

SENATE BILL No. 4

By Joint Committee on Corrections and Juvenile Justice Oversight

12-31

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to **issuance of identification certificate by court services and**
3 **community corrections agencies for use to obtain a replacement**
4 **driver's license; increasing criminal penalties for riot and**
5 **incitement to riot in a correctional facility; modifying criminal**
6 **penalties for unlawfully tampering with electronic monitoring**
7 **equipment; ~~modifying criminal penalties~~ clarifying supervision of**
8 **offenders in the certified drug abuse treatment program;**
9 **authorizing the sentencing commission to determine risk levels for**
10 **participation in such program; amending K.S.A. 75-5291 and**
11 **K.S.A. 2020 Supp. 8-246, 21-6201, 21-6322, 21-6610 and 21-6824 and**
12 **repealing the existing section sections.**
13

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

15 **Section 1. K.S.A. 2020 Supp. 8-246 is hereby amended to read as**
16 **follows: 8-246. (a) If a driver's license issued under the provisions of**
17 **this act is lost or destroyed, or if a new name is acquired, the person to**
18 **whom such driver's license was issued may obtain a replacement**
19 **upon:**

20 **(1) Furnishing satisfactory proof of the loss, destruction or name**
21 **change to the division, including an affidavit stating the circumstances**
22 **of the loss, destruction or name change;**

23 **(2) payment of a fee of \$8; and**

24 **(3) furnishing proof of the person's identity as provided in**
25 **subsection (b). The driver's license examiner also shall compare the**
26 **applicant with the division's existing information and facial image**
27 **database.**

28 **(b) For the purposes of obtaining a replacement driver's license,**
29 **proof of a person's identity shall include at least two of the following**
30 **documents, one of the documents shall bear the person's signature and**
31 **one of the documents shall bear the person's age or one of the**
32 **documents shall bear the person's signature and age:**

33 **(1) Military identification card;**

34 **(2) military dependent identification card;**

35 **(3) military discharge papers;**

36 **(4) military DD214;**

- 1 (5) an original or certified copy of a state issued birth certificate;
- 2 (6) marriage license;
- 3 (7) medicare identification card;
- 4 (8) certified copy of court order specifying a change of name of
- 5 the person;
- 6 (9) commercially produced school yearbook with photograph of
- 7 the person, and the book is less than five years old;
- 8 (10) an official passport issued by any country;
- 9 (11) alien registration documents issued by the United States;
- 10 (12) expired or current driver's license or identification card
- 11 issued by the Kansas division of vehicles or an expired or current
- 12 driver's license or identification card of another state issued by similar
- 13 authority, and for any document in this ~~item (12)~~ *paragraph* the
- 14 document must bear a photograph of the person;
- 15 (13) student identification card bearing the photograph of the
- 16 person;
- 17 (14) employee identification card bearing the photograph of the
- 18 person;
- 19 (15) a copy of any federal or state income tax return bearing the
- 20 signature of the person; ~~or~~
- 21 (16) an identification certificate issued by the department of
- 22 corrections to an offender under the supervision of the secretary of
- 23 corrections; *or*
- 24 (17) *an identification certificate issued by a court services or*
- 25 *community corrections agency to an offender under the probation*
- 26 *supervision of such agency.*
- 27 (c) The division may waive the furnishing of one of the documents
- 28 required by subsection (b) in the case of:
- 29 (1) A person who is 65 or more years of age; or
- 30 (2) an inmate who has been released on parole, conditional
- 31 release or expiration of the inmate's maximum sentence. When
- 32 additional clarification is needed to adequately describe any of the
- 33 above items, the division shall specify such clarification in making the
- 34 requirement for such item.
- 35 (d) In lieu of providing one of the documents required by
- 36 subsection (b), a person may recite to the satisfaction of the driver's
- 37 license examiner the recent motor vehicle operating record of the
- 38 person.
- 39 (e) Any person who loses a driver's license and who, after
- 40 obtaining a replacement, finds the original license shall immediately
- 41 surrender the original license to the division.
- 42 Sec. 2. K.S.A. 2020 Supp. 21-6201 is hereby amended to read as
- 43 follows: 21-6201. (a) Riot is five or more persons acting together and

