

HOUSE BILL No. 2731

By Representatives Patton, Beamer, Bowers, Carlson, Dahl, Fund, Kelley, Kelsey, Kinzer, Judy Morrison, Olson, Rhoades, Siegfried, Vickrey, Watkins and Whitham

1-31

11 AN ACT concerning crimes, criminal procedure and punishment; relat-
12 ing to sentencing; amending K.S.A. 21-4632, 22-3439, 22-3711, 22-
13 3717 and 22-4701 and K.S.A. 2007 Supp. 74-9101 and repealing the
14 existing sections.
15

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

17 New Section 1. (a) In addition to the presentence investigation re-
18 port ordered pursuant to K.S.A. 21-4714, and amendments thereto,
19 whenever the court is considering a dispositional or durational departure,
20 the court shall order the preparation of the departure presentence report
21 by the court services officer as soon as possible after conviction of the
22 defendant.

23 (b) Each departure presentence report prepared for an offender to
24 be sentenced for one or more felonies committed on or after July 1, 2008,
25 shall include, but not be limited to, the following information:

26 (1) The social history of the defendant, with an emphasis on family
27 history, employment, education, physical and mental health, financial
28 condition and future prospects.

29 (2) A criminal risk-need assessment of the defendant.

30 (3) If any treatment program is being proposed, a confirmation of the
31 existence of such program, the capacity of the program to meet the de-
32 fendant's needs, the availability of the program to the defendant and how
33 the cost of the program will be paid.

34 The court shall have discretion to order inclusion of any other infor-
35 mation it considers proper.

36 (c) The departure presentence report shall become part of the court
37 record but shall not be accessible to the public and shall be accessible
38 only to the parties, the sentencing judge, the department of corrections,
39 and if requested, the Kansas sentencing commission. If the offender is
40 committed to the custody of the secretary of corrections, the report shall
41 be sent to the secretary and, in accordance with K.S.A. 75-5220, and
42 amendments thereto, to the warden of the state correctional institution
43 to which the defendant is conveyed.

- 1 (d) All departure presentence reports shall be on a form approved by
2 the Kansas sentencing commission.
- 3 Sec. 2. K.S.A. 21-4632 is hereby amended to read as follows: 21-
4 4632. (a) If the defendant is to be sentenced to the custody of the sec-
5 retary of corrections, the court may prepare a judgment form which shall
6 be signed by the court and filed with the clerk. If prepared, the judgment
7 form shall reflect the conviction, the sentence and the commitment, and
8 shall contain the following:
- 9 (1) The pronouncement of guilt including:
- 10 (A) The title of the crime;
- 11 (B) the statute violated; and
- 12 (C) the date the offense occurred.
- 13 (2) The sentence imposed including:
- 14 (A) The severity level of the crime of conviction, criminal history des-
15 ignation and grid block or departure sentence;
- 16 (B) if applicable, a description of any increase in sentence because of
17 departure criteria;
- 18 (C) if applicable, a statement that this defendant has been convicted
19 of severity levels 1 through 5 by reason of aiding, abetting, advising or
20 counseling another to commit a crime, or by reason of the principle pro-
21 vided in subsection (2) of K.S.A. 21-3205 and amendments thereto;
- 22 (D) a statement of the effective date of the sentence indicating
23 whether it is the date of imposition or some date earlier to give credit for
24 time confined pending disposition of the case pursuant to K.S.A. 21-4614
25 and amendments thereto or credit for time on probation or assignment
26 to community corrections pursuant to K.S.A. 21-4614a and amendments
27 thereto.
- 28 (3) The order of commitment to the custody of the secretary, if not
29 issued as a separate order.
- 30 (b) The court may attach to or include in the judgment form any of
31 the following:
- 32 (1) A statement of reasons for imposing a departure sentence;
- 33 (2) a description of aggravating or mitigating circumstances the court
34 took into consideration when ordering the commitment;
- 35 (3) the copy of the evidence from trial or part thereof transmitted
36 pursuant to K.S.A. 75-5219 and amendments thereto.
- 37 (c) The court shall forward a copy of all presentence investigation
38 reports, *departure presentence reports, if any*, and other diagnostic re-
39 ports on the offender received by the district court, including any reports
40 received from the Topeka correctional facility—east or the state security
41 hospital, to the officer having the offender in custody for delivery with
42 the offender to the correctional institution.
- 43 Sec. 3. K.S.A. 22-3439 is hereby amended to read as follows: 22-

1 3439. (a) For all felony convictions for offenses committed on or after
2 July 1, 1993, the court shall forward a signed copy of the journal entry,
3 attached together with the presentence investigation report as provided
4 by K.S.A. 21-4714, and amendments thereto, *and the departure present-*
5 *ence report, if any*, to the Kansas sentencing commission within 30 days
6 after sentencing.

