

HOUSE BILL No. 2336

By Committee on Corrections and Juvenile Justice

2-14

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to offenders under supervision of the secretary of corrections; credit for
3 jail time served; amending K.S.A. 2018 Supp. 21-6606 and 21-6615
4 and repealing the existing sections.

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

7 Section 1. K.S.A. 2018 Supp. 21-6606 is hereby amended to read as
8 follows: 21-6606. (a) When separate sentences of imprisonment for
9 different crimes are imposed on a defendant on the same date, including
10 sentences for crimes for which suspended sentences, probation or
11 assignment to a community correctional services program have been
12 revoked, such sentences shall run concurrently or consecutively as the
13 court directs. Whenever the record is silent as to the manner in which two
14 or more sentences imposed at the same time shall be served, they shall be
15 served concurrently, except as otherwise provided in subsections (c), (d)
16 and (e).

17 (b) Any person who is convicted and sentenced for a crime
18 committed while on probation, assignment to a community correctional
19 services program, parole or conditional release for a misdemeanor shall
20 serve the sentence concurrently with or consecutively to the term or terms
21 under which the person was on probation, assigned to a community
22 correctional services program or on parole or conditional release, as the
23 court directs.

24 (c) Any person who is convicted and sentenced for a crime
25 committed while on probation, assigned to a community correctional
26 services program, on parole, on conditional release or on postrelease
27 supervision for a felony shall serve the sentence consecutively to the term
28 or terms under which the person was on probation, assigned to a
29 community correctional services program or on parole or conditional
30 release.

31 (d) Any person who is convicted and sentenced for a crime
32 committed while on release for a felony pursuant to article 28 of chapter
33 22 of the Kansas Statutes Annotated, and amendments thereto, shall serve
34 the sentence consecutively to the term or terms under which the person
35 was released.

36 (e) (1) Any person who is convicted and sentenced for a crime

1 committed while such person is incarcerated and serving a sentence for a
2 felony in any place of incarceration shall serve the sentence consecutively
3 to the term or terms under which the person was incarcerated.

4 (2) If a person is sentenced to prison for a crime committed on or
5 after July 1, 1993, while the person was imprisoned for an offense
6 committed prior to July 1, 1993, and the person is not eligible for the
7 retroactive application of the sentencing guidelines act, the new sentence
8 shall not be aggregated with the old sentence but shall begin when the
9 person is paroled or reaches the conditional release date on the old
10 sentence, whichever is earlier. If the offender was past the offender's
11 conditional release date at the time the new offense was committed, the
12 new sentence shall not be aggregated with the old sentence but shall begin
13 when the person is ordered released by the prisoner review board or
14 reaches the maximum sentence date on the old sentence, whichever is
15 earlier. The new sentence shall then be served as otherwise provided by
16 law. The period of post incarceration supervision shall be based on the
17 longest term of post incarceration supervision imposed for all crimes upon
18 which sentence was imposed or until discharged from supervision by the
19 prisoner review board. The term of post incarceration supervision imposed
20 by this paragraph shall apply retroactively to crimes committed prior to
21 July 1, 2008.

22 ~~(3) As used in this subsection, "post incarceration supervision"~~
23 ~~includes parole and postrelease supervision.~~

24 (f) The provisions of this subsection relating to parole eligibility shall
25 be applicable to persons convicted of crimes committed prior to January 1,
26 1979, but shall be applicable to persons convicted of crimes committed on
27 or after that date only to the extent that the terms of this subsection are not
28 in conflict with the provisions of K.S.A. 22-3717, and amendments
29 thereto. In calculating the time to be served on concurrent and consecutive
30 sentences, the following rules shall apply:

31 (1) When indeterminate terms run concurrently, the shorter minimum
32 terms merge in and are satisfied by serving the longest minimum term and
33 the shorter maximum terms merge in and are satisfied by conditional
34 release or discharge on the longest maximum term if the terms are imposed
35 on the same date.

36 (2) When concurrent terms are imposed on different dates,
37 computation will be made to determine which term or terms require the
38 longest period of imprisonment to reach parole eligibility, conditional
39 release and maximum dates, and that sentence will be considered the
40 controlling sentence. The parole eligibility date may be computed and
41 projected on one sentence and the conditional release date and maximum
42 may be computed and projected from another to determine the controlling
43 sentence.

1 (3) When indeterminate terms imposed on the same date are to be
2 served consecutively, the minimum terms are added to arrive at an
3 aggregate minimum to be served equal to the sum of all minimum terms
4 and the maximum terms are added to arrive at an aggregate maximum
5 equal to the sum of all maximum terms.

