

HOUSE BILL No. 2277

By Committee on Judiciary

2-10

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to driving under the influence; amending K.S.A. 2009 Supp. 8-1567,
3 as amended by section 3 of chapter 153 of the 2010 Session Laws of
4 Kansas and K.S.A. 2010 Supp. 75-5291 and repealing the existing
5 sections.

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

8 Section 1. K.S.A. 2009 Supp. 8-1567, as amended by
9 section 3 of chapter 153 of the 2010 Session Laws of Kansas,
10 is hereby amended to read as follows: 8-1567. (a) No person
11 shall operate or attempt to operate any vehicle within this
12 state while:

13 (1) The alcohol concentration in the person's blood or breath as
14 shown by any competent evidence, including other competent evidence,
15 as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and
16 amendments thereto, is .08 or more;

17 (2) the alcohol concentration in the person's blood or breath, as
18 measured within two hours of the time of operating or attempting to
19 operate a vehicle, is .08 or more;

20 (3) under the influence of alcohol to a degree that renders the person
21 incapable of safely driving a vehicle;

22 (4) under the influence of any drug or combination of drugs to a
23 degree that renders the person incapable of safely driving a vehicle; or

24 (5) under the influence of a combination of alcohol and any drug or
25 drugs to a degree that renders the person incapable of safely driving a
26 vehicle.

27 (b) No person shall operate or attempt to operate any vehicle within
28 this state if the person is a habitual user of any narcotic, hypnotic,
29 somnifacient or stimulating drug.

30 (c) If a person is charged with a violation of this section involving
31 drugs, the fact that the person is or has been entitled to use the drug under
32 the laws of this state shall not constitute a defense against the charge.

33 (d) Upon a first conviction of a violation of this section, a person
34 shall be guilty of a class B, nonperson misdemeanor and sentenced to not
35 less than 48 consecutive hours nor more than six months' imprisonment,

1 or in the court's discretion 100 hours of public service, and fined not less
2 than \$500 nor more than \$1,000. The person convicted must serve at least
3 48 consecutive hours' imprisonment or 100 hours of public service either
4 before or as a condition of any grant of probation or suspension,
5 reduction of sentence or parole.

6 In addition, the court shall enter an order which requires that the
7 person enroll in and successfully complete an alcohol and drug safety
8 action education program or treatment program as provided in K.S.A. 8-
9 1008, and amendments thereto, or both the education and treatment
10 programs.

11 (e) On a second conviction of a violation of this section, a person
12 shall be guilty of a class A, nonperson misdemeanor and sentenced to not
13 less than 90 days nor more than one year's imprisonment and fined not
14 less than \$1,000 nor more than \$1,500. The person convicted must serve
15 at least five consecutive days' imprisonment before the person is granted
16 probation, suspension or reduction of sentence or parole or is otherwise
17 released. The five days' imprisonment mandated by this subsection may
18 be served in a work release program only after such person has served 48
19 consecutive hours' imprisonment, provided such work release program
20 requires such person to return to confinement at the end of each day in
21 the work release program. The court may place the person convicted
22 under a house arrest program pursuant to ~~K.S.A. 21-4603~~ *subsection 249*
23 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
24 thereto, to serve the remainder of the minimum sentence only after such
25 person has served 48 consecutive hours' imprisonment.

26 As a condition of any grant of probation, suspension of sentence or
27 parole or of any other release, the person shall be required to enter into
28 and complete a treatment program for alcohol and drug abuse as provided
29 in K.S.A. 8-1008, and amendments thereto.

30 (f) (1) On the third conviction of a violation of this section, a person
31 shall be guilty of a nonperson felony and sentenced to not less than 90
32 days nor more than one year's imprisonment and fined \$2,500. The
33 person convicted shall not be eligible for release on probation, suspension
34 or reduction of sentence or parole until the person has served at least 90
35 days' imprisonment. The 90 days' imprisonment mandated by this
36 paragraph may be served in a work release program only after such
37 person has served 72 consecutive hours' imprisonment, provided such
38 work release program requires such person to return to confinement at the
39 end of each day in the work release program.

