

House Substitute for SENATE BILL No. 60

By Committee on Corrections and Juvenile Justice

3-17

1 AN ACT concerning crimes, criminal punishment and procedure; relating
2 to grand juries, relating to appeals; relating to community corrections;
3 amending K.S.A. 22-3001 and 22-3601 and K.S.A. 2010 Supp. 75-
4 5291 and 75-52,112 and repealing the existing sections.

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

7 Section 1. K.S.A. 22-3001 is hereby amended to read as follows: 22-
8 3001. (†) (a) A majority of the district judges in any judicial district may
9 order a grand jury to be summoned in any county in the district when it is
10 determined to be in the public interest.

11 (b) *The attorney general in any judicial district or the district or*
12 *county attorney in such attorney's county may petition the chief judge or*
13 *the chief judge's designee in such district court to order a grand jury to be*
14 *summoned in the designated county in the district to investigate alleged*
15 *violations of an off-grid felony, a severity level 1, 2, 3, 4 or 5 felony or a*
16 *drug severity level 1 or 2 felony. The chief judge or the chief judge's*
17 *designee in the district court of the county shall then consider the petition*
18 *and, if it is found that the petition is in proper form, as set forth in this*
19 *subsection, shall order a grand jury to be summoned.*

20 (‡) (c) A grand jury shall be summoned in any county within 60 days
21 after a petition praying therefor is presented to the district court, bearing
22 the signatures of a number of electors equal to 100 plus 2% of the total
23 number of votes cast for governor in the county in the last preceding
24 election. The petition shall be in substantially the following form:

25 The undersigned qualified electors of the county of _____
26 and state of Kansas hereby request that the district court of
27 _____ county, Kansas, within 60 days after the filing of this
28 petition, cause a grand jury to be summoned in the county to investigate
29 alleged violations of law and to perform such other duties as may be
30 authorized by law.

31 The signatures to the petition need not all be affixed to one paper, but
32 each paper to which signatures are affixed shall have substantially the
33 foregoing form written or printed at the top thereof. Each signer shall add
34 to such signer's signature such signer's place of residence, giving the street
35 and number or rural route number, if any. One of the signers of each paper
36 shall verify upon oath that each signature appearing on the paper is the

1 genuine signature of the person whose name it purports to be and that such
2 signer believes that the statements in the petition are true. The petition
3 shall be filed in the office of the clerk of the district court who shall
4 forthwith transmit it to the county election officer, who shall determine
5 whether the persons whose signatures are affixed to the petition are
6 qualified electors of the county. Thereupon, the county election officer
7 shall return the petition to the clerk of the district court, together with such
8 election officer's certificate stating the number of qualified electors of the
9 county whose signatures appear on the petition and the aggregate number
10 of votes cast for all candidates for governor in the county in the last
11 preceding election. The judge or judges of the district court of the county
12 shall then consider the petition and, if it is found that the petition is in
13 proper form and bears the signatures of the required number of electors, a
14 grand jury shall be ordered to be summoned.

15 ~~(3)~~ (d) The grand jury shall consist of 15 members and shall be drawn
16 and summoned in the same manner as petit jurors for the district court.
17 Twelve members thereof shall constitute a quorum. The judge or judges
18 ordering the grand jury shall direct that a sufficient number of legally
19 qualified persons be summoned for service as grand jurors.

20 Sec. 2. K.S.A. 22-3601 is hereby amended to read as follows: 22-
21 3601. (a) Any appeal permitted to be taken from a *district court's* final
22 judgment ~~of a district court~~ in a criminal case shall be taken to the court of
23 appeals, except in those cases reviewable by law in the district court ~~and~~
24 ~~those cases where a~~ *or in which a* direct appeal to the supreme court is
25 required. Whenever an interlocutory appeal is permitted in a criminal case
26 in the district court, such appeal shall be taken to the court of appeals.

