

## SENATE BILL No. 250

By Senators Bruce, King and Smith

1-7

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1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to sentencing of certain persons to mandatory minimum term of  
3 imprisonment of 50 years; amending K.S.A. 2013 Supp. 21-6620 and  
4 22-3717 and repealing the existing sections.  
5

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

7 Section 1. K.S.A. 2013 Supp. 21-6620 is hereby amended to read as  
8 follows: 21-6620. (a) Except as provided in K.S.A. 2013 Supp. 21-6618  
9 and 21-6622, and amendments thereto, if a defendant is convicted of the  
10 crime of capital murder and a sentence of death is not imposed pursuant to  
11 subsection (e) of K.S.A. 2013 Supp. 21-6617, and amendments thereto, or  
12 requested pursuant to subsection (a) or (b) of K.S.A. 2013 Supp. 21-6617,  
13 and amendments thereto, the defendant shall be sentenced to life without  
14 the possibility of parole.

15 (b) *The provisions of this subsection shall apply only to the crime of*  
16 *murder in the first degree based upon the finding of premeditated murder*  
17 *committed on or after July 1, 2014.*

18 (1) *A defendant convicted of murder in the first degree based upon*  
19 *the finding of premeditated murder shall be sentenced pursuant to K.S.A.*  
20 *2013 Supp. 21-6623, and amendments thereto, unless the sentencing judge*  
21 *finds substantial and compelling reasons, following a review of mitigating*  
22 *circumstances, to impose the sentence specified in subsection (b)(2).*

23 (2) *If the sentencing judge does not impose the mandatory minimum*  
24 *term of imprisonment required by K.S.A. 2013 Supp. 21-6623, and*  
25 *amendments thereto, the judge shall state on the record at the time of*  
26 *sentencing the substantial and compelling reasons therefor, and the*  
27 *defendant shall be sentenced to imprisonment for life and shall not be*  
28 *eligible for probation or suspension, modification or reduction of*  
29 *sentence. In addition, the defendant shall not be eligible for parole prior*  
30 *to serving 25 years' imprisonment, and such 25 years' imprisonment shall*  
31 *not be reduced by the application of good time credits. No other sentence*  
32 *shall be permitted.*

33 (b) (c) *The provisions of this subsection shall apply only to the crime*  
34 *of murder in the first degree based upon the finding of premeditated*  
35 *murder committed on or after the effective date of this act September 6,*  
36 *2013, but prior to July 1, 2014.*

1 (1) If a defendant is convicted of murder in the first degree based  
2 upon the finding of premeditated murder, upon reasonable notice by the  
3 prosecuting attorney, the court shall determine, in accordance with this  
4 subsection, whether the defendant shall be required to serve a mandatory  
5 minimum term of imprisonment of 50 years or sentenced as otherwise  
6 provided by law.

7 (2) The court shall conduct a separate proceeding following the  
8 determination of the defendant's guilt for the jury to determine whether  
9 one or more aggravating circumstances exist. Such proceeding shall be  
10 conducted by the court before a jury as soon as practicable. If any person  
11 who served on the trial jury is unable to serve on the jury for the  
12 proceeding, the court shall substitute an alternate juror who has been  
13 impaneled for the trial jury. If there are insufficient alternate jurors to  
14 replace trial jurors who are unable to serve at the proceeding, the court  
15 may conduct such proceeding before a jury which may have 12 or less  
16 jurors, but at no time less than six jurors. If the jury has been discharged  
17 prior to the proceeding, a new jury shall be impaneled. Any decision of the  
18 jury regarding the existence of an aggravating circumstance shall be  
19 beyond a reasonable doubt. Jury selection procedures, qualifications of  
20 jurors and grounds for exemption or challenge of prospective jurors in  
21 criminal trials shall be applicable to the selection of such jury. The jury at  
22 the proceeding may be waived in the manner provided by K.S.A. 22-3403,  
23 and amendments thereto, for waiver of a trial jury. If the jury at the  
24 proceeding has been waived, such proceeding shall be conducted by the  
25 court.

26 (3) In the proceeding, evidence may be presented concerning any  
27 matter relating to any of the aggravating circumstances enumerated in  
28 K.S.A. 2013 Supp. 21-6624, and amendments thereto. Only such evidence  
29 of aggravating circumstances as the prosecuting attorney has made known  
30 to the defendant prior to the proceeding shall be admissible and no  
31 evidence secured in violation of the constitution of the United States or of  
32 the state of Kansas shall be admissible. No testimony by the defendant at  
33 the time of the proceeding shall be admissible against the defendant at any  
34 subsequent criminal proceeding. At the conclusion of the evidentiary  
35 presentation, the court shall allow the parties a reasonable period of time in  
36 which to present oral argument.

37 (4) At the conclusion of the evidentiary portion of the proceeding, the  
38 court shall provide oral and written instructions to the jury to guide its  
39 deliberations. If the prosecuting attorney relies on subsection (a) of K.S.A.  
40 2013 Supp. 21-6624, and amendments thereto, as an aggravating  
41 circumstance, and the court finds that one or more of the defendant's prior  
42 convictions satisfy such subsection, the jury shall be instructed that a  
43 certified journal entry of a prior conviction is presumed to prove the

1 existence of such prior conviction or convictions beyond a reasonable  
2 doubt.

