

HOUSE BILL No. 2035

By Committee on Judiciary

1-11

1 AN ACT concerning criminal procedure; relating to post-trial motions,
2 correction of sentence; amending K.S.A. 22-3504 and repealing the
3 existing section.
4

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

6 Section 1. K.S.A. 22-3504 is hereby amended to read as follows: 22-
7 3504. (1) The court may correct an illegal sentence at any time. The
8 defendant shall receive full credit for time spent in custody under the
9 sentence prior to correction. *Unless the motion and the files and records of*
10 *the case conclusively show that the defendant is entitled to no relief,* the
11 defendant shall have a right to a hearing, after reasonable notice to be
12 fixed by the court, to be personally present and to have the assistance of
13 counsel in any proceeding for the correction of an illegal sentence.

14 (2) Clerical mistakes in judgments, orders or other parts of the record
15 and errors in the record arising from oversight or omission may be
16 corrected by the court at any time and after such notice, if any, as the court
17 orders.

18 (3) *"Illegal sentence" means a sentence: Imposed by a court without*
19 *jurisdiction; that does not conform to the applicable statutory provision,*
20 *either in character or punishment; or that is ambiguous with respect to the*
21 *time and manner in which it is to be served at the time it is pronounced. A*
22 *sentence is not an "illegal sentence" because of a change in the law that*
23 *occurs after the sentence is pronounced.*

24 Sec. 2. K.S.A. 22-3504 is hereby repealed.

25 Sec. 3. This act shall take effect and be in force from and after its
26 publication in the Kansas register.