

SENATE BILL No. 304

By Joint Committee on Administrative Rules and Regulations

1-19

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RS - JThompson - 02/16/12

1 AN ACT concerning domestic violence; enacting the batterer intervention
2 program certification act; amending K.S.A. 2011 Supp. 12-4509 and
3 22-4616 and repealing the existing sections.
4

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

6 New Section 1. (a) There is hereby created in the office of the
7 attorney general a batterer intervention program certification unit.

8 (b) Except as otherwise provided by law, the books, documents,
9 papers, records or other sources of information obtained and the
10 investigations conducted by the unit shall be confidential as required by
11 state or federal law.

12 (c) The purpose of the batterer intervention program certification unit
13 is to certify and inspect batterer intervention programs in Kansas. To
14 accomplish this purpose, upon request of the unit, the unit shall have
15 access to all records of reports, investigation documents and written
16 reports of findings related to confirmed cases of domestic violence or
17 exploitation of persons or cases in which there is reasonable suspicion to
18 believe domestic violence has occurred which are received or generated by
19 the department of social and rehabilitation services, department on aging,
20 department of health and environment, Kansas bureau of investigation or
21 the behavioral sciences regulatory board.

22 (d) The attorney general shall develop a set of tools, methodologies,
23 requirements and forms for the domestic violence offender assessment
24 required by subsection (p) of K.S.A. 2011 Supp. 21-6604, and
25 amendments thereto. The batterer intervention program tools,
26 methodologies, requirements and forms shall be developed in consultation
27 with the agency certified by the centers for disease control and prevention
28 and the department of health and human services as the domestic violence
29 coalition for the state and with local domestic violence victims' services
30 organizations.

31 (e) The attorney general may appoint a panel to assist the attorney
32 general by making recommendations regarding the:

33 (1) Content and development of a batterer intervention certification
34 program; and

35 (2) rules and regulations.

36 (f) The attorney general may appoint such advisory committees as the

1 attorney general deems necessary to carry out the purposes of this act.
2 Except as provided in K.S.A. 75-3212, and amendments thereto, no
3 member of any such advisory committee shall receive any compensation,
4 subsistence, mileage or other allowance for serving on an advisory
5 committee or attending any meeting thereof.

6 New Sec. 2. (a) No person shall operate or provide services as a
7 batterer intervention program unless such program has been certified as
8 required by this section.

Except as provided
in subsection (i),

9 ~~(b)~~ Any program desiring to be certified in Kansas as a batterer
10 intervention program shall submit an application thereof to the attorney
11 general. All completed applications for initial, renewal, or reinstatement
12 certification shall be verified and on a form approved by the attorney
13 general. The completed application shall include:

14 (1) The full name and resident address of the applicant;

15 (2) the name under which the applicant intends to do business and the
16 business address;

17 (3) a statement as to the general nature of the business in which the
18 applicant intends to engage;

19 (4) a statement of the educational and work experience ~~qualifications~~
20 of each individual, including any employee or agent of applicant, who will
21 be directly providing intervention services to clients of a batterer
22 intervention program;

Strike

(5) a statement that the applicant has
complied with such other qualifications as
may be established by the attorney general
by rules and regulations;

(6)

23 ~~(5)~~ payment of the application fee; and
24 ~~(6)~~ such other information, evidence, statements or documents as may
25 be required by the attorney general.

(7)

26 ~~(c)~~ Before an application for a certification may be approved and
27 granted, the applicant shall:

28 ~~(1)~~ Have attained the age of 21;

29 ~~(2)~~ have satisfied the attorney general that the applicant is a person
30 who merits the public trust;

31 ~~(3)~~ have paid the certification fee; and

32 ~~(4)~~ complied with such other qualifications as may be established by
33 the attorney general by rules and regulations.

Strike lines 26-33, subsection (c),
and redesignate subsections accordingly

34 (d) If in evaluating an applicant's application the attorney general
35 finds any deficiency in the applicant's qualifications, the attorney general
36 may require such applicant to fulfill such remedial or other requirements
37 as the attorney general may prescribe.

