

(Corrected)

Session of 2012

**House Substitute for
Substitute for SENATE BILL No. 159**

By Committee on Corrections and Juvenile Justice

3-13

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to conditions of release; conditions for persons on probation; searches
3 of parolees and persons on postrelease supervision; conditions for sex
4 offenders; amending K.S.A. 2011 Supp. 21-6607 and 22-3717 and
5 repealing the existing sections.
6

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

8 Section 1. K.S.A. 2011 Supp. 21-6607 is hereby amended to read as
9 follows: 21-6607. (a) Except as required by subsection (c), nothing in this
10 section shall be construed to limit the authority of the court to impose or
11 modify any general or specific conditions of probation, suspension of
12 sentence or assignment to a community correctional services program. The
13 court services officer or community correctional services officer may
14 recommend, and the court may order, the imposition of any conditions of
15 probation, suspension of sentence or assignment to a community
16 correctional services program. For crimes committed on or after July 1,
17 1993, in presumptive nonprison cases, the court services officer or
18 community correctional services officer may recommend, and the court
19 may order, the imposition of any conditions of probation or assignment to
20 a community correctional services program. The court may at any time
21 order the modification of such conditions, after notice to the court services
22 officer or community correctional services officer and an opportunity for
23 such officer to be heard thereon. The court shall cause a copy of any such
24 order to be delivered to the court services officer and the probationer or to
25 the community correctional services officer and the community corrections
26 participant, as the case may be. The provisions of K.S.A. 75-5291, and
27 amendments thereto, shall be applicable to any assignment to a community
28 correctional services program pursuant to this section.

29 (b) The court may impose any conditions of probation, suspension of
30 sentence or assignment to a community correctional services program that
31 the court deems proper, including, but not limited to, requiring that the
32 defendant:

33 (1) Avoid such injurious or vicious habits, as directed by the court,
34 court services officer or community correctional services officer;

1 (2) avoid such persons or places of disreputable or harmful character,
2 as directed by the court, court services officer or community correctional
3 services officer;

4 (3) report to the court services officer or community correctional
5 services officer as directed;

6 (4) permit the court services officer or community correctional
7 services officer to visit the defendant at home or elsewhere;

8 (5) work faithfully at suitable employment insofar as possible;

9 (6) remain within the state unless the court grants permission to
10 leave;

11 (7) pay a fine or costs, applicable to the offense, in one or several
12 sums and in the manner as directed by the court;

13 (8) support the defendant's dependents;

14 (9) reside in a residential facility located in the community and
15 participate in educational, counseling, work and other correctional or
16 rehabilitative programs;

17 (10) perform community or public service work for local
18 governmental agencies, private corporations organized not for profit, or
19 charitable or social service organizations performing services for the
20 community;

21 (11) perform services under a system of day fines whereby the
22 defendant is required to satisfy fines, costs or reparation or restitution
23 obligations by performing services for a period of days, determined by the
24 court on the basis of ability to pay, standard of living, support obligations
25 and other factors;

26 (12) participate in a house arrest program pursuant to K.S.A. 2011
27 Supp. 21-6609, and amendments thereto;

28 (13) order the defendant to pay the administrative fee authorized by
29 K.S.A. 22-4529, and amendments thereto, unless waived by the court; or

30 (14) in felony cases, except for violations of K.S.A. 8-1567, and
31 amendments thereto, be confined in a county jail not to exceed 60 days,
32 which need not be served consecutively.

33 (c) In addition to any other conditions of probation, suspension of
34 sentence or assignment to a community correctional services program, the
35 court shall order the defendant to comply with each of the following
36 conditions:

37 (1) The defendant shall obey all laws of the United States, the state of
38 Kansas and any other jurisdiction to the laws of which the defendant may
39 be subject;

40 (2) make reparation or restitution to the aggrieved party for the
41 damage or loss caused by the defendant's crime, in an amount and manner
42 determined by the court and to the person specified by the court, unless the
43 court finds compelling circumstances which would render a plan of

1 restitution unworkable. If the court finds a plan of restitution unworkable,
2 the court shall state on the record in detail the reasons therefore;

3 (3) (A) pay a correctional supervision fee of \$60 if the person was
4 convicted of a misdemeanor or a fee of \$120 if the person was convicted
5 of a felony. In any case the amount of the correctional supervision fee
6 specified by this paragraph may be reduced or waived by the judge if the
7 person is unable to pay that amount;