3 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt  
4 that one or more of the aggravating circumstances enumerated in K.S.A.  
5 2013 Supp. 21-6624, and amendments thereto, exist, the jury shall  
6 designate, in writing, signed by the foreman of the jury, the statutory  
7 aggravating circumstances which it found. If, after a reasonable time for  
8 deliberation, the jury is unable to reach a unanimous sentencing decision,  
9 the court shall dismiss the jury and the defendant shall be sentenced as  
10 provided by law. In nonjury cases, the court shall designate, in writing, the  
11 specific circumstance or circumstances which the court found beyond a  
12 reasonable doubt.

13 (6) If one or more of the aggravating circumstances enumerated in  
14 K.S.A. 2013 Supp. 21-6624, and amendments thereto, are found to exist  
15 beyond a reasonable doubt pursuant to this subsection, the defendant shall  
16 be sentenced pursuant to K.S.A. 2013 Supp. 21-6623, and amendments  
17 thereto, unless the sentencing judge finds substantial and compelling  
18 reasons, following a review of mitigating circumstances, to impose the  
19 sentence specified in this paragraph. If the sentencing judge does not  
20 impose the mandatory minimum term of imprisonment required by K.S.A.  
21 2013 Supp. 21-6623, and amendments thereto, the judge shall state on the  
22 record at the time of sentencing the substantial and compelling reasons  
23 therefor, and the defendant shall be sentenced to imprisonment for life and  
24 shall not be eligible for probation or suspension, modification or reduction  
25 of sentence. In addition, the defendant shall not be eligible for parole prior  
26 to serving 25 years' imprisonment, and such 25 years' imprisonment shall  
27 not be reduced by the application of good time credits. No other sentence  
28 shall be permitted.

29 ~~(e)~~ (d) The provisions of this subsection shall apply only to the crime  
30 of murder in the first degree based upon the finding of premeditated  
31 murder committed prior to ~~the effective date of this act~~ *September 6, 2013*.

32 (1) If a defendant is convicted of murder in the first degree based  
33 upon the finding of premeditated murder, upon reasonable notice by the  
34 prosecuting attorney, the court shall conduct a separate sentencing  
35 proceeding in accordance with this subsection to determine whether the  
36 defendant shall be required to serve a mandatory minimum term of  
37 imprisonment of 40 years or for crimes committed on and after July 1,  
38 1999, a mandatory minimum term of imprisonment of 50 years or  
39 sentenced as otherwise provided by law.

40 (2) The sentencing proceeding shall be conducted by the court before  
41 a jury as soon as practicable. If the trial jury has been discharged prior to  
42 sentencing, a new jury shall be impaneled. Any decision to impose a  
43 mandatory minimum term of imprisonment of 40 or 50 years shall be by a

1 unanimous jury. Jury selection procedures, qualifications of jurors and  
2 grounds for exemption or challenge of prospective jurors in criminal trials  
3 shall be applicable to the selection of such jury. The jury at the sentencing  
4 proceeding may be waived in the manner provided by K.S.A. 22-3403, and  
5 amendments thereto, for waiver of a trial jury. If the jury at the sentencing  
6 proceeding has been waived, such proceeding shall be conducted by the  
7 court.

8 (3) In the sentencing proceeding, evidence may be presented  
9 concerning any matter that the court deems relevant to the question of  
10 sentence and shall include matters relating to any of the aggravating  
11 circumstances enumerated in K.S.A. 2013 Supp. 21-6624, and  
12 amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A.  
13 21-4636, prior to its repeal, and any mitigating circumstances. Any such  
14 evidence which the court deems to have probative value may be received  
15 regardless of its admissibility under the rules of evidence, provided that  
16 the defendant is accorded a fair opportunity to rebut any hearsay  
17 statements. Only such evidence of aggravating circumstances as the  
18 prosecuting attorney has made known to the defendant prior to the  
19 sentencing proceeding shall be admissible and no evidence secured in  
20 violation of the constitution of the United States or of the state of Kansas  
21 shall be admissible. Only such evidence of mitigating circumstances  
22 subject to discovery pursuant to K.S.A. 22-3212, and amendments thereto,  
23 that the defendant has made known to the prosecuting attorney prior to the  
24 sentencing proceeding shall be admissible. No testimony by the defendant  
25 at the time of sentencing shall be admissible against the defendant at any  
26 subsequent criminal proceeding. At the conclusion of the evidentiary  
27 presentation, the court shall allow the parties a reasonable period of time in  
28 which to present oral argument.

29 (4) At the conclusion of the evidentiary portion of the sentencing  
30 proceeding, the court shall provide oral and written instructions to the jury  
31 to guide its deliberations. If the prosecuting attorney relies on subsection  
32 (a) of K.S.A. 2013 Supp. 21-6624, and amendments thereto, or for crimes  
33 committed prior to July 1, 2011, subsection (a) of K.S.A. 21-4636, prior to  
34 its repeal, as an aggravating circumstance, and the court finds that one or  
35 more of the defendant's prior convictions satisfy such subsection, the jury  
36 shall be instructed that a certified journal entry of a prior conviction is  
37 presumed to prove the existence of such prior conviction or convictions  
38 beyond a reasonable doubt.

