Approved
Date: 2-14-02

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Senator Vratil at 9:36 a.m. on February 13, 2002 in Room 123-S of the Capitol.

All members were present except: Senator Pugh (excused)

Committee staff present:
Gordon Self, Revisor
Mike Heim, Research
Mary Blair, Secretary

Conferees appearing before the committee:
Tom Weilert, Assistant District Attorney, Sedgwick County
Randy Listrom, Listrom Group
Larry Baer, Kansas League of Municipalities (KLM)
Charles Stevenson, President and Owner, Orion Security Incorporated
Tim Madden, Department of Corrections (DOC)

Others attending: see attached list

The minutes of the February 12th, 2002 meeting were approved on a motion by Senator Schmidt, seconded by Senator Goodwin. Carried.

SB 453–arrest for violation of condition of sentence
Conferee Weilert testified in support of **SB 453**, a bill which would eliminate judges' discretion in ordering criminal defendants who have violated probation to serve lesser sentences than the defendant's original sentence. He elaborated on why the bill was necessary.(attachment 1)

SB 456–private security guards; license and regulation
Conferee Listrom testified in support of **SB 456**, a bill which would establish licensing requirements and regulations for private security guards and private security agencies in Kansas. He discussed two "moral" components to the bill, differences and similarities between security and law enforcement, and the bill's impact.(attachment 2)

Conferee Baer testified in opposition to **SB 456** "because it would preempt local control of private security guards." He stated that the bill would be acceptable to KLM if it was amended to permit dual licensing of private security guards.(attachment 3)

Conferee Stevenson testified as neutral regarding **SB 456**. He presented brief background on his business and his work in assisting to draft legislation governing private detectives. He noted that this bill was patterned after the private detective legislation and stated there were vast distinctions between security guards and private detectives. He discussed problems he had with the bill and issues he felt were not being addressed by it.(no attachment)

The Chair, with consensus of the Committee, will recommend **SB 456** for interim study.

Final Action

SB 433–DUI; requiring certain notice be sent to the Department of Corrections
Conferee Madden reviewed the DOC's amendments and balloon on **SB 433** which were requested of him at a previous Senate Judiciary meeting.(attachment 4) The Chair also offered a balloon amendment.(attachment 5) Following discussion, Senator Goodwin moved to amend the bill using the amendments and balloon offered by the DOC and the balloon offered by the Chair, Senator Adkins seconded. Carried. Senator Donovan moved to pass the bill out favorably as amended, Senator Schmidt seconded. Carried.

SB 445–civil procedure; re: judgment liens
Following review of the bill by the chair and brief discussion, Senator Schmidt moved to pass the bill out favorably and recommend it be placed on the consent calendar, Senator Adkins seconded. Carried.

The meeting adjourned at 10:23 a.m. The next scheduled meeting is February 14, 2002.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb 13, 2002

NAME	REPRESENTING
Nicole Elkins	Gov. office
MARY FEIGHNY	Attorney General
Sandy Meier	KBI
Kyle Smith	KBI
Doug Gerber	LMC
Lynda South	JJA
Connie Burns	Whitney B. Damron, P.A.
Jeff Bottenberg	KS Sheriffs Ass'n
Elizabeth Schlecher	Federico Consulting
Lloyd E. Barnett	Leadership Mitchell Co.
Jean Baker	KS Assn of Defense Counsel
Liz Post	Dept. of Admin.
Kathy Porter	Judicial Branch
Tim Madden	KDOC
Joe Herold	KSC
Brenda Harmon	KTC
Barb Tombs	KTC

TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE
REGARDING AMENDMENT OF K.S.A.22-3716(b)
Presented on February 13, 2002
By Thomas J. Weilert

When the Kansas Sentencing Guidelines went into effect in 1993, they were intended to create truth in sentencing in Kansas. No longer would a person be sentenced to a 15 year to life term of imprisonment be released after serving only 8 years.

The Guidelines provided for determinate terms of imprisonment based upon the crime of conviction and the crimnal history of the offender. In addition, they provided for a presumption of incarceration for the combinations of criminal history and crime severity that intersected above the dispositional line. Non prison sanctions were presumed for those cases where the criminal history and crime severity intersection was below the dispositional line.

In compliance with Federal guidelines, the maximum reduction of the sentence imposed was set at 15% in 1994.

