

CHAPTER 197

HOUSE Substitute for SENATE BILL No. 14

AN ACT concerning the department of corrections and the criminal code recodification commission; amending K.S.A. 75-5268, 75-5293 and 75-52,111 and K.S.A. 2006 Supp. 21-4706, 21-4722 and 22-3717 and repealing the existing sections.

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

New Section 1. (a) On and after July 1, 2007, subject to the provision of appropriation acts, the secretary of corrections shall develop and implement a grant program with the goal of increasing public safety, reducing the risk of offenders on community supervision and reducing each community corrections program's revocations rate by at least 20% from such program's fiscal year 2006 revocation rate. Any county or counties operating community correctional services may apply for the grant. The program shall give priority to a county or counties in which the revocation rate for offenders on community supervision is significantly higher than the statewide average, which target a higher percentage of revocation reductions than the required minimum of 20% or which target the successful reentry of offenders who are considered medium or high risk for revocation.

(b) The secretary shall adopt grant requirements in accordance with this section. Proposals for grants under this program shall include, but not be limited to, provisions to:

(1) Target offenders at medium and high risk for revocation utilizing risk assessment instruments approved by the secretary;

(2) reduce and specialize caseloads for community corrections officers;

(3) provide the offenders with the needed supervision and services to improve such offenders' opportunity to successfully complete community correctional services programs, resulting in a reduction in revocations to prison. Such services may include, but not be limited to, employment training and placement, educational assistance, transportation and housing. Such services shall be evidence-based and address offenders' criminogenic risks, needs and responsivity characteristics;

(4) use an intermediate sanctions community supervision model;

(5) provide staff training and skill development for community corrections officers in risk reduction and intervention. Such training and development shall be approved and certified by the secretary;

(6) utilize treatment options, including substance abuse treatment, mental health treatment, and cognitive and behavioral programs for offenders. For identified need areas, approved assessment and evaluation instruments should be utilized to ensure offender placement into appropriate levels of treatment and intervention;

(7) use gang intervention strategies;

(8) address safety concerns of the community;

(9) implement a method of tracking and reporting revocations;

(10) establish a goal of reducing the number of offenders, by a specified percentage, whose supervision is revoked and the offender sentenced to prison by providing: (A) A plan to reduce the revocation rate for offenders on community supervision by at least 20% from such program's fiscal year 2006 revocations rate; (B) a plan to reduce the revocation rate at a percentage greater than the 20% minimum established to receive such grants; or (C) a plan which targets the successful reentry of offenders who are considered medium or high risk for revocation;

(11) develop a specific accountability system for monitoring, tracking and utilizing the grant funds and to evaluate the effectiveness of the grant funds; and

(12) develop a consistent set of policies that will guide judges and community corrections officers in the supervision and revocation of offenders on community corrections supervision.

(c) The department of corrections shall establish a date for achieving goals based upon implementation time-lines and goals specific to each grant, which may include an overall reduction or a reduction for a specifically targeted population.

(d) The department of corrections shall evaluate the programs which received a grant using a research-based process evaluation targeting the critical components of effective programs to ensure that the program is being delivered as such program was designed. Continued funding shall

be contingent on the program meeting the established goals.

(e) The secretary shall prepare a report which states the number of programs receiving grants pursuant to this section, specifically identifying each program, summarizing the provisions of each program and the success of the program in reducing revocations. Such report shall be delivered to the governor, the secretary of the senate, the chief clerk of the house of representatives and the Kansas reentry policy council on or before the first day of the regular legislative session each year in which the grant program is funded.

Sec. 2. On and after July 1, 2007, K.S.A. 2006 Supp. 21-4706 is hereby amended to read as follows: 21-4706. (a) For crimes committed on or after July 1, 1993, the sentences of imprisonment shall represent the time a person shall actually serve, subject to a reduction of up to 15% of the primary sentence for good time as authorized by law. *For crimes committed on or after January 1, 2008, the sentences of imprisonment shall represent the time a person shall actually serve, subject to a reduction of up to 20% of the primary sentence for good time for drug severity level 3 or 4 or nondrug severity level 7 through 10 crimes and a reduction for program credit as authorized by K.S.A. 21-4722, and amendments thereto.*

(b) The sentencing court shall pronounce sentence in all felony cases.