39 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt  
40 that one or more of the aggravating circumstances enumerated in K.S.A.  
41 2013 Supp. 21-6624, and amendments thereto, or for crimes committed  
42 prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, exist and, further,  
43 that the existence of such aggravating circumstances is not outweighed by

1 any mitigating circumstances which are found to exist, the defendant shall  
2 be sentenced pursuant to K.S.A. 2013 Supp. 21-6623, and amendments  
3 thereto; otherwise, the defendant shall be sentenced as provided by law.  
4 The sentencing jury shall designate, in writing, signed by the foreman of  
5 the jury, the statutory aggravating circumstances which it found. The trier  
6 of fact may make the findings required by this subsection for the purpose  
7 of determining whether to sentence a defendant pursuant to K.S.A. 2013  
8 Supp. 21-6623, and amendments thereto, notwithstanding contrary  
9 findings made by the jury or court pursuant to subsection (e) of K.S.A.  
10 2013 Supp. 21-6617, and amendments thereto, for the purpose of  
11 determining whether to sentence such defendant to death. If, after a  
12 reasonable time for deliberation, the jury is unable to reach a unanimous  
13 sentencing decision, the court shall dismiss the jury and the defendant  
14 shall be sentenced as provided by law. In nonjury cases, the court shall  
15 designate in writing the specific circumstance or circumstances which the  
16 court found beyond a reasonable doubt.

17 ~~(d)~~ (e) The amendments to subsection ~~(e)~~ by this act (d) by chapter 1  
18 of the 2013 Session Laws of Kansas (Special Session):

19 (1) Establish a procedural rule for sentencing proceedings, and as  
20 such shall be construed and applied retroactively to all crimes committed  
21 prior to the effective date of this act, except as provided further in this  
22 subsection; (2) shall not apply to cases in which the defendant's conviction  
23 and sentence were final prior to June 17, 2013, unless the conviction or  
24 sentence has been vacated in a collateral proceeding, including, but not  
25 limited to, K.S.A. 22-3504 or 60-1507, and amendments thereto; and (3)  
26 shall apply only in sentencing proceedings otherwise authorized by law.

27 ~~(e)~~ (f) Notwithstanding the provisions of subsection ~~(f)~~ (g), for all  
28 cases on appeal on or after the effective date of this act September 6, 2013,  
29 if a sentence imposed under this section, prior to amendment by this act  
30 chapter 1 of the 2013 Session Laws of Kansas (Special Session), or under  
31 K.S.A. 21-4635, prior to its repeal, is vacated for any reason other than  
32 sufficiency of the evidence as to all aggravating circumstances,  
33 resentencing shall be required under this section, as amended by this act  
34 chapter 1 of the 2013 Session Laws of Kansas (Special Session), unless the  
35 prosecuting attorney chooses not to pursue such a sentence.

36 ~~(f)~~ (g) In the event any sentence imposed under this section is held to  
37 be unconstitutional, the court having jurisdiction over a person previously  
38 sentenced shall cause such person to be brought before the court and shall  
39 sentence such person to the maximum term of imprisonment otherwise  
40 provided by law.

41 ~~(g)~~ (h) If any provision or provisions of this section or the application  
42 thereof to any person or circumstance is held invalid, the invalidity shall  
43 not affect other provisions or applications of this section which can be

1 given effect without the invalid provision or provisions or application, and  
2 to this end the provisions of this section are severable.

3 Sec. 2. K.S.A. 2013 Supp. 22-3717 is hereby amended to read as  
4 follows: 22-3717. (a) Except as otherwise provided by this section: K.S.A.  
5 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through 21-4638,  
6 prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642,  
7 prior to its repeal; K.S.A. 2013 Supp. 21-6617, 21-6620, 21-6623, 21-  
8 6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567,  
9 and amendments thereto; an inmate, including an inmate sentenced  
10 pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2013 Supp. 21-  
11 6707, and amendments thereto, shall be eligible for parole after serving the  
12 entire minimum sentence imposed by the court, less good time credits.

13 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, prior  
14 to their repeal, and K.S.A. 2013 Supp. 21-6620, 21-6623, 21-6624 and 21-  
15 6625, and amendments thereto, an inmate sentenced to imprisonment for  
16 the crime of: *(A) Capital murder, or an inmate sentenced for the crime of*  
17 ~~*murder in the first degree based upon a finding of premeditated murder,*~~  
18 *committed on or after July 1, 1994, shall be eligible for parole after*  
19 *serving 25 years of confinement, without deduction of any good time*  
20 *credits; and (B) murder in the first degree based upon a finding of*  
21 *premeditated murder committed on or after July 1, 1994, but prior to July*  
22 *1, 2014, shall be eligible for parole after serving 25 years of confinement,*  
23 *without deduction of any good time credits.*

24 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993  
25 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior  
26 to their repeal, and K.S.A. 2013 Supp. 21-6620, 21-6623, 21-6624 and 21-  
27 6625, and amendments thereto, an inmate sentenced to imprisonment for  
28 an off-grid offense committed on or after July 1, 1993, but prior to July 1,  
29 1999, shall be eligible for parole after serving 15 years of confinement,  
30 without deduction of any good time credits and an inmate sentenced to  
31 imprisonment for an off-grid offense committed on or after July 1, 1999,  
32 shall be eligible for parole after serving 20 years of confinement without  
33 deduction of any good time credits.

34 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its  
35 repeal, an inmate sentenced for a class A felony committed before July 1,  
36 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to  
37 its repeal, or K.S.A. 2013 Supp. 21-6707, and amendments thereto, shall  
38 be eligible for parole after serving 15 years of confinement, without  
39 deduction of any good time credits.

40 (4) An inmate sentenced to imprisonment for a violation of  
41 subsection (a) of K.S.A. 21-3402, prior to its repeal, committed on or after  
42 July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after  
43 serving 10 years of confinement without deduction of any good time

1 credits.