8 (B) the correctional supervision fee imposed by this paragraph shall
9 be charged and collected by the district court. The clerk of the district
10 court shall remit all revenues received under this paragraph from
11 correctional supervision fees to the state treasurer in accordance with the
12 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
13 each such remittance, the state treasurer shall deposit the entire amount in
14 the state treasury to the credit of the state general fund, a sum equal to
15 41.67% of such remittance, and to the correctional supervision fund, a sum
16 equal to 58.33% of such remittance;

17 (C) this paragraph shall apply to persons placed on felony or
18 misdemeanor probation or released on misdemeanor parole to reside in
19 Kansas and supervised by Kansas court services officers under the
20 interstate compact for offender supervision; and

21 (D) this paragraph shall not apply to persons placed on probation or
22 released on parole to reside in Kansas under the uniform act for out-of-
23 state parolee supervision; ~~and~~

24 (4) reimburse the state general fund for all or a part of the
25 expenditures by the state board of indigents' defense services to provide
26 counsel and other defense services to the defendant. In determining the
27 amount and method of payment of such sum, the court shall take account
28 of the financial resources of the defendant and the nature of the burden that
29 payment of such sum will impose. A defendant who has been required to
30 pay such sum and who is not willfully in default in the payment thereof
31 may at any time petition the court which sentenced the defendant to waive
32 payment of such sum or of any unpaid portion thereof. If it appears to the
33 satisfaction of the court that payment of the amount due will impose
34 manifest hardship on the defendant or the defendant's immediate family,
35 the court may waive payment of all or part of the amount due or modify
36 the method of payment. The amount of attorney fees to be included in the
37 court order for reimbursement shall be the amount claimed by appointed
38 counsel on the payment voucher for indigents' defense services or the
39 amount prescribed by the board of indigents' defense services
40 reimbursement tables as provided in K.S.A. 22-4522, and amendments
41 thereto, whichever is less;

42 (5) *be subject to searches of the defendant's person, effects, vehicle,*
43 *residence and property by a court services officer, a community*

1 *correctional services officer and any other law enforcement officer based*
2 *on reasonable suspicion of the defendant violating conditions of probation*
3 *or criminal activity; and*

4 *(6) be subject to random, but reasonable, tests for drug and alcohol*
5 *consumption as ordered by a court services officer or community*
6 *correctional services officer.*

7 *(d) Any law enforcement officer conducting a search pursuant to*
8 *subsection (c)(5) shall submit a written report to the appropriate court*
9 *services officer or community correctional services officer no later than*
10 *the close of the next business day after such search. The written report*
11 *shall include the facts leading to such search, the scope of such search and*
12 *any findings resulting from such search.*

13 ~~(d)~~ *(e) There is hereby established in the state treasury the*
14 *correctional supervision fund. All moneys credited to the correctional*
15 *supervision fund shall be used for the implementation of and training for*
16 *use of a statewide, mandatory, standardized risk assessment tool or*
17 *instrument as specified by the Kansas sentencing commission, pursuant to*
18 *K.S.A. 75-5291, and amendments thereto, and for evidence-based offender*
19 *supervision programs by judicial branch personnel. If all expenditures for*
20 *the program have been paid and moneys remain in the correctional*
21 *supervision fund for a fiscal year, remaining moneys may be expended*
22 *from the correctional supervision fund to support offender supervision by*
23 *court services officers. All expenditures from the correctional supervision*
24 *fund shall be made in accordance with appropriation acts upon warrants of*
25 *the director of accounts and reports issued pursuant to vouchers approved*
26 *by the chief justice of the Kansas supreme court or by a person or persons*
27 *designated by the chief justice.*

28 *Sec. 2. K.S.A. 2011 Supp. 22-3717 is hereby amended to read as*
29 *follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.*
30 *1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through 21-4638,*
31 *prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642,*
32 *prior to its repeal; K.S.A. 2011 Supp. 21-6617, 21-6620, 21-6623, 21-*
33 *6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567,*
34 *and amendments thereto; an inmate, including an inmate sentenced*
35 *pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2011 Supp. 21-*
36 *6707, and amendments thereto, shall be eligible for parole after serving the*
37 *entire minimum sentence imposed by the court, less good time credits.*

38 *(b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, prior*
39 *to their repeal, and K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-*
40 *6625, and amendments thereto, an inmate sentenced to imprisonment for*
41 *the crime of capital murder, or an inmate sentenced for the crime of*
42 *murder in the first degree based upon a finding of premeditated murder,*
43 *committed on or after July 1, 1994, shall be eligible for parole after*

1 serving 25 years of confinement, without deduction of any good time
2 credits.

