

HOUSE BILL No. 2301

By Representative Patton

1-31

9 AN ACT concerning crimes, punishment and criminal procedure; relat-
10 ing to theft and burglary; mandatory sentence; amending K.S.A. 21-
11 3715 and K.S.A. 2006 Supp. 21-3701, 21-4704, 21-4711 and 22-3716
12 and repealing the existing sections.
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14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2006 Supp. 21-3701 is hereby amended to read as
16 follows: 21-3701. (a) Theft is any of the following acts done with intent
17 to deprive the owner permanently of the possession, use or benefit of the
18 owner's property:

19 (1) Obtaining or exerting unauthorized control over property;
20 (2) obtaining by deception control over property;
21 (3) obtaining by threat control over property; or
22 (4) obtaining control over stolen property knowing the property to
23 have been stolen by another.

24 (b) (1) Theft of property of the value of \$100,000 or more is a severity
25 level 5, nonperson felony.

26 (2) Theft of property of the value of at least \$25,000 but less than
27 \$100,000 is a severity level 7, nonperson felony.

28 (3) Theft of property of the value of at least \$1,000 but less than
29 \$25,000 is a severity level 9, nonperson felony.

30 (4) Theft of property regardless of the value from three separate mer-
31 cantile establishments within a period of 72 hours as part of the same act
32 or transaction or in two or more acts or transactions connected together
33 or constituting parts of a common scheme or course of conduct is a se-
34 verity level 9, nonperson felony.

35 (5) Theft of property of the value of less than \$1,000 is a class A
36 nonperson misdemeanor.

37 (6) Theft of property of the value of less than \$1,000 is a severity level
38 9, nonperson felony if committed by a person who has been convicted of
39 theft two or more times.

40 (c) Conviction of a violation of a municipal ordinance prohibiting acts
41 which constitute theft as defined by this section shall be considered a
42 conviction of theft for the purpose of determining the number of prior
43 convictions and the classification of the crime under this section.

1 (d) (1) *On a second conviction of a violation of the misdemeanor or*
2 *felony provisions of this section, a person shall be required to serve at*
3 *least 10 days' imprisonment as a condition of probation.*

4 (2) *On a third conviction of a violation of the misdemeanor or felony*
5 *provisions of this section, a person shall be required to serve at least 30*
6 *days' imprisonment as a condition of probation.*

7 (3) *On a fourth or subsequent conviction of a violation of the mis-*
8 *demeanor or felony provisions of this section, a person shall be required*
9 *to serve at least 60 days' imprisonment as a condition of probation.*

10 (4) *The person convicted shall not be eligible for release on probation,*
11 *suspension or reduction of sentence or parole until the person has served*
12 *the mandatory sentence as provided herein.*

13 Sec. 2. K.S.A. 21-3715 is hereby amended to read as follows: 21-
14 3715. (a) Burglary is knowingly and without authority entering into or
15 remaining within any:

16 ~~(a)~~ (1) Building, manufactured home, mobile home, tent or other
17 structure which is a dwelling, with intent to commit a felony, theft or
18 sexual battery therein;

19 ~~(b)~~ (2) building, manufactured home, mobile home, tent or other
20 structure which is not a dwelling, with intent to commit a felony, theft or
21 sexual battery therein; or

22 ~~(c)~~ (3) motor vehicle, aircraft, watercraft, railroad car or other means
23 of conveyance of persons or property, with intent to commit a felony,
24 theft or sexual battery therein.

25 (b) Burglary as described in subsection (a)(1) is a severity level 7,
26 person felony. Burglary as described in subsection ~~(b)~~ (a)(2) is a severity
27 level 7, nonperson felony. Burglary as described in subsection ~~(c)~~ (a)(3)
28 is a severity level 9, nonperson felony.

29 (c) (1) *On a second conviction of a violation of this section, a person*
30 *shall be required to serve at least 10 days' imprisonment as a condition*
31 *of probation.*

32 (2) *On a third conviction of a violation of this section, a person shall*
33 *be required to serve at least 30 days' imprisonment as a condition of*
34 *probation.*

35 (3) *On a fourth or subsequent conviction of a violation of this section,*
36 *a person shall be required to serve at least 60 days' imprisonment as a*
37 *condition of probation.*

38 (4) *The person convicted shall not be eligible for release on probation,*
39 *suspension or reduction of sentence or parole until the person has served*
40 *the mandatory sentence as provided herein.*

