

House Substitute for SENATE BILL No. 60

By Committee on Corrections and Juvenile Justice

3-17

1 AN ACT concerning crimes, criminal punishment and procedure; relating
2 to grand juries, relating to appeals; relating to community corrections;
3 {relating to house arrest;} amending K.S.A. 22-3001 and 22-3601 and
4 K.S.A. 2010 Supp. {12-4509, 22-2410,} 75-5291 and 75-52,112 {and
5 sections 249-85 of chapter 136 of the 2010 Session Laws of Kansas}
6 and repealing the existing sections.
7

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

9 {Section 1. K.S.A. 2010 Supp. 12-4509 is hereby amended to read
10 as follows: 12-4509. (a) Whenever a person is found guilty of the
11 violation of an ordinance, the municipal judge may:

12 {(1) Release the person without imposition of sentence;

13 {(2) release the person on probation after the imposition of
14 sentence, without imprisonment or the payment of a fine or a portion
15 thereof, subject to conditions imposed by the court as provided in
16 subsection (e); or

17 {(3) impose such sentence of fine or imprisonment, or both, as
18 authorized for the ordinance violation-; or

19 {(4) impose a sentence of house arrest as provided in section 249 of
20 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.

21 {(b) In addition to or in lieu of any other sentence authorized by
22 law, whenever a person is found guilty of the violation of an ordinance
23 and there is evidence that the act constituting the violation of the
24 ordinance was substantially related to the possession, use or ingestion
25 of cereal malt beverage or alcoholic liquor by such person, the judge
26 may order such person to attend and satisfactorily complete an
27 alcohol or drug education or training program certified by the chief
28 judge of the judicial district or licensed by the secretary of social and
29 rehabilitation services.

30 {(c) Except as provided in subsection (d), in addition to or in lieu
31 of any other sentence authorized by law, whenever a person is
32 convicted of having violated, while under 21 years of age, an
33 ordinance prohibiting an act prohibited by K.S.A. 2010 Supp. 21-
34 36a01 through 21-36a17, and amendments thereto, or K.S.A. 8-1599,

1 41-719 or 41-727, and amendments thereto, the municipal judge shall
2 order such person to submit to and complete an alcohol and drug
3 evaluation by a community-based alcohol and drug safety action
4 program certified pursuant to K.S.A. 8-1008, and amendments
5 thereto, and to pay a fee not to exceed the fee established by that
6 statute for such evaluation. If the judge finds that the person is
7 indigent, the fee may be waived.

8 {(d) If the person is 18 or more years of age but less than 21 years
9 of age and is convicted of a violation of K.S.A. 41-727, and
10 amendments thereto, involving cereal malt beverage, the provisions of
11 subsection (c) are permissive and not mandatory.

12 {(e) The court may impose any conditions of probation or
13 suspension of sentence that the court deems proper, including, but not
14 limited to, requiring that the defendant:

15 {(1) Avoid such injurious or vicious habits, as directed by the
16 court or the probation officer;

17 {(2) avoid such persons or places of disreputable or harmful
18 character, as directed by the court or the probation officer;

19 {(3) report to the probation officer as directed;

20 {(4) permit the probation officer to visit the defendant at home or
21 elsewhere;

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

23 {(6) remain within the state unless the court grants permission to
24 leave;

25 {(7) pay a fine or costs, applicable to the ordinance violation, in
26 one or several sums and in the manner as directed by the court;

27 {(8) support the defendant's dependents;

28 {(9) reside in a residential facility located in the community and
29 participate in educational counseling, work and other correctional or
30 rehabilitative programs;

31 {(10) perform community or public service work for local
32 governmental agencies, private corporations organized not for profit,
33 or charitable or social service organizations performing services for
34 the community;

35 {(11) perform services under a system of day fines whereby the
36 defendant is required to satisfy fines, costs or reparation or restitution
37 obligations by performing services for a period of days determined by
38 the court on the basis of ability to pay, standard of living, support
39 obligations and other factors;

40 {(12) make reparation or restitution to the aggrieved party for the
41 damage or loss caused by the defendant's crime, in an amount and
42 manner determined by the court and to the person specified by the
43 court; or

1 **{(13) reimburse the city, in accordance with any order made**
2 **under subsection (f), for all or a part of the reasonable expenditures**
3 **by the city to provide counsel and other defense services to the**
4 **defendant.**

5 **{(f) In addition to or in lieu of any other sentence authorized by**
6 **law, whenever a person is found guilty of the violation of an ordinance**
7 **the judge may order such person to reimburse the city for all or a part**
8 **of the reasonable expenditures by the city to provide counsel and other**
9 **defense services to the defendant. In determining the amount and**
10 **method of payment of such sum, the court shall take account of the**
11 **financial resources of the defendant and the nature of the burden that**
12 **payment of such sum will impose. A defendant who has been required**
13 **to pay such sum and who is not willfully in default in the payment**
14 **thereof may at any time petition the court which sentenced the**
15 **defendant to waive payment of such sum or of any unpaid portion**
16 **thereof. If it appears to the satisfaction of the court that payment of**
17 **the amount due will impose manifest hardship on the defendant or the**
18 **defendant's immediate family, the court may waive payment of all or**
19 **part of the amount due or modify the method of payment.}**

20 ~~{Section 1}~~**Sec 2. K.S.A. 2010 Supp. 22-2410 is hereby amended to**
21 **read as follows: 22-2410. (a) Any person who has been arrested in this**
22 **state may petition the district court for the expungement of such**
23 **arrest record.**

24 **{(b) When a petition for expungement is filed, the court shall set a**
25 **date for hearing on such petition and shall cause notice of such**
26 **hearing to be given to the prosecuting attorney and the arresting law**
27 **enforcement agency. When a petition for expungement is filed, the**
28 **official court file shall be separated from the other records of the**
29 **court, and shall be disclosed only to a judge of the court and members**
30 **of the staff of the court designated by a judge of the district court, the**
31 **prosecuting attorney, the arresting law enforcement agency, or any**
32 **other person when authorized by a court order, subject to any**
33 **conditions imposed by the order. Except as otherwise provided by law,**
34 **a petition for expungement shall be accompanied by a docket fee in**
35 **the amount of \$100. Except as provided further, the docket fee**
36 **established in this section shall be the only fee collected or moneys in**
37 **the nature of a fee collected for the docket fee. Such fee shall only be**
38 **established by an act of the legislature and no other authority is**
39 **established by law or otherwise to collect a fee. On and after the**
40 **effective date of this act through June 30, 2011, the supreme court may**
41 **impose an additional charge, not to exceed \$15 per docket fee, to fund**
42 **the costs of non-judicial nonjudicial personnel. The petition shall state:**

