



KSSC Webinar

SB 123 drug abuse treatment program
refresher and updates

October 28th, 2021

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Poll



Q&A

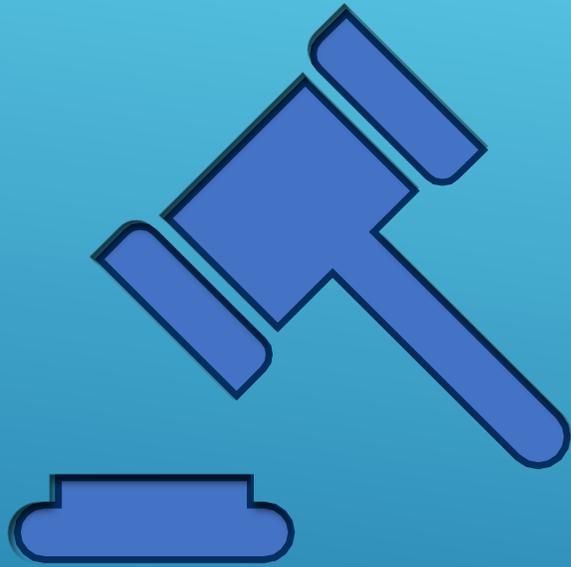


Survey

WEBINAR RULES

WHAT DO WE DO?

- ▶ Desk Reference Manual
- ▶ Annual Report
- ▶ Involvement with legislative process
- ▶ Impact Statements
- ▶ Respond to Research Requests
- ▶ Administer SB 123 program
- ▶ Training for Criminal Justice groups
- ▶ Staff Attorney email for questions
(KSSCAAttorney@ks.gov)



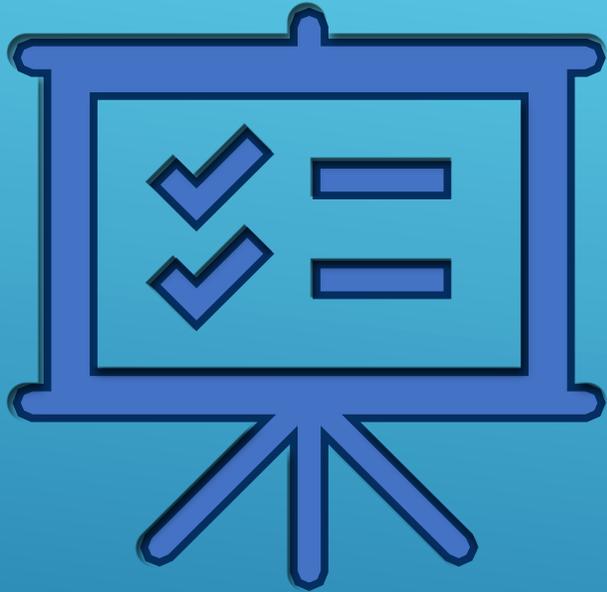
Senate Bill 123 was approved during the 2003 Legislative session and implemented in fiscal year 2004, **with the goal of treating non-violent drug offenders and reserving prison sentences for those offenders who commit serious, violent crimes.** The program provides funding to eligible offenders for community-based substance abuse treatment for up to their 18-month term of probation.

This treatment is furnished by treatment providers state-wide who have been certified to provide appropriate treatment by the Kansas Department of Corrections. The program is maintained through coordinated efforts among the Kansas Sentencing Commission, Community Corrections, Court Services, and certified treatment providers.

OVERVIEW OF SB 123

GOAL

To provide community intervention and the opportunity for treatment to certain offenders with substance abuse problems in order to address more effectively prison recidivism of substance abusers in the state prison system, which should be reserved for serious, violent offenders.



- ▶ Administration & Policy
- ▶ Monitoring & Forecasting
- ▶ Evaluation & Auditing
- ▶ Training
- ▶ Payment services
 - ▶ Both in-house and in partnership with Beacon Health Options
- ▶ Publications
- ▶ Informational meetings

WHAT DOES KSSC DO?

