

HOUSE BILL No. 2085

By Committee on Corrections and Juvenile Justice

1-18

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to *post-trial motions, correction of sentence*; postrelease supervision;
3 persons convicted of a sexually violent crime; amending *K.S.A. 22-*
4 *3504 and* K.S.A. 2016 Supp. 22-3717 and repealing the existing
5 section sections.

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

8 **Section 1.** *K.S.A. 22-3504 is hereby amended to read as follows: 22-*
9 *3504. (1) The court may correct an illegal sentence at any time. The*
10 *defendant shall receive full credit for time spent in custody under the*
11 *sentence prior to correction. Unless the motion and the files and records*
12 *of the case conclusively show that the defendant is entitled to no relief, the*
13 *defendant shall have a right to a hearing, after reasonable notice to be*
14 *fixed by the court, to be personally present and to have the assistance of*
15 *counsel in any proceeding for the correction of an illegal sentence.*

16 *(2) Clerical mistakes in judgments, orders or other parts of the*
17 *record and errors in the record arising from oversight or omission may*
18 *be corrected by the court at any time and after such notice, if any, as the*
19 *court orders.*

20 *(3) "Illegal sentence" means a sentence: Imposed by a court without*
21 *jurisdiction; that does not conform to the applicable statutory provision,*
22 *either in character or punishment; or that is ambiguous with respect to the*
23 *time and manner in which it is to be served at the time it is pronounced. A*
24 *sentence is not an "illegal sentence" because of a change in the law that*
25 *occurs after the sentence is pronounced.*

26 ~~Section 1.~~ **Sec. 2.** K.S.A. 2016 Supp. 22-3717 is hereby amended to
27 read as follows: 22-3717. (a) Except as otherwise provided by this section;
28 K.S.A. 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635
29 through 21-4638 and 21-4642, prior to their repeal; K.S.A. 2016 Supp. 21-
30 6617, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and amendments
31 thereto; and K.S.A. 8-1567, and amendments thereto; an inmate, including
32 an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or
33 K.S.A. 2016 Supp. 21-6707, and amendments thereto, shall be eligible for
34 parole after serving the entire minimum sentence imposed by the court,

1 less good time credits.

2 (b) (1) An inmate sentenced to imprisonment for life without the
3 possibility of parole pursuant to K.S.A. 2016 Supp. 21-6617, and
4 amendments thereto, shall not be eligible for parole.

5 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to
6 their repeal, and K.S.A. 2016 Supp. 21-6620, 21-6623, 21-6624 and 21-
7 6625, and amendments thereto, an inmate sentenced to imprisonment for
8 the crime of: (A) Capital murder committed on or after July 1, 1994, shall
9 be eligible for parole after serving 25 years of confinement, without
10 deduction of any good time credits; (B) murder in the first degree based
11 upon a finding of premeditated murder committed on or after July 1, 1994,
12 but prior to July 1, 2014, shall be eligible for parole after serving 25 years
13 of confinement, without deduction of any good time credits; and (C)
14 murder in the first degree as described in K.S.A. 2016 Supp. 21-5402(a)
15 (2), and amendments thereto, committed on or after July 1, 2014, shall be
16 eligible for parole after serving 25 years of confinement, without
17 deduction of any good time credits.

18 (3) Except as provided by subsections (b)(1), (b)(2) and (b)(5),
19 K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through
20 21-4638, prior to their repeal, and K.S.A. 2016 Supp. 21-6620, 21-6623,
21 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to
22 imprisonment for an off-grid offense committed on or after July 1, 1993,
23 but prior to July 1, 1999, shall be eligible for parole after serving 15 years
24 of confinement, without deduction of any good time credits and an inmate
25 sentenced to imprisonment for an off-grid offense committed on or after
26 July 1, 1999, shall be eligible for parole after serving 20 years of
27 confinement without deduction of any good time credits.

28 (4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
29 repeal, an inmate sentenced for a class A felony committed before July 1,
30 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
31 its repeal, or K.S.A. 2016 Supp. 21-6707, and amendments thereto, shall
32 be eligible for parole after serving 15 years of confinement, without
33 deduction of any good time credits.

34 (5) An inmate sentenced to imprisonment for a violation of K.S.A.
35 21-3402(a), prior to its repeal, committed on or after July 1, 1996, but
36 prior to July 1, 1999, shall be eligible for parole after serving 10 years of
37 confinement without deduction of any good time credits.

38 (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
39 4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and amendments
40 thereto, committed on or after July 1, 2006, shall be eligible for parole
41 after serving the mandatory term of imprisonment without deduction of
42 any good time credits.

43 (c) (1) Except as provided in subsection (e), if an inmate is sentenced

1 to imprisonment for more than one crime and the sentences run
2 consecutively, the inmate shall be eligible for parole after serving the total
3 of:

4 (A) The aggregate minimum sentences, as determined pursuant to
5 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2016 Supp. 21-6606, and
6 amendments thereto, less good time credits for those crimes which are not
7 class A felonies; and

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

10 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
11 4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and amendments
12 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
13 eligible for parole after serving the mandatory term of imprisonment.