7 (b) For probation revocations which result in the defendant's impris-
8 onment in the custody of the department of corrections, the court shall
9 forward a signed copy of the journal entry of revocation to the Kansas
10 sentencing commission within 30 days of final disposition.

11 (c) The court shall insure that information concerning dispositions
12 for all other felony probation revocations based upon crimes committed
13 on or after July 1, 1993, and for all class A and B misdemeanor crimes
14 and assault as defined in K.S.A. 21-3408, and amendments thereto, com-
15 mitted on or after July 1, 1993, is forwarded to the Kansas bureau of
16 investigation central repository. Such information shall be transmitted on
17 a form or in a format approved by the attorney general within 30 days of
18 that final disposition.

19 Sec. 4. K.S.A. 22-3711 is hereby amended to read as follows: 22-
20 3711. The presentence report, *the departure presentence support*, the
21 preparole report, the pre-postrelease supervision report and the super-
22 vision history, obtained in the discharge of official duty by any member
23 or employee of the Kansas parole board or any employee of the depart-
24 ment of corrections, shall be privileged and shall not be disclosed directly
25 or indirectly to anyone other than the parole board, the judge, the attor-
26 ney general or others entitled to receive the information, except that the
27 parole board, secretary of corrections or court may permit the inspection
28 of the report or parts of it by the defendant, inmate, defendant's or in-
29 mate's attorney or other person having a proper interest in it, whenever
30 the best interest or welfare of a particular defendant or inmate makes the
31 action desirable or helpful.

32 Sec. 5. K.S.A. 22-3717 is hereby amended to read as follows: 22-
33 3717. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp.
34 21-4628 prior to its repeal; K.S.A. 21-4635 through 21-4638, and amend-
35 ments thereto; K.S.A. 8-1567, and amendments thereto; K.S.A. 21-4642,
36 and amendments thereto; and K.S.A. 21-4624, and amendments thereto,
37 an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618,
38 and amendments thereto, shall be eligible for parole after serving the
39 entire minimum sentence imposed by the court, less good time credits.

40 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, and
41 amendments thereto, an inmate sentenced to imprisonment for the crime
42 of capital murder, or an inmate sentenced for the crime of murder in the
43 first degree based upon a finding of premeditated murder, committed on

1 or after July 1, 1994, shall be eligible for parole after serving 25 years of
2 confinement, without deduction of any good time credits.

3 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
4 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-4638,
5 and amendments thereto, an inmate sentenced to imprisonment for an
6 off-grid offense committed on or after July 1, 1993, but prior to July 1,
7 1999, shall be eligible for parole after serving 15 years of confinement,
8 without deduction of any good time credits and an inmate sentenced to
9 imprisonment for an off-grid offense committed on or after July 1, 1999,
10 shall be eligible for parole after serving 20 years of confinement without
11 deduction of any good time credits.

12 (3) Except as provided by K.S.A. 1993 Supp. 21-4628 prior to its
13 repeal, an inmate sentenced for a class A felony committed before July
14 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, and
15 amendments thereto, shall be eligible for parole after serving 15 years of
16 confinement, without deduction of any good time credits.

17 (4) An inmate sentenced to imprisonment for a violation of subsec-
18 tion (a) of K.S.A. 21-3402, and amendments thereto, committed on or
19 after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole
20 after serving 10 years of confinement without deduction of any good time
21 credits.

22 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
23 4643, and amendments thereto, committed on or after July 1, 2006, shall
24 be eligible for parole after serving the mandatory term of imprisonment
25 without deduction of any good time credits.

26 (c) (1) Except as provided in subsection (e), if an inmate is sentenced
27 to imprisonment for more than one crime and the sentences run consec-
28 utively, the inmate shall be eligible for parole after serving the total of:

29 (A) The aggregate minimum sentences, as determined pursuant to
30 K.S.A. 21-4608 and amendments thereto, less good time credits for those
31 crimes which are not class A felonies; and

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

34 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
35 4643, and amendments thereto, for crimes committed on or after July 1,
36 2006, the inmate shall be eligible for parole after serving the mandatory
37 term of imprisonment.

