Agency 44

Department of Corrections

Articles

44-5. Inmate Management.
44-6. Good Time Credits and Sentence Computation.
44-9. Parole, Postrelease Supervision, and House Arrest.
44-11. Community Corrections.
44-12. Conduct and Penalties.
44-15. Grievance Procedure for Inmates.

Article 5.—INMATE MANAGEMENT

44-5-115. Service fees. (a) Each inmate in the custody of the secretary of corrections shall be assessed a charge of one dollar each payroll period, not to exceed $12.00 per year, as a fee for administration by the facility of the inmate's trust account. The facility shall be authorized to transfer the fee from each inmate's account from the balance existing on the first of each month. If an inmate has insufficient funds on the first of the month to cover this fee, the fee shall be transferred as soon as the inmate has sufficient funds in the account to cover the fee. All funds received by the facility pursuant to this subsection shall be paid on a quarterly basis to the crime victims' compensation fund.

(b)(1) Each offender under the department's parole supervision, conditional release supervision, postrelease supervision, house arrest, and interstate compact parole and probation supervision in Kansas shall be assessed a supervision service fee of a maximum of $30.00 per month. This fee shall be paid by the offenders to the department's designated collection agent or agents. Payment of the fee shall be a condition of supervision. All fees shall be paid as directed by applicable internal management policy and procedure and as instructed by the supervising parole officer.

(2) A portion of the supervision service fees collected shall be paid to the designated collection agent or agents according to the current service contract, if applicable. Twenty-five percent of the remaining amount collected shall be paid on at least a quarterly basis to the crime victims' compensation fund. The remaining balance shall be paid to the department's general fees fund for the department's purchase or lease of enhanced parole supervision services or equipment including electronic monitoring, drug screening, and surveillance services.

(3) Indigent offenders shall be exempt from this subsection, as set forth by criteria established by the secretary in an internal management policy and procedure.

(4) The fees authorized by subsection (d) shall not be considered a portion of the monthly supervision service fee.

(c) Each inmate in the custody of the secretary of corrections shall be assessed a fee of $2.00 for each primary visit initiated by the inmate to an institutional sick call. A primary visit shall be the initial visit for a specific complaint or condition. Inmates shall not be charged for the following:

(1) Medical visits initiated by medical or mental health staff;

(2) institution intake screenings;

(3) routinely scheduled physical examinations;

(4) clinical service reports, including reports or evaluations requested by any service provider in connection with participation in the reentry program;

(5) evaluations requested by the prisoner review board;

(6) referrals to a consultant physician;

(7) infirmary care;

(8) emergency treatment, including initial assessments and first-aid treatment for injuries incurred during the performance of duties on a work detail or in private industry employment;

(9) mental health group sessions;

(10) facility-requested mental health evaluations;

(11) follow-up visits initiated by medical staff; and

(12) follow-up visits initiated by an inmate within 14 days of an initial visit.

No inmate shall be refused medical treatment for financial reasons. If an inmate has insufficient funds to cover the medical fee, the fee shall be transferred as soon as the inmate has sufficient funds in the account to cover the balance of the fee.

(d) Each inmate assigned to a batterers intervention program shall be assessed a fee for admission to and continued participation in the program.

(e) Each offender shall be assessed a fee for each urinalysis or other test approved by the secretary of corrections that is administered to the offender for the purpose of determining the use of illegal substances and that has a positive result. The amount of the fee shall be adjusted periodically to reflect the actual cost of administering these tests, including staff participation.

(f) Each inmate or offender shall be assessed a fee, if applicable, for the following:

(1) Global positioning system (GPS) tracking;

(2) electronic or any other appropriate form of monitoring;

(3) an application for transfer under the interstate compact for adult offender supervision;

(4) polygraph examinations;

(5) community residential bed housing;

(6) sexual abuser's treatment services; and

(7) batterers intervention program services.

The fee for each service specified in this subsection shall be assessed only if the service is required as a part of house arrest or postincarceration release supervision.

If applicable, each offender on postincarceration release supervision or house arrest shall also be assessed a fee for the collection of specimens of blood and saliva for the purpose of providing DNA profiles to the Kansas bureau of investigation, pursuant to K.S.A. 21-2511 and amendments thereto. (Authorized by K.S.A. 2011 Supp. 21-6609, as amended by L. 2012, Ch. 172, §29, K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5251, K.S.A. 75-52,139; implementing K.S.A. 2011 Supp. 21-6609, as amended by L. 2012, Ch. 172, §29, K.S.A. 2011 Supp. 22-3717, as amended by L. 2012, Ch. 150, §43, K.S.A. 75-52,139; effective Jan. 3, 1995; amended, T-44-3-19-04, March 19, 2004; amended July 2, 2004; amended March 23, 2012; amended Feb. 1, 2013.)

Article 6.—GOOD TIME CREDITS AND SENTENCE COMPUTATION

44-6-101. Definitions. (a) For purposes of sentence computation, as used in this article, terms dealing with good time credits shall be defined as follows:

(1) "Establishment of good time credits" means the creation of that pool of credits that decreases part of the term of actual imprisonment for good work and behavior over a period of time. Good time credits shall not forgive or eliminate the sentence but shall function only to allow the inmate to earn the privilege of being released from incarceration earlier than the full minimum, maximum, or guidelines prison sentence, subject to conditions specified and imposed pursuant to applicable law. Following a revocation of parole or conditional release, good time credits shall not be available to reduce the period of incarceration before a prisoner review board hearing for reparole. Following a revocation of postrelease supervision, good time credits shall be available to reduce the incarceration penalty period as authorized by applicable statutes.

(2) "Allocation of good time credits" means the breakdown of the total number of established good time credits into groups of credits that are available to the inmate in separate time periods.

(3) To "earn good time credits" means that the inmate has acted in a way that merits a reduction of the term of actual imprisonment by those credits.

(4) "Award of good time credits" means the act of the unit team, as approved by the program management committee and the warden or designee, granting all or part of the allocation of credits available for the time period under review.

(5) "Application of good time credits" means the entry of the credits of forfeitures into the official record of the inmate and the consequent adjustment of parole eligibility, conditional release, the guidelines release date, or the guidelines sentence discharge date.

(6) "Forfeiture of good time credits" means the removal of the credits and consequent reinstatement of a term of actual imprisonment by the disciplinary board according to article 12 and article 13, as published in the inmate rule book.

(b) For purposes of sentence computation, as used in this article, terms dealing with sentence structure shall be defined as follows:

(1) "Composite sentence" means any sentence

formed by the combination of two or more sentences.

(2) "Concurrent sentence" means two or more sentences imposed by the court with minimum and maximum terms, respectively, to be merged, or two or more sentencing guidelines sentences imposed by the court with their prison terms to be merged.

(3) "Consecutive sentence" means a series of two or more sentences imposed by the court in which the minimum terms and the maximum terms, respectively, are to be aggregated, or a series of two or more sentencing guidelines sentences in which the prison terms are to be aggregated pursuant to K.S.A. 2011 Supp. 21-6819 and amendments thereto.

(4) "Controlling sentence" means the sentence made up of the controlling minimum term and the controlling maximum term of any sentence or composite sentence or the sentencing guidelines sentence made up of two or more sentences, whether concurrent or consecutive, that results in the longest prison term.

(5) "Aggregated controlling sentence" means a controlling sentence composed of two or more sentences. An aggregated controlling sentence has a minimum term consisting of the sum of the minimum terms and a maximum term consisting of the sum of the maximum terms. In the case of sentencing guidelines sentences, an aggregated controlling sentence has a prison term that is the sum of all the prison terms of the sentences that are aggregated, pursuant to K.S.A. 2011 Supp. 21-6819 and amendments thereto. The term "aggregated" shall be applied only to consecutive sentences.

(c) For purposes of sentence computation, as used in this article, terms dealing with sentence service credits, other than good time credits, shall be defined as follows:

(1) "Jail credit" and "JC" mean the time spent in confinement, pending the disposition of the case, before the sentencing to the custody of the secretary of corrections pursuant to K.S.A. 2011 Supp. 21-6615, and amendments thereto, or on or after May 19, 1988, time spent in a residential center while on probation or assignment to a community correctional residential services program, pursuant to K.S.A. 2011 Supp. 21-6615 and amendments thereto.

(2) "Maximum sentence credit" means the total period of incarceration served on a sentence beyond the limitation for credit awarded as prison service credit. This credit shall be used to adjust the maximum expiration date of the sentence.

(3) "Prison service credit" means the penal time credited for time the inmate previously was incarcerated on the sentence and time credited on the sentence while actually incarcerated during release in custody to a law enforcement agency. Prison service credit shall be given for time spent incarcerated on a sentence that has subsequently been aggregated due to the imposition of a consecutive sentence.

(4) "Program credit" means the pool of credits that serve to decrease the term of actual imprisonment awarded for a completion of a program designated by the secretary. Program credits shall not decrease or eliminate the sentence but shall function only to allow the inmate to earn the privilege of being released from incarceration earlier than the prison sentence adjusted for earned and retained good time credits. Program credits earned and retained while an offender is incarcerated shall be added to the offender's post-release supervision period.

(d) For purposes of sentence computation, as used in this article, terms dealing with terms or length of sentences shall be defined as follows:

(1) "Controlling minimum term" means the length of the sentence to be served to reach the controlling minimum date as determined according to applicable case, statutory, and regulatory law.

(2) "Controlling maximum term" means the length of the maximum sentence imposed by the court that constitutes the longest required period of incarceration, determined according to applicable case and statutory law and these regulations.

(e) For purposes of sentences computation, as used in this article, terms dealing with calculation of specific dates in the execution of sentences shall be defined as follows:

(1) "Sentencing date" means the date on which the sentence is imposed by the court upon conviction. "Sentencing date" is also known as the sentence imposition date.

(2) "Sentence begins date" means the calendar date on which service of the sentence is to begin running. This date, as established by the court, shall reflect the time allowances as defined in jail time credit. This date shall be adjusted by department of corrections staff if prison service credit is applicable. If no jail credit is involved but prison service credit exists, the prison service credit shall be subtracted from the sentence im-

position date to determine the sentence begins date.

(3) "Controlling minimum date" means the calendar date derived by adding the controlling minimum term to the sentence begins date.

(4) "Controlling maximum date" means the calendar date derived by adding the controlling maximum term imposed by the court to the sentence begins date.

(5) "Guidelines release date" means, for offenders with sentences imposed pursuant to the sentencing guidelines act, K.S.A. 2011 Supp. 21-6801 et seq. and amendments thereto, the date yielded by adding the prison portion of the sentence to the sentence, less any good time credits earned and awarded pursuant to K.S.A. 2011 Supp. 21-6821 and amendments thereto, plus any good time credits forfeited.

(6) "Conditional release date" and "CR date" mean the controlling maximum date minus the total number of authorized good time credits not forfeited.

(7) "Parole eligibility" means the status that results if the inmate has served the sentence required by law to the extent that the law allows the inmate's immediate release if the prisoner review board grants a parole to that inmate.