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

19 (A) Except as provided in subparagraphs (D) and (E), persons
20 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
21 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
22 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
23 July 1, 2012, must serve 36 months on postrelease supervision.

24 (B) Except as provided in subparagraphs (D) and (E), persons
25 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
26 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
27 drug severity level 4 crimes committed on or after July 1, 2012, must serve
28 24 months on postrelease supervision.

29 (C) Except as provided in subparagraphs (D) and (E), persons
30 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
31 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
32 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
33 must serve 12 months on postrelease supervision.

34 (D) Persons sentenced to a term of imprisonment that includes a
35 sentence for ~~a sexually violent crime as defined in K.S.A. 22-3717, and~~
36 ~~amendments thereto, a sexually violent crime as defined in K.S.A. 22-~~
37 **3717, and amendments thereto, committed on or after July 1, 1993,**
38 **but prior to July 1, 2006,** a sexually motivated crime in which the
39 offender has been ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)
40 (vii), and amendments thereto, electronic solicitation, K.S.A. 21-3523,
41 prior to its repeal, or K.S.A. 2016 Supp. 21-5509, and amendments
42 thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or
43 K.S.A. 2016 Supp. 21-5512, and amendments thereto, shall serve the

1 period of postrelease supervision as provided in subsections (d)(1)(A), (d)
2 (1)(B) or (d)(1)(C), plus the amount of good time and program credit
3 earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or
4 K.S.A. 2016 Supp. 21-6821, and amendments thereto, on postrelease
5 supervision.

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

10 (ii) If the sentencing judge departs from the presumptive postrelease
11 supervision period, the judge shall state on the record at the time of
12 sentencing the substantial and compelling reasons for the departure.
13 Departures in this section are subject to appeal pursuant to K.S.A. 21-
14 4721, prior to its repeal, or K.S.A. 2016 Supp. 21-6820, and amendments
15 thereto.

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

18 (a) Written briefs or oral arguments submitted by either the defendant
19 or the state;

20 (b) any evidence received during the proceeding;

21 (c) the presentence report, the victim's impact statement and any
22 psychological evaluation as ordered by the court pursuant to K.S.A. 21-
23 4714(e), prior to its repeal, or K.S.A. 2016 Supp. 21-6813(e), and
24 amendments thereto; and

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

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

30 (v) In carrying out the provisions of subsection (d)(1)(D), the court
31 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2016 Supp. 21-
32 6817, and amendments thereto.

33 (vi) Upon petition and payment of any restitution ordered pursuant to
34 K.S.A. 2016 Supp. 21-6604, and amendments thereto, the prisoner review
35 board may provide for early discharge from the postrelease supervision
36 period imposed pursuant to subsection (d)(1)(D)(i) upon completion of
37 court ordered programs and completion of the presumptive postrelease
38 supervision period, as determined by the crime of conviction, pursuant to
39 subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
40 postrelease supervision is at the discretion of the board.

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

1 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
2 repeal, or K.S.A. 2016 Supp. 21-5508, and amendments thereto, shall be
3 required to participate in a treatment program for sex offenders during the
4 postrelease supervision period.

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

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

17 (G) *(i)* Except as provided in subsection (u), persons ~~convicted of~~
18 *sentenced to imprisonment for a sexually violent crime committed on or*
19 *after July 1, 2006, when the offender was 18 years of age or older,* and
20 *who are released from prison, shall be released to a mandatory period of*
21 *postrelease supervision for the duration of the person's natural life.*

22 *(ii) Persons sentenced to imprisonment for a sexually violent crime*
23 *committed on or after the effective date of this act, when the offender was*
24 *under 18 years of age, and who are released from prison, shall be released*
25 *to a mandatory period of postrelease supervision for 60 months, plus the*
26 *amount of good time and program credit earned and retained pursuant to*
27 *K.S.A. 21-4722, prior to its repeal, or K.S.A. 2016 Supp. 21-6821, and*
28 *amendments thereto.*