27 (b) Any appeal permitted to be taken from a *district court's* final
28 judgment ~~of a district court~~ in a criminal case shall be taken directly to the
29 supreme court in the following cases:

30 ~~(1) Any case in which the defendant has been convicted of a class A~~
31 ~~felony or in which a maximum sentence of life imprisonment has been~~
32 ~~imposed or for crimes committed on or after July 1, 1993, any case in~~
33 ~~which the defendant has been convicted of an off-grid crime; and~~

34 ~~(2) (1) any case in which a statute of this state or of the United States~~
35 ~~has been held unconstitutional; ;~~

36 ~~(2) any case in which the defendant has been convicted of a class A~~
37 ~~felony;~~

38 ~~(3) any case in which a maximum sentence of life imprisonment has~~
39 ~~been imposed, unless the maximum sentence has been imposed pursuant to~~
40 ~~K.S.A. 21-4643, prior to its repeal, or section 267 of chapter 136 of the~~
41 ~~2010 Session Laws of Kansas, and amendments thereto; and~~

42 ~~(4) except as provided further, any case in which the crime was~~
43 ~~committed on or after July 1, 1993, and the defendant has been convicted~~

1 *of an off-grid crime. The provisions of this paragraph shall not apply to*
2 *any case in which the off-grid crime was:*

3 *(A) Aggravated human trafficking, subsection (c)(2)(B) of section 61*
4 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
5 *thereto;*

6 *(B) rape, subsection (b)(2)(B) of section 67 of chapter 136 of the*
7 *2010 Session Laws of Kansas, and amendments thereto;*

8 *(C) aggravated criminal sodomy, subsection (c)(2)(B)(ii) of section 68*
9 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
10 *thereto;*

11 *(D) aggravated indecent liberties with a child, subsection (c)(2)(C)(ii)*
12 *of section 70 of chapter 136 of the 2010 Session Laws of Kansas, and*
13 *amendments thereto;*

14 *(E) sexual exploitation of a child, subsection (b)(2)(B) of section 74 of*
15 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;*

16 *(F) promoting prostitution, subsection (b)(4) of section 230 of chapter*
17 *136 of the 2010 Session Laws of Kansas, and amendments thereto; or*

18 *(G) an attempt, conspiracy or criminal solicitation, as defined in*
19 *section 33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas,*
20 *and amendments thereto, of any such felony.*

21 Sec. 3. K.S.A. 2010 Supp. 75-5291 is hereby amended to read as
22 follows: 75-5291. (a) (1) The secretary of corrections may make grants to
23 counties for the development, implementation, operation and improvement
24 of community correctional services that address the criminogenic needs of
25 felony offenders including, but not limited to, adult intensive supervision,
26 substance abuse and mental health services, employment and residential
27 services, and facilities for the detention or confinement, care or treatment
28 of offenders as provided in this section except that no community
29 corrections funds shall be expended by the secretary for the purpose of
30 establishing or operating a conservation camp as provided by K.S.A. 75-
31 52,127 and amendments thereto.

32 (2) Except as otherwise provided, placement of offenders in
33 community correctional services programs by the court shall be limited to
34 placement of adult offenders, convicted of a felony offense:

35 (A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the
36 sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-
37 G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In
38 addition, the court may place in a community correctional services
39 program adult offenders, convicted of a felony offense, whose offense is
40 classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the
41 sentencing guidelines grid for nondrug crimes;

42 (B) whose severity level and criminal history score designate a
43 presumptive prison sentence on either sentencing guidelines grid but

1 receive a nonprison sentence as a result of departure;

2 (C) all offenders convicted of an offense which satisfies the definition
3 of offender pursuant to K.S.A. 22-4902, and amendments thereto, and
4 which is classified as a severity level 7 or higher offense and who receive a
5 nonprison sentence, regardless of the manner in which the sentence is
6 imposed;

7 (D) any offender for whom a violation of conditions of release or
8 assignment or a nonprison sanction has been established as provided in
9 K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in
10 the offender being required to serve any time for the sentence imposed or
11 which might originally have been imposed in a state facility in the custody
12 of the secretary of corrections;

13 (E) on and after January 1, 2011, for offenders who are expected to be
14 subject to supervision in Kansas, who are determined to be "high risk or
15 needs, or both" by the use of a statewide, mandatory, standardized risk
16 assessment tool or instrument which shall be specified by the Kansas
17 sentencing commission;

18 (F) placed in community correctional services programs as a
19 condition of supervision following the successful completion of a
20 conservation camp program; or

21 (G) who has been sentenced to community corrections supervision
22 pursuant to K.S.A. 21-4729, and amendments thereto.