(8) "Program release date" means the date the offender may be released with the application of the actually earned, awarded, and retained good time and program credits.

(f) For purposes of sentence computation, as used in this article, terms dealing with loss of forfeiture of sentence service credit while on parole or postrelease supervision status as well as escape status shall be defined as follows:

(1) "Postincarceration supervision" means supervision of any offender released to the community after service of the requisite term of incarceration. This term shall include parole, conditional release, and postrelease supervision.

(2) "Abscond" means departing without authorization from a geographical area or jurisdiction prescribed by the conditions of one's parole or postrelease supervision.

(3) "Delinquent time lost on postincarceration status" and "DTLOPIS" mean the time lost on the service of sentence from which the offender was paroled or released to postrelease supervision due to being on absconder status after a condition violation warrant was issued and until the warrant was served.

(4) "Forfeited good time on postincarceration status" means the amount of good time ordered forfeited by the prisoner review board from the amount earned from the date of authorized release to the date delinquent time on parole or postincarceration began or to the date of admission to a department of corrections facility.

(5) "Time lost on escape" means the time not counted on the service of sentence while the inmate is on escape status. This term shall mean the time from which the escape took place to the time of apprehension. (Authorized by K.S.A. 2011 Supp. 21-6821, as amended by L. 2012, Ch. 150, §37, K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5251; implementing K.S.A. 2011 Supp. 21-6606, as amended by L. 2012, Ch. 16, §4, K.S.A. 2011 Supp. 21-6821, as amended by L. 2012, Ch. 150, §37, K.S.A. 2011 Supp. 22-3717, as amended by L. 2012, Ch. 150, §43, K.S.A. 2011 Supp. 22-3725, K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5217, as amended by L. 2012, Ch. 16, §36, K.S.A. 2011 Supp. 75-5251; effective May 1, 1981; amended, T-84-32, Nov. 23, 1983; amended May 1, 1984; amended Nov. 12, 1990; amended Sept. 6, 2002; amended June 1, 2007; amended Aug. 8, 2008; amended Feb. 1, 2013.)

44-6-114e. Guidelines release date. (a) Except for off-grid crimes, the prison portion of sentences for crimes committed on or after July 1, 1993 but before April 20, 1995, crimes at non-drug severity levels 7 through 10 committed on or after January 1, 2008, crimes at drug grid severity level 3 or 4 committed on or after January 1, 2008 but before July 1, 2012, and crimes at drug grid severity level 4 or 5 committed on or after July 1, 2012, may be reduced by no more than 20% through awarded and retained good time credits.

(b) Except for off-grid crimes, the prison portion of sentences for all crimes committed on or after April 20, 1995 but before January 1, 2008, crimes at non-drug grid severity levels 1 through 6 and drug grid severity levels 1 and 2 committed on or after January 1, 2008, and crimes at drug severity level 3 committed on or after July 1, 2012, may be reduced by no more than 15% through awarded and retained good time credits. Partial days shall be rounded to the next whole number, but over the length of the sentence no more than 15% of the imprisonment portion of the sentence may be awarded as good time.

(c) Concurrent and consecutive sentences for off-grid crimes committed on or after July 1, 1993

shall not be subject to reduction through application of good time credits.

(d) For determinate sentences that are concurrent or consecutive with indeterminate sentences, good time may be awarded on the indeterminate sentence term as described in these regulations and applicable law.

(e) Good time credits awarded and retained on the prison portion of a determinate sentence shall be added to the period of postrelease supervision applicable to the offender's sentence.

(f) The following charts shall establish the good time credit rate for a 20% reduction of the prison portion of a determinate sentence.

(1) Total good time credits available for the length of sentence imposed.

(2) Except as provided in subsection (h), allocation of good time credits available during the service of sentence.

TOTAL GOOD TIME AVAILABLE (20% RATE)
OFFENSES COMMITTED ON OR AFTER JULY 1, 1993
THROUGH APRIL 19, 1995

Length of Sentence	*Possible Good Time Earned*			*Time To Serve [All GT Kept]*		
[Months]	*Years*	*Months*	*Days*	*Years*	*Months*	*Days*
5	0	1	0	0	4	0
6	0	1	6	0	4	24
7	0	1	12	0	5	18
8	0	1	18	0	6	12
9	0	1	24	0	7	6
10	0	2	0	0	8	0
11	0	2	6	0	8	24
12	0	2	12	0	9	18
13	0	2	18	0	10	12
14	0	2	24	0	11	6
15	0	3	0	1	0	0
16	0	3	6	1	0	24
17	0	3	12	1	1	18
18	0	3	18	1	2	12
19	0	3	24	1	3	6
20	0	4	0	1	4	0
21	0	4	6	1	4	24
22	0	4	12	1	5	18
23	0	4	18	1	6	12
24	0	4	24	1	7	6
25	0	5	0	1	8	0
26	0	5	6	1	8	24
27	0	5	12	1	9	18
28	0	5	18	1	10	12
29	0	5	24	1	11	6
30	0	6	0	2	0	0
31	0	6	6	2	0	24
32	0	6	12	2	1	18
33	0	6	18	2	2	12
34	0	6	24	2	3	6
35	0	7	0	2	4	0
36	0	7	6	2	4	24
37	0	7	12	2	5	18
38	0	7	18	2	6	12
39	0	7	24	2	7	6

Length of Sentence [Months]	*Possible Good Time Earned*			*Time to Serve [All GT Kept]*		
	Years	*Months*	*Days*	*Years*	*Months*	*Days*
40	0	8	0	2	8	0
41	0	8	6	2	8	24
42	0	8	12	2	9	18
43	0	8	18	2	10	12
44	0	8	24	2	11	6
45	0	9	0	3	0	0
46	0	9	6	3	0	24
47	0	9	12	3	1	18
48	0	9	18	3	2	12
49	0	9	24	3	3	6
50	0	10	0	3	4	0
51	0	10	6	3	4	24
52	0	10	12	3	5	18
53	0	10	18	3	6	12
54	0	10	24	3	7	6
55	0	11	0	3	8	0
56	0	11	6	3	8	24
57	0	11	12	3	9	18
58	0	11	18	3	10	12
59	0	11	24	3	11	6
60	1	0	0	4	0	0
61	1	0	6	4	0	24
62	1	0	12	4	1	18
63	1	0	18	4	2	12
64	1	0	24	4	3	6
65	1	1	0	4	4	0
66	1	1	6	4	4	24
67	1	1	12	4	5	18
68	1	1	18	4	6	12
69	1	1	24	4	7	6
70	1	2	0	4	8	0
71	1	2	6	4	8	24
72	1	2	12	4	9	18
73	1	2	18	4	10	12
74	1	2	24	4	11	6
75	1	3	0	5	0	0
76	1	3	6	5	0	24
77	1	3	12	5	1	18
78	1	3	18	5	2	12
79	1	3	24	5	3	6
80	1	4	0	5	4	0
81	1	4	6	5	4	24
82	1	4	12	5	5	18
83	1	4	18	5	6	12
84	1	4	24	5	7	6
85	1	5	0	5	8	0
86	1	5	6	5	8	24
87	1	5	12	5	9	18
88	1	5	18	5	10	12
89	1	5	24	5	11	6

Length of Sentence [Months]	*Possible Good Time Earned*			*Time to Serve [All GT Kept]*		
	Years	*Months*	*Days*	*Years*	*Months*	*Days*
90	1	6	0	6	0	0
91	1	6	6	6	0	24
92	1	6	12	6	1	18
93	1	6	18	6	2	12
94	1	6	24	6	3	6
95	1	7	0	6	4	0
96	1	7	6	6	4	24
97	1	7	12	6	5	18
98	1	7	18	6	6	12
99	1	7	24	6	7	6
100	1	8	0	6	8	0

ALLOCATION OF GOOD TIME CREDITS
AVAILABLE DURING THE SERVICE OF SENTENCE-20% RATE
OFFENSES COMMITTED ON OR AFTER JULY 1, 1993 THROUGH APRIL 19, 1995

MONTHS SERVED	*TIME EARNED*			*MONTHS SERVED*	*TIME EARNED*		
	YEARS	*MONTHS*	*DAYS*		*YEARS*	*MONTHS*	*DAYS*
1			08	33		8	08
2			15	34		8	15
3			23	35		8	23
4		1	00	36		9	00
5		1	08	37		9	08
6		1	15	38		9	15
7		1	23	39		9	23
8		2	00	40		10	00
9		2	08	41		10	08
10		2	15	42		10	15
11		2	23	43		10	23
12		3	00	44		11	00
13		3	08	45		11	08
14		3	15	46		11	15
15		3	23	47		11	23
16		4	00	48	1	00	00
17		4	08	49	1	00	08
18		4	15	50	1	00	15
19		4	23	51	1	00	23
20		5	00	52	1	1	00
21		5	08	53	1	1	08
22		5	15	54	1	1	15
23		5	23	55	1	1	23
24		6	00	56	1	2	00
25		6	08	57	1	2	08
26		6	15	58	1	2	15
27		6	23	59	1	2	23
28		7	00	60	1	3	00
29		7	08	61	1	3	08
30		7	15	62	1	3	15
31		7	23	63	1	3	23
32		8	00	64	1	4	00

MONTHS SERVED	TIME EARNED YEARS	MONTHS	DAYS	MONTHS SERVED	TIME EARNED YEARS	MONTHS	DAYS
65	1	4	08	87	1	9	23
66	1	4	15	88	1	10	00
67	1	4	23	89	1	10	08
68	1	5	00	90	1	10	15
69	1	5	08	91	1	10	23
70	1	5	15	92	1	11	00
71	1	5	23	93	1	11	08
72	1	6	00	94	1	11	15
73	1	6	08	95	1	11	23
74	1	6	15	96	2	00	00
75	1	6	23	97	2	00	08
76	1	7	00	98	2	00	15
77	1	7	08	99	2	00	23
78	1	7	15	100	2	01	00
79	1	7	23				
80	1	8	00				
81	1	8	08				
82	1	8	15				
83	1	8	23				
84	1	9	00				
85	1	9	08				
86	1	9	15				

(g) The following charts shall establish the good time credit rate for a 15% reduction of the prison portion of a determinate sentence.

(1) Total good time credits available for the length of sentence imposed.

(2) Except as provided in subsection (h), allocation of good time credits available during the service of sentence.

