chief judge of a judicial district or community
42 correctional services to assist with supervision and monitoring of persons
43 who have entered into a diversion agreement. The county or district

1 attorney shall retain authority over whether a defendant is given the option
2 to enter into a diversion agreement and whether the defendant's diversion
3 agreement will be revoked.

4 (2) A memorandum of understanding shall include provisions related
5 to:

- 6 (A) Determining the level of supervision needed for a defendant;
- 7 (B) use of a criminal risk-need assessment;
- 8 (C) payment of costs for supervision; and
- 9 (D) waiver of the supervision fee established in this subsection.

10 (3) (A) When a person who has entered into a diversion agreement is
11 supervised pursuant to a memorandum of understanding under this
12 subsection, the person shall pay a supervision fee in the amount
13 established in K.S.A. 21-6607~~(e)(3)(A)~~ (c)(2)(A) for misdemeanor or
14 felony post-conviction supervision, as appropriate for the crime charged.

15 (B) The diversion supervision fee imposed by this paragraph shall be
16 charged and collected by the county or district attorney.

17 (C) All moneys collected pursuant to this section shall be paid into
18 the county general fund and used to fund the costs of diversion supervision
19 performed pursuant to a memorandum of understanding under this
20 subsection.

21 (D) The diversion supervision fee specified by this paragraph may be
22 reduced or waived by the county or district attorney in accordance with a
23 memorandum of understanding under this subsection.

24 (4) When a person who has entered into a diversion agreement is
25 supervised pursuant to a memorandum of understanding under this
26 subsection, the person shall pay the actual costs of any urinalysis testing
27 required as a term of supervision. Payments for urinalysis testing shall be
28 remitted to the county treasurer for deposit in the county general fund. The
29 costs of urinalysis testing may be reduced or waived by the county or
30 district attorney.

31 (5) The office of judicial administration may develop guidelines
32 regarding the content of a memorandum of understanding between a
33 county or district attorney and the chief judge of a judicial district and the
34 administration of a supervision program operating pursuant to such
35 memorandum of understanding.

36 Sec. 3. K.S.A. 22-3717 is hereby amended to read as follows: 22-
37 3717. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp.
38 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through 21-4638 and
39 21-4642, prior to their repeal; K.S.A. 21-6617, 21-6620, 21-6623, 21-
40 6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567,
41 and amendments thereto; an inmate, including an inmate sentenced
42 pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 21-6707, and
43 amendments thereto, shall be eligible for parole after serving the entire

1 minimum sentence imposed by the court, less good time credits.

2 (b) (1) An inmate sentenced to imprisonment for life without the
3 possibility of parole pursuant to K.S.A. 21-6617, and amendments thereto,
4 shall not be eligible for parole.

5 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to
6 their repeal, and K.S.A. 21-6620, 21-6623, 21-6624 and 21-6625, and
7 amendments thereto, an inmate sentenced to imprisonment for the crime
8 of: (A) Capital murder committed on or after July 1, 1994, shall be eligible
9 for parole after serving 25 years of confinement, without deduction of any
10 good time credits; (B) murder in the first degree based upon a finding of
11 premeditated murder committed on or after July 1, 1994, but prior to July
12 1, 2014, shall be eligible for parole after serving 25 years of confinement,
13 without deduction of any good time credits; and (C) murder in the first
14 degree as described in K.S.A. 21-5402(a)(2), and amendments thereto,
15 committed on or after July 1, 2014, shall be eligible for parole after
16 serving 25 years of confinement, without deduction of any good time
17 credits.

18 (3) Except as provided by subsections (b)(1), (b)(2) and (b)(5),
19 K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through
20 21-4638, prior to their repeal, and K.S.A. 21-6620, 21-6623, 21-6624 and
21 21-6625, and amendments thereto, an inmate sentenced to imprisonment
22 for an off-grid offense committed on or after July 1, 1993, but prior to July
23 1, 1999, shall be eligible for parole after serving 15 years of confinement,
24 without deduction of any good time credits and an inmate sentenced to
25 imprisonment for an off-grid offense committed on or after July 1, 1999,
26 shall be eligible for parole after serving 20 years of confinement without
27 deduction of any good time credits.