41 Sec. 3. K.S.A. 2006 Supp. 21-4704 is hereby amended to read as
42 follows: 21-4704. (a) For purposes of sentencing, the following sentencing
43 guidelines grid for nondrug crimes shall be applied in felony cases for

- 1 crimes committed on or after July 1, 1993:

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SENTENCING RANGE - NONDRUG OFFENSES

Category Severity Level	A 3+ Person Felonies	B 2 Person Felonies	C 1 Person & 1 Nonperson Felonies	D 1 Person Felony	E 3+ Nonperson Felonies	F 2 Nonperson Felonies	G 1 Nonperson Felony	H 2+ Misdemeanors	I 1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 30
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	6 5 5

LEGEND
Presumptive Probation
Basic Parole
Presumptive Imprisonment

- 1 (b) The provisions of this section shall be applicable to the sentencing
2 guidelines grid for nondrug crimes. Sentences expressed in such grid
3 represent months of imprisonment.
- 4 (c) The sentencing guidelines grid is a two-dimensional crime severity
5 and criminal history classification tool. The grid's vertical axis is the crime
6 severity scale which classifies current crimes of conviction. The grid's
7 horizontal axis is the criminal history scale which classifies criminal
8 histories.
- 9 (d) The sentencing guidelines grid for nondrug crimes as provided in
10 this section defines presumptive punishments for felony convictions, sub-
11 ject to judicial discretion to deviate for substantial and compelling reasons
12 and impose a different sentence in recognition of aggravating and miti-
13 gating factors as provided in this act. The appropriate punishment for a
14 felony conviction should depend on the severity of the crime of conviction
15 when compared to all other crimes and the offender's criminal history.
- 16 (e) (1) The sentencing court has discretion to sentence at any place
17 within the sentencing range. The sentencing judge shall select the center
18 of the range in the usual case and reserve the upper and lower limits for
19 aggravating and mitigating factors insufficient to warrant a departure.
- 20 (2) In presumptive imprisonment cases, the sentencing court shall
21 pronounce the complete sentence which shall include the prison sen-
22 tence, the maximum potential reduction to such sentence as a result of
23 good time and the period of postrelease supervision at the sentencing
24 hearing. Failure to pronounce the period of postrelease supervision shall
25 not negate the existence of such period of postrelease supervision.
- 26 (3) In presumptive nonprison cases, the sentencing court shall pro-
27 nounce the prison sentence as well as the duration of the nonprison sanc-
28 tion at the sentencing hearing.
- 29 (f) Each grid block states the presumptive sentencing range for an
30 offender whose crime of conviction and criminal history place such of-
31 fender in that grid block. If an offense is classified in a grid block below
32 the dispositional line, the presumptive disposition shall be nonimprison-
33 ment. If an offense is classified in a grid block above the dispositional
34 line, the presumptive disposition shall be imprisonment. If an offense is
35 classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional
36 nonprison sentence upon making the following findings on the record:
- 37 (1) An appropriate treatment program exists which is likely to be
38 more effective than the presumptive prison term in reducing the risk of
39 offender recidivism; and
- 40 (2) the recommended treatment program is available and the of-
41 fender can be admitted to such program within a reasonable period of
42 time; or
- 43 (3) the nonprison sanction will serve community safety interests by

1 promoting offender reformation.

2 Any decision made by the court regarding the imposition of an optional
3 nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or
4 6-G shall not be considered a departure and shall not be subject to appeal.

5 (g) The sentence for the violation of K.S.A. 21-3411, and amend-
6 ments thereto, aggravated assault against a law enforcement officer or
7 K.S.A. 21-3415, and amendments thereto, aggravated battery against a
8 law enforcement officer and amendments thereto which places the de-
9 fendant's sentence in grid block 6-H or 6-I shall be presumed impris-
10 onment. The court may impose an optional nonprison sentence upon
11 making a finding on the record that the nonprison sanction will serve
12 community safety interests by promoting offender reformation. Any deci-
13 sion made by the court regarding the imposition of the optional non-
14 prison sentence, if the offense is classified in grid block 6-H or 6-I, shall
15 not be considered departure and shall not be subject to appeal.

16 (h) When a firearm is used to commit any person felony, the of-
17 fender's sentence shall be presumed imprisonment. The court may im-
18 pose an optional nonprison sentence upon making a finding on the record
19 that the nonprison sanction will serve community safety interests by pro-
20 moting offender reformation. Any decision made by the court regarding
21 the imposition of the optional nonprison sentence shall not be considered
22 a departure and shall not be subject to appeal.