TOTAL GOOD TIME AVAILABLE (15% RATE)
OFFENSES COMMITTED ON OR AFTER APRIL 20, 1995

Length of Sentence [Months]	Possible Good Time Earned Years	Months	Days	Time to Serve [All GT Kept] Years	Months	Days
5	0	0	23	0	4	7
6	0	0	27	0	5	3
7	0	1	2	0	5	28
8	0	1	6	0	6	24
9	0	1	11	0	7	19
10	0	1	15	0	8	15
11	0	1	20	0	9	10
12	0	1	24	0	10	6
13	0	1	29	0	11	1
14	0	2	3	0	11	27
15	0	2	8	0	12	22
16	0	2	12	0	13	18
17	0	2	17	0	14	13
18	0	2	21	0	15	9
19	0	2	26	0	16	4
20	0	3	0	0	17	0
21	0	3	5	0	17	25
22	0	3	9	0	18	21
23	0	3	14	0	19	16
24	0	3	18	0	20	12
25	0	3	23	0	21	7
26	0	3	27	0	22	3

Length of Sentence [Months]	*Possible Good Time Earned*			*Time to Serve [All GT Kept]*		
	Years	*Months*	*Days*	*Years*	*Months*	*Days*
27	0	4	2	0	22	28
28	0	4	6	0	23	24
29	0	4	11	0	24	19
30	0	4	15	0	25	15
31	0	4	20	0	26	10
32	0	4	24	0	27	6
33	0	4	29	0	28	1
34	0	5	3	0	28	27
35	0	5	8	0	29	22
36	0	5	12	0	30	18
37	0	5	17	0	31	13
38	0	5	21	0	32	9
39	0	5	26	0	33	4
40	0	6	0	0	34	0
41	0	6	5	0	34	25
42	0	6	9	0	35	21
43	0	6	14	0	36	16
44	0	6	18	0	37	12
45	0	6	23	0	38	7
46	0	6	27	0	39	3
47	0	7	2	0	39	28
48	0	7	6	0	40	24
49	0	7	11	0	41	19
50	0	7	15	0	42	15
51	0	7	20	0	43	10
52	0	7	24	0	44	6
53	0	7	29	0	45	1
54	0	8	3	0	45	27
55	0	8	8	0	46	22
56	0	8	12	0	47	18
57	0	8	17	0	48	13
58	0	8	21	0	49	9
59	0	8	26	0	50	4
60	0	9	0	0	51	0
61	0	9	5	0	51	25
62	0	9	9	0	52	21
63	0	9	14	0	53	16
64	0	9	18	0	54	12
65	0	9	23	0	55	7
66	0	9	27	0	56	3
67	0	10	2	0	56	28
68	0	10	6	0	57	24
69	0	10	11	0	58	19
70	0	10	15	0	59	15
71	0	10	20	0	60	10
72	0	10	24	0	61	6
73	0	10	29	0	62	1
74	0	11	3	0	62	27
75	0	11	8	0	63	22
76	0	11	12	0	64	18

Length of Sentence [Months]	*Possible Good Time Earned*			*Time to Serve [All GT Kept]*		
	Years	*Months*	*Days*	*Years*	*Months*	*Days*
77	0	11	17	0	65	13
78	0	11	21	0	66	9
79	0	11	26	0	67	4
80	1	0	0	0	68	0
81	1	0	5	0	68	25
82	1	0	9	0	69	21
83	1	0	14	0	70	16
84	1	0	18	0	71	12
85	1	0	23	0	72	7
86	1	0	27	0	73	3
87	1	1	2	0	73	28
88	1	1	6	0	74	24
89	1	1	11	0	75	19
90	1	1	15	0	76	15
91	1	1	20	0	77	10
92	1	1	24	0	78	6
93	1	1	29	0	79	1
94	1	2	3	0	79	27
95	1	2	8	0	80	22
96	1	2	12	0	81	18
97	1	2	17	0	82	13
98	1	2	21	0	83	9
99	1	2	26	0	84	4
100	1	3	0	0	85	0

ALLOCATION OF GOOD TIME CREDITS AVAILABLE DURING THE SERVICE OF SENTENCE-15% RATE OFFENSES COMMITTED ON OR AFTER APRIL 20, 1995

MONTHS SERVED	*TIME EARNED*			*MONTHS SERVED*	*TIME EARNED*		
	YEARS	*MONTHS*	*DAYS*		*YEARS*	*MONTHS*	*DAYS*
1			5	20		3	16
2			11	21		3	21
3			16	22		3	26
4			21	23		4	02
5			26	24		4	07
6			02	25		4	12
7		1	07	26		4	18
8		1	12	27		4	23
9		1	18	28		4	25
10		1	23	29		5	03
11		1	28	30		5	09
12		2	03	31		5	14
13		2	09	32		5	19
14		2	14	33		5	25
15		2	19	34		6	00
16		2	25	35		6	05
17		3	00	36		6	10
18		3	05	37		6	16
19		3	10	38		6	21

MONTHS SERVED	TIME EARNED YEARS	TIME EARNED MONTHS	TIME EARNED DAYS	MONTHS SERVED	TIME EARNED YEARS	TIME EARNED MONTHS	TIME EARNED DAYS
39		6	26	90	1	03	26
40		7	02	91	1	04	01
41		7	07	92	1	04	06
42		7	12	93	1	04	12
43		7	17	94	1	04	17
44		7	23	95	1	04	23
45		7	28	96	1	04	28
46		8	03	97	1	05	03
47		8	09	98	1	05	08
48		8	14	99	1	05	14
49		8	19	100	1	05	19
50		8	25				
51		9	00				
52		9	05				
53		9	10				
54		9	16				
55		9	21				
56		9	26				
57		10	02				
58		10	07				
59		10	12				
60		10	17				
61		10	23				
62		10	28				
63		11	03				
64		11	09				
65		11	14				
66		11	19				
67		11	24				
68		12	00				
69		12	05				
70		12	10				
71		12	16				
72		12	21				
73		12	26				
74	1	01	01				
75	1	01	07				
76	1	01	12				
77	1	01	17				
78	1	01	23				
79	1	01	28				
80	1	02	03				
81	1	02	08				
82	1	02	14				
83	1	02	19				
84	1	02	24				
85	1	03	00				
86	1	03	05				
87	1	03	10				
88	1	03	16				
89	1	03	21				

(h) The charts in subsections (f) and (g) shall be used to compute the total pool of good time credits available on composite sentences for crimes committed on or after January 1, 2008, except that good time credit shall be allocated over the period of time equal to the inmate's composite sentence term less a number that is the sum of the total pool of available good time credits and four months. (Authorized by and implementing K.S.A. 2011 Supp. 21-6821, as amended by L. 2012, Ch. 150, §37, K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5251; effective Sept. 6, 2002; amended Aug. 8, 2008; amended Feb. 1, 2013.)

44-6-115a. Awarding and withholding good time credits for incarcerated offenders. (a) With the exception of calculation of good time credits affecting the conditional release dates, which are controlled by K.A.R. 44-6-114d, this regulation shall govern the award and withholding of good time credits.

(b)(1) At the conclusion of the initial inmate classification, 100% of the good time credits available from the sentence begins date to the date of the initial good time award shall be awarded, unless there is written documentation of maladjustment before the date of the initial award.

(2) The initial award of good time credits shall be made on the same day of the month on which the sentence was established. If a full month has not elapsed between the computed sentence begins date and the conclusion of the initial classification, good time credits shall not be awarded until the first classification review following the initial classification.

(c) Following the initial award, good time credits may be awarded at each classification review from credits available since the previous classification review.

(d) The following factors shall be considered in

determining whether or not an inmate is awarded good time credits:

(1) The inmate's performance in a work assignment;

(2) the inmate's performance in a program assignment;

(3) the inmate's maintenance of an appropriate personal and group living environment;

(4) the inmate's participation in release planning activities;

(5) the inmate's disciplinary record; and

(6) any other factors related to the inmate's general adjustment, performance, behavior, attitude, and overall demonstration of individual responsibility and accountability.

(e)(1) If an inmate refuses to work constructively or participate in assigned programs, 100% of the good time credits available for program classification review periods shall be withheld until the inmate reenters and constructively participates in the assigned program at a time that permits the inmate to complete the program, unless the facility health authority determines that the inmate is physically or mentally incapable of working or participating in a particular program or detail. If an assigned program is terminated or no longer offered due to financial constraints, the inmate's program plan shall be modified accordingly, and the inmate shall again be eligible to earn good time credits. Misconduct resulting in a disciplinary conviction not directly related to the program assignment shall result in the withholding of good time credits for only one program review period, pursuant to subsection (g).

(2) If an inmate refuses to work on an assigned work detail or is removed from the work detail for a disciplinary conviction, the inmate shall have 100% of available good time credits withheld for only one program review period.

(f) If an inmate fails to cooperate in the development of an acceptable release plan, the good time credits available for award during the 120-day period immediately before the inmate's projected or scheduled release date shall not be awarded.

(g) Award of good time credits shall be withheld on the basis of an inmate's disciplinary record, including consideration of the degree of actual injury, damage, or disruption caused by the misconduct at issue. Further consideration shall be given to other sanctions or interventions available to address the inmate's misconduct.

(1) If a facility disciplinary hearing officer finds the inmate guilty of a class I disciplinary offense, the amount of good time withheld during the review period in which the violation occurred shall reflect the degree of injury, damage, or disruption caused by the misconduct at issue.

(2) If a facility disciplinary hearing officer finds the inmate guilty of a class II disciplinary offense, not more than 50% of the good time credits available for the classification review period in which the violation occurred shall be withheld. For purposes of this paragraph, summary disciplinary judgments pursuant to K.A.R. 44-13-201b shall not be considered a guilty finding.

(3) If a facility disciplinary hearing officer finds the inmate guilty of a class III disciplinary offense, not more than 25% of the good time credits available for that classification review period in which the violation occurred shall be withheld. For purposes of this paragraph, summary disciplinary judgments pursuant to K.A.R. 44-13-201b shall not be considered a guilty finding.

(4) If a facility disciplinary hearing officer finds the inmate guilty of multiple disciplinary violations within a single disciplinary report, only the most serious violation shall be used in determining the percentage of good time credits to be withheld.

(5) If an inmate is removed from an assigned program due to a disciplinary conviction, 100% of the available good time credits shall be withheld until the inmate reenters the assigned program.

(h) The percentage of good time credits withheld during a classification review period shall be cumulative but shall not exceed 100% of that available for that classification review period. The good time award record for a period in which good time has already been awarded may be adjusted upon a subsequent conviction of a violation committed during the review period or upon discovery of an error in computing good time credits, pursuant to K.A.R. 44-6-128 through 44-6-132.

(i) On and after February 1, 2013, good time credits withheld for any reason may be restored to an inmate in accordance with internal management policies and procedures promulgated by the secretary of corrections. Good time credits withheld for any review period commencing before that date shall not be restored.

(j) Good time credits and program credits forfeited as a result of a penalty imposed by a facility disciplinary hearing officer shall not be restored to an inmate without the approval of the secretary or secretary's designee. (Authorized by and im-

plementing K.S.A. 2011 Supp. 21-6821, as amended by L. 2012, Ch. 150, §37, K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5251; effective Sept. 6, 2002; amended, T-44-3-11-03, March 11, 2003; amended July 25, 2003; amended Aug. 8, 2008; amended Feb. 1, 2013.)

