

**HOUSE BILL No. 2377**

By Committee on Judiciary

2-12

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1 AN ACT concerning driving; relating to driving under the influence;  
2 authorizing reinstatement of a driver's license for certain persons with  
3 an ignition interlock device restriction; removing the motorized bicycle  
4 license option for persons whose driving privileges are suspended for a  
5 DUI-related offense; allowing certain persons disqualified from driving  
6 a commercial motor vehicle to have commercial driving privileges  
7 restored; modifying the criminal penalties for driving a commercial  
8 motor vehicle under the influence and driving under the influence,  
9 authorizing courts to waive certain fines and clarifying that amendment  
10 or dismissal of certain charges is permitted; allowing persons with  
11 suspended driving privileges to seek driving privileges restricted to  
12 driving only a motor vehicle equipped with an ignition interlock device  
13 earlier in the suspension period; requiring persons with an ignition  
14 interlock device restriction to complete the ignition interlock device  
15 program before driving privileges are fully reinstated; requiring the  
16 secretary of revenue to adopt certain rules and regulations related to  
17 ignition interlock devices; providing for reduced ignition interlock  
18 device program costs for certain persons; reducing the restricted driving  
19 privileges period for certain persons less than 21 years of age;  
20 clarifying that a city attorney or a county or district attorney shall not  
21 enter into a diversion agreement for certain traffic violations if the  
22 defendant is a commercial driver's license holder; amending K.S.A. 8-  
23 1016 and K.S.A. 2020 Supp. 8-235, 8-2,142, 8-2,144, 8-1015, 8-1567,  
24 8-1567a, 12-4415, **21-6604**, **21-6804** and 22-2908 and repealing the  
25 existing sections.  
26

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

28 New Section 1. (a) Any person whose license is restricted to  
29 operating only a motor vehicle with an ignition interlock device installed  
30 and who meets the requirements of subsection (b) may request  
31 reinstatement of such person's driver's license by submitting a request to  
32 the division in a form and manner prescribed by the division.

33 (b) The division shall approve the request for reinstatement of the  
34 person's driver's license if the division determines all the following

1 conditions are met:

2 (1) The person's ignition interlock device restriction period has been  
3 extended at least five years, not including any period of incarceration,  
4 beyond the initial ignition interlock device restriction period required by  
5 law due to the person's failure to provide the division with proof of  
6 completion of the ignition interlock device program as required by K.S.A.  
7 8-1015, and amendments thereto;

8 (2) during the person's ignition interlock device restriction period and  
9 any extension thereof, the person has not had an alcohol or drug-related  
10 conviction or occurrence, as those terms are defined by K.S.A. 8-1013,  
11 and amendments thereto, or a conviction of a violation of K.S.A. 8-1017,  
12 and amendments thereto, or of a law of another state, or of a political  
13 subdivision thereof, that prohibits the acts prohibited by K.S.A. 8-1017,  
14 and amendments thereto;

15 (3) during the person's ignition interlock device restriction period and  
16 any extension thereof, the person has not had any of the following:

17 (A) Conviction of a violation of K.S.A. 8-1599, and amendments  
18 thereto;

19 (B) conviction of a violation of K.S.A. 41-727, and amendments  
20 thereto;

21 (C) conviction of any violation listed in K.S.A. 8-285(a), and  
22 amendments thereto;

23 (D) conviction of two or more moving traffic violations committed on  
24 separate occasions; or

25 (E) revocation, suspension, cancellation or withdrawal of the person's  
26 driving privileges due to another action by the division or a court; and

27 (4) at the time of submitting the request to the division, the person  
28 does not have any pending charges or proceedings involving any violation  
29 listed in subsection (b)(2) or (3).

30 Sec. 2. K.S.A. 2020 Supp. 8-235 is hereby amended to read as  
31 follows: 8-235. (a) No person, except those expressly exempted, shall  
32 drive any motor vehicle upon a highway in this state unless such person  
33 has a valid driver's license. No person shall receive a driver's license  
34 unless and until such person surrenders or with the approval of the  
35 division, lists to the division all valid licenses in such person's possession  
36 issued to such person by any other jurisdiction. All surrendered licenses or  
37 the information listed on foreign licenses shall be returned by the division  
38 to the issuing department, together with information that the licensee is  
39 now licensed in a new jurisdiction. No person shall be permitted to have  
40 more than one valid license at any time.

41 (b) Any person licensed under the motor vehicle drivers' license act  
42 may exercise the privilege granted upon all streets and highways in this  
43 state and shall not be required to obtain any other license to exercise such

1 privilege by any local authority. Nothing herein shall prevent cities from  
2 requiring licenses of persons who drive taxicabs or municipally franchised  
3 transit systems for hire upon city streets, to protect the public from drivers  
4 whose character or habits make them unfit to transport the public. If a  
5 license is denied, the applicant may appeal such decision to the district  
6 court of the county in which such city is located by filing within 14 days  
7 after such denial, a notice of appeal with the clerk of the district court and  
8 by filing a copy of such notice with the city clerk of the involved city. The  
9 city clerk shall certify a copy of such decision of the city governing body  
10 to the clerk of the district court and the matter shall be docketed as any  
11 other cause and the applicant shall be granted a trial of such person's  
12 character and habits. The matter shall be heard by the court de novo in  
13 accordance with the code of civil procedure. The cost of such appeal shall  
14 be assessed in such manner as the court may direct.

15 (c) Any person operating in this state a motor vehicle shall be the  
16 holder of a driver's license that is classified for the operation of such motor  
17 vehicle, and any person operating in this state a motorcycle that is  
18 registered in this state shall be the holder of a class M driver's license.

19 (d) No person shall drive any motorized bicycle upon a highway of  
20 this state unless such person:

21 (1) Has a valid driver's license that entitles the licensee to drive a  
22 motor vehicle in any class or classes;

23 (2) is at least 15 years of age and has passed the written and visual  
24 examinations required for obtaining a class C driver's license, in which  
25 case the division shall issue to such person a class C license, which shall  
26 clearly indicate that such license is valid only for the operation of  
27 motorized bicycles; *or*

28 ~~(3) has had their driving privileges suspended, for a violation other than~~  
29 ~~a violation of K.S.A. 8-2,144, and amendments thereto, or a second or~~  
30 ~~subsequent violation of K.S.A. 8-1567 or 8-1567a, and amendments~~  
31 ~~thereto, and such person: (A) Has completed the mandatory period of~~  
32 ~~suspension as provided in K.S.A. 8-1014, and amendments thereto; and~~  
33 ~~(B) has made application and submitted a \$40 nonrefundable application~~  
34 ~~fee to the division for the issuance of a class C license for the operation of~~  
35 ~~motorized bicycles, in accordance with paragraph (2), in which case the~~  
36 ~~division shall issue to such person a class C license, which shall clearly~~  
37 ~~indicate that such license is valid only for the operation of motorized~~  
38 ~~bicycles; or (4) has had their driving privileges revoked under K.S.A. 8-~~  
39 ~~286, and amendments thereto, has not had a test refusal or test failure or~~  
40 ~~alcohol or drug-related conviction, as those terms are defined in K.S.A. 8-~~  
41 ~~1013, and amendments thereto, in the last five years, has not been~~  
42 ~~convicted of a violation of K.S.A. 8-1568(b), and amendments thereto, in~~  
43 ~~the last five years and has made application to the division for issuance of~~

1 a class C license for the operation of motorized bicycles, in accordance  
2 with paragraph (2), in which case the division shall issue such person a  
3 class C license, which shall clearly indicate that such license is valid only  
4 for the operation of motorized bicycles. As used in this subsection,  
5 "motorized bicycle" shall have the meaning ascribed to it in K.S.A. 8-126,  
6 and amendments thereto.

7 ~~(e) All moneys received under subsection (d) from the nonrefundable~~  
8 ~~application fee shall be applied by the division of vehicles for the~~  
9 ~~additional administrative costs to implement restricted driving privileges.~~  
10 ~~The division shall remit all restricted driving privilege application fees to~~  
11 ~~the state treasurer in accordance with the provisions of K.S.A. 75-4215,~~  
12 ~~and amendments thereto. Upon receipt of each such remittance, the state~~  
13 ~~treasurer shall deposit the entire amount in the state treasury to the credit~~  
14 ~~of the division of vehicles operating fund.~~

15 ~~(f) Violation of this section shall constitute~~ is a class B *nonperson*  
16 misdemeanor.

17 Sec. 3. K.S.A. 2020 Supp. 8-2,142 is hereby amended to read as  
18 follows: 8-2,142. (a) A person is disqualified from driving a commercial  
19 motor vehicle for a period of not less than one year upon a first occurrence  
20 of any one of the following:

21 (1) While operating a commercial motor vehicle:

22 (A) The person is convicted of violating K.S.A. 8-2,144, and  
23 amendments thereto;

24 (B) the person is convicted of violating K.S.A. 8-2,132(b), and  
25 amendments thereto;

26 (C) the person is convicted of causing a fatality through the negligent  
27 operation of a commercial motor vehicle;

28 (D) the person's test refusal or test failure, as defined in subsection  
29 (m); or

30 (E) the person is convicted of a violation identified in subsection (a)  
31 (2)(A); or

32 (2) while operating a noncommercial motor vehicle:

33 (A) The person is convicted of a violation of K.S.A. 8-1567, and  
34 amendments thereto, or of a violation of an ordinance of any city in this  
35 state, a resolution of any county in this state or any law of another state,  
36 which ordinance or law declares to be unlawful the acts prohibited by that  
37 statute; or

38 (B) the person's test refusal or test failure, as defined in K.S.A. 8-  
39 1013, and amendments thereto; or

40 (3) while operating any motor vehicle:

41 (A) The person is convicted of leaving the scene of an accident; or

42 (B) the person is convicted of a felony, other than a felony described  
43 in subsection (e), while using a motor vehicle to commit such felony.

1 (b) If any offenses, test refusal or test failure specified in subsection  
2 (a) occurred in a commercial motor vehicle while transporting a hazardous  
3 material required to be placarded, the person is disqualified for a period of  
4 not less than three years.

5 (c) A person shall be disqualified for life upon the second or a  
6 subsequent occurrence of any offense, test refusal or test failure specified  
7 in subsection (a), or any combination thereof, arising from two or more  
8 separate incidents *occurring on or after July 1, 2003*.

9 (d) ~~(1) The secretary of revenue may adopt rules and regulations~~  
10 ~~establishing guidelines, including conditions, under which a~~  
11 ~~disqualification for life under subsection (c) may be reduced to a period of~~  
12 ~~not less than 10 years.~~*Any person disqualified for life under subsection (c)*  
13 *who seeks to have commercial driving privileges restored after such*  
14 *person has been disqualified for at least 10 years shall apply in writing to*  
15 *the division.*

16 (2) *The division shall restore a person's commercial driving*  
17 *privileges if the division determines:*

18 (A) *None of the occurrences that led to the person's lifetime*  
19 *disqualification under subsection (c) included violations described in*  
20 *subsection (a)(1)(A) or (a)(1)(E);*

21 (B) *the person has had no occurrence of any offense, test refusal or*  
22 *test failure specified in subsection (a) during the 10-year period preceding*  
23 *the application;*

24 (C) *the person has had no alcohol or drug related convictions as*  
25 *defined in K.S.A. 8-2,128, and amendments thereto, in Kansas or any*  
26 *other jurisdiction during the 10-year period preceding the application;*

27 (D) *the person has no pending alcohol or drug related criminal*  
28 *charges in Kansas or any other jurisdiction;*

29 (E) *the person has had no convictions for violations that occurred*  
30 *while operating a commercial motor vehicle in Kansas or any other*  
31 *jurisdiction during the 10-year period preceding the application;*

32 (F) *the person has successfully completed an alcohol or drug*  
33 *treatment program, or a comparable program, that meets or exceeds the*  
34 *minimum standards approved by the Kansas department for aging and*  
35 *disability services if any of the disqualifying offenses were drug or alcohol*  
36 *related;*

37 (G) *the person is no longer a threat to the public safety of this state.*  
38 *The division may request, and the person shall provide, any additional*  
39 *information or documentation which the division deems necessary to*  
40 *determine the person's fitness for relicensure;*

41 (H) *the person is otherwise eligible for licensure; and*

42 (I) *the person has not previously been restored to commercial motor*  
43 *vehicle privileges following a prior 10-year-minimum disqualification.*

1       (3) *For purposes of verifying a person's prior 10-year alcohol and*  
2 *drug history, the person shall provide a copy of the person's closed*  
3 *criminal history from any jurisdiction to the division.*

4       (4) *If the division finds the person is eligible for restoration to*  
5 *commercial driving status, such person shall complete the written and*  
6 *driving skills examinations as specified in K.S.A. 8-2,133, and*  
7 *amendments thereto, before a commercial driver license is issued.*

8       (5) *If the person is found ineligible for restoration of commercial*  
9 *driving privileges, the division shall notify the person of such findings by*  
10 *certified mail and continue the denial of commercial driving privilege*  
11 *until such ineligibility has been disproven to the division's satisfaction.*

12       (6) *Any person who previously had such person's commercial motor*  
13 *vehicle privileges restored pursuant to this statute shall not be eligible to*  
14 *apply for restoration if such person receives another lifetime*  
15 *disqualification.*

16       (7) *Any person who is aggrieved by the decision of the division may*  
17 *appeal for review in accordance with the Kansas judicial review act,*  
18 *K.S.A. 77-601 et seq., and amendments thereto.*

19       (8) *The secretary of revenue shall adopt rules and regulations*  
20 *necessary to administer the provisions of this subsection **prior to March***  
21 ***1, 2022.***

22       (e) (1) *A person is disqualified from driving a commercial motor*  
23 *vehicle for life who uses a commercial motor vehicle or noncommercial*  
24 *motor vehicle in the commission of any felony involving the manufacture,*  
25 *distribution or dispensing of a controlled substance, or possession with*  
26 *intent to manufacture, distribute or dispense a controlled substance.*

27       (2) *A person is disqualified from driving a commercial motor vehicle*  
28 *for life who uses a commercial motor vehicle in the commission of a felony*  
29 *involving an act or practice of severe forms of trafficking in persons. The*  
30 *term "severe forms of trafficking in persons" means:*

31       (A) *Sex trafficking in which a commercial sex act is induced by force,*  
32 *fraud or coercion, or in which the person induced to perform such act has*  
33 *not attained 18 years of age; or*

34       (B) *the recruitment, harboring, transportation, provision or obtaining*  
35 *of a person for labor or services, through the use of force, fraud or*  
36 *coercion for the purpose of subjection to involuntary servitude, peonage,*  
37 *debt bondage or slavery.*

38       (f) *A person is disqualified from driving a commercial motor vehicle*  
39 *for a period of not less than 60 days if convicted of two serious traffic*  
40 *violations, or 120 days if convicted of three or more serious traffic*  
41 *violations, committed in a commercial motor vehicle arising from separate*  
42 *incidents occurring within a three-year period. Any disqualification period*  
43 *under this paragraph shall be in addition to any other previous period of*

1 disqualification. The beginning date for any three-year period within a ten-  
2 year period, required by this subsection, shall be the issuance date of the  
3 citation which resulted in a conviction.

4 (g) A person is disqualified from driving a commercial motor vehicle  
5 for a period of not less than 60 days if convicted of two serious traffic  
6 violations, or 120 days if convicted of three or more serious traffic  
7 violations, committed in a noncommercial motor vehicle arising from  
8 separate incidents occurring within a three-year period, if such convictions  
9 result in the revocation, cancellation or suspension of the person's driving  
10 privileges.

11 (h) (1) A person who is convicted of operating a commercial motor  
12 vehicle in violation of an out-of-service order shall be disqualified from  
13 driving a commercial motor vehicle for a period of not less than:

14 (A) Ninety days nor more than one year, if the driver is convicted of a  
15 first violation of an out-of-service order;

16 (B) one year nor more than five years if the person has one prior  
17 conviction for violating an out-of-service order in a separate incident and  
18 such prior offense was committed within the 10 years immediately  
19 preceding the date of the present violation; or

20 (C) three years nor more than five years if the person has two or more  
21 prior convictions for violating out-of-service orders in separate incidents  
22 and such prior offenses were committed within the 10 years immediately  
23 preceding the date of the present violation.

24 (2) A person who is convicted of operating a commercial motor  
25 vehicle in violation of an out-of-service order while transporting a  
26 hazardous material required to be placarded under 49 U.S.C. § 5101 et seq.  
27 or while operating a motor vehicle designed to transport more than 15  
28 passengers, including the driver, shall be disqualified from driving a  
29 commercial motor vehicle for a period of not less than:

30 (A) One hundred and eighty days nor more than two years if the  
31 driver is convicted of a first violation of an out-of-service order; or

32 (B) three years nor more than five years if the person has a prior  
33 conviction for violating an out-of-service order in a separate incident and  
34 such prior offense was committed within the 10 years immediately  
35 preceding the date of the present violation.

36 (i) (1) A person who is convicted of operating a commercial motor  
37 vehicle in violation of a federal, state or local law or regulation pertaining  
38 to one of the following six offenses at a railroad-highway grade crossing  
39 shall be disqualified from driving a commercial motor vehicle for the  
40 period of time specified in paragraph (2) *for persons*:

41 (A) ~~For persons~~ Who are not required to always stop, failing to slow  
42 down and check that the tracks are clear of an approaching train;

43 (B) ~~for persons~~ who are not required to always stop, failing to stop

1 before reaching the crossing, if the tracks are not clear;

2 (C) ~~for persons~~ who are always required to stop, failing to stop before  
3 driving onto the crossing;

4 (D) ~~for all persons~~ failing to have sufficient space to drive completely  
5 through the crossing without stopping;

6 (E) ~~for all persons~~ failing to obey a traffic control device or the  
7 directions of an enforcement official at the crossing; or

8 (F) ~~for all persons~~ failing to negotiate a crossing because of  
9 insufficient undercarriage clearance.

