

**SENATE BILL No. 435**

By Committee on Corrections and Juvenile Justice

2-10

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to sentencing; creating alternative incarceration credit; amending  
3 K.S.A. 2015 Supp. 21-6821 and repealing the existing section.  
4

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

6 Section 1. K.S.A. 2015 Supp. 21-6821 is hereby amended to read as  
7 follows: 21-6821. (a) The secretary of corrections is hereby authorized to  
8 adopt rules and regulations providing for a system of good time  
9 calculations. Such rules and regulations shall provide circumstances upon  
10 which an inmate may earn good time credits and for the forfeiture of  
11 earned credits. Such circumstances may include factors related to program  
12 and work participation and conduct and the inmate's willingness to  
13 examine and confront past behavioral patterns that resulted in the  
14 commission of the inmate's crimes.

15 (b) For purposes of determining release of an inmate, the following  
16 shall apply with regard to good time calculations:

17 (1) Good behavior by inmates is the expected norm and negative  
18 behavior will be punished; and

19 (2) the amount of good time which can be earned by an inmate and  
20 subtracted from any sentence is limited to:

21 (A) For a crime committed on or after July 1, 1993, an amount equal  
22 to 15% of the prison part of the sentence;

23 (B) for a nondrug severity level 7 through 10 crime committed on or  
24 after January 1, 2008, an amount equal to 20% of the prison part of the  
25 sentence; or

26 (C) for a drug severity level 3 or 4 crime committed on or after  
27 January 1, 2008, but prior to July 1, 2012, or a drug severity level 3  
28 through 5 crime committed on or after July 1, 2012, an amount equal to  
29 20% of the prison part of the sentence.

30 (c) The postrelease supervision term of a person sentenced to a term  
31 of imprisonment that includes a sentence for a sexually violent crime as  
32 defined in K.S.A. 22-3717, and amendments thereto, a sexually motivated  
33 crime in which the offender has been ordered to register pursuant to  
34 K.S.A. 22-3717(d)(1)(D)(vii), and amendments thereto, electronic  
35 solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 2015 Supp. 21-  
36 5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-

1 3520, prior to its repeal, or K.S.A. 2015 Supp. 21-5512, and amendments  
2 thereto, shall have any time which is earned and subtracted from the prison  
3 part of such sentence and any other consecutive or concurrent sentence  
4 pursuant to good time calculation added to such inmate's postrelease  
5 supervision term.

6 (d) An inmate shall not be awarded good time credits pursuant to this  
7 section for any review period established by the secretary of corrections in  
8 which a court finds that the inmate has done any of the following while in  
9 the custody of the secretary of corrections:

10 (1) Filed a false or malicious action or claim with the court;

11 (2) brought an action or claim with the court solely or primarily for  
12 delay or harassment;

13 (3) testified falsely or otherwise submitted false evidence or  
14 information to the court;

15 (4) attempted to create or obtain a false affidavit, testimony or  
16 evidence; or

17 (5) abused the discovery process in any judicial action or proceeding.

18 (e) (1) For purposes of determining release of an inmate who is  
19 serving only a sentence for a nondrug severity level 4 through 10 crime or  
20 a drug severity level 3 or 4 crime committed on or after January 1, 2008,  
21 but prior to July 1, 2012, or an inmate who is serving only a sentence for a  
22 nondrug severity level 4 through 10 crime or a drug severity level 3  
23 through 5 crime committed on or after July 1, 2012, the secretary of  
24 corrections is hereby authorized to adopt rules and regulations regarding  
25 program credit calculations. Such rules and regulations shall provide  
26 circumstances upon which an inmate may earn program credits and for the  
27 forfeiture of earned credits and such circumstances may include factors  
28 substantially related to program participation and conduct. In addition to  
29 any good time credits earned and retained, the following shall apply with  
30 regard to program credit calculations:

31 (A) A system shall be developed whereby program credits may be  
32 earned by inmates for the successful completion of requirements for a  
33 general education diploma, a technical or vocational training program, a  
34 substance abuse treatment program or any other program designated by the  
35 secretary which has been shown to reduce offender's risk after release; and

36 (B) the amount of time which can be earned and retained by an  
37 inmate for the successful completion of programs and subtracted from any  
38 sentence is limited to not more than 90 days.