- ▶ Currently ~120 treatment provider locations across the state
- ▶ Providers are
 - ▶ Licensed by KDADS/BSRB
 - ▶ Trained and certified by KDOC
 - ▶ Include both Licensed Addictions Counselors and other mental health professionals
- ▶ Providers collaborate with Community Corrections to ensure offender receives timely, appropriate treatment

SB 123 TREATMENT PROVIDERS

▶ **Assessment**

- ▶ Initial assessment by a qualified treatment provider
 - ▶ Clinical interview
 - ▶ Substance Abuse Subtle Screening Inventory – Fourth Ed. (SASSI 4)
 - ▶ Summary Form with recommendations for Level of Care and course of treatment
- ▶ SASSI-4 can also be performed by Court Services or Community Corrections and reimbursed through KSSC
- ▶ Offenders are entitled to 1 assessment per case

SERVICES FUNDED BY SB 123

▶ **Social Detox**

- ▶ Inpatient supervision for acute intoxication or withdrawal
- ▶ Not necessarily a medically-supervised facility
- ▶ Short term (5 days or fewer) 24-hour supervision and support

▶ **Therapeutic Community**

- ▶ Johnson County ONLY
- ▶ 6 months of residential treatment
- ▶ CBT-based treatment regimen

SERVICES FUNDED BY SB 123



▶ **Intermediate Residential** (Inpatient)

- ▶ 24/7 residential treatment
- ▶ Structured, CBT-based clinical programming that meets the American Society of Addiction Medicine (ASAM) standards
- ▶ Individual and group counseling
- ▶ Offenders are entitled to 21 days; up to 90 days with Continued Stay Review

▶ **Intensive Outpatient**

- ▶ 10-15 hours of clinical services (group or individual) per week
- ▶ Paid in hourly units (maximum of 100 hours)

SERVICES FUNDED BY SB 123

▶ **Reintegration**

- ▶ Housed service that generally follows inpatient as a step-down modality
- ▶ Up to 60 days
- ▶ Minimum 10 hours of structured clinical activity per week
- ▶ Encourages employment and family engagement

▶ **Outpatient**

- ▶ Individual (up to 3 hours per week)
- ▶ Group (4-8 hours per week)
- ▶ Family (1 hour per week)

SERVICES FUNDED BY SB 123

▶ **Peer Mentorship**

- ▶ One-on-one interaction with peer mentor who is certified through KDADS and employed through a KDOC certified provider
- ▶ Up to 3 hours per week as part of Outpatient or Relapse Prevention

▶ **Relapse Prevention**

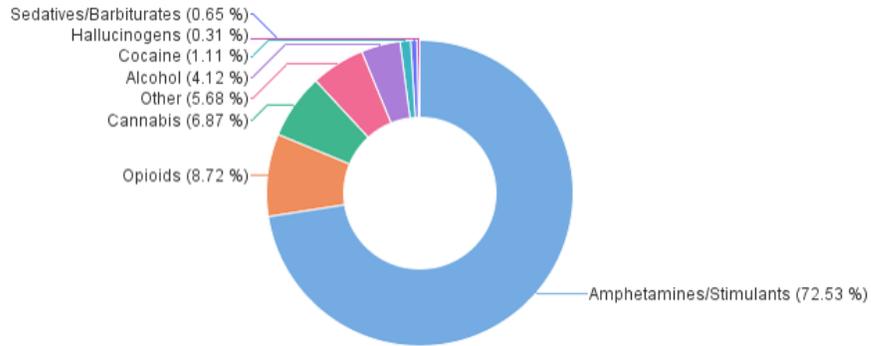
- ▶ Clinical intervention occurring after successful completion of another, higher intensity modality
- ▶ Cornerstone of addictions treatment
- ▶ Up to 2 sessions per week

▶ **Drug Abuse Education**

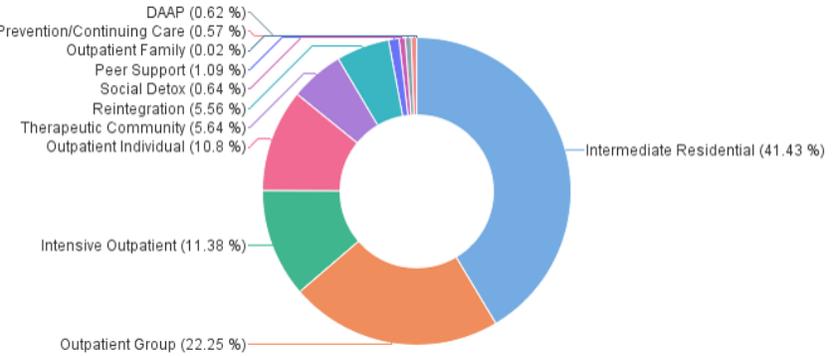
- ▶ Offender-paid, 8-hour, set curriculum education class

