

Senate Substitute for HOUSE BILL No. 2448

By Committee on Judiciary

3-21

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to interference with judicial process; Kansas racketeer influenced and
3 corrupt organization act; sentencing; probation and postrelease
4 supervision; amending K.S.A. 2013 Supp. 21-5905, 21-6328, 21-6329,
5 21-6604, 21-6608 and 22-3716 and repealing the existing sections.
6

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

8 Section 1. K.S.A. 2013 Supp. 21-5905 is hereby amended to read as
9 follows: 21-5905. (a) Interference with the judicial process is:

10 (1) Communicating with any judicial officer in relation to any matter
11 which is or may be brought before such judge, magistrate, master or juror
12 with intent to improperly influence such officer;

13 (2) committing any of the following acts, with intent to influence,
14 impede or obstruct the finding, decision, ruling, order, judgment or decree
15 of such judicial officer or prosecutor on any matter then pending before the
16 officer or prosecutor:

17 (A) Communicating in any manner a threat of violence to any judicial
18 officer or any prosecutor;

19 (B) harassing a judicial officer or a prosecutor by repeated
20 vituperative communication; or

21 (C) picketing, parading or demonstrating near such officer's or
22 prosecutor's residence or place of abode;

23 (3) picketing, parading or demonstrating in or near a building housing
24 a judicial officer or a prosecutor with intent to impede or obstruct the
25 finding, decision, ruling, order, judgment or decree of such judicial officer
26 or prosecutor on any matter then pending before the officer or prosecutor;

27 (4) knowingly accepting or agreeing to accept anything of value as
28 consideration for a promise:

29 (A) Not to initiate or aid in the prosecution of a person who has
30 committed a crime; or

31 (B) to conceal or destroy evidence of a crime;

32 (5) knowingly or intentionally in any criminal proceeding or
33 investigation:

34 (A) Inducing a witness or informant to withhold or unreasonably
35 delay in producing any testimony, information, document or thing;

36 (B) withholding or unreasonably delaying in producing any

1 testimony, information, document or thing after a court orders the
2 production of such testimony, information, document or thing;

3 (C) altering, damaging, removing or destroying any record, document
4 or thing, with the intent to prevent it from being produced or used as
5 evidence; or

6 (D) making, presenting or using a false record, document or thing
7 with the intent that the record, document or thing, material to such
8 criminal proceeding or investigation, appear in evidence to mislead a
9 justice, judge, magistrate, master or law enforcement officer; ~~or~~

10 (6) when performed by a person summoned or sworn as a juror in any
11 case:

12 (A) Intentionally soliciting, accepting or agreeing to accept from
13 another any benefit as consideration to wrongfully give a verdict for or
14 against any party in any proceeding, civil or criminal;

15 (B) intentionally promising or agreeing to wrongfully give a verdict
16 for or against any party in any proceeding, civil or criminal; or

17 (C) knowingly receiving any evidence or information from anyone in
18 relation to any matter or cause for the trial of which such juror has been or
19 will be sworn, without the authority of the court or officer before whom
20 such juror has been summoned, and without immediately disclosing the
21 same to such court or officer; *or*

22 (7) *knowingly making available by any means personal information*
23 *about a judge or the judge's immediate family member, if the*
24 *dissemination of the personal information poses an imminent and serious*
25 *threat to the judge's safety or the safety of such judge's immediate family*
26 *member, and the person making the information available knows or*
27 *reasonably should know of the imminent and serious threat.*

28 (b) Interference with the judicial process as defined in:

29 (1) Subsection (a)(1) is a severity level 9, nonperson felony;

30 (2) subsection (a)(2) and (a)(3) is a class A nonperson misdemeanor;

31 (3) subsection (a)(4) is a:

32 (A) Severity level 8, nonperson felony if the crime is a felony; or

33 (B) class A nonperson misdemeanor if the crime is a misdemeanor;

34 (4) subsection (a)(5) is a:

35 (A) Severity level 8, nonperson felony if the matter or case involves a
36 felony; or

37 (B) class A nonperson misdemeanor if the matter or case involves a
38 misdemeanor;

39 (5) subsection (a)(6)(A) is a severity level 7, nonperson felony; ~~and~~

40 (6) subsection (a)(6)(B) or (a)(6)(C) is a severity level 9, nonperson
41 felony; *and*

42 (7) *subsection (a)(7) is a:*

43 (A) *Class A person misdemeanor, except as provided in subsection (b)*

1 (7)(B); and

2 (B) severity level 9, person felony upon a second or subsequent
3 conviction.

4 (c) Nothing in this section shall limit or prevent the exercise by any
5 court of this state of its power to punish for contempt.

6 (d) *As used in this section:*

7 (1) *"Immediate family member" means a judge's spouse, child, parent*
8 *or any other blood relative who lives in the same residence as such judge.*

9 (2) *"Judge" means any duly elected or appointed justice of the*
10 *supreme court, judge of the court of appeals, judge of any district court of*
11 *Kansas, district magistrate judge or municipal court judge.*

12 (3) *"Personal information" means a judge's home address, home*
13 *telephone number, personal mobile telephone number, pager number,*
14 *personal e-mail address, personal photograph, immediate family member*
15 *photograph, photograph of the judge's home, and information about the*
16 *judge's motor vehicle, any immediate family member's motor vehicle, any*
17 *immediate family member's place of employment, any immediate family*
18 *member's child care or day care facility and any immediate family*
19 *member's public or private school that offers instruction in any or all of*
20 *the grades kindergarten through 12.*

21 Sec. 2. K.S.A. 2013 Supp. 21-6328 is hereby amended to read as
22 follows: 21-6328. As used in the Kansas racketeer influenced and corrupt
23 organization act:

24 (a) "Beneficial interest" means:

25 (1) The interest of a person as a beneficiary under any trust
26 arrangement pursuant to which a trustee holds legal or record title to real
27 property for the benefit of such person; or

28 (2) the interest of a person under any other form of express fiduciary
29 arrangement pursuant to which any other person holds legal or record title
30 to real property for the benefit of such person.

31 The term "beneficial interest" does not include the interest of a stock
32 holder in a corporation or the interest of a partner in either a general
33 partnership or a limited partnership. A beneficial interest shall be deemed
34 to be located where the real property owned by the trustee is located.

35 (b) "Covered person" means any person who:

36 (1) Is a criminal street gang member or criminal street gang associate,
37 as defined in K.S.A. 2013 Supp. 21-6313, and amendments thereto;

38 (2) has engaged in or is engaging in any conduct prohibited by K.S.A.
39 2013 Supp. 21-5426, and amendments thereto, human trafficking or
40 aggravated human trafficking; or

41 (3) has engaged in or is engaging in any conduct prohibited by K.S.A.
42 2013 Supp. 21-5703, and amendments thereto, unlawful manufacturing of
43 controlled substances, or K.S.A. 2013 Supp. 21-5705, and amendments

1 thereto, unlawful cultivation or distribution of controlled substances.

2 (c) "Documentary material" means any book, paper, document,
3 writing, drawing, graph, chart, photograph, phonorecord, magnetic tape,
4 computer printout, other data compilation from which information can be
5 obtained or from which information can be translated into usable form, or
6 other tangible item.

7 (d) "Enterprise" means any individual, sole proprietorship,
8 partnership, corporation, business trust, union chartered under the laws of
9 this state, or other legal entity, or any unchartered union, association, or
10 group of individuals associated in fact although not a legal entity; and it
11 includes illicit as well as licit enterprises and governmental, as well as
12 other, entities. A criminal street gang, as defined in K.S.A. 2013 Supp. 21-
13 6313, and amendments thereto, constitutes an enterprise.