6 (4) When indeterminate sentences are imposed to be served
7 consecutively to sentences previously imposed in any other court or the
8 sentencing court, the aggregated minimums and maximums shall be
9 computed from the effective date of the subsequent sentences which have
10 been imposed as consecutive. For the purpose of determining the sentence
11 begins date and the parole eligibility and conditional release dates, the
12 inmate shall be given credit on the aggregate sentence for time spent
13 imprisoned on the previous sentences, but not exceeding an amount equal
14 to the previous minimum sentence less the maximum amount of good time
15 credit that could have been earned on the minimum sentence. For the
16 purpose of computing the maximum date, the inmate shall be given credit
17 for all time spent imprisoned on the previous sentence. This method for
18 computation of the maximum sentence shall be utilized for all sentences
19 computed pursuant to this subsection after July 1, 1983.

20 Nothing in this ~~subsection (f)(4)~~ *paragraph* shall affect the authority of
21 the prisoner review board to determine the parole eligibility of inmates
22 pursuant to ~~subsection (d)~~ of K.S.A. 22-3717(d), and amendments thereto.

23 (5) When consecutive sentences are imposed which are to be served
24 consecutive to sentences for which a prisoner has been on probation,
25 assigned to a community correctional services program, on parole or on
26 conditional release, the amount of time served on probation, on assignment
27 to a community correctional services program, on parole or on conditional
28 release shall not be credited as service on the aggregate sentence in
29 determining the parole eligibility, conditional release and maximum dates,
30 except that credit shall be given for any amount of time spent in a
31 residential facility while on probation or assignment to a community
32 correctional residential services program.

33 (g) When a definite and an indefinite term run consecutively, the
34 period of the definite term is added to both the minimum and maximum of
35 the indeterminate term and both sentences are satisfied by serving the
36 indeterminate term. The provisions of this subsection shall not apply to
37 crimes committed on or after July 1, 1993.

38 (h) When a defendant is sentenced in a state court and is also under
39 sentence from a federal court or other state court or is subject to sentence
40 in a federal court or other state court for an offense committed prior to the
41 defendant's sentence in a Kansas state court, the court may direct that
42 custody of the defendant may be relinquished to federal or other state
43 authorities and that such state sentences as are imposed may run

1 concurrently with any federal or other state sentence imposed.

2 (i) *When a defendant is serving a previously imposed sentence, or is*
3 *on post incarceration supervision for a previously imposed sentence, and*
4 *a sentence is imposed on such defendant to be served consecutively to the*
5 *previously imposed sentence, such defendant is not entitled to credit for*
6 *time served in custody on such sentence.*

7 (j) *As used in this section, "post incarceration supervision" includes*
8 *parole and postrelease supervision.*

9 Sec. 2. K.S.A. 2018 Supp. 21-6615 is hereby amended to read as
10 follows: 21-6615. (a) In any criminal action in which the defendant is
11 convicted, the judge, if the judge sentences the defendant to confinement,
12 shall ~~direct that~~ *provide*, for the purpose of computing defendant's sentence
13 and parole eligibility and conditional release dates thereunder, ~~that such~~
14 ~~sentence is to be computed from a date, to be specifically designated by~~
15 ~~the court in the sentencing order of the journal entry of judgment. Such~~
16 ~~date shall be established to reflect and shall be computed as an allowance~~
17 ~~for, the dates that reflect the time which the defendant has spent~~
18 ~~incarcerated pending the disposition of the defendant's case. In recording~~
19 ~~the commencing date of such sentence the date as specifically set forth by~~
20 ~~the court shall be used as the date of sentence and~~ *The secretary of*
21 *corrections shall determine whether or not a defendant is awarded credit*
22 *toward post incarceration supervision pursuant to K.S.A. 75-5217, and*
23 *amendments thereto, for time spent incarcerated for such dates. All good*
24 *time allowances as are authorized by the secretary of corrections are to be*
25 *allowed on such sentence from such date as though the defendant were*
26 *actually incarcerated in any of the institutions of the state correctional*
27 *system.*

28 (b) In any criminal action in which probation, assignment to a
29 conservation camp or assignment to community corrections is revoked and
30 the defendant is sentenced to confinement, for the purpose of computing
31 the defendant's sentence and parole eligibility and conditional release date,
32 the defendant's sentence is to be computed from a date, hereafter to be
33 specifically designated in the sentencing order of the journal entry of
34 judgment. Such date shall be established to reflect and shall be computed
35 as an allowance for the time which the defendant has spent in a residential
36 facility while on probation, assignment to a conservation camp or
37 assignment to community correctional residential services program. The
38 commencing date of such sentence shall be used as the date of sentence
39 and all good time allowances as are authorized by law are to be allowed on
40 such sentence from such date as though the defendant were actually
41 incarcerated in a correctional institution.

42 (c) Such credit is not to be considered to reduce the minimum or
43 maximum terms of confinement authorized by law for the offense of

1 which the defendant has been convicted.

2 (d) *As used in this section, "post incarceration supervision" includes*
3 *parole and postrelease supervision.*

4 Sec. 3. K.S.A. 2018 Supp. 21-6606 and 21-6615 are hereby repealed.

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