3 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
4 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior
5 to their repeal, and K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-
6 6625, and amendments thereto, an inmate sentenced to imprisonment for
7 an off-grid offense committed on or after July 1, 1993, but prior to July 1,
8 1999, shall be eligible for parole after serving 15 years of confinement,
9 without deduction of any good time credits and an inmate sentenced to
10 imprisonment for an off-grid offense committed on or after July 1, 1999,
11 shall be eligible for parole after serving 20 years of confinement without
12 deduction of any good time credits.

13 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
14 repeal, an inmate sentenced for a class A felony committed before July 1,
15 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
16 its repeal, or K.S.A. 2011 Supp. 21-6707, and amendments thereto, shall
17 be eligible for parole after serving 15 years of confinement, without
18 deduction of any good time credits.

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

24 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
25 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
26 thereto, committed on or after July 1, 2006, shall be eligible for parole
27 after serving the mandatory term of imprisonment without deduction of
28 any good time credits.

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

33 (A) The aggregate minimum sentences, as determined pursuant to
34 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2011 Supp. 21-6606, and
35 amendments thereto, less good time credits for those crimes which are not
36 class A felonies; and

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

39 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
40 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
41 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
42 eligible for parole after serving the mandatory term of imprisonment.

43 (d) (1) Persons sentenced for crimes, other than off-grid crimes,

1 committed on or after July 1, 1993, or persons subject to subparagraph
2 (G), will not be eligible for parole, but will be released to a mandatory
3 period of postrelease supervision upon completion of the prison portion of
4 their sentence as follows:

5 (A) Except as provided in subparagraphs (D) and (E), persons
6 sentenced for nondrug severity level 1 through 4 crimes and drug severity
7 levels 1 and 2 crimes must serve 36 months, plus the amount of good time
8 and program credit earned and retained pursuant to K.S.A. 21-4722, prior
9 to its repeal, or K.S.A. 2011 Supp. 21-6821, and amendments thereto, on
10 postrelease supervision.

11 (B) Except as provided in subparagraphs (D) and (E), persons
12 sentenced for nondrug severity levels 5 and 6 crimes and drug severity
13 level 3 crimes must serve 24 months, plus the amount of good time and
14 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
15 repeal, or K.S.A. 2011 Supp. 21-6821, and amendments thereto, on
16 postrelease supervision.

17 (C) Except as provided in subparagraphs (D) and (E), persons
18 sentenced for nondrug severity level 7 through 10 crimes and drug severity
19 level 4 crimes must serve 12 months, plus the amount of good time and
20 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
21 repeal, or K.S.A. 2011 Supp. 21-6821, and amendments thereto, on
22 postrelease supervision.

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

29 (ii) If the sentencing judge departs from the presumptive postrelease
30 supervision period, the judge shall state on the record at the time of
31 sentencing the substantial and compelling reasons for the departure.
32 Departures in this section are subject to appeal pursuant to K.S.A. 21-
33 4721, prior to its repeal, or K.S.A. 2011 Supp. 21-6820, and amendments
34 thereto.

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

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

39 (b) any evidence received during the proceeding;

40 (c) the presentence report, the victim's impact statement and any
41 psychological evaluation as ordered by the court pursuant to subsection (e)
42 of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 2011
43 Supp. 21-6813, and amendments thereto; and

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

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

6 (v) In carrying out the provisions of subparagraph (d)(1)(D), the court
7 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2011 Supp. 21-
8 6817, and amendments thereto.

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

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

18 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
19 repeal, or K.S.A. 2011 Supp. 21-5508, and amendments thereto, shall be
20 required to participate in a treatment program for sex offenders during the
21 postrelease supervision period.

