

Approved April 27, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Michael O'Neal at
Chairperson

12:30 ~~xxx~~/p.m. on March 31, 1989 in room 313-S of the Capitol.

All members were present except:

Representatives Adam, Peterson, Shriver, Snowbarger, Vancrum and Whiteman, who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

CONSIDERATION OF S.B. 49 - Corrections, community corrections, participation by counties

The Chairman explained that it is proposed to use S.B. 49 to do some sentencing modifications to provide short term relief in the prison population. A subcommittee composed of Representative Michael O'Neal, Representative Martha Jenkins, Representative Kathleen Sebelius and Representative Bill Wisdom unanimously recommended the attachment amendments, see Attachment I.

The Chairman also recommended striking on page 16, line 220, "On or after January 1, 1990". On page 18 and 19, strike "county or group of counties" and insert "Corrections Advisory Board"; and in line 325, page 29, substitute "Corrections Advisory Board" for "other programs".

The Chairman explained New Sec. 16 was struck from the bill since Labette and Meade Counties already have the authority to operate conservation camps under existing community corrections statutes. Sec. 16 amends into the bill the provisions of H.B. 2508, which addresses House Arrest, mainly in the area of juvenile offenders. It also allows House Arrest for second subsequent DUIs after serving the initial 48 hours. Sec. 17 allows a House Arrest program for any child 14 or more years but less than 18 years in prosecution of traffic offenses. Sec. 18 sets forth "an attempt to commit a class E felony is a class A misdemeanor". Sec. 19 and Sec. 20 address worthless checks. Sec. 21 amends the burglary act. Sec. 22 addresses credit card fraud. Sec. 23 amends the habitual violator act. Sec. 24 and Sec. 25 address sentencing for repeat offenders. Sec. 26 addresses the mandatory firearms act. Sec. 28 amends Good Time credits. Sec. 29 addresses provisions of House Arrest. Sec. 30 adds the provision "or urinalysis tests for controlled substances performed by the community corrections programs in Montgomery and Sedgwick Counties". Sec. 31 provides that no community corrections funds shall be expended by the Secretary for the purpose of establishing or operating a conservation camp. The changes in Sec. 32, 33, 34 and 35 are clean up amendments. Sec. 36 provides that every Corrections Advisory Board shall appoint a treasurer, and sets forth the requirements and duties of the treasurer.

The subcommittee recommended Sub.for S.B. 49 be passed, as amended.

The Committee meeting was adjourned at 2:20 p.m.

Substitute for SENATE BILL No. 49

By Committee on Judiciary

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House Judiciary
12/31/89
Attachment I

15 AN ACT concerning corrections; relating to community corrections;
16 requiring participation by ~~counties~~ certain
17 corrections board and prescribing certain duties thereof; relating to
18 composition of corrections advisory boards; grants to counties for
19 correctional services; certain sentence presumptions; ~~conservation~~
20 camps; amending K.S.A. ~~21-4603, 21-4606, 75-5206, 75-5262, 75-~~
21 ~~5292, 75-5293, 75-5295, 75-5296, as amended by section 306 of~~
22 ~~chapter 356 of the 1988 Session Laws of Kansas, 75-5297 and 75-~~
23 ~~52,102 and K.S.A. 1988 Supp. 75-52,103 and repealing the existing~~
24 ~~sections; also repealing K.S.A. 21-4603a, 75-52,106 and 75-52,108~~
25 ~~and K.S.A. 1988 Supp. 75-52,101.~~

21-3307, 21-3707, 21-3708, 21-3715, 21-3729, 21-4504, 21-4603,
21-4606a, 21-4608, 21-4614a, 21-4618, 22-2802, 22-3725, 75-5291,
75-5294, 75-52,100, 75-52,105,
8-1567, 8-2117, 38-1663, 65-1,108, 75-52,107

26 *Be it enacted by the Legislature of the State of Kansas:* Except as provided in subsection (c),
27 New Section 1. (a) ~~Before January 1, 1990, each county in this~~ July
28 state, based on the recommendation from the administrative judge
29 of the judicial district in which each such county is located as pro-
30 vided in subsection (b), shall have:

31 (1) Established a corrections advisory board in accordance with
32 K.S.A. 75-5297 and amendments thereto and adopted a compre-
33 hensive plan for the development, implementation, operation and
34 improvement of the correctional services described in K.S.A. 75-
35 5291 and amendments thereto which has been approved by the
36 secretary of corrections and which, in addition to such matters as
37 are prescribed by rules and regulations of the secretary of corrections,
38 provides for centralized administration and control of the correctional
39 services under such plan;

40 (2) entered into an agreement with a group of cooperating coun-
41 ties to establish a regional or multi-county community correctional
42 services program; established a corrections advisory board in ac-
cordance with K.S.A. 75-5297 and amendments thereto; and adopted
a comprehensive plan for the development, implementation, oper-

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46 ation and improvement of the correctional services described in
47 K.S.A. 75-5291 and amendments thereto which has been approved
48 by the secretary of corrections and which, in addition to such matters
49 as are prescribed by rules and regulations of the secretary of cor-
50 rections, provides for centralized administration and control of the
51 correctional services under such plan; or

52 (3) contracted for correctional services described in K.S.A. 75-
53 5291 and amendments thereto from any county or group of coop-
54 erating counties, as provided in K.S.A. 75-52,107 and amendments
55 thereto, which are receiving grants under this act.

56 (b) Before September 15, 1989, the administrative judge in each
57 judicial district shall make a recommendation to the board of county
58 commissioners in each county in such judicial district which has not
59 established a program to provide for the correctional services de-
60 scribed in K.S.A. 75-5291 and amendments thereto, as to which
61 option provided in subsection (a) each such county in such judicial
62 district should choose to comply with the provisions of this act.

63 Sec. 2. On January 1, 1990, K.S.A. 21-4603 is hereby amended
64 to read as follows: 21-4603. (1) Whenever any person has been found
65 guilty of a crime and the court finds that an adequate presentence
66 investigation cannot be conducted by resources available within the
67 judicial district, including mental health centers and mental health
68 clinics, the court may require that a presentence investigation be
69 conducted by the state reception and diagnostic center or by the
70 state security hospital. If the offender is sent to the state reception
71 and diagnostic center or the state security hospital for a presentence
72 investigation under this section, the institution or hospital may keep
73 the offender confined for a maximum of ~~120 days~~ ~~180 days~~ or until the
74 court calls for the return of the offender. While held at the reception
75 and diagnostic center or the state security hospital the defendant
76 may be treated the same as any person committed to the secretary
77 of corrections or secretary of social and rehabilitation services for
78 purposes of maintaining security and control, discipline, and emer-
79 gency medical or psychiatric treatment, and general population man-
agement except that no such person shall be transferred out of the
state or to a federal institution or to any other location unless the
transfer is between the reception and diagnostic center and the state

(c) Any county, having a population of less than 30,000 or
from which less than five defendants, who have committed class D
or E felonies, per year are committed to the department of
corrections shall not be subject to subsection (a) or (b).

60 days, except that an inmate may be held for a longer period of
time on order of the secretary,

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security hospital. The state reception and diagnostic center or the state security hospital shall compile a complete mental and physical evaluation of such offender and shall make its ~~finding~~ known to the court in the presentence report.

findings and recommendations

(2) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(a) Commit the defendant to the custody of the secretary of corrections or, if confinement is for a term less than one year, to jail for the term provided by law;

(b) impose the fine applicable to the offense;

(c) release the defendant on probation subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(d) suspend the imposition of the sentence subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(e) assign the defendant to a community correctional services program subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(f) assign the defendant to a conservation camp for a period not to exceed 180 days;

(g) assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto; or

~~(g)~~ (h) impose any appropriate combination of (a), (b), (c), (d), (e) ~~or~~, (f) or (g).

In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole or conditional release.

The court in committing a defendant to the custody of the secretary of corrections shall fix a maximum term of confinement within the limits provided by law. In those cases where the law does not fix a maximum term of confinement for the crime for which the de-

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9 fendant was convicted, the court shall fix the maximum term of such
120 confinement. In all cases where the defendant is committed to the
121 custody of the secretary of corrections, the court shall fix the min-
122 imum term within the limits provided by law. (a)

123 (3) ~~Except when an appeal is taken and determined adversely to~~
124 ~~the defendant as provided in subsection (b) of this subsection (3),~~ 120
125 ~~at any time within 120 180 days after a sentence is imposed or~~
126 ~~within 120 days, after probation or assignment to a community~~
127 ~~correctional services program has been revoked, the court may mod-~~
128 ~~ify such sentence, revocation of probation or assignment to a com-~~
129 ~~munity correctional services program by directing that a less severe~~
130 ~~penalty be imposed in lieu of that originally adjudged within statutory~~
131 ~~limits.~~

132 (b) If an appeal is taken and determined adversely to the de- 120
133 fendant, such sentence may be modified within 120 180 days after
134 the receipt by the clerk of the district court of the mandate from
135 the supreme court or court of appeals.

136 (4) The court ~~may~~ modify the sentence at any time before the
137 expiration thereof when such modification is recommended by the
138 secretary of corrections ~~and the court is satisfied that the best in-~~
139 ~~terests of the public will not be jeopardized and that the welfare of~~
140 ~~the inmate will be served by such modification.~~ The court shall have
141 the power to impose a less severe penalty upon the inmate, including
142 the power to reduce the minimum below the statutory limit on the
143 minimum term prescribed for the crime of which the inmate has
144 been convicted. The recommendation of the secretary of corrections,
145 the hearing on the recommendation and the order of modification
146 shall be made in open court. Notice of the recommendation of mod-
147 ification of sentence and the time and place of the hearing thereon
148 shall be given by the inmate, or by the inmate's legal counsel, at
149 least 21 days prior to the hearing to the county or district attorney
150 of the county where the inmate was convicted. After receipt of such
151 notice and at least 14 days prior to the hearing, the county or district
152 attorney shall give notice of the recommendation of modification of
153 sentence and the time and place of the hearing thereon to any victim
154 of the inmate's crime who is alive and whose address is known to
155 the county or district attorney or, if the victim is deceased, to the

and shall modify such sentence if recommended by the state reception and diagnostic center unless the court finds that the safety of the public will be jeopardized and that the welfare of the inmate will not be served by such modification

shall

unless the court finds that the safety of the public will be jeopardized and that the welfare of the inmate will not be served by such modification

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victim's next of kin if the next of kin's address is known to the county or district attorney. Proof of service of each notice required to be given by this subsection shall be filed with the court.