10 (2) A driver shall be disqualified from driving a commercial motor  
11 vehicle for not less than:

12 (A) Sixty days if the driver is convicted of a first violation of a  
13 railroad-highway grade crossing violation;

14 (B) one hundred and twenty days if, during any three-year period, the  
15 driver is convicted of a second railroad-highway grade crossing violation  
16 in separate incidents; or

17 (C) one year if, during any three-year period, the driver is convicted  
18 of a third or subsequent railroad-highway grade crossing violation in  
19 separate incidents.

20 (j) After suspending, revoking or canceling a commercial driver's  
21 license, the division shall update its records to reflect that action within 10  
22 days. After suspending, revoking or canceling a nonresident commercial  
23 driver's privileges, the division shall notify the licensing authority of the  
24 state which issued the commercial driver's license or nonresident  
25 commercial driver's license within 10 days. The notification shall include  
26 both the disqualification and the violation that resulted in the  
27 disqualification, suspension, revocation or cancellation.

28 (k) Upon receiving notification from the licensing authority of  
29 another state, that it has disqualified a commercial driver's license holder  
30 licensed by this state, or has suspended, revoked or canceled such  
31 commercial driver's license holder's commercial driver's license, the  
32 division shall record such notification and the information such  
33 notification provides on the driver's record.

34 (l) Upon suspension, revocation, cancellation or disqualification of a  
35 commercial driver's license under this act, the license shall be immediately  
36 surrendered to the division if still in the licensee's possession. If otherwise  
37 eligible, and upon payment of the required fees, the licensee may be issued  
38 a noncommercial driver's license for the period of suspension, revocation,  
39 cancellation or disqualification of the commercial driver's license under  
40 the same identifier number.

41 (m) As used in this section, "test refusal" means a person's refusal to  
42 submit to and complete a test requested pursuant to K.S.A. 8-2,145, and  
43 amendments thereto; "test failure" means a person's submission to and

1 completion of a test which determines that the person's alcohol  
2 concentration is .04 or greater, pursuant to K.S.A. 8-2,145, and  
3 amendments thereto.

4 *(n) If a person is disqualified for life under on subsection (c), and at*  
5 *least one of the disqualifying incidents occurred prior to July 1, 2003, the*  
6 *person may apply to the secretary of revenue for review of the incidents*  
7 *and modification of the disqualification. The secretary shall adopt rules*  
8 *and regulations establishing guidelines, including conditions, to*  
9 *administer this subsection **prior to March 1, 2022.***

10 Sec. 4. K.S.A. 2020 Supp. 8-2,144 is hereby amended to read as  
11 follows: 8-2,144. (a) Driving a commercial motor vehicle under the  
12 influence is operating or attempting to operate any commercial motor  
13 vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, within this  
14 state while:

15 (1) The alcohol concentration in the person's blood or breath, as  
16 shown by any competent evidence, including other competent evidence, as  
17 defined in K.S.A. 8-1013(f)(1), and amendments thereto, is 0.04 or more;

18 (2) the alcohol concentration in the person's blood or breath, as  
19 measured within three hours of the time of driving a commercial motor  
20 vehicle, is 0.04 or more; or

21 (3) committing a violation of K.S.A. 8-1567(a), and amendments  
22 thereto, or the ordinance of a city or resolution of a county which prohibits  
23 any of the acts prohibited thereunder or is otherwise comparable.

24 (b) (1) Driving a commercial motor vehicle under the influence is:

25 (A) On a first conviction, a class B, nonperson misdemeanor. The  
26 person convicted shall be sentenced to not less than 48 consecutive hours  
27 nor more than six months' imprisonment, or in the court's discretion, 100  
28 hours of public service, and fined not less than \$750 nor more than \$1,000.  
29 ~~The person convicted shall serve at least 48 consecutive hours'~~  
30 ~~imprisonment or 100 hours of public service either before or as a condition~~  
31 ~~of any grant of probation, suspension or reduction of sentence or parole or~~  
32 ~~other release;~~

33 (B) on a second conviction, a class A, nonperson misdemeanor. The  
34 person convicted shall be sentenced to not less than 90 days nor more than  
35 one year's imprisonment and fined not less than \$1,250 nor more than  
36 \$1,750. ~~The person convicted shall serve at least five consecutive days'~~  
37 ~~imprisonment before the person is granted probation, suspension or~~  
38 ~~reduction of sentence or parole or is otherwise released. The five days'~~  
39 ~~imprisonment mandated by this subsection may be served in a work~~  
40 ~~release program only after such person has served 48 consecutive hours'~~  
41 ~~imprisonment, provided such work release program requires such person~~  
42 ~~to return to confinement at the end of each day in the work release~~  
43 ~~program. The person convicted, if placed into a work release program,~~

1 shall serve a minimum of 120 hours of confinement. Such 120 hours of  
2 confinement shall be a period of at least 48 consecutive hours of  
3 imprisonment followed by confinement hours at the end of and continuing  
4 to the beginning of the offender's work day. The court may place the  
5 person convicted under a house arrest program pursuant to K.S.A. 2020  
6 Supp. 21-6609, and amendments thereto, to serve the five days'  
7 imprisonment mandated by this subsection only after such person has  
8 served 48 consecutive hours' imprisonment. The person convicted, if  
9 placed under house arrest, shall be monitored by an electronic monitoring  
10 device, which verifies the offender's location. The offender shall serve a  
11 minimum of 120 hours of confinement within the boundaries of the  
12 offender's residence. Any exceptions to remaining within the boundaries of  
13 the offender's residence provided for in the house arrest agreement shall  
14 not be counted as part of the 120 hours; *The following conditions shall*  
15 *apply to such sentence:*

16 (i) *As a condition of any probation granted under this subsection, the*  
17 *person shall serve at least 120 hours of confinement. The hours of*  
18 *confinement shall include at least 48 hours of imprisonment and otherwise*  
19 *may be served by a combination of: Imprisonment; a work release*  
20 *program, provided such work release program requires such person to*  
21 *return to the confinement at the end of each day in the work release*  
22 *program; or a house arrest program pursuant to K.S.A. 2020 Supp. 21-*  
23 *6609, and amendments thereto; and*

24 (ii) (a) *if the person is placed into a work release program or placed*  
25 *under a house arrest program for any portion of the minimum 120 hours*  
26 *of confinement mandated by this subsection, the person shall receive hour-*  
27 *for-hour credit for time served in such program until the minimum*  
28 *sentence is met. If the person is placed into a work release program or*  
29 *placed under a house arrest program for more than the minimum 120*  
30 *hours of confinement mandated by this subsection, the person shall*  
31 *receive hour-for-hour credit for time served in such program until the*  
32 *minimum 120 hours of confinement is completed, and thereafter, the*  
33 *person shall receive day-for-day credit for time served in such program*  
34 *unless otherwise ordered by the court; and*

35 (b) *when in a work release program, the person shall only be given*  
36 *credit for the time served in confinement at the end of and continuing to*  
37 *the beginning of the person's work day. When under a house arrest*  
38 *program, the person shall be monitored by an electronic monitoring*  
39 *device that verifies the person's location and shall only be given credit for*  
40 *the time served within the boundaries of the person's residence; and*

41 (C) *on a third or subsequent conviction, a severity level 6, nonperson*  
42 *felony. The person convicted shall be sentenced to not less than 90 days*  
43 *nor more than one year's imprisonment and fined not less than \$1,750 nor*

1 more than \$2,500. The person convicted shall not be eligible for release on  
2 probation, suspension or reduction of sentence or parole until the person  
3 has served at least 90 days' imprisonment. The 90 days' imprisonment  
4 mandated by this subsection may be served in a work release program only  
5 after such person has served 48 consecutive hours' imprisonment, provided  
6 such work release program requires such person to return to confinement  
7 at the end of each day in the work release program. The person convicted,  
8 if placed into a work release program, shall serve a minimum of 2,160  
9 hours of confinement. Such 2,160 hours of confinement shall be a period  
10 of at least 48 consecutive hours of imprisonment followed by confinement  
11 hours at the end of and continuing to the beginning of the offender's work  
12 day. The court may place the person convicted under a house arrest  
13 program pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto,  
14 to serve the 90 days' imprisonment mandated by this subsection only after  
15 such person has served 48 consecutive hours' imprisonment. The person  
16 convicted, if placed under house arrest, shall be monitored by an electronic  
17 monitoring device, which verifies the offender's location. The offender  
18 shall serve a minimum of 2,160 hours of confinement within the  
19 boundaries of the offender's residence. Any exceptions to remaining within  
20 the boundaries of the offender's residence provided for in the house arrest  
21 agreement shall not be counted as part of the 2,160 hours. *The following*  
22 *conditions shall apply to such sentence:*

23 (i) *As a condition of any probation granted under this subsection,*  
24 *the person shall serve at least 30 days of confinement. After at least 48*  
25 *consecutive hours of imprisonment, the remainder of the period of*  
26 *confinement may be served by a combination of: Imprisonment; a work*  
27 *release program, provided such work release program requires such*  
28 *person to return to the confinement at the end of each day in the work*  
29 *release program; or a house arrest program pursuant to K.S.A. 2020*  
30 *Supp. 21-6609, and amendments thereto; and*

31 (ii) (a) *if the person is placed into a work release program or placed*  
32 *under a house arrest program for any portion of the minimum 30 days*  
33 *of confinement mandated by this subsection, the person shall receive*  
34 *hour-for-hour credit for time served in such program for the first 240*  
35 *hours of confinement, and thereafter, the person shall receive day-for-*  
36 *day credit for time served in such program unless otherwise ordered by*  
37 *the court; and*

38 (b) *when in a work release program, the person shall only be given*  
39 *credit for the time served in confinement at the end of and continuing to*  
40 *the beginning of the person's work day. When under a house arrest*  
41 *program, the person shall be monitored by an electronic monitoring*  
42 *device that verifies the person's location and shall only be given credit*  
43 *for the time served within the boundaries of the person's residence.*

1       (2) In addition, for any conviction pursuant to subsection (b)(1)(C), at  
2 the time of the filing of the judgment form or journal entry as required by  
3 K.S.A. 22-3426, *and amendments thereto*, or K.S.A. 2020 Supp. 21-6711,  
4 and amendments thereto, the court shall cause a certified copy to be sent to  
5 the officer having the offender in charge. The court shall determine  
6 whether the offender, upon release from imprisonment, shall be supervised  
7 by community correctional services or court services based upon the risk  
8 and needs of the offender. The risk and needs of the offender shall be  
9 determined by use of a risk assessment tool specified by the Kansas  
10 sentencing commission. The law enforcement agency maintaining custody  
11 and control of a defendant for imprisonment shall cause a certified copy of  
12 the judgment form or journal entry to be sent to the supervision office  
13 designated by the court and upon expiration of the term of imprisonment  
14 shall deliver the defendant to a location designated by the supervision  
15 office designated by the court. After the term of imprisonment imposed by  
16 the court, the person shall be placed on supervision to community  
17 correctional services or court services, as determined by the court, for a  
18 mandatory one-year period of supervision, which such period of  
19 supervision shall not be reduced. During such supervision, the person shall  
20 be required to participate in a multidisciplinary model of services for  
21 substance use disorders facilitated by a Kansas department for aging and  
22 disability services designated care coordination agency to include  
23 assessment and, if appropriate, referral to a community based substance  
24 use disorder treatment including recovery management and mental health  
25 counseling as needed. The multidisciplinary team shall include the  
26 designated care coordination agency, the supervision officer, the aging and  
27 disability services department designated treatment provider and the  
28 offender. An offender for whom a warrant has been issued by the court  
29 alleging a violation of such supervision shall be considered a fugitive from  
30 justice if it is found that the warrant cannot be served. If it is found the  
31 offender has violated the provisions of this supervision, the court shall  
32 determine whether the time from the issuing of the warrant to the date of  
33 the court's determination of an alleged violation, or any part of it, shall be  
34 counted as time served on supervision. Any violation of the conditions of  
35 such supervision may subject such person to revocation of supervision and  
36 imprisonment in jail for the remainder of the period of imprisonment, the  
37 remainder of the supervision period, or any combination or portion  
38 thereof. The term of supervision may be extended at the court's discretion  
39 beyond one year, and any violation of the conditions of such extended term  
40 of supervision may subject such person to the revocation of supervision  
41 and imprisonment in jail of up to the remainder of the original sentence,  
42 not the term of the extended supervision.

43       (3) In addition, prior to sentencing for any conviction pursuant to

1 subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to  
2 participate in an alcohol and drug evaluation conducted by a provider in  
3 accordance with K.S.A. 8-1008, and amendments thereto. The person shall  
4 be required to follow any recommendation made by the provider after such  
5 evaluation, unless otherwise ordered by the court.

6 (c) Any person 18 years of age or older convicted of a violation of  
7 this section, or a violation of a city ordinance or county resolution  
8 prohibiting the acts prohibited by this section, who had one or more  
9 children under the age of 18 years in the vehicle at the time of the offense  
10 shall have such person's punishment enhanced by one month of  
11 imprisonment. This imprisonment shall be served consecutively to any  
12 other minimum mandatory penalty imposed for a violation of this section,  
13 or a violation of a city ordinance or county resolution prohibiting the acts  
14 prohibited by this section. Any enhanced penalty imposed shall not exceed  
15 the maximum sentence allowable by law. During the service of the  
16 enhanced penalty, the judge may order the person on house arrest, work  
17 release or other conditional release.

18 (d) If a person is charged with a violation of K.S.A. 8-1567(a)(4) or  
19 (a)(5), and amendments thereto, as incorporated in this section, the fact  
20 that the person is or has been entitled to use the drug under the laws of this  
21 state shall not constitute a defense against the charge.

22 (e) The court may establish the terms and time for payment of any  
23 fines, fees, assessments and costs imposed pursuant to this section. Any  
24 assessment and costs shall be required to be paid not later than 90 days  
25 after imposed, and any remainder of the fine shall be paid prior to the final  
26 release of the defendant by the court.

27 (f) (1) In lieu of payment of a fine imposed pursuant to this section,  
28 the court may order that the person perform community service specified  
29 by the court. The person shall receive a credit on the fine imposed in an  
30 amount equal to \$5 for each full hour spent by the person in the specified  
31 community service. The community service ordered by the court shall be  
32 required to be performed not later than one year after the fine is imposed  
33 or by an earlier date specified by the court. If by the required date the  
34 person performs an insufficient amount of community service to reduce to  
35 zero the portion of the fine required to be paid by the person, the  
36 remaining balance of the fine shall become due on that date.

37 (2) *The court may, in its discretion, waive any portion of a fine*  
38 *imposed pursuant to this section, except the \$250 required to be remitted*  
39 *to the state treasurer pursuant to subsection (q), upon a showing that the*  
40 *person successfully completed court-ordered education or treatment.*

41 (g) Prior to filing a complaint alleging a violation of this section, a  
42 prosecutor shall request and shall receive from the:

43 (1) Division a record of all prior convictions obtained against such

1 person for any violations of any of the motor vehicle laws of this state; and

2 (2) Kansas bureau of investigation central repository all criminal  
3 history record information concerning such person.

4 (h) The court shall electronically report every conviction of a  
5 violation of this section to the division. Prior to sentencing under the  
6 provisions of this section, the court shall request and shall receive from  
7 the:

8 (1) Division a record of all prior convictions obtained against such  
9 person for any violation of any of the motor vehicle laws of this state; and

10 (2) Kansas bureau of investigation central repository all criminal  
11 history record information concerning such person.

12 (i) Upon conviction of a person of a violation of this section or a  
13 violation of a city ordinance or county resolution prohibiting the acts  
14 prohibited by this section, the division, upon receiving a report of  
15 conviction, shall:

16 (1) Disqualify the person from driving a commercial motor vehicle  
17 under K.S.A. 8-2,142, and amendments thereto; and

18 (2) suspend, restrict or suspend and restrict the person's driving  
19 privileges as provided by K.S.A. 8-1014, and amendments thereto.

20 (j) (1) Nothing contained in this section shall be construed as  
21 preventing any city from enacting ordinances, or any county from adopting  
22 resolutions, declaring acts prohibited or made unlawful by this section as  
23 unlawful or prohibited in such city or county and prescribing penalties for  
24 violation thereof.

25 (2) The minimum penalty prescribed by any such ordinance or  
26 resolution shall not be less than the minimum penalty prescribed by this  
27 section for the same violation, and the maximum penalty in any such  
28 ordinance or resolution shall not exceed the maximum penalty prescribed  
29 for the same violation.

30 (3) Any such ordinance or resolution shall authorize the court to order  
31 that the convicted person pay restitution to any victim who suffered loss  
32 due to the violation for which the person was convicted.

33 (k) (1) Upon the filing of a complaint, citation or notice to appear  
34 alleging a person has violated a city ordinance prohibiting the acts  
35 prohibited by this section, and prior to conviction thereof, a city attorney  
36 shall request and shall receive from the:

37 (A) Division of vehicles a record of all prior convictions obtained  
38 against such person for any violations of any of the motor vehicle laws of  
39 this state; and

40 (B) Kansas bureau of investigation central repository all criminal  
41 history record information concerning such person.

42 (2) If the elements of such ordinance violation are the same as the  
43 elements of a violation of this section that would constitute, and be

1 punished as, a felony, the city attorney shall refer the violation to the  
2 appropriate county or district attorney for prosecution. The county or  
3 district attorney shall accept such referral and pursue a disposition of such  
4 violation, and shall not refer any such violation back to the city attorney.

5 (l) No plea bargaining agreement shall be entered into nor shall any  
6 judge approve a plea bargaining agreement entered into for the purpose of  
7 permitting a person charged with a violation of this section, or a violation  
8 of any ordinance of a city or resolution of any county in this state which  
9 prohibits the acts prohibited by this section, to avoid the mandatory  
10 penalties established by this section or by the ordinance or resolution. *This*  
11 *subsection shall not be construed to prohibit an amendment or dismissal*  
12 *of any charge where the admissible evidence is not sufficient to support a*  
13 *conviction beyond a reasonable doubt on such charge.*

14 (m) The alternatives set out in subsection (a) may be pleaded in the  
15 alternative, and the state, city or county may, but shall not be required to,  
16 elect one or more of such alternatives prior to submission of the case to the  
17 fact finder.