1 **without lawful authority engaging in any:**

2 **(1) Use of force or violence which produces a breach of the public**
3 **peace; or**

4 **(2) threat to use such force or violence against any person or**
5 **property if accompanied by power or apparent power of immediate**
6 **execution.**

7 **(b) Incitement to riot is by words or conduct knowingly urging**
8 **others to engage in riot as defined in subsection (a) under**
9 **circumstances which produce a clear and present danger of injury to**
10 **persons or property or a ~~breach~~ breach of the public peace.**

11 **(c) (1) Riot is a:**

12 **(A) Class A person misdemeanor, except as provided in subsection**
13 **(c)(1)(B); and**

14 **(B) severity level 8, person felony if the riot occurs in a correctional**
15 **facility.**

16 **(2) Incitement to riot is a:**

17 **(A) Severity level 8, person felony, except as provided in subsection**
18 **(c)(2)(B); and**

19 **(B) severity level 6, person felony if the incitement to riot occurs in a**
20 **correctional facility.**

21 **(d) As used in this section, "correctional facility" means a**
22 **"correctional institution" as defined in K.S.A. 75-5202, and amendments**
23 **thereto, or a jail.**

24 **Section 1, Sec. 3.** K.S.A. 2020 Supp. 21-6322 is hereby amended to
25 read as follows: 21-6322. (a) Unlawfully tampering with electronic
26 monitoring equipment is, knowingly and without authorization, removing,
27 disabling, altering, tampering with, damaging or destroying any electronic
28 monitoring equipment used pursuant to court ordered supervision or as a
29 condition of post-release supervision or parole.

30 (b) Unlawfully tampering with electronic monitoring equipment is a:

31 (1) Severity level ~~6~~ 8, nonperson felony *in the case of electronic*
32 *monitoring equipment used pursuant to court-ordered supervision or as a*
33 *condition of postrelease supervision or parole for any felony or a*
34 **misdemeanor violation of interference with parental custody as**
35 **defined in K.S.A. 2020 Supp. 21-5409, and amendments thereto,**
36 **criminal restraint as defined in K.S.A. 2020 Supp. 21-5411, and**
37 **amendments thereto, domestic battery as defined in K.S.A. 2020 Supp.**
38 **21-5414, and amendments thereto, stalking as defined in K.S.A. 2020**
39 **Supp. 21-5427, and amendments thereto, intimidation of a witness or**
40 **victim as defined in K.S.A. 2020 Supp. 21-5909, and amendments**
41 **thereto, or violation of a protective order as defined in K.S.A. 2020**
42 **Supp. 21-5924, and amendments thereto; and**

43 (2) *class A nonperson misdemeanor in the case of electronic*

1 *monitoring equipment used pursuant to court-ordered supervision or as a*
2 *condition of postrelease supervision or parole for any misdemeanor not*
3 **described in subsection (b)(1) or used pursuant to court-ordered**
4 *supervision in any civil case.*

5 **Sec. 4. K.S.A. 2020 Supp. 21-6610 is hereby amended to read as**
6 **follows: 21-6610. (a) When a defendant is placed on parole by the**
7 **district court, on probation, assigned to a community correctional**
8 **services program by a district court or under suspended sentence and**
9 **such defendant is permitted to go from the judicial district of that**
10 **court, supervision over the defendant may be transferred from that**
11 **judicial district to another with the concurrence of the receiving chief**
12 **court services officer, or if in a community corrections services**
13 **program, by the concurrence of the director of the receiving program.**

14 **(b) The district court from which the defendant is on parole,**
15 **probation, community correctional services program or suspended**
16 **sentence may retain jurisdiction of the defendant.**