(5) After such defendant has been assigned to a conservation camp but prior to the end of 180 days, the chief administrator of such camp ~~and the secretary of corrections~~ shall file a performance report and recommendations with the court. The court shall enter an order based on such report and recommendations modifying the sentence, if appropriate, by sentencing the defendant to any of the authorized dispositions provided in subsection (2), except to reassign such person to a conservation camp as provided in subsection (2)(f).

(5) (6) Dispositions which do not involve commitment to the custody of the secretary of corrections and commitments which are revoked within ~~120~~ 180 days shall not entail the loss by the defendant of any civil rights. 120

(6) (7) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(7) (8) An application for or acceptance of probation, suspended sentence or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

Sec. 3. On January 1, 1990, K.S.A. 21-4606a is hereby amended to read as follows: 21-4606a. The presumptive sentence for a person who has never before been convicted of a felony, but has now been convicted of a class E felony ~~shall be probation or assignment to a community correctional services program on terms the court determines,~~ D or or convicted of an attempt to commit a class D felony

~~unless the conviction is of a crime specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated.~~ or the crime is a felony violation of K.S.A. 65-4127b, and amendments thereto, which involved the manufacture, sale, offer for sale or possession with intent to sell such controlled substances. In determining whether to impose the presumptive sentence, the court shall consider any prior record of the person's having been convicted or having been adjudicated to have committed, while a juvenile, an offense which would constitute a felony if committed by an adult.

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193 If the presumptive sentence provided by this section is not imposed,
194 the provisions of section 13 shall apply.

195 Sec. 4. On January 1, 1990, K.S.A. 75-5206 is hereby amended
196 to read as follows: 75-5206. To carry out the purposes of this act,
197 the secretary shall have authority to order the housing and confine-
198 ment of any person sentenced to his or her the secretary's custody
199 to any institution or facility herein placed under the secretary's su-
200 pervision and management or to any contract facility, including a
201 conservation camp.

202 All institutions of the department of corrections shall be institutions
203 for the incarceration of felons.

204 Sec. 5. On January 1, 1990, K.S.A. 75-5262 is hereby amended
205 to read as follows: 75-5262. (a) The primary function and purpose
206 of the Kansas state reception and diagnostic center shall be to pro-
207 vide a thorough and scientific examination and study of all felony
208 offenders of the male sex sentenced by the courts of this state to
209 the custody of the secretary of corrections so that each such offender
210 may be assigned to a state correctional institution having the type
211 of security (maximum, medium or minimum) and programs of ed-
212 ucation, employment or treatment designed to accomplish a maxi-
213 mum of rehabilitation for such offender. All such offenders shall be
214 delivered to said the center as provided in K.S.A. 75-5220 and
215 amendments thereto, upon being sentenced by the court.

216 (b) Each inmate so delivered to the Kansas state reception and
217 diagnostic center pursuant to K.S.A. 75-5220 and amendments
218 thereto shall be examined and studied and shall have a rehabilitation
219 program planned and recommended for him the inmate. An inmate
220 shall be held at the Kansas state reception and diagnostic center
221 for a period not exceeding sixty (60) 60 days except that an inmate
222 may be held for a longer period of time at said the center on order
223 of the secretary. Upon the completion of the case study, diagnosis
224 and report on an inmate, the inmate shall be assigned to one of the
225 state correctional institutions or facilities for confinement ~~or a con-~~
226 ~~servation camp described in section 16 or 17~~, which shall be selected
as the secretary shall prescribe prescribes, based on the examination
and study of the inmate, or the inmate may be paroled or he may
229 be assigned to one of the state hospitals for further treatment not

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2 exceeding sixty (60) 60 days where an ultimate parole is indicated
 231 at the expiration of said such additional time. If an inmate is assigned
 232 to a conservation camp described in section ~~16 or 17~~, the chief ³⁷
 233 administrator of such camp ~~and the secretary shall file a~~ performance
 234 report and recommendations prior to 180 days after such assignment with the court
 235 with the original sentencing court. The court shall enter an order
 236 based on such report and recommendations modifying the sentence,
 237 if appropriate, by sentencing the defendant to any of the authorized
 238 dispositions provided in subsection (2) of K.S.A. 21-4603 and amend-
 239 ments thereto, except to reassign such inmate to a conservation camp
 240 as provided in subsection (2)(f).

241 Sec. 6. On January 1, 1990, K.S.A. 75-5292 is hereby amended
 242 to read as follows: 75-5292. (a) Subject to the other provisions of
 243 this act, each ~~county~~ may qualify for grants under this act if: (1) ~~_____~~ corrections advisory board

244 It has a population of thirty thousand (30,000) or more;

245 (2) it has entered into a cooperative agreement for the pur-
 246 poses of this act with one or two other counties and all such
 247 cooperating counties are located within one or more contiguous
 248 judicial districts and have a total population of twenty thousand
 249 (20,000) or more;

250 (3) it has entered into a cooperative agreement for purposes
 251 of this act with three or more counties and all such cooperating
 252 counties are located within one or more contiguous judicial
 253 districts; or

254 (4) it has a population of less than thirty thousand (30,000)
 255 and the secretary of corrections finds that the county is unable
 256 to enter into a cooperative agreement for purposes of this act
 257 with one or more counties to meet the conditions in subsection
 258 (a)(2) or (a)(3) above after a good faith effort to do so, but that
 259 it is able to adequately implement a comprehensive plan which
 260 will significantly improve or expand the correctional services
 261 described in K.S.A. 75-5201 in that county.

262 (b) Each county which is eligible under subsection (a) to
 263 qualify for grants under this act, may qualify by itself or in
 264 cooperation with other counties to receive such grants by es-
 265 tablishing a corrections advisory board, in accordance with
 266 K.S.A. 75-5207, and by adopting a comprehensive plan for the

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268 development, implementation, operation and improvement of
269 the correctional services described in K.S.A. 75-5201 which has
270 been approved by the secretary of corrections. In addition to
271 such matters as are prescribed by rules and regulations of the
272 secretary of corrections, the comprehensive plan shall provide
273 for centralized administration and control of the correctional
services under the comprehensive plan.

274 (e) In any case where one or more counties which do not
275 constitute an entire judicial district propose to enter into a
276 cooperative agreement to qualify for grants under this act, each
277 of the other counties within the judicial district shall be given
278 the opportunity to enter into such agreement with the propos-
279 ing counties to qualify for such grants. In each such case, if a
280 county elects to not become qualified for grants under this act,
281 the board of county commissioners of that county shall adopt
282 a resolution to that effect and send a copy of such resolution
283 to the secretary of corrections. At any time thereafter and in
284 accordance with rules and regulations of the secretary of cor-
285 rections, the county may change such election and may enter
286 into a cooperative agreement with the other counties in the
287 judicial district and any cooperating counties in contiguous ju-
288 dicial districts to qualify for grants under this act.

289 (d) In each case where a county later elects under subsec-
290 tion (e) to enter into a cooperative agreement with the other
291 county or counties in its judicial district and any cooperating
292 counties in contiguous judicial districts which have previously
293 qualified for grants under this act, the corrections advisory
294 board shall be reconstituted and the comprehensive plan shall
295 be revised in order to include the additional county. Each
296 comprehensive plan so revised shall be resubmitted for ap-
297 proval to the boards of county commissioners and to the sec-
298 retary of corrections. Prior to such approval by the secretary of
299 corrections, the previous comprehensive plan shall be in effect
300 and the county or counties which had previously qualified for
301 grants under this act shall continue to be qualified to receive
such grants with regard to the previous comprehensive plan in
accordance with this act to receive grants under this act by com-

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plying with the provisions of section 1.

305 (e) (b) Subject to the requirements of centralized administration
 306 and control of correctional services under ~~subsection (b)~~ *section 1*
 307 and the provisions of agreements between cooperating counties under
 308 subsection ~~(f)~~ (c), the respective ~~boards of county commissioners~~ — corrections advisory board
 309 shall retain all authority for the expenditure of ~~funds~~ *moneys*, in-
 310 cluding grants received under this act, and for the implementation
 311 of and the operations under the comprehensive plan approved by
 312 the secretary of corrections. The comprehensive plan shall be re-
 313 viewed and approved by the board of county commissioners of each
 314 county to which the plan pertains prior to submission to the secretary
 315 of corrections for approval.

