

HOUSE BILL No. 2292

By Committee on Judiciary

2-13

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to diversion agreements; supervision of people on diversion; certified
3 drug abuse treatment programs; amending K.S.A. 22-2907 and K.S.A.
4 2018 Supp. 21-6824, 22-2909, 75-5291 and 75-52,144 and repealing
5 the existing sections.
6

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

8 Section 1. K.S.A. 2018 Supp. 21-6824 is hereby amended to read as
9 follows: 21-6824. (a) (1) There is hereby established a nonprison sanction
10 of certified drug abuse treatment programs for certain offenders who are
11 sentenced on or after November 1, 2003. Placement of offenders in
12 certified drug abuse treatment programs by the court shall be limited to
13 placement of adult offenders, convicted of a felony violation of K.S.A.
14 2018 Supp. 21-5706, and amendments thereto, whose offense is classified
15 in grid blocks:

16 ~~(A)~~(A) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing
17 guidelines grid for drug crimes and such offender has no felony conviction
18 of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their
19 repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their
20 transfer, or K.S.A. 2018 Supp. 21-5703, 21-5705 or 21-5716, and
21 amendments thereto, or any substantially similar offense from another
22 jurisdiction; or

23 ~~(B)~~(B) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing
24 guidelines grid for drug crimes, such offender has no felony conviction of
25 K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their
26 repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their
27 transfer, or K.S.A. 2018 Supp. 21-5703, 21-5705 or 21-5716, and
28 amendments thereto, or any substantially similar offense from another
29 jurisdiction, if the person felonies in the offender's criminal history were
30 severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines
31 grid for nondrug crimes, and the court finds and sets forth with
32 particularity the reasons for finding that the safety of the members of the
33 public will not be jeopardized by such placement in a drug abuse treatment
34 program.

35 (2) *There is hereby established a certified drug abuse treatment*
36 *program for certain persons who enter into a diversion agreement in lieu*

1 *of further criminal proceedings on and after July 1, 2019. Placement of*
2 *divertees in certified drug abuse treatment programs pursuant to a*
3 *diversion agreement shall be limited to placement of adults, on a*
4 *complaint alleging a felony violation of K.S.A. 2018 Supp. 21-5706, and*
5 *amendments thereto, whose offense is classified in grid blocks 5-C, 5-D, 5-*
6 *E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines grid for drug crimes*
7 *and such divertree has no felony conviction of K.S.A. 65-4142, 65-4159,*
8 *65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-*
9 *36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2018*
10 *Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any*
11 *substantially similar offense from another jurisdiction.*

12 (b) As a part of the presentence investigation pursuant to K.S.A. 2018
13 Supp. 21-6813, and amendments thereto, *or as a part of the consideration*
14 *of whether or not to allow diversion to a defendant, offenders or divertees*
15 *who meet the requirements of subsection (a), unless otherwise specifically*
16 *ordered by the court, shall be subject to:*

17 (1) A drug abuse assessment which shall include a clinical interview
18 with a mental health professional and a recommendation concerning drug
19 abuse treatment for the offender *or divertree*; and

20 (2) a criminal risk-need assessment. The criminal risk-need
21 assessment shall assign a high or low risk status to the offender.

22 (c) (1) If the offender is assigned a high risk status as determined by
23 the drug abuse assessment performed pursuant to subsection (b)(1) and a
24 moderate or high risk status as determined by the criminal risk-need
25 assessment performed pursuant to subsection (b)(2), the sentencing court
26 shall commit the offender to treatment in a drug abuse treatment program
27 until the court determines the offender is suitable for discharge by the
28 court. The term of treatment shall not exceed 18 months. The court may
29 extend the term of probation, pursuant to K.S.A. 2018 Supp. 21-6608(c)
30 (3), and amendments thereto. The term of treatment may not exceed the
31 term of probation.