43 **{(1) The petitioner's full name;**

1 **{{(2) the full name of the petitioner at the time of arrest, if different**
2 **than the petitioner's current name;**

3 **{{(3) the petitioner's sex, race and date of birth;**

4 **{{(4) the crime for which the petitioner was arrested;**

5 **{{(5) the date of the petitioner's arrest; and**

6 **{{(6) the identity of the arresting law enforcement agency.**

7 **{No surcharge or fee shall be imposed to any person filing a petition**
8 **pursuant to this section, who was arrested as a result of being a victim**
9 **of identity theft under K.S.A. 21-4018, prior to its repeal, or subsection**
10 **(a) of section 177 of chapter 136 of the 2010 Session Laws of Kansas, and**
11 **amendments thereto, or who has had criminal charges dismissed**
12 **because a court has found that there was no probable cause for the arrest,**
13 **the petitioner was found not guilty in court proceedings or the charges**
14 **have been dismissed. Any person who may have relevant information**
15 **about the petitioner may testify at the hearing. The court may inquire**
16 **into the background of the petitioner.**

17 **{{(c) At the hearing on a petition for expungement, the court shall**
18 **order the arrest record and subsequent court proceedings, if any,**
19 **expunged upon finding: (1) The arrest occurred because of mistaken**
20 **identity;**

21 **{{(2) a court has found that there was no probable cause for the**
22 **arrest;**

23 **{{(3) the petitioner was found not guilty in court proceedings; or**

24 **{{(4) the expungement would be in the best interests of justice and**
25 **(A) charges have been dismissed; or (B) no charges have been or are**
26 **likely to be filed.**

27 **{{(d) When the court has ordered expungement of an arrest record**
28 **and subsequent court proceedings, if any, the order shall state the**
29 **information required to be stated in the petition and shall state the**
30 **grounds for expungement under subsection (c). The clerk of the court**
31 **shall send a certified copy of the order to the Kansas bureau of**
32 **investigation which shall notify the federal bureau of investigation, the**
33 **secretary of corrections and any other criminal justice agency which**
34 **may have a record of the arrest. If an order of expungement is**
35 **entered, the petitioner shall be treated as not having been arrested.**

36 **{{(e) If the ground for expungement is as provided in subsection (c)**
37 **(4), the court shall determine whether, in the interests of public**
38 **welfare, the records should be available for any of the following**
39 **purposes: (1) In any application for employment as a detective with a**
40 **private detective agency, as defined in K.S.A. 75-7b01, and**
41 **amendments thereto; as security personnel with a private patrol**
42 **operator, as defined by K.S.A. 75-7b01, and amendments thereto; or**
43 **with an institution, as defined in K.S.A. 76-12a01, and amendments**

1 thereto, of the department of social and rehabilitation services;

2 **{(2) in any application for admission, or for an order of**
3 **reinstatement, to the practice of law in this state;**

4 **{(3) to aid in determining the petitioner's qualifications for**
5 **employment with the Kansas lottery or for work in sensitive areas**
6 **within the Kansas lottery as deemed appropriate by the executive**
7 **director of the Kansas lottery;**

8 **{(4) to aid in determining the petitioner's qualifications for**
9 **executive director of the Kansas racing commission, for employment**
10 **with the commission or for work in sensitive areas in parimutuel**
11 **racing as deemed appropriate by the executive director of the**
12 **commission, or to aid in determining qualifications for licensure or**
13 **renewal of licensure by the commission;**

14 **{(5) in any application for a commercial driver's license under**
15 **K.S.A. 8-2,125 through 8-2,142, and amendments thereto;**

16 **{(6) to aid in determining the petitioner's qualifications to be an**
17 **employee of the state gaming agency;**

18 **{(7) to aid in determining the petitioner's qualifications to be an**
19 **employee of a tribal gaming commission or to hold a license issued**
20 **pursuant to a tribal-state gaming compact; or**

21 **{(8) in any other circumstances which the court deems**
22 **appropriate.**

23 **{(f) Subject to any disclosures required under subsection (e), in any**
24 **application for employment, license or other civil right or privilege, or**
25 **any appearance as a witness, a person whose arrest records have been**
26 **expunged as provided in this section may state that such person has**
27 **never been arrested.**

28 **{(g) Whenever a petitioner's arrest records have been expunged as**
29 **provided in this section, the custodian of the records of arrest,**
30 **incarceration due to arrest or court proceedings related to the arrest,**
31 **shall not disclose the arrest or any information related to the arrest,**
32 **except as directed by the order of expungement or when requested by**
33 **the person whose arrest record was expunged.**

34 **{(h) The docket fee collected at the time the petition for**
35 **expungement is filed shall be disbursed in accordance with K.S.A. 20-**
36 **362, and amendments thereto.}**

37 Section ~~4~~3}. K.S.A. 22-3001 is hereby amended to read as follows:
38 22-3001. ~~(H)~~ (a) A majority of the district judges in any judicial district
39 may order a grand jury to be summoned in any county in the district when
40 it is determined to be in the public interest.

41 (b) *The attorney general in any judicial district or the district or*
42 *county attorney in such attorney's county may petition the chief judge or*
43 *the chief judge's designee in such district court to order a grand jury to be*

1 *summoned in the designated county in the district to investigate alleged*
2 *violations of an off-grid felony, a severity level 1, 2, 3, 4 or 5 felony or a*
3 *drug severity level 1 or 2 felony. The chief judge or the chief judge's*
4 *designee in the district court of the county shall then consider the petition*
5 *and, if it is found that the petition is in proper form, as set forth in this*
6 *subsection, shall order a grand jury to be summoned.*

7 (2) (c) A grand jury shall be summoned in any county within 60 days
8 after a petition praying therefor is presented to the district court, bearing
9 the signatures of a number of electors equal to 100 plus 2% of the total
10 number of votes cast for governor in the county in the last preceding
11 election. The petition shall be in substantially the following form:

12 The undersigned qualified electors of the county of _____
13 and state of Kansas hereby request that the district court of
14 _____ county, Kansas, within 60 days after the filing of this
15 petition, cause a grand jury to be summoned in the county to investigate
16 alleged violations of law and to perform such other duties as may be
17 authorized by law.