40 (2) The court may order that the term of imprisonment imposed
41 pursuant to paragraph (1) be served in a state facility in the custody of the
42 secretary of corrections in a facility designated by the secretary for the
43 provision of substance abuse treatment pursuant to the provisions of

1 ~~K.S.A. 21-4704~~ *section 285 of chapter 136 of the 2010 Session Laws of*
2 *Kansas*, and amendments thereto. The person shall remain imprisoned at
3 the state facility only while participating in the substance abuse treatment
4 program designated by the secretary and shall be returned to the custody
5 of the sheriff for execution of the balance of the term of imprisonment
6 upon completion of or the person's discharge from the substance abuse
7 treatment program. Custody of the person shall be returned to the sheriff
8 for execution of the sentence imposed in the event the secretary of
9 corrections determines: (A) That substance abuse treatment resources or
10 the capacity of the facility designated by the secretary for the
11 incarceration and treatment of the person is not available; (B) the person
12 fails to meaningfully participate in the treatment program of the
13 designated facility; (C) the person is disruptive to the security or
14 operation of the designated facility; or (D) the medical or mental health
15 condition of the person renders the person unsuitable for confinement at
16 the designated facility. The determination by the secretary that the person
17 either is not to be admitted into the designated facility or is to be
18 transferred from the designated facility is not subject to review. The
19 sheriff shall be responsible for all transportation expenses to and from the
20 state correctional facility.

21 At the time of the filing of the judgment form or journal entry as
22 required by ~~K.S.A. 21-4620 or~~ *section 280 of chapter 136 of the 2010*
23 *Session Laws of Kansas or K.S.A. 22-3426*, and amendments thereto, the
24 court shall cause a certified copy to be sent to the officer having the
25 offender in charge. *The court shall determine whether the offender, upon*
26 *release from imprisonment, shall be supervised by community*
27 *correctional services or court services based upon the risk and needs of*
28 *the offender.* The law enforcement agency maintaining custody and
29 control of a defendant for imprisonment shall cause a certified copy of the
30 judgment form or journal entry to be sent to the ~~secretary of~~
31 ~~corrections~~ *supervision office designated by the court* within three
32 business days of receipt of the judgment form or journal entry from the
33 court and notify the ~~secretary of corrections~~ *supervision office designated*
34 *by the court* when the term of imprisonment expires and upon expiration
35 of the term of imprisonment shall deliver the defendant to a location
36 designated by ~~the secretary~~ *such office.* After the term of imprisonment
37 imposed by the court, the person shall be placed in the custody of the
38 ~~secretary of corrections~~ *community correctional services or court services*
39 *as determined by the court* for a mandatory one-year period of
40 ~~postrelease~~ *local* supervision, which such period of ~~postrelease~~ *local*
41 supervision shall not be reduced. During such ~~postrelease~~ *local*
42 supervision, the person shall be required to participate in an inpatient or
43 outpatient program for alcohol and drug abuse, including, but not limited

1 to, an approved aftercare plan or mental health counseling, as determined
2 by the ~~secretary~~ *supervision office designated by the court* and satisfy
3 conditions imposed by the ~~Kansas parole board as provided by K.S.A.~~
4 ~~22-3717, and amendments thereto~~ *supervision officer or court*. Any
5 violation of the conditions of such ~~postrelease~~ *local* supervision may
6 subject such person to revocation of ~~postrelease~~ *local* supervision
7 ~~pursuant to K.S.A. 75-5217 et seq., and amendments thereto and as~~
8 ~~otherwise provided by law~~ *and imprisonment in jail for the remainder of*
9 *the period of imprisonment, the remainder of the local supervision*
10 *period, or any combination or portion thereof.*

11 (g) (1) On the fourth or subsequent conviction of a violation of this
12 section, a person shall be guilty of a nonperson felony and sentenced to
13 not less than 180 days nor more than one year's imprisonment and fined
14 \$2,500. The person convicted shall not be eligible for release on
15 probation, suspension or reduction of sentence or parole until the person
16 has served at least 180 days' imprisonment. The 180 days' imprisonment
17 mandated by this paragraph may be served in a work release program
18 only after such person has served 144 consecutive hours' imprisonment,
19 provided such work release program requires such person to return to
20 confinement at the end of each day in the work release program.