28 (4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
29 repeal, an inmate sentenced for a class A felony committed before July 1,
30 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
31 its repeal, or K.S.A. 21-6707, and amendments thereto, shall be eligible for
32 parole after serving 15 years of confinement, without deduction of any
33 good time credits.

34 (5) An inmate sentenced to imprisonment for a violation of K.S.A.
35 21-3402(a), prior to its repeal, committed on or after July 1, 1996, but
36 prior to July 1, 1999, shall be eligible for parole after serving 10 years of
37 confinement without deduction of any good time credits.

38 (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
39 4643, prior to its repeal, or K.S.A. 21-6627, and amendments thereto,
40 committed on or after July 1, 2006, shall be eligible for parole after
41 serving the mandatory term of imprisonment without deduction of any
42 good time credits.

43 (c) (1) Except as provided in subsection (e), if an inmate is sentenced

1 to imprisonment for more than one crime and the sentences run
2 consecutively, the inmate shall be eligible for parole after serving the total
3 of:

4 (A) The aggregate minimum sentences, as determined pursuant to
5 K.S.A. 21-4608, prior to its repeal, or K.S.A. 21-6606, and amendments
6 thereto, less good time credits for those crimes which are not class A
7 felonies; and

8 (B) an additional 15 years, without deduction of good time credits,
9 for each crime which is a class A felony.

10 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
11 4643, prior to its repeal, or K.S.A. 21-6627, and amendments thereto, for
12 crimes committed on or after July 1, 2006, the inmate shall be eligible for
13 parole after serving the mandatory term of imprisonment.

14 (d) (1) Persons sentenced for crimes, other than off-grid crimes,
15 committed on or after July 1, 1993, or persons subject to subparagraph
16 (G), will not be eligible for parole, but will be released to a mandatory
17 period of postrelease supervision upon completion of the prison portion of
18 their sentence as follows:

19 (A) Except as provided in subparagraphs (D) and (E), persons
20 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
21 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
22 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
23 July 1, 2012, must serve 36 months on postrelease supervision.

24 (B) Except as provided in subparagraphs (D) and (E), persons
25 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
26 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
27 drug severity level 4 crimes committed on or after July 1, 2012, must serve
28 24 months on postrelease supervision.

29 (C) Except as provided in subparagraphs (D) and (E), persons
30 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
31 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
32 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
33 must serve 12 months on postrelease supervision.

34 (D) Persons sentenced to a term of imprisonment that includes a
35 sentence for a sexually violent crime as defined in K.S.A. 22-3717, and
36 amendments thereto, committed on or after July 1, 1993, but prior to July
37 1, 2006, a sexually motivated crime in which the offender has been
38 ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and
39 amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its
40 repeal, or K.S.A. 21-5509, and amendments thereto, or unlawful sexual
41 relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 21-5512, and
42 amendments thereto, shall serve the period of postrelease supervision as
43 provided in subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C), plus the amount

1 of good time and program credit earned and retained pursuant to K.S.A.
2 21-4722, prior to its repeal, or K.S.A. 21-6821, and amendments thereto,
3 on postrelease supervision.

4 (i) If the sentencing judge finds substantial and compelling reasons to
5 impose a departure based upon a finding that the current crime of
6 conviction was sexually motivated, departure may be imposed to extend
7 the postrelease supervision to a period of up to 60 months.

8 (ii) If the sentencing judge departs from the presumptive postrelease
9 supervision period, the judge shall state on the record at the time of
10 sentencing the substantial and compelling reasons for the departure.
11 Departures in this section are subject to appeal pursuant to K.S.A. 21-
12 4721, prior to its repeal, or K.S.A. 21-6820, and amendments thereto.

13 (iii) In determining whether substantial and compelling reasons exist,
14 the court shall consider:

15 (a) Written briefs or oral arguments submitted by either the defendant
16 or the state;

17 (b) any evidence received during the proceeding;

18 (c) the presentence report, the victim's impact statement and any
19 psychological evaluation as ordered by the court pursuant to K.S.A. 21-
20 4714(e), prior to its repeal, or K.S.A. 21-6813(e), and amendments thereto;
21 and

22 (d) any other evidence the court finds trustworthy and reliable.

23 (iv) The sentencing judge may order that a psychological evaluation
24 be prepared and the recommended programming be completed by the
25 offender. The department of corrections or the prisoner review board shall
26 ensure that court ordered sex offender treatment be carried out.