SERVICES FUNDED BY SB 123

Total Paid Amount by Diagnosis



Total Paid Amount by Service



EXPENDITURES BY DIAGNOSIS & MODALITY

▶ COVID-19

- ▶ Pandemic has impacted program functioning
 - ▶ Provider turnover, treatment delays, quarantine, sentencing delays
 - ▶ Decreased overall expenditures
 - ▶ KSSC has allowed for continued utilization of Telehealth provision of Outpatient services
 - ▶ KSSC has adopted policy regarding licensure standards congruent with KDADS/BSRB

▶ Early termination from probation

- ▶ Offenders' probation ended for "successful completion" of treatment
- ▶ Trend toward short-term, high-intensity treatment services
- ▶ Research indicates that application of incomplete, high-intensity focused treatment can lead to treatment resistance and may only provide short-term results
- ▶ KSSC anticipates that offenders will both require and take advantage of the 18 months of probation to address addiction

TRENDS & EXPECTATIONS

- ▶ **Offenders entering the system without KBI numbers**
 - ▶ KSSC uses KBI numbers as unique identifiers
 - ▶ Providers may face delays when billing for these individuals
 - ▶ KSSC does not have access to KBI numbers
- ▶ **More than 2 SB 123 cases**
 - ▶ Special Rule #26
 - ▶ Unusual number of third cases
 - ▶ Unclear why this is the case

TRENDS

HB 2026

- ▶ Allows access to funding for those granted diversion (July 1, 2021)
- ▶ Supervision by OJA, KDOC, DA's offices
- ▶ Entitled to the same modalities over 18 months as SB 123
- ▶ Providers will be the same as SB 123
- ▶ May have different level of care needs
- ▶ Payment for services will be paid out of SB 123 funds for FY 22
- ▶ Data collection and eligibility is challenging and complex
- ▶ Unclear as to how many offenders will be funded in this way for FY22

HB 2026



HB 2026 BECAME K.S.A. 21-6825

- ▶ (a) There is hereby established a certified drug abuse treatment program for certain persons who enter into a diversion agreement in lieu of further criminal proceedings on and after July 1, 2021. Placement of divertees in a certified drug abuse treatment program pursuant to a diversion agreement shall be limited to placement of adults, on a complaint alleging a felony violation of K.S.A. 21-5706, and amendments thereto, whose offense is classified in grid blocks 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines grid for drug crimes who have no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction.

- ▶ HB 2026 establishes a certified drug abuse treatment program for certain persons who have entered into a diversion agreement pursuant to a memorandum of understanding and amends law related to supervision of offenders and the administration of certified drug abuse treatment programs.
- ▶ The bill establishes a certified drug abuse treatment program (program) for certain persons who enter into a diversion agreement (divertees) pursuant to a memorandum of understanding (MOU).
- ▶ The bill allows eligibility for participation in a program for offenders who enter into a diversion agreement in lieu of further criminal proceedings on and after July 1, 2021, for persons who have been charged with felony possession of a controlled substance and whose criminal history score is C or lower with no prior felony drug convictions.
- ▶ The bill provides that divertees who are committed to a program could be supervised by community correctional services or court services pursuant to an MOU. A divertee will be discharged from the program if the divertee:
 - Is convicted of a new felony; or
 - Has a pattern of intentional conduct that demonstrates the divertee's refusal to comply with or participate in the program, in the opinion of the county or district attorney.
- ▶ If a divertee is discharged, such person will be subject to the revocation provisions of the respective diversion agreement.

- ▶ The bill amends law related to diversion agreements by adding provisions related to an MOU.
- ▶ The bill allows a county or district attorney to enter into an MOU with the chief judge of a judicial district or community correctional services to assist with the supervision and monitoring of persons who have entered into a diversion agreement. The county or district attorney will retain authority over whether a particular defendant may enter into a diversion agreement or whether such agreement will be revoked.
- ▶ The bill requires an MOU to include provisions related to:
 - Determining the level of supervision needed for a defendant;
 - Use of a criminal-risk needs assessment;
 - Payment of costs for supervision; and
 - Waiver of the supervision fee established by the bill.
- ▶ The bill authorizes the Office of Judicial Administration to adopt guidelines regarding the content of an MOU between a county or district attorney and the chief judge of a judicial district and the administration of a supervision program operating pursuant to such MOU.
- ▶ The bill amends law regarding the contents of diversion agreements to specify that such agreements may include provisions related to the MOU.

The bill provides that, when a defendant is sentenced to the nonprison sanction of placement in a certified drug abuse treatment program, the district court from which the defendant is on parole, on probation, assigned to a community correctional services program, or under a suspended sentence, may transfer jurisdiction of the defendant with the concurrence of the receiving district court and all parties.