14 (e) "Pattern of racketeering activity" means engaging in at least two
15 incidents of racketeering activity that have the same or similar intents,
16 results, accomplices, victims or methods of commission or that otherwise
17 are interrelated by distinguishing characteristics and are not isolated
18 incidents, provided at least one of such incidents occurred after the
19 effective date of this act and that the last of such incidents occurred within
20 5 years, excluding any period of imprisonment, after a prior incident of
21 racketeering activity.

22 (f) "Racketeering activity" means to commit, attempt to commit,
23 conspire to commit or to solicit, coerce or intimidate another person to
24 commit:

25 (1) Any felony or misdemeanor violation of: The felony provisions of
26 K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a
27 police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas
28 money transmitter act; article 12a of chapter 17 of the Kansas Statutes
29 Annotated, and amendments thereto, Kansas uniform securities act; K.S.A.
30 2013 Supp. 21-5401, and amendments thereto, capital murder; K.S.A.
31 2013 Supp. 21-5402, and amendments thereto, murder in the first degree;
32 K.S.A. 2013 Supp. 21-5403, and amendments thereto, murder in the
33 second degree; K.S.A. 2013 Supp. 21-5408, and amendments thereto,
34 kidnapping or aggravated kidnapping; K.S.A. 2013 Supp. 21-5412, and
35 amendments thereto; K.S.A. 2013 Supp. 21-5413, and amendments
36 thereto; K.S.A. 2013 Supp. 21-5414, and amendments thereto, domestic
37 battery; K.S.A. 2013 Supp. 21-5415, and amendments thereto, criminal
38 threat or aggravated criminal threat; K.S.A. 2013 Supp. 21-5420, and
39 amendments thereto, robbery or aggravated robbery; K.S.A. 2013 Supp.
40 21-5421, and amendments thereto, terrorism; K.S.A. 2013 Supp. 21-5422,
41 and amendments thereto, illegal use of weapons of mass destruction;
42 K.S.A. 2013 Supp. 21-5423, and amendments thereto; K.S.A. 2013 Supp.
43 21-5426, and amendments thereto, human trafficking or aggravated human

1 trafficking; K.S.A. 2013 Supp. 21-5428, and amendments thereto,
2 blackmail; K.S.A. 2013 Supp. 21-5510, and amendments thereto, sexual
3 exploitation of a child; K.S.A. 2013 Supp. 21-5601, and amendments
4 thereto, endangering a child or aggravated endangering a child; K.S.A.
5 2013 Supp. 21-5602, and amendments thereto, abuse of a child; K.S.A.
6 2013 Supp. 21-5603, and amendments thereto, contributing to a child's
7 misconduct or deprivation; subsection (b) of K.S.A. 2013 Supp. 21-5607,
8 and amendments thereto, furnishing alcoholic beverages to a minor for
9 illicit purposes; article 57 of chapter 21 of the Kansas Statutes Annotated,
10 and amendments thereto, crimes involving controlled substances; K.S.A.
11 2013 Supp. 21-5801, and amendments thereto, theft; K.S.A. 2013 Supp.
12 21-5803, and amendments thereto, criminal deprivation of property;
13 K.S.A. 2013 Supp. 21-5805, and amendments thereto; K.S.A. 2013 Supp.
14 21-5807, and amendments thereto, burglary or aggravated burglary;
15 K.S.A. 2013 Supp. 21-5812, and amendments thereto, arson or aggravated
16 arson; K.S.A. 2013 Supp. 21-5813, and amendments thereto, criminal
17 damage to property; K.S.A. 2013 Supp. 21-5814, and amendments thereto,
18 criminal use of an explosive; K.S.A. 2013 Supp. 21-5818, and
19 amendments thereto, tampering with a pipeline; K.S.A. 2013 Supp. 21-
20 5821, and amendments thereto, giving a worthless check; K.S.A. 2013
21 Supp. 21-5823, and amendments thereto, forgery; K.S.A. 2013 Supp. 21-
22 5824, and amendments thereto, making false information; K.S.A. 2013
23 Supp. 21-5825, and amendments thereto, counterfeiting; K.S.A. 2013
24 Supp. 21-5826, and amendments thereto, destroying written instrument;
25 K.S.A. 2013 Supp. 21-5828, and amendments thereto, criminal use of a
26 financial card; K.S.A. 2013 Supp. 21-5838, and amendments thereto,
27 conducting a pyramid promotional scheme; K.S.A. 2013 Supp. 21-5839,
28 and amendments thereto; K.S.A. 2013 Supp. 21-5903, and amendments
29 thereto, perjury; K.S.A. 2013 Supp. 21-5904, and amendments thereto,
30 interference with law enforcement; K.S.A. 2013 Supp. 21-5905, and
31 amendments thereto, interference with the judicial process; K.S.A. 2013
32 Supp. 21-5909, and amendments thereto, intimidation of a witness or
33 victim or aggravated intimidation of a witness or victim; K.S.A. 2013
34 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2013
35 Supp. 21-5913, and amendments thereto, obstructing apprehension or
36 prosecution; K.S.A. 2013 Supp. 21-5918, and amendments thereto; K.S.A.
37 2013 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2013 Supp.
38 21-6002, and amendments thereto, official misconduct; K.S.A. 2013 Supp.
39 21-6301, and amendments thereto, criminal use of weapons; K.S.A. 2013
40 Supp. 21-6302, and amendments thereto, criminal carrying of a weapon;
41 K.S.A. 2013 Supp. 21-6303, and amendments thereto, criminal
42 distribution of firearms to a felon; K.S.A. 2013 Supp. 21-6304, and
43 amendments thereto, criminal possession of a firearm by a convicted felon;

1 K.S.A. 2013 Supp. 21-6305, and amendments thereto, aggravated weapons
2 violation by a convicted felon; K.S.A. 2013 Supp. 21-6306, and
3 amendments thereto, defacing identification marks of a firearm; K.S.A.
4 2013 Supp. 21-6308, and amendments thereto, criminal discharge of a
5 firearm; K.S.A. 2013 Supp. 21-6310, and amendments thereto, unlawful
6 endangerment; K.S.A. 2013 Supp. 21-6312, and amendments thereto;
7 K.S.A. 2013 Supp. 21-6313 through 21-6316, and amendments thereto;
8 K.S.A. 2013 Supp. 21-6401, and amendments thereto; K.S.A. 2013 Supp.
9 21-6404, and amendments thereto, gambling; K.S.A. 2013 Supp. 21-6405,
10 and amendments thereto, illegal bingo operation; K.S.A. 2013 Supp. 21-
11 6406, and amendments thereto, commercial gambling; K.S.A. 2013 Supp.
12 21-6407, and amendments thereto, dealing in gambling devices; K.S.A.
13 2013 Supp. 21-6408, and amendments thereto; K.S.A. 2013 Supp. 21-
14 6409, and amendments thereto, installing communication facilities for
15 gamblers; subsections (a) or (b) of K.S.A. 2013 Supp. 21-6414, and
16 amendments thereto, unlawful conduct of dog fighting or unlawful
17 possession of dog fighting paraphernalia; subsections (a) or (b) of K.S.A.
18 2013 Supp. 21-6417, and amendments thereto, unlawful conduct of
19 cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A.
20 2013 Supp. 21-6419, and amendments thereto, ~~prostitution~~ *selling sexual*
21 *relations*; K.S.A. 2013 Supp. 21-6420, and amendments thereto,
22 ~~promoting prostitution~~ *promoting the sale of sexual relations*; K.S.A. 2013
23 *Supp. 21-6422, and amendments thereto, commercial sexual exploitation*
24 *of a child*; K.S.A. 2013 Supp. 21-6501, and amendments thereto,
25 extortion; K.S.A. 2013 Supp. 21-6502, and amendments thereto, debt
26 adjusting; K.S.A. 2013 Supp. 21-6504, and amendments thereto, equity
27 skimming; K.S.A. 2013 Supp. 21-6506, and amendments thereto,
28 commercial bribery; K.S.A. 2013 Supp. 21-6507, and amendments thereto,
29 sports bribery; K.S.A. 2013 Supp. 21-6508, and amendments thereto,
30 tampering with a sports contest; K.S.A. 39-720, and amendments thereto,
31 social welfare service fraud; K.S.A. 40-2,118, and amendments thereto,
32 fraudulent insurance acts; K.S.A. 41-101 et seq., and amendments thereto,
33 Kansas liquor control act; K.S.A. 44-5,125, and amendments thereto,
34 workers' compensation act; K.S.A. 65-1657, and amendments thereto,
35 nonresident pharmacy registration; K.S.A. 65-3441, and amendments
36 thereto, hazardous waste; K.S.A. 65-4167, and amendments thereto,
37 trafficking in counterfeit drugs; article 88 of chapter 74 of the Kansas
38 Statutes Annotated, and amendments thereto, Kansas parimutuel racing
39 act; or K.S.A. 79-3321, and amendments thereto, Kansas cigarette and
40 tobacco products act; or