17 *(c) When a defendant described in subsection (a) is sentenced*
18 *pursuant to K.S.A. 2020 Supp. 21-6824, and amendments thereto, the*
19 *district court from which the defendant is on parole, on probation,*
20 *assigned to a community correctional services program or under*
21 *suspended sentence may transfer jurisdiction of the defendant with the*
22 *concurrence of the receiving district court and all parties.*

23 **Sec. 5. K.S.A. 2020 Supp. 21-6824 is hereby amended to read as**
24 **follows: 21-6824. (a) There is hereby established a nonprison sanction**
25 **of certified drug abuse treatment programs for certain offenders who**
26 **are sentenced on or after November 1, 2003. Placement of offenders in**
27 **certified drug abuse treatment programs by the court shall be limited**
28 **to placement of adult offenders, convicted of a felony violation of**
29 **K.S.A. 2020 Supp. 21-5705 or 21-5706, and amendments thereto,**
30 **whose offense is classified in grid blocks:**

31 **(1) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines**
32 **grid for drug crimes and such offender has no felony conviction of**
33 **K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their**
34 **repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their**
35 **transfer, or K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5716, and**
36 **amendments thereto, or any substantially similar offense from another**
37 **jurisdiction; or**

38 **(2) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines**
39 **grid for drug crimes, such offender has no felony conviction of K.S.A.**
40 **65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal,**
41 **K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their**
42 **transfer, or K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5716, and**
43 **amendments thereto, or any substantially similar offense from another**

1 jurisdiction, if the person felonies in the offender's criminal history
2 were severity level 8, 9 or 10 or nongrid offenses of the sentencing
3 guidelines grid for nondrug crimes, and the court finds and sets forth
4 with particularity the reasons for finding that the safety of the
5 members of the public will not be jeopardized by such placement in a
6 drug abuse treatment program.

7 (b) As a part of the presentence investigation pursuant to K.S.A.
8 2020 Supp. 21-6813, and amendments thereto, offenders who meet the
9 requirements of subsection (a), unless otherwise specifically ordered
10 by the court, shall be subject to:

11 (1) A drug abuse assessment which shall include a clinical
12 interview with a mental health professional and a recommendation
13 concerning drug abuse treatment for the offender; and

14 (2) a criminal risk-need assessment. The criminal risk-need
15 assessment shall assign a ~~high or low~~ risk status to the offender.

16 (c) If the offender is assigned a ~~high~~ risk status as determined by
17 the drug abuse assessment performed pursuant to subsection (b)(1)
18 and a ~~moderate or high~~ risk status as determined by the criminal risk-
19 need assessment performed pursuant to subsection (b)(2) *that meets*
20 *the criteria for participation in a drug abuse treatment program as*
21 *determined by the Kansas sentencing commission, the sentencing court*
22 *shall commit the offender to treatment in a drug abuse treatment*
23 *program until the court determines the offender is suitable for*
24 *discharge by the court. The term of treatment shall not exceed 18*
25 *months. The court may extend the term of probation, pursuant to*
26 *K.S.A. 2020 Supp. 21-6608(c)(3), and amendments thereto. The term*
27 *of treatment may not exceed the term of probation.*

28 (d) (1) Offenders who are committed to a drug abuse treatment
29 program pursuant to subsection (c) shall be supervised by community
30 correctional services.

31 (2) Offenders who are not committed to a drug abuse treatment
32 program pursuant to subsection (c) shall be supervised by community
33 correctional services or court services based on the result of the
34 criminal risk assessment.

35 (3) *If the offender is permitted to go from the judicial district of the*
36 *sentencing court, the court may, pursuant to K.S.A. 2020 Supp. 21-6610,*
37 *and amendments thereto: (A) Transfer supervision of the offender from*
38 *that judicial district to another; and (B) either transfer or retain*
39 *jurisdiction of the offender.*

40 (e) Placement of offenders under subsection (a)(2) shall be subject
41 to the departure sentencing statutes of the revised Kansas sentencing
42 guidelines act.