The bill specifies that, if an offender is permitted to leave the judicial district of the sentencing court, the court may:

- Transfer supervision over the offender from that judicial district to another; and
- Either transfer or retain jurisdiction of the offender.

2021 HB 2026 DIVERSION SUBSTANCE ABUSE TREATMENT PROGRAM

- ▶ As it relates to 2021 HB 2026 diversion substance abuse treatment program, the 2021 Kansas Legislature did not provide funding for the initiative to pay treatment providers. However, the KSSC will temporarily fund the program for the next year from its current SB 123 appropriations. While this is good news, please be aware that the vendor we use to verify payments will not process treatment provider invoices for at least 90 days due to new system programming requirements. Please check our website often for updates on the resolution of this issue.

WHAT IF DIVERSION IS REVOKED?

- ▶ Since this is a new statute there is nothing in caselaw that addresses diversion revocation. However, since the offender will fall into grid blocks 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines grid because of the diversion requirements, then the plain language of K.S.A. 21-6824 mandates SB123 drug treatment.

SB 123 ELIGIBILITY



WHO IS ELIGIBLE?

There is hereby established a nonprison sanction of certified drug abuse treatment programs for certain offenders who are sentenced on or after November 1, 2003. Placement of offenders in certified drug abuse treatment programs by the court shall be limited to placement of adult offenders, convicted of a felony violation of K.S.A. 21-5705 or 21-5706, and amendments thereto, whose offense is classified in grid blocks:

(1) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines grid for drug crimes and such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction; or

(2) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes, such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 21-5703, 21-5705 or 21-5716, and amendments thereto, or any substantially similar offense from another jurisdiction, if the person felonies in the offender's criminal history were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes, and the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not be jeopardized by such placement in a drug abuse treatment program.

Adult offenders convicted of drug possession, (K.S.A. 2020 Supp. 21-5706) who: (1) have NO felony conviction(s) of drug manufacturing* (K.S.A. 2020 Supp. 21-5703), drug cultivation* (K.S.A. 2020 Supp. 21-5705), drug distribution* (K.S.A. 2020 Supp. 21-5705) or unlawful use of proceeds of a drug crime* (K.S.A. 2020 Supp. 21-5716); -AND- (2) (A) whose offense is in the 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I grids blocks of the drug grid. See K.S.A. 2020 Supp. 21-6824(a)(1).

*or substantially similar offense from another jurisdiction

Adult offenders convicted of 21-5705 (distribution/cultivation) or 21-5706 (possession) whose offense is in the 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I grids blocks of the drug grid if:

- ▶ Offender has NO felony conviction(s) of drug manufacturing* (K.S.A. 2020 Supp. 21-5703), drug cultivation* (K.S.A. 2020 Supp. 21-5705), drug distribution* (K.S.A. 2020 Supp. 21-5705) or unlawful use of proceeds of a drug crime* (K.S.A. 2020 Supp. 21-5716)*; AND
- ▶ the offender's prior person felony conviction(s) were severity level 8, 9, or 10 or nongrid offenses; AND
- ▶ the sentencing court finds and sets forth with particularity the reasons for finding that public safety will not be jeopardized by placement of the offender in a certified drug abuse treatment program. See K.S.A. 2020 Supp. 21-6824(a)(2).

*or substantially similar offense from another jurisdiction

OFFENDER IS NOT ELIGIBLE IF....

- ▶ Offender is a resident of another state and is returning to such state pursuant to the interstate corrections compact or the interstate compact for adult offender supervision; or
- ▶ offender is not lawfully present in the United States and being detained for deportation; or
- ▶ offender does not meet the risk assessment levels provided in subsection (c).
 - ▶ Females: WRNA score of medium to high risk (22 and above)
 - ▶ Males: LSCMI score of high to very high risk (20 and above)
 - ▶ High on SASSI-4 for both males and females

See K.S.A. 2020 Supp. 21-6824(h)(1)

2003 SB 123 ELIGIBILITY (K.S.A. 21-6824) EFFECTIVE JULY 1, 2021

Through 2021 Legislative Session

Felony Conviction of K.S.A. 21-5705 or K.S.A. 21-5706
MUST SATISFY ALL CRITERIA BELOW

Current Conviction of Attempted Conspiracy, or Solicitation to Commit K.S.A. 21-5705 or K.S.A. 21-5706

NOT ELIGIBLE
3rd or subsequent conviction of K.S.A. 21-5706 [Possession] (Special Rule #26)

Eligible

Prior conviction(s) of Attempted, Conspiracy, or Solicitation of unlawful manufacturing, cultivation or distribution of controlled substance or receiving proceeds therefrom

NEW '21

Jurisdiction Transfer (2021 HB 2026)
Sentencing court may transfer or retain jurisdiction upon agreement of sending and receiving jurisdictions

Kansas Resident

Lawfully present in U.S.