23 (i) *Except as provided in subsection (l)*, the sentence for the violation
24 of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-
25 3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, ~~K.S.A. 21-3701,~~
26 ~~21-3715,~~ 21-4310 and ~~K.S.A. 21-4318,~~ and amendments thereto, shall be
27 as provided by the specific mandatory sentencing requirements of that
28 section and shall not be subject to the provisions of this section or K.S.A.
29 21-4707 and amendments thereto. If because of the offender's criminal
30 history classification the offender is subject to presumptive imprisonment
31 or if the judge departs from a presumptive probation sentence and the
32 offender is subject to imprisonment, the provisions of this section and
33 K.S.A. 21-4707, and amendments thereto, shall apply and the offender
34 shall not be subject to the mandatory sentence as provided in K.S.A. ~~21-~~
35 ~~3701,~~ 21-3710 *or 21-3715*, and amendments thereto. Notwithstanding the
36 provisions of any other section, the term of imprisonment imposed for
37 the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3)
38 of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710,
39 ~~K.S.A. 21-3701,~~ ~~21-3715,~~ 21-4310 and ~~K.S.A. 21-4318,~~ and amendments
40 thereto, shall not be served in a state facility in the custody of the secretary
41 of corrections.

42 (j) (1) The sentence for any persistent sex offender whose current
43 convicted crime carries a presumptive term of imprisonment shall be

1 double the maximum duration of the presumptive imprisonment term.
2 The sentence for any persistent sex offender whose current conviction
3 carries a presumptive nonprison term shall be presumed imprisonment
4 and shall be double the maximum duration of the presumptive impris-
5 onment term.

6 (2) Except as otherwise provided in this subsection, as used in this
7 subsection, “persistent sex offender” means a person who: (A) (i) Has
8 been convicted in this state of a sexually violent crime, as defined in K.S.A.
9 22-3717 and amendments thereto; and (ii) at the time of the conviction
10 under paragraph (A) (i) has at least one conviction for a sexually violent
11 crime, as defined in K.S.A. 22-3717 and amendments thereto in this state
12 or comparable felony under the laws of another state, the federal gov-
13 ernment or a foreign government; or (B) (i) has been convicted of rape,
14 K.S.A. 21-3502, and amendments thereto; and (ii) at the time of the
15 conviction under paragraph (B) (i) has at least one conviction for rape in
16 this state or comparable felony under the laws of another state, the federal
17 government or a foreign government.

18 (3) Except as provided in paragraph (2)(B), the provisions of this sub-
19 section shall not apply to any person whose current convicted crime is a
20 severity level 1 or 2 felony.

21 (k) If it is shown at sentencing that the offender committed any felony
22 violation for the benefit of, at the direction of, or in association with any
23 criminal street gang, with the specific intent to promote, further or assist
24 in any criminal conduct by gang members, the offender’s sentence shall
25 be presumed imprisonment. Any decision made by the court regarding
26 the imposition of the optional nonprison sentence shall not be considered
27 a departure and shall not be subject to appeal. As used in this subsection,
28 “criminal street gang” means any organization, association or group of
29 three or more persons, whether formal or informal, having as one of its
30 primary activities the commission of one or more person felonies or felony
31 violations of the uniform controlled substances act, K.S.A. 65-4101 et seq.,
32 and amendments thereto, which has a common name or common iden-
33 tifying sign or symbol, whose members, individually or collectively engage
34 in or have engaged in the commission, attempted commission, conspiracy
35 to commit or solicitation of two or more person felonies or felony viola-
36 tions of the uniform controlled substances act, K.S.A. 65-4101 et seq.,
37 and amendments thereto, or any substantially similar offense from an-
38 other jurisdiction.

39 (l) The sentence for a violation of subsection (a)(1) of K.S.A. 21-3715
40 and amendments thereto when such person being sentenced has a prior
41 conviction for a violation of subsection (a)(1) or ~~(b)~~ (a)(2) of K.S.A. 21-
42 3715 or 21-3716 and amendments thereto shall be presumed
43 imprisonment.

1 (m) The sentence for a violation of K.S.A. 22-4903 or subsection (d)
2 of K.S.A. 21-3812, and amendments thereto, shall be presumptive im-
3 prisonment. If an offense under such sections is classified in grid blocks
4 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison
5 sentence upon making the following findings on the record:

6 (1) An appropriate treatment program exists which is likely to be
7 more effective than the presumptive prison term in reducing the risk of
8 offender recidivism, such program is available and the offender can be
9 admitted to such program within a reasonable period of time; or

10 (2) the nonprison sanction will serve community safety interests by
11 promoting offender reformation.

