

HOUSE BILL No. 2312

By Committee on Corrections and Juvenile Justice

Requested by Scott Schultz, Kansas Sentencing Commission

2-6

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to certified drug abuse treatment programs; excluding certain offenders
3 convicted of a nonprison felony from participation in such programs;
4 authorizing community correctional services officers to complete
5 criminal risk-need assessments for divertees who are committed to such
6 programs; amending K.S.A. 21-6824 and K.S.A. 2024 Supp. 75-52,144
7 and repealing the existing sections.
8

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

10 Section 1. K.S.A. 21-6824 is hereby amended to read as follows: 21-
11 6824. (a) There is hereby established a nonprison sanction of certified drug
12 abuse treatment programs for certain offenders who are sentenced on or
13 after November 1, 2003. Placement of offenders in certified drug abuse
14 treatment programs by the court shall be limited to placement of adult
15 offenders who meet the requirements of this subsection.

16 (1) Offenders convicted of a felony violation of K.S.A. 21-5705 or
17 21-5706, and amendments thereto, whose offense is classified in grid
18 blocks:

19 (A) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines
20 grid for drug crimes and such offender has no felony conviction of K.S.A.
21 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal,
22 K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer,
23 or K.S.A. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any
24 substantially similar offense from another jurisdiction; or

25 (B) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines
26 grid for drug crimes and:

27 (i) Such offender has no felony conviction of K.S.A. 65-4142, 65-
28 4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010
29 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A.
30 21-5703, 21-5705 or 21-5716, and amendments thereto, or any
31 substantially similar offense from another jurisdiction;

32 (ii) the person felonies in the offender's criminal history were severity
33 level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for
34 nondrug crimes; and

35 (iii) the court finds and sets forth with particularity the reasons for

1 finding that the safety of the members of the public will not be jeopardized
2 by such placement in a drug abuse treatment program.

3 (2) Offenders convicted of a nonperson felony whose offense is
4 classified in grid blocks:

5 (A) 10-C, 10-D, 10-E, 10-F, 10-G, 10-H, 10-I, 9-C, 9-D, 9-E, 9-F, 9-
6 G, 9-H, 9-I, 8-C, 8-D, 8-E, 8-F, 8-G, 8-H, 8-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H
7 or 7-I of the sentencing guidelines grid for nondrug crimes and:

8 (i) Such offender has no felony conviction of K.S.A. 65-4142, 65-
9 4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010
10 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A.
11 21-5703, 21-5705 or 21-5716, and amendments thereto, or any
12 substantially similar offense from another jurisdiction; *and*

13 (ii) *the provisions of K.S.A. 21-6804(n), (p), (u) or (x), and*
14 *amendments thereto, do not apply*; or

15 (B) 10-A, 10-B, 9-A, 9-B, 8-A, 8-B, 7-A or 7-B of the sentencing
16 guidelines grid for nondrug crimes and:

17 (i) Such offender has no felony conviction of K.S.A. 65-4142, 65-
18 4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010
19 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A.
20 21-5703, 21-5705 or 21-5716, and amendments thereto, or any
21 substantially similar offense from another jurisdiction;

22 (ii) the person felonies in the offender's criminal history were severity
23 level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for
24 nondrug crimes; ~~and~~

25 (iii) the court finds and sets forth with particularity the reasons for
26 finding that the safety of the members of the public will not be jeopardized
27 by such placement in a drug abuse treatment program; *and*

28 (iv) *the provisions of K.S.A. 21-6804(n), (p), (u) or (x), and*
29 *amendments thereto, do not apply*.

30 (b) As a part of the presentence investigation pursuant to K.S.A. 21-
31 6813, and amendments thereto, offenders who meet the requirements of
32 subsection (a), unless otherwise specifically ordered by the court, shall be
33 subject to:

34 (1) A drug abuse assessment that shall include a clinical interview
35 with a mental health professional and a recommendation concerning drug
36 abuse treatment for the offender; and

37 (2) a criminal risk-need assessment. The criminal risk-need
38 assessment shall assign a risk status to the offender.