2 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-  
3 4643, prior to its repeal, or K.S.A. 2013 Supp. 21-6627, and amendments  
4 thereto, committed on or after July 1, 2006, shall be eligible for parole  
5 after serving the mandatory term of imprisonment without deduction of  
6 any good time credits.

7 (c) (1) Except as provided in subsection (e), if an inmate is sentenced  
8 to imprisonment for more than one crime and the sentences run  
9 consecutively, the inmate shall be eligible for parole after serving the total  
10 of:

11 (A) The aggregate minimum sentences, as determined pursuant to  
12 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2013 Supp. 21-6606, and  
13 amendments thereto, less good time credits for those crimes which are not  
14 class A felonies; and

15 (B) an additional 15 years, without deduction of good time credits,  
16 for each crime which is a class A felony.

17 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-  
18 4643, prior to its repeal, or K.S.A. 2013 Supp. 21-6627, and amendments  
19 thereto, for crimes committed on or after July 1, 2006, the inmate shall be  
20 eligible for parole after serving the mandatory term of imprisonment.

21 (d) (1) Persons sentenced for crimes, other than off-grid crimes,  
22 committed on or after July 1, 1993, or persons subject to subparagraph  
23 (G), will not be eligible for parole, but will be released to a mandatory  
24 period of postrelease supervision upon completion of the prison portion of  
25 their sentence as follows:

26 (A) Except as provided in subparagraphs (D) and (E), persons  
27 sentenced for nondrug severity levels 1 through 4 crimes, drug severity  
28 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July  
29 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after  
30 July 1, 2012, must serve 36 months on postrelease supervision.

31 (B) Except as provided in subparagraphs (D) and (E), persons  
32 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3  
33 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and  
34 drug severity level 4 crimes committed on or after July 1, 2012, must serve  
35 24 months on postrelease supervision.

36 (C) Except as provided in subparagraphs (D) and (E), persons  
37 sentenced for nondrug severity levels 7 through 10 crimes, drug severity  
38 level 4 crimes committed on or after July 1, 1993, but prior to July 1,  
39 2012, and drug severity level 5 crimes committed on or after July 1, 2012,  
40 must serve 12 months on postrelease supervision.

41 (D) Persons sentenced to a term of imprisonment that includes a  
42 sentence for a sexually violent crime as defined in K.S.A. 22-3717, and  
43 amendments thereto, a sexually motivated crime in which the offender has

1 been ordered to register pursuant to subsection (d)(1)(D)(vii) of K.S.A. 22-  
2 3717, and amendments thereto, electronic solicitation, K.S.A. 21-3523,  
3 prior to its repeal, or K.S.A. 2013 Supp. 21-5509, and amendments  
4 thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or  
5 K.S.A. 2013 Supp. 21-5512, and amendments thereto, shall serve the  
6 period of postrelease supervision as provided in subsections (d)(1)(A), (d)  
7 (1)(B) or (d)(1)(C) plus the amount of good time and program credit  
8 earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or  
9 K.S.A. 2013 Supp. 21-6821, and amendments thereto, on postrelease  
10 supervision.

11 (i) If the sentencing judge finds substantial and compelling reasons to  
12 impose a departure based upon a finding that the current crime of  
13 conviction was sexually motivated, departure may be imposed to extend  
14 the postrelease supervision to a period of up to 60 months.

15 (ii) If the sentencing judge departs from the presumptive postrelease  
16 supervision period, the judge shall state on the record at the time of  
17 sentencing the substantial and compelling reasons for the departure.  
18 Departures in this section are subject to appeal pursuant to K.S.A. 21-  
19 4721, prior to its repeal, or K.S.A. 2013 Supp. 21-6820, and amendments  
20 thereto.

21 (iii) In determining whether substantial and compelling reasons exist,  
22 the court shall consider:

23 (a) Written briefs or oral arguments submitted by either the defendant  
24 or the state;

25 (b) any evidence received during the proceeding;

26 (c) the presentence report, the victim's impact statement and any  
27 psychological evaluation as ordered by the court pursuant to subsection (e)  
28 of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 2013  
29 Supp. 21-6813, and amendments thereto; and

30 (d) any other evidence the court finds trustworthy and reliable.

31 (iv) The sentencing judge may order that a psychological evaluation  
32 be prepared and the recommended programming be completed by the  
33 offender. The department of corrections or the prisoner review board shall  
34 ensure that court ordered sex offender treatment be carried out.

35 (v) In carrying out the provisions of subsection (d)(1)(D), the court  
36 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2013 Supp. 21-  
37 6817, and amendments thereto.

38 (vi) Upon petition and payment of any restitution ordered pursuant to  
39 K.S.A. 2013 Supp. 21-6604, and amendments thereto, the prisoner review  
40 board may provide for early discharge from the postrelease supervision  
41 period imposed pursuant to subsection (d)(1)(D)(i) upon completion of  
42 court ordered programs and completion of the presumptive postrelease  
43 supervision period, as determined by the crime of conviction, pursuant to



1 subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from  
2 postrelease supervision is at the discretion of the board.

3 (vii) Persons convicted of crimes deemed sexually violent or sexually  
4 motivated shall be registered according to the offender registration act,  
5 K.S.A. 22-4901 through 22-4910, and amendments thereto.

