

HOUSE BILL No. 2051

By Committee on Corrections and Juvenile Justice

1-20

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to the secretary of corrections; good time and program credits;
3 **community corrections; use of risk assessment tool**; amending K.S.A.
4 2014 Supp. 21-6821 **and 75-5291** and repealing the existing ~~section~~
5 **sections**.

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

8 Section 1. K.S.A. 2014 Supp. 21-6821 is hereby amended to read as
9 follows: 21-6821. (a) The secretary of corrections is hereby authorized to
10 adopt rules and regulations providing for a system of good time
11 calculations. Such rules and regulations shall provide circumstances upon
12 which an inmate may earn good time credits and for the forfeiture of
13 earned credits. Such circumstances may include factors related to program
14 and work participation and conduct and the inmate's willingness to
15 examine and confront past behavioral patterns that resulted in the
16 commission of the inmate's crimes.

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

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

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

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

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

28 (C) for a drug severity level 3 or 4 crime committed on or after
29 January 1, 2008, but prior to July 1, 2012, or a drug severity level ~~4~~ **3**
30 *through 5* crime committed on or after July 1, 2012, an amount equal to
31 20% of the prison part of the sentence.

32 (c) The postrelease supervision term of a person sentenced to a term
33 of imprisonment that includes a sentence for a sexually violent crime as
34 defined in K.S.A. 22-3717, and amendments thereto, a sexually motivated
35 crime in which the offender has been ordered to register pursuant to
36 ~~subsection (d)(1)(D)(vii)~~ of K.S.A. 22-3717 **(d)(1)(D)(vii)**, and

1 amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its
2 repeal, or K.S.A. 2014 Supp. 21-5509, and amendments thereto, or
3 unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A.
4 2014 Supp. 21-5512, and amendments thereto, shall have any time which
5 is earned and subtracted from the prison part of such sentence and any
6 other consecutive or concurrent sentence pursuant to good time calculation
7 added to such inmate's postrelease supervision term.

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

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

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

15 (3) testified falsely or otherwise submitted false evidence or
16 information to the court;

17 (4) attempted to create or obtain a false affidavit, testimony or
18 evidence; or

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

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

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

38 (B) the amount of time which can be earned and retained by an
39 inmate for the successful completion of programs and subtracted from any
40 sentence is limited to not more than ~~60~~ ⁹⁰ days.

41 (2) Any time which is earned and subtracted from the prison part of
42 the sentence of any inmate pursuant to program credit calculation shall not
43 be added to such inmate's postrelease supervision term, if applicable,

1 except that the postrelease supervision term of a person sentenced to
2 term of imprisonment that includes a sentence for a sexually violent crime
3 as defined in K.S.A. 22-3717, and amendments thereto, a sexually
4 motivated crime in which the offender has been ordered to register
5 pursuant to ~~subsection (d)(1)(D)(vii)~~ of K.S.A. 22-3717(d)(1)(D)(vii), and
6 amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its
7 repeal, or K.S.A. 2014 Supp. 21-5509, and amendments thereto, or
8 unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A.
9 2014 Supp. 21-5512, and amendments thereto, shall have any time which
10 is earned and subtracted from the prison part of such sentence and any
11 other consecutive or concurrent sentence pursuant to program credit
12 calculation added to such inmate's postrelease supervision term.

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

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

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

23 *(f) The state of Kansas, the secretary of corrections and the*
24 *secretary's agents or employees shall not be liable for damages caused*
25 *by any negligent or wrongful act or omission in making the good time*
26 *and program credit calculations authorized by this section.*

27 *(g) The secretary of corrections shall make the good time and*
28 *program credit calculations authorized by the amendments to this section*
29 *by this act no later than January 1, 2016.*

30 ~~(g)~~ *(h) The amendments to this section by this act shall be construed*
31 *and applied retroactively.*

32 **Sec. 2. K.S.A. 2014 Supp. 75-5291 is hereby amended to read as**
33 **follows: 75-5291. (a) (1) The secretary of corrections may make grants**
34 **to counties for the development, implementation, operation and**
35 **improvement of community correctional services that address the**
36 **criminogenic needs of felony offenders including, but not limited to,**
37 **adult intensive supervision, substance abuse and mental health services,**
38 **employment and residential services, and facilities for the detention or**
39 **confinement, care or treatment of offenders as provided in this section**
40 **except that no community corrections funds shall be expended by the**
41 **secretary for the purpose of establishing or operating a conservation**
42 **camp as provided by K.S.A. 75-52,127, and amendments thereto.**

43 **(2) Except as otherwise provided, placement of offenders in a**

1 *community correctional services program by the court shall be limited to*
2 *placement of adult offenders, convicted of a felony offense:*

3 (A) ~~Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the~~
4 ~~sentencing guidelines grid for nondrug crimes, in grid blocks 3-C, 3-D, 3-~~
5 ~~E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes~~
6 ~~for crimes committed prior to July 1, 2012, or in grid blocks 4-C, 4-D, 4-E,~~
7 ~~4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes for~~
8 ~~crimes committed on or after July 1, 2012. In addition, the court may place~~
9 ~~in a community correctional services program adult offenders, convicted~~
10 ~~of a felony offense, whose offense is classified in grid blocks 6-H, 6-I, 7-~~
11 ~~C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for~~
12 ~~nondrug crimes Who, on or after July 1, 2014, are determined to be~~
13 ~~moderate risk, high risk or very high risk by use of a statewide,~~
14 ~~mandatory, standardized risk assessment tool or instrument which shall be~~
15 ~~specified by the Kansas sentencing commission;~~

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

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

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

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

35 (F) (E) *placed in a community correctional services program as a*
36 *condition of supervision following the successful completion of a*
37 *conservation camp program;*

38 (G) (F) *who have been sentenced to community corrections*
39 *supervision pursuant to K.S.A. 21-4729, prior to its repeal, or K.S.A.*
40 *2014 Supp. 21-6824, and amendments thereto; or*

41 (H) (G) *who have been placed in a community correctional services*
42 *program for supervision by the court pursuant to K.S.A. 8-1567, and*
43 *amendments thereto.*

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

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

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

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

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

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

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

- 4 ***(A) Efficiencies in the delivery of field supervision services;***
5 ***(B) effectiveness and enhancement of existing interventions;***
6 ***(C) identification of new interventions; and***
7 ***(D) statewide performance indicators.***

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

- 10 ***(A) Goals and measurable objectives;***
11 ***(B) projected costs;***
12 ***(C) the impact on public safety; and***
13 ***(D) the evaluation process.***

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

19 Sec. ~~2~~ 3. K.S.A. 2014 Supp. 21-6821 ~~is~~ and 75-5291 are hereby
20 repealed.

21 Sec. ~~3~~ 4. This act shall take effect and be in force from and after
22 ~~January 1, 2016~~ and its publication in the ~~statute book~~ ***Kansas register.***