

HOUSE BILL No. 2158

By Committee on Judiciary

1-28

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to murder in the second degree; sentencing of certain persons to
3 mandatory minimum term of imprisonment; amending K.S.A. 2014
4 Supp. 21-5403, 21-6620 and 22-3717 and repealing the existing
5 sections.

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

8 Section 1. K.S.A. 2014 Supp. 21-5403 is hereby amended to read as
9 follows: 21-5403. (a) Murder in the second degree is the killing of a
10 human being committed:

11 (1) Intentionally; or
12 (2) unintentionally but recklessly under circumstances manifesting
13 extreme indifference to the value of human life.

14 (b) Murder in the second degree as defined in:

15 (1) Subsection (a)(1) is ~~a severity level 1~~, *an off-grid person felony*;
16 and

17 (2) subsection (a)(2) is a severity level ~~2~~ 1, person felony.

18 Sec. 2. K.S.A. 2014 Supp. 21-6620 is hereby amended to read as
19 follows: 21-6620. (a) (1) Except as provided in subsection (a)(2) and
20 K.S.A. 2014 Supp. 21-6618 and 21-6622, and amendments thereto, if a
21 defendant is convicted of the crime of capital murder and a sentence of
22 death is not imposed pursuant to ~~subsection (e) of~~ K.S.A. 2014 Supp. 21-
23 6617(e), and amendments thereto, or requested pursuant to ~~subsection (a)~~
24 ~~or (b) of~~ K.S.A. 2014 Supp. 21-6617(a) or (b), and amendments thereto,
25 the defendant shall be sentenced to life without the possibility of parole.

26 (2) (A) Except as provided in subsection (a)(2)(B), a defendant
27 convicted of attempt to commit the crime of capital murder shall be
28 sentenced to imprisonment for life and shall not be eligible for probation
29 or suspension, modification or reduction of sentence. In addition, the
30 defendant shall not be eligible for parole prior to serving 25 years'
31 imprisonment, and such 25 years' imprisonment shall not be reduced by
32 the application of good time credits. No other sentence shall be permitted.

33 (B) The provisions of subsection (a)(2)(A) requiring the court to
34 impose a mandatory minimum term of imprisonment of 25 years shall not
35 apply if the court finds the defendant, because of the defendant's criminal
36 history classification, is subject to presumptive imprisonment pursuant to

1 the sentencing guidelines grid for nondrug crimes and the sentencing range
2 exceeds 300 months. In such case, the defendant is required to serve a
3 mandatory minimum term equal to the sentence established pursuant to the
4 sentencing range.

5 (b) The provisions of this subsection shall apply only to the crime of
6 murder in the first degree as described in ~~subsection (a)(2)~~ of K.S.A. 2014
7 Supp. 21-5402(a)(2), and amendments thereto, committed on or after July
8 1, 2014.

9 (1) Except as provided in subsection (b)(2), a defendant convicted of
10 murder in the first degree as described in ~~subsection (a)(2)~~ of K.S.A. 2014
11 Supp. 21-5402(a)(2), and amendments thereto, shall be sentenced to
12 imprisonment for life and shall not be eligible for probation or suspension,
13 modification or reduction of sentence. In addition, the defendant shall not
14 be eligible for parole prior to serving 25 years' imprisonment, and such 25
15 years' imprisonment shall not be reduced by the application of good time
16 credits. No other sentence shall be permitted.

17 (2) The provisions of subsection (b)(1) requiring the court to impose a
18 mandatory minimum term of imprisonment of 25 years shall not apply if
19 the court finds the defendant, because of the defendant's criminal history
20 classification, is subject to presumptive imprisonment pursuant to the
21 sentencing guidelines grid for nondrug crimes and the sentencing range
22 exceeds 300 months. In such case, the defendant is required to serve a
23 mandatory minimum term equal to the sentence established pursuant to the
24 sentencing range.

25 (c) The provisions of this subsection shall apply only to the crime of
26 murder in the first degree based upon the finding of premeditated murder
27 committed on or after July 1, 2014.

28 (1) (A) Except as provided in subsection (c)(1)(B), a defendant
29 convicted of murder in the first degree based upon the finding of
30 premeditated murder shall be sentenced pursuant to K.S.A. 2014 Supp. 21-
31 6623, and amendments thereto, unless the sentencing judge finds
32 substantial and compelling reasons, following a review of mitigating
33 circumstances, to impose the sentence specified in subsection (c)(2).

34 (B) The provisions of subsection (c)(1)(A) requiring the court to
35 impose the mandatory minimum term of imprisonment required by K.S.A.
36 2014 Supp. 21-6623, and amendments thereto, shall not apply if the court
37 finds the defendant, because of the defendant's criminal history
38 classification, is subject to presumptive imprisonment pursuant to the
39 sentencing guidelines grid for nondrug crimes and the sentencing range
40 exceeds 600 months. In such case, the defendant is required to serve a
41 mandatory minimum term equal to the sentence established pursuant to the
42 sentencing range.

43 (2) (A) If the sentencing judge does not impose the mandatory

1 minimum term of imprisonment required by K.S.A. 2014 Supp. 21-6623,
2 and amendments thereto, the judge shall state on the record at the time of
3 sentencing the substantial and compelling reasons therefor, and, except as
4 provided in subsection (c)(2)(B), the defendant shall be sentenced to
5 imprisonment for life and shall not be eligible for probation or suspension,
6 modification or reduction of sentence. In addition, the defendant shall not
7 be eligible for parole prior to serving 25 years' imprisonment, and such 25
8 years' imprisonment shall not be reduced by the application of good time
9 credits. No other sentence shall be permitted.

10 (B) The provisions of subsection (c)(2)(A) requiring the court to
11 impose a mandatory minimum term of imprisonment of 25 years shall not
12 apply if the court finds the defendant, because of the defendant's criminal
13 history classification, is subject to presumptive imprisonment pursuant to
14 the sentencing guidelines grid for nondrug crimes and the sentencing range
15 exceeds 300 months. In such case, the defendant is required to serve a
16 mandatory minimum term equal to the sentence established pursuant to the
17 sentencing range.