27 (v) In carrying out the provisions of subsection (d)(1)(D), the court
28 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 21-6817, and
29 amendments thereto.

30 (vi) Upon petition and payment of any restitution ordered pursuant to
31 K.S.A. 21-6604, and amendments thereto, the prisoner review board may
32 provide for early discharge from the postrelease supervision period
33 imposed pursuant to subsection (d)(1)(D)(i) upon completion of court
34 ordered programs and completion of the presumptive postrelease
35 supervision period, as determined by the crime of conviction, pursuant to
36 subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
37 postrelease supervision is at the discretion of the board.

38 (vii) Persons convicted of crimes deemed sexually violent or sexually
39 motivated shall be registered according to the offender registration act,
40 K.S.A. 22-4901 through 22-4910, and amendments thereto.

41 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
42 repeal, or K.S.A. 21-5508, and amendments thereto, shall be required to
43 participate in a treatment program for sex offenders during the postrelease

1 supervision period.

2 (E) The period of postrelease supervision provided in subparagraphs
3 (A) and (B) may be reduced by up to 12 months and the period of
4 postrelease supervision provided in subparagraph (C) may be reduced by
5 up to six months based on the offender's compliance with conditions of
6 supervision and overall performance while on postrelease supervision. The
7 reduction in the supervision period shall be on an earned basis pursuant to
8 rules and regulations adopted by the secretary of corrections.

9 (F) In cases where sentences for crimes from more than one severity
10 level have been imposed, the offender shall serve the longest period of
11 postrelease supervision as provided by this section available for any crime
12 upon which sentence was imposed irrespective of the severity level of the
13 crime. Supervision periods will not aggregate.

14 (G) (i) Except as provided in subsection ~~(H)(v)~~, persons sentenced to
15 imprisonment for a sexually violent crime committed on or after July 1,
16 2006, when the offender was 18 years of age or older, and who are
17 released from prison, shall be released to a mandatory period of
18 postrelease supervision for the duration of the person's natural life.

19 (ii) Persons sentenced to imprisonment for a sexually violent crime
20 committed on or after the effective date of this act, when the offender was
21 under 18 years of age, and who are released from prison, shall be released
22 to a mandatory period of postrelease supervision for 60 months, plus the
23 amount of good time and program credit earned and retained pursuant to
24 K.S.A. 21-4722, prior to its repeal, or K.S.A. 21-6821, and amendments
25 thereto.

26 (2) Persons serving a period of postrelease supervision pursuant to
27 subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner
28 review board for early discharge. Upon payment of restitution, the prisoner
29 review board may provide for early discharge.

30 (3) Persons serving a period of incarceration for a supervision
31 violation shall not have the period of postrelease supervision modified
32 until such person is released and returned to postrelease supervision.

33 (4) Offenders whose crime of conviction was committed on or after
34 July 1, 2013, and whose probation, assignment to a community
35 correctional services program, suspension of sentence or nonprison
36 sanction is revoked pursuant to K.S.A. 22-3716(c), and amendments
37 thereto, or whose underlying prison term expires while serving a sanction
38 pursuant to K.S.A. 22-3716(c), and amendments thereto, shall serve a
39 period of postrelease supervision upon the completion of the underlying
40 prison term.

41 (5) As used in this subsection, "sexually violent crime" means:

42 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and
43 amendments thereto;

1 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
2 or K.S.A. 21-5506(a), and amendments thereto;

3 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
4 to its repeal, or K.S.A. 21-5506(b), and amendments thereto;

5 (D) criminal sodomy, K.S.A. 21-3505(a)(2) and (a)(3), prior to its
6 repeal, or K.S.A. 21-5504(a)(3) and (a)(4), and amendments thereto;

7 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
8 or K.S.A. 21-5504(b), and amendments thereto;

9 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
10 or K.S.A. 21-5508(a), and amendments thereto;

11 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
12 to its repeal, or K.S.A. 21-5508(b), and amendments thereto;

13 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
14 or K.S.A. 21-5510, and amendments thereto;

15 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
16 K.S.A. 21-5505(b), and amendments thereto;

17 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or K.S.A.
18 21-5604(b), and amendments thereto;

