

HOUSE BILL No. 2104

By Committee on Corrections and Juvenile Justice

1-19

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sentencing; probation or assignment to community corrections;
3 setting maximum supervision terms; defining early discharge options;
4 amending K.S.A. 2022 Supp. 21-6608 and repealing the existing
5 section.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2022 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. *In misdemeanor and felony cases,*
13 probation, suspension of sentence or assignment to community corrections
14 may be terminated by the court at any time and upon such termination or
15 upon termination by expiration of the term of probation, suspension of
16 sentence or assignment to community corrections, an order to this effect
17 shall be entered by the court.

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

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

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

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

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

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

34 (3) except as provided further, in felony cases sentenced at severity
35 levels 9 and 10 on the sentencing guidelines grid for nondrug crimes,
36 severity level 4 on the sentencing guidelines grid for drug crimes

1 committed prior to July 1, 2012, and severity level 5 of the sentencing
2 guidelines grid for drug crimes committed on or after July 1, 2012, if a
3 nonprison sanction is imposed, the court shall order the defendant to serve
4 a period of probation of up to 12 months in length;

5 (4) in felony cases sentenced at severity level 8 on the sentencing
6 guidelines grid for nondrug crimes, severity level 3 on the sentencing
7 guidelines grid for drug crimes committed prior to July 1, 2012, and
8 severity level 4 of the sentencing guidelines grid for drug crimes
9 committed on or after July 1, 2012, and felony cases sentenced pursuant to
10 K.S.A. 2022 Supp. 21-6824, and amendments thereto, if a nonprison
11 sanction is imposed, the court shall order the defendant to serve a period of
12 probation, or assignment to a community correctional services program, as
13 provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to
14 18 months in length;

15 (5) if the court finds and sets forth with particularity the reasons for
16 finding that the safety of the members of the public will be jeopardized or
17 that the welfare of the inmate will not be served by the length of the
18 probation terms provided in ~~subsections (e)(3) and (e)(4) paragraphs (3)~~
19 *and (4)*, the court may impose a longer period of probation. Such an
20 increase shall not be considered a departure and shall not be subject to
21 appeal;

22 (6) except as provided in ~~subsections (e)(7) and (e)(8) paragraphs (3)~~
23 *and (4)*, the total period in all cases shall not exceed 60 months, or the
24 maximum period of the prison sentence that could be imposed whichever
25 is longer. Nonprison sentences may be terminated by the court at any time;

26 (7) if the defendant is convicted of nonsupport of a child, the period
27 may be continued as long as the responsibility for support continues,
28 *except as provided in paragraph (8)*. If the defendant is ordered to pay full
29 or partial restitution, the period may be continued as long as the amount of
30 restitution ordered has not been paid, *except as provided in paragraph (8)*.
31 *If the defendant has served a period of twice the original supervision term,*
32 *the defendant shall be released from supervision and shall continue to be*
33 *responsible for fully satisfying any outstanding child support or restitution;*
34 *and*

35 (8) the court may modify or extend the offender's period of
36 supervision, pursuant to a modification hearing and a judicial finding of
37 necessity. Such extensions ~~may be made for a maximum period of five~~
38 ~~years or the maximum period of the prison sentence that could be imposed,~~
39 ~~whichever is longer, inclusive of~~ *shall not exceed a maximum period of*
40 *twice the original supervision term.*

41 (d) (I) In addition to the provisions of subsection (a);:

42 (A) A defendant who has a risk assessment of low risk, has paid all
43 restitution and has been compliant with the terms of probation, assignment

1 to a community correctional services program, suspension of sentence or
2 nonprison sanction for a period of 12 months shall be eligible equal to or
3 greater than 50% of the original term may petition for ~~discharge from~~
4 termination of such period of supervision by the court. The court shall
5 grant such ~~discharge~~ petition unless the court finds by clear and
6 convincing evidence that denial of such discharge will serve community
7 safety interests.

8 (B) For a defendant who has a risk assessment of moderate or high, a
9 supervision officer may recommend to the court that the court terminate
10 the defendant's term of probation, assignment to a community correctional
11 services program, suspension of sentence or nonprison sanction.

12 (C) For any defendant, regardless of risk level, the court may set a
13 hearing at sentencing for the date when the defendant will have served
14 50% of such defendant's term of supervision to determine whether to
15 terminate the defendant's term of probation, assignment to a community
16 correctional services program, suspension of sentence or nonprison
17 sanction.

18 (2) When determining whether to terminate or recommend
19 termination of probation, assignment to a community correctional services
20 program, suspension of sentence or nonprison sanction prior to the
21 expiration of the term ordered at sentencing pursuant to paragraph (1)(B)
22 or (1)(C), the court or the supervision officer shall consider:

23 (A) The defendant's history of compliance with terms and conditions
24 of supervision;

25 (B) whether the defendant has successfully completed any required
26 treatment or programming;

27 (C) whether the defendant has completed 75% of the defendant's
28 required supervision period and no other provision of law requires the
29 defendant to complete more than 75% of such required supervision period;

30 (D) whether termination of probation, assignment to a community
31 correctional services program, suspension of sentence or nonprison
32 sanction serves the community safety interest; and

33 (E) any outstanding fines, costs and restitution owed by the
34 defendant.

35 (3) Nothing in this subsection shall prohibit the court from
36 terminating a defendant's term of probation, assignment to a community
37 correctional services program, suspension of sentence or nonprison
38 sanction at any time.

39 Sec. 2. K.S.A. 2022 Supp. 21-6608 is hereby repealed.

40 Sec. 3. This act shall take effect and be in force from and after its
41 publication in the statute book.