21 (2) The court may order that the term of imprisonment imposed
22 pursuant to paragraph (1) be served in a state facility in the custody of the
23 secretary of corrections in a facility designated by the secretary for the
24 provision of substance abuse treatment pursuant to the provisions of
25 ~~K.S.A. 21-4704~~ *section 285 of chapter 136 of the 2010 Session Laws of*
26 *Kansas*, and amendments thereto. The person shall remain imprisoned at
27 the state facility only while participating in the substance abuse treatment
28 program designated by the secretary and shall be returned to the custody
29 of the sheriff for execution of the balance of the term of imprisonment
30 upon completion of or the person's discharge from the substance abuse
31 treatment program. Custody of the person shall be returned to the sheriff
32 for execution of the sentence imposed in the event the secretary of
33 corrections determines: (A) That substance abuse treatment resources or
34 the capacity of the facility designated by the secretary for the
35 incarceration and treatment of the person is not available; (B) the person
36 fails to meaningfully participate in the treatment program of the
37 designated facility; (C) the person is disruptive to the security or
38 operation of the designated facility; or (D) the medical or mental health
39 condition of the person renders the person unsuitable for confinement at
40 the designated facility. The determination by the secretary that the person
41 either is not to be admitted into the designated facility or is to be
42 transferred from the designated facility is not subject to review. The
43 sheriff shall be responsible for all transportation expenses to and from the

1 state correctional facility.

2 At the time of the filing of the judgment form or journal entry as
3 required by ~~K.S.A. 21-4620 or~~ *section 280 of chapter 136 of the 2010*
4 *Session Laws of Kansas or K.S.A. 22-3426*, and amendments thereto, the
5 court shall cause a certified copy to be sent to the officer having the
6 offender in charge. *The court shall determine whether the offender, upon*
7 *release from imprisonment, shall be supervised by community*
8 *correctional services or court services based upon the risk and needs of*
9 *the offender.* The law enforcement agency maintaining custody and
10 control of a defendant for imprisonment shall cause a certified copy of the
11 judgment form or journal entry to be sent to the ~~secretary of~~
12 ~~corrections~~ *supervision office designated by the court* within three
13 business days of receipt of the judgment form or journal entry from the
14 court and notify the ~~secretary of corrections~~ *supervision office designated*
15 *by the court* when the term of imprisonment expires and upon expiration
16 of the term of imprisonment shall deliver the defendant to a location
17 designated by ~~the secretary~~ *such office.* *After the term of imprisonment*
18 *imposed by the court, the person shall be placed in the custody of the*
19 *community correctional services or court services as determined by the*
20 *court for a mandatory one-year period of local supervision, which such*
21 *period of local supervision shall not be reduced. During such local*
22 *supervision, the person shall be required to participate in an inpatient or*
23 *outpatient program for alcohol and drug abuse, including, but not limited*
24 *to, an approved aftercare plan or mental health counseling, as*
25 *determined by the supervision office designated by the court and satisfy*
26 *conditions imposed by the supervision officer or court. Any violation of*
27 *the conditions of such local supervision may subject such person to*
28 *revocation of local supervision and imprisonment in jail for the*
29 *remainder of the period of imprisonment, the remainder of the local*
30 *supervision period, or any combination or portion thereof.*

31 (h) Any person convicted of violating this section or an ordinance
32 which prohibits the acts that this section prohibits who had one or more
33 children under the age of 14 years in the vehicle at the time of the offense
34 shall have such person's punishment enhanced by one month of
35 imprisonment. This imprisonment must be served consecutively to any
36 other minimum mandatory penalty imposed for a violation of this section
37 or an ordinance which prohibits the acts that this section prohibits. Any
38 enhanced penalty imposed shall not exceed the maximum sentence
39 allowable by law. During the service of the enhanced penalty, the judge
40 may order the person on house arrest, work release or other conditional
41 release.