The adoption of the Guidelines also brought about the end of the 120 day callback which gave indiviuals a second chance at probation following an evaluation at the reception and diagnostic center. It was thought that the sentencing courts were stripped of the power to modify a sentence once imposed. Such was the belief until the opinion of the Kansas Supreme Court in the case of State v. McGill, 271 Kan. 120, 22 P.3d 597(2001).

In McGill, the defendant was originally charged with indecent liberties with a child, a presumptive prison offense. Pursuant to a plea agreement, he pled guilty to indecent solicitation of a child, a presumptive probation offense, given a sentence of 26 months which was an agreed upon duration al departure and placed on probation for 24 months. Prior to the expiration of the probation period(which had been extended to allow the defendant to finish paying financial obligations) a motion to revoke the probation was filed based upon new criminal activity by the defendant.

At the probation revocation hearing, the court found the defendant to be in violation of his probation, revoked the same and then modified his sentence to 12 months imprisonment and ordered him delivered to the Department of Corrections.

The State appealed the reduction in the sentence, arguing that the power to modify a sentence once imposed was removed by the guidelines. The Supreme Court, citing the often used principle of statutory construction that criminal statutes must be strictly construed in the favor of the accused, found the sentencing court's acton to be appropriate.

In reaching its decision, the Supreme Court relied on a on four words from a pre-guideline statute which outlined the sentencing court's options upon revocation of a previously granted probation. K.S.A. 22-3716(b) provides in pertinent part:

"...If the violation is established, the court may continue or revoke the probation, assignment

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to a community correctional services program, suspension of sentence or nonprison sanction and may require the defendant to serve the sentence imposed**, or any lesser sentence**...."

While K.S.A.2-3716 was amended in 2000, the portion relied upon by the Court was left unchanged.

Given the overall intent of the guidelines, the lack of attention would appear to be a mere oversight. The allowance of modification of the sentence imposed at the point probation revocation has several consequences that are in contradiction of the overall guideline scheme.

1) The ability to modify the sentence violates the spirit of the federal truth in sentencing guidelines. A victim can no longer be assured that a defendnat placed on probation will suffer the consequence of serving the entire sentence imposed if he or she does not comply with all of the conditions of probation.

2) The Guidelines have removed the sentencing court's power to modify a sentence once imposed in all other circumstances. It appears a mere oversight has occurred which would allow that power only after a person has been given an opportunity at probation and failed to comply with the terms set forth.

3) The allowance of a lesser sentence at the time of a probation revocation serves as a reward to a defendant for violation of the conditions of probation. Instead of being faced with the full consequences of the failure to abide by the court's directions, the loophole gives a defendant the opportunity to escape the logical reults of the decision not to comply.

For all of these reasons, the elimination of the words "or any lesser sentence" from K.S.A. 22-3716(b) is appropriate.

Randall K. Listrom
The Listrom Group
In Support of S.B. 456

My name is Randall Listrom. I wear several hats in this community. I have been a member of the Topeka Police Department for over twenty-five (25) years, serving twenty (20) years in the Narcotics Unit, currently a Lieutenant in the Uniform Division. I come to this committee today representing The Listrom Group, a private security firm founded in 1995. I strongly urge this committee to adopt the propositions outlined in Senate Bill 456.

What is the state of the security industry? In September of 2001 my firm was hired to escort one hundred and fifty million in art down the East Coast. Upon arriving in southern Florida, my client boastfully showed me around his estate. The client was most proud that all doors and windows were alarmed, infrared sensors ran throughout the spacious acreage upon which his house sat. The client had a security monitoring room where uniformed guards from a national security firm dutifully monitored cameras throughout the property. Curious, I asked the guard what his hourly wage was. The guard replied, proudly, that he received over $7.00 per hour. I asked how much training he had, and the guard replied that his national organization mandated that every guard reviews a two-hour videotape. Here was a client securing millions in assets with a minimal wage guard who has watched a two-hour video. I admitted to the client that a thief could not go around his security system-but that were I a thief I would blow through his system.

I believe Senate Bill 456 has two principal moral components. The first component is the moral proposition "a requirement that security officers and security firms be licensed by the State ought to be the case". This mirrors the requirements for a license as a Private Investigator or investigative firm. The security industry is largely unregulated, and local licensing is inconsistent in its application-some locations require a license while others do not. This legislation

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provides uniformity in licensing all security agencies across the State of Kansas regardless of what community service is provided to.