44-6-115b. Awarding, withholding, and restoring good time credits for offenders on supervised release. (a) Offenders on supervised release may be awarded good time credits at the following rates:

(1) Offenders on parole release for indeterminate sentences shall be eligible for good time credits at the rate of one day of good time for each day under supervision and as provided by K.A.R. 44-6-114d.

(2) For offenders convicted of crimes that were committed on or after July 1, 1993 but before April 20, 1995 and that fall into non-drug severity levels 1 through 4 or drug severity level 1 or 2, the period of postrelease supervision shall be 24 months plus the amount of good time awarded and retained on the imprisonment portion of a sentence for such a conviction. Good time credits shall not be available for the reduction of postrelease supervision.

(3) For offenders convicted of crimes committed on or after April 20, 1995, but before July 1, 2012, that fall into non-drug severity levels 1 through 4 or drug severity level 1 or 2 and crimes committed on or after July 1, 2012 that fall into drug severity levels 1 through 3, the period of postrelease supervision shall be 36 months plus the amount of good time awarded and retained on the imprisonment portion of a sentence for such a conviction. The 36-month portion of the postrelease supervision period may be reduced by up to 12 months through award of good time credits. Awarded good time credits shall be applied at the rate of one day for every two days served from the date of release from prison, but not to exceed a total of 12 months. That portion of the period of postrelease supervision resulting from the addition of good time credits awarded and retained while in prison pursuant to K.S.A. 2011 Supp. 21-6821, and amendments thereto, shall not be reduced through application of good time credits while on postrelease supervision.

(4) For offenders who are convicted of crimes committed on or after July 1, 1993 that fall into non-drug severity level 5 or 6, drug severity level 3 crimes committed or after July 1, 1993 but before July 1, 2012, and drug severity level 4 crimes committed on or after July 1, 2012 and who are sentenced to serve a period of postrelease supervision, the period of postrelease supervision shall be 24 months plus the amount of good time awarded and retained on the imprisonment portion of the sentence for any such conviction. The 24-month portion of the postrelease supervision period may be reduced by 12 months through award of good time credits. Awarded good time credits shall be applied at the rate of one day for each day served from the date of release from prison. That portion of the postrelease supervision period resulting from application of good time credits awarded and retained while in prison shall not be subject to reduction through the application of good time credits while on postrelease supervision.

(5) For offenders who are convicted of crimes committed on or after July 1, 1993 that fall into non-drug severity levels 7 through 10, drug severity level 4 crimes committed on or after July 1, 1993 but before July 1, 2012, and drug severity level 5 crimes committed on or after July 1, 2012 and who are sentenced to serve a period of postrelease supervision, the period of postrelease supervision shall be 12 months plus the amount of good time awarded and retained on the imprisonment portion of the sentence for any such conviction. The 12-month portion of the period of postrelease supervision period may be reduced by six months through award of good time credits. Awarded good time credits shall be applied at the rate of one day for each day served from the date of release from prison. That portion of the postrelease supervision period resulting from application of good time credits awarded and retained while in prison shall not be subject to reduction through the application of good time credits while on postrelease supervision.

(b) All subsequent awards during a single supervision release period shall be made at six-month intervals, unless, in the judgment of the offender's parole officer, good cause exists to shorten the interval.

(c) No good time credits shall be awarded during the time an offender is on absconder status or for a review period in which a violation resulting in revocation of postrelease supervision occurs.

(d) Factors that shall be considered in determining whether or not an offender on supervised release is awarded good time credits shall include the following:

(1) Reporting to the parole officer as scheduled;

(2) maintaining steady employment, participating in treatment, or both;

(3) refraining from criminal activity;

(4) following the conditions of release; and

(5) maintaining behavior indicative of rehabilitation.

(e) Each of the following violations, if committed by the offender during the review period, shall result in the withholding of 100% of the good time credits available during the review period:

(1) Any felonious conduct established with probable cause by a district court, or any misdemeanor conviction, including driving under the influence (DUI) or driving while suspended (DWS);

(2) engagement in assaultive activities, violence, or threats of violence of any sort, or possession of a dangerous weapon, ammunition, or explosives as established by reliable information, including witness statements and police reports;

(3) engagement in contact with victims or contact with specific persons or categories of persons with whom contact is prohibited by special condition;

(4) failure to agree to be subject to a search by any parole officer, enforcement, apprehensions, and investigations officer, or other law enforcement officer as specified by the conditions of supervision;

(5) absconding from supervision.

(f) Each of the following violations shall result in the mandatory withholding of 50% of the good time credits available during the review period for each violation:

(1) Violation of any specific prohibition assigned to sex offenders;

(2) leaving the state of Kansas without permission;

(3) violation of any special condition not specifically identified in this regulation; or

(4) refusal to work or participate in programs during the review period.

(g) Each of the following violations shall result in the mandatory withholding of 25% of the good time credits available for the reward period for each violation:

(1) Changing jobs without notifying the supervising office;

(2) leaving the assigned supervision district without permission, but remaining in the state;

(3) refusing to provide urinalysis or to otherwise submit to substance abuse testing;

(4) moving from the place of residence without notifying the supervising officer; or

(5) each documented instance of the use of drugs, alcohol, or inhalants, either through positive urinalysis, through admission, or based upon reliable information from law enforcement or special agents.

(h) Either of the following violations shall result in the mandatory withholding of 10% of the good time credits available for the reward period for each violation:

(1) Failure to pay supervision fees as directed after it has been established that the offender is able to but unwilling to pay; or

(2) failure to report unless excused by the parole officer.

(i) If multiple violations that result from the same set of circumstances occur, the most severe violation shall be utilized for consideration of the good time award.

(j) Violations resulting in the withholding of good time shall not serve as the basis for withholding of additional good time during subsequent award periods.

(k) Good time credits shall be withheld during the award period in which the criteria for withholding good time has been met. The award of good time for a review period for which good time has already been awarded may be adjusted upon the subsequent discovery of a violation committed during the review period in question or upon discovery of any error in computing good time credits.

(l) On and after February 1, 2013, offenders on postrelease supervision may be eligible for the restoration of good time withheld while on postrelease supervision due solely to nonpayment of supervision fees, in accordance with internal management policies and procedures established by the secretary of corrections. Good time credits withheld for any review period commencing before that date may be restored. (Authorized by and implementing K.S.A. 2011 Supp. 22-3717, as amended by L. 2012, Ch. 150, §43; effective Sept. 6, 2002; amended Feb. 1, 2013.)

44-6-115c. Service of postrelease supervision revocation incarceration penalty period; awarding, withholding, and forfeiture of good time credits for offenders serving incarceration penalty period. (a) For offenders who were convicted of committing offenses on or after July 1, 1993, but before April

20, 1995, and whose postrelease supervision is revoked for reasons other than commission of a new crime, good time credits shall not be available for the purpose of reducing the applicable 90-day incarceration penalty period.

(b) For offenders who were convicted of crimes committed on or after April 20, 1995, and whose postrelease supervision is revoked for reasons other than commission of a new crime, good time credits may be earned toward reduction of the applicable six-month incarceration penalty period by up to three months. Awarded good time credits shall be applied at the rate of one day for each day served from the date of the revocation hearing or, if applicable, the effective date of waiver of the revocation hearing before the prisoner review board.

(c) For offenders who are serving a sentencing guidelines sentence and whose postrelease supervision is revoked due to commission of a new crime, good time credits shall not be available to reduce the period of the incarceration penalty. Offenders whose postrelease supervision is revoked due to commission of a new felony shall serve the entire remaining balance of postrelease supervision in prison. Offenders whose postrelease supervision is revoked due to commission of a misdemeanor shall serve the remaining balance of postrelease supervision in prison unless released by order of the prisoner review board.

(d) Awards of good time shall be made at 30-day intervals from the date of the revocation hearing before the board, or from the effective date of the waiver of the revocation hearing, as applicable. If an offender who waives the revocation hearing has not yet been transferred to a correctional facility when any 30-day interval occurs, the initial award shall be made when the offender is so transferred. When the offender waives the revocation hearing before the board, 100% of good time credits available for any time spent in detention from the effective date of the waiver and before the offender's transfer to a correctional facility shall be awarded, unless there is written documentation of maladjustment during the detention.

(e) For purposes of forfeiture, award, and withholding of good time credits, offenders serving a postrelease revocation penalty period for reasons other than commission of a new crime shall be subject to the provisions of articles 12 and 13 that prescribe rules of inmate conduct, penalties for violation thereof, and the procedures employed for processing charges of rules violations.

(f) The following factors shall be considered in determining whether or not an offender is awarded good time credits:

(1) The offender's performance in a work assignment;

(2) the offender's performance in a program assignment;

(3) the offender's maintenance of an appropriate personal and group living environment;

(4) the offender's participation in release planning activities;

(5) the offender's disciplinary record, unless the offender incurred a forfeiture of good time credits based on the same disciplinary conviction; and

(6) any other factors related to the offender's general adjustment, performance, behavior, attitude, and overall demonstration of individual responsibility and accountability.

(g) If an offender refuses to work constructively or to participate in assigned programs, 100% of the good time credits available for program classification review periods shall be withheld until the offender participates in the assigned program at a time that permits the offender to complete the program, unless the facility health authority determines that the offender is physically or mentally incapable of working or participating in a particular program or detail.

(h) If an offender fails to cooperate in the development of an acceptable release plan, the good time credits available for award during the 30-day period immediately before the offender's scheduled release date shall not be awarded.

(i) Award of good time credits shall be withheld on the basis of an offender's disciplinary record in the following manner:

(1) If a facility disciplinary hearing officer finds the offender guilty of a class I disciplinary offense, at least 50% of the good time credits available for that classification review period in which the violation occurred shall be withheld.

(2) If a facility disciplinary hearing officer finds the offender guilty of a class II disciplinary offense, at least 25% but not more than 50% of the good time credits available for that classification review period in which the violation occurred shall be withheld.

(3) If a facility disciplinary hearing officer finds the offender guilty of a class III disciplinary offense, at least 10% but not more than 25% of the good time credits available for that classification

review period in which the violation occurred shall be withheld. For purposes of this paragraph, summary disciplinary judgments pursuant to K.A.R. 44-13-201b shall not be considered a guilty finding.

(4) If a facility disciplinary hearing officer finds the offender guilty of multiple disciplinary violations within a single disciplinary report, only the most serious violation shall be used in determining the percentage of good time credits that shall be withheld.

(j) The percentage of good time credits withheld during a classification review period shall be cumulative but shall not exceed 100% of that available for that classification review period. Good time credits awarded and applied during the final review period shall not vest until the offender is actually released from the incarceration penalty period and may be withheld due to the offender's misconduct before actual release.

(k) Good time credits forfeited as a result of a penalty imposed by a facility disciplinary hearing officer shall not be restored to an offender.

(l) On and after February 1, 2013, good time credits awarded during the period of service of the incarceration penalty shall not serve to reduce the offender's period of postrelease supervision. (Authorized by and implementing K.S.A. 2011 Supp. 75-5217, as amended by L. 2012, Ch. 16, §36; effective Sept. 6, 2002; amended Feb. 1, 2013.)