18 The signatures to the petition need not all be affixed to one paper, but
19 each paper to which signatures are affixed shall have substantially the
20 foregoing form written or printed at the top thereof. Each signer shall add
21 to such signer's signature such signer's place of residence, giving the street
22 and number or rural route number, if any. One of the signers of each paper
23 shall verify upon oath that each signature appearing on the paper is the
24 genuine signature of the person whose name it purports to be and that such
25 signer believes that the statements in the petition are true. The petition
26 shall be filed in the office of the clerk of the district court who shall
27 forthwith transmit it to the county election officer, who shall determine
28 whether the persons whose signatures are affixed to the petition are
29 qualified electors of the county. Thereupon, the county election officer
30 shall return the petition to the clerk of the district court, together with such
31 election officer's certificate stating the number of qualified electors of the
32 county whose signatures appear on the petition and the aggregate number
33 of votes cast for all candidates for governor in the county in the last
34 preceding election. The judge or judges of the district court of the county
35 shall then consider the petition and, if it is found that the petition is in
36 proper form and bears the signatures of the required number of electors, a
37 grand jury shall be ordered to be summoned.

38 (3) (d) The grand jury shall consist of 15 members and shall be drawn
39 and summoned in the same manner as petit jurors for the district court.
40 Twelve members thereof shall constitute a quorum. The judge or judges
41 ordering the grand jury shall direct that a sufficient number of legally
42 qualified persons be summoned for service as grand jurors.

43 Sec. ~~24~~. K.S.A. 22-3601 is hereby amended to read as follows: 22-

1 3601. (a) Any appeal permitted to be taken from a *district court's* final
2 judgment ~~of a district court~~ in a criminal case shall be taken to the court of
3 appeals, except in those cases reviewable by law in the district court ~~and~~
4 ~~those cases where a~~ *or in which* a direct appeal to the supreme court is
5 required. Whenever an interlocutory appeal is permitted in a criminal case
6 in the district court, such appeal shall be taken to the court of appeals.

7 (b) Any appeal permitted to be taken from a *district court's* final
8 judgment ~~of a district court~~ in a criminal case shall be taken directly to the
9 supreme court in the following cases:

10 ~~(1) Any case in which the defendant has been convicted of a class A~~
11 ~~felony or in which a maximum sentence of life imprisonment has been~~
12 ~~imposed or for crimes committed on or after July 1, 1993, any case in~~
13 ~~which the defendant has been convicted of an off-grid crime; and~~

14 ~~(2) (I) any case in which a statute of this state or of the United States~~
15 ~~has been held unconstitutional; ;~~

16 ~~(2) any case in which the defendant has been convicted of a class A~~
17 ~~felony;~~

18 ~~(3) any case in which a maximum sentence of life imprisonment has~~
19 ~~been imposed, unless the maximum sentence has been imposed pursuant to~~
20 ~~K.S.A. 21-4643, prior to its repeal, or section 267 of chapter 136 of the~~
21 ~~2010 Session Laws of Kansas, and amendments thereto; and~~

22 ~~(4) except as provided further, any case in which the crime was~~
23 ~~committed on or after July 1, 1993, and the defendant has been convicted~~
24 ~~of an off-grid crime. The provisions of this paragraph shall not apply to~~
25 ~~any case in which the off-grid crime was:~~

26 ~~(A) Aggravated human trafficking, subsection (c)(2)(B) of section 61 of~~
27 ~~chapter 136 of the 2010 Session Laws of Kansas, and amendments~~
28 ~~thereto;~~

29 ~~(B) rape, subsection (b)(2)(B) of section 67 of chapter 136 of the 2010~~
30 ~~Session Laws of Kansas, and amendments thereto;~~

31 ~~(C) aggravated criminal sodomy, subsection (c)(2)(B)(ii) of section 68 of~~
32 ~~chapter 136 of the 2010 Session Laws of Kansas, and amendments~~
33 ~~thereto;~~

34 ~~(D) aggravated indecent liberties with a child, subsection (c)(2)(C)(ii) of~~
35 ~~section 70 of chapter 136 of the 2010 Session Laws of Kansas, and~~
36 ~~amendments thereto;~~

37 ~~(E) sexual exploitation of a child, subsection (b)(2)(B) of section 74 of~~
38 ~~chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;~~

39 ~~(F) promoting prostitution, subsection (b)(4) of section 230 of chapter~~
40 ~~136 of the 2010 Session Laws of Kansas, and amendments thereto; or~~

41 ~~(G) an attempt, conspiracy or criminal solicitation, as defined in section~~
42 ~~33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and~~
43 ~~amendments thereto, of any such felony.~~

1 Sec. ~~345~~. K.S.A. 2010 Supp. 75-5291 is hereby amended to read as
2 follows: 75-5291. (a) (1) The secretary of corrections may make grants to
3 counties for the development, implementation, operation and improvement
4 of community correctional services that address the criminogenic needs of
5 felony offenders including, but not limited to, adult intensive supervision,
6 substance abuse and mental health services, employment and residential
7 services, and facilities for the detention or confinement, care or treatment
8 of offenders as provided in this section except that no community
9 corrections funds shall be expended by the secretary for the purpose of
10 establishing or operating a conservation camp as provided by K.S.A. 75-
11 52,127 and amendments thereto.

12 (2) Except as otherwise provided, placement of offenders in
13 community correctional services programs by the court shall be limited to
14 placement of adult offenders, convicted of a felony offense:

15 (A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the
16 sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-
17 G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In
18 addition, the court may place in a community correctional services
19 program adult offenders, convicted of a felony offense, whose offense is
20 classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the
21 sentencing guidelines grid for nondrug crimes;

22 (B) whose severity level and criminal history score designate a
23 presumptive prison sentence on either sentencing guidelines grid but
24 receive a nonprison sentence as a result of departure;

25 (C) all offenders convicted of an offense which satisfies the definition
26 of offender pursuant to K.S.A. 22-4902, and amendments thereto, and
27 which is classified as a severity level 7 or higher offense and who receive a
28 nonprison sentence, regardless of the manner in which the sentence is
29 imposed;

30 (D) any offender for whom a violation of conditions of release or
31 assignment or a nonprison sanction has been established as provided in
32 K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in
33 the offender being required to serve any time for the sentence imposed or
34 which might originally have been imposed in a state facility in the custody
35 of the secretary of corrections;

36 (E) on and after January 1, 2011, for offenders who are expected to be
37 subject to supervision in Kansas, who are determined to be "high risk or
38 needs, or both" by the use of a statewide, mandatory, standardized risk
39 assessment tool or instrument which shall be specified by the Kansas
40 sentencing commission;

41 (F) placed in community correctional services programs as a condition
42 of supervision following the successful completion of a conservation camp
43 program; or

1 (G) who has been sentenced to community corrections supervision
2 pursuant to K.S.A. 21-4729, and amendments thereto.