23 (3) Notwithstanding any law to the contrary and subject to the
24 availability of funding therefor, adult offenders sentenced to community
25 supervision in Johnson county for felony crimes that occurred on or after
26 July 1, 2002, but before ~~January~~ *July 1, 2011* ~~2013~~, shall be placed under
27 court services or community corrections supervision based upon court
28 rules issued by the chief judge of the 10th judicial district. The provisions
29 contained in this subsection shall not apply to offenders transferred by the
30 assigned agency to an agency located outside of Johnson county. The
31 provisions of this paragraph shall expire on ~~January~~ *July 1, 2011* ~~2013~~.

32 (4) Nothing in this act shall prohibit a community correctional
33 services program from providing services to juvenile offenders upon
34 approval by the local community corrections advisory board. Grants from
35 community corrections funds administered by the secretary of corrections
36 shall not be expended for such services.

37 (5) The court may require an offender for whom a violation of
38 conditions of release or assignment or a nonprison sanction has been
39 established, as provided in K.S.A. 22-3716, and amendments thereto, to
40 serve any time for the sentence imposed or which might originally have
41 been imposed in a state facility in the custody of the secretary of
42 corrections without a prior assignment to a community correctional
43 services program if the court finds and sets forth with particularity the

1 reasons for finding that the safety of the members of the public will be
2 jeopardized or that the welfare of the inmate will not be served by such
3 assignment to a community correctional services program.

4 (b) (1) In order to establish a mechanism for community correctional
5 services to participate in the department of corrections annual budget
6 planning process, the secretary of corrections shall establish a community
7 corrections advisory committee to identify new or enhanced correctional
8 or treatment interventions designed to divert offenders from prison.

9 (2) The secretary shall appoint one member from the southeast
10 community corrections region, one member from the northeast community
11 corrections region, one member from the central community corrections
12 region and one member from the western community corrections region.
13 The deputy secretary of community and field services shall designate two
14 members from the state at large. The secretary shall have final
15 appointment approval of the members designated by the deputy secretary.
16 The committee shall reflect the diversity of community correctional
17 services with respect to geographical location and average daily population
18 of offenders under supervision.

19 (3) Each member shall be appointed for a term of three years and
20 such terms shall be staggered as determined by the secretary. Members
21 shall be eligible for reappointment.

22 (4) The committee, in collaboration with the deputy secretary of
23 community and field services or the deputy secretary's designee, shall
24 routinely examine and report to the secretary on the following issues:

25 (A) Efficiencies in the delivery of field supervision services;

26 (B) effectiveness and enhancement of existing interventions;

27 (C) identification of new interventions; and

28 (D) statewide performance indicators.

29 (5) The committee's report concerning enhanced or new interventions
30 shall address:

31 (A) Goals and measurable objectives;

32 (B) projected costs;

33 (C) the impact on public safety; and

34 (D) the evaluation process.

35 (6) The committee shall submit its report to the secretary annually on
36 or before July 15 in order for the enhanced or new interventions to be
37 considered for inclusion within the department of corrections budget
38 request for community correctional services or in the department's
39 enhanced services budget request for the subsequent fiscal year.

40 Sec. 4. K.S.A. 2010 Supp. 75-52,112 is hereby amended to read as
41 follows: 75-52,112. (a) *As used in this section, "supervision success rate"*
42 *means the percentage of those persons under supervision in a community*
43 *corrections program whose supervision is not revoked and remanded to the*

1 *custody of the department of corrections for imprisonment.*

2 (b) On and after July 1, 2007 2011, subject to the provision of
3 appropriation acts, the secretary of corrections shall develop and
4 implement a grant program with the goal of increasing public safety,
5 reducing the risk of offenders on community supervision and ~~reducing~~
6 ~~each community corrections program's revocations rate by at least 20%~~
7 ~~from such program's fiscal year 2006 revocation rate~~ *achieving and*
8 *maintaining a supervision success rate of at least 75% or improving such*
9 *rate by at least 3% from the previous year.*