38 (e) Certification as a batterer intervention program shall expire on the
39 second anniversary of the date of certification.

40 (f) Certification as a batterer intervention program may be renewed
41 every two years upon submission of a completed renewal application to
42 the attorney general on or before the expiration date of such certification,
43 payment of the renewal fee and verification of continuing compliance with

1 the requirements of this act and the rules and regulations adopted
2 thereunder by the attorney general.

3 (g) Any batterer intervention program that fails to secure a renewal
4 certification within the time specified in subsection (f) may request
5 reinstatement of such lapsed certification by submitting to the attorney
6 general a completed application on a form approved by the attorney
7 general, furnishing proof that the applicant is qualified to act as a certified
8 batterer intervention program and satisfying all of the requirements for
9 reinstatement including payment of a reinstatement fee to the attorney
10 general.

11 (h) The attorney general may issue a temporary permit to act as a
12 certified batterer intervention program for a period not to exceed 180 days
13 to an applicant requesting initial certification if the attorney general
14 determines the applicant qualifies under subsections (b) and (c), except for
15 program requirements regarding agency structure, personnel
16 qualifications, education requirements or training requirements established
17 in rules and regulations, and such deficiencies can be remedied within
18 such time period. The temporary permit shall expire upon the applicant
19 meeting all of the program requirements and the applicant's program being
20 certified as required by this section, or upon the expiration date of the
21 temporary permit, whichever occurs first.

22 (i) No certification as a batterer intervention program or temporary
23 permit to act as a certified batterer intervention program shall be
24 assignable or transferable. ←

25 New Sec. 3. Each applicant, certified batterer intervention program or
26 holder of a temporary permit shall notify the attorney general in writing of:

27 (a) A change in name or address, both residential and business, within
28 30 days of the change; or

29 (b) a conviction of or entering into a diversion agreement in lieu of
30 further criminal proceedings alleging a violation of:

31 (1) A felony offense in the Kansas Statutes Annotated, and
32 amendments thereto, or similar conviction in another jurisdiction:

33 (A) Involving dishonesty or false statement;

34 (B) involving alcohol or a controlled substance; or

35 (C) designated as a person offense in article 54 of chapter 21 of the
36 Kansas Statutes Annotated, and amendments thereto; or

37 (2) a misdemeanor offense in the Kansas Statutes Annotated, and
38 amendments thereto, or similar conviction in another jurisdiction or an
39 ordinance of any city of this state, or resolution of any county of this state:

40 (A) Involving dishonesty or false statement;

41 (B) involving alcohol or a controlled substance; or

42 (C) designated as a person offense in article 54 of chapter 21 of the
43 Kansas Statutes Annotated, and amendments thereto.

(i) A batterer intervention program may be exempted from
the initial application for certification as a certified batterer
intervention program if such program had been previously
certified or certified by the attorney general as a batterer
intervention program on the day preceding the effective
date of this act.

(j) (1) Except as provided further, the program director,
program supervisor or program coordinator of any batterer
intervention program shall be licensed to practice in
Kansas as a licensed psychologist, licensed baccalaureate
social worker, licensed master social worker, licensed
specialist clinical social worker, licensed marriage and
family therapist, licensed clinical marriage and family
therapist, licensed professional counselor, licensed clinical
professional counselor, licensed master level psychologist
or licensed clinical psychotherapist.

(2) Any person not licensed as required in subsection
(j)(1) who is a program director, program supervisor or
program coordinator immediately prior to the effective
date of this act may continue to be a program director,
program supervisor or program coordinator on and after
the effective date of this act if such person remains
employed or contracted by the same program, and such
program remains a certified batterer intervention program.
When such person is no longer employed or contracted by
the program in which they were a program director,
program supervisor or program coordinator immediately
prior to the effective date of this act, such person shall not
be a program director, program supervisor or program
coordinator for any certified batterer intervention program
without meeting the license requirements prescribed in
subsection (j)(1).

