

HOUSE BILL No. 2084

By Committee on Corrections and Juvenile Justice

1-20

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sentencing; probation; authorizing earned discharge credit and early
3 release from probation; limiting maximum duration of probation;
4 amending K.S.A. 2020 Supp. 21-6608 and repealing the existing
5 section.

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

8 Section 1. K.S.A. 2020 Supp. 21-6608 is hereby amended to read as
9 follows: 21-6608. (a) The period of suspension of sentence, probation or
10 assignment to community corrections fixed by the court shall not exceed
11 two years in misdemeanor cases, subject to renewal and extension for
12 additional fixed periods of two years. Probation, suspension of sentence or
13 assignment to community corrections may be terminated by the court at
14 any time and upon such termination or upon termination by expiration of
15 the term of probation, suspension of sentence or assignment to community
16 corrections, an order to this effect shall be entered by the court.

17 (b) The district court having jurisdiction of the offender may parole
18 any misdemeanant sentenced to confinement in the county jail. The period
19 of such parole shall be fixed by the court and shall not exceed two years
20 and shall be terminated in the manner provided for termination of
21 suspended sentence and probation.

22 (c) For all crimes committed on or after July 1, 1993, the duration of
23 probation in felony cases sentenced for the following severity levels on the
24 sentencing guidelines grid for nondrug crimes and the sentencing
25 guidelines grid for drug crimes is as follows:

26 (1) For nondrug crimes the recommended duration of probation is:

27 (A) 36 months for crimes in crime severity levels 1 through 5; and

28 (B) 24 months for crimes in crime severity levels 6 and 7;

29 (2) for drug crimes the recommended duration of probation is 36
30 months for crimes in crime severity levels 1 and 2 committed prior to July
31 1, 2012, and crimes in crime severity levels 1, 2 and 3 committed on or
32 after July 1, 2012;

33 (3) except as provided further, in felony cases sentenced at severity
34 levels 9 and 10 on the sentencing guidelines grid for nondrug crimes,
35 severity level 4 on the sentencing guidelines grid for drug crimes
36 committed prior to July 1, 2012, and severity level 5 of the sentencing

1 guidelines grid for drug crimes committed on or after July 1, 2012, if a
2 nonprison sanction is imposed, the court shall order the defendant to serve
3 a period of probation of up to 12 months in length;

4 (4) in felony cases sentenced at severity level 8 on the sentencing
5 guidelines grid for nondrug crimes, severity level 3 on the sentencing
6 guidelines grid for drug crimes committed prior to July 1, 2012, and
7 severity level 4 of the sentencing guidelines grid for drug crimes
8 committed on or after July 1, 2012, and felony cases sentenced pursuant to
9 K.S.A. 2020 Supp. 21-6824, and amendments thereto, if a nonprison
10 sanction is imposed, the court shall order the defendant to serve a period of
11 probation, or assignment to a community correctional services program, as
12 provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to
13 18 months in length;

14 (5) if the court finds and sets forth with particularity the reasons for
15 finding that the safety of the members of the public will be jeopardized or
16 that the welfare of the inmate will not be served by the length of the
17 probation terms provided in subsections (c)(3) and (c)(4), the court may
18 impose a longer period of probation. Such an increase shall not be
19 considered a departure and shall not be subject to appeal;

20 (6) except as provided in subsections (c)(7) and (c)(8), the total
21 period in all cases shall not exceed 60 months, or the maximum period of
22 the prison sentence that could be imposed whichever is longer. Nonprison
23 sentences may be terminated by the court at any time;

24 (7) if the defendant is convicted of nonsupport of a child, the period
25 may be continued as long as the responsibility for support continues,
26 *except as provided in subsection (c)(8)*. If the defendant is ordered to pay
27 full or partial restitution, the period may be continued as long as the
28 amount of restitution ordered has not been paid, *except as provided in*
29 *subsection (c)(8). If the defendant has served a period of twice the original*
30 *supervision term, the defendant shall be released from supervision and*
31 *shall continue to be responsible to fully satisfy any outstanding child*
32 *support or restitution; and*

33 (8) the court may modify or extend the offender's period of
34 supervision, pursuant to a modification hearing and a judicial finding of
35 necessity. Such extensions ~~may be made for a maximum period of five~~
36 ~~years or the maximum period of the prison sentence that could be imposed,~~
37 ~~whichever is longer, inclusive of the original supervision term shall not~~
38 ~~exceed a maximum period of twice the original supervision term.~~

39 (d) In addition to the provisions of subsection (a), a defendant ~~who~~
40 ~~has a risk assessment of low risk, has paid all restitution and has been~~
41 ~~compliant with the terms of~~ *may be discharged early from* probation,
42 assignment to a community correctional services program, suspension of
43 sentence or nonprison sanction ~~for a period of 12 months shall be eligible~~

1 ~~for discharge from such period of supervision by the court if such~~
2 ~~defendant is found to be in substantial compliance with the conditions of~~
3 ~~such supervision. The court shall set a hearing at sentencing for the date~~
4 ~~when the defendant will have served 50% of such defendant's term of~~
5 ~~supervision to determine if a defendant has been in substantial compliance~~
6 ~~with the defendant's conditions of supervision. The court shall grant such~~
7 ~~discharge unless the court finds by clear and convincing evidence that~~
8 ~~denial of such discharge will serve community safety interests.~~

9 *(e) A defendant shall earn credit to reduce such defendant's term of*
10 *probation, assignment to a community correctional services program,*
11 *suspension of sentence or nonprison sanction when the defendant has*
12 *substantially complied with the conditions of such defendant's supervision.*
13 *A defendant shall be awarded seven days earned discharge credit for each*
14 *full calendar month of substantial compliance with the conditions of such*
15 *defendant's supervision.*

16 *(f) The Kansas sentencing commission shall adopt procedures and*
17 *forms to standardize the process for calculating earned discharge credit*
18 *pursuant to this section.*

19 *(g) The following factors apply and may be considered in*
20 *determining whether substantial compliance with supervision exists:*

21 *(1)(A) History of compliance with terms and conditions of*
22 *supervision;*

23 *(B) payment of fines, costs and restitution; and*

24 *(C) successful completion of any required treatment program.*

25 *(2) Completion of all terms and conditions of supervision is not*
26 *required.*

27 *(3) Offenders subject to the provisions of K.S.A. 2020 Supp. 21-6824,*
28 *and amendments thereto, shall not be eligible for early discharge.*

29 *Sec. 2. K.S.A. 2020 Supp. 21-6608 is hereby repealed.*

30 *Sec. 3. This act shall take effect and be in force from and after its*
31 *publication in the statute book.*