18 (n) For the purpose of determining whether a conviction is a first,  
19 second, third or subsequent conviction in sentencing under this section:

20 (1) Convictions for a violation of K.S.A. 8-1567, and amendments  
21 thereto, or a violation of an ordinance of any city or resolution of any  
22 county that prohibits the acts that such section prohibits, or entering into a  
23 diversion agreement in lieu of further criminal proceedings on a complaint  
24 alleging any such violations, shall be taken into account, but only  
25 convictions or diversions occurring on or after July 1, 2001. Nothing in  
26 this provision shall be construed as preventing any court from considering  
27 any convictions or diversions occurring during the person's lifetime in  
28 determining the sentence to be imposed within the limits provided for a  
29 first, second, third, fourth or subsequent offense;

30 (2) any convictions for a violation of the following sections occurring  
31 during a person's lifetime shall be taken into account:

32 (A) This section;

33 (B) operating a vessel under the influence of alcohol or drugs, K.S.A.  
34 32-1131, and amendments thereto;

35 (C) involuntary manslaughter while driving under the influence of  
36 alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 2020 Supp.  
37 21-5405(a)(3) or (a)(5), and amendments thereto;

38 (D) aggravated battery as described in K.S.A. 2020 Supp. 21-5413(b)  
39 (3) or (b)(4), and amendments thereto; and

40 (E) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its  
41 repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the  
42 crime was committed while committing a violation of K.S.A. 8-1567, and  
43 amendments thereto;

1 (3) "conviction" includes:

2 (A) Entering into a diversion agreement in lieu of further criminal  
3 proceedings on a complaint alleging a violation of a crime described in  
4 subsection (n)(2); and

5 (B) conviction of a violation of an ordinance of a city in this state, a  
6 resolution of a county in this state or any law of another jurisdiction that  
7 would constitute an offense that is comparable to the offense described in  
8 subsection (n)(1) or (n)(2);

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

11 (5) multiple convictions of any crime described in subsection (n)(1)  
12 or (n)(2) arising from the same arrest shall only be counted as one  
13 conviction.

14 (o) For the purposes of determining whether an offense is  
15 comparable, the following shall be considered:

16 (1) The name of the out-of-jurisdiction offense;

17 (2) the elements of the out-of-jurisdiction offense; and

18 (3) whether the out-of-jurisdiction offense prohibits similar conduct  
19 to the conduct prohibited by the closest approximate Kansas offense.

20 (p) For the purpose of this section:

21 (1) "Alcohol concentration" means the number of grams of alcohol  
22 per 100 milliliters of blood or per 210 liters of breath;

23 (2) "imprisonment" ~~shall include~~ *includes* any restrained environment  
24 in which the court and law enforcement agency intend to retain custody  
25 and control of a defendant and such environment has been approved by the  
26 board of county commissioners or the governing body of a city; and

27 (3) "drug" includes toxic vapors as such term is defined in K.S.A.  
28 2020 Supp. 21-5712, and amendments thereto.

29 (q) On and after July 1, 2011, the amount of \$250 from each fine  
30 imposed pursuant to this section shall be remitted by the clerk of the  
31 district court to the state treasurer in accordance with the provisions of  
32 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
33 remittance, the state treasurer shall credit the entire amount to the  
34 community corrections supervision fund established by K.S.A. 75-52,113,  
35 and amendments thereto.

36 Sec. 5. K.S.A. 2020 Supp. 8-1015 is hereby amended to read as  
37 follows: 8-1015. (a) (1) ~~Except as provided in subsection (a)(2);~~ Whenever  
38 a person's driving privileges have been suspended ~~for one year~~ as provided  
39 in K.S.A. 8-1014(a), and amendments thereto, ~~after 90 days of such~~  
40 ~~suspension,~~ such person may apply to the division for such person's  
41 driving privileges to be restricted for the ~~remainder of the one-year~~  
42 suspension period to driving only a motor vehicle equipped with an  
43 ignition interlock device ~~and only for the purposes of getting to and from:~~

1 ~~Work, school or an alcohol treatment program; and the ignition interlock~~  
2 ~~provider for maintenance and downloading of data from the device.~~

3 ~~(2) Whenever a person's driving privileges have been suspended for~~  
4 ~~one year as provided in K.S.A. 8-1014(a)(1), and amendments thereto,~~  
5 ~~after 90 days of such suspension, such person may apply to the division for~~  
6 ~~such person's driving privileges to be restricted for the remainder of the~~  
7 ~~one-year suspension period to driving only a motor vehicle equipped with~~  
8 ~~an ignition interlock device and only. Under the circumstances provided~~  
9 ~~by K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; and for~~  
10 ~~the purpose of getting to and from the ignition interlock provider for~~  
11 ~~maintenance and downloading of data from the device.~~

12 ~~(3) Except as provided in subsection (a)(4), whenever a person's~~  
13 ~~driving privileges have been suspended for one year as provided in K.S.A.~~  
14 ~~8-1014(b), and amendments thereto, after 45 days of such suspension, such~~  
15 ~~person may apply to the division for such person's driving privileges to be~~  
16 ~~restricted for the remainder of the one-year suspension period to driving~~  
17 ~~only a motor vehicle equipped with an ignition interlock device and only~~  
18 ~~for the purposes of getting to and from: Work, school or an alcohol~~  
19 ~~treatment program; and the ignition interlock provider for maintenance and~~  
20 ~~downloading of data from the device.~~

21 ~~(4) Whenever a person's driving privileges have been suspended for~~  
22 ~~one year as provided in K.S.A. 8-1014(b)(2)(A), and amendments thereto,~~  
23 ~~after 45 days of such suspension, such person may apply to the division for~~  
24 ~~such person's driving privileges to be restricted for the remainder of the~~  
25 ~~one-year suspension period to driving only a motor vehicle equipped with~~  
26 ~~an ignition interlock device and only. Under the circumstances provided~~  
27 ~~by K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; and for~~  
28 ~~the purpose of getting to and from the ignition interlock provider for~~  
29 ~~maintenance and downloading of data from the device.~~

30 ~~(5)(2) The division shall assess an application fee of \$100 for a~~  
31 ~~person to apply to modify the suspension to restricted ignition interlock~~  
32 ~~status.~~

33 ~~(6)(3) The division shall approve the request for such restricted~~  
34 ~~license unless such person's driving privileges have been restricted,~~  
35 ~~suspended, revoked or disqualified pursuant to another action by the~~  
36 ~~division or a court. If the request is approved, upon receipt of proof of the~~  
37 ~~installation of such device, the division shall issue a copy of the order~~  
38 ~~imposing such restrictions on the person's driving privileges and such~~  
39 ~~order shall be carried by the person at any time the person is operating a~~  
40 ~~motor vehicle on the highways of this state. Except as provided in K.S.A.~~  
41 ~~8-1017, and amendments thereto, if such person is convicted of a violation~~  
42 ~~of the restrictions, such person's driving privileges shall be suspended for~~  
43 ~~an additional year, in addition to any term of suspension or restriction as~~

1 provided in K.S.A. 8-1014(a) or (b), and amendments thereto.

2 (b) (1) Except as provided in subsection (b)(2), when a person has  
3 completed the suspension pursuant to K.S.A. 8-1014(b)(1)(A), and  
4 amendments thereto, the division shall restrict the person's driving  
5 privileges for 180 days to driving only a motor vehicle equipped with an  
6 ignition interlock device.

7 (2) When a person has completed the suspension pursuant to K.S.A.  
8 8-1014(b)(1)(A), and amendments thereto, the division shall restrict the  
9 person's driving privileges for one year to driving only a motor vehicle  
10 equipped with an ignition interlock device if the records maintained by the  
11 division indicate that such person has previously:

12 (A) Been convicted of a violation of K.S.A. 8-1599, and amendments  
13 thereto;

14 (B) been convicted of a violation of K.S.A. 41-727, and amendments  
15 thereto;

16 (C) been convicted of any violations listed in K.S.A. 8-285(a), and  
17 amendments thereto;

18 (D) been convicted of three or more moving traffic violations  
19 committed on separate occasions within a 12-month period; or

20 (E) had such person's driving privileges revoked, suspended, canceled  
21 or withdrawn.

22 (c) Except as provided in subsection (b), when a person has  
23 completed the suspension pursuant to K.S.A. 8-1014(a) or (b), and  
24 amendments thereto, the division shall restrict the person's driving  
25 privileges pursuant to K.S.A. 8-1014(a) or (b), and amendments thereto, to  
26 driving only a motor vehicle equipped with an ignition interlock device.  
27 Upon restricting a person's driving privileges pursuant to this subsection,  
28 the division shall issue a copy of the order imposing the restrictions which  
29 is required to be carried by the person at any time the person is operating a  
30 motor vehicle on the highways of this state.

31 (d) (1) Whenever an ignition interlock device is required by law, such  
32 ignition interlock device shall be approved by the division and maintained  
33 at the person's expense. Proof of the installation of such ignition interlock  
34 device, for the entire period required by the applicable law, shall be  
35 provided to the division before the person's driving privileges are fully  
36 reinstated.

37 (2) Every person who has an ignition interlock device installed as  
38 required by law shall be required to complete the ignition interlock device  
39 program pursuant to *this section and* rules and regulations adopted by the  
40 secretary of revenue ~~and proof of completion shall be provided to the~~  
41 ~~division by.~~ *A person may only complete the ignition interlock device*  
42 *program if the person has not more than ~~three standard violations~~ **one***  
43 ***standard violation** and no serious violation in the 90 consecutive days*

1 *prior to application for reinstatement and the application occurs upon or*  
2 *after expiration of the applicable ignition interlock period required by law.*  
3 *The approved service provider shall provide proof of completion to the*  
4 *division before the person's driving privileges are fully reinstated.*

5 (3) *As used in this subsection:*

6 (A) *"Standard violation" means any of the following, as reported by*  
7 *the approved service provider:*

8 (i) *The driver has blown a BrAC fail when attempting an initial*  
9 *engine start-up breath test;*

10 (ii) *the driver has blown a BrAC fail when attempting a required*  
11 *rolling retest;*

12 (iii) *the driver fails to execute a valid rolling retest;*

13 (iv) *the driver fails to submit to a requested rolling retest by turning*  
14 *the vehicle off to avoid submitting to the rolling retest; or*

15 (v) *the driver has blown a high BrAC during an initial engine start-*  
16 *up breath test;*

17 (B) *"serious violation" means any of the following, as reported by the*  
18 *approved service provider:*

19 (i) *Tampering with the ignition interlock device;*

20 (ii) *circumventing the ignition interlock device; or*

21 (iii) *the driver has blown a high BrAC during a rolling retest;*

22 (C) *"BrAC" means the breath alcohol concentration expressed as*  
23 *weight divided by volume, based upon grams of alcohol per 210 liters of*  
24 *breath;*

25 (D) *"BrAC fail" means the ignition interlock device registers a BrAC*  
26 *value equal to or greater than the alcohol setpoint, as defined in rules and*  
27 *regulations adopted by the secretary of revenue, when the intended driver*  
28 *conducts an initial test or retest;*

29 (E) *"high BrAC" means a BrAC fail result that registers an alcohol*  
30 *setpoint of 0.08 or greater; and*

31 (F) *"rolling retest" means a breath test that is required after the*  
32 *initial engine start-up breath test and while the engine is running.*

33 (e) *Except as provided further, any person whose license is restricted*  
34 *to operating only a motor vehicle with an ignition interlock device*  
35 *installed may operate an employer's vehicle without an ignition interlock*  
36 *device installed during normal business activities, provided that the person*  
37 *does not partly or entirely own or control the employer's vehicle or*  
38 *business. The provisions of this subsection shall not apply to any person*  
39 *whose driving privileges have been restricted for the remainder of the one-*  
40 *year suspension period as provided in subsection (a)(1) or (a)(3).*

41 (f) *Upon expiration of the ~~period of time for which restrictions are~~*  
42 *imposed pursuant to this section applicable ignition interlock period*  
43 *required by law and completion of the ignition interlock device program*

1 *as described in subsection (d)*, the licensee may apply to the division for  
2 the return of any license previously surrendered by the licensee. If the  
3 license has expired, the person may apply to the division for a new license,  
4 which shall be issued by the division upon payment of the proper fee and  
5 satisfaction of the other conditions established by law, unless the person's  
6 driving privileges have been suspended or revoked prior to expiration.

7 (g) Any person who has had the person's driving privileges  
8 suspended, restricted or revoked pursuant to K.S.A. 8-1014(a), (b) or (c),  
9 prior to the amendments by section 16 of chapter 172 of the 2012 Session  
10 Laws of Kansas and section 14 of chapter 105 of the 2011 Session Laws of  
11 Kansas, may apply to the division to have the suspension, restriction or  
12 revocation penalties modified in conformity with the provisions of K.S.A.  
13 8-1014(a), (b) or (c), and amendments thereto. The division shall assess an  
14 application fee of \$100 for a person to apply to modify the suspension,  
15 restriction or revocation penalties previously issued. The division shall  
16 modify the suspension, restriction or revocation penalties, unless such  
17 person's driving privileges have been restricted, suspended, revoked or  
18 disqualified pursuant to another action by the division or a court.

19 (h) The division shall remit all application fees collected pursuant to  
20 subsections (a) and (g) to the state treasurer in accordance with the  
21 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
22 each such remittance, the state treasurer shall deposit the entire amount in  
23 the state treasury and shall credit such moneys to the division of vehicles  
24 operating fund until an aggregate amount of \$100,000 is credited to the  
25 division of vehicles operating fund each fiscal year. On and after an  
26 aggregate amount of \$100,000 is credited to such fund each fiscal year, the  
27 entire amount of such remittance shall be credited to the community  
28 corrections supervision fund created by K.S.A. 75-52,113, and  
29 amendments thereto. The application fee established in this section shall  
30 be the only fee collected or moneys in the nature of a fee collected for such  
31 application. Such fee shall only be established by an act of the legislature  
32 and no other authority is established by law or otherwise to collect a fee.

33 Sec. 6. K.S.A. 8-1016 is hereby amended to read as follows: 8-1016.

34 (a) The secretary of revenue ~~may~~ shall adopt rules and regulations **prior to**  
35 **March 1, 2022**, for:

36 (1) The approval by the division of models and classes of ignition  
37 interlock devices suitable for use by persons whose driving privileges have  
38 been restricted to driving a vehicle equipped with such a device;

39 (2) the calibration and maintenance of such devices, which shall be  
40 the responsibility of the manufacturer; ~~and~~

41 (3) ensuring that each manufacturer ~~approved~~ provides a reasonable  
42 statewide service network where such devices may be obtained, repaired,  
43 replaced or serviced and such service network can be accessed 24 hours

1 per day through a toll-free phone service;

2 (4) *the requirements for proper use and maintenance of a certified*  
3 *ignition interlock device by a person during any time period the person's*  
4 *license is restricted by the division to only operating a motor vehicle with*  
5 *an ignition interlock device installed;*

6 (5) *the reporting requirements for the manufacturer to the division*  
7 *relating to a person's proper use and maintenance of a certified ignition*  
8 *interlock device; and*

9 (6) *the requirements and guidelines for receiving reduced ignition*  
10 *interlock device program costs pursuant to subsection (e).*

11 (b) In adopting rules and regulations for approval of ignition interlock  
12 devices under this section, the secretary of revenue shall require that the  
13 manufacturer or the manufacturer's representatives calibrate and maintain  
14 the devices at intervals not to exceed 60 days. Calibration and maintenance  
15 shall include, but not be limited to: Physical inspection of the device, the  
16 vehicle and wiring of the device to the vehicle for signs of tampering;;  
17 calibration of the device and downloading of all data contained within the  
18 device's memory; and reporting of any violation or noncompliance to the  
19 division.

20 ~~(4) The division shall adopt by rules and regulations participant~~  
21 ~~requirements for proper use and maintenance of a certified ignition~~  
22 ~~interlock device during any time period the person's license is restricted by~~  
23 ~~the division to only operating a motor vehicle with an ignition interlock~~  
24 ~~device installed and by rules and regulations the reporting requirements of~~  
25 ~~the approved manufacturer to the division relating to the person's proper~~  
26 ~~use and maintenance of a certified ignition interlock device.~~

27 ~~(5) The division shall require that each manufacturer provide a credit~~  
28 ~~of at least 2% of the gross program revenues in the state as a credit for~~  
29 ~~those persons who have otherwise qualified to obtain an ignition interlock~~  
30 ~~restricted license under this act who are indigent as evidenced by~~  
31 ~~qualification and eligibility for the federal food stamp program.~~

32 ~~(b)(c) (1) If the division approves an ignition interlock device in~~  
33 ~~accordance with rules and regulations adopted under this section, the~~  
34 ~~division shall give written notice of the approval to the manufacturer of the~~  
35 ~~device. Such notice shall be admissible in any civil or criminal proceeding~~  
36 ~~in this state.~~

37 ~~(e)(2) The manufacturer of an ignition interlock device shall~~  
38 ~~reimburse the division for any cost incurred in approving or disapproving~~  
39 ~~such device under this section.~~

40 (d) Neither the state nor any agency, officer or employee thereof shall  
41 be liable in any civil or criminal proceeding arising out of the use of an  
42 ignition interlock device approved under this section.

43 (e) (1) *Any person whose license is restricted to operating only a*

1 motor vehicle with an ignition interlock device installed may request  
 2 reduced ignition interlock device program costs by submitting a request to  
 3 the division in a form and manner prescribed by the division. The division  
 4 shall review each request submitted pursuant to this subsection to  
 5 determine whether the person is eligible for reduced ignition interlock  
 6 device program costs. A person shall be eligible for reduced ignition  
 7 interlock device program costs if the:

8 (A) Person's annual household income is less than or equal to ~~300%~~  
 9 **150%** of the federal poverty level;

10 (B) person is enrolled in the food assistance, child care subsidy or  
 11 cash assistance program pursuant to K.S.A. 39-709, and amendments  
 12 thereto; or

13 (C) person is currently eligible for the low income energy assistance  
 14 program as determined by the department for children and families.