44-6-125. Good time forfeitures not restored; exceptions; limits; parole; guidelines release date; program credits; withholding of good time credits subject to restoration. (a) On and after May 1, 1981, no good time forfeitures restored. For all inmates, good time credits or program credits that were forfeited on and after May 1, 1981 shall not be restored at a later date. An exception may be requested by the warden in order that standards of basic fairness, equity, and justice may be met. In such a case, good cause for restoration of good time credits shall be shown, in writing, by the warden to the secretary or the secretary's designee. Restoration of good time credits by exception shall be granted only upon written approval by the secretary or the secretary's designee. Good time forfeited before the first effective date of this regulation, May 15, 1980, may be restored in accordance with the secretary of corrections' policies and procedures then in force and effect. Good time credits or program credits that are eligible for award but have not yet actually been awarded due to an administrative error or omission may be forfeited.

(b) Forfeit only on minimum until parole eligibility. Before parole eligibility, forfeited good time credits shall be subtracted from the amount of good time credits earned toward the parole eligibility only, and not from those credits used to create the conditional release date. After parole eligibility is achieved, subsequent forfeited credits shall be subtracted from the credits used to form the conditional release date.

(c) Forfeitures limited to awards; no extension of maximum. Good time credits or program credits shall not be forfeited in an amount in excess of the good time or program credit earned before the disciplinary conviction. If an inmate receives an award of jail credit from the sentencing court after issuance of the original journal entry of sentencing and the sentence computation is revised accordingly, previous forfeitures of good time or program credits shall not be revised or modified. In cases of a new sentence conviction, disciplinary offenses occurring before the effective date of the new sentence that result in the forfeiture of good time or program credits shall not be applied to the computation. In no case shall forfeiture of good time or program credits extend the controlling maximum sentence, nor shall the forfeiture of good time credits interfere with or bypass any statutorily fixed parole eligibility that is not controlled by good time credits.

(d) No parole eligibility if forfeited time remains unserved. If good time credits on the term have been forfeited, an inmate shall not be eligible for parole until the inmate has served the time that otherwise would have been subtracted from the term by the application of the credits, or has obtained a restoration of those credits.

(e) In the case of an offender serving a guidelines sentence, forfeiture of good time or program credits shall affect the guidelines release date. Good time or program credits shall not be forfeited in an amount in excess of good time or program credits previously earned.

(f) Forfeitures made by disciplinary process. Forfeiture of good time credits or program credits may be ordered by the disciplinary board or hearing officer as a penalty for the inmate's commission of certain offenses as specified in articles 12 and 13.

(g) Good time or program credits withheld during service of a prison term or good time credits withheld during service of the postrelease super-

vision period, except credits withheld due to violation of supervision conditions resulting in revocation of postrelease supervision, may be restored in accordance with internal management policies and procedures established by the secretary of corrections. (Authorized by K.S.A. 2011 Supp. 21-6821, as amended by L. 2012, Ch. 150, §37, K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5251; implementing K.S.A. 2011 Supp. 21-6821, as amended by L. 2012, Ch. 150, §37, K.S.A. 2011 Supp. 22-3717, as amended by L. 2012, Ch. 150, §43, K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5251; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended Nov. 12, 1990; amended April 6, 1992; amended Sept. 6, 2002; amended June 1, 2007; amended Aug. 8, 2008; amended Feb. 1, 2013.)

44-6-127. Program credits. (a) Program credits may be earned on the prison portion of a sentence for crimes at non-drug severity levels 4 through 10 or drug grid severity level 3 or 4 committed on or after January 1, 2008, but before July 1, 2012, or for crimes at non-drug severity levels 4 through 10 or drug severity level 4 or 5 committed on or after July 1, 2012, for successful completion of programs designated by the secretary of corrections. These credits shall be in addition to good time credits awarded pursuant to K.A.R. 44-6-115a.

(b)(1) Subject to the exception stated in this subsection, if any portion of an inmate's composite sentence does not qualify for application of program credits, the inmate's entire sentence shall be found to be ineligible.

(2) Notwithstanding paragraph (b)(1), any inmate serving a composite sentence consisting of a sentence for a crime committed before July 1, 1993, with an indeterminate term of years, which shall mean a term other than a sentence of life imprisonment or a sentence with a maximum term of life imprisonment, and a determinate sentence for an offense committed while on release that otherwise meets the criteria specified in this regulation may be eligible to earn program credits on the remaining determinate sentence if the inmate meets any of the following conditions:

(A) Is paroled to the determinate sentence;

(B) attains conditional release; or

(C) reaches the maximum sentence expiration date on the indeterminate sentence.

(c) Program credits shall not be awarded for successful completion of a sex offender treatment program.

(d) Program credits shall not exceed 60 days on any one eligible controlling sentence, regardless of the number of programs completed. For the purposes of awarding and applying program credits, all calculations shall be based upon a year, which shall be considered a 360-day period with each month consisting of 30 days.

(e) Program credits earned and retained on the prison portion of the sentence shall be added to the inmate's postrelease supervision term.

(f) Earned program credits may be forfeited through the disciplinary process in the same manner as that for any other earned good time credits.

(g) Criteria to determine if an inmate's performance and conduct warrant the awarding of some or all of the available program credits shall be established by the secretary through the issuance of an internal management policy and procedure. (Authorized by and implementing K.S.A. 2011 Supp. 21-6821, as amended by L. 2012, Ch. 150, §37; effective Aug. 8, 2008; amended Feb. 1, 2013.)

44-6-134. Jail credit time. (a) Jail credit shall not be used in the sentence computation unless an authorization appears in the journal entry of judgment form. If only the number of days of jail credit earned is contained in the journal entry, the records officer shall compute the sentence begins date by subtracting jail credit from the date of sentencing. The amount of jail credit shall not adjust the sentence begins date so that it falls before the date of commission of the offense.

(b) Jail credit shall be awarded for time spent in custody by an offender pending disposition of charges on the earlier sentence if consecutive sentences are imposed on different dates. The credits on the earlier sentence shall be computed so that the credits do not overlap into the latest imposed sentence. The credits for time spent previously in custody pending disposition of charges shall be recorded as jail credit, but the credit shall not exceed an amount equal to the previous minimum sentence less the maximum number of good time credits that could have been earned on the minimum sentence. The remainder of credits shall be recorded as sentence maximum credits to apply to the maximum date. If prison service credit was included as jail credit by the court, the credit shall be shown as jail credit.

(c) Jail credit shall be awarded for time spent

in custody by an offender pending disposition of charges on an earlier sentence if consecutive guidelines sentences are imposed on different dates. The credits on an earlier sentence shall be computed so that the credits do not overlap into any sentence imposed after the earlier sentence was imposed.

(d) Jail credit shall be awarded for time spent in custody by an offender pending disposition of charges if consecutive guidelines sentences are imposed on the same date. However, the credits shall be computed so that they do not overlap from one sentence into any other sentence. (Authorized by K.S.A. 2011 Supp. 75-5251; implementing K.S.A. 2011 Supp. 21-6606, as amended by L. 2012, Ch. 16, §4, K.S.A. 2011 Supp. 21-6615, K.S.A. 2011 Supp. 75-5251; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended Nov. 12, 1990; amended Sept. 30, 1991; amended Sept. 6, 2002; amended Feb. 1, 2013.)

44-6-135. Prison service credit. (a) Prison service credit shall be computed and applied by department of corrections' personnel.

(b) To compute prison service credit for court releases, the effective date of the sentence shall be subtracted from the date of the final disposition of the court by release on probation, appeal bond, or vacating of the sentence. Presentence evaluation time spent at the Topeka correctional facility or any other facility designated by the secretary of corrections shall not be considered as prison service credit, but shall be considered jail credit. If prison service credit was included as jail credit by the court, the credit shall be shown as jail credit. After admission to custody of the secretary of corrections, all time spent incarcerated during release to the custody of a law enforcement agency shall be reflected as prison service credit, unless the time spent incarcerated during release to the custody of a law enforcement agency is included as jail credit by the court.

(c) To compute prison service credit for an aggregate sentence, the sentence begins date of the earlier, controlling minimum sentence date shall be subtracted from the release date and applied as follows:

(1) The actual time incarcerated in the custody of the secretary of corrections or release to custody of a law enforcement agency, not exceeding an amount equal to the previous minimum sentence less the maximum amount of good time credit that could have been earned under the law in effect at the time, shall be the prison service credit available.

(2) The prison service credit for a mandatory minimum sentence imposed before July 1, 1982 shall be restricted to a total credit equal to the actual time served before July 1, 1982, and the remaining minimum time to serve less all good time credits that could have been earned after July 1, 1982.

(3) The prison service credit for a life sentence shall not exceed 15 years or the aggregated 15 years. The remainder of the credit shall be credited as maximum sentence credit.

(4) Accelerated parole eligibility dates under K.S.A. 1988 Supp. 22-3725 shall be credited through May 19, 1988 if the accelerated date was before the effective parole eligibility date under that statute.

(5) Accelerated parole eligibility dates under K.S.A. 1989 Supp. 22-3725 shall be credited through August 1, 1989 if the accelerated parole eligibility date was before the effective date of that statute.

(6) Parole eligibilities computed on or after July 1, 1974 and before January 1, 1979, which were established at the discretion of the secretary of corrections upon attainment of the lowest minimum custody status, shall be credited with the actual time served from the sentence begins date of the earlier controlling minimum sentence. This credit shall not exceed the maximum amount of good time credits provided by K.A.R. 44-6-116 that could have been earned on the minimum sentence.

(7) For aggregated guidelines sentences, the actual time incarcerated in the custody of the secretary of corrections or release to custody of a law enforcement agency, not exceeding an amount equal to the previous prison term less the minimum amount of good time credit that could have been earned under the law in effect at the time, shall be the prison service credit available.

(d) Computations of prison service credit shall be subject to the provisions of K.A.R. 44-6-134, 44-6-136, 44-6-137, and 44-6-138. (Authorized by K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5251; implementing K.S.A. 2011 Supp. 21-6606, as amended by L. 2012, Ch. 16, §4, K.S.A. 2011 Supp. 22-3427, as amended by L. 2012, Ch. 28, §1, K.S.A. 2011 Supp. 22-3717, as amended by L. 2012, Ch. 150, §43, K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5251; effective, T-84-32, Nov. 23, 1983; amended May 1, 1984; amended

Nov. 12, 1990; amended Sept. 30, 1991; amended April 6, 1992; amended Feb. 1, 2013.)

44-6-135a. Maximum sentence credit. Maximum sentence credit shall be the remaining amount of time incarcerated that exceeded the prison service credit or jail credit on an earlier sentence. For consecutive sentences aggregated to previously imposed consecutive sentences, the latest sentence shall be credited with the remaining amount of time incarcerated for the latest release that exceeded the prison service credit plus all the prison service credit earned on the earlier consecutive sentences. The maximum sentence date shall be adjusted by that amount. (Authorized by K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5251; implementing K.S.A. 2011 Supp. 22-3427, as amended by L. 2012, Ch. 28, §1, K.S.A. 2011 Supp. 21-6606, as amended by L. 2012, Ch. 16, §4, K.S.A. 2011 Supp. 22-3717, as amended by L. 2012, Ch. 150, §43, K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5251; effective Nov. 12, 1990; amended Feb. 1, 2013.)