1 New Sec. 4. The fee for an initial application, renewal application or
 2 reinstatement application for a batterer intervention program certification
 3 shall be \$100. The fee for an initial application, renewal application or
 4 reinstatement fee for temporary permit shall be \$50. The attorney general
 5 may increase the amount of fee for an initial application, renewal
 6 application or reinstatement application for a batterer intervention program
 7 certification by rules and regulations, except that the fee for a batterer
 8 intervention program certification shall not exceed \$250. The attorney
 9 general may increase the amount of fee for an initial application renewal,
 10 application or reinstatement application for temporary permit by rules and
 11 regulations, except that the fee for a temporary permit shall not exceed
 12 \$250.

13 New Sec. 5. (a) The attorney general shall establish by rules and
 14 regulations the requirements for a batterer intervention certification
 15 program. These requirements may include, but not be limited to:

- 16 (1) Standards;
- 17 (2) program elements and goals;
- 18 (3) the role of the certified batterer intervention program in the
 19 community;
- 20 (4) technical considerations which may include, but not be limited to,
 21 consideration of any combination of:
 - 22 (A) Expectations of batterers;
 - 23 (B) group composition;
 - 24 (C) facilitation;
 - 25 (D) curriculum;
 - 26 (E) prohibited and restricted practices;
 - 27 (F) batterer confidentiality, victim confidentiality and safety checks;
 - 28 (G) program length;
 - 29 (H) victim notification;
 - 30 (I) victim involvement;
 - 31 (J) public relations;
 - 32 (K) research;
 - 33 (L) agency structure; and
 - 34 (M) personnel qualifications;
- 35 (5) the assessment of batterer participants and the utilization of the
 36 Kansas domestic violence offender assessment;
 37 ~~training and education requirements, continuing or otherwise, for~~
 38 program facilitators, program supervisors and program coordinators; and
 39 (7) any other requirements or conditions as may be required by the
 40 attorney general.
- 41 ~~(b) A batterer intervention program may be exempted from the initial~~
 42 ~~application for certification as a certified batterer intervention program if~~
 43 ~~such program had been previously certified or certified by the attorney~~

policies and procedures

orientation training and continuing
education requirements

, and any agent or employee of a
certified batterer intervention program
who directly provides intervention
services to clients of such program

1 ~~general as a batterer intervention program on the day preceding the~~
2 ~~effective date of this act.~~ ←

3 New Sec. 6. (a) The attorney general may suspend, limit, condition,
4 deny, revoke or refuse renewal or reinstatement of any certification or
5 permit issued under this act if the attorney general determines that an
6 applicant, a person operating or providing services as a certified batterer
7 intervention program or holder of a temporary permit has:

8 (1) Made any false statement or given any false information in
9 connection with an application for an initial, renewal or reinstatement of a
10 certification or temporary permit issued under this act;

11 (2) failed to meet or maintain compliance with program requirements;
12 (3) been found guilty or convicted of fraud or deceit in connection
13 with services rendered;

14 (4) been found guilty of negligence or wrongful actions in the
15 performance of services rendered;

16 (5) allowed the use of the attorney general's domestic violence
17 offender assessment by any person who is not an employee or agent of
18 either a current certified batterer intervention program or a holder of a
19 temporary permit issued under this act;

20 (6) committed an act of unprofessional conduct as defined by rules
21 and regulations adopted by the attorney general;

22 (7) been convicted of any offense as defined in section 3, and

23 ~~amendment~~ **hereto; or** **amendments**
24 (8) failed or refused to allow inspection of records pursuant to section
25 8, and amendments thereto.

26 (b)(1) For purposes of this section, "conviction" means:

27 (A) The entry of a plea or verdict of guilty or a conviction following a
28 plea of nolo contendere and without regard to whether the sentence was
29 suspended or probation granted after such conviction;

30 (B) a forfeiture of bail, bond or collateral deposited to secure a
31 defendant's appearance in court, which forfeiture has not been vacated; or

32 (C) entering into a diversion agreement in lieu of further criminal
33 proceedings alleging a violation of any offense specified in subsection (b)
34 of section 3, and amendments thereto.