18 (d) The provisions of this subsection shall apply only to the crime of
19 murder in the first degree based upon the finding of premeditated murder
20 committed on or after September 6, 2013, *but prior to July 1, 2014*.

21 (1) If a defendant is convicted of murder in the first degree based
22 upon the finding of premeditated murder, upon reasonable notice by the
23 prosecuting attorney, the court shall determine, in accordance with this
24 subsection, whether the defendant shall be required to serve a mandatory
25 minimum term of imprisonment of 50 years or sentenced as otherwise
26 provided by law.

27 (2) The court shall conduct a separate proceeding following the
28 determination of the defendant's guilt for the jury to determine whether
29 one or more aggravating circumstances exist. Such proceeding shall be
30 conducted by the court before a jury as soon as practicable. If any person
31 who served on the trial jury is unable to serve on the jury for the
32 proceeding, the court shall substitute an alternate juror who has been
33 impaneled for the trial jury. If there are insufficient alternate jurors to
34 replace trial jurors who are unable to serve at the proceeding, the court
35 may conduct such proceeding before a jury which may have 12 or less
36 jurors, but at no time less than six jurors. If the jury has been discharged
37 prior to the proceeding, a new jury shall be impaneled. Any decision of the
38 jury regarding the existence of an aggravating circumstance shall be
39 beyond a reasonable doubt. Jury selection procedures, qualifications of
40 jurors and grounds for exemption or challenge of prospective jurors in
41 criminal trials shall be applicable to the selection of such jury. The jury at
42 the proceeding may be waived in the manner provided by K.S.A. 22-3403,
43 and amendments thereto, for waiver of a trial jury. If the jury at the

1 proceeding has been waived, such proceeding shall be conducted by the
2 court.

3 (3) In the proceeding, evidence may be presented concerning any
4 matter relating to any of the aggravating circumstances enumerated in
5 K.S.A. 2014 Supp. 21-6624, and amendments thereto. Only such evidence
6 of aggravating circumstances as the prosecuting attorney has made known
7 to the defendant prior to the proceeding shall be admissible and no
8 evidence secured in violation of the constitution of the United States or of
9 the state of Kansas shall be admissible. No testimony by the defendant at
10 the time of the proceeding shall be admissible against the defendant at any
11 subsequent criminal proceeding. At the conclusion of the evidentiary
12 presentation, the court shall allow the parties a reasonable period of time in
13 which to present oral argument.

14 (4) At the conclusion of the evidentiary portion of the proceeding, the
15 court shall provide oral and written instructions to the jury to guide its
16 deliberations. If the prosecuting attorney relies on ~~subsection (a) of~~ K.S.A.
17 2014 Supp. 21-6624(a), and amendments thereto, as an aggravating
18 circumstance, and the court finds that one or more of the defendant's prior
19 convictions satisfy such subsection, the jury shall be instructed that a
20 certified journal entry of a prior conviction is presumed to prove the
21 existence of such prior conviction or convictions beyond a reasonable
22 doubt.

23 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
24 that one or more of the aggravating circumstances enumerated in K.S.A.
25 2014 Supp. 21-6624, and amendments thereto, exist, the jury shall
26 designate, in writing, signed by the foreman of the jury, the statutory
27 aggravating circumstances which it found. If, after a reasonable time for
28 deliberation, the jury is unable to reach a unanimous sentencing decision,
29 the court shall dismiss the jury and the defendant shall be sentenced as
30 provided by law. In nonjury cases, the court shall designate, in writing, the
31 specific circumstance or circumstances which the court found beyond a
32 reasonable doubt.

33 (6) If one or more of the aggravating circumstances enumerated in
34 K.S.A. 2014 Supp. 21-6624, and amendments thereto, are found to exist
35 beyond a reasonable doubt pursuant to this subsection, the defendant shall
36 be sentenced pursuant to K.S.A. 2014 Supp. 21-6623, and amendments
37 thereto, unless the sentencing judge finds substantial and compelling
38 reasons, following a review of mitigating circumstances, to impose the
39 sentence specified in this paragraph. If the sentencing judge does not
40 impose the mandatory minimum term of imprisonment required by K.S.A.
41 2014 Supp. 21-6623, and amendments thereto, the judge shall state on the
42 record at the time of sentencing the substantial and compelling reasons
43 therefor, and the defendant shall be sentenced to imprisonment for life and

1 shall not be eligible for probation or suspension, modification or reduction
2 of sentence. In addition, the defendant shall not be eligible for parole prior
3 to serving 25 years' imprisonment, and such 25 years' imprisonment shall
4 not be reduced by the application of good time credits. No other sentence
5 shall be permitted.

6 (e) The provisions of this subsection shall apply only to the crime of
7 murder in the first degree based upon the finding of premeditated murder
8 committed prior to September 6, 2013.

9 (1) If a defendant is convicted of murder in the first degree based
10 upon the finding of premeditated murder, upon reasonable notice by the
11 prosecuting attorney, the court shall conduct a separate sentencing
12 proceeding in accordance with this subsection to determine whether the
13 defendant shall be required to serve a mandatory minimum term of
14 imprisonment of 40 years or for crimes committed on and after July 1,
15 1999, a mandatory minimum term of imprisonment of 50 years or
16 sentenced as otherwise provided by law.

17 (2) The sentencing proceeding shall be conducted by the court before
18 a jury as soon as practicable. If the trial jury has been discharged prior to
19 sentencing, a new jury shall be impaneled. Any decision to impose a
20 mandatory minimum term of imprisonment of 40 or 50 years shall be by a
21 unanimous jury. Jury selection procedures, qualifications of jurors and
22 grounds for exemption or challenge of prospective jurors in criminal trials
23 shall be applicable to the selection of such jury. The jury at the sentencing
24 proceeding may be waived in the manner provided by K.S.A. 22-3403, and
25 amendments thereto, for waiver of a trial jury. If the jury at the sentencing
26 proceeding has been waived, such proceeding shall be conducted by the
27 court.