32 (2) *If the defendant being considered for a diversion agreement is*
33 *assigned a high risk status as determined by the drug abuse assessment*
34 *performed pursuant to subsection (b)(1) and a moderate or high risk*
35 *status as determined by the criminal risk-need assessment performed*
36 *pursuant to subsection (b)(2), the diversion agreement shall require the*
37 *divertree to comply with and participate in a drug abuse treatment*
38 *program. The term of treatment shall not exceed 18 months.*

39 (d) (1) Offenders *or divertees* who are committed to a drug abuse
40 treatment program pursuant to subsection (c) shall be supervised by
41 community correctional services.

42 (2) Offenders *or divertees* who are not committed to a drug abuse
43 treatment program pursuant to subsection (c) shall be supervised by

1 community correctional services or court services based on the result of
2 the criminal risk assessment.

3 (e) Placement of offenders under subsection ~~(a)(2)~~ (a)(1)(B) shall be
4 subject to the departure sentencing statutes of the revised Kansas
5 sentencing guidelines act.

6 (f) (1) Offenders *or divertees* in drug abuse treatment programs shall
7 be discharged from such program if the offender *or divertee*:

8 (A) Is convicted of a new felony; or

9 (B) has a pattern of intentional conduct that demonstrates the
10 offender's *or divertee's* refusal to comply with or participate in the
11 treatment program, as established by judicial finding, *in the case of an*
12 *offender, or in the opinion of the county or district attorney, in the case of*
13 *a divertee.*

14 (2) (A) Offenders who are discharged from such program *pursuant to*
15 *subsection (f)(1)* shall be subject to the revocation provisions of K.S.A.
16 2018 Supp. 21-6604(n), and amendments thereto.

17 (B) *Divertees who are discharged from such program pursuant to*
18 *subsection (f)(2) shall be subject to the revocation provisions of such*
19 *diversion agreement.*

20 (g) As used in this section, "mental health professional" includes
21 licensed social workers, persons licensed to practice medicine and surgery,
22 licensed psychologists, licensed professional counselors or registered
23 alcohol and other drug abuse counselors licensed or certified as addiction
24 counselors who have been certified by the secretary of corrections to treat
25 ~~offenders~~ *persons* pursuant to K.S.A. 2018 Supp. 75-52,144, and
26 amendments thereto.

27 (h) (1) Offenders *or divertees* who meet the requirements of
28 subsection (a) shall not be subject to the provisions of this section and
29 shall be sentenced as otherwise provided by law, if such offenders *or*
30 *divertees*:

31 (A) Are residents of another state and are returning to such state
32 pursuant to the interstate corrections compact or the interstate compact for
33 adult offender supervision; or

34 (B) are not lawfully present in the United States and being detained
35 for deportation; or

36 (C) do not meet the risk assessment levels provided in subsection (c).

37 (2) Such sentence shall not be considered a departure and shall not be
38 subject to appeal.

39 (i) The court may order an offender who otherwise does not meet the
40 requirements of subsection (c)(1) to undergo one additional drug abuse
41 assessment while such offender is on probation. Such offender may be
42 ordered to undergo drug abuse treatment pursuant to subsection (a)(1) if
43 such offender is determined to meet the requirements of subsection (c)(1).

1 The cost of such assessment shall be paid by such offender.

2 (j) *For the purposes of this section, the term "divertee" means a*
3 *person who has entered into a diversion agreement pursuant to K.S.A. 22-*
4 *2909, and amendments thereto.*

5 Sec. 2. K.S.A. 22-2907 is hereby amended to read as follows: 22-
6 2907. ~~(1)~~(a) After a complaint has been filed charging a defendant with
7 commission of a crime and prior to conviction thereof, and after the
8 district attorney has considered the factors listed in K.S.A. 22-2908, *and*
9 *amendments thereto*, if it appears to the district attorney that diversion of
10 the defendant would be in the interests of justice and of benefit to the
11 defendant and the community, the district attorney may propose a
12 diversion agreement to the defendant. The terms of each diversion
13 agreement shall be established by the district attorney in accordance with
14 K.S.A. 22-2909, *and amendments thereto.*

15 ~~(2)~~(b) Each district attorney shall adopt written policies and
16 guidelines for the implementation of a diversion program in accordance
17 with this act. Such policies and guidelines shall provide for a diversion
18 conference and other procedures in those cases where the district attorney
19 elects to offer diversion in lieu of further criminal proceedings on the
20 complaint.