35 (2) The record of conviction, or a certified copy thereof, shall be
36 conclusive evidence of such conviction.

37 (c) Proceedings under this section shall be conducted in accordance
38 with the Kansas administrative procedure act. Judicial review and civil
39 enforcement of agency actions under this act shall be in accordance with
40 the Kansas judicial review act.

41 New Sec. 7. (a) Any applicant, person who operates or provides
42 services as a batterer intervention program or holder of a temporary permit
43 who violates any provision of this act or any rules and regulations adopted

(b) Such rules and regulations shall require the following:

(1) The Kansas domestic violence offender assessment shall be completed by: (A) An individual who is licensed to practice in Kansas as a licensed psychologist, licensed baccalaureate social worker, licensed master social worker, licensed specialist clinical social worker, licensed marriage and family therapist, licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, licensed master level psychologist or licensed clinical psychotherapist; or (B) an individual who meets the requirements of subsection (b)(2).

(2) Any person who is not licensed as required in subsection (b)(1)(A) who is completing domestic violence offender assessments as an employee of or volunteer for a batterer intervention program immediately prior to the effective date of this act may continue to complete such assessments on and after the effective date of this act if such person remains an employee of or volunteer for the same program, and such program remains a certified batterer intervention program. When such person is no longer an employee of or volunteer for the program in which they were employed or volunteering immediately prior to the effective date of this act, such person shall not be allowed to complete the Kansas domestic violence offender assessment for any certified batterer intervention program without meeting the license requirements prescribed in subsection (b)(1)(A).

1 thereunder, in addition to any other penalty provided by law, may incur a
2 civil penalty imposed under subsection (b) in an amount not less than \$100
3 nor more than \$5,000 for each violation and, in the case of a continuing
4 violation, every day such violation continues may be deemed a separate
5 violation.

6 (b) No civil penalty shall be imposed pursuant to this section except
7 upon the written order of the attorney general to the applicant, person who
8 operates or provides services as a certified batterer intervention program or
9 holder of a temporary permit who committed the violation. Such order
10 shall state the violation, the penalty to be imposed and the right of the
11 applicant, person who operates or provides services as a certified batterer
12 intervention program or holder of a temporary permit to appeal to the
13 attorney general. Any such applicant, person who operates or provides
14 services as a certified batterer intervention program or holder of a
15 temporary permit, within 20 days after notification, may make written
16 request to the attorney general for a hearing in accordance with the
17 provisions of the Kansas administrative procedure act. The attorney
18 general shall affirm, reverse or modify the order and shall specify the
19 reasons therefor.

20 (c) Any applicant, person who operates or provides services as a
21 certified batterer intervention program or holder of a temporary permit
22 aggrieved by a final order of the attorney general made under this section
23 may appeal such order to the district court in the manner provided by the
24 Kansas judicial review act.

25 (d) Any civil penalty ~~recovered~~ pursuant to the provisions of this
26 section shall be ~~remitted~~ to the state treasurer, deposited in the state
27 treasury and credited to the state general fund.

28 (e) Any action taken pursuant to this section shall be in addition to
29 and not in lieu of any other penalty prescribed by law.

30 New Sec. 8. (a) Each certified batterer intervention program and each
31 holder of a temporary permit issued pursuant to this act shall keep and
32 maintain for a period of two years, each book, document, paper, record or
33 other information pertaining to services rendered as a certified batterer
34 intervention program.

35 (b) Regardless of the form or media in which such books,
36 documents, paper, record or other source of information is kept, each book,
37 document, paper, record and other source of information concerning the
38 compliance with the requirements established in this act and the rules and
39 regulations adopted thereunder by each certified batterer intervention
40 program or holder of a temporary permit shall be inspected at least once
41 every certification period by the attorney general. The attorney general
42 may order other or additional inspections as deemed necessary by the
43 attorney general. The attorney general shall at all times be given free

imposed

recovered by the
attorney general,

1 access to all such books, documents, papers, records or other sources of
2 information concerning the compliance with the requirements established
3 in this act and the rules and regulations adopted thereunder.