6 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their  
7 repeal, or K.S.A. 2013 Supp. 21-5508, and amendments thereto, shall be  
8 required to participate in a treatment program for sex offenders during the  
9 postrelease supervision period.

10 (E) The period of postrelease supervision provided in subparagraphs  
11 (A) and (B) may be reduced by up to 12 months and the period of  
12 postrelease supervision provided in subparagraph (C) may be reduced by  
13 up to six months based on the offender's compliance with conditions of  
14 supervision and overall performance while on postrelease supervision. The  
15 reduction in the supervision period shall be on an earned basis pursuant to  
16 rules and regulations adopted by the secretary of corrections.

17 (F) In cases where sentences for crimes from more than one severity  
18 level have been imposed, the offender shall serve the longest period of  
19 postrelease supervision as provided by this section available for any crime  
20 upon which sentence was imposed irrespective of the severity level of the  
21 crime. Supervision periods will not aggregate.

22 (G) Except as provided in subsection (u), persons convicted of a  
23 sexually violent crime committed on or after July 1, 2006, and who are  
24 released from prison, shall be released to a mandatory period of  
25 postrelease supervision for the duration of the person's natural life.

26 (2) Persons serving a period of postrelease supervision pursuant to  
27 subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner  
28 review board for early discharge. Upon payment of restitution, the prisoner  
29 review board may provide for early discharge.

30 (3) Persons serving a period of incarceration for a supervision  
31 violation shall not have the period of postrelease supervision modified  
32 until such person is released and returned to postrelease supervision.

33 (4) Offenders whose crime of conviction was committed on or after  
34 July 1, 2013, and whose probation, assignment to a community  
35 correctional services program, suspension of sentence or nonprison  
36 sanction is revoked pursuant to subsection (c) of K.S.A. 22-3716, and  
37 amendments thereto, or whose underlying prison term expires while  
38 serving a sanction pursuant to subsection (c)(1)(C) or (c)(1)(D) of K.S.A.  
39 22-3716, and amendments thereto, shall serve a period of postrelease  
40 supervision upon the completion of the underlying prison term.

41 (5) As used in this subsection, "sexually violent crime" means:

42 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp.  
43 21-5503, and amendments thereto;

1 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,  
2 or subsection (a) of K.S.A. 2013 Supp. 21-5506, and amendments thereto;

3 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior  
4 to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5506, and  
5 amendments thereto;

6 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,  
7 prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2013 Supp. 21-  
8 5504, and amendments thereto;

9 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,  
10 or subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;

11 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,  
12 or subsection (a) of K.S.A. 2013 Supp. 21-5508, and amendments thereto;

13 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior  
14 to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5508, and  
15 amendments thereto;

16 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,  
17 or K.S.A. 2013 Supp. 21-5510, and amendments thereto;

18 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or  
19 subsection (b) of K.S.A. 2013 Supp. 21-5505, and amendments thereto;

20 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or  
21 subsection (b) of K.S.A. 2013 Supp. 21-5604, and amendments thereto;

22 (K) aggravated human trafficking, as defined in K.S.A. 21-3447,  
23 prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5426, and  
24 amendments thereto, if committed in whole or in part for the purpose of  
25 the sexual gratification of the defendant or another;

26 (L) commercial sexual exploitation of a child, as defined in K.S.A.  
27 2013 Supp. 21-6422, and amendments thereto; or

28 (M) an attempt, conspiracy or criminal solicitation, as defined in  
29 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2013  
30 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a  
31 sexually violent crime as defined in this section.

32 (6) As used in this subsection, "sexually motivated" means that one of  
33 the purposes for which the defendant committed the crime was for the  
34 purpose of the defendant's sexual gratification.

35 (e) If an inmate is sentenced to imprisonment for a crime committed  
36 while on parole or conditional release, the inmate shall be eligible for  
37 parole as provided by subsection (c), except that the prisoner review board  
38 may postpone the inmate's parole eligibility date by assessing a penalty not  
39 exceeding the period of time which could have been assessed if the  
40 inmate's parole or conditional release had been violated for reasons other  
41 than conviction of a crime.

42 (f) If a person is sentenced to prison for a crime committed on or after  
43 July 1, 1993, while on probation, parole, conditional release or in a

1 community corrections program, for a crime committed prior to July 1,  
2 1993, and the person is not eligible for retroactive application of the  
3 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-  
4 4724, prior to its repeal, the new sentence shall not be aggregated with the  
5 old sentence, but shall begin when the person is paroled or reaches the  
6 conditional release date on the old sentence. If the offender was past the  
7 offender's conditional release date at the time the new offense was  
8 committed, the new sentence shall not be aggregated with the old sentence  
9 but shall begin when the person is ordered released by the prisoner review  
10 board or reaches the maximum sentence expiration date on the old  
11 sentence, whichever is earlier. The new sentence shall then be served as  
12 otherwise provided by law. The period of postrelease supervision shall be  
13 based on the new sentence, except that those offenders whose old sentence  
14 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.  
15 21-4628, prior to its repeal, or an indeterminate sentence with a maximum  
16 term of life imprisonment, for which there is no conditional release or  
17 maximum sentence expiration date, shall remain on postrelease  
18 supervision for life or until discharged from supervision by the prisoner  
19 review board.