Revised '21

Assessment Scores
SASSI-4 - high
LS/CMI - high or very high
WRNA - medium or high

Offense classified as 5C-5I (mandatory) OR 5A or 5B with severity level 8-10 prior person felonies (discretionary) if convicted of K.S.A. 21-5706 [Possession]

OR

Offense classified as 4E-4I if convicted of K.S.A. 21-5705 (discretionary) [Distribution]

Not Eligible

Prior conviction(s) of unlawful manufacturing, cultivation, or distribution of controlled substance or receiving proceeds therefrom

NEW '21

Diversions (2021 HB 2026)
- Certified drug abuse treatment program for divertees if 5C, 5D, 5E, 5F, 5G, 5H or 5I
- No prior manufacture/cultivation/distribution convictions
- Mental health professional recommendation
- Risk and needs assessment scores SASSI-4 - high
LS/CMI - mid-range medium, high, or very high
WRNA - mid-range moderate, medium or high
- County or District Attorney discretion



Nothing prohibits evaluation and treatment for any person that does not qualify for SB123

SB 123 IS MANDATORY FOR
OFFENDERS WHO QUALIFY.
SEE *STATE V. ANDELT*, 289 KAN.
763, 765, 217 P.3D 976 (2009).

STATE V. WORLEY

- ▶ Possession of meth, sentenced to prison
- ▶ Defendant was on bond at the time of the current offense
- ▶ Court ordered PSI in December 2014, Defendant did not report to Court Services and failed to show up to appointments for drug abuse assessment or criminal risk-needs assessment, BW ordered
- ▶ Defendant arrested on BW April 2015
- ▶ See *State v. Worley*, No. 114,899, 2016 WL 6024584 at *1 (Kan. App. 2016).

STATE V. WORLEY

- ▶ At hearing, judge ordered PSI again, but did not order SB 123 assessments
- ▶ At sentencing, defense counsel requests SB 123 treatment; argues mandatory under *Andelt*
- ▶ Judge sentences Worley to upward dispositional departure
- ▶ The judge believed that *Andelt* did not apply to cases where the defendant poses a risk to the public
- ▶ See *State v. Worley*, No. 114,899, 2016 WL 6024584 at *1 (Kan. App. 2016).

“Fundamentally, it just boils down to the fact that Mr. Worley is 54 years old. We live in a society of limited resources. I understand the point of the legislature in mandating treatment, but I also believe that our resources should only go to those individuals that are going to try on probation; that are going to try to kick their addiction habit; and that are going to work with their probation officer in ensuring that they're not a risk to the public. Nothing about Mr. Worley's behavior, current or past, would indicate to the Court that he's going to do any of that. So that's why the Court departed.”

STATE V. WORLEY, NO. 114,899, 2016
WL 6024584 AT *2 (KAN. APP. 2016).

- ▶ “....the issue here is whether the case should be remanded to order the assessments, not whether this court should impose the mandatory drug abuse treatment....”
- ▶ “We can understand the district court's frustration in dealing with a defendant like Worley who does not cooperate with bond conditions and report as directed. In some situations it may be necessary to have the statutory assessments conducted while the defendant is confined in the event of such noncooperation. But we hold that it is clear error to proceed to a sentencing hearing in the absence of such assessments when the defendant is found to be qualified to have them conducted under S.B. 123.”

*STATE V. WORLEY, NO. 114,899, 2016
WL 6024584 AT *3 (KAN. APP. 2016).*

IS AN OFFENDER
CONVICTED OF AN
ATTEMPTED DRUG
CHARGE ELIGIBLE?

IS AN
OFFENDER
CONVICTED OF
AN ATTEMPTED
DRUG CHARGE
ELIGIBLE?

No.

Offenders convicted of attempted possession are not eligible for SB 123. See *State v. Perry-Coutcher*, 45 Kan. App. 2d 911, 254 P.3d 566 (2011).

Likewise, offenders convicted of conspiracy and solicitation to commit drug possession will not be eligible for SB 123 treatment.