12 Any decision made by the court regarding the imposition of an optional
13 nonprison sentence pursuant to this section shall not be considered a
14 departure and shall not be subject to appeal.

15 Sec. 4. K.S.A. 2006 Supp. 21-4711 is hereby amended to read as
16 follows: 21-4711. In addition to the provisions of K.S.A. 21-4710 and
17 amendments thereto, the following shall apply in determining an of-
18 fender's criminal history classification as contained in the presumptive
19 sentencing guidelines grid for nondrug crimes and the presumptive sen-
20 tencing guidelines grid for drug crimes:

21 (a) Every three prior adult convictions or juvenile adjudications of
22 class A and class B person misdemeanors in the offender's criminal his-
23 tory, or any combination thereof, shall be rated as one adult conviction
24 or one juvenile adjudication of a person felony for criminal history pur-
25 poses. Every three prior adult convictions or juvenile adjudications of
26 assault as defined in K.S.A. 21-3408 and amendments thereto occurring
27 within a period commencing three years prior to the date of conviction
28 for the current crime of conviction shall be rated as one adult conviction
29 or one juvenile adjudication of a person felony for criminal history
30 purposes.

31 (b) A conviction of subsection (a)(1) of K.S.A. 21-4204 and amend-
32 ments thereto, criminal possession of firearms by a person who is both
33 addicted to and an unlawful user of a controlled substance, subsection
34 (a)(4) of K.S.A. 21-4204 and amendments thereto, possession of a firearm
35 on school grounds or K.S.A. 21-4218 and amendments thereto, possession
36 of a firearm on the grounds or in the state capitol building, will be scored
37 as a select class B nonperson misdemeanor conviction or adjudication and
38 shall not be scored as a person misdemeanor for criminal history
39 purposes.

40 (c) (1) If the current crime of conviction was committed before July
41 1, 1996, and is for subsection (b) of K.S.A. 21-3404, involuntary man-
42 slaughter in the commission of K.S.A. 8-1567 and amendments thereto
43 driving under the influence, then, each prior adult conviction or juvenile

1 adjudication for K.S.A. 8-1567 and amendments thereto shall count as
2 one person felony for criminal history purposes.

3 (2) If the current crime of conviction was committed on or after July
4 1, 1996, and is for a violation of an act described in K.S.A. 2006 Supp.
5 21-3442, and amendments thereto, each prior adult conviction, diversion
6 in lieu of criminal prosecution or juvenile adjudication for: (A) An act
7 described in K.S.A. 8-1567 and amendments thereto; or (B) a violation
8 of a law of another state or an ordinance of any city, or resolution of any
9 county, which prohibits the act described in K.S.A. 8-1567 and amend-
10 ments thereto shall count as one person felony for criminal history
11 purposes.

12 (d) Prior burglary adult convictions and juvenile adjudications will be
13 scored for criminal history purposes as follows:

14 (1) As a prior person felony if the prior conviction or adjudication
15 was classified as a burglary as described in subsection (a)(1) of K.S.A. 21-
16 3715 and amendments thereto.

17 (2) As a prior nonperson felony if the prior conviction or adjudication
18 was classified as a burglary as described in subsection ~~(b) or (c)~~ (a)(2) or
19 (a)(3) of K.S.A. 21-3715 and amendments thereto.

20 The facts required to classify prior burglary adult convictions and ju-
21 venile adjudications must be established by the state by a preponderance
22 of the evidence.

23 (e) Out-of-state convictions and juvenile adjudications will be used in
24 classifying the offender's criminal history. An out-of-state crime will be
25 classified as either a felony or a misdemeanor according to the convicting
26 jurisdiction. If a crime is a felony in another state, it will be counted as a
27 felony in Kansas. The state of Kansas shall classify the crime as person or
28 nonperson. In designating a crime as person or nonperson comparable
29 offenses shall be referred to. If the state of Kansas does not have a com-
30 parable offense, the out-of-state conviction shall be classified as a non-
31 person crime. Convictions or adjudications occurring within the federal
32 system, other state systems, the District of Columbia, foreign, tribal or
33 military courts are considered out-of-state convictions or adjudications.
34 The facts required to classify out-of-state adult convictions and juvenile
35 adjudications must be established by the state by a preponderance of the
36 evidence.

