

{As Amended by House Committee of the Whole}

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2170

By Committee on Corrections and Juvenile Justice

1-30

1 AN ACT concerning crimes, criminal procedure and punishment; relating
2 to probation and postrelease supervision; relating to sentencing;
3 amending K.S.A. 2012 Supp. 21-6604, 21-6606, 21-6608, 21-6821, 22-
4 3716, 22-3717, 74-9101 and 75-5217 and repealing the existing
5 sections; also repealing K.S.A. 2012 Supp. 21-6604a and 21-6604b.
6

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

7 Section 1. K.S.A. 2012 Supp. 21-6604 is hereby amended to read as
8 follows: 21-6604. (a) Whenever any person has been found guilty of a
9 crime, the court may adjudge any of the following:

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

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

17 (3) release the defendant on probation if the current crime of
18 conviction and criminal history fall within a presumptive nonprison
19 category or through a departure for substantial and compelling reasons
20 subject to such conditions as the court may deem appropriate. In felony
21 cases except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2012
22 Supp. 8-1025, and amendments thereto, the court may include confinement
23 in a county jail not to exceed 60 days, which need not be served
24 consecutively, as a condition of an original probation sentence and up to
25 60 days in a county jail upon each revocation of the probation sentence, or
26 community corrections placement;

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

32 (5) assign the defendant to a conservation camp for a period not to
33 exceed six months as a condition of probation followed by a six-month
34

HB2170-Balloon2

Prepared By: Jason Thompson,
Office of Revisor of Statutes
March 20, 2013

17

1 **{(B)}** When a new person felony is committed while the offender is
2 on probation, assignment to a community correctional services
3 program,} {parole, conditional release or postrelease supervision for a
4 felony, a new sentence shall be imposed consecutively pursuant to the
5 provisions of K.S.A. 2012 Supp. 21-6606, and amendments thereto,
6 and the court may sentence the offender to imprisonment for the new
7 conviction, even when the new crime of conviction otherwise presumes
8 a nonprison sentence. In this event, imposition of a prison sentence for
9 the new crime does not constitute a departure.}

10 (6) Except as provided in subsection (f), upon completion of a
11 violation sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D)
12 such offender shall be returned to community correctional services
13 supervision.

14 (7) A violation sanction imposed pursuant to subsection (c)(1)(B), (c)
15 (1)(C) or (c)(1)(D) shall not be longer than the amount of time remaining
16 on the defendant's underlying prison sentence.

17 (8) If the offender commits a new felony or misdemeanor or absconds
18 from supervision while the offender is on probation, assignment to a
19 community correctional services program, suspension of sentence or
20 nonprison sanction, the court may ~~impose any of the sanctions provided in~~
21 ~~subsection (e)(1).~~ ←

22 (9) The court may revoke the probation, assignment to a community
23 correctional services program, suspension of sentence or nonprison
24 sanction of an offender pursuant to (c)(1)(E) without having previously
25 imposed a sanction pursuant to (c)(1)(B), (c)(1)(C) or (c)(1)(D) if the
26 court finds and sets forth with particularity the reasons for finding that the
27 safety of members of the public will be jeopardized or that the welfare of
28 the offender will not be served by such sanction.

29 (e)(d) A defendant who is on probation, assigned to a community
30 correctional services program, under suspension of sentence or serving a
31 nonprison sanction and for whose return a warrant has been issued by the
32 court shall be considered a fugitive from justice if it is found that the
33 warrant cannot be served. If it appears that the defendant has violated the
34 provisions of the defendant's release or assignment to a nonprison
35 sanction, the court shall determine whether the time from the issuing of the
36 warrant to the date of the defendant's arrest, or any part of it, shall be
37 counted as time served on probation, assignment to a community
38 correctional services program, suspended sentence or pursuant to a
39 nonprison sanction.

40 (e)(e) The court shall have 30 days following the date probation,
41 assignment to a community correctional service program, suspension of
42 sentence or a nonprison sanction was to end to issue a warrant for the
43 arrest or notice to appear for the defendant to answer a charge of a

revoke the probation, assignment to a community
correctional services program, suspension of
sentence or nonprison sanction of an offender
pursuant to subsection (c)(1)(E) without having
previously imposed a sanction pursuant to
subsections (c)(1)(B), (c)(1)(C) or (c)(1)(D)