ARE DACA RECIPIENTS ELIGIBLE FOR SB 123 TREATMENT?

If the DACA recipient is not being detained for deportation and has met the other qualifications for SB 123, KSSC believes the recipient is eligible for SB 123 treatment.

DO SPECIAL
RULES TRUMP
THE
MANDATORY
SB 123
TREATMENT?

It depends.

SPECIAL RULE 9

- ▶ If offender commits new felony while incarcerated and serving a sentence for a felony, on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony, a new sentence shall be imposed consecutively and the **court may sentence the offender to imprisonment** for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. See K.S.A. 2020 Supp. 21-6604(f)(1).
- ▶ In *State v. Andelt*, where the defendant committed a crime while on felony parole, the Court found that he should have been sentenced to SB 123 instead of prison because SB 123 is mandatory for qualifying offenders whereas K.S.A. 21-4603d(f)(1) gives district courts discretion to impose a prison sanction when probation is presumed if an offender commits a new crime while on felony bond. See *State v. Andelt*, 289 Kan. 763, 772, 217 P.3d 976 (2009).

SPECIAL RULE 26

- ▶ Third or subsequent drug possession shall be presumed imprisonment. K.S.A. 2020 Supp. 21-6805(f)(1).
- ▶ A sentencing court need not impose probation with drug treatment when the three strikes rule applies. *State v. Daniels*, No. 119,946, 2019 WL 4725329, at *3 (Kan.App.2019) (unpublished opinion).

BORDER BOX

Even if the offender's criminal history places them in a border box on the drug grid, SB 123 treatment is mandatory if the offender meets the criteria outlined in K.S.A. 2018 Supp. 21-6824. See *State v. Swazey*, 51 Kan. App. 2d 999, 1004, 357 P.3d 893 (2015).

- ▶ Defendant pled to Possession of Methamphetamine (SL5DF) while he was on parole in another case
- ▶ Criminal history D (presumed prison; border box), but qualified for SB 123
- ▶ Judge sentenced defendant to prison. The court said that “[t]here [was] no question ... that Mr. Stefan is in need of substantial treatment.” But considering Stefan's probation violations from a different case and a prior failed attempt at drug treatment, the court found that ordering Stefan to receive additional drug-treatment services wouldn't be effective. The court said that it was declining to make the border-box findings that treatment would be more effective than imprisonment. See K.S.A. 2018 Supp. 21-6804(q). *State v. Stefan*, No. 120,536, 2019 WL 3367815 at *1 (Kan.App. 2019)(unpublished opinion).
- ▶ Even for crimes committed when another special statutory rule applies, such as when the new offense was committed while the defendant is on felony parole, the district court must follow the specific directive of K.S.A. 2019 Supp. 21-6824(c). *Id.* at 2.
- ▶ Specific SB 123 statute controls over general sentencing statutes

STATE V. STEFAN



The court may order an offender who otherwise does not meet the assessment score requirements of subsection (c) to undergo **one additional drug abuse assessment** while such offender is on probation. Such offender may be ordered to undergo drug abuse treatment pursuant to subsection (a) if such offender is determined to meet the requirements of subsection (c). **The cost of such assessment shall be paid by such offender.** K.S.A. 2020 Supp. 21-6824(i).

WHAT IF AN OFFENDER DOES NOT MEET
ELIGIBILITY REQUIREMENTS AT THE TIME OF
SENTENCING?

LENGTH OF TREATMENT

- ▶ Term of treatment shall not exceed 18 months; beginning upon the date the offender initially begins treatment. The term of treatment may not exceed the term of probation. K.S.A. 2020 Supp. 21-6824(c).
- ▶ The court may extend the term of probation, pursuant to K.S.A. 2020 Supp. 21-6608(c)(3).

► REVOCATION OF SB123

KSA 21-6824

(F)(1) OFFENDERS IN DRUG ABUSE TREATMENT PROGRAMS SHALL BE DISCHARGED FROM SUCH PROGRAM IF THE OFFENDER:

(A) IS CONVICTED OF A NEW FELONY; OR

(B) HAS A PATTERN OF INTENTIONAL CONDUCT THAT DEMONSTRATES THE OFFENDER'S REFUSAL TO COMPLY WITH OR PARTICIPATE IN THE TREATMENT PROGRAM, AS ESTABLISHED BY JUDICIAL FINDING.

(2) OFFENDERS WHO ARE DISCHARGED FROM SUCH PROGRAM SHALL BE SUBJECT TO THE REVOCATION PROVISIONS OF K.S.A. 21-6604(N), AND AMENDMENTS THERETO.