316 (f) (c) The boards of county commissioners of ~~two or more coun-~~
 317 ~~ties located within or constituting one or more contiguous ju-~~
 318 ~~dicial districts~~ *all counties cooperating together to establish a*
 319 *corrections advisory board and to adopt a comprehensive plan pur-*
 320 *suant to this act* may enter into cooperative agreements ~~to qualify~~
 321 ~~their respective counties for grants under this act.~~ Such counties
 322 shall cooperate and enter into such agreements for all purposes of
 323 this act in the manner prescribed by K.S.A. 12-2901 ~~to 12-2907,~~
 324 ~~inclusive,~~ *through 12-2907* and amendments thereto, to the extent
 325 that ~~said those~~ statutes do not conflict with the provisions of this
 326 act. ~~No group of counties entering into cooperative agreements~~
 327 ~~for purposes of this act shall include any county located within~~
 328 ~~a judicial district which is not contiguous to the judicial district~~
 329 ~~in which such group of counties is located.~~

330 Sec. 7. On January 1, 1990, K.S.A. 75-5293 is hereby amended
 331 to read as follows: 75-5293. In order to assist a county or group of
 332 cooperating counties which has established a corrections advisory
 333 board but which does not have a comprehensive plan which has
 334 been approved by the secretary of corrections and which requires
 335 financial aid to defray all or part of the expenses incurred by cor-
 336 rections advisory board members in discharging their official duties
 337 pursuant to K.S.A. 75-5299 *and amendments thereto*, the secretary
 338 of corrections, upon receipt of resolutions by the board or boards
 339 of county commissioners, or the administrative authority established
 340 by cooperating counties, certifying the need for and inability to pay

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such expenses, may pay quarterly to the ~~county or counties~~ an
342 amount of not to exceed ~~ten percent (10%)~~ 10% of the maximum
343 quarterly grant payment for which the ~~county~~ would be qualified to
344 receive under K.S.A. 75-52,105 and amendments thereto ~~or, in the~~
345 ~~case of cooperating counties, ten percent (10%)~~ 10% of the total
346 ~~of the maximum quarterly grant payments which the counties would~~
347 ~~be qualified to receive under K.S.A. 75-52,105 and amendments~~
348 ~~thereto. Any county or group of cooperating counties may appeal~~ corrections advisory board

349 any decision of the secretary pursuant to this section to the state
350 community corrections board as provided in section 14.

351 Sec. 8. On January 1, 1990, K.S.A. 75-5295 is hereby amended
352 to read as follows: 75-5295. For the purposes of this act and to
353 provide for the correctional services described in K.S.A. 75-5291,
354 any and amendments thereto, a county or group of cooperating
355 counties electing to come within the provisions of this act,
356 through their ~~boards of county commissioners, or administrative bod-~~
357 ~~ies established by cooperating counties, may:~~ corrections advisory board

358 (1) (a) Acquire by any lawful means, including purchase, lease
359 or transfer of custodial control, the lands, buildings and equipment
360 necessary and incidental to such purposes;

361 (2) (b) enter into contracts, which are necessary and incidental
362 to such purposes;

363 (3) (c) determine and establish the administrative structure best
364 suited to the efficient administration and delivery of such correctional
365 services;

366 (4) (d) employ a director and such other officers, employees, and
367 agents as deemed necessary to carry out the provisions of this act;

368 (5) (e) make grants in accordance with the comprehensive plan
369 of funds provided by grant payments under K.S.A. 75-52,105 and
370 amendments thereto to corporations organized not for profit, for de-
371 velopment, operation and improvement of such correctional services;
372 and

373 (6) (f) use unexpended funds, accept gifts, grants and subsidies
374 from any lawful source, and apply for, accept and expend federal
375 funds.

Sec. 9. On January 1, 1990, K.S.A. 75-5296, as amended by
section 306 of chapter 356 of the 1988 Session Laws of Kansas, is

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hereby amended to read as follows: 75-5296. (a) Except as provided in K.S.A. 75-5293 and amendments thereto, no ~~county electing to come within the provisions of this act shall be qualified to receive grants under this act unless and until the comprehensive plan for such county, or the group of counties with which such county is cooperating,~~ is approved by the secretary of corrections.

corrections advisory board

(b) The secretary of corrections shall adopt rules and regulations establishing additional requirements for receipt of grants under this act and, standards for the operation of the correctional services described in K.S.A. 75-5291 and amendments thereto and standards for performance evaluation of the correctional services described in K.S.A. 75-5291 and amendments thereto. In order to remain eligible for grants the ~~county or group of cooperating counties~~ shall substantially comply with the operating standards established by the secretary of corrections.

corrections advisory board

corrections advisory board

(c) The secretary of corrections shall review annually the comprehensive plans submitted by a ~~county or group of cooperating counties~~ and the facilities and programs operated under such plans. The secretary of corrections is authorized to examine books, records, facilities and programs for purposes of recommending needed changes or improvements.

(d) In reviewing the comprehensive plan or any annual recommendations or revisions thereto, the secretary of corrections shall limit the scope of the review of the corrections advisory board's statement of priorities, needs, budget, policies and procedures, to the determination that such statement does not directly conflict with rules and regulations and operating standards adopted pursuant to subsection (b) and the community corrections act under K.S.A. 75-5290 et seq., and amendments thereto.

~~(d)~~ When the secretary of corrections determines that there are reasonable grounds to believe that a ~~county or group of cooperating counties~~ is not in substantial compliance with the minimum operating standards adopted pursuant to this section, at least 30 days notice shall be given the ~~county or to each county in the group of cooperating counties~~ and a hearing shall be held in accordance with the provisions of the Kansas administrative procedure act to ascertain whether there is substantial compliance or satisfactory progress being made toward compliance. If the secretary of corrections determines at such hearing that there is not substantial compliance or satisfactory progress being made toward compliance, the secretary of corrections may suspend all or a portion of any grant under this act until the required standards of operation have been met.

(e)

corrections advisory board

~~(e)~~ Determinations made by the secretary pursuant to this section are subject to review by the state community corrections board as provided in section 14.

(f)

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Sec. 10. K.S.A. 75-5297 is hereby amended to read as follows:

47 75-5297. (a) Subject to the other provisions of this section, each
48 corrections advisory board established under this act shall consist of
49 12 or more members who shall be representative of law enforcement,
50 prosecution, the judiciary, education, corrections, ethnic minorities,
51 the social services and the general public and shall be appointed as
52 follows:

53 (1) The law enforcement representatives shall be: (A) The sheriff
54 or, if two or more counties are cooperating, the sheriff selected by
55 the sheriffs of those counties, or the designee of that sheriff, and
56 (B) the chief of police of the city with the largest population at the
57 time the board is established or, if two or more counties are co-
58 operating, the chief of police selected by the chiefs of police of each
59 city with the largest population in each county at the time the board
60 is established, or the designee of that chief of police, except that
61 for purposes of this paragraph (1) in the case of a county having
62 consolidated law enforcement and not having a sheriff or any chiefs
63 of police, "sheriff" means the law enforcement director and "chief
64 of police of the city with the largest population" or "chief of police"
65 means a law enforcement officer, other than the law enforcement
66 director, appointed by the county law enforcement agency for the
67 purposes of this section;

68 (2) the prosecution representative shall be the county or district
69 attorney or, if two or more counties are cooperating, a county or
70 district attorney selected by the county and district attorneys of those
71 counties, or the designee of that county or district attorney;

72 (3) the judiciary representative shall be the administrative judge
73 of the district court of the judicial district containing the county or
74 group of counties ~~or, if counties in two or more judicial districts~~
75 ~~are cooperating, an administrative judge selected by the ad-~~
76 ~~ministrative judges of those judicial districts, or a judge of the~~
77 ~~district court designated by that administrative judge or, if two~~
78 ~~or more counties in two or more judicial districts are cooperating,~~
79 ~~the administrative judge of each such judicial district, or a judge of~~
80 ~~the district court designated by each such administrative judge;~~

81 (4) the education representative shall be an educational profes-
82 sional appointed by the board of county commissioners of the county

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or, if two or more counties are cooperating, by the boards of county commissioners of those counties;

85 (5) a court services officer designated by the administrative judge
86 of the district court of the judicial district containing the county or
87 group of counties or, if counties in two or more judicial districts are
88 cooperating, a court services officer designated by the administrative
89 judges of those judicial districts;

90 (6) the board of county commissioners of the county shall appoint
91 or, if two or more counties are cooperating, the boards of county
92 commissioners of those counties shall together appoint three addi-
93 tional members of the corrections advisory board *or, if necessary,*
94 *additional members so that each county which is not otherwise rep-*
95 *resented on the board is represented by at least one member of such*
96 *board;* and

97 (7) ~~the remaining~~ three members of the corrections advisory
98 board shall be appointed by cities located within the county or group
99 of cooperating counties as follows: (A) If there are three or more
100 cities of the first class, the governing body of each of the three cities
101 of the first class having the largest populations shall each appoint
102 one member; (B) if there are two cities of the first class, the governing
103 body of the larger city of the first class shall appoint two members
104 and the governing body of the smaller city of the first class shall
105 appoint one member; (C) if there is only one city of the first class,
106 the governing body of such city shall appoint all three members;
107 and (D) if there are no cities of the first class, the governing body
108 of each of the three cities having the largest populations shall each
109 appoint one member.

110 (b) If possible, of the ~~six~~ members appointed by the boards of
111 county commissioners in accordance with subsection (a)(6) and by
112 the governing bodies of cities in accordance with subsection (a)(7),
113 members shall be representative of one or more of the following:
114 (1) Parole officers; (2) public or private social service agencies; (3)
115 ex-offenders; (4) the health care professions; and (5) the general
116 public.

117 (c) At least two members of each corrections advisory board shall
be representative of ethnic minorities and no more than 2/3 of the
members of each board shall be members of the same sex.

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121 (d) In lieu of the provisions of subsections (a) through (c), a
122 group of cooperating counties as provided in subsection (a)(2) of
123 section 1 may establish a corrections advisory board which such
124 board's membership shall be determined by such group of counties
125 through cooperative action pursuant to the provisions of K.S.A. 12-
126 2901 through 12-2907 and amendments thereto, to the extent that
127 those statutes do not conflict with the provisions of this act, except
128 that if two or more counties in two or more judicial districts are
129 cooperating, the administrative judge of each such judicial district,
130 or a judge of the district court designated by each such administrative
131 judge shall be a member of such board. In determining the mem-
132 bership of the corrections advisory board pursuant to this subsection,
133 such group of counties shall appoint members who are representative
134 of law enforcement, prosecution, the judiciary, education, correc-
135 tions, ethnic minorities, the social services and the general public.
136 Any corrections advisory board established and the membership de-
137 termined pursuant to this subsection shall be subject to the approval
138 of the secretary of corrections.