41 (2) any conduct defined as "racketeering activity" under 18 U.S.C. §
42 1961(1).

43 (g) "Real property" means any real property or any interest in such

1 real property, including, but not limited to, any lease of or mortgage upon
2 such real property.

3 (h) "Trustee" means:

4 (1) Any person acting as trustee pursuant to a trust in which the
5 trustee holds legal or record title to real property;

6 (2) any person who holds legal or record title to real property in
7 which any other person has a beneficial interest; or

8 (3) any successor trustee or trustees to any or all of the foregoing
9 persons.

10 The term "trustee" does not include any person appointed or acting as a
11 personal representative as defined in K.S.A. 59-102, and amendments
12 thereto, or appointed or acting as a trustee of any testamentary trust or as a
13 trustee of any indenture of trust under which any bonds have been or are to
14 be issued.

15 (i) "Unlawful debt" means any money or other thing of value
16 constituting principal or interest of a debt that is legally unenforceable in
17 this state in whole or in part because the debt was incurred or contracted:

18 (1) In violation of any of the following provisions of law: Article 88
19 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto,
20 Kansas parimutuel racing act; K.S.A. 2013 Supp. 21-6404, and
21 amendments thereto, gambling; K.S.A. 2013 Supp. 21-6405, and
22 amendments thereto, illegal bingo operation; K.S.A. 2013 Supp. 21-6406,
23 and amendments thereto, commercial gambling; K.S.A. 2013 Supp. 21-
24 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2013
25 Supp. 21-6408, and amendments thereto; or K.S.A. 2013 Supp. 21-6409,
26 and amendments thereto, installing communication facilities for gamblers;
27 or

28 (2) in gambling activity in violation of federal law or in the business
29 of lending money at a rate usurious under state or federal law.

30 Sec. 3. K.S.A. 2013 Supp. 21-6329 is hereby amended to read as
31 follows: 21-6329. (a) *Except as provided in subsection (b)*, it is unlawful
32 for any covered person:

33 (1) Who has ~~with criminal intent~~ received any proceeds derived,
34 directly or indirectly, from a pattern of racketeering activity or through the
35 collection of an unlawful debt to use or invest, whether directly or
36 indirectly, any part of such proceeds, or the proceeds derived from the
37 investment or use thereof, in the acquisition of any title to, or any right,
38 interest, or equity in, real property or in the establishment or operation of
39 any enterprise;

40 (2) through a pattern of racketeering activity or through the collection
41 of an unlawful debt, to acquire or maintain, directly or indirectly, any
42 interest in or control of any enterprise or real property; or

43 (3) employed by, or associated with, any enterprise to conduct or

1 participate, directly or indirectly, in such enterprise through a pattern of
2 racketeering activity or the collection of an unlawful debt.

3 *(b) It is not unlawful for a covered person to violate subsection (a)*
4 *through the collection of an unlawful debt if such person was not a*
5 *participant in a violation described in subsection (i) of K.S.A. 2013 Supp.*
6 *21-6328, and amendments thereto, which created such unlawful debt.*

7 *(c) The culpable mental state required for a violation of subsection*
8 *(a) is the culpable mental state required for the underlying offense of*
9 *racketeering activity or unlawful debt, as defined in K.S.A. 2013 Supp. 21-*
10 *6328, and amendments thereto, and no additional culpable mental state is*
11 *required for a violation of subsection (a).*

12 ~~(b)~~ *(d) Violation of this section or conspiracy to commit a violation of*
13 *this section is a severity level 2, person felony.*

14 ~~(e)~~ *(e) The provisions of subsection (d) of K.S.A. 2013 Supp. 21-*
15 *5302, and amendments thereto, shall not apply to conspiracy to commit a*
16 *violation of this section.*

17 ~~(f)~~ *(f) (1) Notwithstanding the provisions of K.S.A. 2013 Supp. 21-*
18 *6611, and amendments thereto, any person convicted of engaging in*
19 *conduct in violation of this section, through which the person derived*
20 *pecuniary value, or by which the person caused personal injury or property*
21 *damage or other loss, may be sentenced to pay a fine that does not exceed*
22 *three times the gross value gained or three times the gross loss caused,*
23 *whichever is the greater, plus court costs and the costs of investigation and*
24 *prosecution, reasonably incurred.*

25 *(2) The court shall hold a hearing to determine the amount of the fine*
26 *authorized by this subsection.*

27 *(3) For the purposes of this subsection, "pecuniary value" means:*

28 *(A) Anything of value in the form of money, a negotiable instrument,*
29 *or a commercial interest or anything else the primary significance of which*
30 *is economic advantage; and*

31 *(B) any other property or service that has a value in excess of \$100.*

32 ~~(g)~~ *(g) For persons arrested and charged under this section, bail shall*
33 *be at least \$50,000 cash or surety, unless the court determines on the*
34 *record that the defendant is not likely to re-offend, an appropriate intensive*
35 *pretrial supervision program is available and the defendant agrees to*
36 *comply with the mandate of such pretrial supervision. Notwithstanding*
37 *any other provision of law, any person arrested and charged under this*
38 *section shall not be released upon the person's own recognizance pursuant*
39 *to K.S.A. 22-2802, and amendments thereto.*

40 Sec. 4. K.S.A. 2013 Supp. 21-6604 is hereby amended to read as
41 follows: 21-6604. (a) Whenever any person has been found guilty of a
42 crime, the court may adjudge any of the following:

43 (1) Commit the defendant to the custody of the secretary of

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

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

7 (3) release the defendant on probation if the current crime of
8 conviction and criminal history fall within a presumptive nonprison
9 category or through a departure for substantial and compelling reasons
10 subject to such conditions as the court may deem appropriate. In felony
11 cases except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2013
12 Supp. 8-1025, and amendments thereto, the court may include
13 confinement in a county jail not to exceed 60 days, which need not be
14 served consecutively, as a condition of an original probation sentence ~~and~~
15 ~~up to 60 days in a county jail upon each revocation of the probation~~
16 ~~sentence, or community corrections placement;~~

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

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

27 (6) assign the defendant to a house arrest program pursuant to K.S.A.
28 2013 Supp. 21-6609, and amendments thereto;

29 (7) order the defendant to attend and satisfactorily complete an
30 alcohol or drug education or training program as provided by subsection
31 (c) of K.S.A. 2013 Supp. 21-6602, and amendments thereto;