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

43 (A) Except as provided in subparagraphs (D) and (E), persons sen-

- 1 sentenced for nondrug severity level 1 through 4 crimes and drug severity
2 levels 1 and 2 crimes must serve 36 months, plus the amount of good
3 time and program credit earned and retained pursuant to K.S.A. 21-4722,
4 and amendments thereto, on postrelease supervision.
- 5 (B) Except as provided in subparagraphs (D) and (E), persons sen-
6 tenced for nondrug severity levels 5 and 6 crimes and drug severity level
7 3 crimes must serve 24 months, plus the amount of good time and pro-
8 gram credit earned and retained pursuant to K.S.A. 21-4722, and amend-
9 ments thereto, on postrelease supervision.
- 10 (C) Except as provided in subparagraphs (D) and (E), persons sen-
11 tenced for nondrug severity level 7 through 10 crimes and drug severity
12 level 4 crimes must serve 12 months, plus the amount of good time and
13 program credit earned and retained pursuant to K.S.A. 21-4722, and
14 amendments thereto, on postrelease supervision.
- 15 (D) (i) The sentencing judge shall impose the postrelease supervi-
16 sion period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C),
17 unless the judge finds substantial and compelling reasons to impose a
18 departure based upon a finding that the current crime of conviction was
19 sexually motivated. In that event, departure may be imposed to extend
20 the postrelease supervision to a period of up to 60 months.
- 21 (ii) If the sentencing judge departs from the presumptive postrelease
22 supervision period, the judge shall state on the record at the time of
23 sentencing the substantial and compelling reasons for the departure. De-
24 partures in this section are subject to appeal pursuant to K.S.A. 21-4721,
25 and amendments thereto.
- 26 (iii) In determining whether substantial and compelling reasons exist,
27 the court shall consider:
- 28 (a) Written briefs or oral arguments submitted by either the defend-
29 ant or the state;
- 30 (b) any evidence received during the proceeding;
- 31 (c) the presentence report, *the departure presentence report, if any,*
32 the victim's impact statement and any psychological evaluation as ordered
33 by the court pursuant to subsection (e) of K.S.A. 21-4714, and amend-
34 ments thereto; and
- 35 (d) any other evidence the court finds trustworthy and reliable.
- 36 (iv) The sentencing judge may order that a psychological evaluation
37 be prepared and the recommended programming be completed by the
38 offender. The department of corrections or the parole board shall ensure
39 that court ordered sex offender treatment be carried out.
- 40 (v) In carrying out the provisions of subparagraph (d)(1)(D), the court
41 shall refer to K.S.A. 21-4718, and amendments thereto.
- 42 (vi) Upon petition, the parole board may provide for early discharge
43 from the postrelease supervision period upon completion of court or-

1 dered programs and completion of the presumptive postrelease super-
2 vision period, as determined by the crime of conviction, pursuant to sub-
3 paragraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
4 postrelease supervision is at the discretion of the parole board.

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

8 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, and amend-
9 ments thereto, shall be required to participate in a treatment program
10 for sex offenders during the postrelease supervision period.

11 (E) The period of postrelease supervision provided in subparagraphs
12 (A) and (B) may be reduced by up to 12 months and the period of post-
13 release supervision provided in subparagraph (C) may be reduced by up
14 to six months based on the offender's compliance with conditions of su-
15 pervision and overall performance while on postrelease supervision. The
16 reduction in the supervision period shall be on an earned basis pursuant
17 to rules and regulations adopted by the secretary of corrections.

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

23 (G) Except as provided in subsection (u), persons convicted of a sex-
24 ually violent crime committed on or after July 1, 2006, and who are re-
25 leased from prison, shall be released to a mandatory period of postrelease
26 supervision for the duration of the person's natural life.

27 (2) As used in this section, "sexually violent crime" means:

28 (A) Rape, K.S.A. 21-3502, and amendments thereto;

29 (B) indecent liberties with a child, K.S.A. 21-3503, and amendments
30 thereto;

31 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, and
32 amendments thereto;

33 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
34 and amendments thereto;

35 (E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments
36 thereto;

37 (F) indecent solicitation of a child, K.S.A. 21-3510, and amendments
38 thereto;

39 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and
40 amendments thereto;

41 (H) sexual exploitation of a child, K.S.A. 21-3516, and amendments
42 thereto;

43 (I) aggravated sexual battery, K.S.A. 21-3518, and amendments

1 thereto;

2 (J) aggravated incest, K.S.A. 21-3603, and amendments thereto; or

3 (K) an attempt, conspiracy or criminal solicitation, as defined in
4 K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sex-
5 ually violent crime as defined in this section.

6 “Sexually motivated” means that one of the purposes for which the
7 defendant committed the crime was for the purpose of the defendant’s
8 sexual gratification.

9 (e) If an inmate is sentenced to imprisonment for a crime committed
10 while on parole or conditional release, the inmate shall be eligible for
11 parole as provided by subsection (c), except that the Kansas parole board
12 may postpone the inmate’s parole eligibility date by assessing a penalty
13 not exceeding the period of time which could have been assessed if the
14 inmate’s parole or conditional release had been violated for reasons other
15 than conviction of a crime.