The second component is the moral proposition "ensuring that security officers are an asset to their clients, the police and the community by requiring an affirmative showing of competency and knowledge in the field of security ought to be the case".

Towards the first proposition, private security is a field that should be regulated, to some degree, by the State. At present it is a local option to license guards, and no training is mandated in most jurisdictions. This means in some jurisdictions there is no control over the industry. However, to be a Private Investigator requires a State license. The desire, herein, is to treat Merchant Guards (security officers) in the same fashion as Private Investigators. States such as Oklahoma, New Jersey and Colorado do require a state license for private security officers. Imagine, State Board certification is required of those who cut hair or sell houses, but the State does not regulate those who, as private security enforcement officers, carry weapons, make arrests, use force, discover crime scenes and protect us.

The current system of local licensing can be problematic for security providers. The Listrom Group is required to maintain a license with the City of Topeka. To perform service in Lawrence requires a license well. Further, guards are required to be licensed in both Topeka and Lawrence. If a guard in Lawrence calls in sick, not just any guard can be placed at that site, it must be a Lawrence, Kansas licensed guard. However, there are many localities in Kansas that do not require a license, hence no controls are in place to regulate who provides this service.

Towards the second component, this legislation would be administered by the Attorney General, who currently licenses Private Investigators. The legislation provides that the Attorney General may require completion of a test or other evidence of knowledge in the field of security. Two years ago I had an employee look into being a licensed Private Investigator. The Attorney General's

Office provided the employee a copy of the relevant statutes regarding licensing and a take home test with questions over those statutes.

I would hope that the Attorney General would develop a security officer test that accurately measures the competence of the guards, unlike the current test for investigators. It is envisioned that in order to pass the test, training would be a prerequisite. I know that at a minimum The Listrom group will provide such training. There is no requirement that any State agency provide the training. It is left to the private competitive environment to ensure training is provided.

How hard can it be to be a security officer that we should require a test of knowledge? I don't know-how hard is it to spot passengers carrying box cutters onto airplanes? The reality is that a security officer should be an asset to clients, the police and the community. Is it disturbing that there is no present requirement that security officers be certified in first aid and CPR? Is it disturbing that armed security officers have, in the State of Kansas, shot "shoplifters" in the back for failing to stop at the officer's demand? Is it disturbing that security officers may make apprehensions and arrests, and have no training in criminal law? Is it too much to ask that those who are hired to protect us are provided at least some level of minimal training?

While there are differences between "Security" and "Law Enforcement", there are similarities as well. The most fundamental difference is that a law enforcement officer is a public employee with a public duty, and a security officer is a private employee. We legislate who may be a law enforcement officer, mandate the number of training hours required, and set up specific entities, such as KLETC, to oversee the training of those officers. Currently, we have no such legislation for those "private" law enforcement officers. Though they both carry weapons, are authorized to use lethal force, have powers of arrest, and enforce law we only require excellence from our public law enforcement officers. How many crime scenes have been needlessly destroyed, how many erroneous detentions have been made, how many people wrongfully injured, how many crimes gone undetected because of inept and unprofessional service of security officers?

Now, more than ever, we need to ensure that those charged publicly or privately with protecting us meet minimal standards. With the very stroke of a pen the State of Kansas can ensure that security officers perform to some comparable standard of professionalism. With that very stroke of a pen we can enhance an industry with public concern. Senate Bill 456 establishes regulations for an industry in need. Senate Bill 456 brings the State of Kansas up to par with other States which regulate the security industry. Senate Bill 456 establishes minimum standards, and helps ensure that those who are charged with protecting us, both private and public, are competent and have the knowledge to accomplish that task.

Should it help, ask the reverse questions. Why should we not want to establish uniformity across the State in licensing Security Agencies and Guards? Why should we not want to ensure that security officers enforcing the laws of the State of Kansas have knowledge and are competent in the profession?

I anticipate the impact of this legislation be two fold. First, security officers demonstrating knowledge and competency in the field will command a higher wage. I anticipate that the higher wage commanded by qualified security officers to be an expense passed on to the consumer. Similar regulation in the fields of cosmetology and real estate, though, did not destroy those industries, and I can not fathom that such legislation would destroy the security industry.