32 (8) order the defendant to repay the amount of any reward paid by
33 any crime stoppers chapter, individual, corporation or public entity which
34 materially aided in the apprehension or conviction of the defendant; repay
35 the amount of any costs and expenses incurred by any law enforcement
36 agency in the apprehension of the defendant, if one of the current crimes
37 of conviction of the defendant includes escape from custody or aggravated
38 escape from custody, as defined in K.S.A. 2013 Supp. 21-5911, and
39 amendments thereto; repay expenses incurred by a fire district, fire
40 department or fire company responding to a fire which has been
41 determined to be arson or aggravated arson as defined in K.S.A. 2013
42 Supp. 21-5812, and amendments thereto, if the defendant is convicted of
43 such crime; repay the amount of any public funds utilized by a law

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

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

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

14 (11) if the defendant is convicted of a misdemeanor or convicted of a
15 felony specified in subsection (i) of K.S.A. 2013 Supp. 21-6804, and
16 amendments thereto, assign the defendant to work release program, other
17 than a program at a correctional institution under the control of the
18 secretary of corrections as defined in K.S.A. 75-5202, and amendments
19 thereto, provided such work release program requires such defendant to
20 return to confinement at the end of each day in the work release program.
21 On a second or subsequent conviction of K.S.A. 8-1567, and amendments
22 thereto, an offender placed into a work release program shall serve the
23 total number of hours of confinement mandated by that section;

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

27 (13) impose any appropriate combination of (1), (2), (3), (4), (5), (6),
28 (7), (8), (9), (10), (11) and (12); or

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

30 (b) (1) In addition to or in lieu of any of the above, the court shall
31 order the defendant to pay restitution, which shall include, but not be
32 limited to, damage or loss caused by the defendant's crime, unless the
33 court finds compelling circumstances which would render a plan of
34 restitution unworkable. In regard to a violation of K.S.A. 2013 Supp. 21-
35 6107, and amendments thereto, such damage or loss shall include, but not
36 be limited to, attorney fees and costs incurred to repair the credit history or
37 rating of the person whose personal identification documents were
38 obtained and used in violation of such section, and to satisfy a debt, lien or
39 other obligation incurred by the person whose personal identification
40 documents were obtained and used in violation of such section. If the court
41 finds a plan of restitution unworkable, the court shall state on the record in
42 detail the reasons therefor.

43 (2) If the court orders restitution, the restitution shall be a judgment

1 against the defendant which may be collected by the court by garnishment
2 or other execution as on judgments in civil cases. If, after 60 days from the
3 date restitution is ordered by the court, a defendant is found to be in
4 noncompliance with the plan established by the court for payment of
5 restitution, and the victim to whom restitution is ordered paid has not
6 initiated proceedings in accordance with K.S.A. 60-4301 et seq., and
7 amendments thereto, the court shall assign an agent procured by the
8 attorney general pursuant to K.S.A. 75-719, and amendments thereto, to
9 collect the restitution on behalf of the victim. The chief judge of each
10 judicial district may assign such cases to an appropriate division of the
11 court for the conduct of civil collection proceedings.

12 (c) In addition to or in lieu of any of the above, the court shall order
13 the defendant to submit to and complete an alcohol and drug evaluation,
14 and pay a fee therefor, when required by subsection (d) of K.S.A. 2013
15 Supp. 21-6602, and amendments thereto.

16 (d) In addition to any of the above, the court shall order the defendant
17 to reimburse the county general fund for all or a part of the expenditures
18 by the county to provide counsel and other defense services to the
19 defendant. Any such reimbursement to the county shall be paid only after
20 any order for restitution has been paid in full. In determining the amount
21 and method of payment of such sum, the court shall take account of the
22 financial resources of the defendant and the nature of the burden that
23 payment of such sum will impose. A defendant who has been required to
24 pay such sum and who is not willfully in default in the payment thereof
25 may at any time petition the court which sentenced the defendant to waive
26 payment of such sum or any unpaid portion thereof. If it appears to the
27 satisfaction of the court that payment of the amount due will impose
28 manifest hardship on the defendant or the defendant's immediate family,
29 the court may waive payment of all or part of the amount due or modify
30 the method of payment.

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

37 (f) (1) When a new felony is committed while the offender is
38 incarcerated and serving a sentence for a felony, or while the offender is on
39 probation, assignment to a community correctional services program,
40 parole, conditional release or postrelease supervision for a felony, a new
41 sentence shall be imposed consecutively pursuant to the provisions of
42 K.S.A. 2013 Supp. 21-6606, and amendments thereto, and the court may
43 sentence the offender to imprisonment for the new conviction, even when

1 the new crime of conviction otherwise presumes a nonprison sentence. In
2 this event, imposition of a prison sentence for the new crime does not
3 constitute a departure.

4 (2) When a new felony is committed during a period of time during
5 which the defendant would have been on probation, assignment to a
6 community correctional services program, parole, conditional release or
7 postrelease supervision for a felony had the defendant not been granted
8 release by the court pursuant to subsection (d) of K.S.A. 2013 Supp. 21-
9 6608, and amendments thereto, or the prisoner review board pursuant to
10 K.S.A. 22-3717, and amendments thereto, the court may sentence the
11 offender to imprisonment for the new conviction, even when the new
12 crime of conviction otherwise presumes a nonprison sentence. In this
13 event, imposition of a prison sentence for the new crime does not
14 constitute a departure.

15 (3) When a new felony is committed while the offender is
16 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671,
17 prior to its repeal, or K.S.A. 2013 Supp. 38-2373, and amendments
18 thereto, for an offense, which if committed by an adult would constitute
19 the commission of a felony, upon conviction, the court shall sentence the
20 offender to imprisonment for the new conviction, even when the new
21 crime of conviction otherwise presumes a nonprison sentence. In this
22 event, imposition of a prison sentence for the new crime does not
23 constitute a departure. The conviction shall operate as a full and complete
24 discharge from any obligations, except for an order of restitution, imposed
25 on the offender arising from the offense for which the offender was
26 committed to a juvenile correctional facility.

27 (4) When a new felony is committed while the offender is on release
28 for a felony pursuant to the provisions of article 28 of chapter 22 of the
29 Kansas Statutes Annotated, and amendments thereto, or similar provisions
30 of the laws of another jurisdiction, a new sentence may be imposed
31 consecutively pursuant to the provisions of K.S.A. 2013 Supp. 21-6606,
32 and amendments thereto, and the court may sentence the offender to
33 imprisonment for the new conviction, even when the new crime of
34 conviction otherwise presumes a nonprison sentence. In this event,
35 imposition of a prison sentence for the new crime does not constitute a
36 departure.

37 (g) Prior to imposing a dispositional departure for a defendant whose
38 offense is classified in the presumptive nonprison grid block of either
39 sentencing guideline grid, prior to sentencing a defendant to incarceration
40 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing
41 guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I
42 of the sentencing guidelines grid for drug crimes committed prior to July
43 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing

1 guidelines grid for drug crimes committed on or after July 1, 2012, prior to
2 sentencing a defendant to incarceration whose offense is classified in grid
3 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
4 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of
5 the sentencing guidelines grid for drug crimes committed on or after July
6 1, 2012, and whose offense does not meet the requirements of K.S.A. 2013
7 Supp. 21-6824, and amendments thereto, prior to revocation of a
8 nonprison sanction of a defendant whose offense is classified in grid
9 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
10 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of
11 the sentencing guidelines grid for drug crimes committed on or after July
12 1, 2012, and whose offense does not meet the requirements of K.S.A. 2013
13 Supp. 21-6824, and amendments thereto, or prior to revocation of a
14 nonprison sanction of a defendant whose offense is classified in the
15 presumptive nonprison grid block of either sentencing guideline grid or
16 grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug
17 crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing
18 guidelines grid for drug crimes committed prior to July 1, 2012, or in grid
19 blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug
20 crimes committed on or after July 1, 2012, the court shall consider
21 placement of the defendant in the Labette correctional conservation camp,
22 conservation camps established by the secretary of corrections pursuant to
23 K.S.A. 75-52,127, and amendments thereto, or a community intermediate
24 sanction center. Pursuant to this subsection the defendant shall not be
25 sentenced to imprisonment if space is available in a conservation camp or
26 community intermediate sanction center and the defendant meets all of the
27 conservation camp's or community intermediate sanction center's
28 placement criteria unless the court states on the record the reasons for not
29 placing the defendant in a conservation camp or community intermediate
30 sanction center.