15 (2) If the division determines that the person is eligible for reduced  
 16 ignition interlock device program costs, the person shall be responsible  
 17 for paying ~~the following amounts, and~~ **50% of the program costs**. The  
 18 manufacturer providing the person's device shall adjust the manufacturer's  
 19 charge for services accordingly:

20 ~~(A) Except as provided in subsection (e)(2)(B), for a person whose~~  
 21 ~~household income is less than or equal to:~~

22 ~~(i) 300% but greater than 200% of the federal poverty level, 90% of~~  
 23 ~~the program costs;~~

24 ~~(ii) 200% but greater than 150% of the federal poverty level, 75% of~~  
 25 ~~the program costs;~~

26 ~~(iii) 150% but greater than 100% of the federal poverty level, 50% of~~  
 27 ~~the program costs; and~~

28 ~~(iv) 100% of the federal poverty level, 25% of the program costs; and~~

29 ~~(B) for a person who is enrolled in the food assistance, child care~~  
 30 ~~subsidy or cash assistance program pursuant to K.S.A. 39-709, and~~  
 31 ~~amendments thereto, or currently eligible for the low income energy~~  
 32 ~~assistance program as determined by the department for children and~~  
 33 ~~families, 25% of the program costs.~~

34 (f) As used in this section, "federal poverty level" means the most  
 35 recent poverty income guidelines published in the calendar year by the  
 36 United States department of health and human services.

37 Sec. 7. K.S.A. 2020 Supp. 8-1567 is hereby amended to read as  
 38 follows: 8-1567. (a) Driving under the influence is operating or attempting  
 39 to operate any vehicle within this state while:

40 (1) The alcohol concentration in the person's blood or breath as  
 41 shown by any competent evidence, including other competent evidence, as  
 42 defined in K.S.A. 8-1013(f)(1), and amendments thereto, is 0.08 or more;

43 (2) the alcohol concentration in the person's blood or breath, as

1 measured within three hours of the time of operating or attempting to  
2 operate a vehicle, is 0.08 or more;

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

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

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

10 (b) (1) Driving under the influence is:

11 (A) On a first conviction, a class B, nonperson misdemeanor. The  
12 person convicted shall be sentenced to not less than 48 consecutive hours  
13 nor more than six months' imprisonment, or in the court's discretion 100  
14 hours of public service, and fined not less than \$750 nor more than \$1,000.  
15 ~~The person convicted shall serve at least 48 consecutive hours'~~  
16 ~~imprisonment or 100 hours of public service either before or as a condition~~  
17 ~~of any grant of probation or suspension, reduction of sentence or parole.~~  
18 ~~The court may place the person convicted under a house arrest program~~  
19 ~~pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto, to serve~~  
20 ~~the remainder of the sentence only after such person has served 48~~  
21 ~~consecutive hours' imprisonment;~~

22 (B) on a second conviction, a class A, nonperson misdemeanor. The  
23 person convicted shall be sentenced to not less than 90 days nor more than  
24 one year's imprisonment and fined not less than \$1,250 nor more than  
25 \$1,750. ~~The person convicted shall serve at least five consecutive days'~~  
26 ~~imprisonment before the person is granted probation, suspension or~~  
27 ~~reduction of sentence or parole or is otherwise released. The five days'~~  
28 ~~imprisonment mandated by this subsection may be served in a work~~  
29 ~~release program only after such person has served 48 consecutive hours'~~  
30 ~~imprisonment, provided such work release program requires such person~~  
31 ~~to return to confinement at the end of each day in the work release~~  
32 ~~program. The person convicted, if placed into a work release program,~~  
33 ~~shall serve a minimum of 120 hours of confinement. Such 120 hours of~~  
34 ~~confinement shall be a period of at least 48 consecutive hours of~~  
35 ~~imprisonment followed by confinement hours at the end of and continuing~~  
36 ~~to the beginning of the offender's work day. The court may place the~~  
37 ~~person convicted under a house arrest program pursuant to K.S.A. 2020~~  
38 ~~Supp. 21-6609, and amendments thereto, to serve the five days'~~  
39 ~~imprisonment mandated by this subsection only after such person has~~  
40 ~~served 48 consecutive hours' imprisonment. The person convicted, if~~  
41 ~~placed under house arrest, shall be monitored by an electronic monitoring~~  
42 ~~device, which verifies the offender's location. The offender shall serve a~~  
43 ~~minimum of 120 hours of confinement within the boundaries of the~~

1 offender's residence. Any exceptions to remaining within the boundaries of  
2 the offender's residence provided for in the house arrest agreement shall  
3 not be counted as part of the 120 hours; *The following conditions shall*  
4 *apply to such sentence:*

5 (i) *As a condition of any probation granted under this subsection, the*  
6 *person shall serve at least 120 hours of confinement. The hours of*  
7 *confinement shall include at least 48 hours of imprisonment and otherwise*  
8 *may be served by a combination of: Imprisonment; a work release*  
9 *program, provided such work release program requires such person to*  
10 *return to the confinement at the end of each day in the work release*  
11 *program; or a house arrest program pursuant to K.S.A. 2020 Supp. 21-*  
12 *6609, and amendments thereto;*

13 (ii) (a) *if the person is placed into a work release program or placed*  
14 *under a house arrest program for any portion of the minimum 120 hours*  
15 *of confinement mandated by this subsection, the person shall receive hour-*  
16 *for-hour credit for time served in such program until the minimum*  
17 *sentence is met. If the person is placed into a work release program or*  
18 *placed under a house arrest program for more than the minimum 120*  
19 *hours of confinement mandated by this subsection, the person shall*  
20 *receive hour-for-hour credit for time served in such program until the*  
21 *minimum 120 hours of confinement is complete and thereafter, the person*  
22 *shall receive day-for-day credit for time served in such program unless*  
23 *otherwise ordered by the court; and*

24 (b) *when in a work release program, the person shall only be given*  
25 *credit for the time served in confinement at the end of and continuing to*  
26 *the beginning of the person's work day. When under a house arrest*  
27 *program, the person shall be monitored by an electronic monitoring*  
28 *device that verifies the person's location and shall only be given credit for*  
29 *the time served within the boundaries of the person's residence;*

30 (C) *on a third conviction, a class A, nonperson misdemeanor, except*  
31 *as provided in subsection (b)(1)(D). The person convicted shall be*  
32 *sentenced to not less than 90 days nor more than one year's imprisonment*  
33 *and fined not less than \$1,750 nor more than \$2,500. The person convicted*  
34 *shall not be eligible for release on probation, suspension or reduction of*  
35 *sentence or parole until the person has served at least 90 days'*  
36 *imprisonment. The 90 days' imprisonment mandated by this subsection*  
37 *may be served in a work release program only after such person has served*  
38 *48 consecutive hours' imprisonment, provided such work release program*  
39 *requires such person to return to confinement at the end of each day in the*  
40 *work release program. The person convicted, if placed into a work release*  
41 *program, shall serve a minimum of 2,160 hours of confinement. Such*  
42 *2,160 hours of confinement shall be a period of at least 48 consecutive*  
43 *hours of imprisonment followed by confinement hours at the end of and*

1 continuing to the beginning of the offender's work day. The court may  
2 place the person convicted under a house arrest program pursuant to  
3 K.S.A. 2020 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
4 imprisonment mandated by this subsection only after such person has  
5 served 48 consecutive hours' imprisonment. The person convicted, if  
6 placed under house arrest, shall be monitored by an electronic monitoring  
7 device, which verifies the offender's location. The offender shall serve a  
8 minimum of 2,160 hours of confinement within the boundaries of the  
9 offender's residence. Any exceptions to remaining within the boundaries of  
10 the offender's residence provided for in the house arrest agreement shall  
11 not be counted as part of the 2,160 hours; *The following conditions shall*  
12 *apply to such sentence:*

13 (i) *As a condition of any probation granted under this subsection, the*  
14 *person shall serve at least 30 days of confinement. After at least 48*  
15 *consecutive hours of imprisonment, the remainder of the period of*  
16 *confinement may be served by a combination of: Imprisonment; a work*  
17 *release program, provided such work release program requires such*  
18 *person to return to the confinement at the end of each day in the work*  
19 *release program; or a house arrest program pursuant to K.S.A. 2020*  
20 *Supp. 21-6609, and amendments thereto; and*

21 (ii) (a) *if the person is placed into a work release program or placed*  
22 *under a house arrest program for any portion of the minimum 30 days of*  
23 *confinement mandated by this subsection, the person shall receive hour-*  
24 *for-hour credit for time served in such program for the first 240 hours of*  
25 *confinement, and thereafter, the person shall receive ~~day-for-day credit~~*  
26 *day-for-day credit for time served in such program unless otherwise*  
27 *ordered by the court; and*

28 (b) *when in a work release program, the person shall only be given*  
29 *credit for the time served in confinement at the end of and continuing to*  
30 *the beginning of the person's work day. When under a house arrest*  
31 *program, the person shall be monitored by an electronic monitoring*  
32 *device that verifies the person's location and shall only be given credit for*  
33 *the time served within the boundaries of the person's residence;*

34 (D) on a third conviction, a severity level 6, nonperson felony if the  
35 person has a prior conviction which occurred within the preceding 10  
36 years, not including any period of incarceration. ~~The person convicted~~  
37 ~~shall be sentenced to not less than 90 days nor more than one year's~~  
38 ~~imprisonment and fined not less than \$1,750 nor more than \$2,500. The~~  
39 ~~person convicted shall not be eligible for release on probation, suspension~~  
40 ~~or reduction of sentence or parole until the person has served at least 90~~  
41 ~~days' imprisonment. The 90 days' imprisonment mandated by this~~  
42 ~~subsection may be served in a work release program only after such person~~  
43 ~~has served 48 consecutive hours' imprisonment, provided such work~~

1 release program requires such person to return to confinement at the end of  
2 each day in the work release program. The person convicted, if placed into  
3 a work release program, shall serve a minimum of 2,160 hours of  
4 confinement. Such 2,160 hours of confinement shall be a period of at least  
5 48 consecutive hours of imprisonment followed by confinement hours at  
6 the end of and continuing to the beginning of the offender's work day. The  
7 court may place the person convicted under a house arrest program  
8 pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto, to serve  
9 the 90 days' imprisonment mandated by this subsection only after such  
10 person has served 48 consecutive hours' imprisonment. The person  
11 convicted, if placed under house arrest, shall be monitored by an electronic  
12 monitoring device, which verifies the offender's location. The offender  
13 shall serve a minimum of 2,160 hours of confinement within the  
14 boundaries of the offender's residence. Any exceptions to remaining within  
15 the boundaries of the offender's residence provided for in the house arrest  
16 agreement shall not be counted as part of the 2,160 hours. *The following*  
17 *conditions shall apply to such sentence:*

18 *(i) As a condition of any probation granted under this subsection,*  
19 *the person shall serve at least 30 days of confinement. After at least 48*  
20 *consecutive hours of imprisonment, the remainder of the period of*  
21 *confinement may be served by a combination of: Imprisonment; a work*  
22 *release program, provided such work release program requires such*  
23 *person to return to the confinement at the end of each day in the work*  
24 *release program; or a house arrest program pursuant to K.S.A. 2020*  
25 *Supp. 21-6609, and amendments thereto; and*

26 *(ii) (a) if the person is placed into a work release program or placed*  
27 *under a house arrest program for any portion of the minimum 30 days*  
28 *of confinement mandated by this subsection, the person shall receive*  
29 *hour-for-hour credit for time served in such program for the first 240*  
30 *hours of confinement, and thereafter, the person shall receive day-for-*  
31 *day credit for time served in such program unless otherwise ordered by*  
32 *the court; and*

33 *(b) when in a work release program, the person shall only be given*  
34 *credit for the time served in confinement at the end of and continuing to*  
35 *the beginning of the person's work day. When under a house arrest*  
36 *program, the person shall be monitored by an electronic monitoring*  
37 *device that verifies the person's location and shall only be given credit*  
38 *for the time served within the boundaries of the person's residence; and*

39 (E) on a fourth or subsequent conviction, a severity level 6, nonperson  
40 felony. The person convicted shall be sentenced to not less than 90 days  
41 nor more than one year's imprisonment and fined \$2,500. The person  
42 convicted shall not be eligible for release on probation, suspension or  
43 reduction of sentence or parole until the person has served at least 90 days'

1 imprisonment. The 90 days' imprisonment mandated by this subsection  
2 may be served in a work release program only after such person has served  
3 72 consecutive hours' imprisonment, provided such work release program  
4 requires such person to return to confinement at the end of each day in the  
5 work release program. The person convicted, if placed into a work release  
6 program, shall serve a minimum of 2,160 hours of confinement. Such  
7 2,160 hours of confinement shall be a period of at least 72 consecutive  
8 hours of imprisonment followed by confinement hours at the end of and  
9 continuing to the beginning of the offender's work day. The court may  
10 place the person convicted under a house arrest program pursuant to  
11 K.S.A. 2020 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
12 imprisonment mandated by this subsection only after such person has  
13 served 72 consecutive hours' imprisonment. The person convicted, if  
14 placed under house arrest, shall be monitored by an electronic monitoring  
15 device, which verifies the offender's location. The offender shall serve a  
16 minimum of 2,160 hours of confinement within the boundaries of the  
17 offender's residence. Any exceptions to remaining within the boundaries of  
18 the offender's residence provided for in the house arrest agreement shall  
19 not be counted as part of the 2,160 hours. *The following conditions shall*  
20 *apply to such sentence:*

21 *(i) As a condition of any probation granted under this subsection,*  
22 *the person shall serve at least 30 days of confinement. After at least 48*  
23 *consecutive hours of imprisonment, the remainder of the period of*  
24 *confinement may be served by a combination of: Imprisonment; a work*  
25 *release program, provided such work release program requires such*  
26 *person to return to the confinement at the end of each day in the work*  
27 *release program; or a house arrest program pursuant to K.S.A. 2020*  
28 *Supp. 21-6609, and amendments thereto; and*

29 *(ii) (a) if the person is placed into a work release program or placed*  
30 *under a house arrest program for any portion of the minimum 30 days*  
31 *of confinement mandated by this subsection, the person shall receive*  
32 *hour-for-hour credit for time served in such program for the first 240*  
33 *hours of confinement, and thereafter, the person shall receive day-for-*  
34 *day credit for time served in such program unless otherwise ordered by*  
35 *the court; and*

36 *(b) when in a work release program, the person shall only be given*  
37 *credit for the time served in confinement at the end of and continuing to*  
38 *the beginning of the person's work day. When under a house arrest*  
39 *program, the person shall be monitored by an electronic monitoring*  
40 *device that verifies the person's location and shall only be given credit*  
41 *for the time served within the boundaries of the person's residence.*

42 (2) The court may order that the term of imprisonment imposed  
43 pursuant to subsection (b)(1)(D) or (b)(1)(E) be served in a state facility in

1 the custody of the secretary of corrections in a facility designated by the  
2 secretary for the provision of substance abuse treatment pursuant to the  
3 provisions of K.S.A. 2020 Supp. 21-6804, and amendments thereto. ~~The~~  
4 ~~person shall remain imprisoned at the state facility only while participating~~  
5 ~~in the substance abuse treatment program designated by the secretary and~~  
6 ~~shall be returned to the custody of the sheriff for execution of the balance~~  
7 ~~of the term of imprisonment upon completion of or the person's discharge~~  
8 ~~from the substance abuse treatment program. Custody of the person shall~~  
9 ~~be returned to the sheriff for execution of the sentence imposed in the~~  
10 ~~event~~ The secretary of corrections *may refuse to admit the person to the*  
11 *designated facility and place the person in a different state facility, or*  
12 *admit the person and subsequently transfer the person to a different state*  
13 *facility, if the secretary determines: (A) That substance abuse treatment*  
14 *resources or the capacity of the facility designated by the secretary for the*  
15 *incarceration and treatment of the person is not available; (B) the person*  
16 ~~fails~~ *has failed* to meaningfully participate in the treatment program of the  
17 designated facility; (C) the person is disruptive to the security or operation  
18 of the designated facility; or (D) the medical or mental health condition of  
19 the person renders the person unsuitable for confinement at the designated  
20 facility. The determination by the secretary that the person either is not to  
21 be admitted into the designated facility or is to be transferred from the  
22 designated facility is not subject to review. ~~The sheriff shall be responsible~~  
23 ~~for all transportation expenses to and from the state correctional facility.~~

24 (3) In addition, for any conviction pursuant to subsection (b)(1)(C)-  
25 ~~or (b)(1)(D) or (b)(1)(E)~~, at the time of the filing of the judgment form or  
26 journal entry as required by K.S.A. 22-3426 or K.S.A. 2020 Supp. 21-  
27 6711, and amendments thereto, the court shall cause a certified copy to be  
28 sent to the officer having the offender in charge. The court shall determine  
29 whether the offender, upon release from imprisonment, shall be supervised  
30 by community correctional services or court services based upon the risk  
31 and needs of the offender. The risk and needs of the offender shall be  
32 determined by use of a risk assessment tool specified by the Kansas  
33 sentencing commission. The law enforcement agency maintaining custody  
34 and control of a defendant for imprisonment shall cause a certified copy of  
35 the judgment form or journal entry to be sent to the supervision office  
36 designated by the court and upon expiration of the term of imprisonment  
37 shall deliver the defendant to a location designated by the supervision  
38 office designated by the court. After the term of imprisonment imposed by  
39 the court, the person shall be placed on supervision to community  
40 correctional services or court services, as determined by the court, for a  
41 mandatory one-year period of supervision, which such period of  
42 supervision shall not be reduced. During such supervision, the person shall  
43 be required to participate in a multidisciplinary model of services for

1 substance use disorders facilitated by a Kansas department for aging and  
2 disability services designated care coordination agency to include  
3 assessment and, if appropriate, referral to a community based substance  
4 use disorder treatment including recovery management and mental health  
5 counseling as needed. The multidisciplinary team shall include the  
6 designated care coordination agency, the supervision officer, the Kansas  
7 department for aging and disability services designated treatment provider  
8 and the offender. An offender for whom a warrant has been issued by the  
9 court alleging a violation of this supervision shall be considered a fugitive  
10 from justice if it is found that the warrant cannot be served. If it is found  
11 the offender has violated the provisions of this supervision, the court shall  
12 determine whether the time from the issuing of the warrant to the date of  
13 the court's determination of an alleged violation, or any part of it, shall be  
14 counted as time served on supervision. Any violation of the conditions of  
15 such supervision may subject such person to revocation of supervision and  
16 imprisonment in jail for the remainder of the period of imprisonment, the  
17 remainder of the supervision period, or any combination or portion  
18 thereof. The term of supervision may be extended at the court's discretion  
19 beyond one year, and any violation of the conditions of such extended term  
20 of supervision may subject such person to the revocation of supervision  
21 and imprisonment in jail of up to the remainder of the original sentence,  
22 not the term of the extended supervision.