16 (f) If a person is sentenced to prison for a crime committed on or
17 after July 1, 1993, while on probation, parole, conditional release or in a
18 community corrections program, for a crime committed prior to July 1,
19 1993, and the person is not eligible for retroactive application of the
20 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
21 4724, and amendments thereto, the new sentence shall not be aggregated
22 with the old sentence, but shall begin when the person is paroled or
23 reaches the conditional release date on the old sentence. If the offender
24 was past the offender’s conditional release date at the time the new of-
25 fense was committed, the new sentence shall not be aggregated with the
26 old sentence but shall begin when the person is ordered released by the
27 Kansas parole board or reaches the maximum sentence expiration date
28 on the old sentence, whichever is earlier. The new sentence shall then
29 be served as otherwise provided by law. The period of postrelease su-
30 pervision shall be based on the new sentence, except that those offenders
31 whose old sentence is a term of imprisonment for life, imposed pursuant
32 to K.S.A. 1993 Supp. 21-4628 prior to its repeal, or an indeterminate
33 sentence with a maximum term of life imprisonment, for which there is
34 no conditional release or maximum sentence expiration date, shall remain
35 on postrelease supervision for life or until discharged from supervision
36 by the Kansas parole board.

37 (g) Subject to the provisions of this section, the Kansas parole board
38 may release on parole those persons confined in institutions who are el-
39 igible for parole when: (1) The board believes that the inmate should be
40 released for hospitalization, for deportation or to answer the warrant or
41 other process of a court and is of the opinion that there is reasonable
42 probability that the inmate can be released without detriment to the com-
43 munity or to the inmate; or (2) the secretary of corrections has reported

1 to the board in writing that the inmate has satisfactorily completed the
2 programs required by any agreement entered under K.S.A. 75-5210a, and
3 amendments thereto, or any revision of such agreement, and the board
4 believes that the inmate is able and willing to fulfill the obligations of a
5 law abiding citizen and is of the opinion that there is reasonable proba-
6 bility that the inmate can be released without detriment to the community
7 or to the inmate. Parole shall not be granted as an award of clemency and
8 shall not be considered a reduction of sentence or a pardon.

9 (h) The Kansas parole board shall hold a parole hearing at least the
10 month prior to the month an inmate will be eligible for parole under
11 subsections (a), (b) and (c). At least the month preceding the parole hear-
12 ing, the county or district attorney of the county where the inmate was
13 convicted shall give written notice of the time and place of the public
14 comment sessions for the inmate to any victim of the inmate's crime who
15 is alive and whose address is known to the county or district attorney or,
16 if the victim is deceased, to the victim's family if the family's address is
17 known to the county or district attorney. Except as otherwise provided,
18 failure to notify pursuant to this section shall not be a reason to postpone
19 a parole hearing. In the case of any inmate convicted of an off-grid felony
20 or a class A felony the secretary of corrections shall give written notice
21 of the time and place of the public comment session for such inmate at
22 least one month preceding the public comment session to any victim of
23 such inmate's crime or the victim's family pursuant to K.S.A. 74-7338,
24 and amendments thereto. If notification is not given to such victim or
25 such victim's family in the case of any inmate convicted of an off-grid
26 felony or a class A felony, the board shall postpone a decision on parole
27 of the inmate to a time at least 30 days after notification is given as
28 provided in this section. Nothing in this section shall create a cause of
29 action against the state or an employee of the state acting within the scope
30 of the employee's employment as a result of the failure to notify pursuant
31 to this section. If granted parole, the inmate may be released on parole
32 on the date specified by the board, but not earlier than the date the
33 inmate is eligible for parole under subsections (a), (b) and (c). At each
34 parole hearing and, if parole is not granted, at such intervals thereafter
35 as it determines appropriate, the Kansas parole board shall consider: (1)
36 Whether the inmate has satisfactorily completed the programs required
37 by any agreement entered under K.S.A. 75-5210a, and amendments
38 thereto, or any revision of such agreement; and (2) all pertinent infor-
39 mation regarding such inmate, including, but not limited to, the circum-
40 stances of the offense of the inmate; the presentence report; *the depar-*
41 *ture presentence report, if any;* the previous social history and criminal
42 record of the inmate; the conduct, employment, and attitude of the in-
43 mate in prison; the reports of such physical and mental examinations as

1 have been made; comments of the victim and the victim's family including
2 in person comments, contemporaneous comments and prerecorded com-
3 ments made by any technological means; comments of the public; official
4 comments; and capacity of state correctional institutions.