28 (3) In the sentencing proceeding, evidence may be presented
29 concerning any matter that the court deems relevant to the question of
30 sentence and shall include matters relating to any of the aggravating
31 circumstances enumerated in K.S.A. 2014 Supp. 21-6624, and
32 amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A.
33 21-4636, prior to its repeal, and any mitigating circumstances. Any such
34 evidence which the court deems to have probative value may be received
35 regardless of its admissibility under the rules of evidence, provided that
36 the defendant is accorded a fair opportunity to rebut any hearsay
37 statements. Only such evidence of aggravating circumstances as the
38 prosecuting attorney has made known to the defendant prior to the
39 sentencing proceeding shall be admissible and no evidence secured in
40 violation of the constitution of the United States or of the state of Kansas
41 shall be admissible. Only such evidence of mitigating circumstances
42 subject to discovery pursuant to K.S.A. 22-3212, and amendments thereto,
43 that the defendant has made known to the prosecuting attorney prior to the

1 sentencing proceeding shall be admissible. No testimony by the defendant
2 at the time of sentencing shall be admissible against the defendant at any
3 subsequent criminal proceeding. At the conclusion of the evidentiary
4 presentation, the court shall allow the parties a reasonable period of time in
5 which to present oral argument.

6 (4) At the conclusion of the evidentiary portion of the sentencing
7 proceeding, the court shall provide oral and written instructions to the jury
8 to guide its deliberations. If the prosecuting attorney relies on ~~subsection~~
9 ~~(a)~~ of K.S.A. 2014 Supp. 21-6624(a), and amendments thereto, or for
10 crimes committed prior to July 1, 2011, ~~subsection (a)~~ of K.S.A. 21-
11 4636(a), prior to its repeal, as an aggravating circumstance, and the court
12 finds that one or more of the defendant's prior convictions satisfy such
13 subsection, the jury shall be instructed that a certified journal entry of a
14 prior conviction is presumed to prove the existence of such prior
15 conviction or convictions beyond a reasonable doubt.

16 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
17 that one or more of the aggravating circumstances enumerated in K.S.A.
18 2014 Supp. 21-6624, and amendments thereto, or for crimes committed
19 prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, exist and, further,
20 that the existence of such aggravating circumstances is not outweighed by
21 any mitigating circumstances which are found to exist, the defendant shall
22 be sentenced pursuant to K.S.A. 2014 Supp. 21-6623, and amendments
23 thereto; otherwise, the defendant shall be sentenced as provided by law.
24 The sentencing jury shall designate, in writing, signed by the foreman of
25 the jury, the statutory aggravating circumstances which it found. The trier
26 of fact may make the findings required by this subsection for the purpose
27 of determining whether to sentence a defendant pursuant to K.S.A. 2014
28 Supp. 21-6623, and amendments thereto, notwithstanding contrary
29 findings made by the jury or court pursuant to ~~subsection (e)~~ of K.S.A.
30 2014 Supp. 21-6617(e), and amendments thereto, for the purpose of
31 determining whether to sentence such defendant to death. If, after a
32 reasonable time for deliberation, the jury is unable to reach a unanimous
33 sentencing decision, the court shall dismiss the jury and the defendant
34 shall be sentenced as provided by law. In nonjury cases, the court shall
35 designate in writing the specific circumstance or circumstances which the
36 court found beyond a reasonable doubt.

37 (f) The amendments to subsection (e) by chapter 1 of the 2013
38 Session Laws of Kansas (Special Session):

39 (1) Establish a procedural rule for sentencing proceedings, and as
40 such shall be construed and applied retroactively to all crimes committed
41 prior to the effective date of this act, except as provided further in this
42 subsection; (2) shall not apply to cases in which the defendant's conviction
43 and sentence were final prior to June 17, 2013, unless the conviction or

1 sentence has been vacated in a collateral proceeding, including, but not
2 limited to, K.S.A. 22-3504 or 60-1507, and amendments thereto; and (3)
3 shall apply only in sentencing proceedings otherwise authorized by law.

4 (g) Notwithstanding the provisions of subsection (h), for all cases on
5 appeal on or after September 6, 2013, if a sentence imposed under this
6 section, prior to amendment by chapter 1 of the 2013 Session Laws of
7 Kansas (Special Session), or under K.S.A. 21-4635, prior to its repeal, is
8 vacated for any reason other than sufficiency of the evidence as to all
9 aggravating circumstances, resentencing shall be required under this
10 section, as amended by chapter 1 of the 2013 Session Laws of Kansas
11 (Special Session), unless the prosecuting attorney chooses not to pursue
12 such a sentence.

13 (h) *The provisions of this subsection shall apply only to the crime of*
14 *murder in the second degree as described in K.S.A. 2014 Supp. 21-5403(a)*
15 *(1), and amendments thereto, committed on or after July 1, 2015.*

16 (1) *Except as provided in subsection (h)(2), a defendant convicted of*
17 *murder in the second degree as described in K.S.A. 2014 Supp. 21-5403(a)*
18 *(1), and amendments thereto, shall be sentenced to imprisonment for life*
19 *and shall not be eligible for probation or suspension, modification or*
20 *reduction of sentence. In addition, the defendant shall not be eligible for*
21 *parole prior to serving 25 years' imprisonment, and such 25 years'*
22 *imprisonment shall not be reduced by the application of good time credits.*
23 *No other sentence shall be permitted.*

24 (2) *The provisions of subsection (h)(1) requiring the court to impose*
25 *a mandatory minimum term of imprisonment of 25 years shall not apply if*
26 *the court finds the defendant, because of the defendant's criminal history*
27 *classification, is subject to presumptive imprisonment pursuant to the*
28 *sentencing guidelines grid for nondrug crimes and the sentencing range*
29 *exceeds 300 months. In such case, the defendant is required to serve a*
30 *mandatory minimum term equal to the sentence established pursuant to*
31 *the sentencing range.*

32 (†) (i) In the event any sentence imposed under this section is held to
33 be unconstitutional, the court having jurisdiction over a person previously
34 sentenced shall cause such person to be brought before the court and shall
35 sentence such person to the maximum term of imprisonment otherwise
36 provided by law.

