

HOUSE BILL No. 2170

By Committee on Corrections and Juvenile Justice

1-30

HB2170-Balloon1

Prepared By: Jason Thompson,
Office of Revisor of Statutes
March 20, 2013

1 AN ACT concerning crimes, criminal procedure and punishment; relating
2 to probation and postrelease supervision; relating to sentencing;
3 amending K.S.A. 2012 Supp. 21-6604, 21-6606, 21-6608, 21-6821, 22-
4 3716, 22-3717, 74-9101 and 75-5217 and repealing the existing
5 sections; also repealing K.S.A. 2012 Supp. 21-6604a and 21-6604b.
6

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

8 Section 1. K.S.A. 2012 Supp. 21-6604 is hereby amended to read as
9 follows: 21-6604. (a) Whenever any person has been found guilty of a
10 crime, the court may adjudge any of the following:

11 (1) Commit the defendant to the custody of the secretary of
12 corrections if the current crime of conviction is a felony and the sentence
13 presumes imprisonment, or the sentence imposed is a dispositional
14 departure to imprisonment; or, if confinement is for a misdemeanor, to jail
15 for the term provided by law;

16 (2) impose the fine applicable to the offense and may impose the
17 provisions of subsection (q);

18 (3) release the defendant on probation if the current crime of
19 conviction and criminal history fall within a presumptive nonprison
20 category or through a departure for substantial and compelling reasons
21 subject to such conditions as the court may deem appropriate. In felony
22 cases except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2012
23 Supp. 8-1025, and amendments thereto, the court may include confinement
24 in a county jail not to exceed 60 days, which need not be served
25 consecutively, as a condition of an original probation sentence and up to
26 60 days in a county jail upon each revocation of the probation sentence, or
27 community corrections placement;

28 (4) assign the defendant to a community correctional services
29 program as provided in K.S.A. 75-5291, and amendments thereto, or
30 through a departure for substantial and compelling reasons subject to such
31 conditions as the court may deem appropriate, including orders requiring
32 full or partial restitution;

33 (5) assign the defendant to a conservation camp for a period not to
34 exceed six months as a condition of probation followed by a six-month

1 period of follow-up through adult intensive supervision by a community
2 correctional services program, if the offender successfully completes the
3 conservation camp program;

4 (6) assign the defendant to a house arrest program pursuant to K.S.A.
5 2012 Supp. 21-6609, and amendments thereto;

6 (7) order the defendant to attend and satisfactorily complete an
7 alcohol or drug education or training program as provided by subsection
8 (c) of K.S.A. 2012 Supp. 21-6602, and amendments thereto;

9 (8) order the defendant to repay the amount of any reward paid by
10 any crime stoppers chapter, individual, corporation or public entity which
11 materially aided in the apprehension or conviction of the defendant; repay
12 the amount of any costs and expenses incurred by any law enforcement
13 agency in the apprehension of the defendant, if one of the current crimes
14 of conviction of the defendant includes escape from custody or aggravated
15 escape from custody, as defined in K.S.A. 2012 Supp. 21-5911, and
16 amendments thereto; repay expenses incurred by a fire district, fire
17 department or fire company responding to a fire which has been
18 determined to be arson or aggravated arson as defined in K.S.A. 2012
19 Supp. 21-5812, and amendments thereto, if the defendant is convicted of
20 such crime; repay the amount of any public funds utilized by a law
21 enforcement agency to purchase controlled substances from the defendant
22 during the investigation which leads to the defendant's conviction; or repay
23 the amount of any medical costs and expenses incurred by any law
24 enforcement agency or county. Such repayment of the amount of any such
25 costs and expenses incurred by a county, law enforcement agency, fire
26 district, fire department or fire company or any public funds utilized by a
27 law enforcement agency shall be deposited and credited to the same fund
28 from which the public funds were credited to prior to use by the county,
29 law enforcement agency, fire district, fire department or fire company;

30 (9) order the defendant to pay the administrative fee authorized by
31 K.S.A. 22-4529, and amendments thereto, unless waived by the court;

32 (10) order the defendant to pay a domestic violence special program
33 fee authorized by K.S.A. 20-369, and amendments thereto;

34 (11) if the defendant is convicted of a misdemeanor or convicted of a
35 felony specified in subsection (i) of K.S.A. 2012 Supp. 21-6804, and
36 amendments thereto, assign the defendant to work release program, other
37 than a program at a correctional institution under the control of the
38 secretary of corrections as defined in K.S.A. 75-5202, and amendments
39 thereto, provided such work release program requires such defendant to
40 return to confinement at the end of each day in the work release program.
41 On a second *or subsequent* conviction of K.S.A. 8-1567, and amendments
42 thereto, an offender placed into a work release program ~~must serve a total~~
43 ~~of 120 hours of confinement. Such 120 hours of confinement shall be a~~

1 ~~period of at least 48 consecutive hours of imprisonment followed by~~
2 ~~confinement hours at the end of and continuing to the beginning of the~~
3 ~~offender's work day. On a third or subsequent conviction of K.S.A. 8-~~
4 ~~1567, and amendments thereto, an offender placed into a work release~~
5 ~~program must serve a total of 240 hours of confinement. Such 240 hours~~
6 ~~of confinement shall be a period of at least 48 consecutive hours of~~
7 ~~imprisonment followed by confinement hours at the end of and continuing~~
8 ~~to the beginning of the offender's work day shall serve the total number of~~
9 ~~hours of confinement mandated by that section;~~

10 (12) order the defendant to pay the full amount of unpaid costs
11 associated with the conditions of release of the appearance bond under
12 K.S.A. 22-2802, and amendments thereto;

13 (13) impose any appropriate combination of (1), (2), (3), (4), (5), (6),
14 (7), (8), (9), (10), (11) and (12); or

15 (14) suspend imposition of sentence in misdemeanor cases.

16 (b) (1) In addition to or in lieu of any of the above, the court shall
17 order the defendant to pay restitution, which shall include, but not be
18 limited to, damage or loss caused by the defendant's crime, unless the
19 court finds compelling circumstances which would render a plan of
20 restitution unworkable. In regard to a violation of K.S.A. 2012 Supp. 21-
21 6107, and amendments thereto, such damage or loss shall include, but not
22 be limited to, attorney fees and costs incurred to repair the credit history or
23 rating of the person whose personal identification documents were
24 obtained and used in violation of such section, and to satisfy a debt, lien or
25 other obligation incurred by the person whose personal identification
26 documents were obtained and used in violation of such section. If the court
27 finds a plan of restitution unworkable, the court shall state on the record in
28 detail the reasons therefor.

29 (2) If the court orders restitution, the restitution shall be a judgment
30 against the defendant which may be collected by the court by garnishment
31 or other execution as on judgments in civil cases. If, after 60 days from the
32 date restitution is ordered by the court, a defendant is found to be in
33 noncompliance with the plan established by the court for payment of
34 restitution, and the victim to whom restitution is ordered paid has not
35 initiated proceedings in accordance with K.S.A. 60-4301 et seq., and
36 amendments thereto, the court shall assign an agent procured by the
37 attorney general pursuant to K.S.A. 75-719, and amendments thereto, to
38 collect the restitution on behalf of the victim. The chief judge of each
39 judicial district may assign such cases to an appropriate division of the
40 court for the conduct of civil collection proceedings.