31 (h) In committing a defendant to the custody of the secretary of
32 corrections, the court shall fix a term of confinement within the limits
33 provided by law. In those cases where the law does not fix a term of
34 confinement for the crime for which the defendant was convicted, the
35 court shall fix the term of such confinement.

36 (i) In addition to any of the above, the court shall order the defendant
37 to reimburse the state general fund for all or part of the expenditures by the
38 state board of indigents' defense services to provide counsel and other
39 defense services to the defendant. In determining the amount and method
40 of payment of such sum, the court shall take account of the financial
41 resources of the defendant and the nature of the burden that payment of
42 such sum will impose. A defendant who has been required to pay such sum
43 and who is not willfully in default in the payment thereof may at any time

1 petition the court which sentenced the defendant to waive payment of such
2 sum or any unpaid portion thereof. If it appears to the satisfaction of the
3 court that payment of the amount due will impose manifest hardship on the
4 defendant or the defendant's immediate family, the court may waive
5 payment of all or part of the amount due or modify the method of
6 payment. The amount of attorney fees to be included in the court order for
7 reimbursement shall be the amount claimed by appointed counsel on the
8 payment voucher for indigents' defense services or the amount prescribed
9 by the board of indigents' defense services reimbursement tables as
10 provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

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

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

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

26 (1) Has been sentenced to the secretary for a probation revocation, as
27 a departure from the presumptive nonimprisonment grid block of either
28 sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I
29 or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks
30 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes
31 committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of
32 the sentencing guidelines grid for drug crimes committed on or after July
33 1, 2012, or for an offense which is classified in grid blocks 4-E or 4-F of
34 the sentencing guidelines grid for drug crimes committed prior to July 1,
35 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines
36 grid for drug crimes committed on or after July 1, 2012, and such offense
37 does not meet the requirements of K.S.A. 2013 Supp. 21-6824, and
38 amendments thereto; and

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

40 If the inmate successfully completes a conservation camp program, the
41 secretary of corrections shall report such completion to the sentencing
42 court and the county or district attorney. The inmate shall then be assigned
43 by the court to six months of follow-up supervision conducted by the

1 appropriate community corrections services program. The court may also
2 order that supervision continue thereafter for the length of time authorized
3 by K.S.A. 2013 Supp. 21-6608, and amendments thereto.

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

7 (n) (1) Except as provided by subsection (f) of K.S.A. 2013 Supp. 21-
8 6805, and amendments thereto, in addition to any of the above, for felony
9 violations of K.S.A. 2013 Supp. 21-5706, and amendments thereto, the
10 court shall require the defendant who meets the requirements established
11 in K.S.A. 2013 Supp. 21-6824, and amendments thereto, to participate in a
12 certified drug abuse treatment program, as provided in K.S.A. 2013 Supp.
13 75-52,144, and amendments thereto, including, but not limited to, an
14 approved after-care plan. The amount of time spent participating in such
15 program shall not be credited as service on the underlying prison sentence.

16 (2) If the defendant fails to participate in or has a pattern of
17 intentional conduct that demonstrates the defendant's refusal to comply
18 with or participate in the treatment program, as established by judicial
19 finding, the defendant shall be subject to sanction or revocation pursuant
20 to the provisions of K.S.A. 22-3716, and amendments thereto. If the
21 defendant's probation is revoked, the defendant shall serve the underlying
22 prison sentence as established in K.S.A. 2013 Supp. 21-6805, and
23 amendments thereto.

24 (A) Except as provided in subsection (n)(2)(B), for those offenders
25 who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon
26 completion of the underlying prison sentence, the offender shall not be
27 subject to a period of postrelease supervision.

28 (B) Offenders whose crime of conviction was committed on or after
29 July 1, 2013, and whose probation is revoked pursuant to subsection (c) of
30 K.S.A. 22-3716, and amendments thereto, or whose underlying prison
31 term expires while serving a sanction pursuant to subsection (c)(1)(C) or
32 (c)(1)(D) of K.S.A. 22-3716, and amendments thereto, shall serve a period
33 of postrelease supervision upon the completion of the underlying prison
34 term.

35 (o) (1) Except as provided in paragraph (3), in addition to any other
36 penalty or disposition imposed by law, upon a conviction for unlawful
37 possession of a controlled substance or controlled substance analog in
38 violation of K.S.A. 2013 Supp. 21-5706, and amendments thereto, in
39 which the trier of fact makes a finding that the unlawful possession
40 occurred while transporting the controlled substance or controlled
41 substance analog in any vehicle upon a highway or street, the offender's
42 driver's license or privilege to operate a motor vehicle on the streets and
43 highways of this state shall be suspended for one year.

1 (2) Upon suspension of a license pursuant to this subsection, the court
2 shall require the person to surrender the license to the court, which shall
3 transmit the license to the division of motor vehicles of the department of
4 revenue, to be retained until the period of suspension expires. At that time,
5 the licensee may apply to the division for return of the license. If the
6 license has expired, the person may apply for a new license, which shall be
7 issued promptly upon payment of the proper fee and satisfaction of other
8 conditions established by law for obtaining a license unless another
9 suspension or revocation of the person's privilege to operate a motor
10 vehicle is in effect.

11 (3) (A) In lieu of suspending the driver's license or privilege to
12 operate a motor vehicle on the highways of this state of any person as
13 provided in paragraph (1), the judge of the court in which such person was
14 convicted may enter an order which places conditions on such person's
15 privilege of operating a motor vehicle on the highways of this state, a
16 certified copy of which such person shall be required to carry any time
17 such person is operating a motor vehicle on the highways of this state. Any
18 such order shall prescribe the duration of the conditions imposed, which in
19 no event shall be for a period of more than one year.

20 (B) Upon entering an order restricting a person's license hereunder,
21 the judge shall require such person to surrender such person's driver's
22 license to the judge who shall cause it to be transmitted to the division of
23 vehicles, together with a copy of the order. Upon receipt thereof, the
24 division of vehicles shall issue without charge a driver's license which
25 shall indicate on its face that conditions have been imposed on such
26 person's privilege of operating a motor vehicle and that a certified copy of
27 the order imposing such conditions is required to be carried by the person
28 for whom the license was issued any time such person is operating a motor
29 vehicle on the highways of this state. If the person convicted is a
30 nonresident, the judge shall cause a copy of the order to be transmitted to
31 the division and the division shall forward a copy of it to the motor vehicle
32 administrator of such person's state of residence. Such judge shall furnish
33 to any person whose driver's license has had conditions imposed on it
34 under this paragraph a copy of the order, which shall be recognized as a
35 valid Kansas driver's license until such time as the division shall issue the
36 restricted license provided for in this paragraph.