► **K.S.A. 21-6604(N)**

(N)(1) EXCEPT AS PROVIDED BY K.S.A. 21-6630 AND 21-6805(F), AND AMENDMENTS THERETO, IN ADDITION TO ANY OF THE ABOVE, FOR FELONY VIOLATIONS OF K.S.A. 21-5706, AND AMENDMENTS THERETO, **THE COURT SHALL REQUIRE THE DEFENDANT WHO MEETS THE REQUIREMENTS ESTABLISHED IN K.S.A. 21-6824,** AND AMENDMENTS THERETO, **TO PARTICIPATE IN A CERTIFIED DRUG ABUSE TREATMENT PROGRAM,** AS PROVIDED IN K.S.A. 75-52,144, AND AMENDMENTS THERETO, INCLUDING, BUT NOT LIMITED TO, AN APPROVED AFTER-CARE PLAN. THE AMOUNT OF TIME SPENT PARTICIPATING IN SUCH PROGRAM SHALL NOT BE CREDITED AS SERVICE ON THE UNDERLYING PRISON SENTENCE.

(2) **IF THE DEFENDANT FAILS TO PARTICIPATE IN OR HAS A PATTERN OF INTENTIONAL CONDUCT THAT DEMONSTRATES THE DEFENDANT'S REFUSAL TO COMPLY WITH OR PARTICIPATE IN THE TREATMENT PROGRAM,** AS ESTABLISHED BY JUDICIAL FINDING, **THE DEFENDANT SHALL BE SUBJECT TO SANCTION OR REVOCATION PURSUANT TO THE PROVISIONS OF K.S.A. 22-3716,** AND AMENDMENTS THERETO. IF THE DEFENDANT'S PROBATION IS REVOKED, THE DEFENDANT SHALL SERVE THE UNDERLYING PRISON SENTENCE AS ESTABLISHED IN K.S.A. 21-6805, AND AMENDMENTS THERETO.