(c) Violations of K.S.A. 21-3401, 21-3439 and 21-3801 and amendments thereto and K.S.A. 2006 Supp. 21-3449 and 21-3450, and amendments thereto, are off-grid crimes for the purpose of sentencing. Except as otherwise provided by K.S.A. 21-4622 through 21-4627, and 21-4629 through 21-4631, and amendments thereto, the sentence shall be imprisonment for life and shall not be subject to statutory provisions for suspended sentence, community service or probation.

(d) As identified in K.S.A. 21-3502, ~~21-3404~~ 21-3504, 21-3506, 21-3513 and 21-3516 and K.S.A. 2006 Supp. 21-3447, and amendments thereto, if the offender is 18 years of age or older and the victim is under 14 years of age, such violations are off-grid crimes for the purposes of sentencing. Except as provided in K.S.A. 2006 Supp. 21-4642, and amendments thereto, the sentence shall be imprisonment for life pursuant to K.S.A. 2006 Supp. 21-4643, and amendments thereto.

Sec. 3. On and after July 1, 2007, K.S.A. 2006 Supp. 21-4722 is hereby amended to read as follows: 21-4722. (a) For purposes of determining release of an inmate ~~for a crime committed on or after July 1, 1993,~~ the following shall apply with regard to good time calculations:

(1) A system shall be developed whereby good behavior by inmates is the expected norm and negative behavior will be punished; and

(2) the amount of good time which can be earned by an inmate and subtracted from any sentence is limited to: (A) *For a crime committed on or after July 1, 1993,* an amount equal to 15% of the prison part of the sentence; or (B) *for a drug severity level 3 or 4 or a nondrug severity level 7 through 10 crime committed on or after January 1, 2008,* an amount equal to 20% of the prison part of the sentence.

(b) Any time which is earned and subtracted from ~~any presumptive~~ *the prison part of the sentence* of any inmate pursuant to good time calculation shall be added to such inmate's ~~time of~~ *time of* postrelease supervision obligation.

(c) The secretary of corrections is hereby authorized to adopt rules and regulations to carry out the provisions of this ~~act~~ *section* regarding good time calculations. Such rules and regulations shall provide circumstances upon which an inmate may earn good time credits and for the forfeiture of earned credits and such circumstances may include factors substantially related to program and work participation and conduct and the inmate's willingness to examine and confront the past behavior patterns that resulted in the commission of the inmate's crimes.

(d) An inmate shall not be awarded good time credits pursuant to this section for any review period established by the secretary of corrections in which a court finds that the inmate has done any of the following while in the custody of the secretary of corrections:

- (1) Filed a false or malicious action or claim with the court;
- (2) brought an action or claim with the court solely or primarily for delay or harassment;
- (3) testified falsely or otherwise submitted false evidence or information to the court;
- (4) attempted to create or obtain a false affidavit, testimony or evi-

dence; or

(5) abused the discovery process in any judicial action or proceeding.

(e) (1) *For purposes of determining release of an inmate who is serving only a sentence for a nondrug severity level 4 through 10 crime or a drug severity level 3 or 4 crime committed on or after January 1, 2008, in addition to any good time credits earned and retained, the following shall apply with regard to program credit calculations:*

(A) *A system shall be developed whereby program credits may be earned by inmates for the successful completion of a general education diploma, a technical or vocational training program, a substance abuse treatment program or any other program designated by the secretary which has been shown to reduce offender's risk after release; and*

(B) *the amount of time which can be earned and retained by an inmate for the successful completion of programs and subtracted from any sentence is limited to not more than 60 days.*

(2) *Any time which is earned and subtracted from the prison part of the sentence of any inmate pursuant to program credit calculation shall be added to such inmate's postrelease supervision obligation, if applicable.*

(3) *When separate sentences of imprisonment for different crimes are imposed on a defendant on the same date, a defendant shall only be eligible for program credits if such crimes are a nondrug severity level 4 through 10 or a drug severity level 3 or 4.*

(4) *Program credits shall not be earned by any offender successfully completing a sex offender treatment program.*

(5) *The secretary of corrections is hereby authorized to adopt rules and regulations to carry out the provisions of this subsection regarding program credit calculations. Such rules and regulations shall provide circumstances upon which an inmate may earn program credits and for the forfeiture of earned credits and such circumstances may include factors substantially related to program participation and conduct.*

(6) *The secretary of corrections shall report to the Kansas sentencing commission and the Kansas reentry policy council the data on the program credit calculations.*

