

1991 Kan. SB 211


Enacted, May 8, 1991

Reporter

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KANSAS ADVANCE LEGISLATIVE SERVICE > KANSAS 74TH LEGISLATIVE SESSION 1991-92 REGULAR SESSION > CHAPTER NO. 94 > SENATE BILL NO. 211

Notice

 [D> Text within these symbols is deleted <D]
[A> UPPERCASE TEXT WITHIN THESE SYMBOLS ARE ADDITIONS <A]

Synopsis

An act concerning victims of crime; requiring notice of parole hearings; amending K.S.A. 1990 Supp. 23-3717 and repealing the existing section.

Text

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1990 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided by this section and K.S.A. 1990 Supp. 21-4628 [A> AND AMENDMENTS THERETO <A], an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618 and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) An inmate sentenced for a class A felony, including an inmate sentenced pursuant to K.S.A. 21-4618 and amendments thereto but not including an inmate sentenced pursuant to K.S.A. 1990 Supp. 21-4628 [A> AND AMENDMENTS THERETO <A], shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

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

(1) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608 and amendments thereto, less good time credits for those crimes which are not class A felonies; and

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

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

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

(f) The Kansas parole board shall hold a parole hearing during the month prior to the month an inmate will be illegible for parole under subsections (a), (b) and (c). At least the month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. **[A> EXCEPT AS OTHERWISE PROVIDED <A]**, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. **[A> IN THE CASE OF ANY INMATE CONVICTED OF A CLASS A FELONY THE SECRETARY OF CORRECTIONS SHALL GIVE WRITTEN NOTICE OF THE TIME AND PLACE OF THE PUBLIC COMMENT SESSION FOR SUCH INMATE AT LEAST ONE MONTH PRECEDING THE PUBLIC COMMENT SESSION TO ANY VICTOM OF SUCH INMATE'S CRIME OR THE VICTIM'S FAMILY PURSUANT TO SECTION 2. IF NOTIFICATION IS NOT GIVEN TO SUCH VICTIM OR SUCH VICTIM'S FAMILY IN THE CASE OF ANY INMATE CONVICTED OF A CLASSS A FELONY, THE BOARD SHALL POSTPONE A DECISION ON PAROLE OF THE INMATE TO A TIME AT LEAST 30 DAYS AFTER NOTIFICATION IS GIVEN AS PROVIDED IN THIS SECTION. <A]** Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the Kansas parole board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A.75-5210a and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made; comments of the victim and the victim's family; comments of the public; official comments; and capacity of state correctional institutions.

(g) Within a reasonable time after an inmate is committed to the custody of the secretary of corrections, a member of the Kansas parole board, or a designee of the board, shall hold an initial informational hearing with such inmate and other inmates.

(h) Before ordering the parole of any inmate, the Kansas parole board shall have the inmate appear before it and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the Kansas parole board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a and amendments thereto, the board shall notify the inmate in writing of the specific reasons for not granting parole. If an agreement has been entered under K.S.A. 75-510a and amendments thereto and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a and amendments thereto and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision

thereof, the board shall not required further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in detail the specific reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony, the board shall hold another parole hearing for the inmate not later than one year after the denial. If parole is denied for an inmate sentenced for a class A or class B felony, the board shall hold another parole hearing for the inmate not later than three years after the denial and shall conduct an annual file review for such inmate. Written notice of such annual file review shall be given to the inmate.

(i) Parolees shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(j) The Kansas parole board shall adopt rules and regulations in accordance with K.S.A. 77-415 **[A> ET SEQ. <A]**, and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, orders of restitution and other conditions to be imposed upon parolees. Whenever an order for parole is issued it shall recite the conditions thereof.

(k) Whenever the Kansas parole board orders the parole of an inmate, the board:

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole that the parolee pay any transportation expenses resulting from returning the parolee to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole or conditional release; and

(2) to the extent practicable, shall order as a condition of parole that the parolee make progress towards or successfully complete the equivalent of a secondary education if the inmate has not previously complete such educational equivalent and is capable of doing so.

(l) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole, the Kansas parole board shall order as a condition of parole that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable. If the parolee was sentenced before July 1, 1986, and the court did not specify at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole, the parole board shall order as a condition of parole that the parolee make restitution for the damage or loss caused by the parolee's crime in an amount and manner determined by the board unless the board finds compelling circumstances which would render a plan of restitution unworkable. If the parolee was sentenced on or after July 1, 1986, and the court did not specify at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole, the parole board shall not order restitution as a condition of parole unless the board finds compelling circumstances which justify such an order.

(m) Whenever the Kansas parole board grants the parole of an inmate, the board, within 10 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(n) An inmate shall be eligible for parole on the date provided by statute at the time the inmate committed the crime for which imprisoned unless subsequent amendment of the statute provides an earlier parole eligibility date.

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

New Sec. 2. (a) Notwithstanding the provisions of K.S.A. 74-7335 and amendments thereto, in the case of any inmate convicted of a class A felony, the secretary of corrections shall give written notice of the time and place of

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the public comment session pursuant to K.S.A. 22-3717 and amendments thereto for such inmate, at least one month preceding the public comment session, to any victim or the victim's family pursuant to subsection (b).

(b) Any victim, or a member of the victim's family of a crime, if such victim requests notice of the public comment session, shall give the secretary of corrections such victim's name and current address or the name and current address of the victim's family. It shall be the duty of the victim or the victim's family to provide the secretary with any change in name or address or change in the person to be notified pursuant to this section.

(c) The secretary of corrections shall keep a record of all victims and their current addresses or such victims' family and their current addresses, who give the secretary such victim or victims' family name pursuant to subsection (b), and shall update such record as notified by the victim or the victims' family. Such record shall be kept confidential and separate from all other records and shall not be available to the inmate or any other party other than the victim or the victim's family.

Sec. 3. K.S.A. 1990 Supp. 22-3717 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

History

Approved: May 8, 1991

KANSAS ADVANCE LEGISLATIVE SERVICE

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