

## HOUSE BILL No. 2050

By Committee on Corrections and Juvenile Justice

1-22

Proposed amendments to HB 2050 - Jennings  
House Corrections and Juvenile Justice  
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February 13, 2019

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to conditions of probation; sanctions for violation; amending K.S.A.  
3 2018 Supp. 21-6604, 22-3716 and 22-3717 and repealing the existing  
4 sections.

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

7 Section 1. K.S.A. 2018 Supp. 21-6604 is hereby amended to read as  
8 follows: 21-6604. (a) Whenever any person has been found guilty of a  
9 crime, the court may adjudge any of the following:

10 (1) Commit the defendant to the custody of the secretary of  
11 corrections if the current crime of conviction is a felony and the sentence  
12 presumes imprisonment, or the sentence imposed is a dispositional  
13 departure to imprisonment; or, if confinement is for a misdemeanor, to jail  
14 for the term provided by law;

15 (2) impose the fine applicable to the offense and may impose the  
16 provisions of subsection (q);

17 (3) release the defendant on probation if the current crime of  
18 conviction and criminal history fall within a presumptive nonprison  
19 category or through a departure for substantial and compelling reasons  
20 subject to such conditions as the court may deem appropriate. In felony  
21 cases except for violations of K.S.A. 8-1567 or 8-2,144, and amendments  
22 thereto, the court may- include confinement in a county jail not to exceed  
23 60 days, which need not be served consecutively, as a condition of an  
24 original probation sentence;

25 (4) assign the defendant to a community correctional services  
26 program as provided in K.S.A. 75-5291, and amendments thereto, or  
27 through a departure for substantial and compelling reasons subject to such  
28 conditions as the court may deem appropriate, including orders requiring  
29 full or partial restitution;

30 (5) assign the defendant to a conservation camp for a period not to  
31 exceed six months as a condition of probation followed by a six-month  
32 period of follow-up through adult intensive supervision by a community  
33 correctional services program, if the offender successfully completes the  
34 conservation camp program;

35 (6) assign the defendant to a house arrest program pursuant to K.S.A.  
36 2018 Supp. 21-6609, and amendments thereto;

1 confinement in a county jail, to be imposed as a two-day or three-day  
2 consecutive period. The total of all such sanctions imposed pursuant to this  
3 subparagraph and subsections (b)(4)(B) and (c)(1)(B) shall not exceed 18  
4 total days during the term of supervision, *except as provided in subsection*  
5 *(h)*; and

6 (B) if the defendant was assigned to a community correctional  
7 services program at the time of the violation, the defendant's community  
8 corrections officer, with the concurrence of the community corrections  
9 director, may impose an intermediate sanction of confinement in a county  
10 jail, to be imposed as a two-day or three-day consecutive period. The total  
11 of all such sanctions imposed pursuant to this subparagraph and  
12 subsections (b)(4)(A) and (c)(1)(B) shall not exceed 18 total days during  
13 the term of supervision, *except as provided in subsection (h)*.

14 (c) (1) Except as otherwise provided, if the original crime of  
15 conviction was a felony, other than a felony specified in K.S.A. 2018  
16 Supp. 21-6804(i), and amendments thereto, and a violation is established,  
17 the court may impose the following sanctions:

18 (A) Continuation or modification of the release conditions of the  
19 probation, assignment to a community correctional services program,  
20 suspension of sentence or nonprison sanction;

21 (B) continuation or modification of the release conditions of the  
22 probation, assignment to a community correctional services program,  
23 suspension of sentence or nonprison sanction and an intermediate sanction  
24 of confinement in a county jail to be imposed as a two-day or three-day  
25 consecutive period. The total of all such sanctions imposed pursuant to this  
26 subparagraph and ~~subsections subsection (b)(4)(A) and (b)(4)(B)~~ shall not  
27 exceed 18 total days during the term of supervision, *except as provided in*  
28 *subsection (h)*; or