19 (K) aggravated human trafficking, as defined in K.S.A. 21-3447,
20 prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto, if
21 committed in whole or in part for the purpose of the sexual gratification of
22 the defendant or another;

23 (L) internet trading in child pornography, as defined in K.S.A. 21-
24 5514(a), and amendments thereto;

25 (M) aggravated internet trading in child pornography, as defined in
26 K.S.A. 21-5514(b), and amendments thereto;

27 (N) commercial sexual exploitation of a child, as defined in K.S.A.
28 21-6422, and amendments thereto; or

29 (O) an attempt, conspiracy or criminal solicitation, as defined in
30 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-
31 5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent
32 crime as defined in this section.

33 (6) As used in this subsection, "sexually motivated" means that one of
34 the purposes for which the defendant committed the crime was for the
35 purpose of the defendant's sexual gratification.

36 (e) If an inmate is sentenced to imprisonment for a crime committed
37 while on parole or conditional release, the inmate shall be eligible for
38 parole as provided by subsection (c), except that the prisoner review board
39 may postpone the inmate's parole eligibility date by assessing a penalty not
40 exceeding the period of time which could have been assessed if the
41 inmate's parole or conditional release had been violated for reasons other
42 than conviction of a crime.

43 (f) If a person is sentenced to prison for a crime committed on or after

1 July 1, 1993, while on probation, parole, conditional release or in a
2 community corrections program, for a crime committed prior to July 1,
3 1993, and the person is not eligible for retroactive application of the
4 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
5 4724, prior to its repeal, the new sentence shall not be aggregated with the
6 old sentence, but shall begin when the person is paroled or reaches the
7 conditional release date on the old sentence. If the offender was past the
8 offender's conditional release date at the time the new offense was
9 committed, the new sentence shall not be aggregated with the old sentence
10 but shall begin when the person is ordered released by the prisoner review
11 board or reaches the maximum sentence expiration date on the old
12 sentence, whichever is earlier. The new sentence shall then be served as
13 otherwise provided by law. The period of postrelease supervision shall be
14 based on the new sentence, except that those offenders whose old sentence
15 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
16 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
17 term of life imprisonment, for which there is no conditional release or
18 maximum sentence expiration date, shall remain on postrelease
19 supervision for life or until discharged from supervision by the prisoner
20 review board.

21 (g) Subject to the provisions of this section, the prisoner review board
22 may release on parole those persons confined in institutions who are
23 eligible for parole when: (1) The board believes that the inmate should be
24 released for hospitalization, deportation or to answer the warrant or other
25 process of a court and is of the opinion that there is reasonable probability
26 that the inmate can be released without detriment to the community or to
27 the inmate; or (2) the secretary of corrections has reported to the board in
28 writing that the inmate has satisfactorily completed the programs required
29 by any agreement entered under K.S.A. 75-5210a, and amendments
30 thereto, or any revision of such agreement, and the board believes that the
31 inmate is able and willing to fulfill the obligations of a law abiding citizen
32 and is of the opinion that there is reasonable probability that the inmate
33 can be released without detriment to the community or to the inmate.
34 Parole shall not be granted as an award of clemency and shall not be
35 considered a reduction of sentence or a pardon.

36 (h) The prisoner review board shall hold a parole hearing at least the
37 month prior to the month an inmate will be eligible for parole under
38 subsections (a), (b) and (c). At least one month preceding the parole
39 hearing, the county or district attorney of the county where the inmate was
40 convicted shall give written notice of the time and place of the public
41 comment sessions for the inmate to any victim of the inmate's crime who
42 is alive and whose address is known to the county or district attorney or, if
43 the victim is deceased, to the victim's family if the family's address is