42 (i) The court may establish the terms and time for payment of any
43 fines, fees, assessments and costs imposed pursuant to this section. Any

1 assessment and costs shall be required to be paid not later than 90 days
2 after imposed, and any remainder of the fine shall be paid prior to the
3 final release of the defendant by the court.

4 (j) In lieu of payment of a fine imposed pursuant to this section, the
5 court may order that the person perform community service specified by
6 the court. The person shall receive a credit on the fine imposed in an
7 amount equal to \$5 for each full hour spent by the person in the specified
8 community service. The community service ordered by the court shall be
9 required to be performed not later than one year after the fine is imposed
10 or by an earlier date specified by the court. If by the required date the
11 person performs an insufficient amount of community service to reduce
12 to zero the portion of the fine required to be paid by the person, the
13 remaining balance of the fine shall become due on that date.

14 (k) (1) Except as provided in paragraph (5), in addition to any other
15 penalty which may be imposed upon a first conviction of a violation of
16 this section, the court may order that the convicted person's motor vehicle
17 or vehicles be impounded or immobilized for a period not to exceed one
18 year and that the convicted person pay all towing, impoundment and
19 storage fees or other immobilization costs.

20 (2) The court shall not order the impoundment or immobilization of
21 a motor vehicle driven by a person convicted of a violation of this section
22 if the motor vehicle had been stolen or converted at the time it was driven
23 in violation of this section.

24 (3) Prior to ordering the impoundment or immobilization of a motor
25 vehicle or vehicles owned by a person convicted of a violation of this
26 section, the court shall consider, but not be limited to, the following:

27 (A) Whether the impoundment or immobilization of the motor
28 vehicle would result in the loss of employment by the convicted person or
29 a member of such person's family; and

30 (B) whether the ability of the convicted person or a member of such
31 person's family to attend school or obtain medical care would be
32 impaired.

33 (4) Any personal property in a vehicle impounded or immobilized
34 pursuant to this subsection may be retrieved prior to or during the period
35 of such impoundment or immobilization.

36 (5) As used in this subsection, the convicted person's motor vehicle
37 or vehicles shall include any vehicle leased by such person. If the lease
38 on the convicted person's motor vehicle subject to impoundment or
39 immobilization expires in less than one year from the date of the
40 impoundment or immobilization, the time of impoundment or
41 immobilization of such vehicle shall be the amount of time remaining on
42 the lease.

43 (l) (1) Except as provided in paragraph (3), in addition to any other

1 penalty which may be imposed upon a second or subsequent conviction
2 of a violation of this section, the court shall order that each motor vehicle
3 owned or leased by the convicted person shall either be equipped with an
4 ignition interlock device or be impounded or immobilized for a period of
5 two years. The convicted person shall pay all costs associated with the
6 installation, maintenance and removal of the ignition interlock device and
7 all towing, impoundment and storage fees or other immobilization costs.

8 (2) Any personal property in a vehicle impounded or immobilized
9 pursuant to this subsection may be retrieved prior to or during the period
10 of such impoundment or immobilization.

11 (3) As used in this subsection, the convicted person's motor vehicle
12 or vehicles shall include any vehicle leased by such person. If the lease
13 on the convicted person's motor vehicle subject to impoundment or
14 immobilization expires in less than two years from the date of the
15 impoundment or immobilization, the time of impoundment or
16 immobilization of such vehicle shall be the amount of time remaining on
17 the lease.

18 (m) (1) Prior to filing a complaint alleging a violation of this section,
19 a prosecutor shall request and shall receive from the division a record of
20 all prior convictions obtained against such person for any violations of
21 any of the motor vehicle laws of this state.

22 (2) Prior to filing a complaint alleging a violation of this section, a
23 prosecutor shall request and shall receive from the Kansas bureau of
24 investigation central repository all criminal history record information
25 concerning such person.