41 (c) In addition to or in lieu of any of the above, the court shall order
42 the defendant to submit to and complete an alcohol and drug evaluation,
43 and pay a fee therefor, when required by subsection (d) of K.S.A. 2012

1 Supp. 21-6602, and amendments thereto.

2 (d) In addition to any of the above, the court shall order the defendant
3 to reimburse the county general fund for all or a part of the expenditures
4 by the county to provide counsel and other defense services to the
5 defendant. Any such reimbursement to the county shall be paid only after
6 any order for restitution has been paid in full. In determining the amount
7 and method of payment of such sum, the court shall take account of the
8 financial resources of the defendant and the nature of the burden that
9 payment of such sum will impose. A defendant who has been required to
10 pay such sum and who is not willfully in default in the payment thereof
11 may at any time petition the court which sentenced the defendant to waive
12 payment of such sum or any unpaid portion thereof. If it appears to the
13 satisfaction of the court that payment of the amount due will impose
14 manifest hardship on the defendant or the defendant's immediate family,
15 the court may waive payment of all or part of the amount due or modify
16 the method of payment.

17 (e) In releasing a defendant on probation, the court shall direct that
18 the defendant be under the supervision of a court services officer. If the
19 court commits the defendant to the custody of the secretary of corrections
20 or to jail, the court may specify in its order the amount of restitution to be
21 paid and the person to whom it shall be paid if restitution is later ordered
22 as a condition of parole, conditional release or postrelease supervision.

23 (f) (1) When a new felony is committed while the offender is
24 incarcerated and serving a sentence for a felony, ~~or while the offender is on~~
25 ~~probation, assignment to a community correctional services program,~~
26 ~~parole, conditional release or postrelease supervision for a felony,~~ a new
27 sentence shall be imposed pursuant to the consecutive sentencing
28 requirements consecutively pursuant to the provisions of K.S.A. 2012
29 Supp. 21-6606, and amendments thereto, and the court may sentence the
30 offender to imprisonment for the new conviction, even when the new
31 crime of conviction otherwise presumes a nonprison sentence. In this
32 event, imposition of a prison sentence for the new crime does not
33 constitute a departure.

34 ~~(2) ~~{(A)}~~ When a new ~~{nonperson}~~ felony is committed while the~~
35 ~~offender is on probation, assignment to a community correctional services~~
36 ~~program, parole, conditional release or postrelease supervision for a~~
37 ~~felony, a new sentence shall be imposed either concurrently or~~
38 ~~consecutively pursuant to the provisions of K.S.A. 21-6606, and~~
39 ~~amendments thereto, and the court may sentence the offender to~~
40 ~~imprisonment for the new conviction, even when the new crime of~~
41 ~~conviction otherwise presumes a nonprison sentence. In this event,~~
42 ~~imposition of a prison sentence for the new crime does not constitute a~~
43 ~~departure.~~

Restore current law:

or while the offender is on probation, assignment to
community correctional services program, parole,
conditional release or postrelease supervision for a felony,

Strike
lines 34-43

1 ~~{(B) When a new person felony is committed while the offender is~~
 2 ~~on probation, assignment to a community correctional services~~
 3 ~~program,} {parole, conditional release or postrelease supervision for a~~
 4 ~~felony, a new sentence shall be imposed consecutively pursuant to the~~
 5 ~~provisions of K.S.A. 21-6606, and amendments thereto, and the court~~
 6 ~~may sentence the offender to imprisonment for the new conviction,~~
 7 ~~even when the new crime of conviction otherwise presumes a~~
 8 ~~nonprison sentence. In this event, imposition of a prison sentence for~~
 9 ~~the new crime does not constitute a departure.}~~

Strike lines 1-9

Redesignate remaining paragraphs

10 (3) *When a new felony is committed during a period of time during*
 11 *which the defendant would have been on probation, assignment to a*
 12 *community correctional services program, parole, conditional release or*
 13 *postrelease supervision for a felony had the defendant not been granted*
 14 *release by the court pursuant to subsection (d) of K.S.A. 2012 Supp. 21-*
 15 *6608, and amendments thereto, or the prisoner review board pursuant to*
 16 *K.S.A. 22-3717, and amendments thereto, the court may sentence the*
 17 *offender to imprisonment for the new conviction, even when the new crime*
 18 *of conviction otherwise presumes a nonprison sentence. In this event,*
 19 *imposition of a prison sentence for the new crime does not constitute a*
 20 *departure.*

21 (4) When a new felony is committed while the offender is
 22 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671,
 23 prior to its repeal, or K.S.A. 2012 Supp. 38-2373, and amendments
 24 thereto, for an offense, which if committed by an adult would constitute
 25 the commission of a felony, upon conviction, the court shall sentence the
 26 offender to imprisonment for the new conviction, even when the new
 27 crime of conviction otherwise presumes a nonprison sentence. In this
 28 event, imposition of a prison sentence for the new crime does not
 29 constitute a departure. The conviction shall operate as a full and complete
 30 discharge from any obligations, except for an order of restitution, imposed
 31 on the offender arising from the offense for which the offender was
 32 committed to a juvenile correctional facility.

Strike "nonperson"
(Restores current law)

33 ~~(3)(5) {(A)}~~ When a new ~~{nonperson}~~ felony is committed while the
 34 offender is on release for a felony pursuant to the provisions of article 28
 35 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto,
 36 or similar provisions of the laws of another jurisdiction, a new sentence
 37 ~~may shall~~ be imposed pursuant to the consecutive sentencing requirements
 38 ~~of K.S.A. 2012 Supp. 21-6606, and amendments thereto, either~~
 39 ~~concurrently or consecutively pursuant to the provisions of K.S.A. 2012~~
 40 ~~Supp. 21-6606, and amendments thereto, and the court may sentence the~~
 41 ~~offender to imprisonment for the new conviction, even when the new~~
 42 ~~crime of conviction otherwise presumes a nonprison sentence. In this~~
 43 ~~event, imposition of a prison sentence for the new crime does not~~

may (Restores current law)

Strike "either concurrently or"
(Restores current law)

1 constitute a departure.