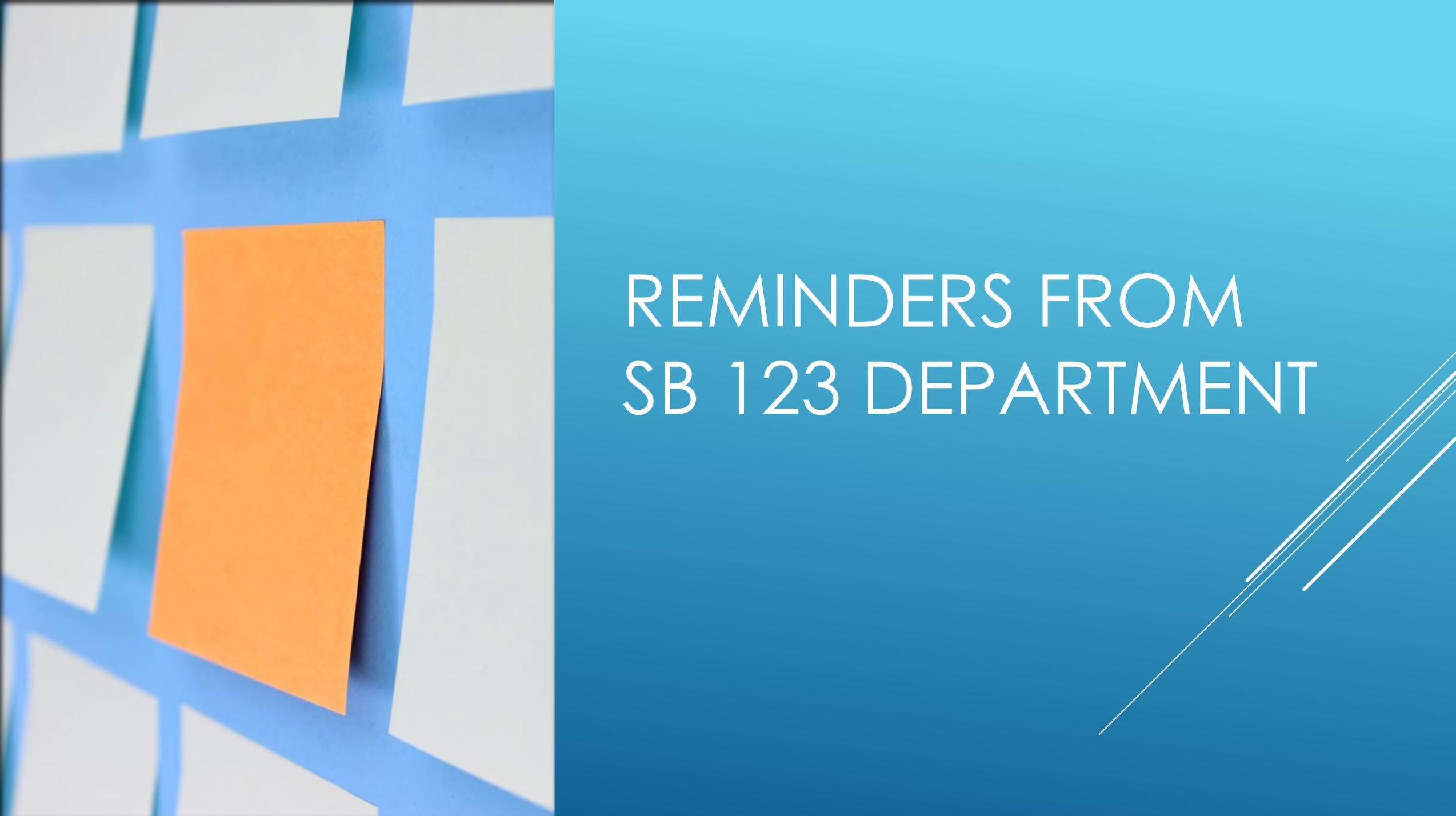
▶ K.S.A. 22-3716

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

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

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

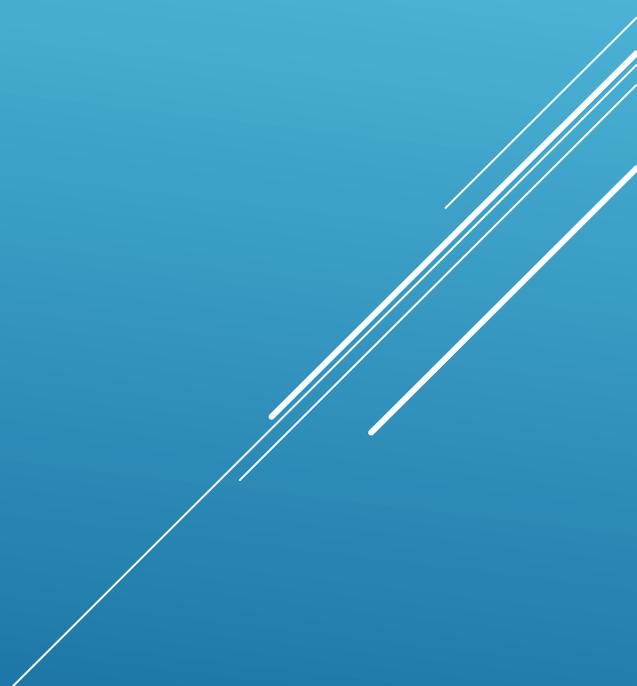
(C) **if the violator already had a sanction** imposed pursuant to subsection (c)(1)(B) related to the crime for which the original supervision was imposed, revocation of the probation, assignment to a community corrections services program, suspension of sentence or nonprison sanction and requiring such violator to serve the sentence imposed, or any lesser sentence and, if imposition of sentence was suspended, **imposition of any sentence that might originally have been imposed**.

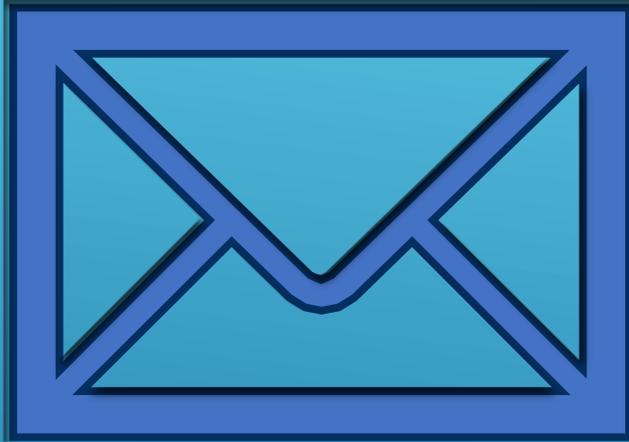


REMINDERS FROM
SB 123 DEPARTMENT



QUESTIONS?





- ▶ <https://sentencing.ks.gov/sb-123>
- ▶ **Kira Johnson, LMLP, SB 123 Director**
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KSSC RESOURCES