26 (n) The court shall electronically report every conviction of a
27 violation of this section and every diversion agreement entered into in
28 lieu of further criminal proceedings or a complaint alleging a violation of
29 this section to the division. Prior to sentencing under the provisions of
30 this section, the court shall request and shall receive from the division a
31 record of all prior convictions obtained against such person for any
32 violations of any of the motor vehicle laws of this state.

33 (o) For the purpose of determining whether a conviction is a first,
34 second, third, fourth or subsequent conviction in sentencing under this
35 section:

36 (1) "Conviction" includes being convicted of a violation of this
37 section or entering into a diversion agreement in lieu of further criminal
38 proceedings on a complaint alleging a violation of this section;

39 (2) "conviction" includes being convicted of a violation of a law of
40 another state or an ordinance of any city, or resolution of any county,
41 which prohibits the acts that this section prohibits or entering into a
42 diversion agreement in lieu of further criminal proceedings in a case
43 alleging a violation of such law, ordinance or resolution;

1 (3) any convictions occurring during a person's lifetime shall be
2 taken into account when determining the sentence to be imposed for a
3 first, second, third, fourth or subsequent offender;

4 (4) it is irrelevant whether an offense occurred before or after
5 conviction for a previous offense; and

6 (5) a person may enter into a diversion agreement in lieu of further
7 criminal proceedings for a violation of this section, and amendments
8 thereto, or an ordinance which prohibits the acts of this section, and
9 amendments thereto, only once during the person's lifetime.

10 (p) Upon conviction of a person of a violation of this section or a
11 violation of a city ordinance or county resolution prohibiting the acts
12 prohibited by this section, the division, upon receiving a report of
13 conviction, shall suspend, restrict or suspend and restrict the person's
14 driving privileges as provided by K.S.A. 8-1014, and amendments
15 thereto.

16 (q) (1) (A) Nothing contained in this section shall be construed as
17 preventing any city from enacting ordinances, or any county from
18 adopting resolutions, declaring acts prohibited or made unlawful by this
19 act as unlawful or prohibited in such city or county and prescribing
20 penalties for violation thereof. Except as specifically provided by this
21 subsection, the minimum penalty prescribed by any such ordinance or
22 resolution shall not be less than the minimum penalty prescribed by this
23 act for the same violation, and the maximum penalty in any such
24 ordinance or resolution shall not exceed the maximum penalty prescribed
25 for the same violation.

26 (B) On and after July 1, 2007, and retroactive for ordinance
27 violations committed on or after July 1, 2006, an ordinance may grant to
28 a municipal court jurisdiction over a violation of such ordinance which is
29 concurrent with the jurisdiction of the district court over a violation of
30 this section, notwithstanding that the elements of such ordinance violation
31 are the same as the elements of a violation of this section that would
32 constitute, and be punished as, a felony.

33 (C) Any such ordinance or resolution shall authorize the court to
34 order that the convicted person pay restitution to any victim who suffered
35 loss due to the violation for which the person was convicted. Except as
36 provided in paragraph (5), any such ordinance or resolution may require
37 or authorize the court to order that the convicted person's motor vehicle
38 or vehicles be impounded or immobilized for a period not to exceed one
39 year and that the convicted person pay all towing, impoundment and
40 storage fees or other immobilization costs.

41 (2) The court shall not order the impoundment or immobilization of
42 a motor vehicle driven by a person convicted of a violation of this section
43 if the motor vehicle had been stolen or converted at the time it was driven

1 in violation of this section.

2 (3) Prior to ordering the impoundment or immobilization of a motor
3 vehicle or vehicles owned by a person convicted of a violation of this
4 section, the court shall consider, but not be limited to, the following:

5 (A) Whether the impoundment or immobilization of the motor
6 vehicle would result in the loss of employment by the convicted person or
7 a member of such person's family; and

8 (B) whether the ability of the convicted person or a member of such
9 person's family to attend school or obtain medical care would be
10 impaired.

11 (4) Any personal property in a vehicle impounded or immobilized
12 pursuant to this subsection may be retrieved prior to or during the period
13 of such impoundment or immobilization.

