

As Amended by Senate Committee

Session of 2008

SENATE BILL No. 479

By Committee on Judiciary

1-28

10 AN ACT relating to crimes and punishment; providing for postrelease
11 supervision for certain offenders; amending K.S.A. 21-4608 and re-
12 pealing the existing section.
13

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

15 Section 1. K.S.A. 21-4608 is hereby amended to read as follows: 21-
16 4608. (a) When separate sentences of imprisonment for different crimes
17 are imposed on a defendant on the same date, including sentences for
18 crimes for which suspended sentences, probation or assignment to a com-
19 munity correctional services program have been revoked, such sentences
20 shall run concurrently or consecutively as the court directs. Whenever
21 the record is silent as to the manner in which two or more sentences
22 imposed at the same time shall be served, they shall be served concu-
23 rrently, except as provided in subsections (c), (d) and (e).

24 (b) Any person who is convicted and sentenced for a crime commit-
25 ted while on probation, assignment to a community correctional services
26 program, parole or conditional release for a misdemeanor shall serve the
27 sentence concurrently with or consecutively to the term or terms under
28 which the person was on probation, assigned to a community correctional
29 services program or on parole or conditional release, as the court directs.

30 (c) Any person who is convicted and sentenced for a crime committed
31 while on probation, assigned to a community correctional services pro-
32 gram, on parole, on conditional release or on postrelease supervision for
33 a felony shall serve the sentence consecutively to the term or terms under
34 which the person was on probation, assigned to a community correctional
35 services program or on parole or conditional release.

36 (d) Any person who is convicted and sentenced for a crime commit-
37 ted while on release for a felony pursuant to article 28 of chapter 22 of
38 the Kansas Statutes Annotated shall serve the sentence consecutively to
39 the term or terms under which the person was released.

40 (e) (1) Any person who is convicted and sentenced for a crime com-
41 mitted while such person is incarcerated and serving a sentence for a
42 felony in any place of incarceration shall serve the sentence consecutively
43 to the term or terms under which the person was incarcerated.

1 (2) If a person is sentenced to prison for a crime committed on or
2 after July 1, 1993, while the person was imprisoned for an offense com-
3 mitted prior to July 1, 1993, and the person is not eligible for the retro-
4 active application of the sentencing guidelines act, the new sentence shall
5 not be aggregated with the old sentence but shall begin when the person
6 is paroled or reaches the conditional release date on the old sentence,
7 whichever is earlier. If the offender was past the offender's conditional
8 release date at the time the new offense was committed, the new sentence
9 shall not be aggregated with the old sentence but shall begin when the
10 person is ordered released by the Kansas parole board or reaches the
11 maximum sentence date on the old sentence, whichever is earlier. The
12 new sentence shall then be served as otherwise provided by law. The
13 period of postrelease supervision shall be based on the new sentence,
14 *except that those offenders whose old sentence is a term of imprisonment*
15 *for life, imposed pursuant to K.S.A. 21-4628, and amendments thereto,*
16 *prior to its repeal, or an indeterminate sentence ~~with a maximum term of~~*
17 *life imprisonment, for which there is no conditional release or maximum*
18 *sentence expiration date, shall remain on postrelease supervision for life*
19 **or the longest term of post incarceration supervision imposed for**
20 **all crimes upon which sentence was imposed** or until discharged from
21 supervision by the Kansas parole board. **The term of post incarceration**
22 **supervision imposed by this paragraph shall apply retroactively to**
23 **crimes committed prior to the effective date of this act.**

24 (f) The provisions of this subsection relating to parole eligibility shall
25 be applicable to persons convicted of crimes committed prior to January
26 1, 1979, but shall be applicable to persons convicted of crimes committed
27 on or after that date only to the extent that the terms of this subsection
28 are not in conflict with the provisions of K.S.A. 22-3717 and amendments
29 thereto. In calculating the time to be served on concurrent and consec-
30 utive sentences, the following rules shall apply:

31 (1) When indeterminate terms run concurrently, the shorter mini-
32 mum terms merge in and are satisfied by serving the longest minimum
33 term and the shorter maximum terms merge in and are satisfied by con-
34 ditional release or discharge on the longest maximum term if the terms
35 are imposed on the same date.

36 (2) When concurrent terms are imposed on different dates, compu-
37 tation will be made to determine which term or terms require the longest
38 period of imprisonment to reach parole eligibility, conditional release and
39 maximum dates, and that sentence will be considered the controlling
40 sentence. The parole eligibility date may be computed and projected on
41 one sentence and the conditional release date and maximum may be com-
42 puted and projected from another to determine the controlling sentence.

43 (3) When indeterminate terms imposed on the same date are to be

1 served consecutively, the minimum terms are added to arrive at an ag-
2 gregate minimum to be served equal to the sum of all minimum terms
3 and the maximum terms are added to arrive at an aggregate maximum
4 equal to the sum of all maximum terms.

5 (4) When indeterminate sentences are imposed to be served consec-
6 utively to sentences previously imposed in any other court or the sen-
7 tencing court, the aggregated minimums and maximums shall be com-
8 puted from the effective date of the subsequent sentences which have
9 been imposed as consecutive. For the purpose of determining the sen-
10 tence begins date and the parole eligibility and conditional release dates,
11 the inmate shall be given credit on the aggregate sentence for time spent
12 imprisoned on the previous sentences, but not exceeding an amount equal
13 to the previous minimum sentence less the maximum amount of good
14 time credit that could have been earned on the minimum sentence. For
15 the purpose of computing the maximum date, the inmate shall be given
16 credit for all time spent imprisoned on the previous sentence. This
17 method for computation of the maximum sentence shall be utilized for
18 all sentences computed pursuant to this subsection after July 1, 1983.

19 Nothing in this subsection (f)(4) shall affect the authority of the Kansas
20 parole board to determine the parole eligibility of inmates pursuant to
21 subsection (d) of K.S.A. 22-3717 and amendments thereto.

22 (5) When consecutive sentences are imposed which are to be served
23 consecutive to sentences for which a prisoner has been on probation,
24 assigned to a community correctional services program, on parole or on
25 conditional release, the amount of time served on probation, on assign-
26 ment to a community correctional services program, on parole or on con-
27 ditional release shall not be credited as service on the aggregate sentence
28 in determining the parole eligibility, conditional release and maximum
29 dates, except that credit shall be given for any amount of time spent in a
30 residential facility while on probation or assignment to a community cor-
31 rectional residential services program.

32 (g) When a definite and an indefinite term run consecutively, the
33 period of the definite term is added to both the minimum and maximum
34 of the indeterminate term and both sentences are satisfied by serving the
35 indeterminate term. The provisions of this subsection shall not apply to
36 crimes committed on or after July 1, 1993.

37 (h) When a defendant is sentenced in a state court and is also under
38 sentence from a federal court or other state court or is subject to sentence
39 in a federal court or other state court for an offense committed prior to
40 the defendant's sentence in a Kansas state court, the court may direct
41 that custody of the defendant may be relinquished to federal or other
42 state authorities and that such state sentences as are imposed may run
43 concurrently with any federal or other state sentence imposed.

- 1 Sec. 2. K.S.A. 21-4608 is hereby repealed.
- 2 Sec. 3. This act shall take effect and be in force from and after its
- 3 publication in the statute book.