37 (f) Except as provided in subsections (4), (5) and (6) of K.S.A. 21-
38 4710 and amendments thereto, juvenile adjudications will be applied in
39 the same manner as adult convictions. Out-of-state juvenile adjudications
40 will be treated as juvenile adjudications in Kansas.

41 (g) A prior felony conviction of an attempt, a conspiracy or a solici-
42 tation as provided in K.S.A. 21-3301, 21-3302 or 21-3303 and amend-
43 ments thereto, to commit a crime shall be treated as a person or non-

1 person crime in accordance with the designation assigned to the
2 underlying crime.

3 (h) Drug crimes are designated as nonperson crimes for criminal his-
4 tory scoring.

5 Sec. 5. K.S.A. 2006 Supp. 22-3716 is hereby amended to read as
6 follows: 22-3716. (a) At any time during probation, assignment to a com-
7 munity correctional services program, suspension of sentence or pursuant
8 to subsection (d) for defendants who committed a crime prior to July 1,
9 1993, and at any time during which a defendant is serving a nonprison
10 sanction for a crime committed on or after July 1, 1993, or pursuant to
11 subsection (d), the court may issue a warrant for the arrest of a defendant
12 for violation of any of the conditions of release or assignment, a notice to
13 appear to answer to a charge of violation or a violation of the defendant's
14 nonprison sanction. The notice shall be personally served upon the de-
15 fendant. The warrant shall authorize all officers named in the warrant to
16 return the defendant to the custody of the court or to any certified de-
17 tention facility designated by the court. Any court services officer or com-
18 munity correctional services officer may arrest the defendant without a
19 warrant or may deputize any other officer with power of arrest to do so
20 by giving the officer a written statement setting forth that the defendant
21 has, in the judgment of the court services officer or community correc-
22 tional services officer, violated the conditions of the defendant's release
23 or a nonprison sanction. The written statement delivered with the de-
24 fendant by the arresting officer to the official in charge of a county jail or
25 other place of detention shall be sufficient warrant for the detention of
26 the defendant. After making an arrest, the court services officer or com-
27 munity correctional services officer shall present to the detaining author-
28 ities a similar statement of the circumstances of violation. Provisions re-
29 garding release on bail of persons charged with a crime shall be applicable
30 to defendants arrested under these provisions.

31 (b) Upon arrest and detention pursuant to subsection (a), the court
32 services officer or community correctional services officer shall immedi-
33 ately notify the court and shall submit in writing a report showing in what
34 manner the defendant has violated the conditions of release or assignment
35 or a nonprison sanction. Thereupon, or upon an arrest by warrant as
36 provided in this section, the court shall cause the defendant to be brought
37 before it without unnecessary delay for a hearing on the violation charged.
38 The hearing shall be in open court and the state shall have the burden of
39 establishing the violation. The defendant shall have the right to be rep-
40 resented by counsel and shall be informed by the judge that, if the de-
41 fendant is financially unable to obtain counsel, an attorney will be ap-
42 pointed to represent the defendant. The defendant shall have the right
43 to present the testimony of witnesses and other evidence on the defend-