14 (5) As used in this subsection, the convicted person's motor vehicle
15 or vehicles shall include any vehicle leased by such person. If the lease
16 on the convicted person's motor vehicle subject to impoundment or
17 immobilization expires in less than one year from the date of the
18 impoundment or immobilization, the time of impoundment or
19 immobilization of such vehicle shall be the amount of time remaining on
20 the lease.

21 (r) (1) Upon the filing of a complaint, citation or notice to appear
22 alleging a person has violated a city ordinance prohibiting the acts
23 prohibited by this section, and prior to conviction thereof, a city attorney
24 shall request and shall receive from the division a record of all prior
25 convictions obtained against such person for any violations of any of the
26 motor vehicle laws of this state.

27 (2) Upon the filing of a complaint, citation or notice to appear
28 alleging a person has violated a city ordinance prohibiting the acts
29 prohibited by this section, and prior to conviction thereof, a city attorney
30 shall request and shall receive from the Kansas bureau of investigation
31 central repository all criminal history record information concerning such
32 person.

33 (3) If the elements of such ordinance violation are the same as the
34 elements of a violation of this section that would constitute, and be
35 punished as, a felony, the city attorney shall refer the violation to the
36 appropriate county or district attorney for prosecution.

37 (s) No plea bargaining agreement shall be entered into nor shall any
38 judge approve a plea bargaining agreement entered into for the purpose of
39 permitting a person charged with a violation of this section, or a violation
40 of any ordinance of a city or resolution of any county in this state which
41 prohibits the acts prohibited by this section, to avoid the mandatory
42 penalties established by this section or by the ordinance. For the purpose
43 of this subsection, entering into a diversion agreement pursuant to K.S.A.

1 12-4413 et seq., or 22-2906 et seq., and amendments thereto, shall not
2 constitute plea bargaining.

3 (t) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3)
4 may be pleaded in the alternative, and the state, city or county, but shall
5 not be required to, may elect one or two of the three prior to submission
6 of the case to the fact finder.

7 (u) Upon a third or subsequent conviction, the judge of any court in
8 which any person is convicted of violating this section, may revoke the
9 person's license plate or temporary registration certificate of the motor
10 vehicle driven during the violation of this section for a period of one year.
11 Upon revoking any license plate or temporary registration certificate
12 pursuant to this subsection, the court shall require that such license plate
13 or temporary registration certificate be surrendered to the court.

14 (v) For the purpose of this section: (1) "Alcohol concentration"
15 means the number of grams of alcohol per 100 milliliters of blood or per
16 210 liters of breath.

17 (2) "Imprisonment" shall include any restrained environment in
18 which the court and law enforcement agency intend to retain custody and
19 control of a defendant and such environment has been approved by the
20 board of county commissioners or the governing body of a city.

21 (3) "Drug" includes toxic vapors as such term is defined in K.S.A.
22 ~~2009~~2010 Supp. 21-36a12, and amendments thereto.

23 (w) The amount of the increase in fines as specified in this section
24 shall be remitted by the clerk of the district court to the state treasurer in
25 accordance with the provisions of K.S.A. 75-4215, and amendments
26 thereto. Upon receipt of remittance of the increase provided in this act,
27 the state treasurer shall deposit the entire amount in the state treasury and
28 the state treasurer shall credit 50% to the community alcoholism and
29 intoxication programs fund and 50% to the department of corrections
30 alcohol and drug abuse treatment fund, which is hereby created in the
31 state treasury.

32 (x) Upon every conviction of a violation of this section, the court
33 shall order such person to submit to a pre-sentence alcohol and drug
34 abuse evaluation pursuant to K.S.A. 8-1008, and amendments thereto.
35 Such pre-sentence evaluation shall be made available, and shall be
36 considered by the sentencing court.