3 (3) Notwithstanding any law to the contrary and subject to the
4 availability of funding therefor, adult offenders sentenced to community
5 supervision in Johnson county for felony crimes that occurred on or after
6 July 1, 2002, but before ~~January~~ *July 1, 2011* ~~2013~~, shall be placed under
7 court services or community corrections supervision based upon court
8 rules issued by the chief judge of the 10th judicial district. The provisions
9 contained in this subsection shall not apply to offenders transferred by the
10 assigned agency to an agency located outside of Johnson county. The
11 provisions of this paragraph shall expire on ~~January~~ *July 1, 2011* ~~2013~~.

12 (4) Nothing in this act shall prohibit a community correctional services
13 program from providing services to juvenile offenders upon approval by
14 the local community corrections advisory board. Grants from community
15 corrections funds administered by the secretary of corrections shall not be
16 expended for such services.

17 (5) The court may require an offender for whom a violation of
18 conditions of release or assignment or a nonprison sanction has been
19 established, as provided in K.S.A. 22-3716, and amendments thereto, to
20 serve any time for the sentence imposed or which might originally have
21 been imposed in a state facility in the custody of the secretary of
22 corrections without a prior assignment to a community correctional
23 services program if the court finds and sets forth with particularity the
24 reasons for finding that the safety of the members of the public will be
25 jeopardized or that the welfare of the inmate will not be served by such
26 assignment to a community correctional services program.

27 (b) (1) In order to establish a mechanism for community correctional
28 services to participate in the department of corrections annual budget
29 planning process, the secretary of corrections shall establish a community
30 corrections advisory committee to identify new or enhanced correctional
31 or treatment interventions designed to divert offenders from prison.

32 (2) The secretary shall appoint one member from the southeast
33 community corrections region, one member from the northeast community
34 corrections region, one member from the central community corrections
35 region and one member from the western community corrections region.
36 The deputy secretary of community and field services shall designate two
37 members from the state at large. The secretary shall have final
38 appointment approval of the members designated by the deputy secretary.
39 The committee shall reflect the diversity of community correctional
40 services with respect to geographical location and average daily population
41 of offenders under supervision.

42 (3) Each member shall be appointed for a term of three years and such
43 terms shall be staggered as determined by the secretary. Members shall be

1 eligible for reappointment.

2 (4) The committee, in collaboration with the deputy secretary of
3 community and field services or the deputy secretary's designee, shall
4 routinely examine and report to the secretary on the following issues:

5 (A) Efficiencies in the delivery of field supervision services;

6 (B) effectiveness and enhancement of existing interventions;

7 (C) identification of new interventions; and

8 (D) statewide performance indicators.

9 (5) The committee's report concerning enhanced or new interventions
10 shall address:

11 (A) Goals and measurable objectives;

12 (B) projected costs;

13 (C) the impact on public safety; and

14 (D) the evaluation process.

15 (6) The committee shall submit its report to the secretary annually on
16 or before July 15 in order for the enhanced or new interventions to be
17 considered for inclusion within the department of corrections budget
18 request for community correctional services or in the department's
19 enhanced services budget request for the subsequent fiscal year.

20 {Sec. 46. K.S.A. 2010 Supp. 75-52,112 is hereby amended to read as
21 follows: 75-52,112. (a) *As used in this section, "supervision success rate"*
22 *means the percentage of those persons under supervision in a community*
23 *corrections program whose supervision is not revoked and remanded to the*
24 *custody of the department of corrections for imprisonment.*

25 (b) On and after July 1, ~~2007~~ 2011, subject to the provision of
26 appropriation acts, the secretary of corrections shall develop and
27 implement a grant program with the goal of increasing public safety,
28 reducing the risk of offenders on community supervision and ~~reducing~~
29 ~~each community corrections program's revocations rate by at least 20%~~
30 ~~from such program's fiscal year 2006 revocation rate~~ *achieving and*
31 *maintaining a supervision success rate of at least 75% or improving such*
32 *rate by at least 3% from the previous year.*

33 (c) Any county or counties operating community correctional services
34 may apply for the grant. The program shall give priority to a county or
35 counties in which the ~~revocation~~ *supervision success rate* for offenders on
36 community supervision is significantly ~~higher~~ *lower* than the statewide
37 average, which target a ~~higher percentage of revocation reductions~~
38 *supervision success rate* than the required ~~minimum of 20% or supervision~~
39 *success rate of 75% or 3% annual supervision success rate improvement*
40 *or which target the successful reentry of offenders who are considered*
41 *medium or high risk for revocation.*

42 (b) (d) The secretary shall adopt grant requirements in accordance with
43 this section. Proposals for grants under this program shall include, but not

1 be limited to, provisions to:

- 2 (1) Target offenders at medium and high risk for revocation utilizing
- 3 risk assessment instruments approved by the secretary;
- 4 (2) reduce and specialize caseloads for community corrections officers;
- 5 (3) provide the offenders with the needed supervision and services to
- 6 improve such offenders' opportunity to successfully complete community
- 7 correctional services programs, resulting in a reduction in revocations to
- 8 prison. Such services may include, but not be limited to, employment
- 9 training and placement, educational assistance, transportation and housing.
- 10 Such services shall be evidence-based and address offenders' criminogenic
- 11 risks, needs and responsivity characteristics;
- 12 (4) use an intermediate sanctions community supervision model;
- 13 (5) provide staff training and skill development for community
- 14 corrections officers in risk reduction and intervention. Such training and
- 15 development shall be approved and certified by the secretary;
- 16 (6) utilize treatment options, including substance abuse treatment,
- 17 mental health treatment, and cognitive and behavioral programs for
- 18 offenders. For identified need areas, approved assessment and evaluation
- 19 instruments should be utilized to ensure offender placement into
- 20 appropriate levels of treatment and intervention;
- 21 (7) use gang intervention strategies;
- 22 (8) address safety concerns of the community;
- 23 (9) implement a method of tracking and reporting revocations;
- 24 (10) establish a goal of reducing the number of offenders, by a
- 25 specified percentage, whose supervision is revoked and the offender
- 26 sentenced to prison by providing *a plan to*: (A) ~~A plan to reduce the~~
- 27 ~~revocation rate for offenders on community supervision by at least 20%~~
- 28 ~~from such program's fiscal year 2006 revocations rate; (B) a plan to reduce~~
- 29 ~~the revocation rate at a percentage greater than the 20% minimum~~
- 30 ~~established to receive such grants; or *Achieve and maintain a supervision*~~
- 31 ~~*success rate of at least 75% or improve such rate by at least 3% from the*~~
- 32 ~~*previous year; or (C) a plan which targets (B) target the successful reentry*~~
- 33 ~~*of offenders who are considered medium or high risk for revocation;*~~
- 34 (11) develop a specific accountability system for monitoring, tracking
- 35 and utilizing the grant funds and to evaluate the effectiveness of the grant
- 36 funds; and
- 37 (12) develop a consistent set of policies that will guide judges and
- 38 community corrections officers in the supervision and revocation of
- 39 offenders on community corrections supervision.
- 40 (e) (e) The department of corrections shall establish a date for
- 41 achieving goals based upon implementation time-lines and goals specific
- 42 to each grant, which may include an overall reduction or a reduction for a
- 43 specifically targeted population.

1 ~~(d)~~ (f) The department of corrections shall evaluate the programs which
 2 received a grant using a research-based process evaluation targeting the
 3 critical components of effective programs to ensure that the program is
 4 being delivered as such program was designed. Continued funding shall be
 5 contingent on the program meeting the established goals.

6 ~~(e)~~ (g) The secretary shall prepare a report which states the number of
 7 programs receiving grants pursuant to this section, specifically identifying
 8 each program, summarizing the provisions of each program and the
 9 success of the program in reducing revocations. Such report shall be
 10 delivered to the governor, the secretary of the senate, the chief clerk of the
 11 house of representatives and the Kansas reentry policy council on or
 12 before the first day of the regular legislative session each year in which the
 13 grant program is funded.}

14 ~~Sec. 5-7~~. **Section 249 of chapter 136 of the 2010 Session Laws of**
 15 **Kansas is hereby amended to read as follows: Sec. 249. (a) The court**
 16 **or the secretary of corrections may implement a house arrest program**
 17 **for defendants or inmates being sentenced by the court or in the**
 18 **custody of the secretary of corrections {or as a sanction for offenders**
 19 **who have failed to comply with the conditions of probation, parole or**
 20 **postrelease supervision}, except:**

21 **(1) No defendant shall be placed by the court under house arrest if**
 22 **found guilty of:**

23 **(A) Any crime designated as a class A or B felony in article 34 or 35**
 24 **of the Kansas Statutes Annotated, prior to their repeal;**

25 **(B) subsection (b) of section 81 {of chapter 136 of the 2010 Session**
 26 **Laws of Kansas}, and amendments thereto; or**

27 **(C) section 79 {of chapter 136 of the 2010 Session Laws of Kansas},**
 28 **and amendments thereto;**

29 **{(D) any off-grid felony; or}**

30 **{(E) any nondrug crime ranked in severity levels 1 through 5 or**
 31 **any felony ranked in severity levels 1 through 3 of the drug grid,**
 32 **unless the offender has been sentenced to probation;}**

33 **(2) no inmate shall be placed under house arrest if such inmate's**
 34 **security status is greater than minimum security; or**

35 **(3) no inmate shall be placed under house arrest who has been**
 36 **denied parole by the parole board within the last 6 months. Any**
 37 **inmate who, while participating in the house arrest program, is denied**
 38 **parole by the parole board shall be allowed to remain under house**
 39 **arrest until the completion of the sentence or until the inmate is**
 40 **otherwise removed from the program.**

41 ~~Prior to the {At the time of}~~ placement of an inmate under house
 42 arrest, the court ~~or~~, secretary **{or house arrest staff}** shall provide written
 43 notification to the sheriff and district or county attorney of the county in

1 which any person under house arrest is to be placed and to the chief law
2 enforcement officer of any incorporated city or town in which such person
3 is to be placed of the placement of the person under house arrest within the
4 county or incorporated city or town.

5 **(c) House arrest sanctions shall be administered by the court and**
6 **the secretary of corrections, respectively, through rules and**
7 **regulations, and may include, but are not limited to, rehabilitative**
8 **restitution in money or in kind, curfew, revocation or suspension of**
9 **the driver's license, community service, deprivation of nonessential**
10 **activities or privileges, or other appropriate restraints on the inmate's**
11 **liberty.**

12 **{{(d) Upon placement in a house arrest program, the court,**
13 **secretary or house arrest staff shall inform the offender, and any other**
14 **people residing with such offender, of the nature and extent of such**
15 **house arrest monitoring, and shall obtain the written agreement of**
16 **such offender to comply with all requirements of the program.}}**

17 **{{(e) The offender shall remain within the property boundaries of**
18 **the offender's residence at all times during the term of house arrest,**
19 **except as provided under the house arrest agreement with such**
20 **offender.}}**

21 **{{(f) The offender shall allow any law enforcement officer,**
22 **community corrections officer, court services officer or duly**
23 **authorized agent of the department of corrections, to enter such**
24 **offender's residence at any time to verify the offender's compliance**
25 **with the conditions of the house release.}}**

26 **{{(g) As a condition of house arrest, the court or secretary may**
27 **require an offender placed under house arrest to pay any supervision**
28 **costs associated with the house arrest program.}}**

29 **{{(h) The offender shall consent to be monitored by:}}**

30 **{{(1) An electronic monitoring device on such offender's person;}}**

31 **{{(2) an electronic monitoring device in such offender's home;}}**

32 **{{(3) a remote blood alcohol monitoring device;}}**

33 **{{(4) a home telephone verification procedure;}}**

34 **{{(5) radio frequency devices; or}}**

35 **{{(6) any combination of monitoring methods as the court, secretary**
36 **or house arrest staff finds necessary.}}**

37 **{{(i) The secretary or the court may contract for independent**
38 **monitoring services. Such independent monitoring service shall be**
39 **able to provide monitoring 24 hours a day, every day of the year, and**
40 **any other services as determined by the secretary.}}**