5 (i) In those cases involving inmates sentenced for a crime committed
6 after July 1, 1993, the parole board will review the inmates proposed
7 release plan. The board may schedule a hearing if they desire. The board
8 may impose any condition they deem necessary to insure public safety,
9 aid in the reintegration of the inmate into the community, or items not
10 completed under the agreement entered into under K.S.A. 75-5210a, and
11 amendments thereto. The board may not advance or delay an inmate's
12 release date. Every inmate while on postrelease supervision shall remain
13 in the legal custody of the secretary of corrections and is subject to the
14 orders of the secretary.

15 (j) Before ordering the parole of any inmate, the Kansas parole board
16 shall have the inmate appear before either in person or via a video con-
17 ferencing format and shall interview the inmate unless impractical be-
18 cause of the inmate's physical or mental condition or absence from the
19 institution. Every inmate while on parole shall remain in the legal custody
20 of the secretary of corrections and is subject to the orders of the secretary.
21 Whenever the Kansas parole board formally considers placing an inmate
22 on parole and no agreement has been entered into with the inmate under
23 K.S.A. 75-5210a, and amendments thereto, the board shall notify the
24 inmate in writing of the reasons for not granting parole. If an agreement
25 has been entered under K.S.A. 75-5210a, and amendments thereto, and
26 the inmate has not satisfactorily completed the programs specified in the
27 agreement, or any revision of such agreement, the board shall notify the
28 inmate in writing of the specific programs the inmate must satisfactorily
29 complete before parole will be granted. If parole is not granted only
30 because of a failure to satisfactorily complete such programs, the board
31 shall grant parole upon the secretary's certification that the inmate has
32 successfully completed such programs. If an agreement has been entered
33 under K.S.A. 75-5210a, and amendments thereto, and the secretary of
34 corrections has reported to the board in writing that the inmate has sat-
35 isfactorily completed the programs required by such agreement, or any
36 revision thereof, the board shall not require further program participa-
37 tion. However, if the board determines that other pertinent information
38 regarding the inmate warrants the inmate's not being released on parole,
39 the board shall state in writing the reasons for not granting the parole. If
40 parole is denied for an inmate sentenced for a crime other than a class A
41 or class B felony or an off-grid felony, the board shall hold another parole
42 hearing for the inmate not later than one year after the denial unless the
43 parole board finds that it is not reasonable to expect that parole would

1 be granted at a hearing if held in the next three years or during the interim
2 period of a deferral. In such case, the parole board may defer subsequent
3 parole hearings for up to three years but any such deferral by the board
4 shall require the board to state the basis for its findings. If parole is denied
5 for an inmate sentenced for a class A or class B felony or an off-grid
6 felony, the board shall hold another parole hearing for the inmate not
7 later than three years after the denial unless the parole board finds that
8 it is not reasonable to expect that parole would be granted at a hearing if
9 held in the next 10 years or during the interim period of a deferral. In
10 such case, the parole board may defer subsequent parole hearings for up
11 to 10 years but any such deferral shall require the board to state the basis
12 for its findings.

13 (k) Parolees and persons on postrelease supervision shall be assigned,
14 upon release, to the appropriate level of supervision pursuant to the cri-
15 teria established by the secretary of corrections.

16 (l) The Kansas parole board shall adopt rules and regulations in ac-
17 cordance with K.S.A. 77-415 et seq., and amendments thereto, not in-
18 consistent with the law and as it may deem proper or necessary, with
19 respect to the conduct of parole hearings, postrelease supervision reviews,
20 revocation hearings, orders of restitution, reimbursement of expenditures
21 by the state board of indigents' defense services and other conditions to
22 be imposed upon parolees or releasees. Whenever an order for parole or
23 postrelease supervision is issued it shall recite the conditions thereof.

24 (m) Whenever the Kansas parole board orders the parole of an in-
25 mate or establishes conditions for an inmate placed on postrelease su-
26 pervision, the board:

27 (1) Unless it finds compelling circumstances which would render a
28 plan of payment unworkable, shall order as a condition of parole or post-
29 release supervision that the parolee or the person on postrelease super-
30 vision pay any transportation expenses resulting from returning the pa-
31 rolee or the person on postrelease supervision to this state to answer
32 criminal charges or a warrant for a violation of a condition of probation,
33 assignment to a community correctional services program, parole, con-
34 ditional release or postrelease supervision;

35 (2) to the extent practicable, shall order as a condition of parole or
36 postrelease supervision that the parolee or the person on postrelease su-
37 pervision make progress towards or successfully complete the equivalent
38 of a secondary education if the inmate has not previously completed such
39 educational equivalent and is capable of doing so;