20 (g) Subject to the provisions of this section, the prisoner review board  
21 may release on parole those persons confined in institutions who are  
22 eligible for parole when: (1) The board believes that the inmate should be  
23 released for hospitalization, deportation or to answer the warrant or other  
24 process of a court and is of the opinion that there is reasonable probability  
25 that the inmate can be released without detriment to the community or to  
26 the inmate; or (2) the secretary of corrections has reported to the board in  
27 writing that the inmate has satisfactorily completed the programs required  
28 by any agreement entered under K.S.A. 75-5210a, and amendments  
29 thereto, or any revision of such agreement, and the board believes that the  
30 inmate is able and willing to fulfill the obligations of a law abiding citizen  
31 and is of the opinion that there is reasonable probability that the inmate  
32 can be released without detriment to the community or to the inmate.  
33 Parole shall not be granted as an award of clemency and shall not be  
34 considered a reduction of sentence or a pardon.

35 (h) The prisoner review board shall hold a parole hearing at least the  
36 month prior to the month an inmate will be eligible for parole under  
37 subsections (a), (b) and (c). At least one month preceding the parole  
38 hearing, the county or district attorney of the county where the inmate was  
39 convicted shall give written notice of the time and place of the public  
40 comment sessions for the inmate to any victim of the inmate's crime who  
41 is alive and whose address is known to the county or district attorney or, if  
42 the victim is deceased, to the victim's family if the family's address is  
43 known to the county or district attorney. Except as otherwise provided,

1 failure to notify pursuant to this section shall not be a reason to postpone a  
2 parole hearing. In the case of any inmate convicted of an off-grid felony or  
3 a class A felony, the secretary of corrections shall give written notice of the  
4 time and place of the public comment session for such inmate at least one  
5 month preceding the public comment session to any victim of such  
6 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and  
7 amendments thereto. If notification is not given to such victim or such  
8 victim's family in the case of any inmate convicted of an off-grid felony or  
9 a class A felony, the board shall postpone a decision on parole of the  
10 inmate to a time at least 30 days after notification is given as provided in  
11 this section. Nothing in this section shall create a cause of action against  
12 the state or an employee of the state acting within the scope of the  
13 employee's employment as a result of the failure to notify pursuant to this  
14 section. If granted parole, the inmate may be released on parole on the date  
15 specified by the board, but not earlier than the date the inmate is eligible  
16 for parole under subsections (a), (b) and (c). At each parole hearing and, if  
17 parole is not granted, at such intervals thereafter as it determines  
18 appropriate, the board shall consider: (1) Whether the inmate has  
19 satisfactorily completed the programs required by any agreement entered  
20 under K.S.A. 75-5210a, and amendments thereto, or any revision of such  
21 agreement; and (2) all pertinent information regarding such inmate,  
22 including, but not limited to, the circumstances of the offense of the  
23 inmate; the presentence report; the previous social history and criminal  
24 record of the inmate; the conduct, employment, and attitude of the inmate  
25 in prison; the reports of such physical and mental examinations as have  
26 been made, including, but not limited to, risk factors revealed by any risk  
27 assessment of the inmate; comments of the victim and the victim's family  
28 including in person comments, contemporaneous comments and  
29 prerecorded comments made by any technological means; comments of  
30 the public; official comments; any recommendation by the staff of the  
31 facility where the inmate is incarcerated; proportionality of the time the  
32 inmate has served to the sentence a person would receive under the Kansas  
33 sentencing guidelines for the conduct that resulted in the inmate's  
34 incarceration; and capacity of state correctional institutions.

35 (i) In those cases involving inmates sentenced for a crime committed  
36 after July 1, 1993, the prisoner review board will review the inmate's  
37 proposed release plan. The board may schedule a hearing if they desire.  
38 The board may impose any condition they deem necessary to insure public  
39 safety, aid in the reintegration of the inmate into the community, or items  
40 not completed under the agreement entered into under K.S.A. 75-5210a,  
41 and amendments thereto. The board may not advance or delay an inmate's  
42 release date. Every inmate while on postrelease supervision shall remain in  
43 the legal custody of the secretary of corrections and is subject to the orders

1 of the secretary.

2 (j) (1) Before ordering the parole of any inmate, the prisoner review  
3 board shall have the inmate appear either in person or via a video  
4 conferencing format and shall interview the inmate unless impractical  
5 because of the inmate's physical or mental condition or absence from the  
6 institution. Every inmate while on parole shall remain in the legal custody  
7 of the secretary of corrections and is subject to the orders of the secretary.  
8 Whenever the board formally considers placing an inmate on parole and  
9 no agreement has been entered into with the inmate under K.S.A. 75-  
10 5210a, and amendments thereto, the board shall notify the inmate in  
11 writing of the reasons for not granting parole. If an agreement has been  
12 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate  
13 has not satisfactorily completed the programs specified in the agreement,  
14 or any revision of such agreement, the board shall notify the inmate in  
15 writing of the specific programs the inmate must satisfactorily complete  
16 before parole will be granted. If parole is not granted only because of a  
17 failure to satisfactorily complete such programs, the board shall grant  
18 parole upon the secretary's certification that the inmate has successfully  
19 completed such programs. If an agreement has been entered under K.S.A.  
20 75-5210a, and amendments thereto, and the secretary of corrections has  
21 reported to the board in writing that the inmate has satisfactorily  
22 completed the programs required by such agreement, or any revision  
23 thereof, the board shall not require further program participation.  
24 However, if the board determines that other pertinent information  
25 regarding the inmate warrants the inmate's not being released on parole,  
26 the board shall state in writing the reasons for not granting the parole. If  
27 parole is denied for an inmate sentenced for a crime other than a class A or  
28 class B felony or an off-grid felony, the board shall hold another parole  
29 hearing for the inmate not later than one year after the denial unless the  
30 board finds that it is not reasonable to expect that parole would be granted  
31 at a hearing if held in the next three years or during the interim period of a  
32 deferral. In such case, the board may defer subsequent parole hearings for  
33 up to three years but any such deferral by the board shall require the board  
34 to state the basis for its findings. If parole is denied for an inmate  
35 sentenced for a class A or class B felony or an off-grid felony, the board  
36 shall hold another parole hearing for the inmate not later than three years  
37 after the denial unless the board finds that it is not reasonable to expect  
38 that parole would be granted at a hearing if held in the next 10 years or  
39 during the interim period of a deferral. In such case, the board may defer  
40 subsequent parole hearings for up to 10 years, but any such deferral shall  
41 require the board to state the basis for its findings.