2 ~~{(B) When a new person felony is committed while the offender is~~
3 ~~on release for a felony pursuant to the provisions of article 28 of~~
4 ~~chapter 22 of the Kansas Statutes Annotated, and amendments~~
5 ~~thereto, or similar provisions of the laws of another jurisdiction, a new~~
6 ~~sentence shall be imposed consecutively pursuant to the provisions of~~
7 ~~K.S.A. 2012 Supp. 21-6606, and amendments thereto, and the court~~
8 ~~may sentence the offender to imprisonment for the new conviction,~~
9 ~~even when the new crime of conviction otherwise presumes a~~
10 ~~nonprison sentence. In this event, imposition of a prison sentence for~~
11 ~~the new crime does not constitute a departure.}~~

Strike
lines 2-11

12 (g) Prior to imposing a dispositional departure for a defendant whose
13 offense is classified in the presumptive nonprison grid block of either
14 sentencing guideline grid, prior to sentencing a defendant to incarceration
15 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing
16 guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I
17 of the sentencing guidelines grid for drug crimes committed prior to July
18 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing
19 guidelines grid for drug crimes committed on or after July 1, 2012, prior to
20 sentencing a defendant to incarceration whose offense is classified in grid
21 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
22 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of
23 the sentencing guidelines grid for drug crimes committed on or after July
24 1, 2012, and whose offense does not meet the requirements of K.S.A. 2012
25 Supp. 21-6824, and amendments thereto, prior to revocation of a
26 nonprison sanction of a defendant whose offense is classified in grid
27 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
28 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of
29 the sentencing guidelines grid for drug crimes committed on or after July
30 1, 2012, and whose offense does not meet the requirements of K.S.A. 2012
31 Supp. 21-6824, and amendments thereto, or prior to revocation of a
32 nonprison sanction of a defendant whose offense is classified in the
33 presumptive nonprison grid block of either sentencing guideline grid or
34 grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug
35 crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing
36 guidelines grid for drug crimes committed prior to July 1, 2012, or in grid
37 blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug
38 crimes committed on or after July 1, 2012, the court shall consider
39 placement of the defendant in the Labette correctional conservation camp,
40 conservation camps established by the secretary of corrections pursuant to
41 K.S.A. 75-52,127, and ~~amendment~~ *amendments* thereto, or a community
42 intermediate sanction center. Pursuant to this subsection the defendant
43 shall not be sentenced to imprisonment if space is available in a

1 conservation camp or community intermediate sanction center and the
2 defendant meets all of the conservation camp's or community intermediate
3 sanction center's placement criteria unless the court states on the record the
4 reasons for not placing the defendant in a conservation camp or
5 community intermediate sanction center.

6 (h) In committing a defendant to the custody of the secretary of
7 corrections, the court shall fix a term of confinement within the limits
8 provided by law. In those cases where the law does not fix a term of
9 confinement for the crime for which the defendant was convicted, the
10 court shall fix the term of such confinement.

11 (i) In addition to any of the above, the court shall order the defendant
12 to reimburse the state general fund for all or part of the expenditures by the
13 state board of indigents' defense services to provide counsel and other
14 defense services to the defendant. In determining the amount and method
15 of payment of such sum, the court shall take account of the financial
16 resources of the defendant and the nature of the burden that payment of
17 such sum will impose. A defendant who has been required to pay such sum
18 and who is not willfully in default in the payment thereof may at any time
19 petition the court which sentenced the defendant to waive payment of such
20 sum or any unpaid portion thereof. If it appears to the satisfaction of the
21 court that payment of the amount due will impose manifest hardship on the
22 defendant or the defendant's immediate family, the court may waive
23 payment of all or part of the amount due or modify the method of
24 payment. The amount of attorney fees to be included in the court order for
25 reimbursement shall be the amount claimed by appointed counsel on the
26 payment voucher for indigents' defense services or the amount prescribed
27 by the board of indigents' defense services reimbursement tables as
28 provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

29 (j) This section shall not deprive the court of any authority conferred
30 by any other Kansas statute to decree a forfeiture of property, suspend or
31 cancel a license, remove a person from office or impose any other civil
32 penalty as a result of conviction of crime.

33 (k) An application for or acceptance of probation or assignment to a
34 community correctional services program shall not constitute an
35 acquiescence in the judgment for purpose of appeal, and any convicted
36 person may appeal from such conviction, as provided by law, without
37 regard to whether such person has applied for probation, suspended
38 sentence or assignment to a community correctional services program.

39 (l) The secretary of corrections is authorized to make direct
40 placement to the Labette correctional conservation camp or a conservation
41 camp established by the secretary pursuant to K.S.A. 75-52,127, and
42 amendments thereto, of an inmate sentenced to the secretary's custody if
43 the inmate:

1 (1) Has been sentenced to the secretary for a probation revocation, as
2 a departure from the presumptive nonimprisonment grid block of either
3 sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I
4 or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks
5 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes
6 committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of
7 the sentencing guidelines grid for drug crimes committed on or after July
8 1, 2012, or for an offense which is classified in grid blocks 4-E or 4-F of
9 the sentencing guidelines grid for drug crimes committed prior to July 1,
10 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines
11 grid for drug crimes committed on or after July 1, 2012, and such offense
12 does not meet the requirements of K.S.A. 2012 Supp. 21-6824, and
13 amendments thereto; and

14 (2) otherwise meets admission criteria of the camp.

15 If the inmate successfully completes a conservation camp program, the
16 secretary of corrections shall report such completion to the sentencing
17 court and the county or district attorney. The inmate shall then be assigned
18 by the court to six months of follow-up supervision conducted by the
19 appropriate community corrections services program. The court may also
20 order that supervision continue thereafter for the length of time authorized
21 by K.S.A. 2012 Supp. 21-6608, and amendments thereto.

22 (m) When it is provided by law that a person shall be sentenced
23 pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions
24 of this section shall not apply.

25 (n) (1) Except as provided by subsection (f) of K.S.A. 2012 Supp. 21-
26 6805, and amendments thereto, in addition to any of the above, for felony
27 violations of K.S.A. 2012 Supp. 21-5706, and amendments thereto, the
28 court shall require the defendant who meets the requirements established
29 in K.S.A. 2012 Supp. 21-6824, and amendments thereto, to participate in a
30 certified drug abuse treatment program, as provided in K.S.A. 2012 Supp.
31 75-52,144, and amendments thereto, including, but not limited to, an
32 approved after-care plan. *The amount of time spent participating in such*
33 *program shall not be credited as service on the underlying prison*
34 *sentence.*

35 (2) If the defendant fails to participate in or has a pattern of
36 intentional conduct that demonstrates the defendant's refusal to comply
37 with or participate in the treatment program, as established by judicial
38 finding, the defendant shall be subject to ~~revocation of probation and~~
39 *sanction or revocation pursuant to the provisions of K.S.A. 22-3716, and*
40 *amendments thereto. If the defendant's probation is revoked, the defendant*
41 *shall serve the underlying prison sentence as established in K.S.A. 2012*
42 *Supp. 21-6805, and amendments thereto.*

43 (A) *Except as provided in subsection (n)(2)(B), for those offenders*

1 who are convicted on or after July 1, 2003, *but prior to July 1, 2013*, upon
2 completion of the underlying prison sentence, the offender shall not be
3 subject to a period of postrelease supervision. ~~The amount of time spent~~
4 ~~participating in such program shall not be credited as service on the~~
5 ~~underlying prison sentence.~~

6 (B) *Offenders whose crime of conviction was committed on or after*
7 *July 1, 2013, and whose probation is revoked pursuant to subsection (c) of*
8 *K.S.A. 22-3716, and amendments thereto, or whose underlying prison*
9 *term expires while serving a sanction pursuant to subsection (c)(1)(C) or*
10 *(c)(1)(D) of K.S.A. 22-3716, and amendments thereto, shall serve a period*
11 *of postrelease supervision upon the completion of the underlying prison*
12 *term.*

13 (o) (1) Except as provided in paragraph (3), in addition to any other
14 penalty or disposition imposed by law, upon a conviction for unlawful
15 possession of a controlled substance or controlled substance analog in
16 violation of K.S.A. 2012 Supp. 21-5706, and amendments thereto, in
17 which the trier of fact makes a finding that the unlawful possession
18 occurred while transporting the controlled substance or controlled
19 substance analog in any vehicle upon a highway or street, the offender's
20 driver's license or privilege to operate a motor vehicle on the streets and
21 highways of this state shall be suspended for one year.

