

HOUSE BILL No. 2470

By Committee on Corrections and Juvenile Justice

1-23

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to certified drug abuse treatment programs; supervision and
3 jurisdiction; amending K.S.A. 2019 Supp. 21-6610 and 21-6824 and
4 repealing the existing sections.
5

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

7 Section 1. K.S.A. 2019 Supp. 21-6610 is hereby amended to read as
8 follows: 21-6610. (a) When a defendant is placed on parole by the district
9 court, on probation, assigned to a community correctional services
10 program by a district court or under suspended sentence and such
11 defendant is permitted to go from the judicial district of that court,
12 supervision over the defendant may be transferred from that judicial
13 district to another with the concurrence of the receiving chief court
14 services officer, or if in a community corrections services program, by the
15 concurrence of the director of the receiving program.

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

19 (c) *When a defendant described in subsection (a) is sentenced*
20 *pursuant to K.S.A. 2019 Supp. 21-6824, and amendments thereto, the*
21 *district court from which the defendant is on parole, probation, community*
22 *correctional services program or suspended sentence may transfer*
23 *jurisdiction of the defendant with the concurrence of the receiving district*
24 *court and all parties.*

25 Sec. 2. K.S.A. 2019 Supp. 21-6824 is hereby amended to read as
26 follows: 21-6824. (a) There is hereby established a nonprison sanction of
27 certified drug abuse treatment programs for certain offenders who are
28 sentenced on or after November 1, 2003. Placement of offenders in
29 certified drug abuse treatment programs by the court shall be limited to
30 placement of adult offenders, convicted of a felony violation of K.S.A.
31 2019 Supp. 21-5705 or 21-5706, and amendments thereto, whose offense
32 is classified in grid blocks:

33 (1) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines
34 grid for drug crimes and such offender has no felony conviction of K.S.A.
35 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal,
36 K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer,

1 or K.S.A. 2019 Supp. 21-5703, 21-5705 or 21-5716, and amendments
2 thereto, or any substantially similar offense from another jurisdiction; or

3 (2) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines
4 grid for drug crimes, such offender has no felony conviction of K.S.A. 65-
5 4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A.
6 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or
7 K.S.A. 2019 Supp. 21-5703, 21-5705 or 21-5716, and amendments
8 thereto, or any substantially similar offense from another jurisdiction, if
9 the person felonies in the offender's criminal history were severity level 8,
10 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug
11 crimes, and the court finds and sets forth with particularity the reasons for
12 finding that the safety of the members of the public will not be jeopardized
13 by such placement in a drug abuse treatment program.

14 (b) As a part of the presentence investigation pursuant to K.S.A. 2019
15 Supp. 21-6813, and amendments thereto, offenders who meet the
16 requirements of subsection (a), unless otherwise specifically ordered by
17 the court, shall be subject to:

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

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

23 (c) If the offender is assigned a high risk status as determined by the
24 drug abuse assessment performed pursuant to subsection (b)(1) and a
25 moderate or high risk status as determined by the criminal risk-need
26 assessment performed pursuant to subsection (b)(2), the sentencing court
27 shall commit the offender to treatment in a drug abuse treatment program
28 until the court determines the offender is suitable for discharge by the
29 court. The term of treatment shall not exceed 18 months. The court may
30 extend the term of probation, pursuant to K.S.A. 2019 Supp. 21-6608(c)
31 (3), and amendments thereto. The term of treatment may not exceed the
32 term of probation.

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

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

40 (3) *If the offender is permitted to go from the judicial district of the*
41 *sentencing court, the court may, pursuant to K.S.A. 2019 Supp. 21-6610,*
42 *and amendments thereto: (A) Transfer supervision over the offender from*
43 *that judicial district to another; and (B) either transfer or retain*

1 *jurisdiction of the offender.*

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

5 (f) (1) Offenders in drug abuse treatment programs shall be
6 discharged from such program if the offender:

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

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

11 (2) Offenders who are discharged from such program shall be subject
12 to the revocation provisions of K.S.A. 2019 Supp. 21-6604(n), and
13 amendments thereto.

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

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

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

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

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

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

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

37 Sec. 3. K.S.A. 2019 Supp. 21-6610 and 21-6824 are hereby repealed.

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