39 (c) If the offender is assigned a risk status as determined by the drug
40 abuse assessment performed pursuant to subsection (b)(1) and a risk status
41 as determined by the criminal risk-need assessment performed pursuant to
42 subsection (b)(2) that meets the criteria for participation in a drug abuse
43 treatment program as determined by the Kansas sentencing commission,

1 the sentencing court shall commit the offender to treatment in a drug abuse
 2 treatment program until the court determines the offender is suitable for
 3 discharge by the court. The term of treatment shall not exceed 18 months.
 4 The court may extend the term of probation pursuant to K.S.A. 21-6608(c)
 5 (3), and amendments thereto. The term of treatment may not exceed the
 6 term of probation.

7 (d) (1) Offenders who are committed to a drug abuse treatment
 8 program pursuant to subsection (c) shall be supervised by community
 9 correctional services.

10 (2) Offenders who are not committed to a drug abuse treatment
 11 program pursuant to subsection (c) shall be supervised by community
 12 correctional services or court services based on the result of the criminal
 13 risk assessment.

14 (3) If the offender is permitted to go from the judicial district of the
 15 sentencing court, the court may, pursuant to K.S.A. 21-6610, and
 16 amendments thereto:

17 (A) Transfer supervision of the offender from that judicial district to
 18 another; and

19 (B) either transfer or retain jurisdiction of the offender.

20 (e) Placement of offenders under subsection (a)(1)(B) or (a)(2)(B)
 21 shall be subject to the departure sentencing statutes of the revised Kansas
 22 sentencing guidelines act.

23 (f) (1) Offenders in drug abuse treatment programs shall be
 24 discharged from such program if the offender:

25 (A) Is convicted of a new felony; or

26 (B) has a pattern of intentional conduct that demonstrates the
 27 offender's refusal to comply with or participate in the treatment program,
 28 as established by judicial finding.

29 (2) Offenders who are discharged from such program shall be subject
 30 to the revocation provisions of K.S.A. 21-6604(n), and amendments
 31 thereto.

32 (g) As used in this section, "mental health professional" includes
 33 licensed social workers, persons licensed to practice medicine and surgery,
 34 licensed psychologists, licensed professional counselors or registered
 35 alcohol and other drug abuse counselors licensed or certified as addiction
 36 counselors who have been certified by the Kansas sentencing commission
 37 to treat offenders pursuant to K.S.A. 75-52,144, and amendments thereto.

38 (h) (1) Offenders who meet the requirements of subsection (a) shall
 39 not be subject to the provisions of this section and shall be sentenced as
 40 otherwise provided by law, if such offenders:

41 (A) Are residents of another state and are returning to such state
 42 pursuant to the interstate corrections compact or the interstate compact for
 43 adult offender supervision;

1 (B) are not lawfully present in the United States and being detained
2 for deportation; or

3 (C) do not meet the risk assessment levels provided in subsection (c).

4 (2) Such sentence shall not be considered a departure and shall not be
5 subject to appeal.

6 (i) The court may order an offender who otherwise does not meet the
7 requirements of subsection (c) to undergo one additional drug abuse
8 assessment while such offender is on probation. Such offender may be
9 ordered to undergo drug abuse treatment pursuant to subsection (a) if such
10 offender is determined to meet the requirements of subsection (c). The cost
11 of such assessment shall be paid by such offender.

12 Sec. 2. K.S.A. 2024 Supp. 75-52,144 is hereby amended to read as
13 follows: 75-52,144. (a) Drug abuse treatment programs certified in
14 accordance with subsection (b) shall provide:

15 (1) Drug abuse assessments of any person who is convicted of or
16 being considered for a diversion agreement in lieu of further criminal
17 proceedings for a felony violation of K.S.A. 65-4160 or 65-4162, prior to
18 such section's repeal, K.S.A. 2010 Supp. 21-36a06, prior to its transfer, or
19 K.S.A. 21-5706, and amendments thereto, and meets the requirements of
20 K.S.A. 21-4729, prior to its repeal, K.S.A. 21-6824(a) or 21-6825, and
21 amendments thereto;

22 (2) treatment of all persons who are convicted of or entered into a
23 diversion agreement in lieu of further criminal proceedings for a felony
24 violation of K.S.A. 65-4160 or 65-4162, prior to such section's repeal,
25 K.S.A. 2010 Supp. 21-36a06, prior to its transfer, or K.S.A. 21-5706, and
26 amendments thereto, meet the requirements of K.S.A. 21-4729, prior to its
27 repeal, K.S.A. 21-6824 or 21-6825, and amendments thereto, and whose
28 sentence requires completion of a certified drug abuse treatment program,
29 as provided in this section;

30 (3) one or more treatment options in the continuum of services
31 needed to reach recovery: Detoxification, rehabilitation, continuing care
32 and aftercare, and relapse prevention;

33 (4) treatment options to incorporate family and auxiliary support
34 services; and

35 (5) treatment options for alcohol abuse when indicated by the
36 assessment of the offender or required by the court.