44-6-138. Sentence begins date. (a) Jail credit. Each sentence begins date shall reflect all jail credit.

(b) Reimposed sentence, governed by date of reimposition; adjustment alternatives. The sentence begins date for reimposed sentences, including those reimposed for technical probation violators or persons returned by appellate mandates, shall be the date the court reimposed the sentence unless jail credit or prison service credit is due. If the court instructs the inmate to surrender to correctional authorities after the sentence imposition date, that surrender date shall become the sentence begins date. This date may be further adjusted by jail credit.

(c) Vacated sentences in aggregated sentences; recomputation of sentence begins date. If one or more sentences in an aggregated sentence are vacated, the sentence begins date shall be the date of the last sentence imposed that is not vacated. Credit shall be given on the remaining sentence or sentences in an amount equal to the time served on all sentences included in the recomputed aggregate sentence, but no credit shall be allowed for time served that is attributable solely to the vacated sentence or sentences.

(d) Multiple concurrent sentences governed by court order. The court orders in which multiple, nonconsecutive sentences were imposed shall serve as the reference to ascertain the sentence begins date for use in computing the controlling minimum, maximum, and conditional release dates, or guidelines release date, as applicable, subject to the provisions of K.A.R. 44-6-137, K.A.R. 44-6-138, K.A.R. 44-6-140, and K.A.R. 44-6-141.

(e) Multiple consecutive sentences. When multiple sentences are imposed on the same date with the stipulation that one is to be consecutive to another, that date shall be used for the sentence begins date unless adjustments are necessary to allow for jail credit. Jail credits allowed shall reflect the largest amount given on any sentence.

(f) Consecutive before 1979 or after 1982. If a sentence for a crime committed before January 1, 1979 or after July 1, 1982 is to be consecutive with any previously imposed sentence, all dates shall be computed from the earliest sentence imposition date, allowing for jail credit and prison service credit earned on that earliest sentence. If an inmate has been on probation, parole, or conditional release, as a result of a previously imposed sentence, parole eligibility, conditional release, and maximum dates shall also be adjusted to give credit for time served on probation, parole, or conditional release, subject to K.S.A. 2011 Supp. 21-6606 and amendments thereto.

(g) Consecutive sentences between 1979 and 1982. If a sentence for a crime committed on or after January 1, 1979 and through June 30, 1982 is to be consecutive with any previously imposed sentence, the sentence begins date shall be determined by the imposition date of the latest sentence. The sentence begins date shall then be moved to an earlier date by an amount of time equal to jail credit and prison service credit earned on the earlier sentence. Credit shall also be allowed for the time on the minimum term of the earlier sentence, including any time on probation or parole, up to a maximum reduction equal to the minimum term of the earlier sentence.

(h)(1) If a sentence for a crime committed on or after July 1, 1983 is to be consecutive with some previously imposed sentence, the aggregated minimums and maximums shall be computed, and the aggregate sentence shall have the same sentence begins date as the newly imposed sentence. Credit shall be given on the aggregate in an amount equal to the time served on the earlier sentences included in the aggregate. However, for the purpose of computing the sentence begins date, the parole eligibility date, and the conditional release date,

this credit shall not exceed the amount of time equal to the period from the sentence begins date, for the previous sentence, to the earliest possible parole eligibility date as if all good time credits had been earned on that previous sentence. An inmate serving a life sentence shall be allowed credit for the total time served, not to exceed 15 years. An inmate serving a mandatory minimum sentence shall be allowed credit for all time served on the sentence before July 1, 1982 plus the remaining minimum time to serve, less all good time credits allowable. When computing the maximum date, the inmate shall receive credit for all time served on the previous sentence.

(2) If the aggregate includes a sentence on which the inmate was serving probation, parole, or conditional release, no credit for time spent on that probation, parole, or conditional release shall be given in computations for the aggregate sentence.

(i) When the aggregate is being computed, the inmate shall be given credit for time spent on probation or parole if both of the following conditions are met:

(1) An inmate is returned to prison as a parole violator with multiple new charges that have identical sentences running concurrent with each other but consecutive to the previous sentence on which parole was being served.

(2) The date of offense on one or more new charges is before July 1, 1983, and another is after July 1, 1983.

(j) If a sentencing guidelines sentence is run consecutively to a sentence for a crime committed before July 1, 1993, regardless of whether the prior sentence is converted to a sentencing guidelines sentence, the sentence begins date shall be the sentence begins date of the newly imposed sentencing guidelines sentence. Credit shall be given on the aggregate in an amount equal to the time served on the earlier sentences included in the aggregate.

(k) If a sentencing guidelines sentence is run consecutively to a prior sentencing guidelines sentence, the sentence begins date shall be the sentence begins date of the newly imposed sentencing guidelines sentence. Credit shall be given on the aggregate in an amount equal to the time served on the earlier sentences included in the aggregate. (Authorized by K.S.A. 2011 Supp. 75-5251; implementing K.S.A. 2011 Supp. 21-6606, as amended by L. 2012, Ch. 16, §4, K.S.A. 2011 Supp. 22-3717, as amended by L. 2012, Ch. 150, §43; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended, T-85-37, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1988; amended Sept. 6, 2002; amended Feb. 1, 2013.)

Article 9.—PAROLE, POSTRELEASE SUPERVISION, AND HOUSE ARREST

44-9-101. Definitions. (a) "Board" means the prisoner review board established by L. 2011, ch. 130.

(b) "Conditional release," for offenders serving indeterminate sentences for offenses committed before July 1, 1993, means release subject to supervision under terms and conditions determined by the board after serving the maximum sentence less all projected good time credits, subject to adjustment for any forfeiture of good time credits.

(c) "Correctional facility" means any of the facilities identified in K.S.A. 75-5202, and amendments thereto.

(d) "Docket" means the board's prearranged schedule of hearings.

(e) "Executive clemency" means the power of the governor to commute or pardon a criminal sentence.

(1) "Commute a criminal sentence" means to reduce the penalty imposed on a convicted person.

(2) "Pardon" means to forgive completely the punishment of a person convicted of a crime.

(f) "Good time credits" means the statutorily authorized reduction in time on an inmate's sentence as specified by K.S.A. 21-6821 and K.S.A. 22-3717, and amendments thereto, and K.A.R. 44-6-101, K.A.R. 44-6-115a, K.A.R. 44-6-115b, K.A.R. 44-6-115c, K.A.R. 44-6-125, K.A.R. 44-6-126, and K.A.R. 44-6-145.

(g) "House arrest" means the confinement of an inmate or offender under postincarceration supervision in the residence of the inmate or offender pursuant to the release provisions of L. 2010, ch. 136, §249, as amended by L. 2011, ch. 100, §19, and amendments thereto, or as a sanction of an offender under postincarceration supervision for violation of a condition of supervision, subject to conditions imposed by the secretary or designee or by the board, or as otherwise permitted by law.

(h) "In absentia" means a status in which an inmate is committed to the custody of the secretary and is serving the sentence out of state or in another jurisdiction.

(i) "Parole" means, for crimes committed before July 1, 1993 and off-grid offenses designated in K.S.A. 22-3717 and amendments thereto, the release of an inmate to the community by the board before the expiration of the inmate's sentence, subject to conditions imposed by the board and administered under the secretary's supervision.

(j) "Postincarceration supervision" means the supervision of any offender released to the community after service of the requisite term of incarceration. This term shall include parole, conditional release, and postrelease supervision.

(k) "Postrelease supervision" means, for crimes committed on or after July 1, 1993, the release of an inmate, subject to conditions imposed by the board, to the secretary's supervision and to the community after the inmate has served a period of imprisonment or after the inmate has served equivalent time in a facility where credit for time served is awarded as specified by the court.

(l) "Public comment session" means the board's regular, scheduled meeting with interested parties in the community for the purpose of receiving comments concerning the publicly announced listing of persons to be considered for parole by the board.

(m) "Secretary" means the secretary of corrections.

(n) "Unit team" means the group of correctional facility staff that is responsible for monitoring the overall management, supervision, custody, and rehabilitation plan of an inmate, as initiated by the classification committee, and that recommends custody changes and prepares progress summaries.

(o) "Warden" means the person in charge of the operation and supervision of a correctional facility. (Authorized by K.S.A. 2011 Supp. 21-6609, as amended by L. 2011, ch. 130, §§ 2 and 3, K.S.A. 2011 Supp. 22-3701, as amended by L. 2011, ch. 130, §§ 2 and 3, K.S.A. 2011 Supp. 22-3717, as amended by L. 2011, ch. 130, §§ 2 and 3, K.S.A. 2011 Supp. 75-5251; implementing K.S.A. 21-6609, as amended by L. 2011, ch. 130, §§ 2 and 3, K.S.A. 2011 Supp. 22-3701, as amended by L. 2011, ch. 130, §§ 2 and 3, K.S.A. 2011 Supp. 22-3717, as amended by L. 2011, ch. 130, §§ 2 and 3; effective May 1, 1980; amended May 1, 1985; amended May 1, 1987; amended March 23, 2012.)

44-9-105. Preliminary hearing for alleged violators. Alleged parole violators, conditional release violators, postrelease supervision violators, and house arrest condition violators shall be afforded a hearing to determine if there has been any violation of any conditions of supervision, unless the releasee knowingly and voluntarily waives the hearing. The requirements for the hearing shall be as follows: (a) The releasee shall be informed of the charges in writing with sufficient particularity and sufficient time in advance of the hearing to prepare a defense. The hearing shall be held within three to 14 days after service of the notice of charges, subject to authorized continuances. If evidence of any new violation of conditions of supervision is discovered after service of the original notice of charges upon the offender but before the hearing and a determination is then made that the releasee should be so charged, notice of any additional charge of violation shall be given to the releasee in the same manner as that for the original statement of charges. The hearing shall be continued for an appropriate interval if the releasee receives notice of any additional charge of violation less than three days before the original hearing date, unless the releasee waives advance service of the notice of amended charges.

(b) The purpose of the hearing shall be to determine whether probable cause exists to believe that a condition of supervision has been violated. The hearing shall be held before a party not involved in the case. Pending the hearing, the releasee shall remain incarcerated.

(c) If evidence of any new violation of conditions of supervision not yet charged is produced or placed on the record during the hearing, other than a new violation based solely upon a voluntary admission by the offender during the hearing, and it is determined by the hearing officer that the new charge should be added to the statement of charges for consideration, then a recess shall be declared by the hearing officer and a statement of any additional charge of violation of conditions of supervision shall be served upon the releasee in the same manner as that for the original statement of charges. The recess shall be for an appropriate interval of at least three days to permit the releasee to prepare a defense to any such additional charge, unless the releasee waives the three-day period and agrees to proceed with a hearing of the additional charge or charges within a shorter time period. Pending resumption of the hearing, the releasee shall remain incarcerated.