LKM
League of Kansas Municipalities

300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

Date: February 13, 2002

To: Senate Judiciary Committee

From: Larry R. Baer
Assistant Legal Counsel

Re: Opposition to SB 456

I wish to thank the Chairman and the Committee for allowing me to appear before you this morning and present testimony on behalf of the League of Kansas Municipalities and its member cities.

The League appears in opposition to SB 456 because of the fact that it would preempt local control of private security guards. It is our understanding that most of our larger cities currently have some licensing or registration requirements. This permits local law enforcement to identify the private security guards working within their city.

We would ask that SB 456 be amended to allow dual licensing of private security guards. This would permit those cities that currently have local requirements the ability to continue to do so and give others the option in the future to initiate local licensing or registration requirements.

Thank you for permitting me to appear before you today.

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Post-it® Fax Note 7671	Date 2/12	# of pages ▶ 6
To TIM MADDEN	From A. HYTEN	
Co./Dept. DOC	Co. OJA	
Phone #	Phone # 6-3025	
Fax # 6-0014	Fax #	

Session of 2002

SENATE BILL No. 433

By Committee on Judiciary

1-24

AN ACT concerning motor vehicles; relating to driving under the influence of alcohol or drugs; requiring certain notice be sent to the secretary of corrections; mandatory participation and conditions imposed; amending K.S.A. 8-1567 and ~~repealing the existing section~~ *K.S.A. 75-5218 and repealing the existing sections.*

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

Section 1. K.S.A. 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 as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and amendments thereto, is .08 or more;

(2) the alcohol concentration in the person's blood or breath, as measured within two hours of the time of operating or attempting to operate a vehicle, is .08 or more;

(3) under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;

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

(5) 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) Upon a first conviction of a violation of this section, a person shall be guilty of a class B, nonperson misdemeanor and 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 $500 nor more than $1,000. The person convicted must serve at

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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, a person shall be guilty of a class A, nonperson misdemeanor and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,000 nor more than $1,500. 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. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. 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. 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 conviction of a violation of this section, a person shall be guilty of a nonperson felony and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,500 nor more than $2,500. 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. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. 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.

(g) On the fourth or subsequent conviction of a violation of this

section, a person shall be guilty of a nonperson felony and sentenced to not less than 90 days nor more than one year's imprisonment and fined $2,500. 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 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 72 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. *At the time of the filing of the ~~journal entry of conviction and sentence~~, the court shall cause a certified copy to be sent to the ~~secretary of corrections~~. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall notify the secretary of corrections when the term of imprisonment expires and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the secretary.* After the term of imprisonment imposed by the court, the person shall be placed in the custody of the secretary of corrections ~~and shall be required to participate in an inpatient or outpatient program for alcohol and drug abuse as determined by the secretary. Upon completion of the term of imprisonment and the required treatment program for alcohol and drug abuse, the person shall be released to~~ *for* a mandatory one-year period of postrelease supervision, which such period of postrelease supervision shall not be reduced. During such postrelease supervision, the person shall be required to participate in an ~~approved aftercare plan as determined by the Kansas parole board as a condition of release~~ *inpatient or outpatient program for alcohol and drug abuse as determined by the secretary and satisfy conditions imposed by the Kansas parole board as provided by K.S.A. 22-3717, and amendments thereto.* Any violation of the conditions of such postrelease supervision may subject such person to revocation of postrelease supervision pursuant to K.S.A. 75-5217 *et seq.*, and amendments thereto and as otherwise provided by law.

(h) Any person convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had a child under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section prohibits. During the service of the one month enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(i) 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

judgment form or journal entry as required by K.S.A. 21-4620 or 22-3426 and amendments thereto,

officer having the offender in charge.

cause a certified copy of the judgment form or journal entry to be sent to the secretary of corrections within three business days of receipt of the judgment form or journal entry from the court. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall also

, including but not limited to an approved aftercare plan,

after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(j) 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 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.

(k) 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.

(l) For the purpose of determining whether a conviction is a first, second, third, fourth 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) any convictions occurring during a person's lifetime shall be taken into account when determining the sentence to be imposed for a first, second, third, fourth or subsequent offender;

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

(5) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, or an ordinance which prohibits the acts of this section, and amendments thereto, only once during the person's lifetime.

(m) 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 division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving

privileges as provided by K.S.A. 8-1014, and amendments thereto.