21 ~~(3)~~(c) Each defendant shall be informed in writing of the diversion
22 program and the policies and guidelines adopted by the district attorney.
23 The district attorney may require any defendant requesting diversion to
24 provide information regarding prior criminal charges, education, work
25 experience and training, family, residence in the community, medical
26 history, including any psychiatric or psychological treatment or
27 counseling, and other information relating to the diversion program. In all
28 cases, the defendant shall be present and shall have the right to be
29 represented by counsel at the diversion conference with the district
30 attorney.

31 (d) *A district attorney may enter into a memorandum of*
32 *understanding with court services or community correctional services to*
33 *assist with supervision and monitoring of persons who have entered into a*
34 *diversion agreement. The district attorney shall retain authority over*
35 *whether a defendant is given the option to enter into a diversion*
36 *agreement, and whether a defendant has violated the terms of such*
37 *agreement. A memorandum of understanding shall include provisions*
38 *related to:*

39 (1) *Determining the level of supervision needed for a defendant;*

40 (2) *use of a criminal risk-need assessment; and*

41 (3) *payment of costs for supervision.*

42 Sec. 3. K.S.A. 2018 Supp. 22-2909 is hereby amended to read as
43 follows: 22-2909. (a) A diversion agreement shall provide that if the

1 defendant fulfills the obligations of the program described therein, as
 2 determined by the attorney general or county or district attorney, such
 3 attorney shall act to have the criminal charges against the defendant
 4 dismissed with prejudice. The diversion agreement shall include
 5 specifically the waiver of all rights under the law or the constitution of
 6 Kansas or of the United States to a speedy arraignment, preliminary
 7 examinations and hearings, and a speedy trial, and in the case of diversion
 8 under subsection (c) waiver of the rights to counsel and trial by jury. The
 9 diversion agreement may include, but is not limited to, provisions
 10 concerning:

- 11 (1) Payment of restitution, including court costs and diversion costs;;
- 12 (2) residence in a specified facility;;
- 13 (3) maintenance of gainful employment; ~~and~~;
- 14 (4) participation in programs offering medical, educational,
 15 vocational, social and psychological services, corrective and preventive
 16 guidance and other rehabilitative services; *and*
- 17 (5) *supervision by the county or district attorney, or by court services*
 18 *or community correctional services pursuant to a memorandum of*
 19 *understanding entered into by the county or district attorney pursuant to*
 20 *K.S.A. 22-2907(d), and amendments thereto, and payment of costs*
 21 *associated with such supervision.*

22 (b) If a county creates a local fund under the property crime
 23 restitution and compensation act, a county or district attorney may require
 24 in all diversion agreements as a condition of diversion the payment of a
 25 diversion fee in an amount not to exceed \$100. Such fees shall be
 26 deposited into the local fund and disbursed pursuant to recommendations
 27 of the local board under the property crime restitution and victims
 28 compensation act.

29 ~~(b)~~(c) The diversion agreement shall state: (1) The defendant's full
 30 name; (2) the defendant's full name at the time the complaint was filed, if
 31 different from the defendant's current name; (3) the defendant's sex, race
 32 and date of birth; (4) the crime with which the defendant is charged; (5)
 33 the date the complaint was filed; and (6) the district court with which the
 34 agreement is filed.