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

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

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

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

39 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2011 Supp.
40 21-5503, and amendments thereto;

41 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
42 or subsection (a) of K.S.A. 2011 Supp. 21-5506, and amendments thereto;

43 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior

1 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5506, and
2 amendments thereto;

3 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
4 prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2011 Supp. 21-
5 5504, and amendments thereto;

6 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
7 or subsection (b) of K.S.A. 2011 Supp. 21-5504, and amendments thereto;

8 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
9 or subsection (a) of K.S.A. 2011 Supp. 21-5508, and amendments thereto;

10 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
11 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5508, and
12 amendments thereto;

13 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
14 or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

15 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
16 subsection (b) of K.S.A. 2011 Supp. 21-5505, and amendments thereto;

17 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or
18 subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments thereto; or

19 (K) an attempt, conspiracy or criminal solicitation, as defined in
20 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011
21 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
22 sexually violent crime as defined in this section.

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

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

33 (f) If a person is sentenced to prison for a crime committed on or after
34 July 1, 1993, while on probation, parole, conditional release or in a
35 community corrections program, for a crime committed prior to July 1,
36 1993, and the person is not eligible for retroactive application of the
37 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
38 4724, prior to its repeal, the new sentence shall not be aggregated with the
39 old sentence, but shall begin when the person is paroled or reaches the
40 conditional release date on the old sentence. If the offender was past the
41 offender's conditional release date at the time the new offense was
42 committed, the new sentence shall not be aggregated with the old sentence
43 but shall begin when the person is ordered released by the ~~Kansas parole~~

1 *prisoner review* board or reaches the maximum sentence expiration date on
2 the old sentence, whichever is earlier. The new sentence shall then be
3 served as otherwise provided by law. The period of postrelease supervision
4 shall be based on the new sentence, except that those offenders whose old
5 sentence is a term of imprisonment for life, imposed pursuant to K.S.A.
6 1993 Supp. 21-4628, prior to its repeal, or an indeterminate sentence with
7 a maximum term of life imprisonment, for which there is no conditional
8 release or maximum sentence expiration date, shall remain on postrelease
9 supervision for life or until discharged from supervision by the ~~Kansas~~
10 ~~parole~~ *prisoner review* board.

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

27 (h) The ~~Kansas parole~~ *prisoner review* board shall hold a parole
28 hearing at least the month prior to the month an inmate will be eligible for
29 parole under subsections (a), (b) and (c). At least the month preceding the
30 parole hearing, the county or district attorney of the county where the
31 inmate was convicted shall give written notice of the time and place of the
32 public comment sessions for the inmate to any victim of the inmate's crime
33 who is alive and whose address is known to the county or district attorney
34 or, if the victim is deceased, to the victim's family if the family's address is
35 known to the county or district attorney. Except as otherwise provided,
36 failure to notify pursuant to this section shall not be a reason to postpone a
37 parole hearing. In the case of any inmate convicted of an off-grid felony or
38 a class A felony the secretary of corrections shall give written notice of the
39 time and place of the public comment session for such inmate at least one
40 month preceding the public comment session to any victim of such
41 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
42 amendments thereto. If notification is not given to such victim or such
43 victim's family in the case of any inmate convicted of an off-grid felony or

1 a class A felony, the board shall postpone a decision on parole of the
2 inmate to a time at least 30 days after notification is given as provided in
3 this section. Nothing in this section shall create a cause of action against
4 the state or an employee of the state acting within the scope of the
5 employee's employment as a result of the failure to notify pursuant to this
6 section. If granted parole, the inmate may be released on parole on the date
7 specified by the board, but not earlier than the date the inmate is eligible
8 for parole under subsections (a), (b) and (c). At each parole hearing and, if
9 parole is not granted, at such intervals thereafter as it determines
10 appropriate, the ~~Kansas parole~~ board shall consider: (1) Whether the
11 inmate has satisfactorily completed the programs required by any
12 agreement entered under K.S.A. 75-5210a, and amendments thereto, or
13 any revision of such agreement; and (2) all pertinent information regarding
14 such inmate, including, but not limited to, the circumstances of the offense
15 of the inmate; the presentence report; the previous social history and
16 criminal record of the inmate; the conduct, employment, and attitude of the
17 inmate in prison; the reports of such physical and mental examinations as
18 have been made, including, but not limited to, risk factors revealed by any
19 risk assessment of the inmate; comments of the victim and the victim's
20 family including in person comments, contemporaneous comments and
21 prerecorded comments made by any technological means; comments of
22 the public; official comments; any recommendation by the staff of the
23 facility where the inmate is incarcerated; proportionality of the time the
24 inmate has served to the sentence a person would receive under the Kansas
25 sentencing guidelines for the conduct that resulted in the inmate's
26 incarceration; and capacity of state correctional institutions.