22 (2) Upon suspension of a license pursuant to this subsection, the court
23 shall require the person to surrender the license to the court, which shall
24 transmit the license to the division of motor vehicles of the department of
25 revenue, to be retained until the period of suspension expires. At that time,
26 the licensee may apply to the division for return of the license. If the
27 license has expired, the person may apply for a new license, which shall be
28 issued promptly upon payment of the proper fee and satisfaction of other
29 conditions established by law for obtaining a license unless another
30 suspension or revocation of the person's privilege to operate a motor
31 vehicle is in effect.

32 (3) (A) In lieu of suspending the driver's license or privilege to
33 operate a motor vehicle on the highways of this state of any person as
34 provided in paragraph (1), the judge of the court in which such person was
35 convicted may enter an order which places conditions on such person's
36 privilege of operating a motor vehicle on the highways of this state, a
37 certified copy of which such person shall be required to carry any time
38 such person is operating a motor vehicle on the highways of this state. Any
39 such order shall prescribe the duration of the conditions imposed, which in
40 no event shall be for a period of more than one year.

41 (B) Upon entering an order restricting a person's license hereunder,
42 the judge shall require such person to surrender such person's driver's
43 license to the judge who shall cause it to be transmitted to the division of

1 vehicles, together with a copy of the order. Upon receipt thereof, the
2 division of vehicles shall issue without charge a driver's license which
3 shall indicate on its face that conditions have been imposed on such
4 person's privilege of operating a motor vehicle and that a certified copy of
5 the order imposing such conditions is required to be carried by the person
6 for whom the license was issued any time such person is operating a motor
7 vehicle on the highways of this state. If the person convicted is a
8 nonresident, the judge shall cause a copy of the order to be transmitted to
9 the division and the division shall forward a copy of it to the motor vehicle
10 administrator of such person's state of residence. Such judge shall furnish
11 to any person whose driver's license has had conditions imposed on it
12 under this paragraph a copy of the order, which shall be recognized as a
13 valid Kansas driver's license until such time as the division shall issue the
14 restricted license provided for in this paragraph.

15 (C) Upon expiration of the period of time for which conditions are
16 imposed pursuant to this subsection, the licensee may apply to the division
17 for the return of the license previously surrendered by such licensee. In the
18 event such license has expired, such person may apply to the division for a
19 new license, which shall be issued immediately by the division upon
20 payment of the proper fee and satisfaction of the other conditions
21 established by law, unless such person's privilege to operate a motor
22 vehicle on the highways of this state has been suspended or revoked prior
23 thereto. If any person shall violate any of the conditions imposed under
24 this paragraph, such person's driver's license or privilege to operate a
25 motor vehicle on the highways of this state shall be revoked for a period of
26 not less than 60 days nor more than one year by the judge of the court in
27 which such person is convicted of violating such conditions.

28 (4) As used in this subsection, "highway" and "street" mean the same
29 as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

30 (p) In addition to any of the above, for any criminal offense that
31 includes the domestic violence designation pursuant to K.S.A. 2012 Supp.
32 22-4616, and amendments thereto, the court shall require the defendant to:
33 (1) Undergo a domestic violence offender assessment *conducted by a*
34 *certified batterer intervention program*; and (2) follow all
35 recommendations *made by such program*, unless otherwise ordered by the
36 court or the department of corrections. The court may order a domestic
37 violence offender assessment and any other evaluation prior to sentencing
38 if the assessment or evaluation would assist the court in determining an
39 appropriate sentence. The entity completing the assessment or evaluation
40 shall provide the assessment or evaluation and recommendations to the
41 court and the court shall provide the domestic violence offender
42 assessment ~~and any other evaluation~~ to any entity responsible for
43 supervising such defendant. A defendant ordered to undergo a domestic

1 violence offender assessment shall be required to pay for the assessment
2 and, unless otherwise ordered by the court or the department of
3 corrections, for completion of all recommendations.

4 (q) In imposing a fine, the court may authorize the payment thereof in
5 installments. In lieu of payment of any fine imposed, the court may order
6 that the person perform community service specified by the court. The
7 person shall receive a credit on the fine imposed in an amount equal to \$5
8 for each full hour spent by the person in the specified community service.
9 The community service ordered by the court shall be required to be
10 performed by the later of one year after the fine is imposed or one year
11 after release from imprisonment or jail, or by an earlier date specified by
12 the court. If by the required date the person performs an insufficient
13 amount of community service to reduce to zero the portion of the fine
14 required to be paid by the person, the remaining balance shall become due
15 on that date. If conditional reduction of any fine is rescinded by the court
16 for any reason, then pursuant to the court's order the person may be
17 ordered to perform community service by one year after the date of such
18 rescission or by an earlier date specified by the court. If by the required
19 date the person performs an insufficient amount of community service to
20 reduce to zero the portion of the fine required to be paid by the person, the
21 remaining balance of the fine shall become due on that date. All credits for
22 community service shall be subject to review and approval by the court.

23 (r) In addition to any other penalty or disposition imposed by law, for
24 any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643,
25 prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
26 thereto, for crimes committed on or after July 1, 2006, the court shall order
27 that the defendant be electronically monitored upon release from
28 imprisonment for the duration of the defendant's natural life and that the
29 defendant shall reimburse the state for all or part of the cost of such
30 monitoring as determined by the prisoner review board.

31 (s) *Whenever the court has released the defendant on probation*
32 *pursuant to subsection (a)(3), the defendant's supervising court services*
33 *officer, with the concurrence of the chief court services officer, may impose*
34 *the violation sanctions as provided in subsection (c)(1)(B) of K.S.A. 22-*
35 *3716, and amendments thereto, without further order of the court, unless:*

36 (1) *The court has specifically withheld this authority in its sentencing*
37 *order; or*

38 (2) *the defendant, after being apprised of the right to a revocation*
39 *hearing before the court pursuant to subsection (b) of K.S.A. 22-3716, and*
40 *amendments thereto, refuses to waive such right.*

41 (t) *Whenever the court has assigned the defendant to a community*
42 *correctional services program pursuant to subsection (a)(4), the*
43 *defendant's community corrections officer, with the concurrence of the*

1 community corrections director, may impose the violation sanctions as
2 provided in subsection (c)(1)(B) of K.S.A. 22-3716, and amendments
3 thereto, without further order of the court unless:

4 (1) The court has specifically withheld this authority in its sentencing
5 order; or

6 (2) the defendant, after being apprised of the right to a revocation
7 hearing before the court pursuant to subsection (b) of K.S.A. 22-3716, and
8 amendments thereto, refuses to waive such right.