138 Sec. 11. On January 1, 1990, K.S.A. 75-52,102 is hereby
139 amended to read as follows: 75-52,102. (a) The comprehensive plan
140 submitted to the secretary of corrections for approval shall include
141 those items prescribed by rules and regulations adopted by the
142 secretary, which may require the inclusion of the following:

143 (1) A program for the detention, supervision and treatment of
144 persons under pretrial detention or under commitment;

145 (2) delivery of other correctional services defined in K.S.A. 75-
146 5291 and amendments thereto; and

147 (3) proposals for new facilities, programs and services, which pro-
148 posals must include a statement of the need, purposes and objectives
149 of the proposal and the administrative structure, staffing pattern,
150 staff training, financing, degree of community involvement and client
151 participation which are planned for the proposal.

152 (b) In addition to the foregoing requirements made by this sec-
153 tion, each participating county or group of counties shall be required
154 to develop and implement a procedure for the review by the cor-
155 rections advisory board and the board or boards of county commis-
156 sioners of new program applications and other matters proposed to

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158 be included under the comprehensive plan and for the manner in
159 which corrections advisory board action shall be taken thereon. A
160 description of this procedure shall be made available to members of
the public upon request.

161 Sec. 12. On January 1, 1990, K.S.A. 1988 Supp. 75-52,103 is
162 hereby amended to read as follows: 75-52,103. (a) Except as provided
163 in K.S.A. 75-5293 and amendments thereto, each grant under this
164 act shall be expended by the ~~county receiving it for correctional~~
165 ~~services as described in K.S.A. 75-5291 and amendments thereto in~~
166 ~~addition to the amount required to be expended by such county~~
167 ~~under this section. Each calendar year in which a county receives~~
168 ~~grant payments under K.S.A. 75-52,105 and amendments thereto,~~
169 ~~the county shall make expenditures for correctional services as de-~~
170 ~~scribed in K.S.A. 75-5291 and amendments thereto from any funds~~
171 ~~other than from grants under this act in an amount equal to or~~
172 ~~exceeding the amount of base year corrections expenditures as de-~~
173 ~~termined by the secretary of corrections under subsection (b).~~

corrections advisory board

174 (b) The secretary of corrections shall audit and determine the
175 amount of the expenditures for correctional services as described in
176 K.S.A. 75-5291 and amendments thereto of each ~~county applying~~
177 ~~for a grant under this act during the calendar year immediately~~
178 ~~preceeding the calendar year in which the county will receive~~
179 ~~its first grant payment under K.S.A. 75-52,105 and amendments~~
180 ~~thereto. The amount so determined shall be the amount of base~~
181 ~~year corrections expenditures of the county. In determining the~~
182 ~~amount of base year expenditures that portion of corrections'~~
183 ~~personnel salaries actually assumed by the state as described~~
184 ~~in K.S.A. 20-361 and 20-362, and amendments thereto, shall~~
185 ~~not be considered as a portion of the base year requirement~~
186 ~~as provided in section 15.~~

corrections advisory board

187 (c) In any case where a ~~county receiving a grant does not make~~
188 ~~expenditures for correctional services from funds other than from~~
189 ~~grants under this act as required by this section, the grant to such~~
190 ~~county for the next ensuing calendar year shall be reduced by an~~
191 ~~amount equal to the amount by which such county failed to make~~
such required amount of expenditures.

corrections advisory board

(d) The secretary of corrections may provide, by rules and reg-

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ulations, procedures for the following, as determined by the secretary to further the purposes of this act:

(1) The transfer, to ~~one or more other counties~~ of any portion of a ~~county's annual grant which is not included in such county's~~ program budget for the current program year; and

the corrections advisory board
corrections advisory board's

(2) the transfer, to ~~one or more other counties~~ of any portion of a ~~county's annual grant which remains unused at the end of such county's~~ program year and is not included in such ~~county's~~ program budget for the ensuing program year.

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(e) Except as otherwise provided pursuant to subsection (d), if a ~~participating county~~ does not expend the full amount of the grant received for any one year under the provisions of this act, the ~~county~~ shall retain the unexpended amount of the grant for expenditure for correctional services as described in K.S.A. 75-5291 and amendments thereto during any ensuing calendar year. The secretary of corrections shall reduce the grant for the ensuing calendar year by an amount equal to the amount of the previous year's grant which was not expended and was retained by the ~~county~~, unless the secretary finds that the amount so retained is needed for and will be expended during the ensuing calendar year for expenditures under the applicable comprehensive plan.

corrections advisory board

New Sec. 13. (1) ~~On or after January 1, 1990, except as provided in K.S.A. 21-4606a and amendments thereto,~~ the presumptive sentence for a person convicted of a class ~~C~~, D or E felony shall be assignment to a community correctional services program on terms the court determines.

If probation is not granted pursuant to K.S.A. 21-4606a, and amendments thereto

(2) On or after January 1, 1990, in determining whether to impose the presumptive sentence provided by this section, the court shall consider whether any of the following aggravating circumstances existed:

(a) Whether the crime is a felony violation of K.S.A. ~~65-4127a~~ and 65-4127b and amendments thereto which involved the manufacture, sale, offer for sale or possession with intent to sell such controlled substances;

(b) whether the crime is a crime specified in article ~~35~~ of chapter ~~34~~, or 36 21 of the Kansas Statutes Annotated; or

(c) any prior record of the person's having been convicted of

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232 felony or having been adjudicated to have committed, while a ju-
233 venile, an offense which would constitute a felony if committed by
an adult.

234 ~~(9) On or after January 1, 1990, if the presumptive sen-~~
235 ~~provided by K.S.A. 21-4606a and amendments thereto for a person~~
236 ~~who has never been convicted of a felony, but has now been con-~~
237 ~~victed of a class E felony is not imposed, the presumptive sentence~~
238 ~~provided by this section shall apply.~~

239 New Sec. 14. (a) There is hereby established the state com-
240 munity corrections board. The board shall consist of five members
241 who shall be appointed as follows:

242 (1) Three members appointed by the governor who shall serve
243 at the pleasure of the governor, one of whom shall represent the
244 department of corrections, one of whom shall represent the de-
245 partment of social and rehabilitation services with speciality in ju-
246 venile matters and one of whom shall be actively involved with
247 community correctional service programs; and

248 (2) two members appointed by the chief justice of the Kansas
249 supreme court who shall serve at the pleasure of the chief justice,
250 who shall be chosen from the justices of the supreme court or judges
251 of the court of appeals or of any district court.

252 All members appointed to fill vacancies in the membership of the
253 board shall be appointed in like manner as that provided for the
254 original appointment of the member.

255 (b) The governor shall appoint a chairperson. The board shall
256 elect any additional officers from among its members necessary to
257 discharge its duties.

258 (c) The board shall have the following duties:

259 (1) To hear appeals ~~from the secretary of corrections~~ on decisions
260 of the secretary regarding grants for expenses of a corrections ad-
261 visory board which does not have a comprehensive plan approved
262 by the secretary as provided in K.S.A. 75-5293 and amendments
263 thereto;

264 (2) to hear appeals ~~from the secretary of corrections~~ on decisions
265 of the secretary regarding the determination of grant amounts for
community correctional services programs as provided in section 15;

(3) to hear appeals ~~from the secretary of corrections~~ on decisions

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of the secretary regarding the organization of new community correctional services programs and their plans for services. In hearing such appeals, the board shall encourage counties to enter into agreements with a group of cooperating counties as provided in subsection (a)(2) of section 1 or to contract for correctional services from any county or group of counties as provided in subsection (a)(3) of section 1; and

(4) to review minimum operating standards and performance evaluation standards established by the secretary of corrections for community correctional service programs.

(d) The board shall meet on call of the chairperson of the board. Three members of the board shall constitute a quorum for the transaction of business.

(e) Members of the board shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223 and amendments thereto.

(f) The board shall appoint such staff as necessary to perform such duties as directed by the board. The staff appointed by the board shall be in the unclassified service under the Kansas civil service act and shall receive compensation fixed by the board with the approval of the governor.

New Sec. 15. (a) On or before ~~January~~ July 1, 1990, the secretary of corrections shall determine annually the amount of the grant for the ensuing fiscal year for each ~~county or group of counties~~ which has qualified to receive grants as provided in this section.

corrections advisory board

(b) (1) For each county or group of counties entitled to receive grants prior to ~~January~~ July 1, 1990, the secretary of corrections shall determine on or before each January 1 the amount of the grant for the ensuing fiscal year based on the fiscal year 1989 per capita costs of such ~~county or group of counties~~ and the budget request of each ~~county or group of counties~~ for additional grant moneys submitted to the secretary as provided by subsection (b)(2). The per capita costs of each ~~county or group of counties~~ shall be determined by dividing the amount of the fiscal year 1989 grant of such ~~county or group of counties~~ by the number of individuals served by the community correctional services program of such ~~county or group of counties~~ during fiscal year 1989. Subject to the other provisions of

corrections advisory board

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306 ~~county or group of counties~~ shall be an amount equal to the fiscal
 307 year 1989 per capita costs, as determined pursuant to this subsection,
 308 multiplied by the number of individuals to be served by the com-
 309 munity correctional services program of such ~~county or group of~~
 310 ~~counties~~ during the ensuing fiscal year. No grant for a county or
 311 group of counties which received a grant for fiscal year 1989 shall
 312 be less than the amount of the grant received by the ~~county or~~
 313 ~~group of counties~~ during fiscal year 1989, if such ~~county or group~~
 314 ~~of counties~~ continues to serve, or is projected to serve, at least the
 315 same number of persons as served during fiscal year 1989 and con-
 316 tinues to provide the same community correctional services as pro-
 317 vided during fiscal year 1989, as provided by K.S.A. 75-5291 and
 318 amendments thereto.

