

HOUSE BILL No. 2638

AN ACT concerning corrections; amending K.S.A. 74-9501, 75-5292 and 75-52,105 and K.S.A. 2003 Supp. 75-5291 and repealing the existing sections.

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

Section 1. On and after July 1, 2004, K.S.A. 2003 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a) (1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services *that address the criminogenic needs of felony offenders* including, but not limited to, ~~restitution programs, victim services programs, preventive or diversionary correctional programs, community corrections centers, adult intensive supervision, substance abuse and mental health services, employment and residential services,~~ and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52,127 and amendments thereto.

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

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

(B) whose severity level and criminal history score designate a presumptive prison sentence on either sentencing guidelines grid but receive a nonprison sentence as a result of departure;

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

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

(E) any offender who is determined to be "high risk or needs, or both" by the use of a statewide, mandatory, standardized risk assessment tool or instrument validated for drug abuse treatment program placement ~~as provided for by subsection (d) of K.S.A. 2003 Supp. 21-4729, and amendments thereto,~~ for community correctional placements; ~~or~~

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

(G) *who has been sentenced to community corrections supervision pursuant to K.S.A. 2003 Supp. 21-4729, and amendments thereto.*

(3) Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before July 1, ~~2004~~ 2006, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this section shall expire on July 1, ~~2004~~ 2006.

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

(5) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established, as provided in K.S.A. 22-3716, and amendments thereto, to serve

any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

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

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

(3) Each member shall be appointed for a term of three years, ~~except of the initial appointments,~~ and such terms shall be staggered as determined by the secretary. Members shall be eligible for reappointment.

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

- (A) Efficiencies in the delivery of field supervision services;
- (B) effectiveness and enhancement of existing interventions; ~~and~~
- (C) identification of new interventions; *and*
- (D) *statewide performance indicators.*

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

- (A) ~~measurable~~ Goals and *measurable* objectives;
- (B) projected costs;
- (C) the impact on public safety; and
- (D) the evaluation process.

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

Sec. 2. On and after July 1, 2004, K.S.A. 75-5292 is hereby amended to read as follows: 75-5292. (a) Subject to the other provisions of ~~this the~~ *the community corrections act*, each county may qualify to receive grants under ~~this such~~ *act* by complying with the provisions of K.S.A. 75-52,110, *and amendments thereto.*

(b) Subject to the requirements of centralized administration and control of correctional services under K.S.A. 75-52,110, *and amendments thereto*, and the provisions of agreements between cooperating counties under subsection (c), the respective boards of county commissioners shall retain all authority for the expenditure of moneys, including grants received under ~~this such~~ *act*, and for the implementation ~~of~~ *and oversight of* the operations under the comprehensive plan approved by the secretary of corrections. The comprehensive plan shall be reviewed and approved by the board of county commissioners of each county to which the plan pertains prior to submission to the secretary of corrections for approval.

(c) The boards of county commissioners of all counties cooperating together to establish a corrections advisory board and to adopt a comprehensive plan pursuant to ~~this such~~ *act* may enter into cooperative agreements to qualify their respective counties for grants under ~~this such~~ *act*. Such counties shall cooperate and enter into such agreements for all purposes of ~~this such~~ *act* in the manner prescribed by K.S.A. 12-2901 through

12-2907 and amendments thereto, to the extent that those statutes do not conflict with the provisions of ~~this~~ *such* act.

Sec. 3. On and after July 1, 2004, K.S.A. 75-52,105 is hereby amended to read as follows: 75-52,105. (a) Upon compliance by a county or group of counties with the requirements for receipt of the grants authorized by ~~this~~ *the community corrections* act and approval of the comprehensive plan by the secretary of corrections, the secretary of corrections shall determine the amount of the annual grant to each such county and, commencing on the next ensuing January 1 or July 1 after approval of the comprehensive plan, shall proceed to pay such grant in equal semiannual payments in accordance with and subject to ~~this~~ *such* act, applicable rules and regulations, and the provisions of appropriations acts.

(b) ~~Within 10 days after the end of each calendar quarter~~ *On a quarterly basis*, each county receiving semiannual grant payments under ~~this~~ *such* act shall submit to the secretary of corrections certified statements detailing the amounts expended and costs incurred for the correctional services described in K.S.A. 75-5291, and amendments thereto. Upon receipt of such certified statements, the secretary of corrections shall determine whether each such county is in compliance with the expenditure and operation standards prescribed under ~~this~~ *such* act for such services and shall determine the semiannual payment amount each such county is entitled to receive after making any adjustments for reductions or charges as required by or in accordance with ~~this~~ *such* act and applicable rules and regulations.

(c) Semiannual grant payments for counties entitled thereto under ~~this~~ *such* act shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of corrections or by a person or persons designated by the secretary of corrections to the county treasurers of such counties.