43 (f) (1) Offenders in drug abuse treatment programs shall be

1 discharged from such program if the offender:

2 (A) Is convicted of a new felony; or

3 (B) has a pattern of intentional conduct that demonstrates the
4 offender's refusal to comply with or participate in the treatment
5 program, as established by judicial finding.

6 (2) Offenders who are discharged from such program shall be
7 subject to the revocation provisions of K.S.A. 2020 Supp. 21-6604(n),
8 and amendments thereto.

9 (g) As used in this section, "mental health professional" includes
10 licensed social workers, persons licensed to practice medicine and
11 surgery, licensed psychologists, licensed professional counselors or
12 registered alcohol and other drug abuse counselors licensed or
13 certified as addiction counselors who have been certified by the
14 secretary of corrections to treat offenders pursuant to K.S.A. 75-
15 52,144, and amendments thereto.

16 (h) (1) Offenders who meet the requirements of subsection (a)
17 shall not be subject to the provisions of this section and shall be
18 sentenced as otherwise provided by law, if such offenders:

19 (A) Are residents of another state and are returning to such state
20 pursuant to the interstate corrections compact or the interstate
21 compact for adult offender supervision; or

22 (B) are not lawfully present in the United States and being
23 detained for deportation; or

24 (C) do not meet the risk assessment levels provided in subsection
25 (c).

26 (2) Such sentence shall not be considered a departure and shall
27 not be subject to appeal.

28 (i) The court may order an offender who otherwise does not meet
29 the requirements of subsection (c) to undergo one additional drug
30 abuse assessment while such offender is on probation. Such offender
31 may be ordered to undergo drug abuse treatment pursuant to
32 subsection (a) if such offender is determined to meet the requirements
33 of subsection (c). The cost of such assessment shall be paid by such
34 offender.

35 Sec. 6. K.S.A. 75-5291 is hereby amended to read as follows: 75-
36 5291. (a) (1) The secretary of corrections may make grants to counties
37 for the development, implementation, operation and improvement of
38 community correctional services that address the criminogenic needs
39 of felony offenders including, but not limited to, adult intensive
40 supervision, substance abuse and mental health services, employment
41 and residential services, and facilities for the detention or
42 confinement, care or treatment of offenders as provided in this section
43 except that no community corrections funds shall be expended by the

1 secretary for the purpose of establishing or operating a conservation
2 camp as provided by K.S.A. 75-52,127, and amendments thereto.

3 (2) Except as otherwise provided, placement of offenders in a
4 community correctional services program by the court shall be limited
5 to placement of adult offenders, convicted of a felony offense:

6 (A) Who, on or after July 1, 2014, are determined to be ~~moderate~~
7 ~~risk, high risk or very high risk~~ *an appropriate risk level as determined by*
8 *the Kansas sentencing commission* by use of a statewide, mandatory,
9 standardized risk assessment tool or instrument which shall be
10 specified by the Kansas sentencing commission;

11 (B) whose severity level and criminal history score designate a
12 presumptive prison sentence on either sentencing guidelines grid but
13 receive a nonprison sentence as a result of departure;

14 (C) all offenders convicted of an offense which satisfies the
15 definition of offender pursuant to K.S.A. 22-4902, and amendments
16 thereto, and which is classified as a severity level 7 or higher offense
17 and who receive a nonprison sentence, regardless of the manner in
18 which the sentence is imposed;

19 (D) any offender for whom a violation of conditions of release or
20 assignment or a nonprison sanction has been established as provided
21 in K.S.A. 22-3716, and amendments thereto, prior to revocation
22 resulting in the offender being required to serve any time for the
23 sentence imposed or which might originally have been imposed in a
24 state facility in the custody of the secretary of corrections;

25 (E) placed in a community correctional services program as a
26 condition of supervision following the successful completion of a
27 conservation camp program;

28 (F) who have been sentenced to community corrections
29 supervision pursuant to K.S.A. 21-4729, prior to its repeal, or K.S.A.
30 2020 Supp. 21-6824, and amendments thereto; or

31 (G) who have been placed in a community correctional services
32 program for supervision by the court pursuant to K.S.A. 8-1567, and
33 amendments thereto.