41 **{{(j) As used in this section:}}**

42 **{{(1) "House arrest staff" means an independent contractor or**
43 **government entity, and agents thereof, utilized by the secretary or**

1 court to administer the provisions of a house arrest program;}

2 {(2) "electronic monitoring device" means:}

3 {(A) an active or passive global positioning system-enabled device
4 capable of recording and transmitting an offender's location at all
5 times or at designated intervals. Such monitoring device may record
6 or transmit sound, visual images or other information regarding such
7 offender's location, via wireless communication; or}

8 {(B) a radio frequency device capable of monitoring an offender's
9 location; and}

10 {(3) "remote alcohol monitoring device" means a device capable of
11 monitoring an offender's blood alcohol content via micro fuel cell or
12 deep lung tissue sample. Such monitoring devices shall be of
13 comparable accuracy to roadside breath alcohol testing devices
14 utilized by law enforcement, and shall have wireless or landline
15 telephone transmission capabilities. Such device may be used in
16 conjunction with an alcohol and drug-sensing bracelet to monitor such
17 offender's compliance with the terms of house arrest.}

18 {Sec. 78. Section 285 of chapter 136 of the 2010 Session Laws of
19 Kansas is hereby amended to read as follows: Sec. 285. (a) The
20 provisions of this section shall be applicable to the sentencing
21 guidelines grid for nondrug crimes. The following sentencing
22 guidelines grid shall be applicable to nondrug felony crimes:

23 (b) Sentences expressed in the sentencing guidelines grid for
24 nondrug crimes represent months of imprisonment.

25 (c) The sentencing guidelines grid is a two-dimensional crime
26 severity and criminal history classification tool. The grid's vertical
27 axis is the crime severity scale which classifies current crimes of
28 conviction. The grid's horizontal axis is the criminal history scale
29 which classifies criminal histories.

30 (d) The sentencing guidelines grid for nondrug crimes as provided
31 in this section defines presumptive punishments for felony convictions,
32 subject to the sentencing court's discretion to enter a departure
33 sentence. The appropriate punishment for a felony conviction should
34 depend on the severity of the crime of conviction when compared to all
35 other crimes and the offender's criminal history.

36 (e) (1) The sentencing court has discretion to sentence at any
37 place within the sentencing range. In the usual case it is recommended
38 that the sentencing judge select the center of the range and reserve the
39 upper and lower limits for aggravating and mitigating factors
40 insufficient to warrant a departure.

41 (2) In presumptive imprisonment cases, the sentencing court shall
42 pronounce the complete sentence which shall include the:

43 (A) Prison sentence;

1 **(B) maximum potential reduction to such sentence as a result of**
2 **good time; and**

3 **(C) period of postrelease supervision at the sentencing hearing.**
4 **Failure to pronounce the period of postrelease supervision shall not**
5 **negate the existence of such period of postrelease supervision.**

6 **(3) In presumptive nonprison cases, the sentencing court shall**
7 **pronounce the:**

8 **(A) Prison sentence; and**

9 **(B) duration of the nonprison sanction at the sentencing hearing.**

10 **(f) Each grid block states the presumptive sentencing range for an**
11 **offender whose crime of conviction and criminal history place such**
12 **offender in that grid block. If an offense is classified in a grid block**
13 **below the dispositional line, the presumptive disposition shall be**
14 **nonimprisonment. If an offense is classified in a grid block above the**
15 **dispositional line, the presumptive disposition shall be imprisonment.**
16 **If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may**
17 **impose an optional nonprison sentence as provided in subsection (q).**

18 **(g) The sentence for a violation of section 48, and amendments**
19 **thereto, K.S.A. 21-3415, prior to its repeal, aggravated battery against a**
20 **law enforcement officer committed prior to July 1, 2006, or a violation of**
21 **subsection (d) of section 47 of chapter 136 of the 2010 Session Laws of**
22 **Kansas, and amendments thereto, aggravated assault against a law**
23 **enforcement officer, which places the defendant's sentence in grid block 6-**
24 **H or 6-I shall be presumed imprisonment. The court may impose an**
25 **optional nonprison sentence as provided in subsection (q).**

26 **(h) When a firearm is used to commit any person felony, the**
27 **offender's sentence shall be presumed imprisonment. The court may**
28 **impose an optional nonprison sentence as provided in subsection (q).**

29 **(i) (l) The sentence for the violation of the felony provision of**
30 **K.S.A. 8-1567, subsection (b)(3) of section 49 of chapter 136 of the 2010**
31 **Session Laws of Kansas, subsections (b)(3) and (b)(4) of section 109 of**
32 **chapter 136 of the 2010 Session Laws of Kansas, section 223 of chapter**
33 **136 of the 2010 Session Laws of Kansas and section 227 of chapter 136 of**
34 **the 2010 Session Laws of Kansas, and amendments thereto, shall be as**
35 **provided by the specific mandatory sentencing requirements of that section**
36 **and shall not be subject to the provisions of this section or section 288 of**
37 **chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.**

38 **(2) If because of the offender's criminal history classification the**
39 **offender is subject to presumptive imprisonment or if the judge**
40 **departs from a presumptive probation sentence and the offender is**
41 **subject to imprisonment, the provisions of this section and section 288**
42 **of chapter 136 of the 2010 Session Laws of Kansas, and amendments**
43 **thereto, shall apply and the offender shall not be subject to the mandatory**

1 sentence as provided in section 109 of chapter 136 of the 2010 Session
2 Laws of Kansas, and amendments thereto.

3 **(3) Notwithstanding the provisions of any other section, the term of**
4 **imprisonment imposed for the violation of the felony provision of**
5 **K.S.A. 8-1567, subsection (b)(3) of section 49 of chapter 136 of the 2010**
6 **Session Laws of Kansas, subsections (b)(3) and (b)(4) of section 109 of**
7 **chapter 136 of the 2010 Session Laws of Kansas, section 223 and section**
8 **227 of chapter 136 of the 2010 Session Laws of Kansas, and amendments**
9 **thereto, shall not be served in a state facility in the custody of the secretary**
10 **of corrections, except that the term of imprisonment for felony violations**
11 **of K.S.A. 8-1567, and amendments thereto, may be served in a state**
12 **correctional facility designated by the secretary of corrections if the**
13 **secretary determines that substance abuse treatment resources and facility**
14 **capacity is available. The secretary's determination regarding the**
15 **availability of treatment resources and facility capacity shall not be subject**
16 **to review. Prior to imposing any sentence pursuant to this subsection, the**
17 **court may consider assigning the defendant to a house arrest program**
18 **pursuant to section 249 of the 2010 Session Laws of Kansas, and**
19 **amendments thereto.**