4 (c) (1) Any information or copy thereof obtained by the attorney
5 general pursuant to this section or pursuant to an investigation pursuant to
6 this act shall not be public and shall not be subject to disclosure pursuant
7 to the Kansas open records act, and amendments thereto.

8 (2) The provisions of subsection (c)(1) shall expire on July 1, 2017,
9 unless the legislature acts to reenact such provision. The provisions of
10 subsection (c)(1) shall be reviewed by the legislature prior to July 1, 2017.

11 New Sec. 9. (a) The attorney general may bring an action to restrain
12 or enjoin any violation of this act or any rule and regulation promulgated
13 thereunder. The district courts of this state shall have jurisdiction to
14 restrain violations of this act or the rules and regulations promulgated
15 thereunder. The court may issue such orders, including temporary
16 restraining orders, as the facts may warrant without first requiring proof
17 that an adequate remedy at law does not exist. Any orders issued pursuant
18 to this section shall be issued without bond. Proceedings may be instituted
19 under this section without any criminal proceedings, administrative
20 proceedings or civil penalty proceedings being first initiated.

21 (b) In any civil action brought by the attorney general pursuant to this
22 section in which a temporary restraining order, preliminary injunction or
23 permanent injunction is sought, it shall be sufficient to show that a
24 violation of the provisions of this act, or the rules and regulations adopted
25 thereunder, has occurred or is imminent. It shall not be necessary to allege
26 or prove at any stage of the proceeding that irreparable damage will occur
27 should the temporary restraining order, preliminary injunction or
28 permanent injunction not be issued or that the remedy at law is inadequate.

29 New Sec. 10. Except for a certified batterer intervention program or a
30 holder of a temporary permit authorized under this act, and amendments
31 thereto, no person shall use any of the tools, methodologies, and forms for
32 the domestic violence offender assessment required by subsection (p) of
33 K.S.A. 2011 Supp. 21-6604, and amendments thereto, developed by the
34 attorney general pursuant to section 1, and amendments thereto.

35 New Sec. 11. In accordance with the provisions of the rules and
36 regulations filing act, K.S.A. 77-415 *et seq.*, and amendments thereto, the
37 attorney general shall adopt, amend and revoke rules and regulations
38 governing the administration and enforcement of this act, including but not
39 limited to:

40 (a) Criteria for the evaluation, certification and monitoring of any
41 certified batterer intervention program;

42 (b) any form required to implement this act;

43 (c) any ~~educational requirement~~ for any certified batterer intervention

orientation training and continuing
education requirements for staff who will
be directly providing intervention services
to clients of

- 1 program;
- 2 (d) any fee required under this act;
- 3 (e) any report, record or other information which may be required to
- 4 be kept, and maintained pursuant to this act; and
- 5 (f) such other rules and regulations as the attorney general may deem
- 6 necessary to carry out the provisions of this act.
- 7 Rules and regulations required for the administration of this act shall be
- 8 adopted on or before the first anniversary of the effective date of this act.
- 9 New Sec. 12. (a) There is hereby created in the state treasury the
- 10 Kansas attorney general batterer intervention program certification fund.
- 11 The attorney general shall remit all amounts received under this act to the
- 12 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
- 13 amendments thereto. Upon receipt of each such remittance, the attorney
- 14 general shall remit the entire amount to the state treasurer pursuant to the
- 15 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
- 16 each such remittance, the state treasurer shall deposit the entire amount in
- 17 the state treasury to the credit of the Kansas attorney general batterer
- 18 intervention program certification fund.
- 19 (b) Moneys in the Kansas attorney general batterer intervention
- 20 program certification fund shall be expended only for the purposes of
- 21 administering this act.
- 22 (c) All expenditures from the Kansas attorney general batterer
- 23 intervention program certification fund shall be made in accordance with
- 24 appropriation acts upon warrants of the director of accounts and reports
- 25 issued pursuant to vouchers approved by the attorney general or by a
- 26 person designated by the attorney general.
- 27 New Sec. 13. (a) As used in this act, unless the context otherwise
- 28 requires, the following words and phrases shall have the meanings
- 29 ascribed to them in this section:
- 30 (1) "Agent or employee thereof," in the context of either a certified
- 31 batterer intervention program or the holder of a temporary permit, means
- 32 any individual who acts or aids in any manner in directly providing
- 33 intervention related service to a client of a certified batterer intervention
- 34 program. The term "agent or employee thereof" shall not include an
- 35 individual working as an officer for a certified batterer intervention
- 36 program, or in a clerical, administrative or service capacity for a certified
- 37 batterer intervention program, provided that such individual does not
- 38 provide intervention services to clients under such program.
- 39 (2) "Attorney general" means the attorney general of the state of
- 40 Kansas and any authorized agent or designee thereof.
- 41 (3) "Certified batterer intervention program" includes any agent or
- 42 employee thereof.
- 43 (4) "Holder of a temporary permit" includes any agent or employee