(n) 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 the minimum penalty prescribed by this act for the same violation, and the maximum penalty in any such ordinance or resolution shall not 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.

(o) 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.

(p) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the state, city or county, but shall not be required to, may elect one or two of the three prior to submission of the case to the fact finder.

(q) Upon a fourth or subsequent conviction, the judge of any court in which any person is convicted of violating this section, may revoke the person's license plate or temporary registration certificate of the motor vehicle driven during the violation of this section for a period of one year. Upon revoking any license plate or temporary registration certificate pursuant to this subsection, the court shall require that such license plate or temporary registration certificate be surrendered to the court.

(r) For the purpose of this section: (1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

(2) "Imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.

(s) The amount of the increase in fines as specified in this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments

thereto. Upon receipt of remittance of the increase provided in this act, the state treasurer shall deposit the entire amount in the state treasury and the state treasurer shall credit 50% to the community alcoholism and intoxication programs fund and 50% to the department of corrections alcohol and drug abuse treatment fund, which is hereby created in the state treasury.

~~Sec. 2. K.S.A. 8-1567 is hereby repealed.~~

Sec. ~~3.~~ This act shall take effect and be in force from and after its publication in the statute book.

Sec. 3. K.S.A. 8-1567 and 75-5218 are hereby repealed.

Sec. 2. K.S.A. 75-5218 is hereby amended to read as follows: 75-5218. (a) When any person is sentenced to the custody of the secretary of corrections ~~pursuant to the provisions of K.S.A. 21-4609 and amendments thereto~~, the clerk of the court which imposed such sentence shall ~~within three days following the order of the commitment to the secretary notify the secretary of corrections. The clerk shall not notify the secretary if the sentence is suspended or the defendant placed on probation or any other disposition which will not result in transfer of the defendant to the secretary of corrections. (b) Together with the order of commitment to the custody of the secretary of corrections as required by K.S.A. 21-4621 and amendments thereto, the clerk shall~~ deliver to the officer having the offender in charge the judgment form or journal entry as required by K.S.A. 21-4620 or 22-3426, and amendments thereto *together with the order of commitment to the custody of the secretary of corrections as required by K.S.A. 21-4621, and amendments thereto. Within three business days of receipt of the order of commitment and the judgment form or journal entry, the officer having the offender in charge shall notify the secretary of corrections.* ~~These~~ materials shall be delivered to the officers conveying the offender to the Topeka correctional facility *department of corrections reception and diagnostic unit* or such other correctional institution prescribed by K.S.A. 75-5220 and amendments thereto, or by the secretary of corrections in accordance with such statute. *(b) When an offender's sentence has been modified in accordance with K.S.A. 21-4609 and amendments thereto, the clerk of court which imposed such sentence shall within three business days notify the secretary of corrections by sending a certified copy of the court's order modifying the offender's sentence to the secretary or the secretary's designee.*

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also

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section, a person shall be guilty of a nonperson felony and sentenced to not less than 90 days nor more than one year's imprisonment and fined $2,500. 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 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 72 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. *At the time of the filing of the journal entry of conviction and sentence, the court shall cause a certified copy to be sent to the secretary of corrections. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall notify the secretary of corrections when the term of imprisonment expires and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the secretary.* After the term of imprisonment imposed by the court, the person shall be placed in the custody of the secretary of corrections ~~and shall be required to participate in an inpatient or outpatient program for alcohol and drug abuse as determined by the secretary. Upon completion of the term of imprisonment and the required treatment program for alcohol and drug abuse, the person shall be released to~~ *for* a mandatory one-year period of postrelease supervision, which such period of postrelease supervision shall not be reduced. During such postrelease supervision, the person shall be required to participate in an ~~approved aftercare plan as determined by the Kansas parole board as a condition of release~~ *inpatient or outpatient program for alcohol and drug abuse as determined by the secretary and satisfy conditions imposed by the Kansas parole board as provided by K.S.A. 22-3717, and amendments thereto.* Any violation of the conditions of such postrelease supervision may subject such person to revocation of postrelease supervision pursuant to K.S.A. 75-5217 *et seq.*, and amendments thereto and as otherwise provided by law.

(h) Any person convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had a child under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section prohibits. During the service of the one month enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(i) 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

1, including, but not limited to, an approved aftercare plan or mental health counseling,

Grimshaw lang.

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