corrections advisory board

319 (2) As a part of such ~~county's or group of counties~~ budget request
 320 submitted to the secretary, the ~~county or group of counties~~ may
 321 request a higher grant amount than determined as provided in sub-
 322 section (b)(1) for new or expanded programs as provided in K.S.A.
 323 75-52,102 and amendments thereto. The secretary shall determine
 324 such additional grant amount for such new or expanded programs
 325 based on existing experience of other programs offering similar
 326 programs.

corrections advisory board's

corrections advisory board

327 (c) On or before ~~January 1, 1990~~, each ~~county or group of counties~~
 328 applying to receive a grant for the first time shall submit a budget
 329 request to the secretary. The secretary shall determine the amount
 330 of the grant for such ~~county or group of counties~~ based on existing
 331 experience of similar programs. For each fiscal year thereafter, the
 332 amount of the grant for such ~~county or group of counties~~ shall be
 333 determined as provided in subsection (b), except that the grant
 334 received by such ~~county or group of counties~~ pursuant to this sub-
 335 section shall not be less than the amount of the grant received by
 336 such ~~county or group of counties~~ during ~~fiscal year 1990~~, if such
 337 ~~county or group of counties~~ continues to serve at least the same
 338 number of persons as served during ~~fiscal year 1990~~ and continues
 339 to provide the same community correctional services as provided
 340 during ~~fiscal year 1990~~ as provided by K.S.A. 75-5291 and amend-
 341 ments thereto. The per capita costs of such ~~county or group of~~

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corrections advisory board

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~~counties~~ for the purposes of determining grants for ensuing fiscal years under this section shall be determined as provided in subsection (b), except that per capita costs shall be based on ~~fiscal year~~

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corrections advisory board

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(d) All determinations of base year per capita costs pursuant to this section, shall include all actual audited costs incurred for approved programs included without limitation as to fixed administrative costs.

~~New Sec. 16. The secretary of corrections may enter into a contract with LeBette and Meade counties to provide for the assignment of inmates under the custody of the secretary to conservation camps established and operated by such counties for a period not to exceed 180 days. Such contract shall be for a period not to exceed one year and may be renewable upon agreement by the secretary and such counties for additional one-year periods. A conservation camp may accept defendants assigned to such camp by the court as provided in K.S.A. 21-4603 and amendments thereto.~~

Insert attached

New Sec. 17. On or after the effective date of this act, the secretary of corrections may establish conservation camps to provide inmates with a highly structured residential work program. Such conservation camps shall be a state correctional institution or facility for confinement under the supervision of the secretary. A conservation camp may accept defendants assigned to such camp as provided in K.S.A. 21-4603 and amendments thereto.

Renumber remaining sections accordingly.

Sec. 18. K.S.A. 75-5297 is hereby repealed.

Sec. 19. On January 1, 1990, K.S.A. ~~21-1000, 21-4603a, 21-4606a, 75-5206, 75-5262, 75-5292, 75-5293, 75-5295, 75-5296,~~ as amended by section 306 of chapter 356 of the 1988 Session Laws of Kansas, 75-52,102, 75-52,106 and 75-52,108 and K.S.A. 1988 Supp. 75-52,101 and 75-52,103 are hereby repealed.

~~21-3207, 21-3707, 21-3708, 21-3715, 21-3729, 21-4504, 21-4603, 21-4603a, 21-4606a, 21-4618, 22-2802, 22-3725,~~

~~8-1567, 8-2117, 38-1663,~~

~~Sec. 20. This act shall take effect and be in force from and after its publication in the statute book.~~ 31

~~Sec. 30. On July 1, 1990, K.S.A. 75-5292 is hereby repealed.~~

Sec. 16. K.S.A. 1988 Supp. 8-1567 is hereby amended to read as follows: 8-1567. (a) No person shall operate or attempt to operate any vehicle within this state while:

(1) The alcohol concentration in the person's blood or breath, at the time or within two hours after the person operated or attempted to operate the vehicle, is .10 or more;

(2) under the influence of alcohol;

(3) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or

(4) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.

(b) No person shall operate or attempt to operate any vehicle within this state if the person is a habitual user of any narcotic, hypnotic, somnifacient or stimulating drug.

(c) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(d) Violation of this section is a misdemeanor. Upon a first conviction of a violation of this section, a person shall be sentenced to not less than 48 consecutive hours' nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$200 nor more than \$500. The person convicted must serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. In addition, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program or treatment program as provided in K.S.A. 8-1008 and amendments thereto, or both the education and treatment programs.

(e) On a second conviction of a violation of this section,

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a person shall be sentenced to not less than 90 days' nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000. Except as provided in subsection (g), the person convicted must serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008 and amendments thereto.

(f) On the third or a subsequent conviction of a violation of this section, a person shall be sentenced to not less than 90 days' nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$2,500. Except as provided in subsection (g), the person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The court may also require as a condition of parole that such person enter into and complete a treatment program for alcohol and drug abuse as provided by K.S.A. 8-1008 and amendments thereto.

(g) On a second or subsequent conviction of a violation of this section, the court may place the person convicted under a house arrest program, pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.

(h) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(h) (i) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall

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receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

~~(i)~~ (j) The court shall report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings or a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

~~(j)~~ (k) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:

(1) "Conviction" includes being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(2) "conviction" includes being convicted of a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(3) only convictions occurring in the immediately preceding five years, including prior to the effective date of this act, shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or

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subsequent offender, whichever is applicable; and

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

~~(k)~~ (l) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the court shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 1988 Supp. 8-1014.

~~(i)~~ (m) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof, but the minimum penalty prescribed by any such ordinance or resolution shall not be less than nor exceed the minimum penalty prescribed by this act for the same violation, nor shall the maximum penalty in any such ordinance or resolution exceed the maximum penalty prescribed for the same violation. In addition, any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

~~(m)~~ (n) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

~~(n)~~ (o) The alternatives set out in subsections (a)(1) and (2) may be pleaded in the alternative, and the state, city or county may, but shall not be required to, elect one of the two

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prior to submission of the case to the fact finder.

Sec. 17. K.S.A. 1988 Supp. 8-2117 is hereby amended to read as follows: 8-2117. (a) Subject to the provisions of this section, a court of competent jurisdiction may hear prosecutions of traffic offenses involving any child 14 or more years of age but less than 18 years of age. The court hearing the prosecution may impose any fine authorized by law for a traffic offense, including a violation of K.S.A. 8-1567 and amendments thereto, and may order that the child be placed in a juvenile detention facility, as defined by K.S.A. 38-1602 and amendments thereto, for not more than 10 days. If the statute under which the child is convicted requires a revocation or suspension of driving privileges, the court shall revoke or suspend such privileges in accordance with that statute. Otherwise, the court may suspend the license of any person who is convicted of a traffic offense and who was under 18 years of age at the time of commission of the offense. Suspension of a license shall be for a period not exceeding one year, as ordered by the court. Upon suspending any license pursuant to this section, the court shall require that the license be surrendered to the court and shall transmit the license to the division of vehicles with a copy of the court order showing the time for which the license is suspended. The court may modify the time for which the license is suspended, in which case it shall notify the division of vehicles in writing of the modification. After the time period has passed for which the license is suspended, the division of vehicles shall issue an appropriate license to the person whose license had been suspended, upon successful completion of the examination required by K.S.A. 8-241 and amendments thereto and upon proper application and payment of the required fee unless the child's driving privileges have been revoked, suspended or cancelled for another cause and the revocation, suspension or cancellation has not expired.

(b) Instead of suspending a driver's license pursuant to this section, the court may place restrictions on the child's

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driver's privileges pursuant to K.S.A. 1985 Supp. 8-292 and amendments thereto.

(c) Instead of the penalties provided in subsections (a) and (b), the court may place the child under a house arrest program, pursuant to K.S.A. 21-4603b, and amendments thereto, and sentence the child to the same sentence as an adult traffic offender under K.S.A. 1988 Supp. 8-2116, and amendments thereto.

(e) (d) As used in this section, "traffic offense" means a violation of the uniform act regulating traffic on highways or a violation of a city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind.

Sec. 18. K.S.A. 21-3301 is hereby amended to read as follows: 21-3301. (a) An attempt is any overt act toward the perpetration of a crime done by a person who intends to commit such crime but fails in the perpetration thereof or is prevented or intercepted in executing such crime.

(b) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed or the means employed or the act itself were such that the commission of the crime was not possible.

(c) Except as otherwise provided by law:

(1) An attempt to commit a class A felony is a class B felony.

(2) An attempt to commit a class B felony is a class C felony.

(3) An attempt to commit a class C felony is a class D felony.

(4) An attempt to commit a class D or-E felony is a class E felony.

(5) An attempt to commit a class E felony is a class A misdemeanor.

(5) (6) An attempt to commit a class A misdemeanor is a class B misdemeanor.

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(6) (7) An attempt to commit a class B or C misdemeanor is a class C misdemeanor.

Sec. 19. K.S.A. 21-3707 is hereby amended to read as follows: 21-3707. (1) Giving a worthless check is the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check, order or draft, that the maker or drawer has no deposit in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation.

(2) In any prosecution against the maker or drawer of a check, order or draft payment, of which has been refused by the drawee on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, the drawee unless the maker or drawer pays the holder thereof the amount due thereon and a service charge not exceeding \$10 for each check, within seven days after notice has been given to the maker or drawer that such check, draft or order has not been paid by the drawee. As used in this section, "notice" includes oral or written notice to the person entitled thereto. Written notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check, draft or order.

(3) It shall be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

(a) Was postdated, or

(b) was given to a payee who had knowledge or had been informed, when the payee accepted such check, draft or order,

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that the maker did not have sufficient funds in the hands of the drawee to pay such check, draft or order upon presentation.

(4) Giving a worthless check is a class D felony if the check, draft or order is drawn for \$50,000 or more. Giving a worthless check is a class E felony if the check, draft or order is drawn for ~~\$150 or more~~ at least \$500 but less than \$50,000. Giving a worthless check is a class A misdemeanor if the check, draft or order is drawn for less than ~~\$150~~ \$500.