1 known to the county or district attorney. Except as otherwise provided,
2 failure to notify pursuant to this section shall not be a reason to postpone a
3 parole hearing. In the case of any inmate convicted of an off-grid felony or
4 a class A felony, the secretary of corrections shall give written notice of the
5 time and place of the public comment session for such inmate at least one
6 month preceding the public comment session to any victim of such
7 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
8 amendments thereto. If notification is not given to such victim or such
9 victim's family in the case of any inmate convicted of an off-grid felony or
10 a class A felony, the board shall postpone a decision on parole of the
11 inmate to a time at least 30 days after notification is given as provided in
12 this section. Nothing in this section shall create a cause of action against
13 the state or an employee of the state acting within the scope of the
14 employee's employment as a result of the failure to notify pursuant to this
15 section. If granted parole, the inmate may be released on parole on the date
16 specified by the board, but not earlier than the date the inmate is eligible
17 for parole under subsections (a), (b) and (c). At each parole hearing and, if
18 parole is not granted, at such intervals thereafter as it determines
19 appropriate, the board shall consider: (1) Whether the inmate has
20 satisfactorily completed the programs required by any agreement entered
21 under K.S.A. 75-5210a, and amendments thereto, or any revision of such
22 agreement; and (2) all pertinent information regarding such inmate,
23 including, but not limited to, the circumstances of the offense of the
24 inmate; the presentence report; the previous social history and criminal
25 record of the inmate; the conduct, employment, and attitude of the inmate
26 in prison; the reports of such physical and mental examinations as have
27 been made, including, but not limited to, risk factors revealed by any risk
28 assessment of the inmate; comments of the victim and the victim's family
29 including in person comments, contemporaneous comments and
30 prerecorded comments made by any technological means; comments of
31 the public; official comments; any recommendation by the staff of the
32 facility where the inmate is incarcerated; proportionality of the time the
33 inmate has served to the sentence a person would receive under the Kansas
34 sentencing guidelines for the conduct that resulted in the inmate's
35 incarceration; and capacity of state correctional institutions.

36 (i) In those cases involving inmates sentenced for a crime committed
37 after July 1, 1993, the prisoner review board will review the inmate's
38 proposed release plan. The board may schedule a hearing if they desire.
39 The board may impose any condition they deem necessary to insure public
40 safety, aid in the reintegration of the inmate into the community, or items
41 not completed under the agreement entered into under K.S.A. 75-5210a,
42 and amendments thereto. The board may not advance or delay an inmate's
43 release date. Every inmate while on postrelease supervision shall remain in

1 the legal custody of the secretary of corrections and is subject to the orders
2 of the secretary.

3 (j) (1) Before ordering the parole of any inmate, the prisoner review
4 board shall have the inmate appear either in person or via a video
5 conferencing format and shall interview the inmate unless impractical
6 because of the inmate's physical or mental condition or absence from the
7 institution. Every inmate while on parole shall remain in the legal custody
8 of the secretary of corrections and is subject to the orders of the secretary.
9 Whenever the board formally considers placing an inmate on parole and
10 no agreement has been entered into with the inmate under K.S.A. 75-
11 5210a, and amendments thereto, the board shall notify the inmate in
12 writing of the reasons for not granting parole. If an agreement has been
13 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate
14 has not satisfactorily completed the programs specified in the agreement,
15 or any revision of such agreement, the board shall notify the inmate in
16 writing of the specific programs the inmate must satisfactorily complete
17 before parole will be granted. If parole is not granted only because of a
18 failure to satisfactorily complete such programs, the board shall grant
19 parole upon the secretary's certification that the inmate has successfully
20 completed such programs. If an agreement has been entered under K.S.A.
21 75-5210a, and amendments thereto, and the secretary of corrections has
22 reported to the board in writing that the inmate has satisfactorily
23 completed the programs required by such agreement, or any revision
24 thereof, the board shall not require further program participation.
25 However, if the board determines that other pertinent information
26 regarding the inmate warrants the inmate's not being released on parole,
27 the board shall state in writing the reasons for not granting the parole. If
28 parole is denied for an inmate sentenced for a crime other than a class A or
29 class B felony or an off-grid felony, the board shall hold another parole
30 hearing for the inmate not later than one year after the denial unless the
31 board finds that it is not reasonable to expect that parole would be granted
32 at a hearing if held in the next three years or during the interim period of a
33 deferral. In such case, the board may defer subsequent parole hearings for
34 up to three years but any such deferral by the board shall require the board
35 to state the basis for its findings. If parole is denied for an inmate
36 sentenced for a class A or class B felony or an off-grid felony, the board
37 shall hold another parole hearing for the inmate not later than three years
38 after the denial unless the board finds that it is not reasonable to expect
39 that parole would be granted at a hearing if held in the next 10 years or
40 during the interim period of a deferral. In such case, the board may defer
41 subsequent parole hearings for up to 10 years, but any such deferral shall
42 require the board to state the basis for its findings.