37 (C) Upon expiration of the period of time for which conditions are
38 imposed pursuant to this subsection, the licensee may apply to the division
39 for the return of the license previously surrendered by such licensee. In the
40 event such license has expired, such person may apply to the division for a
41 new license, which shall be issued immediately by the division upon
42 payment of the proper fee and satisfaction of the other conditions
43 established by law, unless such person's privilege to operate a motor

1 vehicle on the highways of this state has been suspended or revoked prior
2 thereto. If any person shall violate any of the conditions imposed under
3 this paragraph, such person's driver's license or privilege to operate a
4 motor vehicle on the highways of this state shall be revoked for a period of
5 not less than 60 days nor more than one year by the judge of the court in
6 which such person is convicted of violating such conditions.

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

9 (p) In addition to any of the above, for any criminal offense that
10 includes the domestic violence designation pursuant to K.S.A. 2013 Supp.
11 22-4616, and amendments thereto, the court shall require the defendant to:
12 (1) Undergo a domestic violence offender assessment conducted by a
13 certified batterer intervention program; and (2) follow all
14 recommendations made by such program, unless otherwise ordered by the
15 court or the department of corrections. The court may order a domestic
16 violence offender assessment and any other evaluation prior to sentencing
17 if the assessment or evaluation would assist the court in determining an
18 appropriate sentence. The entity completing the assessment or evaluation
19 shall provide the assessment or evaluation and recommendations to the
20 court and the court shall provide the domestic violence offender
21 assessment to any entity responsible for supervising such defendant. A
22 defendant ordered to undergo a domestic violence offender assessment
23 shall be required to pay for the assessment and, unless otherwise ordered
24 by the court or the department of corrections, for completion of all
25 recommendations.

26 (q) In imposing a fine, the court may authorize the payment thereof in
27 installments. In lieu of payment of any fine imposed, the court may order
28 that the person perform community service specified by the court. The
29 person shall receive a credit on the fine imposed in an amount equal to \$5
30 for each full hour spent by the person in the specified community service.
31 The community service ordered by the court shall be required to be
32 performed by the later of one year after the fine is imposed or one year
33 after release from imprisonment or jail, or by an earlier date specified by
34 the court. If by the required date the person performs an insufficient
35 amount of community service to reduce to zero the portion of the fine
36 required to be paid by the person, the remaining balance shall become due
37 on that date. If conditional reduction of any fine is rescinded by the court
38 for any reason, then pursuant to the court's order the person may be
39 ordered to perform community service by one year after the date of such
40 rescission or by an earlier date specified by the court. If by the required
41 date the person performs an insufficient amount of community service to
42 reduce to zero the portion of the fine required to be paid by the person, the
43 remaining balance of the fine shall become due on that date. All credits for

1 community service shall be subject to review and approval by the court.

2 (r) In addition to any other penalty or disposition imposed by law, for
3 any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643,
4 prior to its repeal, or K.S.A. 2013 Supp. 21-6627, and amendments
5 thereto, for crimes committed on or after July 1, 2006, the court shall order
6 that the defendant be electronically monitored upon release from
7 imprisonment for the duration of the defendant's natural life and that the
8 defendant shall reimburse the state for all or part of the cost of such
9 monitoring as determined by the prisoner review board.

10 (s) Whenever the court has released the defendant on probation
11 pursuant to subsection (a)(3), the defendant's supervising court services
12 officer, with the concurrence of the chief court services officer, may
13 impose the violation sanctions as provided in subsection (c)(1)(B) of
14 K.S.A. 22-3716, and amendments thereto, without further order of the
15 court, unless:

16 (1) The court has specifically withheld this authority in its sentencing
17 order; or

18 (2) the defendant, after being apprised of the right to a revocation
19 hearing before the court pursuant to subsection (b) of K.S.A. 22-3716, and
20 amendments thereto, refuses to waive such right.

21 (t) Whenever the court has assigned the defendant to a community
22 correctional services program pursuant to subsection (a)(4), the defendant's
23 community corrections officer, with the concurrence of the community
24 corrections director, may impose the violation sanctions as provided in
25 subsection (c)(1)(B) of K.S.A. 22-3716, and amendments thereto, without
26 further order of the court unless:

27 (1) The court has specifically withheld this authority in its sentencing
28 order; or

29 (2) the defendant, after being apprised of the right to a revocation
30 hearing before the court pursuant to subsection (b) of K.S.A. 22-3716, and
31 amendments thereto, refuses to waive such right.

32 Sec. 5. K.S.A. 2013 Supp. 21-6608 is hereby amended to read as
33 follows: 21-6608. (a) The period of suspension of sentence, probation or
34 assignment to community corrections fixed by the court shall not exceed
35 two years in misdemeanor cases, subject to renewal and extension for
36 additional fixed periods of two years. Probation, suspension of sentence or
37 assignment to community corrections may be terminated by the court at
38 any time and upon such termination or upon termination by expiration of
39 the term of probation, suspension of sentence or assignment to community
40 corrections, an order to this effect shall be entered by the court.

41 (b) The district court having jurisdiction of the offender may parole
42 any misdemeanant sentenced to confinement in the county jail. The period
43 of such parole shall be fixed by the court and shall not exceed two years

1 and shall be terminated in the manner provided for termination of
2 suspended sentence and probation.

3 (c) For all crimes committed on or after July 1, 1993, the duration of
4 probation in felony cases sentenced for the following severity levels on the
5 sentencing guidelines grid for nondrug crimes and the sentencing
6 guidelines grid for drug crimes is as follows:

7 (1) For nondrug crimes the recommended duration of probation is:

8 (A) 36 months for crimes in crime severity levels 1 through 5; and

9 (B) 24 months for crimes in crime severity levels 6 and 7;

10 (2) for drug crimes the recommended duration of probation is 36
11 months for crimes in crime severity levels 1 and 2 committed prior to July
12 1, 2012, and crimes in crime severity levels 1, 2 and 3 committed on or
13 after July 1, 2012;

14 (3) except as provided further, in felony cases sentenced at severity
15 levels 9 and 10 on the sentencing guidelines grid for nondrug crimes,
16 severity level 4 on the sentencing guidelines grid for drug crimes
17 committed prior to July 1, 2012, and severity level 5 of the sentencing
18 guidelines grid for drug crimes committed on or after July 1, 2012, if a
19 nonprison sanction is imposed, the court shall order the defendant to serve
20 a period of probation of up to 12 months in length;

21 (4) in felony cases sentenced at severity level 8 on the sentencing
22 guidelines grid for nondrug crimes, severity level 3 on the sentencing
23 guidelines grid for drug crimes committed prior to July 1, 2012, and
24 severity level 4 of the sentencing guidelines grid for drug crimes
25 committed on or after July 1, 2012, and felony cases sentenced pursuant to
26 K.S.A. 2013 Supp. 21-6824, and amendments thereto, if a nonprison
27 sanction is imposed, the court shall order the defendant to serve a period of
28 probation, or assignment to a community correctional services program, as
29 provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to
30 18 months in length;

31 (5) if the court finds and sets forth with particularity the reasons for
32 finding that the safety of the members of the public will be jeopardized or
33 that the welfare of the inmate will not be served by the length of the
34 probation terms provided in subsections (c)(3) and (c)(4), the court may
35 impose a longer period of probation. Such an increase shall not be
36 considered a departure and shall not be subject to appeal;

37 (6) except as provided in subsections (c)(7) and (c)(8), the total
38 period in all cases shall not exceed 60 months, or the maximum period of
39 the prison sentence that could be imposed whichever is longer. Nonprison
40 sentences may be terminated by the court at any time;

41 (7) if the defendant is convicted of nonsupport of a child, the period
42 may be continued as long as the responsibility for support continues. If the
43 defendant is ordered to pay full or partial restitution, the period may be

1 continued as long as the amount of restitution ordered has not been paid;
2 and

3 (8) the court may modify or extend the offender's period of
4 supervision, pursuant to a modification hearing and a judicial finding of
5 necessity. Such extensions may be made for a maximum period of five
6 years or the maximum period of the prison sentence that could be imposed,
7 whichever is longer, inclusive of the original supervision term.

