

2012 Kansas Statutes

8-1008. Alcohol and drug evaluations; when required; providers; reports; standardized substance use evaluations. (a) As used in this section, "provider" means: (1) A professional licensed by the behavioral sciences regulatory board to diagnose and treat mental or substance use disorders at the independent level who is compliant with the requirements set forth by the secretary of social and rehabilitation services as described in subsection (f); or (2) a professional licensed by the behavioral sciences regulatory board who is working in an alcohol and drug treatment facility licensed by the secretary of social and rehabilitation services as meeting the requirements described in subsection (f).

(b) A provider shall provide:

(1) Alcohol and drug evaluations, prior to sentencing, of any person who is convicted of a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2012 Supp. 8-1025, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by those statutes; and

(2) alcohol and drug evaluations of persons whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 or K.S.A. 2012 Supp. 8-1025, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by that statute.

(c) A provider shall be capable of providing, within the judicial district: (1) The evaluations required under subsection (b); (2) the alcohol and drug evaluation report required under subsection (d) or (e); (3) the follow-up duties specified under subsection (d) or (e) for persons who prepare the alcohol and drug evaluation report; and (4) any other functions and duties specified by law. The secretary of social and rehabilitation services shall provide each judicial district with an electronic list of providers, and, except as provided further, such list shall be used when selecting a provider to be used as described in subsections (d) and (e). The secretary of social and rehabilitation services shall also make all such lists publicly available on the official website of the department of social and rehabilitation services. Any provider performing services in any judicial district under this section prior to July 1, 2011, may continue to perform those services until July 1, 2013.

(d) (1) Except as provided further, prior to sentencing, an alcohol and drug evaluation shall be conducted on any person who is convicted of a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2012 Supp. 8-1025, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by those statutes. The alcohol and drug evaluation report shall be made available to and shall be considered by the court prior to sentencing. Except as provided further, the court shall order that the cost of any alcohol and drug evaluation for any person shall be paid by such person to the provider at the time of service. If the court finds that such person is indigent, the provider shall agree to accept payment as ordered by the court and the court shall order that the cost of any alcohol and drug evaluation be paid to the provider by such person as part of the judgment. The cost of any such evaluation shall be not less than \$150.

(2) The provisions of this subsection shall not apply to any person convicted pursuant to subsection (b)(1)(C) of K.S.A. 8-2,144, subsection (b)(1)(C), (b)(1)(D) or (b)(1)(E) of K.S.A. 8-1567 or subsection (b)(1)(B), (b)(1)(C) or (b)(1)(D) of K.S.A. 2012 Supp. 8-1025, and amendments thereto.

(e) An alcohol and drug evaluation shall be conducted on any person whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 or K.S.A. 2012 Supp. 8-1025, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by that statute. The alcohol and drug evaluation report shall be made available to the prosecuting attorney and shall be considered by the prosecuting attorney. The cost of any alcohol and drug evaluation for any person shall be paid by such person to the provider at the time of service, and shall be not less than \$150.

(f) On and after July 1, 2013, all alcohol and drug evaluations conducted pursuant to this section shall utilize a standardized substance use evaluation approved by the secretary of social and rehabilitation services and be submitted in a format approved by the secretary of social and rehabilitation services. On or before July 1, 2013, the secretary of social and rehabilitation services shall promulgate rules and regulations to implement this section.

History: L. 1982, ch. 144, § 10; L. 1983, ch. 37, § 1; L. 1985, ch. 51, § 1; L. 1990, ch. 94, § 2; L. 1994, ch. 350, § 1; L. 1995, ch. 208, § 3; L. 1999, ch. 57, § 1; L. 2001, ch. 5, § 35; L. 2001, ch. 200, § 4; L. 2011, ch. 105, § 10; L. 2012, ch. 172, § 13; July 1.