1 thereof.

2 (5) "Person" means an individual, partnership, corporation, limited
3 liability company, association, business entity, legal representative,
4 trustee, trustee in bankruptcy or receiver, partnership, joint venture,
5 company, firm, corporation, institution, governmental subdivision, state or
6 federal department or agency or other legal entity.

7 (b) Sections 1 through 13, and amendments thereto, shall be cited as
8 the batterer intervention program certification act.

9 Sec. 14. K.S.A. 2011 Supp. 12-4509 is hereby amended to read as
10 follows: 12-4509. (a) Whenever a person is found guilty of the violation of
11 an ordinance, the municipal judge may:

12 (1) Release the person without imposition of sentence;

13 (2) release the person on probation after the imposition of sentence,
14 without imprisonment or the payment of a fine or a portion thereof, subject
15 to conditions imposed by the court as provided in subsection (e);

16 (3) impose such sentence of fine or imprisonment, or both, as
17 authorized for the ordinance violation; or

18 (4) impose a sentence of house arrest as provided in K.S.A. 2011
19 Supp. 21-6609, and amendments thereto.

20 (b) In addition to or in lieu of any other sentence authorized by law,
21 whenever a person is found guilty of the violation of an ordinance and
22 there is evidence that the act constituting the violation of the ordinance
23 was substantially related to the possession, use or ingestion of cereal malt
24 beverage or alcoholic liquor by such person, the judge may order such
25 person to attend and satisfactorily complete an alcohol or drug education
26 or training program certified by the chief judge of the judicial district or
27 licensed by the secretary of social and rehabilitation services.

28 (c) Except as provided in subsection (d), in addition to or in lieu of
29 any other sentence authorized by law, whenever a person is convicted of
30 having violated, while under 21 years of age, an ordinance prohibiting an
31 act prohibited by K.S.A. 2011 Supp. 21-5701 through 21-5717, and
32 amendments thereto, or K.S.A. 8-1599, 41-719 or 41-727, and
33 amendments thereto, the municipal judge shall order such person to submit
34 to and complete an alcohol and drug evaluation by a community-based
35 alcohol and drug safety action program certified pursuant to K.S.A. 8-
36 1008, and amendments thereto, and to pay a fee not to exceed the fee
37 established by that statute for such evaluation. If the judge finds that the
38 person is indigent, the fee may be waived.

39 (d) If the person is 18 or more years of age but less than 21 years of
40 age and is convicted of a violation of K.S.A. 41-727, and amendments
41 thereto, involving cereal malt beverage, the provisions of subsection (c)
42 are permissive and not mandatory.

