



Medication- Assisted Treatment

& its Intersection with
the Practice of Law



KSA 21-6824

“Senate Bill 123”

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 who meet the requirements of this subsection.

...

(b) As a part of the presentence investigation pursuant to K.S.A. [21-6813](#), and amendments thereto, offenders who meet the requirements of subsection (a), unless otherwise specifically ordered by the court, shall be subject to:

- (1) **A drug abuse assessment that shall include a clinical interview with a mental health professional and a recommendation concerning drug abuse treatment for the offender;** and
- (2) a criminal risk-need assessment. The criminal risk-need assessment shall assign a risk status to the offender.

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- (c) If the offender is assigned a risk status as determined by the drug abuse assessment performed pursuant to subsection (b)(1) and a risk status as determined by the criminal risk-need assessment performed pursuant to subsection (b)(2) that meets the criteria for participation in a drug abuse treatment program as determined by the Kansas sentencing commission, **the sentencing court shall commit the offender to treatment in a drug abuse treatment program until the court determines the offender is suitable for discharge by the court.** The term of treatment shall not exceed 18 months. The court may extend the term of probation pursuant to K.S.A. [21-6608\(c\)\(3\)](#), and amendments thereto. The term of treatment may not exceed the term of probation.
- (d) (1) Offenders who are committed to a drug abuse treatment program pursuant to subsection (c) shall be supervised by community correctional services.
- (2) Offenders who are not committed to a drug abuse treatment program pursuant to subsection (c) shall be supervised by community correctional services or court services based on the result of the criminal risk assessment.

KSA 21-6825

Diversions

(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. 2010 Supp. [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.

KSA 21-6825

Diversions

(b) As part of the consideration of whether or not to allow diversion to the defendant, a divertee who meets the requirements of subsection (a) shall be subject to:

- **(1) A drug abuse assessment that shall include a clinical interview with a mental health professional and a recommendation concerning drug abuse treatment for the divertee; and**
- (2) a standardized criminal risk-need assessment specified by the Kansas sentencing commission.
- ...
- (f) For the purposes of this section:
 - (1) "Mental health professional" includes licensed social workers, persons licensed to practice medicine and surgery, licensed psychologists, licensed professional counselors or registered alcohol and other drug abuse counselors licensed or certified as addiction counselors who have been certified by the Kansas sentencing commission to treat persons pursuant to K.S.A. 2023 Supp. [75-52,144](#), and amendments thereto.

KSA 21-6804

Special Rule – Burglary & Theft

- (o) (1) The sentence for a felony violation of theft of property as defined in K.S.A. [21-5801](#), and amendments thereto, or burglary as defined in K.S.A. [21-5807\(a\)](#), and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. [21-3701](#) or [21-3715](#), prior to their repeal, or theft of property as defined in K.S.A. [21-5801](#), and amendments thereto, or burglary as defined in K.S.A. [21-5807\(a\)](#), and amendments thereto; or the sentence for a felony violation of theft of property as defined in K.S.A. [21-5801](#), and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. [21-3701](#), [21-3715](#) or [21-3716](#), prior to their repeal, or theft of property as defined in K.S.A. [21-5801](#), and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. [21-5807](#), and amendments thereto; or the sentence for a felony violation of burglary as defined in K.S.A. [21-5807\(a\)](#), and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. [21-3701](#), [21-3715](#) or [21-3716](#), prior to their repeal, or theft of property as defined in K.S.A. [21-5801](#), and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. [21-5807](#), and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved aftercare plan, if the court makes the following findings on the record:
 - **(A) Substance abuse was an underlying factor in the commission of the crime;**
 - **(B) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and**
 - **(C) participation in an intensive substance abuse treatment program will serve community safety interests.**

KSA 21-6804

Special Rule – Burglary & Theft

- (q) (1) As used in this section, an "optional nonprison sentence" is a sentence which the court may impose, in lieu of the presumptive sentence, upon making the following findings on the record:
 - **(A) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and**
 - **(B) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or**
 - **(C) the nonprison sanction will serve community safety interests by promoting offender reformation.**

KSA 23-3203

Factors considered in determination of legal custody, residency and parenting time of a child.

- 23-3203. Factors considered in determination of legal custody, residency and parenting time of a child. (a) In determining the issue of legal custody, residency and parenting time of a child, the court **shall** consider all relevant factors, including, but not limited to:
 - (1) Each parent's role and involvement with the minor child before and after separation; 2) the desires of the child's parents as to custody or residency; (3) the desires of a child of sufficient age and maturity as to the child's custody or residency; (4) the age of the child; (5) the emotional and physical needs of the child; ...
 - **(15) whether a parent is subject to the registration requirements of the Kansas offender registration act, K.S.A. [22-4901](#) et seq., and amendments thereto, or any similar act in any other state, or under military or federal law;**
 - (16) whether a parent has been convicted of abuse of a child, K.S.A. [21-3609](#), prior to its repeal, or K.S.A. [21-5602](#), and amendments thereto;
 - **(17) whether a parent is residing with an individual who is subject to registration requirements of the Kansas offender registration act, K.S.A. [22-4901](#) et seq., and amendments thereto, or any similar act in any other state, or under military or federal law; and**

KSA 22-4908

Relief from Registration

- (e) (1) The court may require a drug offender who is petitioning for relief under this section to undergo a risk assessment.
- (2) Any risk assessment ordered under this subsection shall be performed by a professional agreed upon by the parties or a professional approved by the court. Such risk assessment shall be performed at the offender's expense.
- (f) The court shall order relief from registration requirements if the offender shows by clear and convincing evidence that:
 - (1) The offender has not been convicted or adjudicated of a felony, other than a felony violation or aggravated felony violation of K.S.A. [22-4903](#), and amendments thereto, within the five years immediately preceding the filing of the petition, and no proceedings involving any such felony are presently pending or being instituted against the offender;
 - (2) the offender's circumstances, behavior and **treatment history** demonstrate that the offender is sufficiently rehabilitated to warrant relief; and
 - (3) registration of the offender is no longer necessary to promote public safety.

Kansas Rules of Professional Conduct

1.1. Competency

- RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Rule 233

KALAP

- Purpose. The Kansas Lawyers Assistance Program (KALAP) is established to fulfill the following purpose:
- (1) provide immediate and continuing assistance to any legal professional who is a lawyer, bar applicant, or law student and who is experiencing a physical or mental health issue such as depression, stress, grief, anxiety, **alcohol or drug abuse**, gambling addiction, age-related concerns, or any other circumstance that may affect the legal professional's quality of life or ability to perform the legal professional's duties;
- (2) protect citizens from potential harm that a legal professional in need of assistance may cause;
- (3) educate the legal community about the nature of issues that may affect a legal professional and the services available to a legal professional in need; and
- (4) develop programs that emphasize prevention of circumstances that might negatively affect a legal professional.