27 (i) In those cases involving inmates sentenced for a crime committed
28 after July 1, 1993, the ~~parole~~ *prisoner review* board will review the
29 inmates proposed release plan. The board may schedule a hearing if they
30 desire. The board may impose any condition they deem necessary to insure
31 public safety, aid in the reintegration of the inmate into the community, or
32 items not completed under the agreement entered into under K.S.A. 75-
33 5210a, and amendments thereto. The board may not advance or delay an
34 inmate's release date. Every inmate while on postrelease supervision shall
35 remain in the legal custody of the secretary of corrections and is subject to
36 the orders of the secretary.

37 (j) (1) Before ordering the parole of any inmate, the ~~Kansas parole~~
38 *prisoner review* board shall have the inmate appear either in person or via
39 a video conferencing format and shall interview the inmate unless
40 impractical because of the inmate's physical or mental condition or
41 absence from the institution. Every inmate while on parole shall remain in
42 the legal custody of the secretary of corrections and is subject to the orders
43 of the secretary. Whenever the ~~Kansas parole~~ board formally considers

1 placing an inmate on parole and no agreement has been entered into with
2 the inmate under K.S.A. 75-5210a, and amendments thereto, the board
3 shall notify the inmate in writing of the reasons for not granting parole. If
4 an agreement has been entered under K.S.A. 75-5210a, and amendments
5 thereto, and the inmate has not satisfactorily completed the programs
6 specified in the agreement, or any revision of such agreement, the board
7 shall notify the inmate in writing of the specific programs the inmate must
8 satisfactorily complete before parole will be granted. If parole is not
9 granted only because of a failure to satisfactorily complete such programs,
10 the board shall grant parole upon the secretary's certification that the
11 inmate has successfully completed such programs. If an agreement has
12 been entered under K.S.A. 75-5210a, and amendments thereto, and the
13 secretary of corrections has reported to the board in writing that the inmate
14 has satisfactorily completed the programs required by such agreement, or
15 any revision thereof, the board shall not require further program
16 participation. However, if the board determines that other pertinent
17 information regarding the inmate warrants the inmate's not being released
18 on parole, the board shall state in writing the reasons for not granting the
19 parole. If parole is denied for an inmate sentenced for a crime other than a
20 class A or class B felony or an off-grid felony, the board shall hold another
21 parole hearing for the inmate not later than one year after the denial unless
22 the ~~parole~~ board finds that it is not reasonable to expect that parole would
23 be granted at a hearing if held in the next three years or during the interim
24 period of a deferral. In such case, the ~~parole~~ board may defer subsequent
25 parole hearings for up to three years but any such deferral by the board
26 shall require the board to state the basis for its findings. If parole is denied
27 for an inmate sentenced for a class A or class B felony or an off-grid
28 felony, the board shall hold another parole hearing for the inmate not later
29 than three years after the denial unless the ~~parole~~ board finds that it is not
30 reasonable to expect that parole would be granted at a hearing if held in
31 the next 10 years or during the interim period of a deferral. In such case,
32 the ~~parole~~ board may defer subsequent parole hearings for up to 10 years
33 but any such deferral shall require the board to state the basis for its
34 findings.

35 (2) Inmates sentenced for a class A or class B felony who have not
36 had a ~~parole~~ board hearing in the five years prior to July 1, 2010, shall
37 have such inmates' cases reviewed by the ~~parole~~ board on or before July 1,
38 2012. Such review shall begin with the inmates with the oldest deferral
39 date and progress to the most recent. Such review shall be done utilizing
40 existing resources unless the ~~parole~~ board determines that such resources
41 are insufficient. If the ~~parole~~ board determines that such resources are
42 insufficient, then the provisions of this paragraph are subject to
43 appropriations therefor.

1 (k) (1) Parolees and persons on postrelease supervision shall be
2 assigned, upon release, to the appropriate level of supervision pursuant to
3 the criteria established by the secretary of corrections.