34 (3) Notwithstanding any law to the contrary and subject to the
35 availability of funding therefor, adult offenders sentenced to
36 community supervision in Johnson county for felony crimes that
37 occurred on or after July 1, 2002, but before July 1, 2013, shall be
38 placed under court services or community corrections supervision
39 based upon court rules issued by the chief judge of the 10th judicial
40 district. The provisions contained in this subsection shall not apply to
41 offenders transferred by the assigned agency to an agency located
42 outside of Johnson county. The provisions of this paragraph shall
43 expire on July 1, 2013.

1 **(4) Nothing in this act shall prohibit a community correctional**
2 **services program from providing services to juvenile offenders upon**
3 **approval by the local community corrections advisory board. Grants**
4 **from community corrections funds administered by the secretary of**
5 **corrections shall not be expended for such services.**

6 **(5) The court may require an offender for whom a violation of**
7 **conditions of release or assignment or a nonprison sanction has been**
8 **established, as provided in K.S.A. 22-3716, and amendments thereto,**
9 **to serve any time for the sentence imposed or which might originally**
10 **have been imposed in a state facility in the custody of the secretary of**
11 **corrections without a prior assignment to a community correctional**
12 **services program if the court finds and sets forth with particularity**
13 **the reasons for finding that the safety of the members of the public**
14 **will be jeopardized or that the welfare of the inmate will not be served**
15 **by such assignment to a community correctional services program.**

16 **(b) (1) In order to establish a mechanism for community**
17 **correctional services to participate in the department of corrections**
18 **annual budget planning process, the secretary of corrections shall**
19 **establish a community corrections advisory committee to identify new**
20 **or enhanced correctional or treatment interventions designed to divert**
21 **offenders from prison.**

22 **(2) The secretary shall appoint one member from the southeast**
23 **community corrections region, one member from the northeast**
24 **community corrections region, one member from the central**
25 **community corrections region and one member from the western**
26 **community corrections region. The deputy secretary of community**
27 **and field services shall designate two members from the state at large.**
28 **The secretary shall have final appointment approval of the members**
29 **designated by the deputy secretary. The committee shall reflect the**
30 **diversity of community correctional services with respect to**
31 **geographical location and average daily population of offenders under**
32 **supervision.**

33 **(3) Each member shall be appointed for a term of three years and**
34 **such terms shall be staggered as determined by the secretary.**
35 **Members shall be eligible for reappointment.**

36 **(4) The committee, in collaboration with the deputy secretary of**
37 **community and field services or the deputy secretary's designee, shall**
38 **routinely examine and report to the secretary on the following issues:**

- 39 **(A) Efficiencies in the delivery of field supervision services;**
40 **(B) effectiveness and enhancement of existing interventions;**
41 **(C) identification of new interventions; and**
42 **(D) statewide performance indicators.**

43 **(5) The committee's report concerning enhanced or new**

1 **interventions shall address:**

2 (A) **Goals and measurable objectives;**

3 (B) **projected costs;**

4 (C) **the impact on public safety; and**

5 (D) **the evaluation process.**

6 (6) **The committee shall submit its report to the secretary**
7 **annually on or before July 15 in order for the enhanced or new**
8 **interventions to be considered for inclusion within the department of**
9 **corrections budget request for community correctional services or in**
10 **the department's enhanced services budget request for the subsequent**
11 **fiscal year.**

12 ~~Sec. 2.~~ **7. K.S.A. 75-5291 and K.S.A. 2020 Supp. 8-246, 21-6201,**
13 **21-6322-~~is~~, 21-6610 and 21-6824 are hereby repealed.**

14 ~~Sec. 3.~~ **8.** This act shall take effect and be in force from and after its
15 publication in the statute book.