43 (e) *In addition to any other sentence authorized by law, whenever a*

1 *person is convicted of any criminal offense, the municipal judge shall*
2 *determine whether the defendant committed a domestic violence offense as*
3 *defined in K.S.A. 2011 Supp. 21-3110 and 21-5111, and amendments*
4 *thereto, and shall sentence the defendant pursuant to K.S.A. 2011 Supp.*
5 *22-4616, and amendments thereto.*

6 (f) The court may impose any conditions of probation or suspension
7 of sentence that the court deems proper, including, but not limited to,
8 requiring that the defendant:

9 (1) Avoid such injurious or vicious habits, as directed by the court or
10 the probation officer;

11 (2) avoid such persons or places of disreputable or harmful character,
12 as directed by the court or the probation officer;

13 (3) report to the probation officer as directed;

14 (4) permit the probation officer to visit the defendant at home or
15 elsewhere;

16 (5) work faithfully at suitable employment insofar as possible;

17 (6) remain within the state unless the court grants permission to
18 leave;

19 (7) pay a fine or costs, applicable to the ordinance violation, in one or
20 several sums and in the manner as directed by the court;

21 (8) support the defendant's dependents;

22 (9) reside in a residential facility located in the community and
23 participate in educational counseling, work and other correctional or
24 rehabilitative programs;

25 (10) perform community or public service work for local
26 governmental agencies, private corporations organized not for profit, or
27 charitable or social service organizations performing services for the
28 community;

29 (11) perform services under a system of day fines whereby the
30 defendant is required to satisfy fines, costs or reparation or restitution
31 obligations by performing services for a period of days determined by the
32 court on the basis of ability to pay, standard of living, support obligations
33 and other factors;

34 (12) make reparation or restitution to the aggrieved party for the
35 damage or loss caused by the defendant's crime, in an amount and manner
36 determined by the court and to the person specified by the court; or

37 (13) reimburse the city, in accordance with any order made under
38 subsection (f) (g), for all or a part of the reasonable expenditures by the
39 city to provide counsel and other defense services to the defendant.

40 (g) In addition to or in lieu of any other sentence authorized by
41 law, whenever a person is found guilty of the violation of an ordinance the
42 judge may order such person to reimburse the city for all or a part of the
43 reasonable expenditures by the city to provide counsel and other defense

1 services to the defendant. In determining the amount and method of
2 payment of such sum, the court shall take account of the financial
3 resources of the defendant and the nature of the burden that payment of
4 such sum will impose. A defendant who has been required to pay such sum
5 and who is not willfully in default in the payment thereof may at any time
6 petition the court which sentenced the defendant to waive payment of such
7 sum or of any unpaid portion thereof. If it appears to the satisfaction of the
8 court that payment of the amount due will impose manifest hardship on the
9 defendant or the defendant's immediate family, the court may waive
10 payment of all or part of the amount due or modify the method of
11 payment.

12 Sec. 15. K.S.A. 22-4616 is hereby amended to read as follows: 22-
13 4616. (a) On and after July 1, 2011, in all criminal cases *filed in the*
14 *district court or in the municipal court*, if there is evidence that the
15 defendant committed a domestic violence offense, the trier of fact shall
16 determine whether the defendant committed a domestic violence offense.

17 (1) Except as provided further, if the trier of fact determines that the
18 defendant committed a domestic violence offense, the court shall place a
19 domestic violence designation on the criminal case and the defendant shall
20 be subject to the provisions of subsection (p) of K.S.A. 2011 Supp. 21-
21 6604, and amendments thereto.

22 (2) The court shall not place a domestic violence designation on the
23 criminal case and the defendant shall not be subject to the provisions of
24 subsection (p) of K.S.A. 2011 Supp. 21-6604, and amendments thereto,
25 only if the court finds on the record that:

26 (A) The defendant has not previously committed a domestic violence
27 offense or participated in a diversion upon a complaint alleging a domestic
28 violence offense; and

29 (B) the domestic violence offense was not used to coerce, control,
30 punish, intimidate or take revenge against a person with whom the
31 offender is involved or has been involved in a dating relationship or
32 against a family or household member.

33 (b) The term "domestic violence offense" shall have the meaning
34 provided in K.S.A. 2011 Supp. 21-5111, and amendments thereto.

35 (c) This section shall be a part of and supplemental to the Kansas
36 code for criminal procedure.

37 Sec. 16. K.S.A. 2011 Supp. 12-4509 and 22-4616 are hereby
38 repealed.

39 Sec. 17. This act shall take effect and be in force from and after its
40 publication in the Kansas register.