35 ~~(c)~~(d) If a diversion agreement is entered into in lieu of further
 36 criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567,
 37 and amendments thereto, the diversion agreement shall include a
 38 stipulation, agreed to by the defendant, the defendant's attorney if the
 39 defendant is represented by an attorney and the attorney general or county
 40 or district attorney, of the facts upon which the charge is based and a
 41 provision that if the defendant fails to fulfill the terms of the specific
 42 diversion agreement and the criminal proceedings on the complaint are
 43 resumed, the proceedings, including any proceedings on appeal, shall be

1 conducted on the record of the stipulation of facts relating to the
2 complaint. In addition, the agreement shall include a requirement that the
3 defendant:

4 (1) Pay a fine specified by the agreement in an amount equal to an
5 amount authorized by K.S.A. 8-1567, and amendments thereto, for a first
6 offense or, in lieu of payment of the fine, perform community service
7 specified by the agreement, in accordance with K.S.A. 8-1567, and
8 amendments thereto; and

9 (2) participate in an alcohol and drug evaluation conducted by a
10 licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and
11 follow any recommendation made by the provider after such evaluation.

12 ~~(d)~~(e) If a diversion agreement is entered into in lieu of further
13 criminal proceedings on a complaint alleging a domestic violence offense,
14 as defined in K.S.A. 2018 Supp. 21-5111, and amendments thereto, the
15 diversion agreement shall include a requirement that the defendant
16 undergo a domestic violence offender assessment and follow all
17 recommendations unless otherwise agreed to with the prosecutor in the
18 diversion agreement. The defendant shall be required to pay for such
19 assessment and, unless otherwise agreed to with the prosecutor in the
20 diversion agreement, for completion of all recommendations.

21 ~~(e)~~(f) If a diversion agreement is entered into in lieu of further
22 criminal proceedings on a complaint alleging a violation other than K.S.A.
23 8-1567, and amendments thereto, the diversion agreement may include a
24 stipulation, agreed to by the defendant, the defendant's attorney if the
25 defendant is represented by an attorney and the attorney general or county
26 or district attorney, of the facts upon which the charge is based and a
27 provision that if the defendant fails to fulfill the terms of the specific
28 diversion agreement and the criminal proceedings on the complaint are
29 resumed, the proceedings, including any proceedings on appeal, shall be
30 conducted on the record of the stipulation of facts relating to the
31 complaint.

32 ~~(f)~~(g) If the person entering into a diversion agreement is a
33 nonresident, the attorney general or county or district attorney shall
34 transmit a copy of the diversion agreement to the division. The division
35 shall forward a copy of the diversion agreement to the motor vehicle
36 administrator of the person's state of residence.

37 ~~(g)~~(h) If the attorney general or county or district attorney elects to
38 offer diversion in lieu of further criminal proceedings on the complaint and
39 the defendant agrees to all of the terms of the proposed agreement, the
40 diversion agreement shall be filed with the district court and the district
41 court shall stay further proceedings on the complaint. If the defendant
42 declines to accept diversion, the district court shall resume the criminal
43 proceedings on the complaint.

1 ~~(h)~~(i) Except as provided in subsection ~~(h)~~(j), if a diversion agreement
2 is entered into in lieu of further criminal proceedings alleging commission
3 of a misdemeanor by the defendant, while under 21 years of age, under
4 K.S.A. 2018 Supp. 21-5701 through 21-5717, and amendments thereto, or
5 K.S.A. 41-719, 41-727, 41-804, 41-2719 or 41-2720, and amendments
6 thereto, the agreement shall require the defendant to participate in an
7 alcohol and drug evaluation conducted by a licensed provider pursuant to
8 K.S.A. 8-1008, and amendments thereto, and follow any recommendation
9 made by the provider after such evaluation.

10 ~~(h)~~(j) If the defendant is 18 or more years of age but less than 21 years
11 of age and allegedly committed a violation of K.S.A. 41-727, and
12 amendments thereto, involving cereal malt beverage, the provisions of
13 subsection ~~(h)~~(i) are permissive and not mandatory.

14 ~~(h)~~(k) If a diversion agreement is entered into in lieu of further
15 criminal proceedings on a complaint alleging a violation of K.S.A. 2018
16 Supp. 21-6421, and amendments thereto, the agreement:

17 (1) Shall include a requirement that the defendant pay a fine specified
18 by the agreement in an amount equal to an amount authorized by K.S.A.
19 2018 Supp. 21-6421, and amendments thereto; and

20 (2) may include a requirement that the defendant enter into and
21 complete a suitable educational or treatment program regarding
22 commercial sexual exploitation.