9 Sec. 2. K.S.A. 2012 Supp. 21-6606 is hereby amended to read as
10 follows: 21-6606. (a) When separate sentences of imprisonment for
11 different crimes are imposed on a defendant on the same date, including
12 sentences for crimes for which suspended sentences, probation or
13 assignment to a community correctional services program have been
14 revoked, such sentences shall run concurrently or consecutively as the
15 court directs. Whenever the record is silent as to the manner in which two
16 or more sentences imposed at the same time shall be served, they shall be
17 served concurrently, except as otherwise provided in subsections
18 subsection (c), (d) and (e){subsections (c), (d) and (e)}.

19 (b) Any person who is convicted and sentenced for a crime
20 committed while on probation, assignment to a community correctional
21 services program, parole or conditional release for a misdemeanor shall
22 serve the sentence concurrently with or consecutively to the term or terms
23 under which the person was on probation, assigned to a community
24 correctional services program or on parole or conditional release, as the
25 court directs.

26 (c) Any person who is convicted and sentenced for a crime
27 committed while on probation, assigned to a community correctional
28 services program, on parole, on conditional release or on postrelease
29 supervision for a felony shall serve the sentence consecutively to the term
30 or terms under which the person was on probation, assigned to a
31 community correctional services program or on parole or conditional
32 release. <

33 (d) Any person who is convicted and sentenced for a crime
34 committed while on release for a felony pursuant to article 28 of chapter
35 22 of the Kansas Statutes Annotated, and amendments thereto, shall serve
36 the sentence consecutively to the term or terms under which the person
37 was released. {Any person who is convicted and sentenced for a person
38 felony committed while on probation, assigned to a community
39 correctional services program, on parole, on conditional release or on
40 postrelease supervision for a felony shall serve the sentence
41 consecutively to the term or terms under which the person was on
42 probation, assigned to a community correctional services program or
43 on parole or conditional release.}

Restore current law:

Any person who is convicted and sentenced for a crime committed while on probation, assigned to a community correctional services program, on parole, on conditional release or on postrelease supervision for a felony shall serve the sentence consecutively to the term or terms under which the person was on probation, assigned to a community correctional services program or on parole or conditional release.

Strike lines 37-43

1 **{(d) Any person who is convicted and sentenced for a ~~person-~~**
 2 **~~felony~~ committed while on release for a felony pursuant to article 28 of**
 3 **chapter} {22 of the Kansas Statutes Annotated, and amendments**
 4 **thereto, shall serve the sentence consecutively to the term or terms**
 5 **under which the person was released.}**

← crime (Restores current law)

6 ~~(e)~~ **{(e)}** (1) Any person who is convicted and sentenced for a crime
 7 committed while such person is incarcerated and serving a sentence for a
 8 felony in any place of incarceration shall serve the sentence consecutively
 9 to the term or terms under which the person was incarcerated.

10 (2) If a person is sentenced to prison for a crime committed on or
 11 after July 1, 1993, while the person was imprisoned for an offense
 12 committed prior to July 1, 1993, and the person is not eligible for the
 13 retroactive application of the sentencing guidelines act, the new sentence
 14 shall not be aggregated with the old sentence but shall begin when the
 15 person is paroled or reaches the conditional release date on the old
 16 sentence, whichever is earlier. If the offender was past the offender's
 17 conditional release date at the time the new offense was committed, the
 18 new sentence shall not be aggregated with the old sentence but shall begin
 19 when the person is ordered released by *the* prisoner review board or
 20 reaches the maximum sentence date on the old sentence, whichever is
 21 earlier. The new sentence shall then be served as otherwise provided by
 22 law. The period of post incarceration supervision shall be based on the
 23 longest term of post incarceration supervision imposed for all crimes upon
 24 which sentence was imposed or until discharged from supervision by the
 25 prisoner review board. The term of post incarceration supervision imposed
 26 by this paragraph shall apply retroactively to crimes committed prior to
 27 July 1, 2008.

28 (3) As used in this subsection, "post incarceration supervision"
 29 includes parole and postrelease supervision.

30 (f) The provisions of this subsection relating to parole eligibility shall
 31 be applicable to persons convicted of crimes committed prior to January 1,
 32 1979, but shall be applicable to persons convicted of crimes committed on
 33 or after that date only to the extent that the terms of this subsection are not
 34 in conflict with the provisions of K.S.A. 22-3717, and amendments
 35 thereto. In calculating the time to be served on concurrent and consecutive
 36 sentences, the following rules shall apply:

37 (1) When indeterminate terms run concurrently, the shorter minimum
 38 terms merge in and are satisfied by serving the longest minimum term and
 39 the shorter maximum terms merge in and are satisfied by conditional
 40 release or discharge on the longest maximum term if the terms are imposed
 41 on the same date.

42 (2) When concurrent terms are imposed on different dates,
 43 computation will be made to determine which term or terms require the

1 longest period of imprisonment to reach parole eligibility, conditional
2 release and maximum dates, and that sentence will be considered the
3 controlling sentence. The parole eligibility date may be computed and
4 projected on one sentence and the conditional release date and maximum
5 may be computed and projected from another to determine the controlling
6 sentence.

7 (3) When indeterminate terms imposed on the same date are to be
8 served consecutively, the minimum terms are added to arrive at an
9 aggregate minimum to be served equal to the sum of all minimum terms
10 and the maximum terms are added to arrive at an aggregate maximum
11 equal to the sum of all maximum terms.

12 (4) When indeterminate sentences are imposed to be served
13 consecutively to sentences previously imposed in any other court or the
14 sentencing court, the aggregated minimums and maximums shall be
15 computed from the effective date of the subsequent sentences which have
16 been imposed as consecutive. For the purpose of determining the sentence
17 begins date and the parole eligibility and conditional release dates, the
18 inmate shall be given credit on the aggregate sentence for time spent
19 imprisoned on the previous sentences, but not exceeding an amount equal
20 to the previous minimum sentence less the maximum amount of good time
21 credit that could have been earned on the minimum sentence. For the
22 purpose of computing the maximum date, the inmate shall be given credit
23 for all time spent imprisoned on the previous sentence. This method for
24 computation of the maximum sentence shall be utilized for all sentences
25 computed pursuant to this subsection after July 1, 1983.

26 Nothing in this subsection (f)(4) shall affect the authority of the
27 prisoner review board to determine the parole eligibility of inmates
28 pursuant to subsection (d) of K.S.A. 22-3717, and amendments thereto.