37 (†) (j) If any provision or provisions of this section or the application
38 thereof to any person or circumstance is held invalid, the invalidity shall
39 not affect other provisions or applications of this section which can be
40 given effect without the invalid provision or provisions or application, and
41 to this end the provisions of this section are severable.

42 Sec. 3. K.S.A. 2014 Supp. 22-3717 is hereby amended to read as
43 follows: 22-3717. (a) Except as otherwise provided by this section: K.S.A.

1 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through
2 21-4638 and 21-4642, prior to their repeal; K.S.A. 2014 Supp. 21-6617,
3 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and amendments
4 thereto; and K.S.A. 8-1567, and amendments thereto; an inmate, including
5 an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or
6 K.S.A. 2014 Supp. 21-6707, and amendments thereto, shall be eligible for
7 parole after serving the entire minimum sentence imposed by the court,
8 less good time credits.

9 (b) (1) An inmate sentenced to imprisonment for life without the
10 possibility of parole pursuant to K.S.A. 2014 Supp. 21-6617, and
11 amendments thereto, shall not be eligible for parole.

12 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to
13 their repeal, and K.S.A. 2014 Supp. 21-6620, 21-6623, 21-6624 and 21-
14 6625, and amendments thereto, an inmate sentenced to imprisonment for
15 the crime of: (A) Capital murder committed on or after July 1, 1994, shall
16 be eligible for parole after serving 25 years of confinement, without
17 deduction of any good time credits; (B) murder in the first degree based
18 upon a finding of premeditated murder committed on or after July 1, 1994,
19 but prior to July 1, 2014, shall be eligible for parole after serving 25 years
20 of confinement, without deduction of any good time credits; ~~and (C)~~
21 ~~murder in the first degree as described in subsection (a)(2) of K.S.A. 2014~~
22 ~~Supp. 21-5402(a)(2), and amendments thereto, committed on or after July~~
23 ~~1, 2014, shall be eligible for parole after serving 25 years of confinement,~~
24 ~~without deduction of any good time credits; and (D) murder in the second~~
25 ~~degree as described in K.S.A. 2014 Supp. 21-5403(a)(1), and amendments~~
26 ~~thereto, committed on or after July 1, 2015, shall be eligible for parole~~
27 ~~after serving 25 years of confinement, without deduction of any good time~~
28 ~~credits.~~

29 (3) Except as provided by subsections (b)(1), (b)(2) and (b)(5),
30 K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through
31 21-4638, prior to their repeal, and K.S.A. 2014 Supp. 21-6620, 21-6623,
32 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to
33 imprisonment for an off-grid offense committed on or after July 1, 1993,
34 but prior to July 1, 1999, shall be eligible for parole after serving 15 years
35 of confinement, without deduction of any good time credits and an inmate
36 sentenced to imprisonment for an off-grid offense committed on or after
37 July 1, 1999, shall be eligible for parole after serving 20 years of
38 confinement without deduction of any good time credits.

39 (4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
40 repeal, an inmate sentenced for a class A felony committed before July 1,
41 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
42 its repeal, or K.S.A. 2014 Supp. 21-6707, and amendments thereto, shall
43 be eligible for parole after serving 15 years of confinement, without

1 deduction of any good time credits.

2 (5) An inmate sentenced to imprisonment for a violation of
3 ~~subsection (a)~~ of K.S.A. 21-3402(a), prior to its repeal, committed on or
4 after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole
5 after serving 10 years of confinement without deduction of any good time
6 credits.

7 (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
8 4643, prior to its repeal, or K.S.A. 2014 Supp. 21-6627, and amendments
9 thereto, committed on or after July 1, 2006, shall be eligible for parole
10 after serving the mandatory term of imprisonment without deduction of
11 any good time credits.

12 (c) (1) Except as provided in subsection (e), if an inmate is sentenced
13 to imprisonment for more than one crime and the sentences run
14 consecutively, the inmate shall be eligible for parole after serving the total
15 of:

16 (A) The aggregate minimum sentences, as determined pursuant to
17 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2014 Supp. 21-6606, and
18 amendments thereto, less good time credits for those crimes which are not
19 class A felonies; and

20 (B) an additional 15 years, without deduction of good time credits, for
21 each crime which is a class A felony.

22 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
23 4643, prior to its repeal, or K.S.A. 2014 Supp. 21-6627, and amendments
24 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
25 eligible for parole after serving the mandatory term of imprisonment.

26 (d) (1) Persons sentenced for crimes, other than off-grid crimes,
27 committed on or after July 1, 1993, or persons subject to subparagraph
28 (G), will not be eligible for parole, but will be released to a mandatory
29 period of postrelease supervision upon completion of the prison portion of
30 their sentence as follows:

31 (A) Except as provided in subparagraphs (D) and (E), persons
32 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
33 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
34 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
35 July 1, 2012, must serve 36 months on postrelease supervision.

36 (B) Except as provided in subparagraphs (D) and (E), persons
37 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
38 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
39 drug severity level 4 crimes committed on or after July 1, 2012, must serve
40 24 months on postrelease supervision.

41 (C) Except as provided in subparagraphs (D) and (E), persons
42 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
43 level 4 crimes committed on or after July 1, 1993, but prior to July 1,

1 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
2 must serve 12 months on postrelease supervision.

3 (D) Persons sentenced to a term of imprisonment that includes a
4 sentence for a sexually violent crime as defined in K.S.A. 22-3717, and
5 amendments thereto, a sexually motivated crime in which the offender has
6 been ordered to register pursuant to ~~subsection (d)(1)(D)(vii)~~ of K.S.A. 22-
7 3717(d)(1)(D)(vii), and amendments thereto, electronic solicitation, K.S.A.
8 21-3523, prior to its repeal, or K.S.A. 2014 Supp. 21-5509, and
9 amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to
10 its repeal, or K.S.A. 2014 Supp. 21-5512, and amendments thereto, shall
11 serve the period of postrelease supervision as provided in subsections (d)
12 (1)(A), (d)(1)(B) or (d)(1)(C) plus the amount of good time and program
13 credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal,
14 or K.S.A. 2014 Supp. 21-6821, and amendments thereto, on postrelease
15 supervision.