23 ~~(h)~~(l) Except diversion agreements reported under subsection ~~(h)~~(m),
24 the attorney general or county or district attorney shall forward to the
25 Kansas bureau of investigation a copy of the diversion agreement at the
26 time such agreement is filed with the district court. The copy of the
27 agreement shall be made available upon request to the attorney general or
28 any county, district or city attorney or court.

29 ~~(h)~~(m) At the time of filing the diversion agreement with the district
30 court, the attorney general or county or district attorney shall forward to
31 the division of vehicles of the state department of revenue a copy of any
32 diversion agreement entered into in lieu of further criminal proceedings on
33 a complaint alleging a violation of K.S.A. 8-1567, and amendments
34 thereto. The copy of the agreement shall be made available upon request to
35 the attorney general or any county, district or city attorney or court.

36 Sec. 4. K.S.A. 2018 Supp. 75-5291 is hereby amended to read as
37 follows: 75-5291. (a) (1) The secretary of corrections may make grants to
38 counties for the development, implementation, operation and improvement
39 of community correctional services that address the criminogenic needs of
40 felony offenders including, but not limited to, adult intensive supervision,
41 substance abuse and mental health services, employment and residential
42 services, and facilities for the detention or confinement, care or treatment
43 of offenders as provided in this section except that no community

1 corrections funds shall be expended by the secretary for the purpose of
2 establishing or operating a conservation camp as provided by K.S.A. 75-
3 52,127, and amendments thereto.

4 (2) Except as otherwise provided, placement of offenders in a
5 community correctional services program by the court shall be limited to
6 placement of adult offenders, convicted of a felony offense:

7 (A) Who, on or after July 1, 2014, are determined to be moderate
8 risk, high risk or very high risk by use of a statewide, mandatory,
9 standardized risk assessment tool or instrument which shall be specified by
10 the Kansas sentencing commission;

11 (B) whose severity level and criminal history score designate a
12 presumptive prison sentence on either sentencing guidelines grid but
13 receive a nonprison sentence as a result of departure;

14 (C) all offenders convicted of an offense which satisfies the definition
15 of offender pursuant to K.S.A. 22-4902, and amendments thereto, and
16 which is classified as a severity level 7 or higher offense and who receive a
17 nonprison sentence, regardless of the manner in which the sentence is
18 imposed;

19 (D) any offender for whom a violation of conditions of release or
20 assignment or a nonprison sanction has been established as provided in
21 K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in
22 the offender being required to serve any time for the sentence imposed or
23 which might originally have been imposed in a state facility in the custody
24 of the secretary of corrections;

25 (E) placed in a community correctional services program as a
26 condition of supervision following the successful completion of a
27 conservation camp program;

28 (F) who have been sentenced to community corrections supervision
29 pursuant to K.S.A. 21-4729, prior to its repeal, or K.S.A. 2018 Supp. 21-
30 6824, and amendments thereto; or

31 (G) who have been placed in a community correctional services
32 program for supervision by the court pursuant to K.S.A. 8-1567, and
33 amendments thereto.

34 (3) Notwithstanding any law to the contrary and subject to the
35 availability of funding therefor, adult offenders sentenced to community
36 supervision in Johnson county for felony crimes that occurred on or after
37 July 1, 2002, but before July 1, 2013, shall be placed under court services
38 or community corrections supervision based upon court rules issued by the
39 chief judge of the 10th judicial district. The provisions contained in this
40 subsection shall not apply to offenders transferred by the assigned agency
41 to an agency located outside of Johnson county. The provisions of this
42 paragraph shall expire on July 1, 2013.

43 (4) Nothing in this act shall prohibit a community correctional

1 services program from providing services to juvenile offenders upon
2 approval by the local community corrections advisory board. Grants from
3 community corrections funds administered by the secretary of corrections
4 shall not be expended for such services.