29 (5) When consecutive sentences are imposed which are to be served
30 consecutive to sentences for which a prisoner has been on probation,
31 assigned to a community correctional services program, on parole or on
32 conditional release, the amount of time served on probation, on assignment
33 to a community correctional services program, on parole or on conditional
34 release shall not be credited as service on the aggregate sentence in
35 determining the parole eligibility, conditional release and maximum dates,
36 except that credit shall be given for any amount of time spent in a
37 residential facility while on probation or assignment to a community
38 correctional residential services program.

39 (g) When a definite and an indefinite term run consecutively, the
40 period of the definite term is added to both the minimum and maximum of
41 the indeterminate term and both sentences are satisfied by serving the
42 indeterminate term. The provisions of this subsection shall not apply to
43 crimes committed on or after July 1, 1993.

1 (h) When a defendant is sentenced in a state court and is also under
2 sentence from a federal court or other state court or is subject to sentence
3 in a federal court or other state court for an offense committed prior to the
4 defendant's sentence in a Kansas state court, the court may direct that
5 custody of the defendant may be relinquished to federal or other state
6 authorities and that such state sentences as are imposed may run
7 concurrently with any federal or other state sentence imposed.

8 Sec. 3. K.S.A. 2012 Supp. 21-6608 is hereby amended to read as
9 follows: 21-6608. (a) The period of suspension of sentence, probation or
10 assignment to community corrections fixed by the court shall not exceed
11 two years in misdemeanor cases, subject to renewal and extension for
12 additional fixed periods of two years. Probation, suspension of sentence or
13 assignment to community corrections may be terminated by the court at
14 any time and upon such termination or upon termination by expiration of
15 the term of probation, suspension of sentence or assignment to community
16 corrections, an order to this effect shall be entered by the court.

17 (b) The district court having jurisdiction of the offender may parole
18 any misdemeanant sentenced to confinement in the county jail. The period
19 of such parole shall be fixed by the court and shall not exceed two years
20 and shall be terminated in the manner provided for termination of
21 suspended sentence and probation.

22 (c) For all crimes committed on or after July 1, 1993, the duration of
23 probation in felony cases sentenced for the following severity levels on the
24 sentencing guidelines grid for nondrug crimes and the sentencing
25 guidelines grid for drug crimes is as follows:

26 (1) For nondrug crimes the recommended duration of probation is:

27 (A) 36 months for crimes in crime severity levels 1 through 5; and

28 (B) 24 months for crimes in crime severity levels 6 and 7;

29 (2) for drug crimes the recommended duration of probation is 36
30 months for crimes in crime severity levels 1 and 2 committed prior to July
31 1, 2012, and crimes in crime severity levels 1, 2 and 3 committed on or
32 after July 1, 2012;

33 (3) except as provided further, in felony cases sentenced at severity
34 levels 9 and 10 on the sentencing guidelines grid for nondrug crimes,
35 severity level 4 on the sentencing guidelines grid for drug crimes
36 committed prior to July 1, 2012, and severity level 5 of the sentencing
37 guidelines grid for drug crimes committed on or after July 1, 2012, if a
38 nonprison sanction is imposed, the court shall order the defendant to serve
39 a period of probation of up to 12 months in length;

40 (4) in felony cases sentenced at severity level 8 on the sentencing
41 guidelines grid for nondrug crimes, severity level 3 on the sentencing
42 guidelines grid for drug crimes committed prior to July 1, 2012, and
43 severity level 4 of the sentencing guidelines grid for drug crimes

1 committed on or after July 1, 2012, and felony cases sentenced pursuant to
2 K.S.A. 2012 Supp. 21-6824, and amendments thereto, if a nonprison
3 sanction is imposed, the court shall order the defendant to serve a period of
4 probation, or assignment to a community correctional services program, as
5 provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to
6 18 months in length;

7 (5) if the court finds and sets forth with particularity the reasons for
8 finding that the safety of the members of the public will be jeopardized or
9 that the welfare of the inmate will not be served by the length of the
10 probation terms provided in subsections (c)(3) and (c)(4), the court may
11 impose a longer period of probation. Such an increase shall not be
12 considered a departure and shall not be subject to appeal;

13 (6) except as provided in subsections (c)(7) and (c)(8), the total
14 period in all cases shall not exceed 60 months, or the maximum period of
15 the prison sentence that could be imposed whichever is longer. Nonprison
16 sentences may be terminated by the court at any time;

17 (7) if the defendant is convicted of nonsupport of a child, the period
18 may be continued as long as the responsibility for support continues. If the
19 defendant is ordered to pay full or partial restitution, the period may be
20 continued as long as the amount of restitution ordered has not been paid;
21 and

22 (8) the court may modify or extend the offender's period of
23 supervision, pursuant to a modification hearing and a judicial finding of
24 necessity. Such extensions may be made for a maximum period of five
25 years or the maximum period of the prison sentence that could be imposed,
26 whichever is longer, inclusive of the original supervision term.

27 *(d) In addition to the provisions of subsection (a), a defendant who*
28 *has a risk assessment of low risk, has paid all restitution and has been*
29 *compliant with the terms of probation, assignment to a community*
30 *correctional services program, suspension of sentence or nonprison*
31 *sanction for a period of 12 months shall be eligible for discharge from*
32 *such period of supervision by the court. The court shall grant such*
33 *discharge unless the court finds substantial and compelling reasons for*
34 *denial of such discharge.*

35 Sec. 4. K.S.A. 2012 Supp. 21-6821 is hereby amended to read as
36 follows: 21-6821. (a) The secretary of corrections is hereby authorized to
37 adopt rules and regulations providing for a system of good time
38 calculations. Such rules and regulations shall provide circumstances upon
39 which an inmate may earn good time credits and for the forfeiture of
40 earned credits. Such circumstances may include factors related to program
41 and work participation and conduct and the inmate's willingness to
42 examine and confront past behavioral patterns that resulted in the
43 commission of the inmate's crimes.

1 (b) For purposes of determining release of an inmate, the following
2 shall apply with regard to good time calculations:

3 (1) Good behavior by inmates is the expected norm and negative
4 behavior will be punished; and

5 (2) the amount of good time which can be earned by an inmate and
6 subtracted from any sentence is limited to:

7 (A) For a crime committed on or after July 1, 1993, an amount equal
8 to 15% of the prison part of the sentence;

9 (B) for a nondrug severity level 7 through 10 crime committed on or
10 after January 1, 2008, an amount equal to 20% of the prison part of the
11 sentence; or

12 (C) for a drug severity level 3 or 4 crime committed on or after
13 January 1, 2008, but prior to July 1, 2012, or a drug severity level 4 or 5
14 crime committed on or after July 1, 2012, an amount equal to 20% of the
15 prison part of the sentence.