16 (i) If the sentencing judge finds substantial and compelling reasons to
17 impose a departure based upon a finding that the current crime of
18 conviction was sexually motivated, departure may be imposed to extend
19 the postrelease supervision to a period of up to 60 months.

20 (ii) If the sentencing judge departs from the presumptive postrelease
21 supervision period, the judge shall state on the record at the time of
22 sentencing the substantial and compelling reasons for the departure.
23 Departures in this section are subject to appeal pursuant to K.S.A. 21-
24 4721, prior to its repeal, or K.S.A. 2014 Supp. 21-6820, and amendments
25 thereto.

26 (iii) In determining whether substantial and compelling reasons exist,
27 the court shall consider:

28 (a) Written briefs or oral arguments submitted by either the defendant
29 or the state;

30 (b) any evidence received during the proceeding;

31 (c) the presentence report, the victim's impact statement and any
32 psychological evaluation as ordered by the court pursuant to ~~subsection (e)~~
33 of K.S.A. 21-4714(e), prior to its repeal, or ~~subsection (e)~~ of K.S.A. 2014
34 Supp. 21-6813(e), and amendments thereto; and

35 (d) any other evidence the court finds trustworthy and reliable.

36 (iv) The sentencing judge may order that a psychological evaluation
37 be prepared and the recommended programming be completed by the
38 offender. The department of corrections or the prisoner review board shall
39 ensure that court ordered sex offender treatment be carried out.

40 (v) In carrying out the provisions of subsection (d)(1)(D), the court
41 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2014 Supp. 21-
42 6817, and amendments thereto.

43 (vi) Upon petition and payment of any restitution ordered pursuant to

1 K.S.A. 2014 Supp. 21-6604, and amendments thereto, the prisoner review
2 board may provide for early discharge from the postrelease supervision
3 period imposed pursuant to subsection (d)(1)(D)(i) upon completion of
4 court ordered programs and completion of the presumptive postrelease
5 supervision period, as determined by the crime of conviction, pursuant to
6 subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
7 postrelease supervision is at the discretion of the board.

8 (vii) Persons convicted of crimes deemed sexually violent or sexually
9 motivated shall be registered according to the offender registration act,
10 K.S.A. 22-4901 through 22-4910, and amendments thereto.

11 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
12 repeal, or K.S.A. 2014 Supp. 21-5508, and amendments thereto, shall be
13 required to participate in a treatment program for sex offenders during the
14 postrelease supervision period.

15 (E) The period of postrelease supervision provided in subparagraphs
16 (A) and (B) may be reduced by up to 12 months and the period of
17 postrelease supervision provided in subparagraph (C) may be reduced by
18 up to six months based on the offender's compliance with conditions of
19 supervision and overall performance while on postrelease supervision. The
20 reduction in the supervision period shall be on an earned basis pursuant to
21 rules and regulations adopted by the secretary of corrections.

22 (F) In cases where sentences for crimes from more than one severity
23 level have been imposed, the offender shall serve the longest period of
24 postrelease supervision as provided by this section available for any crime
25 upon which sentence was imposed irrespective of the severity level of the
26 crime. Supervision periods will not aggregate.

27 (G) Except as provided in subsection (u), persons convicted of a
28 sexually violent crime committed on or after July 1, 2006, and who are
29 released from prison, shall be released to a mandatory period of
30 postrelease supervision for the duration of the person's natural life.

31 (2) Persons serving a period of postrelease supervision pursuant to
32 subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner
33 review board for early discharge. Upon payment of restitution, the prisoner
34 review board may provide for early discharge.

35 (3) Persons serving a period of incarceration for a supervision
36 violation shall not have the period of postrelease supervision modified
37 until such person is released and returned to postrelease supervision.

38 (4) Offenders whose crime of conviction was committed on or after
39 July 1, 2013, and whose probation, assignment to a community
40 correctional services program, suspension of sentence or nonprison
41 sanction is revoked pursuant to ~~subsection (c) of K.S.A. 22-3716(c)~~, and
42 amendments thereto, or whose underlying prison term expires while
43 serving a sanction pursuant to ~~subsection (e)(1)(C) or (e)(1)(D) of K.S.A.~~

1 22-3716(c)(1)(C) or (c)(1)(D), and amendments thereto, shall serve a
2 period of postrelease supervision upon the completion of the underlying
3 prison term.

4 (5) As used in this subsection, "sexually violent crime" means:

5 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2014 Supp.
6 21-5503, and amendments thereto;

7 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
8 or ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5506(a), and amendments
9 thereto;

10 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
11 to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5506(b), and
12 amendments thereto;

13 (D) criminal sodomy, ~~subsection (a)(2) and (a)(3)~~ of K.S.A. 21-
14 3505(a)(2) and (a)(3), prior to its repeal, or ~~subsection (a)(3) and (a)(4)~~ of
15 K.S.A. 2014 Supp. 21-5504(a)(3) and (a)(4), and amendments thereto;

16 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
17 or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5504(b), and amendments
18 thereto;

19 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
20 or ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5508(a), and amendments
21 thereto;

22 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
23 to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5508(b), and
24 amendments thereto;

25 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
26 or K.S.A. 2014 Supp. 21-5510, and amendments thereto;

27 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
28 ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5505(b), and amendments thereto;

29 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or
30 ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5604(b), and amendments thereto;

31 (K) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
32 to its repeal, or ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-5426(b), and
33 amendments thereto, if committed in whole or in part for the purpose of
34 the sexual gratification of the defendant or another;

35 (L) commercial sexual exploitation of a child, as defined in K.S.A.
36 2014 Supp. 21-6422, and amendments thereto; or

37 (M) an attempt, conspiracy or criminal solicitation, as defined in
38 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2014
39 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
40 sexually violent crime as defined in this section.