40 (3) may order that the parolee or person on postrelease supervision
41 perform community or public service work for local governmental agen-
42 cies, private corporations organized not-for-profit or charitable or social
43 service organizations performing services for the community;

- 1 (4) may order the parolee or person on postrelease supervision to pay
2 the administrative fee imposed pursuant to K.S.A. 22-4529, and amend-
3 ments thereto, unless the board finds compelling circumstances which
4 would render payment unworkable; and
- 5 (5) unless it finds compelling circumstances which would render a
6 plan of payment unworkable, shall order that the parolee or person on
7 postrelease supervision reimburse the state for all or part of the expend-
8 itures by the state board of indigents' defense services to provide counsel
9 and other defense services to the person. In determining the amount and
10 method of payment of such sum, the parole board shall take account of
11 the financial resources of the person and the nature of the burden that
12 the payment of such sum will impose. Such amount shall not exceed the
13 amount claimed by appointed counsel on the payment voucher for indi-
14 gents' defense services or the amount prescribed by the board of indi-
15 gents' defense services reimbursement tables as provided in K.S.A. 22-
16 4522, and amendments thereto, whichever is less, minus any previous
17 payments for such services.
- 18 (n) If the court which sentenced an inmate specified at the time of
19 sentencing the amount and the recipient of any restitution ordered as a
20 condition of parole or postrelease supervision, the Kansas parole board
21 shall order as a condition of parole or postrelease supervision that the
22 inmate pay restitution in the amount and manner provided in the journal
23 entry unless the board finds compelling circumstances which would ren-
24 der a plan of restitution unworkable.
- 25 (o) Whenever the Kansas parole board grants the parole of an inmate,
26 the board, within 10 days of the date of the decision to grant parole, shall
27 give written notice of the decision to the county or district attorney of the
28 county where the inmate was sentenced.
- 29 (p) When an inmate is to be released on postrelease supervision, the
30 secretary, within 30 days prior to release, shall provide the county or
31 district attorney of the county where the inmate was sentenced written
32 notice of the release date.
- 33 (q) Inmates shall be released on postrelease supervision upon the
34 termination of the prison portion of their sentence. Time served while
35 on postrelease supervision will vest.
- 36 (r) An inmate who is allocated regular good time credits as provided
37 in K.S.A. 22-3725, and amendments thereto, may receive meritorious
38 good time credits in increments of not more than 90 days per meritorious
39 act. These credits may be awarded by the secretary of corrections when
40 an inmate has acted in a heroic or outstanding manner in coming to the
41 assistance of another person in a life threatening situation, preventing
42 injury or death to a person, preventing the destruction of property or
43 taking actions which result in a financial savings to the state.

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

3 (t) For offenders sentenced prior to the effective date of this act who
4 are eligible for modification of their postrelease supervision obligation,
5 the department of corrections shall modify the period of postrelease su-
6 pervision as provided for by this section for offenders convicted of severity
7 level 9 and 10 crimes on the sentencing guidelines grid for nondrug
8 crimes and severity level 4 crimes on the sentencing guidelines grid for
9 drug crimes on or before September 1, 2000; for offenders convicted of
10 severity level 7 and 8 crimes on the sentencing guidelines grid for nondrug
11 crimes on or before November 1, 2000; and for offenders convicted of
12 severity level 5 and 6 crimes on the sentencing guidelines grid for nondrug
13 crimes and severity level 3 crimes on the sentencing guidelines grid for
14 drug crimes on or before January 1, 2001.

15 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
16 4643, and amendments thereto, for crimes committed on or after July 1,
17 2006, shall be placed on parole for life and shall not be discharged from
18 supervision by the Kansas parole board. When the board orders the parole
19 of an inmate pursuant to this subsection, the board shall order as a con-
20 dition of parole that the inmate be electronically monitored for the du-
21 ration of the inmate's natural life.

22 (v) Whenever the Kansas parole board or the court orders a person
23 to be electronically monitored, the board or court shall order the person
24 to reimburse the state for all or part of the cost of such monitoring. In
25 determining the amount and method of payment of such sum, the board
26 or court shall take account of the financial resources of the person and
27 the nature of the burden that the payment of such sum will impose.

28 Sec. 6. K.S.A. 22-4701 is hereby amended to read as follows: 22-
29 4701. As used in this act, unless the context clearly requires otherwise:

30 (a) "Central repository" means the criminal justice information sys-
31 tem central repository created by this act and the juvenile offender in-
32 formation system created pursuant to K.S.A. 2007 Supp. 38-2326, and
33 amendments thereto.