42 (2) Inmates sentenced for a class A or class B felony who have not  
43 had a board hearing in the five years prior to July 1, 2010, shall have such

1 inmates' cases reviewed by the board on or before July 1, 2012. Such  
2 review shall begin with the inmates with the oldest deferral date and  
3 progress to the most recent. Such review shall be done utilizing existing  
4 resources unless the board determines that such resources are insufficient.  
5 If the board determines that such resources are insufficient, then the  
6 provisions of this paragraph are subject to appropriations therefor.

7 (k) (1) Parolees and persons on postrelease supervision shall be  
8 assigned, upon release, to the appropriate level of supervision pursuant to  
9 the criteria established by the secretary of corrections.

10 (2) Parolees and persons on postrelease supervision are, and shall  
11 agree in writing to be, subject to search or seizure by a parole officer or a  
12 department of corrections enforcement, apprehension and investigation  
13 officer, at any time of the day or night, with or without a search warrant  
14 and with or without cause. Nothing in this subsection shall be construed to  
15 authorize such officers to conduct arbitrary or capricious searches or  
16 searches for the sole purpose of harassment.

17 (3) Parolees and persons on postrelease supervision are, and shall  
18 agree in writing to be, subject to search or seizure by any law enforcement  
19 officer based on reasonable suspicion of the person violating conditions of  
20 parole or postrelease supervision or reasonable suspicion of criminal  
21 activity. Any law enforcement officer who conducts such a search shall  
22 submit a written report to the appropriate parole officer no later than the  
23 close of the next business day after such search. The written report shall  
24 include the facts leading to such search, the scope of such search and any  
25 findings resulting from such search.

26 (l) The prisoner review board shall promulgate rules and regulations  
27 in accordance with K.S.A. 77-415 et seq., and amendments thereto, not  
28 inconsistent with the law and as it may deem proper or necessary, with  
29 respect to the conduct of parole hearings, postrelease supervision reviews,  
30 revocation hearings, orders of restitution, reimbursement of expenditures  
31 by the state board of indigents' defense services and other conditions to be  
32 imposed upon parolees or releasees. Whenever an order for parole or  
33 postrelease supervision is issued it shall recite the conditions thereof.

34 (m) Whenever the prisoner review board orders the parole of an  
35 inmate or establishes conditions for an inmate placed on postrelease  
36 supervision, the board:

37 (1) Unless it finds compelling circumstances which would render a  
38 plan of payment unworkable, shall order as a condition of parole or  
39 postrelease supervision that the parolee or the person on postrelease  
40 supervision pay any transportation expenses resulting from returning the  
41 parolee or the person on postrelease supervision to this state to answer  
42 criminal charges or a warrant for a violation of a condition of probation,  
43 assignment to a community correctional services program, parole,

1 conditional release or postrelease supervision;

2 (2) to the extent practicable, shall order as a condition of parole or  
3 postrelease supervision that the parolee or the person on postrelease  
4 supervision make progress towards or successfully complete the  
5 equivalent of a secondary education if the inmate has not previously  
6 completed such educational equivalent and is capable of doing so;

7 (3) may order that the parolee or person on postrelease supervision  
8 perform community or public service work for local governmental  
9 agencies, private corporations organized not-for-profit or charitable or  
10 social service organizations performing services for the community;

11 (4) may order the parolee or person on postrelease supervision to pay  
12 the administrative fee imposed pursuant to K.S.A. 22-4529, and  
13 amendments thereto, unless the board finds compelling circumstances  
14 which would render payment unworkable;

15 (5) unless it finds compelling circumstances which would render a  
16 plan of payment unworkable, shall order that the parolee or person on  
17 postrelease supervision reimburse the state for all or part of the  
18 expenditures by the state board of indigents' defense services to provide  
19 counsel and other defense services to the person. In determining the  
20 amount and method of payment of such sum, the prisoner review board  
21 shall take account of the financial resources of the person and the nature of  
22 the burden that the payment of such sum will impose. Such amount shall  
23 not exceed the amount claimed by appointed counsel on the payment  
24 voucher for indigents' defense services or the amount prescribed by the  
25 board of indigents' defense services reimbursement tables as provided in  
26 K.S.A. 22-4522, and amendments thereto, whichever is less, minus any  
27 previous payments for such services;

28 (6) shall order that the parolee or person on postrelease supervision  
29 agree in writing to be subject to search or seizure by a parole officer or a  
30 department of corrections enforcement, apprehension and investigation  
31 officer, at any time of the day or night, with or without a search warrant  
32 and with or without cause. Nothing in this subsection shall be construed to  
33 authorize such officers to conduct arbitrary or capricious searches or  
34 searches for the sole purpose of harassment; and

35 (7) shall order that the parolee or person on postrelease supervision  
36 agree in writing to be subject to search or seizure by any law enforcement  
37 officer based on reasonable suspicion of the person violating conditions of  
38 parole or postrelease supervision or reasonable suspicion of criminal  
39 activity.