41 (6) As used in this subsection, "sexually motivated" means that one of
42 the purposes for which the defendant committed the crime was for the
43 purpose of the defendant's sexual gratification.

1 (e) If an inmate is sentenced to imprisonment for a crime committed
2 while on parole or conditional release, the inmate shall be eligible for
3 parole as provided by subsection (c), except that the prisoner review board
4 may postpone the inmate's parole eligibility date by assessing a penalty not
5 exceeding the period of time which could have been assessed if the
6 inmate's parole or conditional release had been violated for reasons other
7 than conviction of a crime.

8 (f) If a person is sentenced to prison for a crime committed on or after
9 July 1, 1993, while on probation, parole, conditional release or in a
10 community corrections program, for a crime committed prior to July 1,
11 1993, and the person is not eligible for retroactive application of the
12 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
13 4724, prior to its repeal, the new sentence shall not be aggregated with the
14 old sentence, but shall begin when the person is paroled or reaches the
15 conditional release date on the old sentence. If the offender was past the
16 offender's conditional release date at the time the new offense was
17 committed, the new sentence shall not be aggregated with the old sentence
18 but shall begin when the person is ordered released by the prisoner review
19 board or reaches the maximum sentence expiration date on the old
20 sentence, whichever is earlier. The new sentence shall then be served as
21 otherwise provided by law. The period of postrelease supervision shall be
22 based on the new sentence, except that those offenders whose old sentence
23 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
24 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
25 term of life imprisonment, for which there is no conditional release or
26 maximum sentence expiration date, shall remain on postrelease
27 supervision for life or until discharged from supervision by the prisoner
28 review board.

29 (g) Subject to the provisions of this section, the prisoner review board
30 may release on parole those persons confined in institutions who are
31 eligible for parole when: (1) The board believes that the inmate should be
32 released for hospitalization, deportation or to answer the warrant or other
33 process of a court and is of the opinion that there is reasonable probability
34 that the inmate can be released without detriment to the community or to
35 the inmate; or (2) the secretary of corrections has reported to the board in
36 writing that the inmate has satisfactorily completed the programs required
37 by any agreement entered under K.S.A. 75-5210a, and amendments
38 thereto, or any revision of such agreement, and the board believes that the
39 inmate is able and willing to fulfill the obligations of a law abiding citizen
40 and is of the opinion that there is reasonable probability that the inmate
41 can be released without detriment to the community or to the inmate.
42 Parole shall not be granted as an award of clemency and shall not be
43 considered a reduction of sentence or a pardon.

1 (h) The prisoner review board shall hold a parole hearing at least the
2 month prior to the month an inmate will be eligible for parole under
3 subsections (a), (b) and (c). At least one month preceding the parole
4 hearing, the county or district attorney of the county where the inmate was
5 convicted shall give written notice of the time and place of the public
6 comment sessions for the inmate to any victim of the inmate's crime who
7 is alive and whose address is known to the county or district attorney or,
8 if the victim is deceased, to the victim's family if the family's address is
9 known to the county or district attorney. Except as otherwise provided,
10 failure to notify pursuant to this section shall not be a reason to postpone a
11 parole hearing. In the case of any inmate convicted of an off-grid felony or
12 a class A felony, the secretary of corrections shall give written notice of the
13 time and place of the public comment session for such inmate at least one
14 month preceding the public comment session to any victim of such
15 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
16 amendments thereto. If notification is not given to such victim or such
17 victim's family in the case of any inmate convicted of an off-grid felony or
18 a class A felony, the board shall postpone a decision on parole of the
19 inmate to a time at least 30 days after notification is given as provided in
20 this section. Nothing in this section shall create a cause of action against
21 the state or an employee of the state acting within the scope of the
22 employee's employment as a result of the failure to notify pursuant to this
23 section. If granted parole, the inmate may be released on parole on the date
24 specified by the board, but not earlier than the date the inmate is eligible
25 for parole under subsections (a), (b) and (c). At each parole hearing and, if
26 parole is not granted, at such intervals thereafter as it determines
27 appropriate, the board shall consider: (1) Whether the inmate has
28 satisfactorily completed the programs required by any agreement entered
29 under K.S.A. 75-5210a, and amendments thereto, or any revision of such
30 agreement; and (2) all pertinent information regarding such inmate,
31 including, but not limited to, the circumstances of the offense of the
32 inmate; the presentence report; the previous social history and criminal
33 record of the inmate; the conduct, employment, and attitude of the inmate
34 in prison; the reports of such physical and mental examinations as have
35 been made, including, but not limited to, risk factors revealed by any risk
36 assessment of the inmate; comments of the victim and the victim's family
37 including in person comments, contemporaneous comments and
38 prerecorded comments made by any technological means; comments of
39 the public; official comments; any recommendation by the staff of the
40 facility where the inmate is incarcerated; proportionality of the time the
41 inmate has served to the sentence a person would receive under the Kansas
42 sentencing guidelines for the conduct that resulted in the inmate's
43 incarceration; and capacity of state correctional institutions.

1 (i) In those cases involving inmates sentenced for a crime committed
2 after July 1, 1993, the prisoner review board will review the inmate's
3 proposed release plan. The board may schedule a hearing if they desire.
4 The board may impose any condition they deem necessary to insure public
5 safety, aid in the reintegration of the inmate into the community, or items
6 not completed under the agreement entered into under K.S.A. 75-5210a,
7 and amendments thereto. The board may not advance or delay an inmate's
8 release date. Every inmate while on postrelease supervision shall remain in
9 the legal custody of the secretary of corrections and is subject to the orders
10 of the secretary.