20 **(j) (1) The sentence for any persistent sex offender whose current**
21 **convicted crime carries a presumptive term of imprisonment shall be**
22 **double the maximum duration of the presumptive imprisonment term.**
23 **The sentence for any persistent sex offender whose current conviction**
24 **carries a presumptive nonprison term shall be presumed**
25 **imprisonment and shall be double the maximum duration of the**
26 **presumptive imprisonment term.**

27 **(2) Except as otherwise provided in this subsection, as used in this**
28 **subsection, "persistent sex offender" means a person who:**

29 **(A) (i) Has been convicted in this state of a sexually violent crime,**
30 **as defined in K.S.A. 22-3717, and amendments thereto; and**

31 **(ii) at the time of the conviction under paragraph subsection (j)(2)(A)**
32 **(i) has at least one conviction for a sexually violent crime, as defined in**
33 **K.S.A. 22-3717, and amendments thereto, in this state or comparable**
34 **felony under the laws of another state, the federal government or a**
35 **foreign government; or**

36 **(B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,**
37 **prior to its repeal, or section 67 of chapter 136 of the 2010 Session Laws**
38 **of Kansas, and amendments thereto; and**

39 **(ii) at the time of the conviction under paragraph subsection (j)(2)**
40 **(B)(i) has at least one conviction for rape in this state or comparable**
41 **felony under the laws of another state, the federal government or a**
42 **foreign government.**

43 **(3) Except as provided in paragraph subsection (j)(2)(B), the**

1 provisions of this subsection shall not apply to any person whose
2 current convicted crime is a severity level 1 or 2 felony.

3 **(k) (1)** If it is shown at sentencing that the offender committed
4 any felony violation for the benefit of, at the direction of, or in
5 association with any criminal street gang, with the specific intent to
6 promote, further or assist in any criminal conduct by gang members,
7 the offender's sentence shall be presumed imprisonment. The court
8 may impose an optional nonprison sentence as provided in subsection
9 (q).

10 **(2)** As used in this subsection, "criminal street gang" means any
11 organization, association or group of three or more persons, whether
12 formal or informal, having as one of its primary activities:

13 **(A)** The commission of one or more person felonies; or

14 **(B)** the commission of felony violations of K.S.A. ~~2009~~ 2010 Supp.
15 21-36a01 through 21-36a17, and amendments thereto; and

16 **(C)** its members have a common name or common identifying sign
17 or symbol; and

18 **(D)** its members, individually or collectively, engage in or have
19 engaged in the commission, attempted commission, conspiracy to
20 commit or solicitation of two or more person felonies or felony
21 violations of K.S.A. ~~2009~~ 2010 Supp. 21-36a01 through 21-36a17, and
22 amendments thereto, or any substantially similar offense from another
23 jurisdiction.

24 **(l)** Except as provided in subsection (o), the sentence for a violation
25 of subsection (a)(1) of section 93 of chapter 136 of the 2010 Session Laws
26 of Kansas, and amendments thereto, or any attempt or conspiracy, as
27 defined in sections 33 and 34 of chapter 136 of the 2010 Session Laws of
28 Kansas, and amendments thereto, to commit such offense, when such
29 person being sentenced has a prior conviction for a violation of subsection
30 (a) or (b) of K.S.A. 21-3715, prior to its repeal, 21-3716, prior to its repeal,
31 subsection (a)(1) or (a)(2) of section 93 of chapter 136 of the 2010 Session
32 Laws of Kansas, or subsection (b) of section 93 of chapter 136 of the 2010
33 Session Laws of Kansas, and amendments thereto, or any attempt or
34 conspiracy to commit such offense, shall be ~~presumed~~ presumptive
35 imprisonment.

36 **(m)** The sentence for a violation of K.S.A 22-4903 or subsection (a)
37 (2) of section 138 of chapter 136 of the 2010 Session Laws of Kansas, and
38 amendments thereto, shall be presumptive imprisonment. If an offense
39 under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-
40 I, the court may impose an optional nonprison sentence as provided in
41 subsection (q).

42 **(n)** The sentence for a violation of criminal deprivation of
43 property, as defined in section 89 of chapter 136 of the 2010 Session

1 *Laws of Kansas, and amendments thereto, when such property is a*
2 **motor vehicle, and when such person being sentenced has any**
3 **combination of two or more prior convictions of subsection (b) of**
4 **K.S.A. 21-3705, prior to its repeal, or of criminal deprivation of**
5 **property, as defined in section 89 of chapter 136 of the 2010 Session**
6 **Laws of Kansas, and amendments thereto, when such property is a**
7 **motor vehicle, shall be presumptive imprisonment. Such sentence shall**
8 **not be considered a departure and shall not be subject to appeal.**

9 **(o) The sentence for a felony violation of theft of property as**
10 **defined in section 87 of chapter 136 of the 2010 Session Laws of Kansas,**
11 **and amendments thereto, or burglary as defined in subsection (a) of section**
12 **93 of chapter 136 of the 2010 Session Laws of Kansas, and amendments**
13 **thereto, when such person being sentenced has no prior convictions for a**
14 **violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of**
15 **property as defined in section 87 of chapter 136 of the 2010 Session Laws**
16 **of Kansas, and amendments thereto, or burglary as defined in subsection**
17 **(a) of section 93 of chapter 136 of the 2010 Session Laws of Kansas, and**
18 **amendments thereto; or the sentence for a felony violation of theft of**
19 **property as defined in section 87 of chapter 136 of the 2010 Session Laws**
20 **of Kansas, and amendments thereto, when such person being sentenced**
21 **has one or two prior felony convictions for a violation of K.S.A. 21-3701,**
22 **21-3715 or 21-3716, prior to their repeal, or theft of property as defined in**
23 **section 87 of chapter 136 of the 2010 Session Laws of Kansas, and**
24 **amendments thereto, or burglary or aggravated burglary as defined in**
25 **section 93 of chapter 136 of the 2010 Session Laws of Kansas, and**
26 **amendments thereto; or the sentence for a felony violation of burglary as**
27 **defined in subsection (a) of section 93 of chapter 136 of the 2010 Session**
28 **Laws of Kansas, and amendments thereto, when such person being**
29 **sentenced has one prior felony conviction for a violation of K.S.A. 21-**
30 **3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as**
31 **defined in section 87 of chapter 136 of the 2010 Session Laws of Kansas,**
32 **and amendments thereto, or burglary or aggravated burglary as defined in**
33 **section 93 of chapter 136 of the 2010 Session Laws of Kansas, and**
34 **amendments thereto, shall be the sentence as provided by this section,**
35 **except that the court may order an optional nonprison sentence for a**
36 **defendant to participate in a drug treatment program, including, but not**
37 **limited to, an approved after-care plan, if the court makes the following**
38 **findings on the record:**

