

Sec. 3. K.S.A. 2011 Supp. 8-1008 is hereby amended to read as follows:

(a) As used in this section, "provider" means:

(1) A professional licensed by the behavioral sciences regulatory board to diagnose and treat mental or substance use disorders at the independent level who is compliant with the requirements set forth by the secretary of social and rehabilitation services as described in subsection (f); or

(2) a professional licensed by the behavioral sciences regulatory board who is working in an alcohol and drug treatment facility licensed by the secretary of social and rehabilitation services as meeting the requirements described in subsection (f).

(b) A provider shall provide:

(1) Alcohol and drug evaluations, prior to sentencing, of any person who is convicted of a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by those statutes; and

(2) alcohol and drug evaluations of persons whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by that statute.

~~(c) A provider shall be capable of providing, within the judicial district:~~

~~(1) The evaluations required under subsection (b);~~

~~(2) the alcohol and drug evaluation report required under subsection (d) or (e);~~

~~(3) the follow-up duties specified under subsection (d) or (e) for persons who  
—prepare the alcohol and drug evaluation report; and~~

~~(4) any other functions and duties specified by law. (delete this section)~~

The secretary of social and rehabilitation services shall provide each judicial district with an electronic list of providers, and such list shall be used when selecting a provider to be used as described in subsections (d) and (e). The secretary of social and rehabilitation services shall also make all such lists of providers publicly available on the official website of the department of social and rehabilitation services. Any provider performing services in any judicial district under this section prior to July 1, 2011, may continue to perform those services until July 1, 2012.

(d) Prior to sentencing, an alcohol and drug evaluation shall be conducted on any person who is convicted of a violation of K.S.A. 8-2,144 or 8-1567, and amendments

thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by those statutes. ***The provider who conducts the alcohol and drug evaluation report on the convicted person shall be given access to the convicted person's criminal history and incorporate the person's criminal history in the alcohol and drug evaluation report, and this*** report shall be considered by the court prior to sentencing. *Except as provided further,* the court shall order that *the* cost of any alcohol and drug evaluation for any person shall be paid by such person to the provider at the time of service, ~~and shall not exceed \$150.~~ *If the court finds that such person is indigent, the court shall pay the cost of any alcohol and drug evaluation for such person to the provider at the time of service. The cost of any such evaluation, whether paid by the person or the court, shall be not less than \$150.*

(e) An alcohol and drug evaluation shall be conducted on any person whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by that statute. ***The provider who conducts the alcohol and drug evaluation report on the convicted person shall be given access to the convicted person's criminal history and incorporate the person's criminal history in the alcohol and drug evaluation report, and this*** valuation report shall be made available to the prosecuting attorney and shall be considered by the prosecuting attorney. The cost of any alcohol and drug evaluation for any person shall be paid by such person *or the court* to the provider at the time of service, and shall ~~not exceed~~ *be not less than* \$150.

(f) All alcohol and drug evaluations conducted pursuant to this section shall utilize a standardized substance use evaluation approved by the secretary of social and rehabilitation services and be submitted in a format approved by the secretary of social and rehabilitation services. On or before July 1, 2012, the secretary of social and rehabilitation services shall promulgate rules and regulations to implement this section.