23 (4) In addition, prior to sentencing for any conviction pursuant to  
24 subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to  
25 participate in an alcohol and drug evaluation conducted by a provider in  
26 accordance with K.S.A. 8-1008, and amendments thereto. The person shall  
27 be required to follow any recommendation made by the provider after such  
28 evaluation, unless otherwise ordered by the court.

29 (c) Any person 18 years of age or older convicted of violating this  
30 section or an ordinance which prohibits the acts that this section prohibits  
31 who had one or more children under the age of 18 years in the vehicle at  
32 the time of the offense shall have such person's punishment enhanced by  
33 one month of imprisonment. This imprisonment must be served  
34 consecutively to any other minimum mandatory penalty imposed for a  
35 violation of this section or an ordinance which prohibits the acts that this  
36 section prohibits. Any enhanced penalty imposed shall not exceed the  
37 maximum sentence allowable by law. During the service of the enhanced  
38 penalty, the judge may order the person on house arrest, work release or  
39 other conditional release.

40 (d) If a person is charged with a violation of subsection (a)(4) or (a)  
41 (5), the fact that the person is or has been entitled to use the drug under the  
42 laws of this state shall not constitute a defense against the charge.

43 (e) The court may establish the terms and time for payment of any

1 fines, fees, assessments and costs imposed pursuant to this section. Any  
2 assessment and costs shall be required to be paid not later than 90 days  
3 after imposed, and any remainder of the fine shall be paid prior to the final  
4 release of the defendant by the court.

5 (f) (1) In lieu of payment of a fine imposed pursuant to this section,  
6 the court may order that the person perform community service specified  
7 by the court. The person shall receive a credit on the fine imposed in an  
8 amount equal to \$5 for each full hour spent by the person in the specified  
9 community service. The community service ordered by the court shall be  
10 required to be performed not later than one year after the fine is imposed  
11 or by an earlier date specified by the court. If by the required date the  
12 person performs an insufficient amount of community service to reduce to  
13 zero the portion of the fine required to be paid by the person, the  
14 remaining balance of the fine shall become due on that date.

15 (2) *The court may, in its discretion, waive any portion of a fine*  
16 *imposed pursuant to this section, except the \$250 required to be remitted*  
17 *to the state treasurer pursuant to subsection (q)(2), upon a showing that*  
18 *the person successfully completed court-ordered education or treatment.*

19 (g) Prior to filing a complaint alleging a violation of this section, a  
20 prosecutor shall request and shall receive from the:

21 (1) Division a record of all prior convictions obtained against such  
22 person for any violations of any of the motor vehicle laws of this state; and

23 (2) Kansas bureau of investigation central repository all criminal  
24 history record information concerning such person.

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

33 (i) 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) Convictions for a violation of this section, or a violation of an  
37 ordinance of any city or resolution of any county that prohibits the acts  
38 that this section prohibits, or entering into a diversion agreement in lieu of  
39 further criminal proceedings on a complaint alleging any such violations,  
40 shall be taken into account, but only convictions or diversions occurring  
41 on or after July 1, 2001. Nothing in this provision shall be construed as  
42 preventing any court from considering any convictions or diversions  
43 occurring during the person's lifetime in determining the sentence to be

1 imposed within the limits provided for a first, second, third, fourth or  
2 subsequent offense;

3 (2) any convictions for a violation of the following sections occurring  
4 during a person's lifetime shall be taken into account:

5 (A) Driving a commercial motor vehicle under the influence, K.S.A.  
6 8-2,144, and amendments thereto;

7 (B) operating a vessel under the influence of alcohol or drugs, K.S.A.  
8 32-1131, and amendments thereto;

9 (C) involuntary manslaughter while driving under the influence of  
10 alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 2020 Supp.  
11 21-5405(a)(3) or (a)(5), and amendments thereto;

12 (D) aggravated battery as described in K.S.A. 2020 Supp. 21-5413(b)  
13 (3) or (b)(4), and amendments thereto; and

14 (E) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its  
15 repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the  
16 crime was committed while committing a violation of K.S.A. 8-1567, and  
17 amendments thereto;

18 (3) "conviction" includes:

19 (A) Entering into a diversion agreement in lieu of further criminal  
20 proceedings on a complaint alleging an offense described in subsection (i)  
21 (2); and

22 (B) conviction of a violation of an ordinance of a city in this state, a  
23 resolution of a county in this state or any law of another jurisdiction that  
24 would constitute an offense that is comparable to the offense described in  
25 subsection (i)(1) or (i)(2);

26 (4) multiple convictions of any crime described in subsection (i)(1) or  
27 (i)(2) arising from the same arrest shall only be counted as one conviction;

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

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

34 (j) For the purposes of determining whether an offense is comparable,  
35 the following shall be considered:

36 (1) The name of the out-of-jurisdiction offense;

37 (2) the elements of the out-of-jurisdiction offense; and

38 (3) whether the out-of-jurisdiction offense prohibits similar conduct  
39 to the conduct prohibited by the closest approximate Kansas offense.

40 (k) Upon conviction of a person of a violation of this section or a  
41 violation of a city ordinance or county resolution prohibiting the acts  
42 prohibited by this section, the division, upon receiving a report of  
43 conviction, shall suspend, restrict or suspend and restrict the person's

1 driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

2 (1) (1) Nothing contained in this section shall be construed as  
3 preventing any city from enacting ordinances, or any county from adopting  
4 resolutions, declaring acts prohibited or made unlawful by this act as  
5 unlawful or prohibited in such city or county and prescribing penalties for  
6 violation thereof.

7 (2) The minimum penalty prescribed by any such ordinance or  
8 resolution shall not be less than the minimum penalty prescribed by this  
9 section for the same violation, and the maximum penalty in any such  
10 ordinance or resolution shall not exceed the maximum penalty prescribed  
11 for the same violation.

12 (3) On and after July 1, 2007, and retroactive for ordinance violations  
13 committed on or after July 1, 2006, an ordinance may grant to a municipal  
14 court jurisdiction over a violation of such ordinance which is concurrent  
15 with the jurisdiction of the district court over a violation of this section,  
16 notwithstanding that the elements of such ordinance violation are the same  
17 as the elements of a violation of this section that would constitute, and be  
18 punished as, a felony.

19 (4) Any such ordinance or resolution shall authorize the court to order  
20 that the convicted person pay restitution to any victim who suffered loss  
21 due to the violation for which the person was convicted.

22 (m) (1) Upon the filing of a complaint, citation or notice to appear  
23 alleging a person has violated a city ordinance prohibiting the acts  
24 prohibited by this section, and prior to conviction thereof, a city attorney  
25 shall request and shall receive from the:

26 (A) Division a record of all prior convictions obtained against such  
27 person for any violations of any of the motor vehicle laws of this state; and

28 (B) Kansas bureau of investigation central repository all criminal  
29 history record information concerning such person.

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

34 (n) No plea bargaining agreement shall be entered into nor shall any  
35 judge approve a plea bargaining agreement entered into for the purpose of  
36 permitting a person charged with a violation of this section, or a violation  
37 of any ordinance of a city or resolution of any county in this state which  
38 prohibits the acts prohibited by this section, to avoid the mandatory  
39 penalties established by this section or by the ordinance. For the purpose  
40 of this subsection, entering into a diversion agreement pursuant to K.S.A.  
41 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not  
42 constitute plea bargaining. *This subsection shall not be construed to*  
43 *prohibit an amendment or dismissal of any charge where the admissible*

1 *evidence is not sufficient to support a conviction beyond a reasonable*  
2 *doubt on such charge.*

3 (o) The alternatives set out in subsection (a) may be pleaded in the  
4 alternative, and the state, city or county may, but shall not be required to,  
5 elect one or more of such alternatives prior to submission of the case to the  
6 fact finder.

7 (p) As used in this section:

8 (1) "Alcohol concentration" means the number of grams of alcohol  
9 per 100 milliliters of blood or per 210 liters of breath;

10 (2) "imprisonment" ~~shall include~~ *includes* any restrained environment  
11 in which the court and law enforcement agency intend to retain custody  
12 and control of a defendant and such environment has been approved by the  
13 board of county commissioners or the governing body of a city; and

14 (3) "drug" includes toxic vapors as such term is defined in K.S.A.  
15 2020 Supp. 21-5712, and amendments thereto.

16 (q) (1) The amount of the increase in fines as specified in this section  
17 shall be remitted by the clerk of the district court to the state treasurer in  
18 accordance with the provisions of K.S.A. 75-4215, and amendments  
19 thereto. Upon receipt of remittance of the increase provided in this act, the  
20 state treasurer shall deposit the entire amount in the state treasury and the  
21 state treasurer shall credit 50% to the community alcoholism and  
22 intoxication programs fund and 50% to the department of corrections  
23 alcohol and drug abuse treatment fund, which is hereby created in the state  
24 treasury.

25 (2) On and after July 1, 2011, the amount of \$250 from each fine  
26 imposed pursuant to this section shall be remitted by the clerk of the  
27 district court to the state treasurer in accordance with the provisions of  
28 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
29 remittance, the state treasurer shall credit the entire amount to the  
30 community corrections supervision fund established by K.S.A. 75-52,113,  
31 and amendments thereto.

32 Sec. 8. K.S.A. 2020 Supp. 8-1567a is hereby amended to read as  
33 follows: 8-1567a. (a) It shall be unlawful for any person less than 21 years  
34 of age to operate or attempt to operate a vehicle in this state with a breath  
35 or blood alcohol content of .02 or greater.

36 (b) Whenever a law enforcement officer determines that a breath or  
37 blood alcohol test is to be required of a person less than 21 years of age  
38 pursuant to K.S.A. 8-1001 or K.S.A. 8-2,142, and amendments thereto, in  
39 addition to any other notices required by law, the law enforcement officer  
40 shall provide written and oral notice that:

41 (1) It is unlawful for any person less than 21 years of age to operate  
42 or attempt to operate a vehicle in this state with a breath or blood alcohol  
43 content of .02 or greater; and

1 (2) if the person is less than 21 years of age at the time of the test  
2 request and submits to and completes the test or tests and the test results  
3 show an alcohol concentration of .02 or greater, but less than .08, on the  
4 person's first occurrence, the person's driving privileges will be suspended  
5 for 30 days and on the person's second or subsequent occurrence, the  
6 person's driving privileges shall be suspended for one year.

7 (c) Any suspension and restriction of driving privileges pursuant to  
8 this section shall be in addition to any disqualification from driving a  
9 commercial motor vehicle pursuant to K.S.A. 8-2,142, and amendments  
10 thereto.

11 (d) Whenever a breath or blood alcohol test is requested pursuant to  
12 K.S.A. 8-1001, and amendments thereto, from a person less than 21 years  
13 of age, and results in a test result of .02 or greater, but less than .08, a law  
14 enforcement officer's certification under this section shall be prepared. The  
15 certification required by this section shall be signed by one or more  
16 officers to certify that:

17 (1) (A) There existed reasonable grounds to believe the person was  
18 operating a vehicle while under the influence of alcohol or drugs, or both,  
19 or to believe that the person had been driving a commercial motor vehicle,  
20 as defined in K.S.A. 8-2,128, and amendments thereto, while having  
21 alcohol or other drugs in such person's system or was under the age of 21  
22 years and was operating or attempting to operate a vehicle while having  
23 alcohol or other drugs in such person's system;

24 (B) the person had been placed under arrest, was in custody or had  
25 been involved in a vehicle accident or collision;

26 (C) a law enforcement officer had presented the person with the oral  
27 and written notice required by K.S.A. 8-1001, and amendments thereto,  
28 and the oral and written notice required by this section;

29 (D) that the person was less than 21 years of age at the time of the  
30 test request; and

31 (E) the result of the test showed that the person had an alcohol  
32 concentration of .02 or greater in such person's blood or breath.

33 (2) With regard to a breath test, in addition to those matters required  
34 to be certified under subsection (d)(1), that:

35 (A) The testing equipment used was certified by the Kansas  
36 department of health and environment;

37 (B) the testing procedures used were in accordance with the  
38 requirements set out by the Kansas department of health and environment;  
39 and

40 (C) the person who operated the testing equipment was certified by  
41 the Kansas department of health and environment to operate such  
42 equipment.

43 (e) If a hearing is requested as a result of a law enforcement officer's

1 certification under this section, the scope of the hearing shall be limited to  
2 whether:

3 (1) A law enforcement officer had reasonable grounds to believe the  
4 person was operating a vehicle while under the influence of alcohol or  
5 drugs, or both, or to believe that the person had been driving a commercial  
6 motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto,  
7 while having alcohol or other drugs in such person's system or was under  
8 the age of 21 years and was operating or attempting to operate a vehicle  
9 while having alcohol or other drugs in such person's system;

10 (2) the person had been placed under arrest, was in custody or was  
11 involved in a motor vehicle accident or collision resulting in property  
12 damage, personal injury or death;

13 (3) a law enforcement officer had presented the person with the oral  
14 and written notice required by K.S.A. 8-1001, and amendments thereto,  
15 and the oral and written notice required by this section;

16 (4) the testing equipment used was reliable;

17 (5) the person who operated the testing equipment was qualified;

18 (6) the testing procedures used were reliable;

19 (7) the test result determined that the person had an alcohol  
20 concentration of .02 or greater in such person's blood or breath;

21 (8) the person was operating a vehicle; and

22 (9) the person was less than 21 years of age at the time a test was  
23 requested.

24 (f) If a person less than 21 years of age submits to a breath or blood  
25 alcohol test requested pursuant to K.S.A. 8-1001 or K.S.A. 8-2,142, and  
26 amendments thereto, and produces a test result of .02 or greater, but less  
27 than .08, on the person's first occurrence, the person's driving privileges  
28 shall be suspended for 30 days and then restricted as provided by K.S.A.  
29 8-1015, and amendments thereto, for an additional ~~330~~ 180 days, and on  
30 the person's second or subsequent occurrence, the person's driving  
31 privileges shall be suspended for one year.

32 (g) Except where there is a conflict between this section and K.S.A.  
33 8-1001 and 8-1002, and amendments thereto, the provisions of K.S.A. 8-  
34 1001 and 8-1002, and amendments thereto, shall be applicable to  
35 proceedings under this section.

36 (h) Any determination under this section that a person less than 21  
37 years of age had a test result of .02 or greater, but less than .08, and any  
38 resulting administrative action upon the person's driving privileges, upon  
39 the first occurrence of such test result and administrative action, shall not  
40 be considered by any insurance company in determining the rate charged  
41 for any automobile liability insurance policy or whether to cancel any such  
42 policy under the provisions of ~~subsection (4)(a) of~~ K.S.A. 40-277(4)(a),  
43 and amendments thereto.

1       Sec. 9. K.S.A. 2020 Supp. 12-4415 is hereby amended to read as  
2 follows: 12-4415. (a) In determining whether diversion of a defendant is in  
3 the interests of justice and of benefit to the defendant and the community,  
4 the city attorney shall consider at least the following factors among all  
5 factors considered:

6       (1) The nature of the crime charged and the circumstances  
7 surrounding it;

8       (2) any special characteristics or circumstances of the defendant;

9       (3) whether the defendant is a first-time offender of an alcohol related  
10 offense *as defined in K.S.A. 12-4413, and amendments thereto*, and if the  
11 defendant has previously participated in diversion, according to the  
12 certification of the division of vehicles of the state department of revenue;

13       (4) whether there is a probability that the defendant will cooperate  
14 with and benefit from diversion;

15       (5) whether there is a probability that the defendant committed such  
16 crime as a result of an injury, including major depressive disorder,  
17 polytrauma, post-traumatic stress disorder or traumatic brain injury,  
18 connected to service in a combat zone, as defined in section 112 of the  
19 federal internal revenue code of 1986, in the armed forces of the United  
20 States of America;

21       (6) if subsection (a)(5) applies to the defendant, whether there is a  
22 probability that the defendant will cooperate with and benefit from  
23 inpatient or outpatient treatment from any treatment facility or program  
24 operated by the United States department of defense, the United States  
25 department of veterans affairs or the Kansas national guard with the  
26 consent of the defendant, as a condition of diversion;

27       (7) whether the available diversion program is appropriate to the  
28 needs of the defendant;

29       (8) the impact of the diversion of the defendant upon the community;

30       (9) recommendations, if any, of the involved law enforcement  
31 agency;

32       (10) recommendations, if any, of the victim;

33       (11) provisions for restitution; and

34       (12) any mitigating circumstances.

35       (b) A city attorney shall not enter into a diversion agreement in lieu of  
36 further criminal proceedings on a complaint alleging an alcohol related  
37 offense *as defined in K.S.A. 12-4413, and amendments thereto*, if the  
38 defendant:

39       (1) Has previously participated in diversion of an alcohol related  
40 offense;

41       (2) has previously been convicted of or pleaded nolo contendere to an  
42 alcohol related offense in this state or has previously been convicted of or  
43 pleaded nolo contendere to a violation of K.S.A. 8-2,144 or 8-1567, and

1 amendments thereto, or of a law of another state, or of a political  
2 subdivision thereof, ~~which that~~ prohibits the acts prohibited by those  
3 statutes; or

4 (3) during the time of the alleged alcohol related offense was  
5 involved in a motor vehicle accident or collision resulting in personal  
6 injury *to another person* or death.

