

## SENATE Substitute for HOUSE BILL No. 2097

By Committee on Judiciary

3-19

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9 AN ACT concerning crimes, punishment and criminal procedure; relat-  
10 ing to sentencing for certain felony drug crimes; community correc-  
11 tions; amending K.S.A. 21-4611 and K.S.A. 2008 Supp. 75-5291 and  
12 repealing the existing sections.  
13

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

15 Section 1. K.S.A. 21-4611 is hereby amended to read as follows: 21-  
16 4611. (a) The period of suspension of sentence, probation or assignment  
17 to community corrections fixed by the court shall not exceed five years  
18 in felony cases involving crimes committed prior to July 1, 1993, or two  
19 years in misdemeanor cases, subject to renewal and extension for addi-  
20 tional fixed periods not exceeding five years in such felony cases, nor two  
21 years in misdemeanor cases. In no event shall the total period of proba-  
22 tion, suspension of sentence or assignment to community corrections for  
23 a felony committed prior to July 1, 1993, exceed the greatest maximum  
24 term provided by law for the crime, except that where the defendant is  
25 convicted of nonsupport of a child, the period may be continued as long  
26 as the responsibility for support continues. Probation, suspension of sen-  
27 tence or assignment to community corrections may be terminated by the  
28 court at any time and upon such termination or upon termination by  
29 expiration of the term of probation, suspension of sentence or assignment  
30 to community corrections, an order to this effect shall be entered by the  
31 court. The provisions of K.S.A. 75-5291, and amendments thereto, shall  
32 be applicable to any assignment to a community correctional services  
33 program pursuant to this section.

34 (b) The district court having jurisdiction of the offender may parole  
35 any misdemeanant sentenced to confinement in the county jail. The pe-  
36 riod of such parole shall be fixed by the court and shall not exceed two  
37 years and shall be terminated in the manner provided for termination of  
38 suspended sentence and probation.

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

43 (1) For nondrug crimes the recommended duration of probations is:

- 1 (A) Thirty-six months for crimes in crime severity levels 1 through 5;  
2 and
- 3 (B) 24 months for crimes in crime severity levels 6 and 7.
- 4 (2) For drug crimes the recommended duration of probation is 36  
5 months for crimes in crime severity levels 1 and 2.
- 6 (3) *Except as otherwise provided*, in felony cases sentenced at severity  
7 levels 9 and 10 on the sentencing guidelines grid for nondrug crimes and  
8 severity level 4 on the sentencing guidelines grid for drug crimes, if a  
9 nonprison sanction is imposed, the court shall order the defendant to  
10 serve a period of probation, ~~or assignment to a community correctional~~  
11 ~~services program as provided under K.S.A. 75-5291 et seq., and amend-~~  
12 ~~ments thereto~~, of up to 12 months in length.
- 13 (4) In felony cases sentenced at severity level 8 on the sentencing  
14 guidelines grid for nondrug crimes ~~and~~, severity level 3 on the sentencing  
15 guidelines grid for drug crimes *and felony cases sentenced pursuant to*  
16 *K.S.A. 21-4729, and amendments thereto*, if a nonprison sanction is im-  
17 posed, the court shall order the defendant to serve a period of probation,  
18 or assignment to a community correctional services program, as provided  
19 under K.S.A. 75-5291 et seq., and amendments thereto, of up to 18  
20 months in length.
- 21 (5) If the court finds and sets forth with particularity the reasons for  
22 finding that the safety of the members of the public will be jeopardized  
23 or that the welfare of the inmate will not be served by the length of the  
24 probation terms provided in subsections (c)(3) and (c)(4), the court may  
25 impose a longer period of probation. Such an increase shall not be con-  
26 sidered a departure and shall not be subject to appeal.
- 27 (6) Except as provided in subsections (c)(7) and (c)(8), the total pe-  
28 riod in all cases shall not exceed 60 months, or the maximum period of  
29 the prison sentence that could be imposed whichever is longer. Nonprison  
30 sentences may be terminated by the court at any time.
- 31 (7) If the defendant is convicted of nonsupport of a child, the period  
32 may be continued as long as the responsibility for support continues. If  
33 the defendant is ordered to pay full or partial restitution, the period may  
34 be continued as long as the amount of restitution ordered has not been  
35 paid.
- 36 (8) The court may modify or extend the offender's period of super-  
37 vision, pursuant to a modification hearing and a judicial finding of neces-  
38 sity. Such extensions may be made for a maximum period of five years or  
39 the maximum period of the prison sentence that could be imposed,  
40 whichever is longer, inclusive of the original supervision term.
- 41 (d) The provisions of subsection (c), as amended by this act, shall be  
42 applied retroactively. The sentencing court shall direct that a review of  
43 all persons serving a nonprison sanction for a crime in severity levels 8,

1 9 or 10 of the sentencing guidelines grid for nondrug crimes or a crime  
2 in severity levels 3 or 4 of the sentencing guidelines grid for drug crimes  
3 be conducted. On or before September 1, 2000, the duration of such  
4 person's probation shall be modified in conformity with the provisions of  
5 subsection (c).