Sec. 20. K.S.A. 21-3708 is hereby amended to read as follows: 21-3708. (1) Habitually giving worthless checks is:

(a) Giving a worthless check, as defined by K.S.A. 21-3707 and amendments thereto, drawn for less than ~~\$150~~ \$500, by a person who has within two years immediately preceding the giving of such worthless check, been twice convicted of giving worthless checks; or

(b) Giving two or more worthless checks, as defined by K.S.A. 21-3707 and amendments thereto, each drawn for less than ~~\$150~~ \$500, if the total amount for which such worthless checks are drawn is ~~\$150~~ \$500 or more and each of such checks was given on the same day.

(2) A complaint, information or indictment charging a violation of subsection (1) (a) shall allege specifically that the defendant has twice been convicted of giving a worthless check and shall allege the dates and places of such convictions and that both of them occurred within a period of two years immediately preceding the crime charged. For the purpose of subsection (1) (b) worthless checks bearing the same date shall be presumed to have been given the same day. Any complaint, information or indictment charging a violation of this section shall allege that the defendant feloniously committed the crime.

(3) Habitually giving worthless checks is a class E felony.

Sec. 21. K.S.A. 21-3715 is hereby amended to read as follows: 21-3715. Burglary is knowingly and without authority entering into or remaining within any: (1) Building, mobile home, tent or other structure, not used as a residence or any motor

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vehicle, aircraft, watercraft, railroad car or other means of conveyance of persons or property, with intent to commit a felony or theft therein; or (2) building, mobile home, tent or other structure used as a residence.

Burglary as described in subsection 2 is a class D felony. Burglary as described in subsection 1 is a class E felony.

Sec. 22. K.S.A. 21-3729 is hereby amended to read as follows: 21-3729. (1) Unlawful use of a financial card is any of the following acts done with intent to defraud and for the purpose of obtaining money, goods, property, services or communication services, other than telecommunication services as defined by K.S.A. 21-3745 and amendments thereto:

(a) Using a financial card without the consent of the cardholder; or

(b) knowingly using a financial card, or the number or description thereof, which has been revoked or canceled; or

(c) using a falsified, mutilated, altered or nonexistent financial card or a number or description thereof.

(2) For the purposes of this section:

(a) "Financial card" means an identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property, services or communication services or to conduct other financial transactions.

(b) "Cardholder" means the person or entity to whom or for whose benefit a financial card is issued.

(3) For the purposes of subsection (1) (b) hereof, a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company.

(4) Unlawful use of a financial card is a class D felony if the money, goods, property, services or communication services obtained within any seven-day period are of the value of \$50,000 or more. Unlawful use of a financial card is a class E felony if ~~the money, goods, property, services or communication services~~

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obtained within any seven-day period are of the value of ~~\$150~~ or more at least \$500 but less than \$50,000. Unlawful use of a financial card is a class A misdemeanor if the money, goods, property, services or communication services obtained within a seven-day period are of the value of less than ~~\$150~~ \$500.

Sec. 23. K.S.A. 21-4504 is hereby amended to read as follows: 21-4504. (a) If a defendant is convicted of a felony specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated a second time, the punishment for which is confinement in the custody of the secretary of corrections, the trial judge may sentence the defendant as follows, upon motion of the prosecuting attorney:

(1) The court may fix a minimum sentence of not less than the least nor more than twice the greatest minimum sentence authorized by K.S.A. 21-4501 and amendments thereto, for the crime for which the defendant is convicted; and

(2) the court may fix a maximum sentence of not less than the least nor more than twice the greatest maximum sentence provided by K.S.A. 21-4501 and amendments thereto, for the crime.

(b) If a defendant is convicted of a felony specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated a third or subsequent time, the trial judge shall sentence the defendant as follows, upon motion of the prosecuting attorney:

(1) The court shall fix a minimum sentence of not less than the greatest nor more than three times the greatest minimum sentence authorized by K.S.A. 21-4501 and amendments thereto, for the crime for which the defendant is convicted; and

(2) the court may fix a maximum sentence of not less than the least nor more than three times the greatest maximum sentence provided by K.S.A. 21-4501 and amendments thereto, for the crime.

(c) If any portion of a sentence imposed under K.S.A. 21-107a, and amendments thereto, or under this section, is determined to be invalid by any court because a prior felony conviction is itself invalid, upon resentencing the court may

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consider evidence of any other prior felony conviction that could have been utilized under K.S.A. 21-107a, and amendments thereto, or under this section, at the time the original sentence was imposed, whether or not it was introduced at that time, except that if the defendant was originally sentenced as a second offender, the defendant shall not be resentenced as a third offender.

(d) The provisions of this section shall not be applicable to:

(1) Any person convicted of a felony of which a prior conviction of a felony is a necessary element; or

(2) any person convicted of a felony for which a prior conviction of such felony is considered in establishing the class of felony for which the person may be sentenced.

(e) A judgment may be rendered pursuant to this section only after the court finds from competent evidence the fact of former convictions for felony committed by the prisoner, in or out of the state.

Sec. 24. K.S.A. 21-4608 is hereby amended to read as follows: 21-4608. (1) When separate sentences of imprisonment for different crimes are imposed on a defendant on the same date, including sentences for crimes for which suspended sentences, probation or assignment to a community correctional services program have been revoked, such sentences shall run concurrently or consecutively as the court directs. Whenever the record is silent as to the manner in which two or more sentences imposed at the same time shall be served, they shall be served concurrently, except as provided in subsections (3), (4) and (5).

(2) Any person who is convicted and sentenced for a crime committed while on probation, assignment to a community correctional services program, parole or conditional release for a misdemeanor shall serve the sentence concurrently with or consecutively to the term or terms under which the person was on probation, assigned to a community correctional services program or on parole or conditional release, as the court directs.

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(3) Any person who is convicted and sentenced for a crime committed while on probation, assigned to a community correctional services program, on parole or on conditional release for a felony shall serve the sentence consecutively to the term or terms under which the person was on probation, assigned to a community correctional services program or on parole or conditional release.

(4) Any person who is convicted and sentenced for a crime committed while on release for a felony pursuant to article 28 of chapter 22 of the Kansas Statutes Annotated shall serve the sentence consecutively to the term or terms under which the person was released.

(5) Any person who is convicted and sentenced for a crime committed while such person is incarcerated and serving a sentence for a felony in any place of incarceration shall serve the sentence consecutively to the term or terms under which the person was incarcerated.

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

(a) When indeterminate terms run concurrently, the shorter minimum terms merge in and are satisfied by serving the longest minimum term and the shorter maximum terms merge in and are satisfied by conditional release or discharge on the longest maximum term if the terms are imposed on the same date.

(b) When concurrent terms are imposed on different dates, computation will be made to determine which term or terms require the longest period of incarceration to reach parole eligibility, conditional release and maximum dates, and that sentence will be considered the controlling sentence. The parole eligibility date

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may be computed and projected on one sentence and the conditional release date and maximum may be computed and projected from another to determine the controlling sentence.

(c) When indeterminate terms imposed on the same date are to be served consecutively, the minimum terms are added to arrive at an aggregate minimum to be served equal to the sum of all minimum terms and the maximum terms are added to arrive at an aggregate maximum equal to the sum of all maximum terms.

(d) When indeterminate sentences are imposed to be served consecutively to sentences previously imposed in any other court or the sentencing court, the aggregated minimums and maximums shall be computed from the effective date of the subsequent sentences which have been imposed as consecutive. For the purpose of determining the sentence begins date and the parole eligibility and conditional release dates, the inmate shall be given credit on the aggregate sentence for time spent incarcerated on the previous sentences, but not exceeding an amount equal to the previous minimum sentence less the maximum amount of good time credit that could have been earned on the minimum sentence. For the purpose of computing the maximum date, the inmate shall be given credit for all time spent incarcerated on the previous sentence. This method for computation of the maximum sentence shall be utilized for all sentences computed pursuant to this subsection after July 1, 1983.

Nothing in this subsection (6)(d) shall affect the authority of the Kansas parole board to determine the parole eligibility of inmates pursuant to subsection (d) of K.S.A. 22-3717 and amendments thereto.

(e) When consecutive sentences are imposed which are to be served consecutive to sentences for which a prisoner has been on probation, assigned to a community correctional services program, on parole or on conditional release, the amount of time served on probation, assigned on assignment to a community correctional services program, on parole or on conditional release shall not be credited as service on the aggregate sentence in determining

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the parole eligibility, conditional release and maximum dates, except that credit shall be given for any amount of time spent in a residential facility while on probation or assignment to a community correctional residential services program.

(7) When a definite and an indefinite term run consecutively, the period of the definite term is added to both the minimum and maximum of the indeterminate term and both sentences are satisfied by serving the indeterminate term.

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

Sec. 25. K.S.A. 21-4614a is hereby amended to read as follows: 21-4614a. (a) In any criminal action in which probation, assignment to a conservation camp or assignment to community corrections is revoked and the defendant is sentenced to confinement, for the purpose of computing the defendant's sentence and parole eligibility and conditional release dates, the defendant's sentence is to be computed from a date, hereafter to be specifically designated in the sentencing order of the journal entry of judgment or the judgment form delivered with the defendant to the correctional institution. Such date shall be established to reflect and shall be computed as an allowance for the time which the defendant has spent in a residential facility while on probation, assignment to a conservation camp or assignment to community corrections. The commencing date of such sentence shall be used as the date of sentence and all good time allowances as are authorized by law are to be allowed on such sentence from such date as though the defendant were actually incarcerated in a correctional institution. Such credit is not to be considered to reduce the minimum or maximum terms of

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confinement authorized by law for the offense of which the defendant has been convicted.

