

STATE OF KANSAS

SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **Substitute for HB 2442**, on page 10, following line 18, by inserting:

"Sec. 3. K.S.A. 2013 Supp. 21-6805 is hereby amended to read as follows: 21-6805. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for drug crimes. The following sentencing guidelines grid for drug crimes shall be applicable to felony crimes under K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto, except as otherwise provided by law:

SENTENCING RANGE - DRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level I	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	204 194 185	186 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	144 136 130	137 130 122	130 123 117	124 117 111	116 111 105	113 108 101	110 104 99	108 100 96	103 98 92
III	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
IV	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	26 24 22	23 22 20	19 18 17	16 15 14
V	42 40 37	36 34 32	32 30 28	26 24 22	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

LEGEND
Presumptive Probation
Barred Box
Presumptive Imprisonment

(b) Sentences expressed in the sentencing guidelines grid for drug crimes in subsection (a) represent months of imprisonment.

(c) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure. The sentencing court shall not distinguish between the controlled substances cocaine base (9041L000) and cocaine hydrochloride (9041L005) when sentencing within the sentencing range of the grid block.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:

(A) Prison sentence;

(B) maximum potential reduction to such sentence as a result of good time; and

(C) period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(d) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 4-E, 4-F, 4-G, 4-H, 4-I, 5-C or 5-D, the court may impose an optional nonprison sentence as provided in subsection (q) of K.S.A. 2013 Supp. 21-6804, and amendments thereto.

(e) The sentence for a second or subsequent conviction for unlawful manufacturing of a controlled substance, K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, K.S.A. 2013 Supp. 21-5703, and amendments thereto, or a substantially similar offense from another jurisdiction, if the controlled substance in any prior conviction was methamphetamine, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto, or an analog thereof, shall be a presumptive term of imprisonment of two times the maximum duration of the presumptive term of imprisonment. The court may impose an optional reduction in such sentence of not to exceed 50% of the mandatory increase provided by this subsection upon making a finding on the record that one or more of the mitigating factors as specified in K.S.A. 2013 Supp. 21-6815, and amendments thereto, justify such a reduction in sentence. Any decision made by the court regarding the reduction in such sentence shall not be considered a departure and shall not be subject to appeal.

~~(f) (1) — The sentence for a third or subsequent felony conviction of K.S.A. 65-4160 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-36a06, prior to its transfer, or K.S.A. 2013 Supp. 21-5706, and amendments thereto, shall be a presumptive term of imprisonment and the defendant shall be sentenced to prison as provided by this section. The defendant's term of imprisonment shall be served in the custody of the secretary of corrections in a facility designated by the secretary. Subject to appropriations therefore, the defendant shall participate in an intensive substance abuse treatment program, of at least four months duration, selected by the secretary of corrections. If the secretary determines that substance abuse treatment resources are otherwise available, such term of imprisonment may be served in a facility designated by the secretary of corrections in the custody of the secretary of corrections to participate in an intensive substance abuse treatment program. The secretary's determination regarding the availability of treatment resources shall not be subject to review. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in~~

lieu of that originally adjudged. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision.

~~(2) Such defendant's term of imprisonment shall not be subject to modification under paragraph (1) if:~~

~~(A) The defendant has previously completed a certified drug abuse treatment program, as provided in K.S.A. 2013 Supp. 75-52,144, and amendments thereto;~~

~~(B) has been discharged or refused to participate in a certified drug abuse treatment program, as provided in K.S.A. 2013 Supp. 75-52,144, and amendments thereto;~~

~~(C) has completed an intensive substance abuse treatment program under paragraph (1); or~~

~~(D) has been discharged or refused to participate in an intensive substance abuse treatment program under paragraph (1).~~

~~The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.~~

~~(g)~~ (f) (1) Except as provided further, if the trier of fact makes a finding that an offender carried a firearm to commit a drug felony, or in furtherance of a drug felony, possessed a firearm, in addition to the sentence imposed pursuant to K.S.A. 2013 Supp. 21-6801 through 21-6824, and amendments thereto, the offender shall be sentenced to:

(A) Except as provided in subsection ~~(g)(1)(B)~~ (f)(1)(B), an additional 6 months' imprisonment; and

(B) if the trier of fact makes a finding that the firearm was discharged, an additional 18 months' imprisonment.

(2) The sentence imposed pursuant to subsection ~~(g)(1)~~ (f)(1) shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) The provisions of this subsection shall not apply to violations of K.S.A. 2013 Supp. 21-

5706 or 21-5713, and amendments thereto.";

Also on page 10, in line 19, by striking "and" and inserting a comma; also in line 19, after "21-6804" by inserting "and 21-6805";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, by striking "and" and inserting a comma; also in line 3, after "21-6804" by inserting "and 21-6805"

Senator _____