34 (b) "Criminal history record information" means data initiated or col-
35 lected by a criminal justice agency on a person pertaining to a reportable
36 event. The term does not include:

37 (1) Data contained in intelligence or investigatory files or police work-
38 product records used solely for police investigation purposes;

39 (2) wanted posters, police blotter entries, court records of public ju-
40 dicial proceedings or published court opinions;

41 (3) data pertaining to violations of the traffic laws of the state or any
42 other traffic law or ordinance, other than vehicular homicide; or

43 (4) presentence investigation *reports*, *departure presentence reports*

1 and other reports prepared for use by a court in the exercise of criminal
2 jurisdiction or by the governor in the exercise of the power of pardon,
3 reprieve or commutation.

4 (c) “Criminal justice agency” means any government agency or sub-
5 division of any such agency which is authorized by law to exercise the
6 power of arrest, detention, prosecution, adjudication, correctional super-
7 vision, rehabilitation or release of persons suspected, charged or con-
8 victed of a crime and which allocates a substantial portion of its annual
9 budget to any of these functions. The term includes, but is not limited
10 to, the following agencies, when exercising jurisdiction over criminal mat-
11 ters or criminal history record information:

12 (1) State, county, municipal and railroad police departments, sheriffs’
13 offices and countywide law enforcement agencies, correctional facilities,
14 jails and detention centers;

15 (2) the offices of the attorney general, county or district attorneys and
16 any other office in which are located persons authorized by law to pros-
17 ecute persons accused of criminal offenses;

18 (3) the district courts, the court of appeals, the supreme court, the
19 municipal courts and the offices of the clerks of these courts;

20 (4) the Kansas sentencing commission;

21 (5) the Kansas parole board; and

22 (6) the juvenile justice authority.

23 (d) “Criminal justice information system” means the equipment (in-
24 cluding computer hardware and software), facilities, procedures, agree-
25 ments and personnel used in the collection, processing, preservation and
26 dissemination of criminal history record information.

27 (e) “Director” means the director of the Kansas bureau of
28 investigation.

29 (f) “Disseminate” means to transmit criminal history record infor-
30 mation in any oral or written form. The term does not include:

31 (1) The transmittal of such information within a criminal justice
32 agency;

33 (2) the reporting of such information as required by this act; or

34 (3) the transmittal of such information between criminal justice agen-
35 cies in order to permit the initiation of subsequent criminal justice pro-
36 ceedings against a person relating to the same offense.

37 (g) “Reportable event” means an event specified or provided for in
38 K.S.A. 22-4705, and amendments thereto.

39 Sec. 7. K.S.A. 2007 Supp. 74-9101 is hereby amended to read as
40 follows: 74-9101. (a) There is hereby established the Kansas sentencing
41 commission.

42 (b) The commission shall:

43 (1) Develop a sentencing guideline model or grid based on fairness

1 and equity and shall provide a mechanism for linking justice and correc-
2 tions policies. The sentencing guideline model or grid shall establish rati-
3 onal and consistent sentencing standards which reduce sentence dis-
4 parity, to include, but not be limited to, racial and regional biases which
5 may exist under current sentencing practices. The guidelines shall specify
6 the circumstances under which imprisonment of an offender is appro-
7 priate and a presumed sentence for offenders for whom imprisonment is
8 appropriate, based on each appropriate combination of reasonable of-
9 fense and offender characteristics. In developing its recommended sen-
10 tencing guidelines, the commission shall take into substantial considera-
11 tion current sentencing and release practices and correctional resources,
12 including but not limited to the capacities of local and state correctional
13 facilities. In its report, the commission shall make recommendations re-
14 garding whether there is a continued need for and what is the projected
15 role of, if any, the Kansas parole board and whether the policy of allo-
16 cating good time credits for the purpose of determining an inmate's eli-
17 gibility for parole or conditional release should be continued;

18 (2) consult with and advise the legislature with reference to the im-
19 plementation, management, monitoring, maintenance and operations of
20 the sentencing guidelines system;

21 (3) direct implementation of the sentencing guidelines system;

22 (4) assist in the process of training judges, county and district attor-
23 neys, court services officers, state parole officers, correctional officers,
24 law enforcement officials and other criminal justice groups. For these
25 purposes, the sentencing commission shall develop an implementation
26 policy and shall construct an implementation manual for use in its training
27 activities;

28 (5) receive presentence *investigation reports*, *departure presentence*
29 reports and journal entries for all persons who are sentenced for crimes
30 committed on or after July 1, 1993, to develop post-implementation mon-
31 itoring procedures and reporting methods to evaluate guideline sen-
32 tences. In developing the evaluative criteria, the commission shall take
33 into consideration rational and consistent sentencing standards which re-
34 duce sentence disparity to include, but not be limited to, racial and re-
35 gional biases;