43 (2) Inmates sentenced for a class A or class B felony who have not

1 had a board hearing in the five years prior to July 1, 2010, shall have such
2 inmates' cases reviewed by the board on or before July 1, 2012. Such
3 review shall begin with the inmates with the oldest deferral date and
4 progress to the most recent. Such review shall be done utilizing existing
5 resources unless the board determines that such resources are insufficient.
6 If the board determines that such resources are insufficient, then the
7 provisions of this paragraph are subject to appropriations therefor.

8 (k) (1) Parolees and persons on postrelease supervision shall be
9 assigned, upon release, to the appropriate level of supervision pursuant to
10 the criteria established by the secretary of corrections.

11 (2) Parolees and persons on postrelease supervision are, and shall
12 agree in writing to be, subject to searches of the person and the person's
13 effects, vehicle, residence and property by a parole officer or a department
14 of corrections enforcement, apprehension and investigation officer, at any
15 time of the day or night, with or without a search warrant and with or
16 without cause. Nothing in this subsection shall be construed to authorize
17 such officers to conduct arbitrary or capricious searches or searches for the
18 sole purpose of harassment.

19 (3) Parolees and persons on postrelease supervision are, and shall
20 agree in writing to be, subject to searches of the person and the person's
21 effects, vehicle, residence and property by any law enforcement officer
22 based on reasonable suspicion of the person violating conditions of parole
23 or postrelease supervision or reasonable suspicion of criminal activity. Any
24 law enforcement officer who conducts such a search shall submit a written
25 report to the appropriate parole officer no later than the close of the next
26 business day after such search. The written report shall include the facts
27 leading to such search, the scope of such search and any findings resulting
28 from such search.

29 (l) The prisoner review board shall promulgate rules and regulations
30 in accordance with K.S.A. 77-415 et seq., and amendments thereto, not
31 inconsistent with the law and as it may deem proper or necessary, with
32 respect to the conduct of parole hearings, postrelease supervision reviews,
33 revocation hearings, orders of restitution, reimbursement of expenditures
34 by the state board of indigents' defense services and other conditions to be
35 imposed upon parolees or releasees. Whenever an order for parole or
36 postrelease supervision is issued it shall recite the conditions thereof.

37 (m) Whenever the prisoner review board orders the parole of an
38 inmate or establishes conditions for an inmate placed on postrelease
39 supervision, the board *shall require that the inmate:*

40 (1) ~~Unless it finds compelling circumstances that would render a plan~~
41 ~~of payment unworkable, shall order as a condition of parole or postrelease~~
42 ~~supervision that the parolee or the person on postrelease supervision pay~~
43 ~~any transportation expenses resulting from returning the parolee or the~~

1 person on postrelease supervision to this state to answer criminal charges
2 or a warrant for a violation of a condition of probation, assignment to a
3 community correctional services program, parole, conditional release or
4 postrelease supervision;

5 (2) ~~to the extent practicable, shall order as a condition of parole or~~
6 ~~postrelease supervision that the parolee or the person on postrelease~~
7 ~~supervision make progress towards or successfully complete the~~
8 ~~equivalent of a secondary education if the inmate has not previously~~
9 ~~completed such educational equivalent and is capable of doing so;~~

10 (3) ~~may order that the parolee or person on postrelease supervision~~
11 ~~perform community or public service work for local governmental~~
12 ~~agencies, private corporations organized not for profit or charitable or~~
13 ~~social service organizations performing services for the community;~~ *Obey*
14 *all laws and ordinances and report any law enforcement contact to the*
15 *inmate's supervision officer within 24 hours after such contact;*

16 (2) *not engage in physical violence or threats of violence of any kind*
17 *and, if the inmate is being supervised for conviction of a felony, not*
18 *purchase or possess a dangerous weapon, including a firearm, while on*
19 *supervision;*

20 (3) *report to the inmate's supervision officer as directed and be*
21 *truthful in all matters;*

22 (4) *remain within the state of Kansas or other specified areas as*
23 *defined by the defendant's supervision officer;*