Sec. 4. On and after July 1, 2007, K.S.A. 2006 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp. 21-4628 prior to its repeal; K.S.A. 21-4635 through 21-4638, and amendments thereto; K.S.A. 8-1567, and amendments thereto; K.S.A. 2006 Supp. 21-4642, and amendments thereto; and K.S.A. 21-4624, and amendments thereto, an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for the crime of capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated murder, committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

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

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

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

(5) An inmate sentenced to imprisonment pursuant to K.S.A. 2006 Supp. 21-4643, and amendments thereto, committed on or after July 1,

2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

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

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

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

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

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

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 1 through 4 crimes and drug severity levels 1 and 2 crimes must serve 36 months, plus the amount of good time *and program credit* earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes and drug severity level 3 crimes must serve 24 months, plus the amount of good time *and program credit* earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 7 through 10 crimes and drug severity level 4 crimes must serve 12 months, plus the amount of good time *and program credit* earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(D) (i) The sentencing judge shall impose the postrelease supervision period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless the judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated. In that event, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, and amendments thereto.

(iii) In determining whether substantial and compelling reasons exist, the court shall consider:

(a) Written briefs or oral arguments submitted by either the defendant or the state;

(b) any evidence received during the proceeding;

(c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to subsection (e) of K.S.A. 21-4714, and amendments thereto; and

(d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the parole board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subparagraph (d)(1)(D), the court shall refer to K.S.A. 21-4718, and amendments thereto.

(vi) Upon petition, the parole board may provide for early discharge from the postrelease supervision period upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the parole board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

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

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-4724, and amendments thereto, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the Kansas parole board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. 21-4628 prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is

no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the Kansas parole board.

(g) Subject to the provisions of this section, the Kansas parole board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, for deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The Kansas parole board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least the month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the Kansas parole board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; and capacity of state correctional institutions.

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

(j) Before ordering the parole of any inmate, the Kansas parole board shall have the inmate appear before either in person or via a video con-

ferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the Kansas parole board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to 10 years but any such deferral shall require the board to state the basis for its findings.

(k) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

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

(m) Whenever the Kansas parole board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

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

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized not-for-profit or charitable or social

service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. 2006 Supp. 22-4529, and amendments thereto, unless the board finds compelling circumstances which would render payment unworkable; and

(5) unless it finds compelling circumstances which would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the parole board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services.

(n) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the Kansas parole board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable.

(o) Whenever the Kansas parole board grants the parole of an inmate, the board, within 10 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. 22-3725, and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions which result in a financial savings to the state.

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

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

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

(v) Whenever the Kansas parole board or the court orders a person to be electronically monitored, the board or court shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board

or court shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

Sec. 5. On and after July 1, 2007, K.S.A. 75-5268 is hereby amended to read as follows: 75-5268. (1) Any inmate who is allowed to participate in such paid employment or in such job training or paid employment for which a subsistence allowance is paid in connection with such job training shall pay over to the secretary or the designated representative of the secretary all moneys received from such paid employment or job training except that, pursuant to rules and regulations adopted by the secretary of corrections, the inmate shall retain a stipulated reasonable amount of the money as the secretary or the designated representative of the secretary deems necessary for expenses connected with the employment or job training. The balance of the moneys paid to the secretary or the designated representative of the secretary shall be disbursed for the following purposes:

(a) A designated minimum amount of that money paid to the secretary shall be returned to the state general fund or to the political subdivision, federal government or community-based center for such inmate's food and lodging or, if the inmate is participating in a private industry program other than work release, the minimum amount collected shall be deposited to the correctional industries fund;

(b) transportation to and from the place of employment at the rate allowed in K.S.A. 75-3203 and amendments thereto;

(c) if any of the dependents of the inmate are receiving public assistance, a reasonable percentage of the inmate's net pay after deduction of the above expenses shall be forwarded to the court which ordered support for the dependent or, if there is no order, to the secretary of social and rehabilitation services;

(d) a reasonable percentage of the inmate's net pay after deduction of the above expenses shall be disbursed for the payment, either in full or ratable, of the inmate's obligations if such obligations relate to the care and support of the defendant's immediate family and have been reduced to judgment;

(e) after deduction of the above amounts, payment of a reasonable amount for costs assessed to the inmate pursuant to the code of civil procedure;