New Sec. 4. On and after July 1, 2004, whenever death occurs of an inmate, who is in the custody of the secretary of corrections and who resides in a correctional facility or boot camp operated by or contracted through the secretary or of a juvenile, who is in the custody of the commissioner of juvenile justice and who resides in an institution operated by or contracted through the commissioner, an investigation regarding the circumstances of the death shall be initiated by the Kansas bureau of investigation. A report of the findings of the investigation shall be made available to the chairperson of the senate judiciary committee and the house corrections and juvenile justice committee of the Kansas legislature and shall be subject to the open records act, K.S.A. 45-215, and amendments thereto.

New Sec. 5. On and after July 1, 2004, whenever the death of a prisoner in the custody of a city or county and residing in jail or in a facility contracted through the city or county, or both, occurs, an investigation regarding the circumstances of the death shall be initiated by the Kansas bureau of investigation. A report of the findings of the investigation shall be made available to the chairperson of the senate judiciary committee and the house corrections and juvenile justice committee of the Kansas legislature and shall be subject to the open records act, K.S.A. 45-215, and amendments thereto.

Sec. 6. K.S.A. 74-9501 is hereby amended to read as follows: 74-9501. (a) There is hereby established the Kansas criminal justice coordinating council.

(b) The council shall consist of the governor or designee, the chief justice of the supreme court or designee, the attorney general or designee, the secretary of corrections, the ~~secretary of social and rehabilitation services~~ *superintendent of the highway patrol*, the commissioner of juvenile justice and the director of the Kansas bureau of investigation.

(c) ~~The director and all existing employees of the Kansas sentencing commission~~ *governor shall serve as designate staff to the Kansas criminal justice coordinating council, while continuing to serve at the will of the Kansas sentencing commission pursuant to K.S.A. 74-9103 and amendments thereto in the performance of its duties as outlined in K.S.A. 74-9101, 74-9106 and 21-4725 and amendments thereto.* The ~~director staff~~ shall attend all meetings of the council, be responsible for keeping a record of council meetings, prepare reports of the council and perform such other duties as directed by the council.

(d) The council shall elect a chairperson and vice-chairperson from among the members of the council.

(e) The council shall:

(1) *Appoint a standing local government advisory group to consult and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, a member of a city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses;*

(2) define and analyze issues and processes in the criminal justice system, identify alternative solutions and make recommendations for improvements;

~~(2)~~ (3) perform such criminal justice studies or tasks as requested by the governor, *the attorney general*, the legislature or the chief justice, as deemed appropriate or feasible by the council;

~~(3)~~ (4) oversee development and management of a criminal justice database including assuming the designation and functions of the state statistical analysis center currently assigned to the Kansas bureau of investigation pursuant to K.S.A. 75-712a and amendments thereto. All criminal justice agencies as defined in subsection (c) of K.S.A. 22-4701 and amendments thereto and the ~~department of social and rehabilitation services~~ *juvenile justice authority* shall provide any data or information, including juvenile offender information which is requested by the council, in a form and manner established by the council, in order to facilitate the development and management of the criminal justice council database; ~~and~~

~~(4)~~ (5) develop and oversee reporting of all criminal justice federal funding available to the state or local units of government including assuming the designation and functions of administering the United States bureau of justice assistance grants ~~currently administered through the law enforcement antidrug abuse program of the department of administration~~. On the effective date of this act any bureau of justice assistance ~~antidrug abuse federal fund balances in any account and all unclassified positions authorized for the law enforcement antidrug abuse program of the department of administration shall be transferred to and budgeted with the Kansas sentencing commission.~~

~~(f) The council shall appoint a standing local government advisory group to consult and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses.~~

~~(g) The council shall form a task force to study the consolidation of probation, parole and community corrections services.~~

~~(h) When analyzing criminal justice issues and performing criminal justice studies, the council shall;~~

(6) form such task groups as necessary and ~~shall~~ appoint individuals who appropriately represent law enforcement, the judiciary, legal profession, state, local, or federal government, the public, or other professions or groups as determined by the council, to represent the various aspects of the issue being analyzed or studied, *when analyzing criminal justice issues and performing criminal justice studies*. Members of the legislature may be appointed ex officio members to such task groups. A member of the council shall serve as the chairperson of each task group appointed by the council. The council may appoint other members of the council to any task group formed by the council; *and*

~~(i) The council shall~~ (7) review reports submitted by each task group named by the council and shall submit the report with the council's recommendations pertaining thereto to the governor, *the attorney general*, *the* chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate.

Sec. 7. K.S.A. 74-9501 is hereby repealed.

Sec. 8. On and after July 1, 2004, K.S.A. 75-5292 and 75-52,105 and K.S.A. 2003 Supp. 75-5291 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.