11 (j) (1) Before ordering the parole of any inmate, the prisoner review
12 board shall have the inmate appear either in person or via a video
13 conferencing format and shall interview the inmate unless impractical
14 because of the inmate's physical or mental condition or absence from the
15 institution. Every inmate while on parole shall remain in the legal custody
16 of the secretary of corrections and is subject to the orders of the secretary.
17 Whenever the board formally considers placing an inmate on parole and
18 no agreement has been entered into with the inmate under K.S.A. 75-
19 5210a, and amendments thereto, the board shall notify the inmate in
20 writing of the reasons for not granting parole. If an agreement has been
21 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate
22 has not satisfactorily completed the programs specified in the agreement,
23 or any revision of such agreement, the board shall notify the inmate in
24 writing of the specific programs the inmate must satisfactorily complete
25 before parole will be granted. If parole is not granted only because of a
26 failure to satisfactorily complete such programs, the board shall grant
27 parole upon the secretary's certification that the inmate has successfully
28 completed such programs. If an agreement has been entered under K.S.A.
29 75-5210a, and amendments thereto, and the secretary of corrections has
30 reported to the board in writing that the inmate has satisfactorily
31 completed the programs required by such agreement, or any revision
32 thereof, the board shall not require further program participation.
33 However, if the board determines that other pertinent information
34 regarding the inmate warrants the inmate's not being released on parole,
35 the board shall state in writing the reasons for not granting the parole. If
36 parole is denied for an inmate sentenced for a crime other than a class A or
37 class B felony or an off-grid felony, the board shall hold another parole
38 hearing for the inmate not later than one year after the denial unless the
39 board finds that it is not reasonable to expect that parole would be granted
40 at a hearing if held in the next three years or during the interim period of a
41 deferral. In such case, the board may defer subsequent parole hearings for
42 up to three years but any such deferral by the board shall require the board
43 to state the basis for its findings. If parole is denied for an inmate

1 sentenced for a class A or class B felony or an off-grid felony, the board
2 shall hold another parole hearing for the inmate not later than three years
3 after the denial unless the board finds that it is not reasonable to expect
4 that parole would be granted at a hearing if held in the next 10 years or
5 during the interim period of a deferral. In such case, the board may defer
6 subsequent parole hearings for up to 10 years, but any such deferral shall
7 require the board to state the basis for its findings.

8 (2) Inmates sentenced for a class A or class B felony who have not
9 had a board hearing in the five years prior to July 1, 2010, shall have such
10 inmates' cases reviewed by the board on or before July 1, 2012. Such
11 review shall begin with the inmates with the oldest deferral date and
12 progress to the most recent. Such review shall be done utilizing existing
13 resources unless the board determines that such resources are insufficient.
14 If the board determines that such resources are insufficient, then the
15 provisions of this paragraph are subject to appropriations therefor.

16 (k) (1) Parolees and persons on postrelease supervision shall be
17 assigned, upon release, to the appropriate level of supervision pursuant to
18 the criteria established by the secretary of corrections.

19 (2) Parolees and persons on postrelease supervision are, and shall
20 agree in writing to be, subject to search or seizure by a parole officer or a
21 department of corrections enforcement, apprehension and investigation
22 officer, at any time of the day or night, with or without a search warrant
23 and with or without cause. Nothing in this subsection shall be construed to
24 authorize such officers to conduct arbitrary or capricious searches or
25 searches for the sole purpose of harassment.

26 (3) Parolees and persons on postrelease supervision are, and shall
27 agree in writing to be, subject to search or seizure by any law enforcement
28 officer based on reasonable suspicion of the person violating conditions of
29 parole or postrelease supervision or reasonable suspicion of criminal
30 activity. Any law enforcement officer who conducts such a search shall
31 submit a written report to the appropriate parole officer no later than the
32 close of the next business day after such search. The written report shall
33 include the facts leading to such search, the scope of such search and any
34 findings resulting from such search.

35 (l) The prisoner review board shall promulgate rules and regulations
36 in accordance with K.S.A. 77-415 et seq., and amendments thereto, not
37 inconsistent with the law and as it may deem proper or necessary, with
38 respect to the conduct of parole hearings, postrelease supervision reviews,
39 revocation hearings, orders of restitution, reimbursement of expenditures
40 by the state board of indigents' defense services and other conditions to be
41 imposed upon parolees or releasees. Whenever an order for parole or
42 postrelease supervision is issued it shall recite the conditions thereof.

43 (m) Whenever the prisoner review board orders the parole of an

1 inmate or establishes conditions for an inmate placed on postrelease
2 supervision, the board:

3 (1) Unless it finds compelling circumstances which would render a
4 plan of payment unworkable, shall order as a condition of parole or
5 postrelease supervision that the parolee or the person on postrelease
6 supervision pay any transportation expenses resulting from returning the
7 parolee or the person on postrelease supervision to this state to answer
8 criminal charges or a warrant for a violation of a condition of probation,
9 assignment to a community correctional services program, parole,
10 conditional release or postrelease supervision;

11 (2) to the extent practicable, shall order as a condition of parole or
12 postrelease supervision that the parolee or the person on postrelease
13 supervision make progress towards or successfully complete the
14 equivalent of a secondary education if the inmate has not previously
15 completed such educational equivalent and is capable of doing so;

16 (3) may order that the parolee or person on postrelease supervision
17 perform community or public service work for local governmental
18 agencies, private corporations organized not-for-profit or charitable or
19 social service organizations performing services for the community;

20 (4) may order the parolee or person on postrelease supervision to pay
21 the administrative fee imposed pursuant to K.S.A. 22-4529, and
22 amendments thereto, unless the board finds compelling circumstances
23 which would render payment unworkable;

24 (5) unless it finds compelling circumstances which would render a
25 plan of payment unworkable, shall order that the parolee or person on
26 postrelease supervision reimburse the state for all or part of the
27 expenditures by the state board of indigents' defense services to provide
28 counsel and other defense services to the person. In determining the
29 amount and method of payment of such sum, the prisoner review board
30 shall take account of the financial resources of the person and the nature of
31 the burden that the payment of such sum will impose. Such amount shall
32 not exceed the amount claimed by appointed counsel on the payment
33 voucher for indigents' defense services or the amount prescribed by the
34 board of indigents' defense services reimbursement tables as provided in
35 K.S.A. 22-4522, and amendments thereto, whichever is less, minus any
36 previous payments for such services;

37 (6) shall order that the parolee or person on postrelease supervision
38 agree in writing to be subject to search or seizure by a parole officer or a
39 department of corrections enforcement, apprehension and investigation
40 officer, at any time of the day or night, with or without a search warrant
41 and with or without cause. Nothing in this subsection shall be construed to
42 authorize such officers to conduct arbitrary or capricious searches or
43 searches for the sole purpose of harassment; and

1 (7) shall order that the parolee or person on postrelease supervision
2 agree in writing to be subject to search or seizure by any law enforcement
3 officer based on reasonable suspicion of the person violating conditions of
4 parole or postrelease supervision or reasonable suspicion of criminal
5 activity.