39 (2) Any time which is earned and subtracted from the prison part of  
40 the sentence of any inmate pursuant to program credit calculation shall not  
41 be added to such inmate's postrelease supervision term, if applicable,  
42 except that the postrelease supervision term of a person sentenced to a  
43 term of imprisonment that includes a sentence for a sexually violent crime

1 as defined in K.S.A. 22-3717, and amendments thereto, a sexually  
2 motivated crime in which the offender has been ordered to register  
3 pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and amendments thereto,  
4 electronic solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 2015  
5 Supp. 21-5509, and amendments thereto, or unlawful sexual relations,  
6 K.S.A. 21-3520, prior to its repeal, or K.S.A. 2015 Supp. 21-5512, and  
7 amendments thereto, shall have any time which is earned and subtracted  
8 from the prison part of such sentence and any other consecutive or  
9 concurrent sentence pursuant to program credit calculation added to such  
10 inmate's postrelease supervision term.

11 (3) When separate sentences of imprisonment for different crimes are  
12 imposed on a defendant on the same date, a defendant shall only be  
13 eligible for program credits if such crimes are a nondrug severity level 4  
14 through 10, a drug severity level 3 or 4 committed prior to July 1, 2012, or  
15 a drug severity level 3 through 5 committed on or after July 1, 2012.

16 (4) Program credits shall not be earned by any offender successfully  
17 completing a sex offender treatment program.

18 (5) The secretary of corrections shall report to the Kansas sentencing  
19 commission and the Kansas reentry policy council the data on the program  
20 credit calculations.

21 *(f) The secretary shall adopt rules and regulations providing for a*  
22 *system of calculating alternative incarceration credit. Such rules and*  
23 *regulations shall provide for the circumstances upon which an inmate may*  
24 *earn alternative incarceration credit and for the forfeiture of earned*  
25 *credit. Such circumstances may include factors related to program and*  
26 *work participation and conduct and the inmate's willingness to examine*  
27 *and confront past behavioral patterns that resulted in the commission of*  
28 *the crime for which the inmate is incarcerated. The amount of time that*  
29 *can be earned and retained by an inmate as alternative incarceration*  
30 *credit is limited to not more than 30% of the prison part of the inmate's*  
31 *sentence.*

32 *(g) The secretary shall adopt rules and regulations providing for a*  
33 *system allowing any inmate who is determined to be low risk by use of a*  
34 *standardized risk assessment tool or instrument specified by the Kansas*  
35 *sentencing commission to petition the prisoner review board to be*  
36 *approved for alternative incarceration. If an inmate makes a petition to*  
37 *the prisoner review board and does not have a risk assessment on a*  
38 *standardized risk assessment tool, such inmate shall be assessed and*  
39 *assigned a risk level within 30 days of the inmate's petition to determine*  
40 *eligibility.*

41 *(h) An inmate who earns alternative incarceration credit pursuant to*  
42 *subsection (f) shall serve the time credited pursuant to subsection (f)*  
43 *outside of a state correctional facility and monitored by an electronic*

1 monitoring device. An inmate who has a petition approved by the prisoner  
2 review board pursuant to subsection (g) shall serve the remainder of such  
3 inmate's sentence outside of a state correctional facility and monitored by  
4 an electronic monitoring device. Such electronic monitoring device shall  
5 be attached to the offender and shall:

6 (1) Provide continuous verification of the offender's location through  
7 a global positioning system;

8 (2) be equipped with a cut-free strap secured around the ankle which  
9 shall alarm if tampered with or removed; and

10 (3) be continuously monitored by a 24-hour call center capable of  
11 alerting the appropriate authorities of alarms.

12 (i) Any time that is earned and served on a house arrest program  
13 pursuant to K.S.A. 2015 Supp. 21-6609, and amendment thereto, or on  
14 alternative incarceration pursuant to subsection (h), shall not be added to  
15 an inmate's postrelease supervision term, if applicable.

16 ~~(g)~~(j) The state of Kansas, the secretary of corrections and the  
17 secretary's agents or employees shall not be liable for damages caused by  
18 any negligent or wrongful act or omission in making the good time ~~and~~  
19 program and alternative incarceration credit calculations authorized by  
20 this section.

21 ~~(g)~~(k) The secretary of corrections shall make the good time and  
22 program credit calculations authorized by the amendments to this section  
23 by ~~this act~~ section 1 of chapter 54 of the 2015 Session Laws of Kansas no  
24 later than January 1, 2016.

25 ~~(h)~~(l) The amendments to this section by ~~this act~~ section 1 of chapter  
26 54 of the 2015 Session Laws of Kansas shall be construed and applied  
27 retroactively.

28 Sec. 2. K.S.A. 2015 Supp. 21-6821 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.