24 (5) *reside at the inmate's approved residence unless the defendant*
25 *receives permission from the inmate's supervision officer to relocate and*
26 *notify the inmate's supervision officer within 24 hours after any emergency*
27 *changes in residence or contact information;*

28 (6) *not possess, use or distribute any controlled substances except*
29 *those prescribed by a licensed medical professional;*

30 (7) *not possess or consume any form of alcohol or intoxicating*
31 *substance or enter any establishment where alcohol is sold or consumed*
32 *as the primary business;*

33 (8) *submit to any form of alcohol or substance use testing directed by*
34 *the inmate's supervision officer and not alter or tamper with the specimen*
35 *or test;*

36 (9) *participate in assessment, treatment, programming and other*
37 *directives of the court or the inmate's supervision officer;*

38 (10) *submit to searches of the inmate's person, effects, vehicle,*
39 *residence or property by the inmate's supervision officer or any law*
40 *enforcement officer based on reasonable suspicion that the inmate*
41 *violated conditions of supervision or engaged in criminal activity;*

42 (11) *refrain from contacting victims unless authorized by the court to*
43 *contact a victim as part of rehabilitative or therapeutic purposes;*

1 ~~(4)(12)~~ may order the parolee or person on postrelease supervision to
2 pay the administrative fee imposed pursuant to K.S.A. 22-4529, and
3 amendments thereto, unless the board finds compelling circumstances that
4 would render payment unworkable; *and*

5 ~~(5)(13)~~ unless ~~it~~ *the board* finds compelling circumstances that would
6 render a plan of payment unworkable, ~~shall order that the parolee or~~
7 ~~person on postrelease supervision~~ reimburse the state for all or part of the
8 expenditures by the state board of indigents' defense services to provide
9 counsel and other defense services to the person. In determining the
10 amount and method of payment of such sum, the prisoner review board
11 shall take account of the financial resources of the person and the nature of
12 the burden that the payment of such sum will impose. Such amount shall
13 not exceed the amount claimed by appointed counsel on the payment
14 voucher for indigents' defense services or the amount prescribed by the
15 board of indigents' defense services reimbursement tables as provided in
16 K.S.A. 22-4522, and amendments thereto, whichever is less, minus any
17 previous payments for such services;

18 ~~(6)~~ ~~shall order that the parolee or person on postrelease supervision~~
19 ~~agree in writing to be subject to searches of the person and the person's~~
20 ~~effects, vehicle, residence and property by a parole officer or a department~~
21 ~~of corrections enforcement, apprehension and investigation officer, at any~~
22 ~~time of the day or night, with or without a search warrant and with or~~
23 ~~without cause. Nothing in this subsection shall be construed to authorize~~
24 ~~such officers to conduct arbitrary or capricious searches or searches for the~~
25 ~~sole purpose of harassment; and~~

26 ~~(7)~~ ~~shall order that the parolee or person on postrelease supervision~~
27 ~~agree in writing to be subject to searches of the person and the person's~~
28 ~~effects, vehicle, residence and property by any law enforcement officer~~
29 ~~based on reasonable suspicion of the person violating conditions of parole~~
30 ~~or postrelease supervision or reasonable suspicion of criminal activity.~~

31 (n) *The office of judicial administration and the department of*
32 *corrections shall collaborate to develop documentation related to*
33 *conditions of supervision.*

34 (o) If the court that sentenced an inmate specified at the time of
35 sentencing the amount and the recipient of any restitution ordered as a
36 condition of parole or postrelease supervision, the prisoner review board
37 shall order as a condition of parole or postrelease supervision that the
38 inmate pay restitution in the amount and manner provided in the journal
39 entry unless the board finds compelling circumstances that would render a
40 plan of restitution unworkable.

41 ~~(p)~~ Whenever the prisoner review board grants the parole of an
42 inmate, the board, within 14 days of the date of the decision to grant
43 parole, shall give written notice of the decision to the county or district

1 attorney of the county where the inmate was sentenced.

2 ~~(p)~~(q) When an inmate is to be released on postrelease supervision,
3 the secretary, within 30 days prior to release, shall provide the county or
4 district attorney of the county where the inmate was sentenced written
5 notice of the release date.

6 ~~(q)~~(r) Inmates shall be released on postrelease supervision upon the
7 termination of the prison portion of their sentence. Time served while on
8 postrelease supervision will vest.