6 (n) If the court which sentenced an inmate specified at the time of
7 sentencing the amount and the recipient of any restitution ordered as a
8 condition of parole or postrelease supervision, the prisoner review board
9 shall order as a condition of parole or postrelease supervision that the
10 inmate pay restitution in the amount and manner provided in the journal
11 entry unless the board finds compelling circumstances which would render
12 a plan of restitution unworkable.

13 (o) Whenever the prisoner review board grants the parole of an
14 inmate, the board, within 14 days of the date of the decision to grant
15 parole, shall give written notice of the decision to the county or district
16 attorney of the county where the inmate was sentenced.

17 (p) When an inmate is to be released on postrelease supervision, the
18 secretary, within 30 days prior to release, shall provide the county or
19 district attorney of the county where the inmate was sentenced written
20 notice of the release date.

21 (q) Inmates shall be released on postrelease supervision upon the
22 termination of the prison portion of their sentence. Time served while on
23 postrelease supervision will vest.

24 (r) An inmate who is allocated regular good time credits as provided
25 in K.S.A. 22-3725, and amendments thereto, may receive meritorious
26 good time credits in increments of not more than 90 days per meritorious
27 act. These credits may be awarded by the secretary of corrections when an
28 inmate has acted in a heroic or outstanding manner in coming to the
29 assistance of another person in a life threatening situation, preventing
30 injury or death to a person, preventing the destruction of property or taking
31 actions which result in a financial savings to the state.

32 (s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and
33 (d)(1)(E) shall be applied retroactively as provided in subsection (t).

34 (t) For offenders sentenced prior to July 1, 2014, who are eligible for
35 modification of their postrelease supervision obligation, the department of
36 corrections shall modify the period of postrelease supervision as provided
37 for by this section:

38 (1) On or before September 1, 2013, for offenders convicted of:

39 (A) Severity levels 9 and 10 crimes on the sentencing guidelines grid
40 for nondrug crimes;

41 (B) severity level 4 crimes on the sentencing guidelines grid for drug
42 crimes committed prior to July 1, 2012; and

43 (C) severity level 5 crimes on the sentencing guidelines grid for drug

- 1 crimes committed on and after July 1, 2012;
- 2 (2) on or before November 1, 2013, for offenders convicted of:
- 3 (A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines
4 grid for nondrug crimes;
- 5 (B) level 3 crimes on the sentencing guidelines grid for drug crimes
6 committed prior to July 1, 2012; and
- 7 (C) level 4 crimes on the sentencing guidelines grid for drug crimes
8 committed on or after July 1, 2012; and
- 9 (3) on or before January 1, 2014, for offenders convicted of:
- 10 (A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing
11 guidelines grid for nondrug crimes;
- 12 (B) severity levels 1 and 2 crimes on the sentencing guidelines grid
13 for drug crimes committed at any time; and
- 14 (C) severity level 3 crimes on the sentencing guidelines grid for drug
15 crimes committed on or after July 1, 2012.
- 16 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
17 4643, prior to its repeal, or K.S.A. 2014 Supp. 21-6627, and amendments
18 thereto, for crimes committed on or after July 1, 2006, shall be placed on
19 parole for life and shall not be discharged from supervision by the prisoner
20 review board. When the board orders the parole of an inmate pursuant to
21 this subsection, the board shall order as a condition of parole that the
22 inmate be electronically monitored for the duration of the inmate's natural
23 life.
- 24 (v) Whenever the prisoner review board orders a person to be
25 electronically monitored pursuant to this section, or the court orders a
26 person to be electronically monitored pursuant to ~~subsection (r)~~ of K.S.A.
27 2014 Supp. 21-6604(r), and amendments thereto, the board shall order the
28 person to reimburse the state for all or part of the cost of such monitoring.
29 In determining the amount and method of payment of such sum, the board
30 shall take account of the financial resources of the person and the nature of
31 the burden that the payment of such sum will impose.
- 32 (w) (1) On and after July 1, 2012, for any inmate who is a sex
33 offender, as defined in K.S.A. 22-4902, and amendments thereto,
34 whenever the prisoner review board orders the parole of such inmate or
35 establishes conditions for such inmate placed on postrelease supervision,
36 such inmate shall agree in writing to not possess pornographic materials.
- 37 (A) As used in this subsection, "pornographic materials" means: Any
38 obscene material or performance depicting sexual conduct, sexual contact
39 or a sexual performance; and any visual depiction of sexually explicit
40 conduct.
- 41 (B) As used in this subsection, all other terms have the meanings
42 provided by K.S.A. 2014 Supp. 21-5510, and amendments thereto.
- 43 (2) The provisions of this subsection shall be applied retroactively to

1 every sex offender, as defined in K.S.A. 22-4902, and amendments
2 thereto, who is on parole or postrelease supervision on July 1, 2012. The
3 prisoner review board shall obtain the written agreement required by this
4 subsection from such offenders as soon as practicable.

5 Sec. 4. K.S.A. 2014 Supp. 21-5403, 21-6620 and 22-3717 are hereby
6 repealed.

7 Sec. 5. This act shall take effect and be in force from and after its
8 publication in the statute book.