39 **(1) Substance abuse was an underlying factor in the commission of**
40 **the crime;**

41 **(2) substance abuse treatment in the community is likely to be**
42 **more effective than a prison term in reducing the risk of offender**
43 **recidivism; and**

1 **(3) participation in an intensive substance abuse treatment**
2 **program will serve community safety interests.**

3 **A defendant sentenced to an optional nonprison sentence under this**
4 **subsection shall be supervised by community correctional services.**
5 **The provisions of subsection (f)(1) of section 305 of chapter 136 of the**
6 **2010 Session Laws of Kansas, and amendments thereto, shall apply to a**
7 **defendant sentenced under this subsection. The sentence under this**
8 **subsection shall not be considered a departure and shall not be subject**
9 **to appeal.**

10 **(p) The sentence for a felony violation of theft of property as**
11 **defined in section 87 of chapter 136 of the 2010 Session Laws of Kansas,**
12 **and amendments thereto, when such person being sentenced has any**
13 **combination of three or more prior felony convictions for violations of**
14 **K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of**
15 **property as defined in section 87 of chapter 136 of the 2010 Session Laws**
16 **of Kansas, and amendments thereto, or burglary or aggravated burglary as**
17 **defined in section 93 of chapter 136 of the 2010 Session Laws of Kansas;**
18 **or the sentence for a violation of burglary as defined in subsection (a) of**
19 **section 93 of chapter 136 of the 2010 Session Laws of Kansas, and**
20 **amendments thereto, when such person being sentenced has any**
21 **combination of two or more prior convictions for violations of K.S.A. 21-**
22 **3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as**
23 **defined in section 87 of chapter 136 of the 2010 Session Laws of Kansas,**
24 **and amendments thereto, or burglary or aggravated burglary as defined in**
25 **section 93 of chapter 136 of the 2010 Session Laws of Kansas, and**
26 **amendments thereto, shall be presumed imprisonment and the defendant**
27 **shall be sentenced to prison as provided by this section, except that the**
28 **court may recommend that an offender be placed in the custody of the**
29 **secretary of corrections, in a facility designated by the secretary to**
30 **participate in an intensive substance abuse treatment program, upon**
31 **making the following findings on the record:**

32 **(1) Substance abuse was an underlying factor in the commission of**
33 **the crime;**

34 **(2) substance abuse treatment with a possibility of an early release**
35 **from imprisonment is likely to be more effective than a prison term in**
36 **reducing the risk of offender recidivism; and**

37 **(3) participation in an intensive substance abuse treatment**
38 **program with the possibility of an early release from imprisonment**
39 **will serve community safety interests by promoting offender**
40 **reformation.**

41 **The intensive substance abuse treatment program shall be**
42 **determined by the secretary of corrections, but shall be for a period of**
43 **at least four months. Upon the successful completion of such intensive**

1 treatment program, the offender shall be returned to the court and the
2 court may modify the sentence by directing that a less severe penalty
3 be imposed in lieu of that originally adjudged within statutory limits.
4 If the offender's term of imprisonment expires, the offender shall be
5 placed under the applicable period of postrelease supervision. The
6 sentence under this subsection shall not be considered a departure and
7 shall not be subject to appeal.

8 (q) As used in this section, an "optional nonprison sentence" is a
9 sentence which the court may impose, in lieu of the presumptive
10 sentence, upon making the following findings on the record:

11 (1) An appropriate treatment program exists which is likely to be
12 more effective than the presumptive prison term in reducing the risk
13 of offender recidivism; and

14 (2) the recommended treatment program is available and the
15 offender can be admitted to such program within a reasonable period
16 of time; or

17 (3) the nonprison sanction will serve community safety interests by
18 promoting offender reformation.

19 Any decision made by the court regarding the imposition of an
20 optional nonprison sentence shall not be considered a departure and
21 shall not be subject to appeal.

22 (r) The sentence for a violation of subsection (c)(2) of section 48 of
23 chapter 136 of the 2010 Session Laws of Kansas, and amendments
24 thereto, shall be presumptive imprisonment and shall be served
25 consecutively to any other term or terms of imprisonment imposed.
26 Such sentence shall not be considered a departure and shall not be
27 subject to appeal.

28 (s) *The sentence for a violation of section 76 of chapter 136 of the*
29 *2010 Session Laws of Kansas, and amendments thereto, shall be*
30 *presumptive imprisonment. Such sentence shall not be considered a*
31 *departure and shall not be subject to appeal.*

32 (t) (1) *If the trier of fact makes a finding that an offender wore or*
33 *used ballistic resistant material in the commission of, or attempt to*
34 *commit, or flight from any felony, in addition to the sentence imposed*
35 *pursuant to the Kansas sentencing guidelines act, the offender shall be*
36 *sentenced to an additional 30 months' imprisonment.*

37 (2) *The sentence imposed pursuant to subsection (t)(1) shall be*
38 *presumptive imprisonment and shall be served consecutively to any other*
39 *term or terms of imprisonment imposed. Such sentence shall not be*
40 *considered a departure and shall not be subject to appeal.*

41 **{(3) As used in this subsection, "ballistic resistant material"**
42 **means: (A) Any commercially produced material designed with the**
43 **purpose of providing ballistic and trauma protection, including, but**

1 **not limited to, bulletproof vests and kevlar vests; and (B) any**
2 **homemade or fabricated substance or item designed with the purpose**
3 **of providing ballistic and trauma protection.}}**

4 Sec. ~~5~~**9**. K.S.A. 22-3001 and 22-3601 and K.S.A. 2010 Supp. {**12-**
5 **4509, 22-2410,**} 75-5291 and 75-52,112 {**and sections 249 and 285 of**
6 **chapter 136 of the 2010 Session Laws of Kansas**} are hereby repealed.

7 Sec. ~~6~~**10**. This act shall take effect and be in force from and after its
8 publication in the statute book.

9