16 (c) *The postrelease supervision term of a person sentenced to a term*
17 *of imprisonment that includes a sentence for a sexually violent crime as*
18 *defined in K.S.A. 22-3717, and amendments thereto, a sexually motivated*
19 *crime in which the offender has been ordered to register pursuant to*
20 *subsection (d)(1)(D)(vii) of K.S.A. 22-3717, and amendments thereto,*
21 *electronic solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 2012*
22 *Supp. 21-5509, and amendments thereto, or unlawful sexual relations,*
23 *K.S.A. 21-3520, prior to its repeal, or K.S.A. 2012 Supp. 21-5512, and*
24 *amendments thereto, shall have any time which is earned and subtracted*
25 *from the prison part of the such sentence of any inmate and any other*
26 *consecutive or concurrent sentence pursuant to good time calculation shall*
27 *be added to such inmate's postrelease supervision term.*

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

32 (1) Filed a false or malicious action or claim with the court;

33 (2) brought an action or claim with the court solely or primarily for
34 delay or harassment;

35 (3) testified falsely or otherwise submitted false evidence or
36 information to the court;

37 (4) attempted to create or obtain a false affidavit, testimony or
38 evidence; or

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

40 (e) (1) For purposes of determining release of an inmate who is
41 serving only a sentence for a nondrug severity level 4 through 10 crime or
42 a drug severity level 3 or 4 crime committed on or after January 1, 2008,
43 but prior to July 1, 2012, or an inmate who is serving only a sentence for a

1 nondrug severity level 4 through 10 crime or a drug severity level 4 or 5
2 crime committed on or after July 1, 2012, the secretary of corrections is
3 hereby authorized to adopt rules and regulations regarding program credit
4 calculations. Such rules and regulations shall provide circumstances upon
5 which an inmate may earn program credits and for the forfeiture of earned
6 credits and such circumstances may include factors substantially related to
7 program participation and conduct. In addition to any good time credits
8 earned and retained, the following shall apply with regard to program
9 credit calculations:

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

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

18 (2) Any time which is earned and subtracted from the prison part of
19 the sentence of any inmate pursuant to program credit calculation shall *not*
20 be added to such inmate's postrelease supervision term, if applicable,
21 *except that the postrelease supervision term of a person sentenced to a*
22 *term of imprisonment that includes a sentence for a sexually violent crime*
23 *as defined in K.S.A. 22-3717, and amendments thereto, a sexually*
24 *motivated crime in which the offender has been ordered to register*
25 *pursuant to subsection (d)(1)(D)(vii) of K.S.A. 22-3717, and amendments*
26 *thereto, electronic solicitation, K.S.A. 21-3523, prior to its repeal, or*
27 *K.S.A. 2012 Supp. 21-5509, and amendments thereto, or unlawful sexual*
28 *relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 2012 Supp. 21-*
29 *5512, and amendments thereto, shall have any time which is earned and*
30 *subtracted from the prison part of such sentence and any other*
31 *consecutive or concurrent sentence pursuant to program credit calculation*
32 *added to such inmate's postrelease supervision term.*

33 (3) When separate sentences of imprisonment for different crimes are
34 imposed on a defendant on the same date, a defendant shall only be
35 eligible for program credits if such crimes are a nondrug severity level 4
36 through 10, a drug severity level 3 or 4 committed prior to July 1, 2012, or
37 a drug severity level 4 or 5 committed on or after July 1, 2012.

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

40 (5) The secretary of corrections shall report to the Kansas sentencing
41 commission and the Kansas reentry policy council the data on the program
42 credit calculations.

43 Sec. 5. K.S.A. 2012 Supp. 22-3716 is hereby amended to read as

1 follows: 22-3716. (a) At any time during probation, assignment to a
2 community correctional services program, suspension of sentence or
3 pursuant to subsection ~~(d)~~(e) for defendants who committed a crime prior
4 to July 1, 1993, and at any time during which a defendant is serving a
5 nonprison sanction for a crime committed on or after July 1, 1993, or
6 pursuant to subsection ~~(d)~~(e), the court may issue a warrant for the arrest
7 of a defendant for violation of any of the conditions of release or
8 assignment, a notice to appear to answer to a charge of violation or a
9 violation of the defendant's nonprison sanction. The notice shall be
10 personally served upon the defendant. The warrant shall authorize all
11 officers named in the warrant to return the defendant to the custody of the
12 court or to any certified detention facility designated by the court. Any
13 court services officer or community correctional services officer may
14 arrest the defendant without a warrant or may deputize any other officer
15 with power of arrest to do so by giving the officer a written or verbal
16 statement setting forth that the defendant has, in the judgment of the court
17 services officer or community correctional services officer, violated the
18 conditions of the defendant's release or a nonprison sanction. A written
19 statement delivered to the official in charge of a county jail or other place
20 of detention shall be sufficient warrant for the detention of the defendant.
21 After making an arrest, the court services officer or community
22 correctional services officer shall present to the detaining authorities a
23 similar statement of the circumstances of violation. Provisions regarding
24 release on bail of persons charged with a crime shall be applicable to
25 defendants arrested under these provisions.

26 (b) (1) Upon arrest and detention pursuant to subsection (a), the court
27 services officer or community correctional services officer shall
28 immediately notify the court and shall submit in writing a report showing
29 in what manner the defendant has violated the conditions of release or
30 assignment or a nonprison sanction.

31 ~~(2) Thereupon, or upon an arrest by warrant as provided in this~~
32 ~~section, Unless the defendant, after being apprised of the right to a~~
33 ~~hearing by the supervising court services or community correctional~~
34 ~~services officer, waives such hearing, the court shall cause the defendant to~~
35 ~~be brought before it without unnecessary delay for a hearing on the~~
36 ~~violation charged. The hearing shall be in open court and the state shall~~
37 ~~have the burden of establishing the violation. The defendant shall have the~~
38 ~~right to be represented by counsel and shall be informed by the judge that,~~
39 ~~if the defendant is financially unable to obtain counsel, an attorney will be~~
40 ~~appointed to represent the defendant. The defendant shall have the right to~~
41 ~~present the testimony of witnesses and other evidence on the defendant's~~
42 ~~behalf. Relevant written statements made under oath may be admitted and~~
43 ~~considered by the court along with other evidence presented at the hearing.~~

1 (3)(A) Except as otherwise provided, if the original crime of
2 conviction was a felony and a violation is established, the court may
3 impose the violation sanctions as provided in subsection (c)(1).

4 (B) Except as otherwise provided, if the original crime of conviction
5 was a misdemeanor and a violation is established, the court may continue
6 or revoke the probation, assignment to a community correctional services
7 program, suspension of sentence or nonprison sanction and may require
8 the defendant to serve the sentence imposed, or any lesser sentence, and, if
9 imposition of sentence was suspended, may impose any sentence which
10 might originally have been imposed.

11 (4) Except as otherwise provided, if the defendant waives the right to
12 a hearing and the sentencing court has not specifically withheld the
13 authority from court services or community correctional services to
14 impose sanctions, the following sanctions may be imposed without further
15 order of the court:

16 (A) If the defendant was on probation at the time of the violation, the
17 defendant's supervising court services officer, with the concurrence of the
18 chief court services officer, may impose the violation sanctions as provided
19 in subsection (c)(1)(B); and

20 (B) if the defendant was assigned to a community correctional
21 services program at the time of the violation, the defendant's community
22 corrections officer, with the concurrence of the community corrections
23 director, may impose the violation sanctions as provided in subsection (c)
24 (1)(B).