1 ant's behalf. Relevant written statements made under oath may be ad-
2 mitted and considered by the court along with other evidence presented
3 at the hearing. Except as otherwise provided, if the violation is estab-
4 lished, the court may continue or revoke the probation, assignment to a
5 community correctional services program, suspension of sentence or non-
6 prison sanction and may require the defendant to serve the sentence
7 imposed, or any lesser sentence, and, if imposition of sentence was sus-
8 pended, may impose any sentence which might originally have been im-
9 posed. Except as otherwise provided, no offender for whom a violation
10 of conditions of release or assignment or a nonprison sanction has been
11 established as provided in this section shall be required to serve any time
12 for the sentence imposed or which might originally have been imposed
13 in a state facility in the custody of the secretary of corrections for such
14 violation, unless such person has already at least one prior assignment to
15 a community correctional services program related to the crime for which
16 the original sentence was imposed, except these provisions shall not apply
17 to offenders who violate a condition of release or assignment or a non-
18 prison sanction by committing a new misdemeanor or felony offense. The
19 provisions of this subsection shall not apply to adult felony offenders as
20 described in subsection (a)(3) of K.S.A. 75-5291, and amendments
21 thereto. The court may require an offender for whom a violation of con-
22 ditions of release or assignment or a nonprison sanction has been estab-
23 lished as provided in this section to serve any time for the sentence im-
24 posed or which might originally have been imposed in a state facility in
25 the custody of the secretary of corrections without a prior assignment to
26 a community correctional services program if the court finds and sets
27 forth with particularity the reasons for finding that the safety of the mem-
28 bers of the public will be jeopardized or that the welfare of the inmate
29 will not be served by such assignment to a community correctional serv-
30 ices program. *The court shall require an offender for whom a violation of*
31 *conditions of release or assignment or a nonprison sanction has been es-*
32 *ablished as provided in this section to serve any time for the sentence*
33 *imposed or which might originally have been imposed in a state facility*
34 *in the custody of the secretary of corrections without prior assignment to*
35 *a community correctional services program if the offender was convicted*
36 *of a second or subsequent violation of K.S.A. 21-3701 or 21-3715, and*
37 *amendments thereto. When a new felony is committed while the offender*
38 *is on probation or assignment to a community correctional services pro-*
39 *gram, the new sentence shall be imposed pursuant to the consecutive*
40 *sentencing requirements of K.S.A. 21-4608 and amendments thereto, and*
41 *the court may sentence the offender to imprisonment for the new con-*
42 *viction, even when the new crime of conviction otherwise presumes a*
43 *nonprison sentence. In this event, imposition of a prison sentence for the*

1 new crime does not constitute a departure.

2 (c) A defendant who is on probation, assigned to a community cor-
3 rectional services program, under suspension of sentence or serving a
4 nonprison sanction and for whose return a warrant has been issued by
5 the court shall be considered a fugitive from justice if it is found that the
6 warrant cannot be served. If it appears that the defendant has violated
7 the provisions of the defendant's release or assignment or a nonprison
8 sanction, the court shall determine whether the time from the issuing of
9 the warrant to the date of the defendant's arrest, or any part of it, shall
10 be counted as time served on probation, assignment to a community cor-
11 rectional services program, suspended sentence or pursuant to a nonpri-
12 son sanction.

13 (d) The court shall have 30 days following the date probation, assign-
14 ment to a community correctional service program, suspension of sen-
15 tence or a nonprison sanction was to end to issue a warrant for the arrest
16 or notice to appear for the defendant to answer a charge of a violation of
17 the conditions of probation, assignment to a community correctional serv-
18 ice program, suspension of sentence or a nonprison sanction.

19 (e) Notwithstanding the provisions of any other law to the contrary,
20 an offender whose nonprison sanction is revoked and a term of impris-
21 onment imposed pursuant to either the sentencing guidelines grid for
22 nondrug or drug crimes shall not serve a period of postrelease supervision
23 upon the completion of the prison portion of that sentence. The provi-
24 sions of this subsection shall not apply to offenders sentenced to a non-
25 prison sanction pursuant to a dispositional departure, whose offense falls
26 within a border box of either the sentencing guidelines grid for nondrug
27 or drug crimes, offenders sentenced for a "sexually violent crime" as de-
28 fined by K.S.A. 22-3717, and amendments thereto, or whose nonprison
29 sanction was revoked as a result of a conviction for a new misdemeanor
30 or felony offense. The provisions of this subsection shall not apply to
31 offenders who are serving or are to begin serving a sentence for any other
32 felony offense that is not excluded from postrelease supervision by this
33 subsection on the effective date of this subsection. The provisions of this
34 subsection shall be applied retroactively. The department of corrections
35 shall conduct a review of all persons who are in the custody of the de-
36 partment as a result of only a revocation of a nonprison sanction. On or
37 before September 1, 2000, the department shall have discharged from
38 postrelease supervision those offenders as required by this subsection.

39 (f) Offenders who have been sentenced pursuant to K.S.A. 2006
40 Supp. 21-4729, and amendments thereto, and who subsequently violate
41 a condition of the drug and alcohol abuse treatment program shall be
42 subject to an additional nonprison sanction for any such subsequent vi-
43 olation. Such nonprison sanctions shall include, but not be limited to, up

1 to 60 days in a county jail, fines, community service, intensified treatment,
2 house arrest and electronic monitoring.

3 Sec. 6. K.S.A. 21-3715 and K.S.A. 2006 Supp. 21-3701, 21-4704, 21-
4 4711 and 22-3716 are hereby repealed.

5 Sec. 7. This act shall take effect and be in force from and after its
6 publication in the statute book.