5 (5) *Nothing in this act shall prohibit a community correctional*
6 *services program from providing services to offenders pursuant to a*
7 *memorandum of understanding entered into by a community correctional*
8 *services program and a county or district attorney pursuant to K.S.A. 22-*
9 *2907(d), and amendments thereto.*

10 (6) The court may require an offender for whom a violation of
11 conditions of release or assignment or a nonprison sanction has been
12 established, as provided in K.S.A. 22-3716, and amendments thereto, to
13 serve any time for the sentence imposed or which might originally have
14 been imposed in a state facility in the custody of the secretary of
15 corrections without a prior assignment to a community correctional
16 services program if the court finds and sets forth with particularity the
17 reasons for finding that the safety of the members of the public will be
18 jeopardized or that the welfare of the inmate will not be served by such
19 assignment to a community correctional services program.

20 (b) (1) In order to establish a mechanism for community correctional
21 services to participate in the department of corrections annual budget
22 planning process, the secretary of corrections shall establish a community
23 corrections advisory committee to identify new or enhanced correctional
24 or treatment interventions designed to divert offenders from prison.

25 (2) The secretary shall appoint one member from the southeast
26 community corrections region, one member from the northeast community
27 corrections region, one member from the central community corrections
28 region and one member from the western community corrections region.
29 The deputy secretary of community and field services shall designate two
30 members from the state at large. The secretary shall have final
31 appointment approval of the members designated by the deputy secretary.
32 The committee shall reflect the diversity of community correctional
33 services with respect to geographical location and average daily population
34 of offenders under supervision.

35 (3) Each member shall be appointed for a term of three years and
36 such terms shall be staggered as determined by the secretary. Members
37 shall be eligible for reappointment.

38 (4) The committee, in collaboration with the deputy secretary of
39 community and field services or the deputy secretary's designee, shall
40 routinely examine and report to the secretary on the following issues:

- 41 (A) Efficiencies in the delivery of field supervision services;
- 42 (B) effectiveness and enhancement of existing interventions;
- 43 (C) identification of new interventions; and

1 (D) statewide performance indicators.

2 (5) The committee's report concerning enhanced or new interventions
3 shall address:

4 (A) Goals and measurable objectives;

5 (B) projected costs;

6 (C) the impact on public safety; and

7 (D) the evaluation process.

8 (6) The committee shall submit its report to the secretary annually on
9 or before July 15 in order for the enhanced or new interventions to be
10 considered for inclusion within the department of corrections budget
11 request for community correctional services or in the department's
12 enhanced services budget request for the subsequent fiscal year.

13 Sec. 5. K.S.A. 2018 Supp. 75-52,144 is hereby amended to read as
14 follows: 75-52,144. (a) Drug abuse treatment programs certified in
15 accordance with subsection (b) shall provide:

16 (1) ~~Presentence~~—Drug abuse assessments of any person who is
17 convicted of *or being considered for a diversion agreement in lieu of*
18 *further criminal proceedings* for a felony violation of K.S.A. 65-4160 or
19 65-4162, prior to such section's repeal, K.S.A. 2010 Supp. 21-36a06, prior
20 to its transfer, or K.S.A. 2018 Supp. 21-5706, and amendments thereto,
21 and meets the requirements of K.S.A. 21-4729, prior to its repeal, or
22 ~~subsection (a) of~~ K.S.A. 2018 Supp. 21-6824(a), and amendments thereto;

23 (2) treatment of all persons who are convicted of *or entered into a*
24 *diversion agreement in lieu of further criminal proceedings* for a felony
25 violation of K.S.A. 65-4160 or 65-4162, prior to such section's repeal,
26 K.S.A. 2010 Supp. 21-36a06, prior to its transfer, or K.S.A. 2018 Supp.
27 21-5706, and amendments thereto, meet the requirements of K.S.A. 21-
28 4729, prior to its repeal, or K.S.A. 2018 Supp. 21-6824, and amendments
29 thereto, and whose sentence requires completion of a certified drug abuse
30 treatment program, as provided in this section;

31 (3) one or more treatment options in the continuum of services
32 needed to reach recovery: Detoxification, rehabilitation, continuing care
33 and aftercare, and relapse prevention;

34 (4) treatment options to incorporate family and auxiliary support
35 services; and

36 (5) treatment options for alcohol abuse when indicated by the
37 assessment of the offender or required by the court.