7 (c) *A city attorney shall not enter into a diversion agreement in lieu*  
8 *of further criminal proceedings on a complaint or traffic citation alleging*  
9 *a violation of an ordinance of any city or resolution of any county that*  
10 *prohibits the acts prohibited under chapter 8 of the Kansas Statutes*  
11 *Annotated, and amendments thereto, if the defendant was a commercial*  
12 *driver's license holder at the time the violation was committed or at any*  
13 *subsequent time prior to being considered for diversion.*

14 (d) *As used in this section, "major depressive disorder," "polytrauma,"*  
15 *"post-traumatic stress disorder" and "traumatic brain injury" shall mean*  
16 *the same as such terms are defined in K.S.A. 2020 Supp. 21-6630, and*  
17 *amendments thereto.*

18 ***Sec. 10. K.S.A. 2020 Supp. 21-6604 is hereby amended to read as***  
19 ***follows: 21-6604. (a) Whenever any person has been found guilty of a***  
20 ***crime, the court may adjudge any of the following:***

21 (1) *Commit the defendant to the custody of the secretary of*  
22 *corrections if the current crime of conviction is a felony and the*  
23 *sentence presumes imprisonment, or the sentence imposed is a*  
24 *dispositional departure to imprisonment; or, if confinement is for a*  
25 *misdemeanor, to jail for the term provided by law;*

26 (2) *impose the fine applicable to the offense and may impose the*  
27 *provisions of subsection (q);*

28 (3) *release the defendant on probation if the current crime of*  
29 *conviction and criminal history fall within a presumptive nonprison*  
30 *category or through a departure for substantial and compelling reasons*  
31 *subject to such conditions as the court may deem appropriate. In felony*  
32 *cases except for violations of K.S.A. 8-1567 or 8-2,144, and amendments*  
33 *thereto, the court may include confinement in a county jail not to exceed*  
34 *60 days, which need not be served consecutively, as a condition of an*  
35 *original probation sentence;*

36 (4) *assign the defendant to a community correctional services*  
37 *program as provided in K.S.A. 75-5291, and amendments thereto, or*  
38 *through a departure for substantial and compelling reasons subject to*  
39 *such conditions as the court may deem appropriate, including orders*  
40 *requiring full or partial restitution;*

41 (5) *assign the defendant to a conservation camp for a period not to*  
42 *exceed six months as a condition of probation followed by a six-month*  
43 *period of follow-up through adult intensive supervision by a community*

1 *correctional services program, if the offender successfully completes the*  
2 *conservation camp program;*

3 (6) *assign the defendant to a house arrest program pursuant to*  
4 *K.S.A. 2020 Supp. 21-6609, and amendments thereto;*

5 (7) *order the defendant to attend and satisfactorily complete an*  
6 *alcohol or drug education or training program as provided by K.S.A.*  
7 *2020 Supp. 21-6602(c), and amendments thereto;*

8 (8) *order the defendant to repay the amount of any reward paid by*  
9 *any crime stoppers chapter, individual, corporation or public entity that*  
10 *materially aided in the apprehension or conviction of the defendant;*  
11 *repay the amount of any costs and expenses incurred by any law*  
12 *enforcement agency in the apprehension of the defendant, if one of the*  
13 *current crimes of conviction of the defendant includes escape from*  
14 *custody or aggravated escape from custody, as defined in K.S.A. 2020*  
15 *Supp. 21-5911, and amendments thereto; repay expenses incurred by a*  
16 *fire district, fire department or fire company responding to a fire that*  
17 *has been determined to be arson or aggravated arson as defined in*  
18 *K.S.A. 2020 Supp. 21-5812, and amendments thereto, if the defendant is*  
19 *convicted of such crime; repay the amount of any public funds utilized*  
20 *by a law enforcement agency to purchase controlled substances from the*  
21 *defendant during the investigation that leads to the defendant's*  
22 *conviction; or repay the amount of any medical costs and expenses*  
23 *incurred by any law enforcement agency or county. Such repayment of*  
24 *the amount of any such costs and expenses incurred by a county, law*  
25 *enforcement agency, fire district, fire department or fire company or any*  
26 *public funds utilized by a law enforcement agency shall be deposited and*  
27 *credited to the same fund from which the public funds were credited to*  
28 *prior to use by the county, law enforcement agency, fire district, fire*  
29 *department or fire company;*

30 (9) *order the defendant to pay the administrative fee authorized by*  
31 *K.S.A. 22-4529, and amendments thereto, unless waived by the court;*

32 (10) *order the defendant to pay a domestic violence special program*  
33 *fee authorized by K.S.A. 20-369, and amendments thereto;*

34 (11) *if the defendant is convicted of a misdemeanor or convicted of*  
35 *a felony specified in K.S.A. 2020 Supp. 21-6804(i), and amendments*  
36 *thereto, assign the defendant to a work release program, other than a*  
37 *program at a correctional institution under the control of the secretary*  
38 *of corrections as defined in K.S.A. 75-5202, and amendments thereto,*  
39 *provided such work release program requires such defendant to return*  
40 *to confinement at the end of each day in the work release program. On a*  
41 *second or subsequent conviction of K.S.A. 8-1567, and amendments*  
42 *thereto, an offender placed into a work release program shall serve the*  
43 *total number of hours of confinement mandated by that section;*

1       ***(12) order the defendant to pay the full amount of unpaid costs***  
2 ***associated with the conditions of release of the appearance bond under***  
3 ***K.S.A. 22-2802, and amendments thereto;***

4       ***(13) impose any appropriate combination of (1), (2), (3), (4), (5),***  
5 ***(6), (7), (8), (9), (10), (11) and through (12); or***

6       ***(14) suspend imposition of sentence in misdemeanor cases.***

7       ***(b) (1) In addition to or in lieu of any of the above, the court shall***  
8 ***order the defendant to pay restitution, which shall include, but not be***  
9 ***limited to, damage or loss caused by the defendant's crime. Restitution***  
10 ***shall be due immediately unless: (A) The court orders that the defendant***  
11 ***be given a specified time to pay or be allowed to pay in specified***  
12 ***installments; or (B) the court finds compelling circumstances that would***  
13 ***render restitution unworkable, either in whole or in part. In regard to a***  
14 ***violation of K.S.A. 2020 Supp. 21-6107, and amendments thereto, such***  
15 ***damage or loss shall include, but not be limited to, attorney fees and***  
16 ***costs incurred to repair the credit history or rating of the person whose***  
17 ***personal identification documents were obtained and used in violation of***  
18 ***such section, and to satisfy a debt, lien or other obligation incurred by***  
19 ***the person whose personal identification documents were obtained and***  
20 ***used in violation of such section. In regard to a violation of K.S.A. 2020***  
21 ***Supp. 21-5801, 21-5807 or 21-5813, and amendments thereto, such***  
22 ***damage or loss shall include the cost of repair or replacement of the***  
23 ***property that was damaged, the reasonable cost of any loss of***  
24 ***production, crops and livestock, reasonable labor costs of any kind,***  
25 ***reasonable material costs of any kind and any reasonable costs that are***  
26 ***attributed to equipment that is used to abate or repair the damage to the***  
27 ***property. If the court finds restitution unworkable, either in whole or in***  
28 ***part, the court shall state on the record in detail the reasons therefor.***

29       ***(2) If the court orders restitution, the restitution shall be a***  
30 ***judgment against the defendant that may be collected by the court by***  
31 ***garnishment or other execution as on judgments in civil cases. If, after***  
32 ***60 days from the date restitution is ordered by the court, a defendant is***  
33 ***found to be in noncompliance with the restitution order, and the victim***  
34 ***to whom restitution is ordered paid has not initiated proceedings in***  
35 ***accordance with K.S.A. 60-4301 et seq., and amendments thereto, the***  
36 ***court shall assign an agent procured by the judicial administrator***  
37 ***pursuant to K.S.A. 20-169, and amendments thereto, to collect the***  
38 ***restitution on behalf of the victim. The chief judge of each judicial***  
39 ***district may assign such cases to an appropriate division of the court for***  
40 ***the conduct of civil collection proceedings.***

41       ***(3) If a restitution order entered prior to the effective date of this act***  
42 ***does not give the defendant a specified time to pay or set payment in***  
43 ***specified installments, the defendant may file a motion with the court***

1 *prior to December 31, 2020, proposing payment of restitution in*  
2 *specified installments. The court may recall the restitution order from*  
3 *the agent assigned pursuant to K.S.A. 20-169, and amendments thereto,*  
4 *until the court rules on such motion. If the court does not order payment*  
5 *in specified installments or if the defendant does not file a motion prior*  
6 *to December 31, 2020, the restitution shall be due immediately.*

7 *(c) In addition to or in lieu of any of the above, the court shall*  
8 *order the defendant to submit to and complete an alcohol and drug*  
9 *evaluation, and pay a fee therefor, when required by K.S.A. 2020 Supp.*  
10 *21-6602(d), and amendments thereto.*

11 *(d) In addition to any of the above, the court shall order the*  
12 *defendant to reimburse the county general fund for all or a part of the*  
13 *expenditures by the county to provide counsel and other defense services*  
14 *to the defendant. Any such reimbursement to the county shall be paid*  
15 *only after any order for restitution has been paid in full. In determining*  
16 *the amount and method of payment of such sum, the court shall take*  
17 *account of the financial resources of the defendant and the nature of the*  
18 *burden that payment of such sum will impose. A defendant who has been*  
19 *required to pay such sum and who is not willfully in default in the*  
20 *payment thereof may at any time petition the court that sentenced the*  
21 *defendant to waive payment of such sum or any unpaid portion thereof.*  
22 *If it appears to the satisfaction of the court that payment of the amount*  
23 *due will impose manifest hardship on the defendant or the defendant's*  
24 *immediate family, the court may waive payment of all or part of the*  
25 *amount due or modify the method of payment.*

26 *(e) In releasing a defendant on probation, the court shall direct that*  
27 *the defendant be under the supervision of a court services officer. If the*  
28 *court commits the defendant to the custody of the secretary of*  
29 *corrections or to jail, the court may specify in its order the amount of*  
30 *restitution to be paid and the person to whom it shall be paid if*  
31 *restitution is later ordered as a condition of parole, conditional release*  
32 *or postrelease supervision.*

33 *(f) (1) When a new felony is committed while the offender is*  
34 *incarcerated and serving a sentence for a felony, or while the offender is*  
35 *on probation, assignment to a community correctional services program,*  
36 *parole, conditional release or postrelease supervision for a felony, a new*  
37 *sentence shall be imposed consecutively pursuant to the provisions of*  
38 *K.S.A. 2020 Supp. 21-6606, and amendments thereto, and the court may*  
39 *sentence the offender to imprisonment for the new conviction, even*  
40 *when the new crime of conviction otherwise presumes a nonprison*  
41 *sentence. In this event, imposition of a prison sentence for the new crime*  
42 *does not constitute a departure.*

43 *(2) When a new felony is committed during a period of time when*

1 ~~the defendant~~ offender would have been on probation, assignment to a  
2 community correctional services program, parole, conditional release or  
3 postrelease supervision for a felony had the ~~defendant~~ offender not been  
4 granted release by the court pursuant to K.S.A. 2020 Supp. 21-6608(d),  
5 and amendments thereto, or the prisoner review board pursuant to  
6 K.S.A. 22-3717, and amendments thereto, the court may sentence the  
7 offender to imprisonment for the new conviction, even when the new  
8 crime of conviction otherwise presumes a nonprison sentence. In this  
9 event, imposition of a prison sentence for the new crime does not  
10 constitute a departure.

11 (3) When a new felony is committed while the offender is  
12 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-  
13 1671, prior to its repeal, or K.S.A. 2020 Supp. 38-2373, and amendments  
14 thereto, for an offense, which if committed by an adult would constitute  
15 the commission of a felony, upon conviction, the court shall sentence the  
16 offender to imprisonment for the new conviction, even when the new  
17 crime of conviction otherwise presumes a nonprison sentence. In this  
18 event, imposition of a prison sentence for the new crime does not  
19 constitute a departure. The conviction shall operate as a full and  
20 complete discharge from any obligations, except for an order of  
21 restitution, imposed on the offender arising from the offense for which  
22 the offender was committed to a juvenile correctional facility.

23 (4) When a new felony is committed while the offender is on release  
24 for a felony pursuant to the provisions of article 28 of chapter 22 of the  
25 Kansas Statutes Annotated, and amendments thereto, or similar  
26 provisions of the laws of another jurisdiction, a new sentence may be  
27 imposed consecutively pursuant to the provisions of K.S.A. 2020 Supp.  
28 21-6606, and amendments thereto, and the court may sentence the  
29 offender to imprisonment for the new conviction, even when the new  
30 crime of conviction otherwise presumes a nonprison sentence. In this  
31 event, imposition of a prison sentence for the new crime does not  
32 constitute a departure.

33 (g) Prior to imposing a dispositional departure for a defendant  
34 whose offense is classified in the presumptive nonprison grid block of  
35 either sentencing guideline grid, prior to sentencing a defendant to  
36 incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G  
37 of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E,  
38 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes  
39 committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or  
40 4-I of the sentencing guidelines grid for drug crimes committed on or  
41 after July 1, 2012, prior to sentencing a defendant to incarceration  
42 whose offense is classified in grid blocks 4-E or 4-F of the sentencing  
43 guidelines grid for drug crimes committed prior to July 1, 2012, or in

1 *grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for*  
2 *drug crimes committed on or after July 1, 2012, and whose offense does*  
3 *not meet the requirements of K.S.A. 2020 Supp. 21-6824, and*  
4 *amendments thereto, prior to revocation of a nonprison sanction of a*  
5 *defendant whose offense is classified in grid blocks 4-E or 4-F of the*  
6 *sentencing guidelines grid for drug crimes committed prior to July 1,*  
7 *2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines*  
8 *grid for drug crimes committed on or after July 1, 2012, and whose*  
9 *offense does not meet the requirements of K.S.A. 2020 Supp. 21-6824,*  
10 *and amendments thereto, or prior to revocation of a nonprison sanction*  
11 *of a defendant whose offense is classified in the presumptive nonprison*  
12 *grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or*  
13 *6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks*  
14 *3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug*  
15 *crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G,*  
16 *4-H or 4-I of the sentencing guidelines grid for drug crimes committed*  
17 *on or after July 1, 2012, the court shall consider placement of the*  
18 *defendant in the Labette correctional conservation camp, conservation*  
19 *camps established by the secretary of corrections pursuant to K.S.A. 75-*  
20 *52,127, and amendments thereto, or a community intermediate sanction*  
21 *center. Pursuant to this subsection the defendant shall not be sentenced*  
22 *to imprisonment if space is available in a conservation camp or*  
23 *community intermediate sanction center and the defendant meets all of*  
24 *the conservation camp's or community intermediate sanction center's*  
25 *placement criteria unless the court states on the record the reasons for*  
26 *not placing the defendant in a conservation camp or community*  
27 *intermediate sanction center.*

28 *(h) In committing a defendant to the custody of the secretary of*  
29 *corrections, the court shall fix a term of confinement within the limits*  
30 *provided by law. In those cases where the law does not fix a term of*  
31 *confinement for the crime for which the defendant was convicted, the*  
32 *court shall fix the term of such confinement.*

33 *(i) In addition to any of the above, the court shall order the*  
34 *defendant to reimburse the state general fund for all or part of the*  
35 *expenditures by the state board of indigents' defense services to provide*  
36 *counsel and other defense services to the defendant. In determining the*  
37 *amount and method of payment of such sum, the court shall take*  
38 *account of the financial resources of the defendant and the nature of the*  
39 *burden that payment of such sum will impose. A defendant who has been*  
40 *required to pay such sum and who is not willfully in default in the*  
41 *payment thereof may at any time petition the court that sentenced the*  
42 *defendant to waive payment of such sum or any unpaid portion thereof.*  
43 *If it appears to the satisfaction of the court that payment of the amount*

1 *due will impose manifest hardship on the defendant or the defendant's*  
2 *immediate family, the court may waive payment of all or part of the*  
3 *amount due or modify the method of payment. The amount of attorney*  
4 *fees to be included in the court order for reimbursement shall be the*  
5 *amount claimed by appointed counsel on the payment voucher for*  
6 *indigents' defense services or the amount prescribed by the board of*  
7 *indigents' defense services reimbursement tables as provided in K.S.A.*  
8 *22-4522, and amendments thereto, whichever is less.*

9 *(j) This section shall not deprive the court of any authority*  
10 *conferred by any other Kansas statute to decree a forfeiture of property,*  
11 *suspend or cancel a license, remove a person from office or impose any*  
12 *other civil penalty as a result of conviction of crime.*

13 *(k) An application for or acceptance of probation or assignment to*  
14 *a community correctional services program shall not constitute an*  
15 *acquiescence in the judgment for purpose of appeal, and any convicted*  
16 *person may appeal from such conviction, as provided by law, without*  
17 *regard to whether such person has applied for probation, suspended*  
18 *sentence or assignment to a community correctional services program.*

19 *(l) The secretary of corrections is authorized to make direct*  
20 *placement to the Labette correctional conservation camp or a*  
21 *conservation camp established by the secretary pursuant to K.S.A. 75-*  
22 *52,127, and amendments thereto, of an inmate sentenced to the*  
23 *secretary's custody if the inmate:*

24 *(1) Has been sentenced to the secretary for a probation revocation,*  
25 *as a departure from the presumptive nonimprisonment grid block of*  
26 *either sentencing grid, for an offense that is classified in grid blocks 5-*  
27 *H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in*  
28 *grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid*  
29 *for drug crimes committed prior to July 1, 2012, in grid blocks 4-E, 4-F,*  
30 *4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes*  
31 *committed on or after July 1, 2012, or for an offense that is classified in*  
32 *grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes*  
33 *committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of*  
34 *the sentencing guidelines grid for drug crimes committed on or after*  
35 *July 1, 2012, and such offense does not meet the requirements of K.S.A.*  
36 *2020 Supp. 21-6824, and amendments thereto; and*

37 *(2) otherwise meets admission criteria of the camp.*

38 *If the inmate successfully completes a conservation camp program,*  
39 *the secretary of corrections shall report such completion to the*  
40 *sentencing court and the county or district attorney. The inmate shall*  
41 *then be assigned by the court to six months of follow-up supervision*  
42 *conducted by the appropriate community corrections services program.*  
43 *The court may also order that supervision continue thereafter for the*