9 ~~(r)~~(s) An inmate who is allocated regular good time credits as
10 provided in K.S.A. 22-3725, and amendments thereto, may receive
11 meritorious good time credits in increments of not more than 90 days per
12 meritorious act. These credits may be awarded by the secretary of
13 corrections when an inmate has acted in a heroic or outstanding manner in
14 coming to the assistance of another person in a life-threatening situation,
15 preventing injury or death to a person, preventing the destruction of
16 property or taking actions that result in a financial savings to the state.

17 ~~(s)~~(t) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C)
18 and (d)(1)(E) shall be applied retroactively as provided in subsection~~(t)~~
19 (u).

20 ~~(t)~~(u) For offenders sentenced prior to July 1, 2014, who are eligible
21 for modification of their postrelease supervision obligation, the department
22 of corrections shall modify the period of postrelease supervision as
23 provided for by this section:

24 (1) On or before September 1, 2013, for offenders convicted of:

25 (A) Severity levels 9 and 10 crimes on the sentencing guidelines grid
26 for nondrug crimes;

27 (B) severity level 4 crimes on the sentencing guidelines grid for drug
28 crimes committed prior to July 1, 2012; and

29 (C) severity level 5 crimes on the sentencing guidelines grid for drug
30 crimes committed on and after July 1, 2012;

31 (2) on or before November 1, 2013, for offenders convicted of:

32 (A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines
33 grid for nondrug crimes;

34 (B) level 3 crimes on the sentencing guidelines grid for drug crimes
35 committed prior to July 1, 2012; and

36 (C) level 4 crimes on the sentencing guidelines grid for drug crimes
37 committed on or after July 1, 2012; and

38 (3) on or before January 1, 2014, for offenders convicted of:

39 (A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing
40 guidelines grid for nondrug crimes;

41 (B) severity levels 1 and 2 crimes on the sentencing guidelines grid
42 for drug crimes committed at any time; and

43 (C) severity level 3 crimes on the sentencing guidelines grid for drug

1 crimes committed on or after July 1, 2012.

2 ~~(t)~~(v) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
 3 4643, prior to its repeal, or K.S.A. 21-6627, and amendments thereto, for
 4 crimes committed on or after July 1, 2006, shall be placed on parole for
 5 life and shall not be discharged from supervision by the prisoner review
 6 board. When the board orders the parole of an inmate pursuant to this
 7 subsection, the board shall order as a condition of parole that the inmate be
 8 electronically monitored for the duration of the inmate's natural life.

9 ~~(v)~~(w) Whenever the prisoner review board orders a person to be
 10 electronically monitored pursuant to this section, or the court orders a
 11 person to be electronically monitored pursuant to K.S.A. 21-6604(r), and
 12 amendments thereto, the board shall order the person to reimburse the state
 13 for all or part of the cost of such monitoring. In determining the amount
 14 and method of payment of such sum, the board shall take account of the
 15 financial resources of the person and the nature of the burden that the
 16 payment of such sum will impose.

17 ~~(w)~~(x) (1) On and after July 1, 2012, for any inmate who is a sex
 18 offender, as defined in K.S.A. 22-4902, and amendments thereto,
 19 whenever the prisoner review board orders the parole of such inmate or
 20 establishes conditions for such inmate placed on postrelease supervision,
 21 such inmate shall agree in writing to not possess pornographic materials.

22 (A) As used in this subsection, "pornographic materials" means any
 23 obscene material or performance depicting sexual conduct, sexual contact
 24 or a sexual performance; and any visual depiction of sexually explicit
 25 conduct.

26 (B) As used in this subsection, all other terms have the meanings
 27 provided by K.S.A. 21-5510, and amendments thereto.

28 (2) The provisions of this subsection shall be applied retroactively to
 29 every sex offender, as defined in K.S.A. 22-4902, and amendments
 30 thereto, who is on parole or postrelease supervision on July 1, 2012. The
 31 prisoner review board shall obtain the written agreement required by this
 32 subsection from such offenders as soon as practicable.

33 Sec. 4. K.S.A. 21-6607, 22-2907 and 22-3717 are hereby repealed.

34 Sec. 5. This act shall take effect and be in force from and after its
 35 publication in the statute book.