29 ~~(C) if the violator already had at least one intermediate sanction~~  
30 ~~imposed pursuant to subsection (b)(4)(A), (b)(4)(B) or (c)(1)(B) related to~~  
31 ~~the crime for which the original supervision was imposed, continuation or~~  
32 ~~modification of the release conditions of the probation, assignment to a~~  
33 ~~community correctional services program, suspension of sentence or~~  
34 ~~nonprison sanction and remanding the defendant to the custody of the~~  
35 ~~secretary of corrections for a period of 120 days, subject to a reduction of~~  
36 ~~up to 60 days in the discretion of the secretary impose confinement in a~~  
37 ~~county jail not to exceed 60 days. This sanction shall not be imposed more~~  
38 ~~than once during the term of supervision. The sanction imposed pursuant~~  
39 ~~to this subparagraph shall begin upon pronouncement by the court and~~  
40 ~~shall not be served by prior confinement credit, except as provided in~~  
41 ~~subsection (c)(7)(6); or~~

strike

42 (D) if the violator already had a sanction imposed pursuant to  
43 subsection (b)(4)(A), (b)(4)(B), (c)(1)(B) or (c)(1)(C) related to the crime

1 for which the original supervision was imposed, continuation or  
2 modification of the release conditions of the probation, assignment to a  
3 community correctional services program, suspension of sentence or  
4 nonprison sanction and remanding the defendant to the custody of the  
5 secretary of corrections for a period of 180 days, subject to a reduction of  
6 up to 90 days in the discretion of the secretary. This sanction shall not be  
7 imposed more than once during the term of supervision. The sanction  
8 imposed pursuant to this subparagraph shall begin upon pronouncement by  
9 the court and shall not be served by prior confinement credit, except as  
10 provided in subsection (e)(7); or

11 ~~(E) if the violator already had a sanction imposed pursuant to~~  
12 ~~subsection subsections (c)(1)(B) and (e)(1)(C) or (e)(1)(D) related to the~~  
13 crime for which the original supervision was imposed, revocation of the  
14 probation, assignment to a community corrections services program,  
15 suspension of sentence or nonprison sanction and requiring such violator  
16 to serve the sentence imposed, or any lesser sentence and, if imposition of  
17 sentence was suspended, imposition of any sentence ~~which that~~ might  
18 originally have been imposed.

strike

19 (2) Except as otherwise provided in subsections (c)(3), ~~(e)(8)~~ and (c)  
20 ~~(9)(7)~~, no offender for whom a violation of conditions of release or  
21 assignment or a nonprison sanction has been established as provided in  
22 this section shall be required to serve any time for the sentence imposed or  
23 which might originally have been imposed in a state facility in the custody  
24 of the secretary of corrections for such violation, unless such person has  
25 already had at least one prior assignment to a community correctional  
26 services program related to the crime for which the original sentence was  
27 imposed.

28 (3) The provisions of subsection (c)(2) shall not apply to adult felony  
29 offenders as described in K.S.A. 75-5291(a)(3), and amendments thereto.

30 (4) The court may require an offender for whom a violation of  
31 conditions of release or assignment or a nonprison sanction has been  
32 established as provided in this section to serve any time for the sentence  
33 imposed or which might originally have been imposed in a state facility in  
34 the custody of the secretary of corrections without a prior assignment to a  
35 community correctional services program if the court finds and sets forth  
36 with particularity the reasons for finding that the safety of the members of  
37 the public will be jeopardized or that the welfare of the inmate will not be  
38 served by such assignment to a community correctional services program.

39 (5) When a new felony is committed while the offender is on  
40 probation or assignment to a community correctional services program, the  
41 new sentence shall be imposed consecutively pursuant to the provisions of  
42 K.S.A. 2018 Supp. 21-6606. and amendments thereto, and the court may  
43 sentence the offender to imprisonment for the new conviction, even when