37 Sec. 2. K.S.A. 2010 Supp. 75-5291 is hereby amended to read as
38 follows: 75-5291. (a) (1) The secretary of corrections may make grants to
39 counties for the development, implementation, operation and
40 improvement of community correctional services that address the
41 criminogenic needs of felony offenders including, but not limited to, adult
42 intensive supervision, substance abuse and mental health services,
43 employment and residential services, and facilities for the detention or

1 confinement, care or treatment of offenders as provided in this section
2 except that no community corrections funds shall be expended by the
3 secretary for the purpose of establishing or operating a conservation camp
4 as provided by K.S.A. 75-52,127, and amendments thereto.

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

8 (A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the
9 sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F,
10 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In
11 addition, the court may place in a community correctional services
12 program adult offenders, convicted of a felony offense, whose offense is
13 classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of
14 the sentencing guidelines grid for nondrug crimes;

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

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

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

29 (E) on and after January 1, 2011, for offenders who are expected to
30 be subject to supervision in Kansas, who are determined to be "high risk
31 or needs, or both" by the use of a statewide, mandatory, standardized risk
32 assessment tool or instrument which shall be specified by the Kansas
33 sentencing commission;

34 (F) placed in community correctional services programs as a
35 condition of supervision following the successful completion of a
36 conservation camp program; or

37 (G) who has been sentenced to community corrections supervision
38 pursuant to K.S.A. 21-4729, *prior to its repeal, or section 305 of chapter*
39 *136 of the 2010 Session Laws of Kansas*, and amendments thereto; or

40 (H) *who has been placed in community correctional services*
41 *programs for local supervision by the court pursuant to K.S.A. 8-1567,*
42 *and amendments thereto.*

43 (3) Notwithstanding any law to the contrary and subject to the

1 availability of funding therefor, adult offenders sentenced to community
2 supervision in Johnson county for felony crimes that occurred on or after
3 July 1, 2002, but before January 1, 2011, shall be placed under court
4 services or community corrections supervision based upon court rules
5 issued by the chief judge of the 10th judicial district. The provisions
6 contained in this subsection shall not apply to offenders transferred by the
7 assigned agency to an agency located outside of Johnson county. The
8 provisions of this paragraph shall expire on January 1, 2011.

9 (4) Nothing in this act shall prohibit a community correctional
10 services program from providing services to juvenile offenders upon
11 approval by the local community corrections advisory board. Grants from
12 community corrections funds administered by the secretary of corrections
13 shall not be expended for such services.

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

24 (b) (1) In order to establish a mechanism for community correctional
25 services to participate in the department of corrections annual budget
26 planning process, the secretary of corrections shall establish a community
27 corrections advisory committee to identify new or enhanced correctional
28 or treatment interventions designed to divert offenders from prison.

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

39 (3) Each member shall be appointed for a term of three years and
40 such terms shall be staggered as determined by the secretary. Members
41 shall be eligible for reappointment.

42 (4) The committee, in collaboration with the deputy secretary of
43 community and field services or the deputy secretary's designee, shall

- 1 routinely examine and report to the secretary on the following issues:
- 2 (A) Efficiencies in the delivery of field supervision services;
- 3 (B) effectiveness and enhancement of existing interventions;
- 4 (C) identification of new interventions; and
- 5 (D) statewide performance indicators.
- 6 (5) The committee's report concerning enhanced or new
- 7 interventions shall address:
- 8 (A) Goals and measurable objectives;
- 9 (B) projected costs;
- 10 (C) the impact on public safety; and
- 11 (D) the evaluation process.
- 12 (6) The committee shall submit its report to the secretary annually
- 13 on or before July 15 in order for the enhanced or new interventions to be
- 14 considered for inclusion within the department of corrections budget
- 15 request for community correctional services or in the department's
- 16 enhanced services budget request for the subsequent fiscal year.
- 17 Sec. 3. K.S.A. 2009 Supp. 8-1567, as amended by section 3 of
- 18 chapter 153 of the 2010, Session Laws of Kansas and K.S.A. 2010 Supp
- 19 75-5291 are hereby repealed.
- 20 Sec. 4. This act shall take effect and be in force from and after its
- 21 publication in the statute book.
- 22