(d) The hearing shall be held at or reasonably near to the site of the arrest or commission of the

alleged violation. The hearing may be held at a correctional facility.

(e) The releasee shall be entitled to call witnesses to appear on the releasee's behalf at the hearing.

(1) The hearing officer may restrict the witnesses to those who can testify to the facts relevant to the occurrence of the alleged violation. Character reference witnesses may be excluded.

(2) Witnesses may testify by telephone if the releasee is able to hear the testimony of the witness contemporaneously with the hearing officer.

(f) The releasee shall have the right to be made aware of adverse evidence. The releasee shall be allowed to cross-examine adverse witnesses unless the hearing officer decides that the witness could be physically harmed if the witness's identity is revealed.

(g) The hearing officer shall issue a written decision indicating whether or not there is probable cause to hold the releasee on each charge of violation of a condition of release and also indicating the evidence relied upon for each finding of probable cause. If a finding of probable cause is made on the basis of a voluntary admission by the releasee of any new violation during the hearing, then the hearing officer shall cause an amended statement of charges of condition violations reflecting the new condition violation or violations to be added to the record. The hearing officer shall then refer the case record to the board for a final revocation hearing, but a charge of violation of a condition of supervision shall not be referred to the board unless a finding of probable cause for that violation is included in the case record. The releasee shall be given a written statement of the basis for the decision and, if applicable, an amended statement of charges of condition violations.

(h) If the releasee had not previously been returned to a correctional facility, upon finding of probable cause, the releasee shall be returned to a correctional facility designated by the secretary of corrections pending a final revocation hearing by the board. (Authorized by K.S.A. 2011 Supp. 21-6609, as amended by L. 2011, ch. 130, §§ 2 and 3, K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5217; implementing K.S.A. 2011 Supp. 22-3717, as amended by L. 2011, ch. 130, §§ 2 and 3, K.S.A. 75-5216, K.S.A. 2011 Supp. 75-5217; effective May 1, 1980; amended July 11, 1994; amended March 23, 2012.)

44-9-107. House arrest program. All inmates and offenders under postincarceration supervision placed in the house arrest program shall be subject to the sanctions and conditions that are prescribed by the secretary in published internal management policies and procedures for house arrestees, ordered by the board, or otherwise permitted by law. (Authorized by and implementing K.S.A. 2011 Supp. 21-6609, as amended by L. 2011, ch. 130, §§ 2 and 3, and K.S.A. 2011 Supp. 22-3717, as amended by L. 2011, ch. 130, §§ 2 and 3; effective March 23, 2012.)

44-9-501. General provisions. Each offender who is returned on a violator warrant issued by the secretary shall be brought before the board as soon as practical for a final revocation hearing of postincarceration supervision or house arrest status, unless the offender is eligible for and chooses to waive the right to the hearing as provided in K.A.R. 44-9-504. At any time before a final revocation hearing is held under K.A.R. 44-9-502, the warrant may be withdrawn at the request of the secretary, and the offender may be rereleased on parole, conditional release, postrelease supervision, or house arrest. At that time, new conditions may be established, or the conditions of parole, conditional release, postrelease supervision, or house arrest may be modified by the board. (Authorized by and implementing K.S.A. 2011 Supp. 21-6609, as amended by L. 2011, ch. 130, §§ 2 and 3, K.S.A. 2011 Supp. 22-3717, as amended by L. 2011, ch. 130, §§ 2 and 3, and K.S.A. 2011 Supp. 75-5217; effective March 23, 2012.)

44-9-502. Final revocation hearings. (a) After an offender is returned to a correctional facility under K.A.R. 44-9-501, the offender may request a hearing before the final decision on revocation by the board. Any offender on postrelease supervision or assigned to house arrest may waive the final revocation hearing as provided in K.A.R. 44-9-504. The final revocation hearing shall be held without unnecessary delay and shall be conducted by the board or any member of the board. After the board considers all pertinent evidence, an appropriate order shall be entered by the board. If the violation is established to the satisfaction of the board, the parole, conditional release, postrelease supervision, or assignment to house arrest may be reinstated, modified, or revoked by the board.

(b) Before the final revocation hearing, the fol-

lowing information shall be provided to the offender by the board:

(1) Written notice of the alleged violations of the conditions of release; and

(2) the evidence against the offender. If the board finds that there are additional violations other than those contained in the written notice, the hearing shall be continued so that a written notice of the additional violations and a statement of the evidence against the offender can be prepared.

(c) Each offender shall have the right to confront and cross-examine adverse witnesses, unless the board finds good cause for not allowing confrontation. If the board does not allow the offender to confront a witness, the evidence relied upon and the reasons for this determination shall be specified by the board. If the offender had the opportunity to cross-examine a witness at the probable cause hearing provided in K.A.R. 44-9-105, the record may be relied upon by the board, in lieu of calling that witness.

(d) Each offender shall have an opportunity to be heard in person and to present documentary evidence and witnesses who can provide information relevant to the allegations of the violation of the conditions of release or house arrest. The attendance of witnesses favorable to the offender shall be the responsibility of the offender and shall be at the offender's expense. The hearing may be continued to allow for the attendance of witnesses.

(e) All relevant evidence, including letters and affidavits, shall be received by the board. If the violation of the conditions of release or house arrest results from a conviction for a new felony or misdemeanor, the only question considered by the board shall be whether or not the new conviction warrants revocation.

(f) Each offender shall be entitled to have legal counsel present at the hearing, at the offender's expense.

(1) Legal counsel may be appointed by the board upon the request of the inmate or on the board's own motion. The appointment of legal counsel shall be based upon either of the following claims by the offender, which shall be timely and on its face plausible:

(A) A claim that the offender has not committed the alleged violation of the conditions of release or house arrest; or

(B) a claim that there are substantial reasons that justify or mitigate the violation and make revocation inappropriate.

(2) The board's decision regarding the appointment of counsel shall take into account whether or not the offender is capable of speaking effectively for that individual and whether or not the circumstances are complex or otherwise difficult to develop or present.

(3) In all cases in which a request for appointed counsel at a preliminary hearing or final revocation hearing is denied, the grounds for denial shall be stated in writing.

(g) If the offender's release or assignment to house arrest is revoked, a written statement as to the evidence relied upon and reasons for revoking the release or assignment to house arrest shall be given to the offender by the board. (Authorized by and implementing K.S.A. 2011 Supp. 21-6609, as amended by L. 2011, ch. 130, §§ 2 and 3, K.S.A. 2011 Supp. 22-3717, as amended by L. 2011, ch. 130, §§ 2 and 3, and K.S.A. 2011 Supp. 75-5217; effective March 23, 2012.)

44-9-503. Sanctions; computation of time. (a)(1) Any offender whose parole has been revoked may be required by the board to serve all or any part of the remaining time on the sentence up to the original conditional release date, plus all good time forfeited by the board.

(2) Any offender whose conditional release has been revoked may be required by the board to serve all or any part of the remaining time on the sentence.

(3) Each offender whose postrelease supervision has been revoked for reasons other than conviction of a new crime shall serve a six-month period of confinement beginning on the date of the final revocation hearing or the effective date of the waiver of the final revocation hearing under K.A.R. 44-9-504. The six-month period of confinement may be reduced by not more than three months based on the offender's conduct, work, and program participation during this incarceration period, in accordance with regulations adopted by the secretary.

(4) Each parole violator with a new conviction and sentence shall achieve parole eligibility for the new sentence or sentences as determined by K.S.A. 22-3717 and K.S.A. 21-6606, and amendments thereto, and in accordance with regulations adopted by the secretary.

(5) Each postrelease violator whose postrelease supervision has been revoked due to conviction of

a new crime shall serve one of the following periods of time:

(A) If the new crime is a felony, a period of confinement equal to the entire remaining balance of postrelease supervision; or

(B) if the new crime is a misdemeanor, a period of confinement to be determined by the board, which shall not exceed the entire remaining balance of the period of postrelease supervision.

(6) Each inmate whose house arrest has been revoked shall serve the remaining balance of that inmate's underlying prison sentence incarcerated.

(b) Good time credits earned while on parole before the parole revocation date may be forfeited upon order of the board. Upon order of the board, the good time credits earned while on postrelease supervision may likewise be forfeited, before the postrelease supervision revocation date or the effective date of the waiver of the final revocation hearing.

(c) All of the available good time credits shall be withheld for the review period in which the revocation for house arrest occurs.

(d) Good time and program credits previously earned on the prison portion of the sentence of house arrestees may be forfeited by the disciplinary administrator in accordance with K.A.R 44-6-115a(i) and K.A.R. 44-6-125(f).

(e) If the secretary has issued a warrant for the return of a released offender and it is determined that the warrant cannot be served, the released offender shall be deemed to be a fugitive from justice. If it appears that this fugitive has violated any of the provisions of release, the time from the violation of the provision to the date of arrest, as determined by the department of corrections, shall not be counted as time served under the sentence unless approved by the board. (Authorized by and implementing K.S.A. 2011 Supp. 21-6609, as amended by L. 2011, ch. 130, §§ 2 and 3, K.S.A. 2011 Supp. 22-3717, as amended by L. 2011, ch. 130, §§ 2 and 3, and K.S.A. 2011 Supp. 75-5217; effective March 23, 2012.)

44-9-504. Waiver of final revocation hearing. (a)(1) For purposes of this regulation, "misdemeanor" shall mean a class A, B, or C misdemeanor or a criminal charge of an equivalent class under a city ordinance.

(2) For purposes of this regulation, "detainer" shall mean a warrant, electrical or electronic transmission, or written correspondence from a law enforcement or correctional agency citing a misdemeanor or felony charge or conviction in that jurisdiction that results from criminal activity that occurred during the current period of parole or postrelease supervision.

(b) Each supervised offender who is serving only a determinate sentence and who meets all of the following conditions shall be eligible to waive the final revocation hearing before the board:

(1) The offender is not charged with a condition violation alleging conviction of a new crime.

(2) The offender is not the subject of any pending criminal misdemeanor charge, felony charge, or detainer for a misdemeanor or felony. If an offender is arrested on a new felony charge and formal criminal charges are not filed by the county or district attorney within 10 days of the offender's arrest, the offender shall be eligible to waive the final revocation hearing.

(3) The offender is detained in a Kansas correctional facility, jail, or detention center. A supervised offender serving an indeterminate sentence, or a sentence with a lifetime period of postrelease supervision, shall not be permitted to waive the final revocation hearing before the board.

(c) Any eligible offender may waive the final revocation hearing when the statement of condition violations is served, if the eligible offender simultaneously waives the preliminary hearing on those violations as provided by K.A.R. 44-9-105. If the offender elects not to waive the preliminary hearing, the revocation proceeding shall advance to a preliminary hearing. If, after that hearing, probable cause is established in regard to at least one of the alleged condition violations, the offender shall again be afforded the opportunity to waive the final revocation hearing before the board.