Sec. 26. K.S.A. 21-4618 is hereby amended to read as follows: 21-4618. (1) ~~Probation, assignment to a community correctional services program or suspension of sentence shall not be granted to any defendant who is convicted of the commission of~~ Upon conviction of any person who has committed the crime of rape, the crime of aggravated sodomy or any crime set out in article 34 of chapter 21 of the Kansas Statutes Annotated in which the defendant used any firearm in the commission thereof ~~and such defendant shall be sentenced to not less than the minimum sentence of imprisonment authorized by law for that crime~~ there shall be at sentencing a presumption that the defendant be sentenced to imprisonment and not granted probation, assignment to a community correctional services program, assignment to a conservation camp or suspension of sentence. This section shall not apply to any crime committed by a person under 18 years of age.

(2) When a court has sentenced a defendant as provided above, the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced pursuant to this K.S.A. 21-4618 and amendments thereto based on a finding by the court that a firearm was so used.

Sec. 27. K.S.A. 22-2802 is hereby amended to read as follows: 22-2802. (1) Any person charged with a crime shall, at the persons's first appearance before a magistrate, be ordered released pending preliminary examination or trial upon the execution of an appearance bond in an amount specified by the magistrate and sufficient to assure the appearance of such person before the magistrate when ordered and to assure the public safety. If the person is being bound over for a felony, the bond shall also be conditioned on the person's appearance in the district court at the time required by the court to answer the

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charge against such person and at any time thereafter that the court requires. The magistrate may impose such of the following additional conditions of release as will reasonably assure the appearance of the person for preliminary examination or trial:

(a) Place the person in the custody of a designated person or organization agreeing to supervise such person;

(b) place restrictions on the travel, association or place of abode of the person during the period of release;

(c) impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody during specified hours; or

(d) place the person under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto.

(2) The appearance bond shall be executed with sufficient solvent sureties who are residents of the state of Kansas, unless the magistrate determines, in the exercise of such magistrate's discretion, that requiring sureties is not necessary to assure the appearance of the person at the time ordered.

(3) A deposit of cash in the amount of the bond may be made in lieu of the execution of the bond by sureties.

(4) In determining which conditions of release will reasonably assure appearance and the public safety, the magistrate shall, on the basis of available information, take into account the nature and circumstances of the crime charged; the weight of the evidence against the defendant; the defendant's family ties, employment, financial resources, character, mental condition, length of residence in the community, record of convictions, record of appearance or failure to appear at court proceedings or of flight to avoid prosecution; the likelihood or propensity of the defendant to commit crimes while on release, including whether the defendant will be likely to threaten, harass or cause injury to the victim of the crime or any witnesses thereto; and whether the defendant is on probation or parole from a previous offense at the time of the alleged commission of the subsequent offense.

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(5) The appearance bond shall set forth all of the conditions of release.

(6) A person for whom conditions of release are imposed and who continues to be detained as a result of the person's inability to meet the conditions of release shall be entitled, upon application, to have the conditions reviewed without unnecessary delay by the magistrate who imposed them. If the magistrate who imposed conditions of release is not available, any other magistrate in the county may review such conditions.

(7) A magistrate ordering the release of a person on any conditions specified in this section may at any time amend the order to impose additional or different conditions of release. If the imposition of additional or different conditions results in the detention of the person, the provisions of subsection (6) shall apply.

(8) Statements or information offered in determining the conditions of release need not conform to the rules of evidence. No statement or admission of the defendant made at such a proceeding shall be received as evidence in any subsequent proceeding against the defendant.

(9) The appearance bond and any security required as a condition of the defendant's release shall be deposited in the office of the magistrate or the clerk of the court where the release is ordered. If the defendant is bound to appear before a magistrate or court other than the one ordering the release, the order of release, together with the bond and security shall be transmitted to the magistrate or clerk of the court before whom the defendant is bound to appear.

Sec. 28. K.S.A. 22-3725 is hereby amended to read as follows: 22-3725. (a) For the purpose of determining an inmate's eligibility for parole or conditional release, regardless of when the inmate was sentenced or committed the crime for which sentenced, good time credits shall be allocated as follows:

GOOD TIME TABLE
(Assumed 360-Day Years, 30-Day Months)

SENTENCE

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Minimum-(or) Maximum	GOOD-TIME-EARNED			MUST-SERVE		
	Years	Months	Days	Years	Months	Days
1	0	3	0	0	9	0
2	0	6	23	1	5	7
3	1	0	0	2	0	0
4	1	6	0	2	6	0
5	2	0	0	3	0	0
6	2	6	0	3	6	0
7	3	0	0	4	0	0
8	3	6	0	4	6	0
9	4	0	0	5	0	0
10	4	6	0	5	6	0
11	5	0	0	6	0	0
12	5	6	0	6	6	0
13	6	0	0	7	0	0
14	6	6	0	7	6	0
15	7	0	0	8	0	0
16	7	6	0	8	6	0
17	8	0	0	9	0	0
18	8	6	0	9	6	0
19	9	0	0	10	0	0
20	9	6	0	10	6	0
21	10	0	0	11	0	0
22	10	6	0	11	6	0
23	11	0	0	12	0	0
24	11	6	0	12	6	0
25	12	0	0	13	0	0
26	12	6	0	13	6	0
27	13	0	0	14	0	0
28	13	6	0	14	6	0
29	14	0	0	15	0	0
30	14	6	0	15	6	0
31	15	0	0	16	0	0
32	15	6	0	16	6	0
33	16	0	0	17	0	0
34	16	6	0	17	6	0
35	17	0	0	18	0	0
36	17	6	0	18	6	0
37	18	0	0	19	0	0
38	18	6	0	19	6	0
39	19	0	0	20	0	0
40	19	6	0	20	6	0
41	20	0	0	21	0	0
42	20	6	0	21	6	0
43	21	0	0	22	0	0
44	21	6	0	22	6	0
45	22	0	0	23	0	0
46	22	6	0	23	6	0
47	23	0	0	24	0	0
48	23	6	0	24	6	0
49	24	0	0	25	0	0
50	24	6	0	25	6	0
51	25	0	0	26	0	0
52	25	6	0	26	6	0
53	26	0	0	27	0	0
54	26	6	0	27	6	0
55	27	0	0	28	0	0
56	27	6	0	28	6	0
57	28	0	0	29	0	0
58	28	6	0	29	6	0
59	29	0	0	30	0	0
60	29	6	0	30	6	0
61	30	0	0	31	0	0
62	30	6	0	31	6	0
63	31	0	0	32	0	0
64	31	6	0	32	6	0
65	32	0	0	33	0	0
66	32	6	0	33	6	0
67	33	0	0	34	0	0

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68	33	6	0	34	6	0
69	34	0	0	35	0	0
70	34	6	0	35	6	0
71	35	0	0	36	0	0
72	35	6	0	36	6	0
73	36	0	0	37	0	0
74	36	6	0	37	6	0
75	37	0	0	38	0	0
76	37	6	0	38	6	0
77	38	0	0	39	0	0
78	38	6	0	39	6	0
79	39	0	0	40	0	0
80	39	6	0	40	6	0
81	40	0	0	41	0	0
82	40	6	0	41	6	0
83	41	0	0	42	0	0
84	41	6	0	42	6	0
85	42	0	0	43	0	0
86	42	6	0	43	6	0
87	43	0	0	44	0	0
88	43	6	0	44	6	0
89	44	0	0	45	0	0
90	44	6	0	45	6	0
91	45	0	0	46	0	0
92	45	6	0	46	6	0
93	46	0	0	47	0	0
94	46	6	0	47	6	0
95	47	0	0	48	0	0
96	47	6	0	48	6	0
97	48	0	0	49	0	0
98	48	6	0	49	6	0
99	49	0	0	50	0	0
100	49	6	0	50	6	0

SENTENCE
Minimum (or)
Maximum

GOOD TIME EARNED
Years Months

MUST SERVE
Years Months

1	0	4	0	0	8
2	1	0	6	1	0
3	1	0	6	1	6
4	1	0	6	2	0
5	2	0	6	2	6
6	2	0	6	2	6
7	3	0	6	3	0
8	3	0	6	3	6
9	4	0	6	4	0
10	4	0	6	4	6
11	5	0	6	5	0
11	5	0	6	5	6
12	6	0	6	6	0
12	6	0	6	6	6
13	6	0	6	6	6
14	7	0	6	7	0
14	7	0	6	7	6
15	7	0	6	7	6
16	8	0	6	8	0
16	8	0	6	8	6
17	8	0	6	8	6
18	9	0	6	9	0
18	9	0	6	9	6
19	9	0	6	9	6
20	10	0	6	10	0
20	10	0	6	10	6
21	10	0	6	10	6
22	11	0	6	11	0
22	11	0	6	11	6
23	11	0	6	11	6
24	12	0	6	12	0
24	12	0	6	12	6
25	12	0	6	12	6
26	13	0	6	13	0
26	13	0	6	13	6
27	13	0	6	13	6
28	14	0	6	14	0
28	14	0	6	14	6
29	14	0	6	14	6
30	15	0	6	15	0
30	15	0	6	15	6
31	15	0	6	15	6
32	16	0	6	16	0

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33	16	6	16	6
34	17	0	17	0
35	17	6	17	6
36	18	0	18	0
37	18	6	18	6
38	19	0	19	0
39	19	6	19	6
40	20	0	20	0
41	20	6	20	6
42	21	0	21	0
43	21	6	21	6
44	22	0	22	0
45	22	6	22	6
46	23	0	23	0
47	23	6	23	6
48	24	0	24	0
49	24	6	24	6
50	25	0	25	0
51	25	6	25	6
52	26	0	26	0
53	26	6	26	6
54	27	0	27	0
55	27	6	27	6
56	28	0	28	0
57	28	6	28	6
58	29	0	29	0
59	29	6	29	6
60	30	0	30	0
61	30	6	30	6
62	31	0	31	0
63	31	6	31	6
64	32	0	32	0
65	32	6	32	6
66	33	0	33	0
67	33	6	33	6
68	34	0	34	0
69	34	6	34	6
70	35	0	35	0
71	35	6	35	6
72	36	0	36	0
73	36	6	36	6
74	37	0	37	0
75	37	6	37	6
76	38	0	38	0
77	38	6	38	6
78	39	0	39	0
79	39	6	39	6
80	40	0	40	0
81	40	6	40	6
82	41	0	41	0
83	41	6	41	6
84	42	0	42	0
85	42	6	42	6
86	43	0	43	0
87	43	6	43	6
88	44	0	44	0
89	44	6	44	6
90	45	0	45	0
91	45	6	45	6
92	46	0	46	0
93	46	6	46	6
94	47	0	47	0
95	47	6	47	6
96	48	0	48	0
97	48	6	48	6
98	49	0	49	0
99	49	6	49	6
100	50	0	50	0

(b) Maximum good time credits for sentences of two--years

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one year or less shall be computed as follows: One day for every three two days served and one month for every year served.