1 *length of time authorized by K.S.A. 2020 Supp. 21-6608, and*  
2 *amendments thereto.*

3 *(m) When it is provided by law that a person shall be sentenced*  
4 *pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions*  
5 *of this section shall not apply.*

6 *(n) (1) Except as provided by K.S.A. 2020 Supp. 21-6630 and 21-*  
7 *6805(f), and amendments thereto, in addition to any of the above, for*  
8 *felony violations of K.S.A. 2020 Supp. 21-5706, and amendments*  
9 *thereto, the court shall require the defendant who meets the*  
10 *requirements established in K.S.A. 2020 Supp. 21-6824, and*  
11 *amendments thereto, to participate in a certified drug abuse treatment*  
12 *program, as provided in K.S.A. 75-52,144, and amendments thereto,*  
13 *including, but not limited to, an approved after-care plan. The amount*  
14 *of time spent participating in such program shall not be credited as*  
15 *service on the underlying prison sentence.*

16 *(2) If the defendant fails to participate in or has a pattern of*  
17 *intentional conduct that demonstrates the defendant's refusal to comply*  
18 *with or participate in the treatment program, as established by judicial*  
19 *finding, the defendant shall be subject to sanction or revocation*  
20 *pursuant to the provisions of K.S.A. 22-3716, and amendments thereto.*  
21 *If the defendant's probation is revoked, the defendant shall serve the*  
22 *underlying prison sentence as established in K.S.A. 2020 Supp. 21-6805,*  
23 *and amendments thereto.*

24 *(A) Except as provided in subsection (n)(2)(B), for those offenders*  
25 *who are convicted on or after July 1, 2003, but prior to July 1, 2013,*  
26 *upon completion of the underlying prison sentence, the offender shall*  
27 *not be subject to a period of postrelease supervision.*

28 *(B) Offenders whose crime of conviction was committed on or after*  
29 *July 1, 2013, and whose probation is revoked pursuant to K.S.A. 22-*  
30 *3716(c), and amendments thereto, or whose underlying prison term*  
31 *expires while serving a sanction pursuant to K.S.A. 22-3716(c)(1), and*  
32 *amendments thereto, shall serve a period of postrelease supervision*  
33 *upon the completion of the underlying prison term.*

34 *(o) (1) Except as provided in paragraph (3), in addition to any other*  
35 *penalty or disposition imposed by law, upon a conviction for unlawful*  
36 *possession of a controlled substance or controlled substance analog in*  
37 *violation of K.S.A. 2020 Supp. 21-5706, and amendments thereto, in*  
38 *which the trier of fact makes a finding that the unlawful possession*  
39 *occurred while transporting the controlled substance or controlled*  
40 *substance analog in any vehicle upon a highway or street, the offender's*  
41 *driver's license or privilege to operate a motor vehicle on the streets and*  
42 *highways of this state shall be suspended for one year.*

43 *(2) Upon suspension of a license pursuant to this subsection, the*

1 *court shall require the person to surrender the license to the court,*  
2 *which shall transmit the license to the division of motor vehicles of the*  
3 *department of revenue, to be retained until the period of suspension*  
4 *expires. At that time, the licensee may apply to the division for return of*  
5 *the license. If the license has expired, the person may apply for a new*  
6 *license, which shall be issued promptly upon payment of the proper fee*  
7 *and satisfaction of other conditions established by law for obtaining a*  
8 *license unless another suspension or revocation of the person's privilege*  
9 *to operate a motor vehicle is in effect.*

10 *(3) (A) In lieu of suspending the driver's license or privilege to*  
11 *operate a motor vehicle on the highways of this state of any person as*  
12 *provided in paragraph (1), the judge of the court in which such person*  
13 *was convicted may enter an order that places conditions on such*  
14 *person's privilege of operating a motor vehicle on the highways of this*  
15 *state, a certified copy of which such person shall be required to carry*  
16 *any time such person is operating a motor vehicle on the highways of*  
17 *this state. Any such order shall prescribe the duration of the conditions*  
18 *imposed, which in no event shall be for a period of more than one year.*

19 *(B) Upon entering an order restricting a person's license*  
20 *hereunder, the judge shall require such person to surrender such*  
21 *person's driver's license to the judge who shall cause it to be transmitted*  
22 *to the division of vehicles, together with a copy of the order. Upon*  
23 *receipt thereof, the division of vehicles shall issue without charge a*  
24 *driver's license, which shall indicate on its face that conditions have*  
25 *been imposed on such person's privilege of operating a motor vehicle*  
26 *and that a certified copy of the order imposing such conditions is*  
27 *required to be carried by the person for whom the license was issued any*  
28 *time such person is operating a motor vehicle on the highways of this*  
29 *state. If the person convicted is a nonresident, the judge shall cause a*  
30 *copy of the order to be transmitted to the division and the division shall*  
31 *forward a copy of it to the motor vehicle administrator of such person's*  
32 *state of residence. Such judge shall furnish to any person whose driver's*  
33 *license has had conditions imposed on it under this paragraph a copy of*  
34 *the order, which shall be recognized as a valid Kansas driver's license*  
35 *until such time as the division shall issue the restricted license provided*  
36 *for in this paragraph.*

37 *(C) Upon expiration of the period of time for which conditions are*  
38 *imposed pursuant to this subsection, the licensee may apply to the*  
39 *division for the return of the license previously surrendered by such*  
40 *licensee. In the event such license has expired, such person may apply to*  
41 *the division for a new license, which shall be issued immediately by the*  
42 *division upon payment of the proper fee and satisfaction of the other*  
43 *conditions established by law, unless such person's privilege to operate a*

1 *motor vehicle on the highways of this state has been suspended or*  
2 *revoked prior thereto. If any person shall violate any of the conditions*  
3 *imposed under this paragraph, such person's driver's license or privilege*  
4 *to operate a motor vehicle on the highways of this state shall be revoked*  
5 *for a period of not less than 60 days nor more than one year by the judge*  
6 *of the court in which such person is convicted of violating such*  
7 *conditions.*

8 *(4) As used in this subsection, "highway" and "street" mean the*  
9 *same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.*

10 *(p) In addition to any of the above, for any criminal offense that*  
11 *includes the domestic violence designation pursuant to K.S.A. 2020*  
12 *Supp. 22-4616, and amendments thereto, the court shall require the*  
13 *defendant to: (1) Undergo a domestic violence offender assessment*  
14 *conducted by a certified batterer intervention program; and (2) follow all*  
15 *recommendations made by such program, unless otherwise ordered by*  
16 *the court or the department of corrections. The court may order a*  
17 *domestic violence offender assessment and any other evaluation prior to*  
18 *sentencing if the assessment or evaluation would assist the court in*  
19 *determining an appropriate sentence. The entity completing the*  
20 *assessment or evaluation shall provide the assessment or evaluation and*  
21 *recommendations to the court and the court shall provide the domestic*  
22 *violence offender assessment to any entity responsible for supervising*  
23 *such defendant. A defendant ordered to undergo a domestic violence*  
24 *offender assessment shall be required to pay for the assessment and,*  
25 *unless otherwise ordered by the court or the department of corrections,*  
26 *for completion of all recommendations.*

27 *(q) In imposing a fine, the court may authorize the payment thereof*  
28 *in installments. In lieu of payment of any fine imposed, the court may*  
29 *order that the person perform community service specified by the court.*  
30 *The person shall receive a credit on the fine imposed in an amount*  
31 *equal to \$5 for each full hour spent by the person in the specified*  
32 *community service. The community service ordered by the court shall be*  
33 *required to be performed by the later of one year after the fine is*  
34 *imposed or one year after release from imprisonment or jail, or by an*  
35 *earlier date specified by the court. If by the required date the person*  
36 *performs an insufficient amount of community service to reduce to zero*  
37 *the portion of the fine required to be paid by the person, the remaining*  
38 *balance shall become due on that date. If conditional reduction of any*  
39 *fine is rescinded by the court for any reason, then pursuant to the*  
40 *court's order the person may be ordered to perform community service*  
41 *by one year after the date of such rescission or by an earlier date*  
42 *specified by the court. If by the required date the person performs an*  
43 *insufficient amount of community service to reduce to zero the portion*

1 *of the fine required to be paid by the person, the remaining balance of*  
2 *the fine shall become due on that date. All credits for community service*  
3 *shall be subject to review and approval by the court.*

4 *(r) In addition to any other penalty or disposition imposed by law,*  
5 *for any defendant sentenced to imprisonment pursuant to K.S.A. 21-*  
6 *4643, prior to its repeal, or K.S.A. 2020 Supp. 21-6627, and amendments*  
7 *thereto, for crimes committed on or after July 1, 2006, the court shall*  
8 *order that the defendant be electronically monitored upon release from*  
9 *imprisonment for the duration of the defendant's natural life and that*  
10 *the defendant shall reimburse the state for all or part of the cost of such*  
11 *monitoring as determined by the prisoner review board.*

12 *(s) Whenever the court has released the defendant on probation*  
13 *pursuant to subsection (a)(3), the defendant's supervising court services*  
14 *officer, with the concurrence of the chief court services officer, may*  
15 *impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B),*  
16 *and amendments thereto, without further order of the court, unless the*  
17 *defendant, after being apprised of the right to a revocation hearing*  
18 *before the court pursuant to K.S.A. 22-3716(b), and amendments*  
19 *thereto, refuses to waive such right.*

20 *(t) Whenever the court has assigned the defendant to a community*  
21 *correctional services program pursuant to subsection (a)(4), the*  
22 *defendant's community corrections officer, with the concurrence of the*  
23 *community corrections director, may impose the violation sanctions as*  
24 *provided in K.S.A. 22-3716(c)(1)(B), and amendments thereto, without*  
25 *further order of the court unless the defendant, after being apprised of*  
26 *the right to a revocation hearing before the court pursuant to K.S.A. 22-*  
27 *3716(b), and amendments thereto, refuses to waive such right.*

28 *(u) In addition to any of the above, the court shall authorize an*  
29 *additional 18 days of confinement in a county jail to be reserved for*  
30 *sanctions as set forth in K.S.A. 22-3716(b)(3)(B), (b)(4) or (c)(1)(B), and*  
31 *amendments thereto.*

32 *(v) The amendments made to this section by ~~this act~~ section 1 of*  
33 *chapter 9 of the 2020 Session Laws of Kansas are procedural in nature*  
34 *and shall be construed and applied retroactively.*

35 *Sec. 11. K.S.A. 2020 Supp. 21-6804 is hereby amended to read as*  
36 *follows: 21-6804. (a) The provisions of this section shall be applicable to*  
37 *the sentencing guidelines grid for nondrug crimes. The following*  
38 *sentencing guidelines grid shall be applicable to nondrug felony crimes:*

1

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level	3+ Person Felonies	2 Person Felonies	1 Person & 1 Misdemeanor Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 34 31	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	16 15 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

LEGEND
Presumptive Probation
Presumptive No Probation
Presumptive Imprisonment

1       ***(b) Sentences expressed in the sentencing guidelines grid for***  
2 ***nondrug crimes represent months of imprisonment.***

3       ***(c) The sentencing guidelines grid is a two-dimensional crime***  
4 ***severity and criminal history classification tool. The grid's vertical axis***  
5 ***is the crime severity scale which classifies current crimes of conviction.***  
6 ***The grid's horizontal axis is the criminal history scale which classifies***  
7 ***criminal histories.***

8       ***(d) The sentencing guidelines grid for nondrug crimes as provided***  
9 ***in this section defines presumptive punishments for felony convictions,***  
10 ***subject to the sentencing court's discretion to enter a departure sentence.***  
11 ***The appropriate punishment for a felony conviction should depend on***  
12 ***the severity of the crime of conviction when compared to all other crimes***  
13 ***and the offender's criminal history.***

14       ***(e) (1) The sentencing court has discretion to sentence at any place***  
15 ***within the sentencing range. In the usual case it is recommended that***  
16 ***the sentencing judge select the center of the range and reserve the upper***  
17 ***and lower limits for aggravating and mitigating factors insufficient to***  
18 ***warrant a departure.***

19       ***(2) In presumptive imprisonment cases, the sentencing court shall***  
20 ***pronounce the complete sentence which shall include the:***

21       ***(A) Prison sentence;***

22       ***(B) maximum potential reduction to such sentence as a result of***  
23 ***good time; and***

24       ***(C) period of postrelease supervision at the sentencing hearing.***  
25 ***Failure to pronounce the period of postrelease supervision shall not***  
26 ***negate the existence of such period of postrelease supervision.***

27       ***(3) In presumptive nonprison cases, the sentencing court shall***  
28 ***pronounce the:***

29       ***(A) Prison sentence; and***

30       ***(B) duration of the nonprison sanction at the sentencing hearing.***

31       ***(f) Each grid block states the presumptive sentencing range for an***  
32 ***offender whose crime of conviction and criminal history place such***  
33 ***offender in that grid block. If an offense is classified in a grid block***  
34 ***below the dispositional line, the presumptive disposition shall be***  
35 ***nonimprisonment. If an offense is classified in a grid block above the***  
36 ***dispositional line, the presumptive disposition shall be imprisonment. If***  
37 ***an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may***  
38 ***impose an optional nonprison sentence as provided in subsection (q).***

39       ***(g) The sentence for a violation of K.S.A. 21-3415, prior to its***  
40 ***repeal, aggravated battery against a law enforcement officer committed***  
41 ***prior to July 1, 2006, or a violation of K.S.A. 2020 Supp. 21-5412(d),***  
42 ***and amendments thereto, aggravated assault against a law enforcement***  
43 ***officer, which places the defendant's sentence in grid block 6-H or 6-I***

1 *shall be presumed imprisonment. The court may impose an optional*  
2 *nonprison sentence as provided in subsection (q).*

3 *(h) When a firearm is used to commit any person felony, the*  
4 *offender's sentence shall be presumed imprisonment. The court may*  
5 *impose an optional nonprison sentence as provided in subsection (q).*

6 *(i) (1) The sentence for the violation of the felony provision of*  
7 ~~K.S.A. 8-2,144 and 8-1567 and K.S.A. 2020 Supp. 21-5414(b)(3), 21-~~  
8 ~~5823(b)(3) and (b)(4), 21-6412 and 21-6416, and amendments thereto,~~  
9 *shall be as provided by the specific mandatory sentencing requirements*  
10 *of that section and shall not be subject to the provisions of this section or*  
11 *K.S.A. 2020 Supp. 21-6807, and amendments thereto.*

12 *(2) If because of the offender's criminal history classification the*  
13 *offender is subject to presumptive imprisonment or if the judge departs*  
14 *from a presumptive probation sentence and the offender is subject to*  
15 *imprisonment, the provisions of this section and K.S.A. 2020 Supp. 21-*  
16 *6807, and amendments thereto, shall apply and the offender shall not be*  
17 *subject to the mandatory sentence as provided in K.S.A. 2020 Supp. 21-*  
18 *5823, and amendments thereto.*

19 *(3) Notwithstanding the provisions of any other section, the term of*  
20 *imprisonment imposed for the violation of the felony provision of*~~K.S.A.~~  
21 ~~8-2,144, and 8-1567 and K.S.A. 2020 Supp. 21-5414(b)(3), 21-5823(b)(3)~~  
22 ~~and (b)(4), 21-6412 and 21-6416, and amendments thereto, shall not be~~  
23 ~~served in a state facility in the custody of the secretary of corrections;~~  
24 ~~except that the term of imprisonment for felony violations of K.S.A. 8-~~  
25 ~~2,144 or 8-1567, and amendments thereto, may be served in a state~~  
26 ~~correctional facility designated by the secretary of corrections if the~~  
27 ~~secretary determines that substance abuse treatment resources and facility~~  
28 ~~capacity is available. The secretary's determination regarding the~~  
29 ~~availability of treatment resources and facility capacity shall not be subject~~  
30 ~~to review. Prior to imposing any sentence pursuant to this subsection,~~  
31 *the court may consider assigning the defendant to a house arrest*  
32 *program pursuant to K.S.A. 2020 Supp. 21-6609, and amendments*  
33 *thereto.*

34 *(j) (1) The sentence for any persistent sex offender whose current*  
35 *convicted crime carries a presumptive term of imprisonment shall be*  
36 *double the maximum duration of the presumptive imprisonment term.*  
37 *The sentence for any persistent sex offender whose current conviction*  
38 *carries a presumptive nonprison term shall be presumed imprisonment*  
39 *and shall be double the maximum duration of the presumptive*  
40 *imprisonment term.*

41 *(2) Except as otherwise provided in this subsection, as used in this*  
42 *subsection, "persistent sex offender" means a person who:*

43 *(A) (i) Has been convicted in this state of a sexually violent crime,*

1 *as defined in K.S.A. 22-3717, and amendments thereto; and*

2 *(ii) at the time of the conviction under subsection (j)(2)(A)(i) has at*  
3 *least one conviction for a sexually violent crime, as defined in K.S.A. 22-*  
4 *3717, and amendments thereto, in this state or comparable felony under*  
5 *the laws of another state, the federal government or a foreign*  
6 *government; or*

7 *(B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,*  
8 *prior to its repeal, or K.S.A. 2020 Supp. 21-5503, and amendments*  
9 *thereto; and*

10 *(ii) at the time of the conviction under subsection (j)(2)(B)(i) has at*  
11 *least one conviction for rape in this state or comparable felony under the*  
12 *laws of another state, the federal government or a foreign government.*

13 *(3) Except as provided in subsection (j)(2)(B), the provisions of this*  
14 *subsection shall not apply to any person whose current convicted crime*  
15 *is a severity level 1 or 2 felony.*

16 *(k) (1) If it is shown at sentencing that the offender committed any*  
17 *felony violation for the benefit of, at the direction of, or in association*  
18 *with any criminal street gang, with the specific intent to promote, further*  
19 *or assist in any criminal conduct by gang members, the offender's*  
20 *sentence shall be presumed imprisonment. The court may impose an*  
21 *optional nonprison sentence as provided in subsection (q).*

22 *(2) As used in this subsection, "criminal street gang" means any*  
23 *organization, association or group of three or more persons, whether*  
24 *formal or informal, having as one of its primary activities:*

25 *(A) The commission of one or more person felonies; or*

26 *(B) the commission of felony violations of article 57 of chapter 21*  
27 *of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010*  
28 *Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony*  
29 *violation of any provision of the uniform controlled substances act prior*  
30 *to July 1, 2009; and*

31 *(C) its members have a common name or common identifying sign*  
32 *or symbol; and*

33 *(D) its members, individually or collectively, engage in or have*  
34 *engaged in the commission, attempted commission, conspiracy to*  
35 *commit or solicitation of two or more person felonies or felony violations*  
36 *of article 57 of chapter 21 of the Kansas Statutes Annotated, and*  
37 *amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17,*  
38 *prior to their transfer, any felony violation of any provision of the*  
39 *uniform controlled substances act prior to July 1, 2009, or any*  
40 *substantially similar offense from another jurisdiction.*

41 *(l) Except as provided in subsection (o), the sentence for a violation*  
42 *of K.S.A. 2020 Supp. 21-5807(a)(1), and amendments thereto, or any*  
43 *attempt or conspiracy, as defined in K.S.A. 2020 Supp. 21-5301 and 21-*

1 5302, and amendments thereto, to commit such offense, when such  
2 person being sentenced has a prior conviction for a violation of K.S.A.  
3 21-3715(a) or (b), prior to its repeal, 21-3716, prior to its repeal, K.S.A.  
4 2020 Supp. 21-5807(a)(1) or (a)(2) or 21-5807(b), and amendments  
5 thereto, or any attempt or conspiracy to commit such offense, shall be  
6 presumptive imprisonment.

