

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2088

By Committee on Corrections and Juvenile Justice

1-18

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sentencing; certified drug abuse treatment programs; amending
3 K.S.A. ~~2016~~ 2017 Supp. 21-6824 and repealing the existing section.
4

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

6 Section 1. K.S.A. ~~2016~~ 2017 Supp. 21-6824 is hereby amended to
7 read as follows: 21-6824. (a) There is hereby established a nonprison
8 sanction of certified drug abuse treatment programs for certain offenders
9 who are sentenced on or after November 1, 2003. Placement of offenders
10 in certified drug abuse treatment programs by the court shall be limited to
11 placement of adult offenders, convicted of a felony violation of ~~K.S.A. 65-~~
12 ~~4160 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-36a06, prior~~
13 ~~to its transfer, or K.S.A. 2016~~ 2017 Supp. 21-5706, and amendments
14 thereto, *whose offense is classified in grid blocks:*

15 (1) ~~Whose offense is classified in grid blocks 5-C, 5-D, 5-E, 5-F, 5-G,~~
16 5-H or 5-I of the sentencing guidelines grid for drug crimes and such
17 offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161,
18 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03,
19 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. ~~2016~~ 2017 Supp.
20 21-5703, 21-5705 or 21-5716, and amendments thereto, or any
21 substantially similar offense from another jurisdiction; or

22 (2) ~~whose offense is classified in grid blocks 5-A, or 5-B, 4-A, 4-B, 4-~~
23 ~~C, 4-D, 4-E, 4-F, 4-G, 4-H, or 4-I~~ of the sentencing guidelines grid for
24 drug crimes, such offender has no felony conviction of K.S.A. 65-4142,
25 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010
26 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A.
27 ~~2016~~ 2017 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto,
28 or any substantially similar offense from another jurisdiction, if the person
29 felonies in the offender's criminal history were severity level 8, 9 or 10 or
30 nongrid offenses of the sentencing guidelines grid for nondrug crimes, and
31 the court finds and sets forth with particularity the reasons for finding that
32 the safety of the members of the public will not be jeopardized by such
33 placement in a drug abuse treatment program.

34 (b) As a part of the presentence investigation pursuant to K.S.A. ~~2016~~
35 2017 Supp. 21-6813, and amendments thereto, offenders who meet the
36 requirements of subsection (a), unless otherwise specifically ordered by

1 the court, shall be subject to:

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

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

7 (c) If the offender is assigned a high risk status as determined by the
8 drug abuse assessment performed pursuant to subsection (b)(1) and a
9 moderate or high risk status as determined by the criminal risk-need
10 assessment performed pursuant to subsection (b)(2), the sentencing court
11 shall commit the offender to treatment in a drug abuse treatment program
12 until the court determines the offender is suitable for discharge by the
13 court. The term of treatment shall not exceed 18 months. The court may
14 extend the term of probation, pursuant to ~~subsection (c)(3) of K.S.A. 2016~~
15 **2017** Supp. 21-6608(c)(3), and amendments thereto. The term of treatment
16 may not exceed the term of probation.

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

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

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

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

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

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

33 (2) Offenders who are discharged from such program shall be subject
34 to the revocation provisions of ~~subsection (n) of K.S.A. 2016~~ **2017** Supp.
35 21-6604(n), and amendments thereto.

36 (g) As used in this section, "mental health professional" includes
37 licensed social workers, persons licensed to practice medicine and surgery,
38 licensed psychologists, licensed professional counselors or registered
39 alcohol and other drug abuse counselors licensed or certified as addiction
40 counselors who have been certified by the secretary of corrections to treat
41 offenders pursuant to K.S.A.—~~2016~~ **2017** Supp. 75-52,144, and
42 amendments thereto.

43 (h) (1) Offenders who meet the requirements of subsection (a) shall

1 not be subject to the provisions of this section and shall be sentenced as
2 otherwise provided by law, if such offenders:

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

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

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

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

11 (i) The court may order an offender who otherwise does not meet the
12 requirements of subsection (c) to undergo one additional drug abuse
13 assessment while such offender is on probation. Such offender may be
14 ordered to undergo drug abuse treatment pursuant to subsection (a) if such
15 offender is determined to meet the requirements of subsection (c). The cost
16 of such assessment shall be paid by such offender.

17 Sec. 2. K.S.A. ~~2016~~ **2017** Supp. 21-6824 is hereby repealed.

18 Sec. 3. This act shall take effect and be in force from and after its
19 publication in the statute book.