36 (6) advise and consult with the secretary of corrections and members
37 of the legislature in developing a mechanism to link guidelines sentence
38 practices with correctional resources and policies, including but not lim-
39 ited to the capacities of local and state correctional facilities. Such linkage
40 shall include a review and determination of the impact of the sentencing
41 guidelines on the state's prison population, review of corrections pro-
42 grams and a study of ways to more effectively utilize correction dollars
43 and to reduce prison population;

- 1 (7) make recommendations relating to modification to the sentencing
2 guidelines as provided in K.S.A. 21-4725, and amendments thereto;
- 3 (8) prepare and submit fiscal impact and correctional resource state-
4 ment as provided in K.S.A. 74-9106, and amendments thereto;
- 5 (9) make recommendations to those responsible for developing a
6 working philosophy of sentencing guideline consistency and rationality;
- 7 (10) develop prosecuting standards and guidelines to govern the con-
8 duct of prosecutors when charging persons with crimes and when engag-
9 ing in plea bargaining;
- 10 (11) analyze problems in criminal justice, identify alternative solu-
11 tions and make recommendations for improvements in criminal law, pros-
12 ecution, community and correctional placement, programs, release pro-
13 cedures and related matters including study and recommendations
14 concerning the statutory definition of crimes and criminal penalties and
15 review of proposed criminal law changes;
- 16 (12) perform such other criminal justice studies or tasks as may be
17 assigned by the governor or specifically requested by the legislature, de-
18 partment of corrections, the chief justice or the attorney general;
- 19 (13) develop a program plan which includes involvement of business
20 and industry in the public or other social or fraternal organizations for
21 admitting back into the mainstream those offenders who demonstrate
22 both the desire and ability to reconstruct their lives during their incar-
23 ceration or during conditional release;
- 24 (14) appoint a task force to make recommendations concerning the
25 consolidation of probation, parole and community corrections services;
- 26 (15) produce official inmate population projections annually on or
27 before six weeks following the date of receipt of the data from the de-
28 partment of corrections. When the commission's projections indicate that
29 the inmate population will exceed available prison capacity within two
30 years of the date of the projection, the commission shall identify and
31 analyze the impact of specific options for (A) reducing the number of
32 prison admissions; or (B) adjusting sentence lengths for specific groups
33 of offenders. Options for reducing the number of prison admissions shall
34 include, but not be limited to, possible modification of both sentencing
35 grids to include presumptive intermediate dispositions for certain cate-
36 gories of offenders. Intermediate sanction dispositions shall include, but
37 not be limited to: intensive supervision; short-term jail sentences; halfway
38 houses; community-based work release; electronic monitoring and house
39 arrest; substance abuse treatment; and pre-revocation incarceration. In-
40 termediate sanction options shall include, but not be limited to, mecha-
41 nisms to explicitly target offenders that would otherwise be placed in
42 prison. Analysis of each option shall include an assessment of such options
43 impact on the overall size of the prison population, the effect on public

1 safety and costs. In preparing the assessment, the commission shall review
2 the experience of other states and shall review available research regard-
3 ing the effectiveness of such option. The commission's findings relative
4 to each sentencing policy option shall be presented to the governor and
5 the joint committee on corrections and juvenile justice oversight no later
6 than November 1;

7 (16) at the request of the governor or the joint committee on correc-
8 tions and juvenile justice oversight, initiate and complete an analysis of
9 other sentencing policy adjustments not otherwise evaluated by the
10 commission;

11 (17) develop information relating to the number of offenders on post-
12 release supervision and subject to electronic monitoring for the duration
13 of the person's natural life;

14 (18) determine the effect the mandatory sentencing established in
15 K.S.A. 21-4642 and 21-4643, and amendments thereto, would have on
16 the number of offenders civilly committed to a treatment facility as a
17 sexually violent predator as provided pursuant to K.S.A. 59-29a01 et seq.,
18 and amendments thereto; and

19 (19) assume the designation and functions of the state statistical anal-
20 ysis center. All criminal justice agencies, as defined in subsection (c) of
21 K.S.A. 22-4701, and amendments thereto, and the juvenile justice au-
22 thority shall provide any data or information, including juvenile offender
23 information, requested by the commission to facilitate the function of the
24 state statistical analysis center.

25 Sec. 8. K.S.A. 21-4632, 22-3439, 22-3711, 22-3717 and 22-4701 and
26 K.S.A. 2007 Supp. 74-9101 are hereby repealed.

27 Sec. 9. This act shall take effect and be in force from and after its
28 publication in the statute book.