

HOUSE BILL No. 2090

By Committee on Corrections and Juvenile Justice

I-18

Proposed Amendments to HB 2090 - Finch
House Corrections and Juvenile Justice
Prepared by: Natalie Scott, Assistant Revisor
February 6, 2018

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sentencing; possession of a controlled substance; amending K.S.A.
3 2016 Supp. 21-6604 and 21-6805 and repealing the existing sections.
4
5 *Be it enacted by the Legislature of the State of Kansas:*
6 Section 1. K.S.A. 2016 Supp. 21-6805 is hereby amended to read as
7 follows: 21-6805. (a) The provisions of this section shall be applicable to
8 the sentencing guidelines grid for drug crimes. The following sentencing
9 guidelines grid for drug crimes shall be applicable to felony crimes under
10 K.S.A. 2016 Supp. 21-5701 through 21-5717, and amendments thereto,
11 except as otherwise provided by law:

1 reduction in sentence. Any decision made by the court regarding the
2 reduction in such sentence shall not be considered a departure and shall
3 not be subject to appeal.

4 ~~(f) (1) The sentence for a third or subsequent felony conviction of
5 K.S.A. 65-4160 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-
6 36a06, prior to its transfer, or K.S.A. 2016 Supp. 21-5706, and
7 amendments thereto, shall be a presumptive term of imprisonment and the
8 defendant shall be sentenced to prison as provided by this section. The
9 defendant's term of imprisonment shall be served in the custody of the
10 secretary of corrections in a facility designated by the secretary. Subject to
11 appropriations therefore, the defendant shall participate in an intensive
12 substance abuse treatment program, of at least four months duration,
13 selected by the secretary of corrections. If the secretary determines that
14 substance abuse treatment resources are otherwise available, such term of
15 imprisonment may be served in a facility designated by the secretary of
16 corrections in the custody of the secretary of corrections to participate in
17 an intensive substance abuse treatment program. The secretary's
18 determination regarding the availability of treatment resources shall not be
19 subject to review. Upon the successful completion of such intensive
20 treatment program, the offender shall be returned to the court and the court
21 may modify the sentence by directing that a less severe penalty be
22 imposed in lieu of that originally adjudged. If the offender's term of
23 imprisonment expires, the offender shall be placed under the applicable
24 period of postrelease supervision.~~

restore

25 ~~(2) Such defendant's term of imprisonment shall not be subject to
26 modification under paragraph (1) if:~~

27 ~~(A) The defendant has previously completed a certified drug abuse
28 treatment program, as provided in K.S.A. 2016 Supp. 75-52,144, and
29 amendments thereto;~~

30 ~~(B) has been discharged or refused to participate in a certified drug
31 abuse treatment program, as provided in K.S.A. 2016 Supp. 75-52,144,
32 and amendments thereto;~~

33 ~~(C) has completed an intensive substance abuse treatment program
34 under paragraph (1); or~~

35 ~~(D) has been discharged or refused to participate in an intensive
36 substance abuse treatment program under paragraph (1).~~

37 ~~The sentence under this subsection shall not be considered a departure
38 and shall not be subject to appeal.~~

39 ~~(g) (f) (1) Except as provided further, if the trier of fact makes a
40 finding that an offender carried a firearm to commit a drug felony, or in
41 furtherance of a drug felony, possessed a firearm, in addition to the
42 sentence imposed pursuant to K.S.A. 2016 Supp. 21-6801 through 21-
43 6824, and amendments thereto, the offender shall be sentenced to:~~

Restore and amended to read:
(2) Such defendant's term of imprisonment shall not be subject to modification under paragraph (1) if the defendant has refused to participate in a certified drug treatment program, as provided in K.S.A. 2017 Supp. 75-52,144, and amendments there or an intensive substance abuse treatment program under paragraph (1).
The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.