(f) to the clerk of the district court in which the crime occurred, payment of a reasonable amount pursuant to an order ~~of restitution for all costs, fines, fees and restitution assessed.~~ *Such payment shall be distributed in the following order of priority: Restitution, costs, fines and fees;*

(g) payment of a reasonable amount into a savings account for disbursement to the inmate upon release from custody;

(h) after deduction of the above amounts, a reasonable percentage of the inmate's net pay shall be disbursed for the payment, either in full or ratable, of the inmate's other obligations acknowledged by the inmate in writing, as authorized by the secretary; and

(i) the balance, if any, shall be credited to the inmate's account and shall be made available to the inmate in such manner and for such purposes as are authorized by the secretary.

Sec. 6. On and after July 1, 2007, K.S.A. 75-5293 is hereby amended to read as follows: 75-5293. In order to assist a county or group of cooperating counties which has established a corrections advisory board but which does not have a comprehensive plan which has been approved by the secretary of corrections and which requires financial aid to defray all or part of the expenses incurred by corrections advisory board members in discharging their official duties pursuant to K.S.A. 75-5299 and amendments thereto, the secretary of corrections, upon receipt of resolutions by the board or boards of county commissioners, or the administrative authority established by cooperating counties, certifying the need for and inability to pay such expenses, may pay quarterly to the county or counties an amount determined by the secretary ~~based on existing experience of other corrections advisory boards.~~

Sec. 7. On and after July 1, 2007, K.S.A. 75-52,111 is hereby amended to read as follows: 75-52,111. (a) On or before each July 1, 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.

(b) ~~(1) For each county or group of counties entitled to receive~~

grants prior to 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 subpart (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 this subsection, the amount of the ensuing fiscal year grant for a county or group of counties shall be an amount equal to the fiscal year 1989 per capita costs, as determined pursuant to this subsection, multiplied by the number of individuals to be served by the community correctional services program of such county or group of counties during the ensuing fiscal year. Except as provided in this subsection for reduction of a grant with respect to certain community correctional services, no grant for a county or group of counties which received a grant for fiscal year 1989 shall be less than the amount of the grant funds expended by the county or group of counties during fiscal year 1989, if such county or group of counties continues to serve, or is projected to serve, at least the same number of persons as served during fiscal year 1989 and continues to provide the same community correctional services as provided during fiscal year 1989, as provided by K.S.A. 75-5291 and amendments thereto. The secretary of corrections may reduce the grant of *shall award grants to* a county or a group of counties *with respect to certain* for community correctional services *from funds appropriated for that purpose in an amount* determined by the secretary subject to limitations provided in this subsection. The determination to reduce of the grant of a county or group of counties *amount* by the secretary shall be based on the following criteria, *whether*: Staffing levels *exceed* levels justified by active cases under supervision; one-time expenditures such as renovation or construction costs, major equipment purchases or capital acquisitions were a factor in the fiscal year 1989 base; administrative costs were excessive; funded contracts for services *remain* *remaining* unused for an unreasonable period of time; any unreasonable indirect costs *were factored into or allowed in the* fiscal year 1989 base; client numbers *were reduced*; caseload projections *were supported by historical experience*; excessive travel costs *outside the program area* were a factor in the fiscal year 1989 base; contracted services' costs factored into the fiscal year 1989 base are significantly higher than other programs of the department of correction's experienced costs; and *whether* shrinkage factors; vacancy savings and; turnover rates *are relevant factors for consideration*; and *the comprehensive community corrections plan submitted to the secretary meeting the provisions of K.S.A. 75-5290, and amendments thereto*. Except as provided in K.S.A. 75-52,105 and amendments thereto, The secretary may reduce a grant to a county or group of counties *only at the time the county or group of counties submits its annual budget request to the secretary for determination of such county or group of counties annual grant amount as provided in this section as provided by K.S.A. 75-52,105, and amendments thereto, or due to changes in the availability of funds*.

(2) As a part of such county's or group of counties' budget request submitted to the secretary, the county or group of counties may request a higher grant amount than determined as provided in subpart (1) for new or expanded programs as provided in K.S.A. 75-52,102 and amendments thereto and increased amounts as determined in subpart (1) for inflationary costs. The secretary shall determine such additional grant amount for such new or expanded programs based on existing experience of other programs offering similar programs.