38 (b) The ~~presentence~~ criminal risk-need assessment shall be conducted
39 by a court services officer or a community corrections officer. The
40 ~~presentence~~ drug abuse treatment program placement assessment shall be
41 conducted by a drug abuse treatment program certified in accordance with
42 the provisions of this subsection to provide assessment and treatment
43 services. A drug abuse treatment program shall be certified by the

1 secretary of corrections. The secretary may establish qualifications for the
2 certification of programs, which may include requirements for supervision
3 and monitoring of clients; fee reimbursement procedures; handling of
4 conflicts of interest; delivery of services to clients unable to pay; and other
5 matters relating to quality and delivery of services by the program. Drug
6 abuse treatment may include community based and faith based programs.
7 The certification shall be for a four-year period. Recertification of a
8 program shall be by the secretary. To be eligible for certification under this
9 subsection, the secretary shall determine that a drug abuse treatment
10 program: (1) Meets the qualifications established by the secretary; (2) is
11 capable of providing the assessments, supervision and monitoring required
12 under subsection (a); (3) has employed or contracted with certified
13 treatment providers; and (4) meets any other functions and duties specified
14 by law.

15 (c) Any treatment provider who is employed or has contracted with a
16 certified drug abuse treatment program who provides services to offenders
17 shall be certified by the secretary of corrections. The secretary shall
18 require education and training which shall include, but not be limited to,
19 case management and cognitive behavior training. The duties of providers
20 who prepare the presentence drug abuse assessment may also include
21 appearing at sentencing and probation hearings in accordance with the
22 orders of the court, monitoring offenders in the treatment programs,
23 notifying the probation department and the court of any offender failing to
24 meet the conditions of probation or referrals to treatment, appearing at
25 revocation hearings as may be required and providing assistance and data
26 reporting and program evaluation.

27 (d) (1) The cost for all drug abuse assessments performed pursuant to
28 subsection (a)(1), and the cost for all certified drug abuse treatment
29 programs for any person who meets the requirements of K.S.A. 2018
30 Supp. 21-6824, and amendments thereto, shall be paid by the Kansas
31 sentencing commission from funds appropriated for such purpose. The
32 Kansas sentencing commission shall contract for payment for such
33 services with the supervising agency.

34 (2) The sentencing court shall determine the extent, if any, that such
35 person is able to pay for such assessment and treatment. Such payments
36 shall be used by the supervising agency to offset costs to the state. If such
37 financial obligations are not met or cannot be met, the sentencing court
38 shall be notified for the purpose of collection or review and further action
39 on the offender's sentence.

40 (3) *If the person has entered into a diversion agreement in lieu of*
41 *further criminal proceedings, the county or district attorney shall*
42 *determine the extent that such person is able to pay for such assessment*
43 *and treatment, if any. Such payments shall be used by the supervising*

1 *agency to offset costs to the state or county. If such financial obligations*
2 *are not met or cannot be met, the county or district attorney shall be*
3 *notified for the purpose of collection or review and further action on the*
4 *person's diversion agreement.*

5 (e) The community corrections staff shall work with the substance
6 abuse treatment staff to ensure effective supervision and monitoring of the
7 offender.

8 (f) The secretary of corrections is hereby authorized to adopt rules
9 and regulations to carry out the provisions of this section.

10 Sec. 6. K.S.A. 22-2907 and K.S.A. 2018 Supp. 21-6824, 22-2909, 75-
11 5291 and 75-52,144 are hereby repealed.

12 Sec. 7. This act shall take effect and be in force from and after its
13 publication in the statute book.