8 (d) In addition to the provisions of subsection (a), a defendant who
9 has a risk assessment of low risk, has paid all restitution and has been
10 compliant with the terms of probation, assignment to a community
11 correctional services program, suspension of sentence or nonprison
12 sanction for a period of 12 months shall be eligible for discharge from
13 such period of supervision by the court. The court shall grant such
14 discharge unless the court finds ~~substantial and compelling reasons for~~ *by*
15 *clear and convincing evidence that* denial of such discharge *will serve*
16 *community safety interests.*

17 Sec. 6. K.S.A. 2013 Supp. 22-3716 is hereby amended to read as
18 follows: 22-3716. (a) At any time during probation, assignment to a
19 community correctional services program, suspension of sentence or
20 pursuant to subsection (e) for defendants who committed a crime prior to
21 July 1, 1993, and at any time during which a defendant is serving a
22 nonprison sanction for a crime committed on or after July 1, 1993, or
23 pursuant to subsection (e), the court may issue a warrant for the arrest of a
24 defendant for violation of any of the conditions of release or assignment, a
25 notice to appear to answer to a charge of violation or a violation of the
26 defendant's nonprison sanction. The notice shall be personally served upon
27 the defendant. The warrant shall authorize all officers named in the
28 warrant to return the defendant to the custody of the court or to any
29 certified detention facility designated by the court. Any court services
30 officer or community correctional services officer may arrest the defendant
31 without a warrant or may deputize any other officer with power of arrest to
32 do so by giving the officer a written or verbal statement setting forth that
33 the defendant has, in the judgment of the court services officer or
34 community correctional services officer, violated the conditions of the
35 defendant's release or a nonprison sanction. A written statement delivered
36 to the official in charge of a county jail or other place of detention shall be
37 sufficient warrant for the detention of the defendant. After making an
38 arrest, the court services officer or community correctional services officer
39 shall present to the detaining authorities a similar statement of the
40 circumstances of violation. Provisions regarding release on bail of persons
41 charged with a crime shall be applicable to defendants arrested under these
42 provisions.

43 (b) (1) Upon arrest and detention pursuant to subsection (a), the court

1 services officer or community correctional services officer shall
2 immediately notify the court and shall submit in writing a report showing
3 in what manner the defendant has violated the conditions of release or
4 assignment or a nonprison sanction.

5 (2) Unless the defendant, after being apprised of the right to a hearing
6 by the supervising court services or community correctional services
7 officer, waives such hearing, the court shall cause the defendant to be
8 brought before it without unnecessary delay for a hearing on the violation
9 charged. The hearing shall be in open court and the state shall have the
10 burden of establishing the violation. The defendant shall have the right to
11 be represented by counsel and shall be informed by the judge that, if the
12 defendant is financially unable to obtain counsel, an attorney will be
13 appointed to represent the defendant. The defendant shall have the right to
14 present the testimony of witnesses and other evidence on the defendant's
15 behalf. Relevant written statements made under oath may be admitted and
16 considered by the court along with other evidence presented at the hearing.

17 (3) (A) Except as otherwise provided, if the original crime of
18 conviction was a felony, *other than a felony specified in subsection (i) of*
19 *K.S.A. 2013 Supp. 21-6804, and amendments thereto*, and a violation is
20 established, the court may impose the violation sanctions as provided in
21 subsection (c)(1).

22 (B) Except as otherwise provided, if the original crime of conviction
23 was a misdemeanor *or a felony specified in subsection (i) of K.S.A. 2013*
24 *Supp. 21-6804, and amendments thereto*, and a violation is established, the
25 court may:

26 (i) Continue or ~~revoke~~ *modify* the probation, assignment to a
27 community correctional services program, suspension of sentence or
28 nonprison sanction and ~~may~~ *impose confinement in a county jail not to*
29 *exceed 60 days. If an offender is serving multiple probation terms*
30 *concurrently, any confinement periods imposed shall be imposed*
31 *concurrently;*

32 (ii) *impose an intermediate sanction of confinement in a county jail,*
33 *to be imposed as a two-day or three-day consecutive period. The total of*
34 *all such sanctions imposed pursuant to this subparagraph and subsections*
35 *(b)(4)(A) and (b)(4)(B) shall not exceed 18 total days during the term of*
36 *supervision; or*

37 (iii) *revoke the probation, assignment to a community correctional*
38 *services program, suspension of sentence or nonprison sanction and*
39 *require the defendant to serve the sentence imposed, or any lesser*
40 *sentence, and, if imposition of sentence was suspended, may impose any*
41 *sentence which might originally have been imposed.*

42 (4) Except as otherwise provided, if the defendant waives the right to
43 a hearing and the sentencing court has not specifically withheld the

1 authority from court services or community correctional services to
2 impose sanctions, the following sanctions may be imposed without further
3 order of the court:

4 (A) If the defendant was on probation at the time of the violation, the
5 defendant's supervising court services officer, with the concurrence of the
6 chief court services officer, may impose ~~the violation sanctions as~~
7 ~~provided in subsection (e)(1)(B)~~ *an intermediate sanction of confinement*
8 *in a county jail, to be imposed as a two-day or three-day consecutive*
9 *period. The total of all such sanctions imposed pursuant to this*
10 *subparagraph and subsections (b)(4)(B) and (c)(1)(B) shall not exceed 18*
11 *total days during the term of supervision; and*

12 (B) if the defendant was assigned to a community correctional
13 services program at the time of the violation, the defendant's community
14 corrections officer, with the concurrence of the community corrections
15 director, may impose ~~the violation sanctions as provided in subsection (e)~~
16 ~~(1)(B)~~ *an intermediate sanction of confinement in a county jail, to be*
17 *imposed as a two-day or three-day consecutive period. The total of all*
18 *such sanctions imposed pursuant to this subparagraph and subsections (b)*
19 *(4)(A) and (c)(1)(B) shall not exceed 18 total days during the term of*
20 *supervision.*

21 (c) (1) Except as otherwise provided, *if the original crime of*
22 *conviction was a felony, other than a felony specified in subsection (i) of*
23 *K.S.A. 2013 Supp. 21-6804, and amendments thereto, and a violation is*
24 *established, the following violation sanctions may be imposed court may*
25 *impose the following sanctions:*

26 (A) Continuation or modification of the release conditions of the
27 probation, assignment to a community correctional services program,
28 suspension of sentence or nonprison sanction;

29 (B) *continuation or modification of the release conditions of the*
30 *probation, assignment to a community correctional services program,*
31 *suspension of sentence or nonprison sanction and an intermediate sanction*
32 *of confinement in a county jail for a total of not more than six days per*
33 *month in any three separate months during the period of release*
34 *supervision. The six days per month confinement may only to be imposed*
35 *as a two-day or three-day consecutive periods, not to exceed 18 days of*
36 *total confinement period. The total of all such sanctions imposed pursuant*
37 *to this subparagraph and subsections (b)(4)(A) and (b)(4)(B) shall not*
38 *exceed 18 total days during the term of supervision;*

39 (C) if the violator already had at least one intermediate sanction
40 imposed pursuant to subsection (b)(4)(A), (b)(4)(B) or (c)(1)(B) related to
41 the ~~felony~~ crime for which the original supervision was imposed,
42 *continuation or modification of the release conditions of the probation,*
43 *assignment to a community correctional services program, suspension of*