(e) On or before July 1, 1990, each county or group of counties applying to receive a grant for the first time shall submit a budget request to the secretary. The secretary shall determine the amount of the grant for such county or group of counties based on existing experience of similar programs. For each fiscal year thereafter, the amount of the grant for such county or group of counties shall be determined as provided in subsection (b), except that the grant received by such county or group of counties pursuant to this subsection shall not be less than the amount of the grant received by such county or group of counties during the first year of operation, if such county or group of counties continues to serve

at least the same number of persons as served during the first year of operation and continues to provide the same community correctional services as provided during the first year of operation, as provided by K.S.A. 75-5291 and amendments thereto. The per capita costs of such county or group of 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 the first year of operation.

~~(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. 8. (a) There is hereby created the Kansas criminal code recodification commission.

(b) The commission shall re-codify the Kansas criminal code by:

(1) Reviewing the American law institute model penal code, the criminal codes of other states, and other criminal law study resources, and making recommendations concerning proposed modifications, amendments and additions to the code.

(2) Analyzing and reviewing all criminal statutes and making recommendations for legislation that would ensure that the sentences are appropriate and proportionate to other sentences imposed for criminal offenses, with particular emphasis on the sentencing guidelines grid for drug crimes.

(3) Reviewing and determining the severity of the Kansas sentencing policies in relation to other states and review possible adjustments which may relieve or eliminate prison capacity issues in Kansas.

(4) Studying and making recommendations concerning the statutory definitions of crimes and criminal penalties and evaluate whether certain criminal conduct may be combined into one criminal statute, thus alleviating any potential problems of having two statutes prohibiting the same criminal conduct.

(5) Studying and making revisions to clarify the code to facilitate just and expedient resolution of criminal prosecutions and resolve or prevent statutory conflicts.

(c) The commission shall be made up of the following members:

(1) One legislator who is a member of the senate judiciary committee shall be appointed by the president of the senate;

(2) one legislator who is a member of the senate judiciary committee shall be appointed by the minority leader of the senate;

(3) one legislator who is a member of the house of representatives judiciary committee shall be appointed by the speaker of the house of representatives;

(4) one legislator who is a member of the house of representatives judiciary committee shall be appointed by the minority leader of the house of representatives;

(5) one member of the judicial branch appointed by the chief justice of the supreme court;

(6) one member of the law enforcement community appointed by the attorney general;

(7) one defense attorney or public defender appointed by the governor;

(8) one county attorney or district attorney appointed by the Kansas county and district attorney association;

(9) a professor of law from the university of Kansas school of law and a professor from Washburn university school of law appointed by the deans of such schools;

(10) two members of the Kansas judicial council criminal law advisory committee appointed by the criminal law advisory committee;

(11) one district court judge appointed by the Kansas district judges association;

(12) a member of the Kansas sentencing commission appointed by the Kansas sentencing commission;

(13) the attorney general or the attorney general's designee; and

(14) the secretary of corrections or the secretary's designee.

(d) The members of the commission shall elect officers from among its members necessary to discharge its duties.

(e) Each member of the commission shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, except that the public members of

the commission shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on commission activities. No per diem compensation shall be paid under this subsection to salaried state, county or city officers or employees, except that the legislative members shall receive compensation as provided in K.S.A. 75-3212, and amendments thereto.

(f) The commission shall have the authority to:

(1) Organize and appoint such task forces or subcommittees as may be deemed necessary to discharge such commission's duties;

(2) accept grants, gifts and other appropriation of funds;

(3) hire and employ staff persons; and

(4) contract for the services of persons, organizations and agencies necessary for the discharge of the commission's duties.

(g) The commission shall work with the department of corrections and the Kansas sentencing commission and review studies and findings of the Kansas sentencing commission concerning proportionality of sentencing.

(h) The commission shall prepare and submit an interim report to the legislature on or before February 1, 2008 and February 1, 2009. A final report and recommendations shall be submitted to the legislature on or before January 11, 2010.

(i) The staff of the office of the revisor of statutes and legislative research department shall provide such assistance as may be requested by the commission and to the extent authorized by the legislative coordinating council.

(j) The provisions of this section shall expire on July 1, 2010.

Sec. 9. On and after July 1, 2007, K.S.A. 75-5268, 75-5293 and 75-52,111 and K.S.A. 2006 Supp. 21-4706, 21-4722 and 22-3717 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 14, 2007.

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