37 (b) (1) *Except as provided further*, the criminal risk-need assessment
38 shall be conducted by a court services officer. *A criminal risk-need*
39 *assessment for use pursuant to K.S.A. 21-6825, and amendments thereto,*
40 *may be conducted by a court services officer or a community correctional*
41 *services officer.*

42 (2) The drug abuse treatment program placement assessment shall be
43 conducted by a drug abuse treatment program certified in accordance with

1 the provisions of this subsection to provide assessment and treatment
2 services.

3 (3) A drug abuse treatment program shall be certified by the Kansas
4 sentencing commission. The commission may establish qualifications for
5 the certification of programs, which may include requirements for
6 supervision and monitoring of clients, fee reimbursement procedures,
7 handling of conflicts of interest, delivery of services to clients unable to
8 pay and other matters relating to quality and delivery of services by the
9 program. Drug abuse treatment may include community based and faith
10 based programs. The certification shall be for a four-year period. The
11 commission may establish a process for revoking certification of programs
12 that do not meet the commission's qualifications for certification.
13 Recertification of a program shall be by the commission.

14 (4) To be eligible for certification or recertification under this
15 subsection, the commission shall determine that a drug abuse treatment
16 program:

17 ~~(A)~~ Meets the qualifications established by the commission;
18 ~~(B)~~ is capable of providing the assessments, supervision and
19 monitoring required under subsection (a);
20 ~~(C)~~ has employed or contracted with certified treatment providers;
21 and

22 ~~(D)~~ meets any other functions and duties specified by law.

23 (c) Any treatment provider who is employed or has contracted with a
24 certified drug abuse treatment program who provides services to offenders
25 shall be certified by the Kansas sentencing commission. The commission
26 shall require education and training that shall include, but not be limited to,
27 case management and cognitive behavior training. The duties of
28 providers who prepare the presentence drug abuse assessment may also
29 include appearing at sentencing and probation hearings in accordance with
30 the orders of the court, monitoring offenders in the treatment programs,
31 notifying the probation department and the court of any offender failing to
32 meet the conditions of probation or referrals to treatment, appearing at
33 revocation hearings as may be required and providing assistance and data
34 reporting and program evaluation.

35 (d) (1) The cost for all drug abuse assessments performed pursuant to
36 subsection (a)(1), and the cost for all certified drug abuse treatment
37 programs for any person who meets the requirements of K.S.A. 21-6824 or
38 21-6825, and amendments thereto, shall be paid by the Kansas sentencing
39 commission from funds appropriated for such purpose. The Kansas
40 sentencing commission shall contract for payment for such services with
41 the supervising agency.

42 (2) The sentencing court shall determine the extent, if any, that such
43 person is able to pay for such assessment and treatment. Such payments

1 shall be used by the supervising agency to offset costs to the state. If such
2 financial obligations are not met or cannot be met, the sentencing court
3 shall be notified for the purpose of collection or review and further action
4 on the offender's sentence.

5 (3) If the person has entered into a diversion agreement in lieu of
6 further criminal proceedings, the county or district attorney shall
7 determine the extent, if any, that such person is able to pay for such
8 assessment and treatment. Such payments shall be used by the supervising
9 agency to offset costs to the state or county. If such financial obligations
10 are not met or cannot be met, the county or district attorney shall be
11 notified for the purpose of collection or review and further action on the
12 person's diversion agreement.

13 (e) The community corrections staff shall work with the substance
14 abuse treatment staff to ensure effective supervision and monitoring of the
15 offender.

16 (f) The Kansas sentencing commission is hereby authorized to adopt
17 rules and regulations to carry out the provisions of this section.

18 Sec. 3. K.S.A. 21-6824 and K.S.A. 2024 Supp. 75-52,144 are hereby
19 repealed.

20 Sec. 4. This act shall take effect and be in force from and after its
21 publication in the statute book.