25 (c) (1) Except as otherwise provided, ~~if the violation is established,~~
26 ~~the court may~~ the following violation sanctions may be imposed:

27 (A) ~~Continue or revoke~~ Continuation or modification of the release
28 conditions of the probation, assignment to a community correctional
29 services program, suspension of sentence or nonprison sanction ~~and may~~
30 ~~require the defendant to serve the sentence imposed, or any lesser~~
31 ~~sentence, and, if imposition of sentence was suspended, may impose any~~
32 ~~sentence which might originally have been imposed.;~~

33 (B) an intermediate sanction of confinement in jail for a total of not
34 more than six days per month in any three separate months during the
35 period of release supervision. The six days per month confinement may
36 only be imposed as two-day or three-day consecutive periods, not to
37 exceed 18 days of total confinement;

38 (C) if the violator already ~~has~~ ^{had} at least one intermediate sanction
39 imposed pursuant to subsection (c)(1)(B) related to the felony crime for
40 which the original supervision was imposed, remanding the defendant to
41 the custody of the secretary of corrections for a period of 120 days, subject
42 to a reduction of up to 60 days in the discretion of the secretary;

43 (D) if the violator already ~~has at least one~~ ^{had a} sanction imposed pursuant

had

. This sanction shall not be imposed more than once during the term of supervision

1 to subsection (c)(1)(C) related to the felony crime for which the original
2 supervision was imposed, remanding the defendant to the custody of the
3 secretary of corrections for a period of 180 days, subject to a reduction of
4 up to 90 days in the discretion of the secretary; or

(c)(1)(B) or

. This sanction shall not be imposed more than once during the term of supervision

5 (E) if the violator already ~~has at least one~~ sanction imposed pursuant
6 to subsection (c)(1)(D) related to the felony crime for which the original
7 supervision was imposed, revocation of the probation, assignment to a
8 community corrections services program, suspension of sentence or
9 nonprison sanction and requiring such violator to serve the sentence
10 imposed, or any lesser sentence and, if imposition of sentence was
11 suspended, imposition of any sentence which might originally have been
12 imposed.

had a

(c)(1)(C) or

13 (2) Except as otherwise provided, no offender for whom a violation
14 of conditions of release or assignment or a nonprison sanction has been
15 established as provided in this section shall be required to serve any time
16 for the sentence imposed or which might originally have been imposed in
17 a state facility in the custody of the secretary of corrections for such
18 violation, unless such person has already at least one prior assignment to a
19 community correctional services program related to the crime for which
20 the original sentence was imposed, ~~except these provisions shall not apply~~
21 ~~to offenders who violate a condition of release or assignment or a~~
22 ~~nonprison sanction by committing a new misdemeanor or felony offense.~~

23 (3) The provisions of this subsection (c)(2) shall not apply to adult
24 felony offenders as described in subsection (a)(3) of K.S.A. 75-5291, and
25 amendments thereto.

26 (4) The court may require an offender for whom a violation of
27 conditions of release or assignment or a nonprison sanction has been
28 established as provided in this section to serve any time for the sentence
29 imposed or which might originally have been imposed in a state facility in
30 the custody of the secretary of corrections without a prior assignment to a
31 community correctional services program if the court finds and sets forth
32 with particularity the reasons for finding that the safety of the members of
33 the public will be jeopardized or that the welfare of the inmate will not be
34 served by such assignment to a community correctional services program.

Strike "nonperson"
(Restores current law)

35 (5) ~~{(A)}~~ When a new ~~{nonperson}~~ felony is committed while the
36 offender is on probation or assignment to a community correctional
37 services program, the new sentence shall be imposed ~~{either concurrently~~
38 ~~or consecutively}~~ pursuant to the consecutive sentencing requirements
39 ~~{provisions}~~ of K.S.A. 2012 Supp. 21-6606, and amendments thereto, and
40 the court may sentence the offender to imprisonment for the new
41 conviction, even when the new crime of conviction otherwise presumes a
42 nonprison sentence. In this event, imposition of a prison sentence for the
43 new crime does not constitute a departure.

Strike "either concurrently or"
(Restores current law)

Strike
lines 1-9

1 ~~{(B) When a new person felony is committed while the offender is~~
2 ~~on probation, assignment to a community correctional services~~
3 ~~program,} {parole, conditional release or postrelease supervision for a~~
4 ~~felony, a new sentence shall be imposed consecutively pursuant to the~~
5 ~~provisions of K.S.A. 2012 Supp. 21-6606, and amendments thereto,~~
6 ~~and the court may sentence the offender to imprisonment for the new~~
7 ~~conviction, even when the new crime of conviction otherwise presumes~~
8 ~~a nonprison sentence. In this event, imposition of a prison sentence for~~
9 ~~the new crime does not constitute a departure.}~~

10 (6) Except as provided in subsection (f), upon completion of a
11 violation sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D)
12 such offender shall be returned to community correctional services
13 supervision.

14 (7) A violation sanction imposed pursuant to subsection (c)(1)(B), (c)
15 (1)(C) or (c)(1)(D) shall not be longer than the amount of time remaining
16 on the defendant's underlying prison sentence.

17 (8) If the offender commits a new felony or misdemeanor or absconds
18 from supervision while the offender is on probation, assignment to a
19 community correctional services program, suspension of sentence or
20 nonprison sanction, the court may impose any of the sanctions provided in
21 subsection (c)(1).

22 (9) The court may revoke the probation, assignment to a community
23 correctional services program, suspension of sentence or nonprison
24 sanction of an offender pursuant to (c)(1)(E) without having previously
25 imposed a sanction pursuant to (c)(1)(B), (c)(1)(C) or (c)(1)(D) if the
26 court finds and sets forth with particularity the reasons for finding that the
27 safety of members of the public will be jeopardized or that the welfare of
28 the offender will not be served by such sanction.

29 ~~(e)(d)~~ A defendant who is on probation, assigned to a community
30 correctional services program, under suspension of sentence or serving a
31 nonprison sanction and for whose return a warrant has been issued by the
32 court shall be considered a fugitive from justice if it is found that the
33 warrant cannot be served. If it appears that the defendant has violated the
34 provisions of the defendant's release or assignment or a nonprison
35 sanction, the court shall determine whether the time from the issuing of the
36 warrant to the date of the defendant's arrest, or any part of it, shall be
37 counted as time served on probation, assignment to a community
38 correctional services program, suspended sentence or pursuant to a
39 nonprison sanction.

40 ~~(d)(e)~~ The court shall have 30 days following the date probation,
41 assignment to a community correctional service program, suspension of
42 sentence or a nonprison sanction was to end to issue a warrant for the
43 arrest or notice to appear for the defendant to answer a charge of a