(c) Maximum good time credits for sentences two years or greater ~~than-two-years~~ shall be computed as follows: One-half of the sentence ~~less-six-months~~.

(d) Good time credits shall be awarded on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

Sec. 29. K.S.A. 1988 Supp. 38-1663 is hereby amended to read as follows: 38-1663. (a) When a respondent has been adjudged to be a juvenile offender, the judge may select from the following alternatives:

(1) Place the juvenile offender on probation for a fixed period, subject to the terms and conditions the court deems appropriate, including a requirement of making restitution as required by subsection (h).

(2) Place the juvenile offender in the custody of a parent or other suitable person, subject to the terms and conditions the court orders, including a requirement of making restitution as required by subsection (c).

(3) Place the juvenile offender in the custody of a youth residential facility, subject to the terms and conditions the court orders.

(4) Place the juvenile offender in the custody of the secretary.

(5) Impose any appropriate combination of subsections (a)(1) and (2), subsection (a)(3) or subsection (a)(4) and make other orders directed to the juvenile offender as the court deems appropriate.

(6) Commit the juvenile offender, if 13 years of age or older, to a state youth center if the juvenile offender:

(A) Has had a previous adjudication as a juvenile offender under this code or as a delinquent or miscreant under the Kansas juvenile code; or

(B) has been adjudicated a juvenile offender as a result of

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having committed an act which, if done by a person 18 years of age or over, would constitute a class A, B or C felony as defined by the Kansas criminal code.

(7) Place the juvenile offender under a house arrest program administered by the court pursuant to K.S.A. 21-4603b, and amendments thereto.

(b) (1) In addition to any other order authorized by this section, the court may order the juvenile offender and the parents of the juvenile offender to attend counseling sessions as the court directs.

(2) Upon entering an order requiring a juvenile offender's parent to attend counseling sessions, the court shall give the parent notice of the order. The notice shall inform the parent of the parent's right to request a hearing within 10 days after entry of the order and the parent's right to employ an attorney to represent the parent at the hearing or, if the parent is financially unable to employ an attorney, the parent's right to request the court to appoint an attorney to represent the parent. If the parent does not request a hearing within 10 days after entry of the order, the order shall take effect at that time. If the parent requests a hearing, the court shall set the matter for hearing and, if requested, shall appoint an attorney to represent the parent. The expense and fees of the appointed attorney may be allowed and assessed as provided by K.S.A. 38-1606 and amendments thereto.

(3) The costs of any counseling may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than that the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative.

(c) Whenever a juvenile offender is placed pursuant to subsection (a)(1) or (2), the court, unless it finds compelling circumstances which would render a plan of restitution unworkable, shall order the juvenile offender to make restitution to persons who sustained loss by reason of the offense. The

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restitution shall be made either by payment of an amount fixed by the court or by working for the persons in order to compensate for the loss. If the court finds compelling circumstances which would render a plan of restitution unworkable, the court may order the juvenile offender to perform charitable or social service for organizations performing services for the community.

Nothing in this subsection shall be construed to limit a court's authority to order a juvenile offender to make restitution or perform charitable or social service under circumstances other than those specified by this subsection or when placement is made pursuant to subsection (a)(3) or (4).

(d) In addition to or in lieu of any other order authorized by this section, the court may order a juvenile offender to pay a fine not exceeding \$250 for each offense. In determining whether to impose a fine and the amount to be imposed, the court shall consider the following:

(1) Imposition of a fine is most appropriate in cases where the juvenile offender has derived pecuniary gain from the offense.

(2) The amount of the fine should be directly related to the seriousness of the juvenile offender's offense and the juvenile offender's ability to pay.

(3) Payment of a fine may be required in a lump sum or installments.

(4) Imposition of a restitution order is preferable to imposition of a fine.

(5) The juvenile offender's duty of payment should be limited in duration and in no event should the time necessary for payment exceed the maximum term which would be authorized if the offense had been committed by an adult.

(e) The board of county commissioners of a county may provide by resolution that the parents or guardians of any juvenile offender placed under a house arrest program, pursuant to paragraph (7) of subsection (a), shall be required to pay to the county the cost of such house arrest program. The board of

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county commissioners shall further prepare a sliding financial scale based on the ability of the parents to pay for such a program.

Sec. 30. K.S.A. 1988 Supp. 65-1,108, as amended by House Bill No. 2327, as amended by Senate Committee, is hereby further amended to read as follows: 65-1,108. (a) It shall be unlawful for any person or laboratory to perform prenatal serological tests for syphilis, serological tests for human immunodeficiency virus or tests for controlled substances included in schedule I or II of the uniform controlled substances act unless the laboratory in which such tests are performed has been approved by the secretary of health and environment to perform such tests. Any person violating any of the provisions of this section shall be deemed guilty of a class B misdemeanor.

(b) As used in this section and in K.S.A. 1988 Supp. 65-1,107 and amendments thereto, "laboratory" shall not include: (1) The office or clinic of a person licensed to practice medicine and surgery in which laboratory tests are performed as part of and incidental to the examination or treatment of a patient of such person; (2) the Kansas bureau of investigation forensic laboratory; or (3) urinalysis tests for controlled substances performed by the department of corrections for institutional management purposes on inmates in the custody of the secretary of corrections and incarcerated in a correctional institution or facility under the jurisdiction of the secretary of corrections; or (4) urinalysis tests for controlled substances performed by the community corrections programs in Montgomery and Sedgwick counties.

Sec. 31. K.S.A. 75-5291 is hereby amended to read as follows: 75-5291. The secretary of corrections may make grants to ~~counties~~ corrections advisory boards for the development, implementation, operation and improvement of community correctional services including, but not limited to, restitution programs, victim services programs, preventive or diversionary ~~correctional programs,~~ ~~community corrections centers and~~

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facilities for the detention or confinement, care or treatment of adults charged with or convicted of crime or of juveniles being detained or adjudged to be delinquent, miscreant or a juvenile offender except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by section 31.

Sec. 32. K.S.A. 75-5294 is hereby amended to read as follows: 75-5294. (a) In accordance with K.S.A. 77-415 et seq., and amendments thereto, the secretary of corrections shall adopt rules and regulations necessary for the implementation and administration of this act and as prescribed by this act. The secretary of corrections shall provide consultation and technical assistance to ~~counties--and--~~corrections advisory boards to aid them in the development of comprehensive plans under this act.

(b) This act shall be administered by the secretary of corrections or by officers and employees of the department of corrections designated by the secretary to the extent that authority to do so is delegated by the secretary, except that the authority to adopt rules and regulations under this act shall not be delegated.

Sec. 33. K.S.A. 75-52,100 is hereby amended to read as follows: 75-52,100. Any comprehensive plan submitted pursuant to this act may include the purchase of selected correctional services from the state by contract, including the temporary detention and confinement of adults convicted of crime. The secretary of corrections shall annually determine the costs of the purchase of services under this section and deduct them from the grant payable to the ~~county-or,-in-the-case-of-cooperating~~ ~~counties,-the-grants-payable-to-the-counties~~ corrections advisory board. In no case shall the charges for correctional services under such contract with the state exceed in cost the amount of the grant the ~~county~~ corrections advisory board is eligible ~~or,~~ ~~in--the--case--of--cooperating--counties,-the-total-amount-of-the~~ ~~grants-the-counties-are-eligible~~ to receive under this act.

Sec. 34. K.S.A. 75-52,105 is hereby amended to read as

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follows: 75-52,105. (a) Upon compliance by a ~~county-or-group-of~~ counties corrections advisory board with the requirements for receipt of the grants authorized by this act and approval of the comprehensive plan by the secretary of corrections, the secretary of corrections shall determine the amount of the annual grant to each such county corrections advisory board and, commencing on the next ensuing calendar quarter after approval of the comprehensive plan, shall proceed to pay such grant in equal quarterly payments in accordance with and subject to this act, applicable rules and regulations, and the provisions of appropriations acts.

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

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

Sec. 35. K.S.A. 1988 Supp. 75-52,107 is hereby amended to read as follows: 75-52,107. (a) The secretary of corrections may contract for any correctional services described in K.S.A. 75-5291 and amendments thereto from ~~any county--or--group--of~~

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~~cooperating~~---~~counties~~ corrections advisory boards which are receiving grants under this act, including services for inmates classified less than minimum security.

(b) Any county may contract for any correctional services described in K.S.A. 75-5291 and amendments thereto from any ~~county~~---~~or~~---~~group~~---~~of~~---~~cooperating~~---~~counties~~ corrections advisory boards which are receiving grants under this act, regardless of whether such ~~county~~---~~or~~---~~group~~---~~of~~---~~counties~~ corrections advisory boards is in the same judicial district as the county contracting for such services.

New Sec. 36. Every corrections advisory board shall appoint a treasurer. Upon the appointment being made, the treasurer shall execute and file a bond, in an amount to be set by the secretary of corrections, to cover the term for which the treasurer is appointed, conditioned on the faithful accounting and disbursement of all money that is deposited with the treasurer. The secretary of corrections shall have the power to require the treasurer to file an additional bond. The expense of providing such a bond may be charged to the operating expenses of the board.

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