

HOUSE BILL No. 2085

By Committee on Corrections and Juvenile Justice

1-18

Proposed Amendment for HB 2085
By: Representative Jennings
For Committee on Corrections and Juvenile Justice
Office of Revisor of Statues
January 26, 2017

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

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

7 Section 1. K.S.A. 2016 Supp. 22-3717 is hereby amended to read as
8 follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.
9 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through
10 21-4638 and 21-4642, prior to their repeal; K.S.A. 2016 Supp. 21-6617,
11 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and amendments
12 thereto; and K.S.A. 8-1567, and amendments thereto; an inmate, including
13 an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or
14 K.S.A. 2016 Supp. 21-6707, and amendments thereto, shall be eligible for
15 parole after serving the entire minimum sentence imposed by the court,
16 less good time credits.

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

20 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to
21 their repeal, and K.S.A. 2016 Supp. 21-6620, 21-6623, 21-6624 and 21-
22 6625, and amendments thereto, an inmate sentenced to imprisonment for
23 the crime of: (A) Capital murder committed on or after July 1, 1994, shall
24 be eligible for parole after serving 25 years of confinement, without
25 deduction of any good time credits; (B) murder in the first degree based
26 upon a finding of premeditated murder committed on or after July 1, 1994,
27 but prior to July 1, 2014, shall be eligible for parole after serving 25 years
28 of confinement, without deduction of any good time credits; and (C)
29 murder in the first degree as described in K.S.A. 2016 Supp. 21-5402(a)
30 (2), and amendments thereto, committed on or after July 1, 2014, shall be
31 eligible for parole after serving 25 years of confinement, without
32 deduction of any good time credits.

33 (3) Except as provided by subsections (b)(1), (b)(2) and (b)(5),
34 K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through
35 21-4638, prior to their repeal, and K.S.A. 2016 Supp. 21-6620, 21-6623,
36 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to

1 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
2 July 1, 2012, must serve 36 months on postrelease supervision.

3 (B) Except as provided in subparagraphs (D) and (E), persons
4 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
5 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
6 drug severity level 4 crimes committed on or after July 1, 2012, must serve
7 24 months on postrelease supervision.

8 (C) Except as provided in subparagraphs (D) and (E), persons
9 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
10 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
11 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
12 must serve 12 months on postrelease supervision.

13 (D) Persons sentenced to a term of imprisonment that includes a
14 sentence for ~~a sexually violent crime as defined in K.S.A. 22-3717, and~~
15 ~~amendments thereto,~~ a sexually motivated crime in which the offender has
16 been ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and
17 amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its
18 repeal, or K.S.A. 2016 Supp. 21-5509, and amendments thereto, or
19 unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A.
20 2016 Supp. 21-5512, and amendments thereto, shall serve the period of
21 postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or
22 (d)(1)(C), plus the amount of good time and program credit earned and
23 retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2016
24 Supp. 21-6821, and amendments thereto, on postrelease supervision.

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

29 (ii) If the sentencing judge departs from the presumptive postrelease
30 supervision period, the judge shall state on the record at the time of
31 sentencing the substantial and compelling reasons for the departure.
32 Departures in this section are subject to appeal pursuant to K.S.A. 21-
33 4721, prior to its repeal, or K.S.A. 2016 Supp. 21-6820, and amendments
34 thereto.

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

37 (a) Written briefs or oral arguments submitted by either the defendant
38 or the state;

39 (b) any evidence received during the proceeding;

40 (c) the presentence report, the victim's impact statement and any
41 psychological evaluation as ordered by the court pursuant to K.S.A. 21-
42 4714(e), prior to its repeal, or K.S.A. 2016 Supp. 21-6813(e), and
43 amendments thereto; and

a sexually violent crime, as defined in
K.S.A. 22-2317, and amendments
thereto, committed on or after July 1,
1993, but prior to July 1, 2006,