40 (n) If the court which sentenced an inmate specified at the time of  
41 sentencing the amount and the recipient of any restitution ordered as a  
42 condition of parole or postrelease supervision, the prisoner review board  
43 shall order as a condition of parole or postrelease supervision that the

1 inmate pay restitution in the amount and manner provided in the journal  
2 entry unless the board finds compelling circumstances which would render  
3 a plan of restitution unworkable.

4 (o) Whenever the prisoner review board grants the parole of an  
5 inmate, the board, within 14 days of the date of the decision to grant  
6 parole, shall give written notice of the decision to the county or district  
7 attorney of the county where the inmate was sentenced.

8 (p) When an inmate is to be released on postrelease supervision, the  
9 secretary, within 30 days prior to release, shall provide the county or  
10 district attorney of the county where the inmate was sentenced written  
11 notice of the release date.

12 (q) Inmates shall be released on postrelease supervision upon the  
13 termination of the prison portion of their sentence. Time served while on  
14 postrelease supervision will vest.

15 (r) An inmate who is allocated regular good time credits as provided  
16 in K.S.A. 22-3725, and amendments thereto, may receive meritorious  
17 good time credits in increments of not more than 90 days per meritorious  
18 act. These credits may be awarded by the secretary of corrections when an  
19 inmate has acted in a heroic or outstanding manner in coming to the  
20 assistance of another person in a life threatening situation, preventing  
21 injury or death to a person, preventing the destruction of property or taking  
22 actions which result in a financial savings to the state.

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

25 (t) For offenders sentenced prior to July 1, 2013, who are eligible for  
26 modification of their postrelease supervision obligation, the department of  
27 corrections shall modify the period of postrelease supervision as provided  
28 for by this section:

29 (1) On or before September 1, 2013, for offenders convicted of:

30 (A) Severity levels 9 and 10 crimes on the sentencing guidelines grid  
31 for nondrug crimes;

32 (B) severity level 4 crimes on the sentencing guidelines grid for drug  
33 crimes committed prior to July 1, 2012; and

34 (C) severity level 5 crimes on the sentencing guidelines grid for drug  
35 crimes committed on and after July 1, 2012;

36 (2) on or before November 1, 2013, for offenders convicted of:

37 (A) severity levels 6, 7 and 8 crimes on the sentencing guidelines grid  
38 for nondrug crimes;

39 (B) level 3 crimes on the sentencing guidelines grid for drug crimes  
40 committed prior to July 1, 2012; and

41 (C) level 4 crimes on the sentencing guidelines grid for drug crimes  
42 committed on or after July 1, 2012; and

43 (3) on or before January 1, 2014, for offenders convicted of:



1 (A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing  
2 guidelines grid for nondrug crimes;

3 (B) severity levels 1 and 2 crimes on the sentencing guidelines grid  
4 for drug crimes committed at any time; and

5 (C) severity level 3 crimes on the sentencing guidelines grid for drug  
6 crimes committed on or after July 1, 2012.

7 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-  
8 4643, prior to its repeal, or K.S.A. 2013 Supp. 21-6627, and amendments  
9 thereto, for crimes committed on or after July 1, 2006, shall be placed on  
10 parole for life and shall not be discharged from supervision by the prisoner  
11 review board. When the board orders the parole of an inmate pursuant to  
12 this subsection, the board shall order as a condition of parole that the  
13 inmate be electronically monitored for the duration of the inmate's natural  
14 life.

15 (v) Whenever the prisoner review board orders a person to be  
16 electronically monitored pursuant to this section, or the court orders a  
17 person to be electronically monitored pursuant to subsection (r) of K.S.A.  
18 2013 Supp. 21-6604, and amendments thereto, the board shall order the  
19 person to reimburse the state for all or part of the cost of such monitoring.  
20 In determining the amount and method of payment of such sum, the board  
21 shall take account of the financial resources of the person and the nature of  
22 the burden that the payment of such sum will impose.

23 (w) (1) On and after July 1, 2012, for any inmate who is a sex  
24 offender, as defined in K.S.A. 22-4902, and amendments thereto,  
25 whenever the prisoner review board orders the parole of such inmate or  
26 establishes conditions for such inmate placed on postrelease supervision,  
27 such inmate shall agree in writing to not possess pornographic materials.

28 (A) As used in this subsection, "pornographic materials" means: Any  
29 obscene material or performance depicting sexual conduct, sexual contact  
30 or a sexual performance; and any visual depiction of sexually explicit  
31 conduct.

32 (B) As used in this subsection, all other terms have the meanings  
33 provided by K.S.A. 2013 Supp. 21-5510, and amendments thereto.

34 (2) The provisions of this subsection shall be applied retroactively to  
35 every sex offender, as defined in K.S.A. 22-4902, and amendments  
36 thereto, who is on parole or postrelease supervision on July 1, 2012. The  
37 prisoner review board shall obtain the written agreement required by this  
38 subsection from such offenders as soon as practicable.

39 Sec. 3. K.S.A. 2013 Supp. 21-6620 and 22-3717 are hereby repealed.

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