

HOUSE BILL No. 2465

By Committee on Judiciary

1-17

Proposed Amendment to HB 2465
For the Committee on Judiciary
February 10, 2012
Prepared by Jason Thompson

1 AN ACT concerning crimes; punishment and criminal procedure; relating
2 to lifetime electronic monitoring of certain offenders; amending K.S.A.
3 2011 Supp. 21-6604 and 22-3717 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 2011 Supp. 21-6604 is hereby amended to read as
7 follows: 21-6604. (a) Whenever any person has been found guilty of a
8 crime, the court may adjudge any of the following:

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

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

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

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

29 (5) assign the defendant to a conservation camp for a period not to
30 exceed six months as a condition of probation followed by a six-month
31 period of follow-up through adult intensive supervision by a community
32 correctional services program, if the offender successfully completes the
33 conservation camp program;

34 (6) assign the defendant to a house arrest program pursuant to K.S.A.
35 2011 Supp. 21-6609, and amendments thereto;
36

1 undergo a domestic violence offender assessment and follow all
 2 recommendations unless otherwise ordered by the court or the department
 3 of corrections. The court may order a domestic violence offender
 4 assessment and any other evaluation prior to sentencing if the assessment
 5 or evaluation would assist the court in determining an appropriate
 6 sentence. The entity completing the assessment or evaluation shall provide
 7 the assessment or evaluation and recommendations to the court and the
 8 court shall provide the domestic violence assessment and any other
 9 evaluation to any entity responsible for supervising such defendant. A
 10 defendant ordered to undergo a domestic violence offender assessment
 11 shall be required to pay for the assessment and, unless otherwise ordered
 12 by the court or the department of corrections, for completion of all
 13 recommendations.

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

33 (r) *In addition to any other penalty or disposition imposed by law, for*
 34 *any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643,*
 35 *prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments*
 36 *thereto, for crimes committed on or after July 1, 2006, the court shall*
 37 *order that the defendant be electronically monitored for the duration of the*
 38 *defendant's natural life and that the defendant shall reimburse the state for*
 39 *all or part of the cost of such monitoring. ~~In determining the amount and~~*
 40 *~~method of payment of such sum, the court shall take account of the~~*
 41 *~~financial resources of the defendant and the nature of the burden that the~~*
 42 *~~payment of such sum will impose.~~*

upon release from imprisonment

as determined by the prisoner review board

1 act. These credits may be awarded by the secretary of corrections when an
2 inmate has acted in a heroic or outstanding manner in coming to the
3 assistance of another person in a life threatening situation, preventing
4 injury or death to a person, preventing the destruction of property or taking
5 actions which result in a financial savings to the state.

6 (s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and
7 (d)(1)(E) shall be applied retroactively as provided in subsection (t).

8 (t) For offenders sentenced prior to May 25, 2000, who are eligible
9 for modification of their postrelease supervision obligation, the department
10 of corrections shall modify the period of postrelease supervision as
11 provided for by this section for offenders convicted of severity level 9 and
12 10 crimes on the sentencing guidelines grid for nondrug crimes and
13 severity level 4 crimes on the sentencing guidelines grid for drug crimes
14 on or before September 1, 2000; for offenders convicted of severity level 7
15 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or
16 before November 1, 2000; and for offenders convicted of severity level 5
17 and 6 crimes on the sentencing guidelines grid for nondrug crimes and
18 severity level 3 crimes on the sentencing guidelines grid for drug crimes
19 on or before January 1, 2001.

20 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
21 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
22 thereto, for crimes committed on or after July 1, 2006, shall be placed on
23 parole for life and shall not be discharged from supervision by the Kansas
24 parole prisoner review board. When the board orders the parole of an
25 inmate pursuant to this subsection, the board shall order as a condition of
26 parole that the inmate be electronically monitored for the duration of the
27 inmate's natural life.

28 (v) Whenever the Kansas parole prisoner review board ~~or the court~~
29 orders a person to be electronically monitored pursuant to this section, or
30 the court orders a person to be electronically monitored pursuant to K.S.A.
31 2011 Supp. 21-6604, and amendments thereto, the board ~~or court~~ shall
32 order the person to reimburse the state for all or part of the cost of such
33 monitoring. In determining the amount and method of payment of such
34 sum, the board ~~or court~~ shall take account of the financial resources of the
35 person and the nature of the burden that the payment of such sum will
36 impose.

37 Sec. 3. K.S.A. 2011 Supp. 21-6604 and 22-3717 are hereby repealed.

38 Sec. 4. This act shall take effect and be in force from and after its
39 publication in the statute book.
40