10 (c) Any county or counties operating community correctional services
11 may apply for the grant. The program shall give priority to a county or
12 counties in which the ~~revocation~~ *supervision success* rate for offenders on
13 community supervision is significantly ~~higher~~ *lower* than the statewide
14 average, which target a higher ~~percentage of revocation reductions~~
15 *supervision success rate* than the required ~~minimum of 20% or supervision~~
16 *success rate of 75% or 3% annual supervision success rate improvement*
17 *or which target the successful reentry of offenders who are considered*
18 *medium or high risk for revocation.*

19 (b) (d) The secretary shall adopt grant requirements in accordance
20 with this section. Proposals for grants under this program shall include, but
21 not be limited to, provisions to:

22 (1) Target offenders at medium and high risk for revocation utilizing
23 risk assessment instruments approved by the secretary;

24 (2) reduce and specialize caseloads for community corrections
25 officers;

26 (3) provide the offenders with the needed supervision and services to
27 improve such offenders' opportunity to successfully complete community
28 correctional services programs, resulting in a reduction in revocations to
29 prison. Such services may include, but not be limited to, employment
30 training and placement, educational assistance, transportation and housing.
31 Such services shall be evidence-based and address offenders' criminogenic
32 risks, needs and responsivity characteristics;

33 (4) use an intermediate sanctions community supervision model;

34 (5) provide staff training and skill development for community
35 corrections officers in risk reduction and intervention. Such training and
36 development shall be approved and certified by the secretary;

37 (6) utilize treatment options, including substance abuse treatment,
38 mental health treatment, and cognitive and behavioral programs for
39 offenders. For identified need areas, approved assessment and evaluation
40 instruments should be utilized to ensure offender placement into
41 appropriate levels of treatment and intervention;

42 (7) use gang intervention strategies;

43 (8) address safety concerns of the community;

1 (9) implement a method of tracking and reporting revocations;

2 (10) establish a goal of reducing the number of offenders, by a
3 specified percentage, whose supervision is revoked and the offender
4 sentenced to prison by providing a *plan to*: (A) ~~A plan to reduce the~~
5 ~~revocation rate for offenders on community supervision by at least 20%~~
6 ~~from such program's fiscal year 2006 revocations rate; (B) a plan to reduce~~
7 ~~the revocation rate at a percentage greater than the 20% minimum~~
8 ~~established to receive such grants; or Achieve and maintain a supervision~~
9 ~~success rate of at least 75% or improve such rate by at least 3% from the~~
10 ~~previous year; or (C) a plan which targets (B) target the successful reentry~~
11 of offenders who are considered medium or high risk for revocation;

12 (11) develop a specific accountability system for monitoring, tracking
13 and utilizing the grant funds and to evaluate the effectiveness of the grant
14 funds; and

15 (12) develop a consistent set of policies that will guide judges and
16 community corrections officers in the supervision and revocation of
17 offenders on community corrections supervision.

18 ~~(e)~~ (e) The department of corrections shall establish a date for
19 achieving goals based upon implementation time-lines and goals specific
20 to each grant, which may include an overall reduction or a reduction for a
21 specifically targeted population.

22 ~~(d)~~ (f) The department of corrections shall evaluate the programs
23 which received a grant using a research-based process evaluation targeting
24 the critical components of effective programs to ensure that the program is
25 being delivered as such program was designed. Continued funding shall be
26 contingent on the program meeting the established goals.

27 ~~(e)~~ (g) The secretary shall prepare a report which states the number of
28 programs receiving grants pursuant to this section, specifically identifying
29 each program, summarizing the provisions of each program and the
30 success of the program in reducing revocations. Such report shall be
31 delivered to the governor, the secretary of the senate, the chief clerk of the
32 house of representatives and the Kansas reentry policy council on or
33 before the first day of the regular legislative session each year in which the
34 grant program is funded.

35 Sec. 5. K.S.A. 22-3001 and 22-3601 and K.S.A. 2010 Supp. 75-5291
36 and 75-52,112 are hereby repealed.

37 Sec. 6. This act shall take effect and be in force from and after its
38 publication in the statute book.

39