

## HOUSE BILL No. 2610

By Representative O'Neal

12-11

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AN ACT concerning crimes and punishment; relating to sentencing; amending K.S.A. 2001 Supp. 21-4610 and repealing the existing section.

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

Section 1. K.S.A. 2001 Supp. 21-4610 is hereby amended to read as follows: 21-4610. (a) Except as required by this subsection and subsection (d), nothing in this section shall be construed to limit the authority of the court to impose or modify any general or specific conditions of probation, suspension of sentence or assignment to a community correctional services program, except that the court shall condition any order granting probation, suspension of sentence or assignment to a community correctional services program on the defendant's obedience of the laws of the United States, the state of Kansas and any other jurisdiction to the laws of which the defendant may be subject. The provisions of K.S.A. 75-5291, and amendments thereto, shall be applicable to any assignment to a community correctional services program pursuant to this section.

(b) The court services officer or community correctional services officer may recommend, and the court may order, the imposition of any conditions of probation, suspension of sentence or assignment to a community correctional services program. For crimes committed on or after July 1, 1993, in presumptive nonprison cases, the court services officer or community correctional services officer may recommend, and the court may order, the imposition of any conditions of probation or assignment to a community correctional services program. The court may at any time order the modification of such conditions, after notice to the court services officer or community correctional services officer and an opportunity for such officer to be heard thereon. The court shall cause a copy of any such order to be delivered to the court services officer and the probationer or to the community correctional services officer and the community corrections participant, as the case may be. The provisions of K.S.A. 75-5291, and amendments thereto, shall be applicable to any assignment to a community correctional services program pursuant to this section.

(c) The court may impose any conditions of probation, suspension of

1 sentence or assignment to a community correctional services program  
2 that the court deems proper, including but not limited to requiring that  
3 the defendant:

4 (1) Avoid such injurious or vicious habits, as directed by the court,  
5 court services officer or community correctional services officer;

6 (2) avoid such persons or places of disreputable or harmful character,  
7 as directed by the court, court services officer or community correctional  
8 services officer;

9 (3) report to the court services officer or community correctional  
10 services officer as directed;

11 (4) permit the court services officer or community correctional serv-  
12 ices officer to visit the defendant at home or elsewhere;

13 (5) work faithfully at suitable employment insofar as possible;

14 (6) remain within the state unless the court grants permission to  
15 leave;

16 (7) pay a fine or costs, applicable to the offense, in one or several  
17 sums and in the manner as directed by the court;

18 (8) support the defendant's dependents;

19 (9) reside in a residential facility located in the community and par-  
20 ticipate in educational, counseling, work and other correctional or reha-  
21 bilitative programs;

22 (10) perform community or public service work for local govern-  
23 mental agencies, private corporations organized not for profit, or chari-  
24 table or social service organizations performing services for the  
25 community;

26 (11) perform services under a system of day fines whereby the de-  
27 fendant is required to satisfy fines, costs or reparation or restitution ob-  
28 ligations by performing services for a period of days determined by the  
29 court on the basis of ability to pay, standard of living, support obligations  
30 and other factors;

31 (12) participate in a house arrest program pursuant to K.S.A. 21-  
32 4603b, and amendments thereto;

33 (13) order the defendant to pay the administrative fee authorized by  
34 K.S.A. 2001 Supp. 22-4529 and amendments thereto, unless waived by  
35 the court; ~~or~~

36 (14) in felony cases, except for violations of K.S.A. 8-1567 and amend-  
37 ments thereto, be confined in a county jail not to exceed 60 days, which  
38 need not be served consecutively; *or*

39 (15) *pay restitution from a prior conviction which remains unpaid*  
40 *from a previous court order.*

41 (d) In addition to any other conditions of probation, suspension of  
42 sentence or assignment to a community correctional services program,  
43 the court shall order the defendant to comply with each of the following

1 conditions:

2 (1) Make reparation or restitution to the aggrieved party for the dam-  
3 age or loss caused by the defendant's crime, in an amount and manner  
4 determined by the court and to the person specified by the court, unless  
5 the court finds compelling circumstances which would render a plan of  
6 restitution unworkable. If the court finds a plan of restitution unworkable,  
7 the court shall state on the record in detail the reasons therefor;

8 (2) pay the probation or community correctional services fee pursu-  
9 ant to K.S.A. 21-4610a, and amendments thereto; and

10 (3) reimburse the state general fund for all or a part of the expendi-  
11 tures by the state board of indigents' defense services to provide counsel  
12 and other defense services to the defendant. In determining the amount  
13 and method of payment of such sum, the court shall take account of the  
14 financial resources of the defendant and the nature of the burden that  
15 payment of such sum will impose. A defendant who has been required  
16 to pay such sum and who is not willfully in default in the payment thereof  
17 may at any time petition the court which sentenced the defendant to  
18 waive payment of such sum or of any unpaid portion thereof. If it appears  
19 to the satisfaction of the court that payment of the amount due will im-  
20 pose manifest hardship on the defendant or the defendant's immediate  
21 family, the court may waive payment of all or part of the amount due or  
22 modify the method of payment. The amount of attorney fees to be in-  
23 cluded in the court order for reimbursement shall be the amount claimed  
24 by appointed counsel on the payment voucher for indigents' defense serv-  
25 ices or the amount prescribed by the board of indigents' defense services  
26 reimbursement tables as provided in K.S.A. 22-4522, and amendments  
27 thereto, whichever is less.

28 Sec. 2. K.S.A. 2001 Supp. 21-4610 is hereby repealed.

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

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