6 Sec. 2. K.S.A. 2008 Supp. 75-5291 is hereby amended to read as  
7 follows: 75-5291. (a) (1) The secretary of corrections may make grants to  
8 counties for the development, implementation, operation and improve-  
9 ment of community correctional services that address the criminogenic  
10 needs of felony offenders including, but not limited to, adult intensive  
11 supervision, substance abuse and mental health services, employment and  
12 residential services, and facilities for the detention or confinement, care  
13 or treatment of offenders as provided in this section except that no com-  
14 munity corrections funds shall be expended by the secretary for the pur-  
15 pose of establishing or operating a conservation camp as provided by  
16 K.S.A. 75-52,127 and amendments thereto.

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

20 (A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the  
21 sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F,  
22 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In  
23 addition, the court may place in a community correctional services pro-  
24 gram adult offenders, convicted of a felony offense, whose offense is clas-  
25 sified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the  
26 sentencing guidelines grid for nondrug crimes;

27 (B) whose severity level and criminal history score designate a pre-  
28 sumptive prison sentence on either sentencing guidelines grid but receive  
29 a nonprison sentence as a result of departure;

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

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

41 (E) on and after ~~July 1, 2010~~ *January 1, 2011*, for offenders who are  
42 expected to be subject to supervision in Kansas, who are determined to  
43 be "high risk or needs, or both" by the use of a statewide, mandatory,

1 standardized risk assessment tool or instrument which shall be specified  
2 by the Kansas sentencing commission;

3 (F) placed in community correctional services programs as a condi-  
4 tion of supervision following the successful completion of a conservation  
5 camp program; or

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

8 (3) ~~(A)~~ Notwithstanding any law to the contrary and subject to the  
9 availability of funding therefor, adult offenders sentenced to community  
10 supervision in Johnson county for felony crimes that occurred on or after  
11 July 1, 2002, but before ~~July 1, 2010~~ *January 1, 2011*, shall be placed  
12 under court services or community corrections supervision based upon  
13 court rules issued by the chief judge of the 10th judicial district. The  
14 provisions contained in this subsection shall not apply to offenders trans-  
15 ferred by the assigned agency to an agency located outside of Johnson  
16 county. The provisions of this paragraph shall expire on ~~July 1, 2010~~ *Jan-*  
17 *uary 1, 2011*.

18 ~~(B) On or before the first day of the 2009 legislative session, the~~  
19 ~~Kansas sentencing commission shall submit a written report on such of-~~  
20 ~~fender program to the senate standing committee on judiciary and the~~  
21 ~~house of representatives standing committee on judiciary.~~

22 (4) Nothing in this act shall prohibit a community correctional serv-  
23 ices program from providing services to juvenile offenders upon approval  
24 by the local community corrections advisory board. Grants from com-  
25 munity corrections funds administered by the secretary of corrections  
26 shall not be expended for such services.

27 (5) The court may require an offender for whom a violation of con-  
28 ditions of release or assignment or a nonprison sanction has been estab-  
29 lished, as provided in K.S.A. 22-3716, and amendments thereto, to serve  
30 any time for the sentence imposed or which might originally have been  
31 imposed in a state facility in the custody of the secretary of corrections  
32 without a prior assignment to a community correctional services program  
33 if the court finds and sets forth with particularity the reasons for finding  
34 that the safety of the members of the public will be jeopardized or that  
35 the welfare of the inmate will not be served by such assignment to a  
36 community correctional services program.

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

42 (2) The secretary shall appoint one member from the southeast com-  
43 munity corrections region, one member from the northeast community

1 corrections region, one member from the central community corrections  
2 region and one member from the western community corrections region.  
3 The deputy secretary of community and field services shall designate two  
4 members from the state at large. The secretary shall have final appoint-  
5 ment approval of the members designated by the deputy secretary. The  
6 committee shall reflect the diversity of community correctional services  
7 with respect to geographical location and average daily population of of-  
8 fenders under supervision.

9 (3) Each member shall be appointed for a term of three years and  
10 such terms shall be staggered as determined by the secretary. Members  
11 shall be eligible for reappointment.

12 (4) The committee, in collaboration with the deputy secretary of com-  
13 munity and field services or the deputy secretary's designee, shall rou-  
14 tinely examine and report to the secretary on the following issues:

15 (A) Efficiencies in the delivery of field supervision services;  
16 (B) effectiveness and enhancement of existing interventions;  
17 (C) identification of new interventions; and  
18 (D) statewide performance indicators.

19 (5) The committee's report concerning enhanced or new interven-  
20 tions shall address:

21 (A) Goals and measurable objectives;  
22 (B) projected costs;  
23 (C) the impact on public safety; and  
24 (D) the evaluation process.

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

30 Sec. 3. K.S.A. 21-4611 and K.S.A. 2008 Supp. 75-5291 are hereby  
31 repealed.

32 Sec. 4. This act shall take effect and be in force from and after its  
33 publication in the Kansas register.