7 (m) The sentence for a violation of K.S.A. 22-4903 or K.S.A. 2020  
8 Supp. 21-5913(a)(2), and amendments thereto, shall be presumptive  
9 imprisonment. If an offense under such sections is classified in grid  
10 blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional  
11 nonprison sentence as provided in subsection (q).

12 (n) The sentence for a violation of criminal deprivation of property,  
13 as defined in K.S.A. 2020 Supp. 21-5803, and amendments thereto,  
14 when such property is a motor vehicle, and when such person being  
15 sentenced has any combination of two or more prior convictions of  
16 K.S.A. 21-3705(b), prior to its repeal, or of criminal deprivation of  
17 property, as defined in K.S.A. 2020 Supp. 21-5803, and amendments  
18 thereto, when such property is a motor vehicle, shall be presumptive  
19 imprisonment. Such sentence shall not be considered a departure and  
20 shall not be subject to appeal.

21 (o) The sentence for a felony violation of theft of property as  
22 defined in K.S.A. 2020 Supp. 21-5801, and amendments thereto, or  
23 burglary as defined in K.S.A. 2020 Supp. 21-5807(a), and amendments  
24 thereto, when such person being sentenced has no prior convictions for  
25 a violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of  
26 property as defined in K.S.A. 2020 Supp. 21-5801, and amendments  
27 thereto, or burglary as defined in K.S.A. 2020 Supp. 21-5807(a), and  
28 amendments thereto; or the sentence for a felony violation of theft of  
29 property as defined in K.S.A. 2020 Supp. 21-5801, and amendments  
30 thereto, when such person being sentenced has one or two prior felony  
31 convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior  
32 to their repeal, or theft of property as defined in K.S.A. 2020 Supp. 21-  
33 5801, and amendments thereto, or burglary or aggravated burglary as  
34 defined in K.S.A. 2020 Supp. 21-5807, and amendments thereto; or the  
35 sentence for a felony violation of burglary as defined in K.S.A. 2020  
36 Supp. 21-5807(a), and amendments thereto, when such person being  
37 sentenced has one prior felony conviction for a violation of K.S.A. 21-  
38 3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as  
39 defined in K.S.A. 2020 Supp. 21-5801, and amendments thereto, or  
40 burglary or aggravated burglary as defined in K.S.A. 2020 Supp. 21-  
41 5807, and amendments thereto, shall be the sentence as provided by this  
42 section, except that the court may order an optional nonprison sentence  
43 for a defendant to participate in a drug treatment program, including,

1 *but not limited to, an approved~~—after-care~~ aftercare plan, if the court*  
2 *makes the following findings on the record:*

3 *(1) Substance abuse was an underlying factor in the commission of*  
4 *the crime;*

5 *(2) substance abuse treatment in the community is likely to be more*  
6 *effective than a prison term in reducing the risk of offender recidivism;*  
7 *and*

8 *(3) participation in an intensive substance abuse treatment program*  
9 *will serve community safety interests.*

10 *A defendant sentenced to an optional nonprison sentence under this*  
11 *subsection shall be supervised by community correctional services. The*  
12 *provisions of K.S.A. 2020 Supp. 21-6824(f)(1), and amendments thereto,*  
13 *shall apply to a defendant sentenced under this subsection. The sentence*  
14 *under this subsection shall not be considered a departure and shall not*  
15 *be subject to appeal.*

16 *(p) The sentence for a felony violation of theft of property as*  
17 *defined in K.S.A. 2020 Supp. 21-5801, and amendments thereto, when*  
18 *such person being sentenced has any combination of three or more prior*  
19 *felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716,*  
20 *prior to their repeal, or theft of property as defined in K.S.A. 2020 Supp.*  
21 *21-5801, and amendments thereto, or burglary or aggravated burglary*  
22 *as defined in K.S.A. 2020 Supp. 21-5807, and amendments thereto; or*  
23 *the sentence for a violation of burglary as defined in K.S.A. 2020 Supp.*  
24 *21-5807(a), and amendments thereto, when such person being sentenced*  
25 *has any combination of two or more prior convictions for violations of*  
26 *K.S.A. 21-3701, 21-3715 and 21-3716, prior to their repeal, or theft of*  
27 *property as defined in K.S.A. 2020 Supp. 21-5801, and amendments*  
28 *thereto, or burglary or aggravated burglary as defined in K.S.A. 2020*  
29 *Supp. 21-5807, and amendments thereto, shall be presumed*  
30 *imprisonment and the defendant shall be sentenced to prison as provided*  
31 *by this section, except that the court may recommend that an offender be*  
32 *placed in the custody of the secretary of corrections, in a facility*  
33 *designated by the secretary to participate in an intensive substance abuse*  
34 *treatment program, upon making the following findings on the record:*

35 *(1) Substance abuse was an underlying factor in the commission of*  
36 *the crime;*

37 *(2) substance abuse treatment with a possibility of an early release*  
38 *from imprisonment is likely to be more effective than a prison term in*  
39 *reducing the risk of offender recidivism; and*

40 *(3) participation in an intensive substance abuse treatment program*  
41 *with the possibility of an early release from imprisonment will serve*  
42 *community safety interests by promoting offender reformation.*

43 *The intensive substance abuse treatment program shall be*

1 *determined by the secretary of corrections, but shall be for a period of at*  
2 *least four months. Upon the successful completion of such intensive*  
3 *treatment program, the offender shall be returned to the court and the*  
4 *court may modify the sentence by directing that a less severe penalty be*  
5 *imposed in lieu of that originally adjudged within statutory limits. If the*  
6 *offender's term of imprisonment expires, the offender shall be placed*  
7 *under the applicable period of postrelease supervision. The sentence*  
8 *under this subsection shall not be considered a departure and shall not*  
9 *be subject to appeal.*

10 *(q) As used in this section, an "optional nonprison sentence" is a*  
11 *sentence which the court may impose, in lieu of the presumptive*  
12 *sentence, upon making the following findings on the record:*

13 *(1) An appropriate treatment program exists which is likely to be*  
14 *more effective than the presumptive prison term in reducing the risk of*  
15 *offender recidivism; and*

16 *(2) the recommended treatment program is available and the*  
17 *offender can be admitted to such program within a reasonable period of*  
18 *time; or*

19 *(3) the nonprison sanction will serve community safety interests by*  
20 *promoting offender reformation.*

21 *Any decision made by the court regarding the imposition of an*  
22 *optional nonprison sentence shall not be considered a departure and*  
23 *shall not be subject to appeal.*

24 *(r) The sentence for a violation of K.S.A. 2020 Supp. 21-5413(c)(2),*  
25 *and amendments thereto, shall be presumptive imprisonment and shall*  
26 *be served consecutively to any other term or terms of imprisonment*  
27 *imposed. Such sentence shall not be considered a departure and shall*  
28 *not be subject to appeal.*

29 *(s) The sentence for a violation of K.S.A. 2020 Supp. 21-5512, and*  
30 *amendments thereto, shall be presumptive imprisonment. Such sentence*  
31 *shall not be considered a departure and shall not be subject to appeal.*

32 *(t) (1) If the trier of fact makes a finding beyond a reasonable doubt*  
33 *that an offender wore or used ballistic resistant material in the*  
34 *commission of, or attempt to commit, or flight from any felony, in*  
35 *addition to the sentence imposed pursuant to the Kansas sentencing*  
36 *guidelines act, the offender shall be sentenced to an additional 30*  
37 *months' imprisonment.*

38 *(2) The sentence imposed pursuant to subsection (t)(1) shall be*  
39 *presumptive imprisonment and shall be served consecutively to any*  
40 *other term or terms of imprisonment imposed. Such sentence shall not*  
41 *be considered a departure and shall not be subject to appeal.*

42 *(3) As used in this subsection, "ballistic resistant material" means:*  
43 *(A) Any commercially produced material designed with the purpose of*

1 *providing ballistic and trauma protection, including, but not limited to,*  
2 *bulletproof vests and kevlar vests; and (B) any homemade or fabricated*  
3 *substance or item designed with the purpose of providing ballistic and*  
4 *trauma protection.*

5 *(u) The sentence for a violation of K.S.A. 2020 Supp. 21-6107, and*  
6 *amendments thereto, or any attempt or conspiracy, as defined in K.S.A.*  
7 *2020 Supp. 21-5301 and 21-5302, and amendments thereto, to commit*  
8 *such offense, when such person being sentenced has a prior conviction*  
9 *for a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2020*  
10 *Supp. 21-6107, and amendments thereto, or any attempt or conspiracy to*  
11 *commit such offense, shall be presumptive imprisonment. Such sentence*  
12 *shall not be considered a departure and shall not be subject to appeal.*

13 *(v) The sentence for a third or subsequent violation of K.S.A. 8-*  
14 *1568, and amendments thereto, shall be presumptive imprisonment and*  
15 *shall be served consecutively to any other term or terms of imprisonment*  
16 *imposed. Such sentence shall not be considered a departure and shall*  
17 *not be subject to appeal.*

18 *(w) The sentence for aggravated criminal damage to property as*  
19 *defined in K.S.A. 2020 Supp. 21-5813(b), and amendments thereto,*  
20 *when such person being sentenced has a prior conviction for any*  
21 *nonperson felony shall be presumptive imprisonment. Such sentence*  
22 *shall not be considered a departure and shall not be subject to appeal.*

23 *(x) The sentence for a violation of K.S.A. 2020 Supp. 21-5807(a)(1),*  
24 *and amendments thereto, shall be presumptive imprisonment if the*  
25 *offense under such paragraph is classified in grid blocks 7-C, 7-D or 7-*  
26 *E. Such sentence shall not be considered a departure and shall not be*  
27 *subject to appeal.*

28 *(y) (1) Except as provided in subsection (y)(3), if the trier of fact*  
29 *makes a finding beyond a reasonable doubt that an offender committed*  
30 *a nondrug felony offense, or any attempt or conspiracy, as defined in*  
31 *K.S.A. 2020 Supp. 21-5301 and 21-5302, and amendments thereto, to*  
32 *commit a nondrug felony offense, against a law enforcement officer, as*  
33 *defined in K.S.A. 2020 Supp. 21-5111(p)(1) and (3), and amendments*  
34 *thereto, while such officer was engaged in the performance of such*  
35 *officer's duty, or in whole or in any part because of such officer's status*  
36 *as a law enforcement officer, the sentence for such offense shall be:*

37 *(A) If such offense is classified in severity level 2 through 10, one*  
38 *severity level above the appropriate level for such offense; and*

39 *(B) (i) if such offense is classified in severity level 1, except as*  
40 *otherwise provided in subsection (y)(1)(B)(ii), imprisonment for life, and*  
41 *such offender shall not be eligible for probation or suspension,*  
42 *modification or reduction of sentence. In addition, such offender shall*  
43 *not be eligible for parole prior to serving 25 years' imprisonment, and*

1 *such 25 years' imprisonment shall not be reduced by the application of*  
2 *good time credits. No other sentence shall be permitted.*

3 *(ii) The provisions of subsection (y)(1)(B)(i) requiring the court to*  
4 *impose a mandatory minimum term of imprisonment of 25 years shall*  
5 *not apply if the court finds the offender, because of the offender's*  
6 *criminal history classification, is subject to presumptive imprisonment*  
7 *and the sentencing range exceeds 300 months. In such case, the*  
8 *offender is required to serve a mandatory minimum term equal to the*  
9 *sentence established pursuant to the sentencing range.*

10 *(2) The sentence imposed pursuant to subsection (y)(1) shall not be*  
11 *considered a departure and shall not be subject to appeal.*

12 *(3) The provisions of this subsection shall not apply to an offense*  
13 *described in subsection (y)(1) if the factual aspect concerning a law*  
14 *enforcement officer is a statutory element of such offense.*

15 ~~Sec. 10.~~ 12. K.S.A. 2020 Supp. 22-2908 is hereby amended to read as  
16 follows: 22-2908. (a) In determining whether diversion of a defendant is in  
17 the interests of justice and of benefit to the defendant and the community,  
18 the county or district attorney shall consider at least the following factors  
19 among all factors considered:

20 (1) The nature of the crime charged and the circumstances  
21 surrounding it;

22 (2) any special characteristics or circumstances of the defendant;

23 (3) whether the defendant is a first-time offender and if the defendant  
24 has previously participated in diversion, according to the certification of  
25 the Kansas bureau of investigation or the division of vehicles of the  
26 department of revenue;

27 (4) whether there is a probability that the defendant will cooperate  
28 with and benefit from diversion;

29 (5) whether the available diversion program is appropriate to the  
30 needs of the defendant;

31 (6) whether there is a probability that the defendant committed such  
32 crime as a result of an injury, including major depressive disorder,  
33 polytrauma, post-traumatic stress disorder or traumatic brain injury,  
34 connected to service in a combat zone, as defined in section 112 of the  
35 federal internal revenue code of 1986, in the armed forces of the United  
36 States of America;

37 (7) if subsection (a)(6) applies to the defendant, whether there is a  
38 probability that the defendant will cooperate with and benefit from  
39 inpatient or outpatient treatment from any treatment facility or program  
40 operated by the United States department of defense, the United States  
41 department of veterans affairs or the Kansas national guard with the  
42 consent of the defendant, as a condition of diversion;

43 (8) the impact of the diversion of the defendant upon the community;

1 (9) recommendations, if any, of the involved law enforcement  
2 agency;

3 (10) recommendations, if any, of the victim;

4 (11) provisions for restitution; and

5 (12) any mitigating circumstances.

6 (b) A county or district attorney shall not enter into a diversion  
7 agreement in lieu of further criminal proceedings on a complaint if *the*  
8 *complaint alleges that the defendant committed a*:

9 (1) ~~The complaint alleges a~~ Violation of K.S.A. 8-1567, and  
10 amendments thereto, and the defendant:

11 (A) Has previously participated in diversion upon a complaint  
12 alleging a violation of that statute or an ordinance of a city in this state  
13 which prohibits the acts prohibited by that statute;

14 (B) has previously been convicted of or pleaded nolo contendere to a  
15 violation of that statute or a violation of a law of another state or of a  
16 political subdivision of this or any other state, which law prohibits the acts  
17 prohibited by that statute; or

18 (C) during the time of the alleged violation was involved in a motor  
19 vehicle accident or collision resulting in personal injury *to another person*  
20 or death;

21 (2) ~~the complaint alleges that the defendant committed a violation~~  
22 *under chapter 8 of the Kansas Statutes Annotated, and amendments*  
23 *thereto, and the defendant was a commercial driver's license holder at the*  
24 *time the violation was committed or at any subsequent time prior to being*  
25 *considered for diversion;*

26 (3) class A or B felony or for crimes committed on or after July 1,  
27 1993, an off-grid crime, a severity level 1, 2 or 3 felony for nondrug  
28 crimes, a drug severity level 1 or 2 felony for drug crimes committed on or  
29 after July 1, 1993, but prior to July 1, 2012, or a drug severity level 1, 2 or  
30 3 felony committed on or after July 1, 2012; or

31 (3)(4) ~~the complaint alleges a~~ domestic violence offense, as defined  
32 in K.S.A. 2020 Supp. 21-5111, and amendments thereto, and the defendant  
33 has participated in two or more diversions in the previous five year period  
34 upon complaints alleging a domestic violence offense.

35 (c) A county or district attorney may enter into a diversion agreement  
36 in lieu of further criminal proceedings on a complaint for violations of  
37 article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments  
38 thereto, if such diversion carries the same penalties as the conviction for  
39 the corresponding violations. If the defendant has previously participated  
40 in one or more diversions for violations of article 10 of chapter 32 of the  
41 Kansas Statutes Annotated, and amendments thereto, then each subsequent  
42 diversion shall carry the same penalties as the conviction for the  
43 corresponding violations.

1 (d) As used in this section, "major depressive disorder,"  
2 "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury"  
3 shall mean the same as ~~such terms are defined~~ in K.S.A. 2020 Supp. 21-  
4 6630, and amendments thereto.

5 Sec. ~~11~~ **13**. K.S.A. 8-1016 and K.S.A. 2020 Supp. 8-235, 8-2,142, 8-  
6 2,144, 8-1015, 8-1567, 8-1567a, 12-4415, **21-6604**, **21-6804** and 22-2908  
7 are hereby repealed.

8 Sec. ~~12~~ **14**. This act shall take effect and be in force from and after  
9 its publication in the statute book.