1 *sentence or nonprison sanction and* remanding the defendant to the
2 custody of the secretary of corrections for a period of 120 days, subject to
3 a reduction of up to 60 days in the discretion of the secretary. This sanction
4 shall not be imposed more than once during the term of supervision. *The*
5 *sanction imposed pursuant to this subparagraph shall begin upon*
6 *pronouncement by the court and shall not be served by prior confinement*
7 *credit, except as provided in subsection (c)(7);*

8 (D) if the violator already had a sanction imposed pursuant to
9 subsection (b)(4)(A), (b)(4)(B), (c)(1)(B) or (c)(1)(C) related to the ~~felony~~
10 crime for which the original supervision was imposed, *continuation or*
11 *modification of the release conditions of the probation, assignment to a*
12 *community correctional services program, suspension of sentence or*
13 *nonprison sanction and* remanding the defendant to the custody of the
14 secretary of corrections for a period of 180 days, subject to a reduction of
15 up to 90 days in the discretion of the secretary. This sanction shall not be
16 imposed more than once during the term of supervision. *The sanction*
17 *imposed pursuant to this subparagraph shall begin upon pronouncement*
18 *by the court and shall not be served by prior confinement credit, except as*
19 *provided in subsection (c)(7); or*

20 (E) if the violator already had a sanction imposed pursuant to
21 subsection (c)(1)(C) or (c)(1)(D) related to the ~~felony~~ crime for which the
22 original supervision was imposed, revocation of the probation, assignment
23 to a community corrections services program, suspension of sentence or
24 nonprison sanction and requiring such violator to serve the sentence
25 imposed, or any lesser sentence and, if imposition of sentence was
26 suspended, imposition of any sentence which might originally have been
27 imposed.

28 (2) Except as otherwise provided *in subsections (c)(3), (c)(8) and (c)*
29 *(9)*, no offender for whom a violation of conditions of release or
30 assignment or a nonprison sanction has been established as provided in
31 this section shall be required to serve any time for the sentence imposed or
32 which might originally have been imposed in a state facility in the custody
33 of the secretary of corrections for such violation, unless such person has
34 already *had* at least one prior assignment to a community correctional
35 services program related to the crime for which the original sentence was
36 imposed.

37 (3) The provisions of subsection (c)(2) shall not apply to adult felony
38 offenders as described in subsection (a)(3) of K.S.A. 75-5291, and
39 amendments thereto.

40 (4) The court may require an offender for whom a violation of
41 conditions of release or assignment or a nonprison sanction has been
42 established as provided in this section to serve any time for the sentence
43 imposed or which might originally have been imposed in a state facility in

1 the custody of the secretary of corrections without a prior assignment to a
2 community correctional services program if the court finds and sets forth
3 with particularity the reasons for finding that the safety of the members of
4 the public will be jeopardized or that the welfare of the inmate will not be
5 served by such assignment to a community correctional services program.

6 (5) When a new felony is committed while the offender is on
7 probation or assignment to a community correctional services program, the
8 new sentence shall be imposed consecutively pursuant to the provisions of
9 K.S.A. 2013 Supp. 21-6606, and amendments thereto, and the court may
10 sentence the offender to imprisonment for the new conviction, even when
11 the new crime of conviction otherwise presumes a nonprison sentence. In
12 this event, imposition of a prison sentence for the new crime does not
13 constitute a departure.

14 (6) Except as provided in subsection (f), upon completion of a
15 violation sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D)
16 such offender shall return to community correctional services supervision.
17 The sheriff shall not be responsible for the return of the offender to the
18 county where the community correctional services supervision is assigned.

19 (7) A violation sanction imposed pursuant to subsection (c)(1)(B), (c)
20 (1)(C) or (c)(1)(D) shall not be longer than the amount of time remaining
21 on the ~~defendant's~~ offender's underlying prison sentence.

22 (8) If the offender commits a new felony or misdemeanor or absconds
23 from supervision while the offender is on probation, assignment to a
24 community correctional services program, suspension of sentence or
25 nonprison sanction, the court may revoke the probation, assignment to a
26 community correctional services program, suspension of sentence or
27 nonprison sanction of an offender pursuant to subsection (c)(1)(E) without
28 having previously imposed a sanction pursuant to subsection (c)(1)(B), (c)
29 (1)(C) or (c)(1)(D).

30 (9) The court may revoke the probation, assignment to a community
31 correctional services program, suspension of sentence or nonprison
32 sanction of an offender pursuant to subsection (c)(1)(E) without having
33 previously imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C)
34 or (c)(1)(D) if the court finds and sets forth with particularity the reasons
35 for finding that the safety of members of the public will be jeopardized or
36 that the welfare of the offender will not be served by such sanction.

37 (10) *If an offender is serving multiple probation terms concurrently,*
38 *any violation sanctions imposed pursuant to subsection (c)(1)(B), (c)(1)*
39 *(C) or (c)(1)(D), or any sanction imposed pursuant to subsection (c)(11),*
40 *shall be imposed concurrently.*

41 (11) *If the original crime of conviction was a felony, except for*
42 *violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2013 Supp. 8-1025, and*
43 *amendments thereto, and the court makes a finding that the offender has*

1 *committed one or more violations of the release conditions of the*
2 *probation, assignment to a community correctional services program,*
3 *suspension of sentence or nonprison sanction, the court may impose*
4 *confinement in a county jail not to exceed 60 days upon each such finding.*
5 *Such confinement is separate and distinct from the violation sanctions*
6 *provided in subsection (c)(1)(B), (c)(1)(C), (c)(1)(D) and (c)(1)(E) and*
7 *shall not be imposed at the same time as any such violation sanction.*

8 *(12) The violation sanctions provided in this subsection shall apply to*
9 *any violation of conditions of release or assignment or a nonprison*
10 *sanction occurring on and after July 1, 2013, regardless of when the*
11 *offender was sentenced for the original crime or committed the original*
12 *crime for which sentenced.*

13 (d) A defendant who is on probation, assigned to a community
14 correctional services program, under suspension of sentence or serving a
15 nonprison sanction and for whose return a warrant has been issued by the
16 court shall be considered a fugitive from justice if it is found that the
17 warrant cannot be served. If it appears that the defendant has violated the
18 provisions of the defendant's release or assignment or a nonprison
19 sanction, the court shall determine whether the time from the issuing of the
20 warrant to the date of the defendant's arrest, or any part of it, shall be
21 counted as time served on probation, assignment to a community
22 correctional services program, suspended sentence or pursuant to a
23 nonprison sanction.

24 (e) The court shall have 30 days following the date probation,
25 assignment to a community correctional service program, suspension of
26 sentence or a nonprison sanction was to end to issue a warrant for the
27 arrest or notice to appear for the defendant to answer a charge of a
28 violation of the conditions of probation, assignment to a community
29 correctional service program, suspension of sentence or a nonprison
30 sanction.

31 (f) For crimes committed on and after July 1, 2013, ~~an~~ *a felony*
32 *offender whose nonprison sanction is revoked pursuant to subsection (c) or*
33 *whose underlying prison term expires while serving a sanction pursuant to*
34 *subsection (c)(1)(C) or (c)(1)(D) shall serve a period of postrelease*
35 *supervision upon the completion of the prison portion of the underlying*
36 *sentence.*

37 (g) Offenders who have been sentenced pursuant to K.S.A. 2013
38 Supp. 21-6824, and amendments thereto, and who subsequently violate a
39 condition of the drug and alcohol abuse treatment program shall be subject
40 to an additional nonprison sanction for any such subsequent violation.
41 Such nonprison sanctions shall include, but not be limited to, up to 60 days
42 in a county jail, fines, community service, intensified treatment, house
43 arrest and electronic monitoring.

1 Sec. 7. K.S.A. 2013 Supp. 21-5905, 21-6328, 21-6329, 21-6604, 21-
2 6608 and 22-3716 are hereby repealed.

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