4 (2) *Parolees and persons on postrelease supervision are, and shall*
5 *agree in writing to be, subject to search or seizure by a parole officer or a*
6 *department of corrections enforcement, apprehension and investigation*
7 *officer, at any time of the day or night, with or without a search warrant*
8 *and with or without cause. Nothing in this subsection shall be construed to*
9 *authorize such officers to conduct arbitrary or capricious searches or*
10 *searches for the sole purpose of harassment.*

11 (3) *Parolees and persons on postrelease supervision are, and shall*
12 *agree in writing to be, subject to search or seizure by any law enforcement*
13 *officer based on reasonable suspicion of the person violating conditions of*
14 *parole or postrelease supervision or reasonable suspicion of criminal*
15 *activity. Any law enforcement officer who conducts such a search shall*
16 *submit a written report to the appropriate parole officer no later than the*
17 *close of the next business day after such search. The written report shall*
18 *include the facts leading to such search, the scope of such search and any*
19 *findings resulting from such search.*

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

29 (m) Whenever the ~~Kansas parole~~ *prisoner review* board orders the
30 parole of an inmate or establishes conditions for an inmate placed on
31 postrelease supervision, the board:

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

40 (2) to the extent practicable, shall order as a condition of parole or
41 postrelease supervision that the parolee or the person on postrelease
42 supervision make progress towards or successfully complete the
43 equivalent of a secondary education if the inmate has not previously

1 completed such educational equivalent and is capable of doing so;

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

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

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

23 (6) *shall order that the parolee or person on postrelease supervision*
24 *agree in writing to be subject to search or seizure by a parole officer or a*
25 *department of corrections enforcement, apprehension and investigation*
26 *officer, at any time of the day or night, with or without a search warrant*
27 *and with or without cause. Nothing in this subsection shall be construed to*
28 *authorize such officers to conduct arbitrary or capricious searches or*
29 *searches for the sole purpose of harassment; and*

30 (7) *shall order that the parolee or person on postrelease supervision*
31 *agree in writing to be subject to search or seizure by any law enforcement*
32 *officer based on reasonable suspicion of the person violating conditions of*
33 *parole or postrelease supervision or reasonable suspicion of criminal*
34 *activity.*

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

42 (o) Whenever the ~~Kansas parole prisoner review~~ board grants the
43 parole of an inmate, the board, within 14 days of the date of the decision to

1 grant parole, shall give written notice of the decision to the county or
2 district attorney of the county where the inmate was sentenced.

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

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

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

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

20 (t) For offenders sentenced prior to May 25, 2000, who are eligible
21 for modification of their postrelease supervision obligation, the department
22 of corrections shall modify the period of postrelease supervision as
23 provided for by this section for offenders convicted of severity level 9 and
24 10 crimes on the sentencing guidelines grid for nondrug crimes and
25 severity level 4 crimes on the sentencing guidelines grid for drug crimes
26 on or before September 1, 2000; for offenders convicted of severity level 7
27 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or
28 before November 1, 2000; and for offenders convicted of severity level 5
29 and 6 crimes on the sentencing guidelines grid for nondrug crimes and
30 severity level 3 crimes on the sentencing guidelines grid for drug crimes
31 on or before January 1, 2001.

32 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
33 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
34 thereto, for crimes committed on or after July 1, 2006, shall be placed on
35 parole for life and shall not be discharged from supervision by the ~~Kansas~~
36 ~~parole prisoner review~~ board. When the board orders the parole of an
37 inmate pursuant to this subsection, the board shall order as a condition of
38 parole that the inmate be electronically monitored for the duration of the
39 inmate's natural life.

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

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

4 *(w) (1) On and after July 1, 2012, for any inmate who is a sex*
5 *offender, as defined in K.S.A. 22-4902, and amendments thereto, whenever*
6 *the prisoner review board orders the parole of such inmate or establishes*
7 *conditions for such inmate placed on postrelease supervision, such inmate*
8 *shall agree in writing to not possess pornographic materials.*

9 *(A) As used in this subsection, "pornographic materials" means: Any*
10 *obscene material or performance depicting sexual conduct, sexual contact*
11 *or a sexual performance; and any visual depiction of sexually explicit*
12 *conduct.*

13 *(B) As used in this subsection, all other terms have the meanings*
14 *provided by K.S.A. 2011 Supp. 21-5510, and amendments thereto.*

15 *(2) The provisions of this subsection shall be applied retroactively to*
16 *every sex offender, as defined in K.S.A. 22-4902, and amendments thereto,*
17 *who is on parole or postrelease supervision on July 1, 2012. The prisoner*
18 *review board shall obtain the written agreement required by this*
19 *subsection from such offenders as soon as practicable.*

20 Sec. 3. K.S.A. 2011 Supp. 21-6607 and 22-3717 are hereby repealed.

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

23