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

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

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

- 1 (5) As used in this subsection, "sexually violent crime" means:
- 2 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp.
3 21-5503, and amendments thereto;
- 4 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
5 or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;
- 6 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
7 to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto;
- 8 (D) criminal sodomy, K.S.A. 21-3505(a)(2) and (a)(3), prior to its
9 repeal, or K.S.A. 2016 Supp. 21-5504(a)(3) and (a)(4), and amendments
10 thereto;
- 11 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
12 or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto;
- 13 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
14 or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto;
- 15 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
16 to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments thereto;
- 17 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
18 or K.S.A. 2016 Supp. 21-5510, and amendments thereto;
- 19 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
20 K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;
- 21 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or K.S.A.
22 2016 Supp. 21-5604(b), and amendments thereto;
- 23 (K) aggravated human trafficking, as defined in K.S.A. 21-3447,
24 prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments
25 thereto, if committed in whole or in part for the purpose of the sexual
26 gratification of the defendant or another;
- 27 (L) commercial sexual exploitation of a child, as defined in K.S.A.
28 2016 Supp. 21-6422, and amendments thereto; or
- 29 (M) an attempt, conspiracy or criminal solicitation, as defined in
30 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016
31 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
32 sexually violent crime as defined in this section.
- 33 (6) As used in this subsection, "sexually motivated" means that one of
34 the purposes for which the defendant committed the crime was for the
35 purpose of the defendant's sexual gratification.
- 36 (e) If an inmate is sentenced to imprisonment for a crime committed
37 while on parole or conditional release, the inmate shall be eligible for
38 parole as provided by subsection (c), except that the prisoner review board
39 may postpone the inmate's parole eligibility date by assessing a penalty not
40 exceeding the period of time which could have been assessed if the
41 inmate's parole or conditional release had been violated for reasons other
42 than conviction of a crime.
- 43 (f) If a person is sentenced to prison for a crime committed on or after

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

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

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

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

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

1 the legal custody of the secretary of corrections and is subject to the orders
2 of the secretary.

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

43 (2) Inmates sentenced for a class A or class B felony who have not

1 had a board hearing in the five years prior to July 1, 2010, shall have such
2 inmates' cases reviewed by the board on or before July 1, 2012. Such
3 review shall begin with the inmates with the oldest deferral date and
4 progress to the most recent. Such review shall be done utilizing existing
5 resources unless the board determines that such resources are insufficient.
6 If the board determines that such resources are insufficient, then the
7 provisions of this paragraph are subject to appropriations therefor.

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

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

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

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

37 (m) Whenever the prisoner review board orders the parole of an
38 inmate or establishes conditions for an inmate placed on postrelease
39 supervision, the board:

40 (1) Unless it finds compelling circumstances which would render a
41 plan of payment unworkable, shall order as a condition of parole or
42 postrelease supervision that the parolee or the person on postrelease
43 supervision pay any transportation expenses resulting from returning the

1 parolee or the person on postrelease supervision to this state to answer
2 criminal charges or a warrant for a violation of a condition of probation,
3 assignment to a community correctional services program, parole,
4 conditional release or postrelease supervision;

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

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

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

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

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

39 (7) shall order that the parolee or person on postrelease supervision
40 agree in writing to be subject to searches of the person and the person's
41 effects, vehicle, residence and property by any law enforcement officer
42 based on reasonable suspicion of the person violating conditions of parole
43 or postrelease supervision or reasonable suspicion of criminal activity.

1 (n) If the court which sentenced an inmate specified at the time of
2 sentencing the amount and the recipient of any restitution ordered as a
3 condition of parole or postrelease supervision, the prisoner review board
4 shall order as a condition of parole or postrelease supervision that the
5 inmate pay restitution in the amount and manner provided in the journal
6 entry unless the board finds compelling circumstances which would render
7 a plan of restitution unworkable.

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

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

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

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

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

29 (t) For offenders sentenced prior to July 1, 2014, who are eligible for
30 modification of their postrelease supervision obligation, the department of
31 corrections shall modify the period of postrelease supervision as provided
32 for by this section:

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

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

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

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

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

41 (A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines
42 grid for nondrug crimes;

43 (B) level 3 crimes on the sentencing guidelines grid for drug crimes

1 committed prior to July 1, 2012; and

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

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

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

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

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

11 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
12 4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and amendments
13 thereto, for crimes committed on or after July 1, 2006, shall be placed on
14 parole for life and shall not be discharged from supervision by the prisoner
15 review board. When the board orders the parole of an inmate pursuant to
16 this subsection, the board shall order as a condition of parole that the
17 inmate be electronically monitored for the duration of the inmate's natural
18 life.

19 (v) Whenever the prisoner review board orders a person to be
20 electronically monitored pursuant to this section, or the court orders a
21 person to be electronically monitored pursuant to K.S.A. 2016 Supp. 21-
22 6604(r), and amendments thereto, the board shall order the person to
23 reimburse the state for all or part of the cost of such monitoring. In
24 determining the amount and method of payment of such sum, the board
25 shall take account of the financial resources of the person and the nature of
26 the burden that the payment of such sum will impose.

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

32 (A) As used in this subsection, "pornographic materials" means any
33 obscene material or performance depicting sexual conduct, sexual contact
34 or a sexual performance; and any visual depiction of sexually explicit
35 conduct.

36 (B) As used in this subsection, all other terms have the meanings
37 provided by K.S.A. 2016 Supp. 21-5510, and amendments thereto.

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

43 Sec. ~~2~~ 3. ***K.S.A. 22-3504 and K.S.A. 2016 Supp. 22-3717*** ~~is~~ ***are***

1 hereby repealed.

2 Sec. ~~3~~ 4. This act shall take effect and be in force from and after its
3 publication in the Kansas register.