(d) If, before the final revocation hearing, the board receives notice that the criminal charges or a pending detainer has been dismissed, the offender shall again be given the opportunity to waive the final revocation hearing.

(e) At the time of presentation of the written waiver form by parole services staff, each offender shall be orally advised of the following:

(1) Execution of the waiver form signifies that the offender admits to guilt on all condition violations charged, unless the hearing officer specifically finds that a condition violation is not supported by probable cause.

(2) The offender waives the right to counsel and the right to present witnesses or the offender's

own testimony to the board because no hearing will be held if the offender executes the waiver form.

(3) Upon receipt of the waiver form, the offender's postrelease supervision may be continued, modified, or revoked by the board, or other orders may be entered by the board as the board sees fit.

(f) Each offender shall make an election by indicating in writing upon the waiver form whether or not the offender desires to accept the offer of waiver. The waiver shall be executed in the presence of parole services staff, or the offender shall acknowledge to parole services staff the authenticity of the offender's signature upon the form, which shall then be executed by parole services staff in the capacity of witness. If the offender refuses to accept the waiver form or to execute it, the waiver shall be deemed rejected, and the revocation proceeding shall advance to the final revocation hearing before the board.

(g) Upon execution of the waiver form, the penalty period of incarceration prescribed by K.S.A. 75-5217(b), and amendments thereto, shall begin, unless the board continues the offender's postrelease supervision. If a waiver is executed under circumstances described in subsection (d) of this regulation, the penalty period of incarceration shall begin on the date the criminal charge or pending detainer was dismissed. If an offender is detained on the basis of a felony arrest for which no formal charges are filed within a 10-day time frame, the penalty period of incarceration shall begin on the date the waiver is signed by the offender or an earlier date determined by the board, which shall not precede the date on which that felony arrest warrant was issued.

(h) Each offender who is serving only a determinate sentence and who either was supervised in a foreign jurisdiction under terms of the interstate compact for adult offender supervision, K.S.A. 22-4110 and amendments thereto, or was apprehended in another state after absconding from Kansas supervision shall be afforded the opportunity to waive the final revocation hearing as provided in subsection (c). This opportunity shall be afforded upon the offender's return to a Kansas correctional facility. Presentation of the waiver form, the formalities of its execution, and the effect of the waiver shall be governed in all respects by the provisions of subsections (e), (f), and (g).

(i) A signed waiver of a final revocation hearing shall be deemed invalid if it is discovered that the offender has been convicted of a new misdemeanor or felony that occurred during a period of postrelease supervision on the current active sentence. Under these circumstances, the offender shall be docketed for a hearing before the board.

(j)(1) An offender shall not rescind a written waiver of final revocation hearing that is before the board unless the offender petitions the board, in writing and in the form directed by the board, and proves any of the following to the satisfaction of the board:

(A) The offender was under duress at the time of execution of the waiver form.

(B) The offender's execution of the waiver form was procured through fraud.

(C) The offender was not advised that execution of the waiver form constitutes admission of guilt of the charged condition violation or violations.

(D) The offender was not advised of the rights that the offender would forego by execution of the waiver form.

The petition for rescission shall be submitted to the board and postmarked on or before the date no later than 14 calendar days after the date of the allegedly defective waiver.

(2) If the board grants the offender's petition, the charge of any condition violation shall be rescheduled for a preliminary hearing or a final revocation hearing, as applicable. If postrelease supervision is revoked by the board at the final hearing and the offender is ordered to serve an incarceration penalty period, this penalty period shall begin on the date of the revocation.

(k) Each inmate assigned to house arrest shall be eligible to waive the final revocation hearing before the board as provided in subsections (c), (e), and (f).

(1) The inmate shall serve the remaining balance of the prison portion of the sentence incarcerated.

(2) The inmate may also be issued a disciplinary report based upon the facts underlying the revocation. (Authorized by and implementing K.S.A. 2011 Supp. 21-6609, as amended by L. 2011, ch. 130, §§ 2 and 3, K.S.A. 2011 Supp. 22-3717, as amended by L. 2011, ch. 130, §§ 2 and 3, and K.S.A. 2011 Supp. 75-5217; effective March 23, 2012.)

Article 11.—COMMUNITY CORRECTIONS

44-11-111. Definitions. (a) "Active cases" means those cases that have been supervised in a

manner that is consistent with contact standards adopted by the secretary.

(b) "Community corrections agency" means the structure that exists or is proposed to exist within a planning unit and that delivers the community corrections services outlined in a comprehensive plan.

(c) "Community corrections grant funds" means funds made available to a governing authority by the department of corrections, pursuant to the Kansas community corrections act, K.S.A. 75-5290 et seq. and amendments thereto.

(d) "Comprehensive plan" means the working document developed by a corrections advisory board at a frequency prescribed by the secretary, setting forth the objectives and services planned for a community corrections agency.

(e) "Corrections advisory board" means a board appointed by a governing authority to develop and oversee a comprehensive plan.

(f) "Governing authority" means any county or group of cooperating counties that has established a corrections advisory board for the purpose of establishing a community corrections agency.

(g) "Grant year" means the year covered in a community corrections agency's comprehensive plan and shall be deemed to begin at the start of a state fiscal year.

(h) "Line items" means specific components comprising a major budget category.

(i) "Offender fees" means charges for drug and alcohol testing, electronic monitoring services, supervision services, housing in a residential center, and other services and assistance provided by community corrections agencies.

(j) "Program" means an adult intensive supervision program (AISP) or adult residential program (ARES) operated by a community corrections agency.

(k) "Reimbursements" means income generated by community corrections agencies and fees assessed and collected by community corrections agencies in prior fiscal years or in the current fiscal year, for expenses incurred.

(l) "Secretary" means the secretary of corrections.

(m) "Service" means a community corrections activity directed by a public or private agency to deliver interventions to offenders and assistance to victims, offenders, or the community.

(n) "Standards" means the minimum requirements of the secretary for the operation and management of community corrections agencies.

(o) "Unexpended funds" means state funds remaining in a program's accounts at the close of a fiscal year that are not obligated for expenses incurred during that fiscal year or that have not been approved for expenditure by the secretary beyond the fiscal year. (Authorized by K.S.A. 75-5294, 75-5296; implementing K.S.A. 2010 Supp. 75-5291, as amended by L. 2011, Ch. 30, Sec. 280, K.S.A. 2010 Supp. 75-5292, K.S.A. 75-5295, K.S.A. 75-5296, K.S.A. 2010 Supp. 75-5297, K.S.A. 75-52,102, K.S.A. 75-52,103, K.S.A. 2010 Supp. 75-52,105, K.S.A. 2010 Supp. 75-52,110; effective May 1, 1981; amended May 1, 1984; amended Feb. 6, 1989; amended March 5, 1990; amended July 23, 1990; amended March 29, 2002; amended June 1, 2007; amended Feb. 24, 2012.)

44-11-113. Comprehensive plan; comprehensive plan review. (a) The comprehensive plan shall be developed by the community corrections agency in collaboration with the corrections advisory board. The comprehensive plan shall minimally include the following:

(1) An agency profile;

(2) signatory approval of the community corrections agency's director, the chairperson of the corrections advisory board, and the governing authority;

(3) a list of the members of the advisory board, with descriptors that demonstrate compliance with K.S.A. 75-5297, and amendments thereto;

(4) the name, mailing address, and phone number of the chairperson of the governing authority and, if any, the chairperson's fax number and e-mail address;

(5) an agency summary of programmatic changes and significant events;

(6) an organization chart;

(7) personnel data;

(8) new position data;

(9) a description of collaboration that occurred or will occur to identify and address the community's correctional needs;

(10) a program description, including goals and objectives to be achieved, data elements to be collected, and services to be provided;

(11) a new service description;

(12) an explanation of the relationship among the governing authority, the corrections advisory board, the director of the community corrections agency, and the program or programs described in the comprehensive plan;

(13) a process for the advisory board to monitor

the progress of the program or programs described in the plan;

(14) a timeline for implementation of the plan; and

(15) any other relevant information requested by the secretary in the comprehensive plan form.

(b) A summary budget, addressing awarded community corrections grant funds, and a detailed narrative describing each line item shall also be submitted annually as prescribed by the secretary.

(c) Agency outcomes shall be submitted on or before May 1 of each year in a format prescribed by the secretary.

(d) Each county desiring to establish a community corrections agency shall issue a resolution indicating this intent and include a copy of the resolution in its initial comprehensive plan. A county desiring to enter into an interlocal agreement with another county for the provision of community corrections services, as prescribed in K.S.A. 12-2901 through K.S.A. 12-2907 and amendments thereto, shall include an interlocal agreement, approved by the attorney general, in its initial comprehensive plan.

(e) A program review committee shall be appointed by the secretary to review each comprehensive plan. The committee shall make a recommendation to the secretary. The comprehensive plan shall be accepted, rejected, or accepted subject to specified modifications by the secretary. (Authorized by K.S.A. 75-5294, K.S.A. 75-5296, K.S.A. 75-52,102; implementing K.S.A. 2010 Supp. 75-5292, K.S.A. 75-5296, K.S.A. 75-5299, K.S.A. 75-52,102; effective May 1, 1981; amended Feb. 6, 1989; amended May 15, 1989; amended March 5, 1990; amended March 29, 2002; amended June 1, 2007; amended Feb. 24, 2012.)

44-11-119. Local programs. (a) A comprehensive plan may provide for community corrections programs to be administered by public or private agencies. A governing authority may enter into a contractual or other written agreement with a private agency to operate programs identified in the comprehensive plan or to provide specialized services to program participants.

(b) An annual audit of all programs identified in the comprehensive plan shall be conducted as prescribed by the secretary. The audit may consist of a fiscal audit, standard compliance audit, performance audit, data accuracy audit, or any other type of review prescribed by the secretary.

(c) Each community corrections agency shall submit notice of the date, time, and location of each advisory board meeting to the deputy secretary of community and field services at least one working day before the scheduled meeting. Each community corrections agency shall submit a copy of the minutes of each advisory board meeting to the secretary within 30 working days after each meeting. (Authorized by K.S.A. 75-5294, 75-5296; implementing K.S.A. 75-5295, 75-5296, 75-52,103; effective May 1, 1981; amended Feb. 6, 1989; amended March 29, 2002; amended Feb. 24, 2012.)

44-11-121. Fiscal management; required reporting. (a) Each governing authority shall designate one person to be responsible for all fiscal matters related to the community corrections grant funds received. This person shall comply with generally accepted accounting principles governing the management of county funds and shall provide information to the corrections advisory board and the secretary on a quarterly basis unless the secretary determines the existence of circumstances that warrant a change in frequency of reporting.

(b) Each county receiving grant funds shall submit, by either original or electronic copy to the secretary, all portions of its annual financial audit pertaining to community corrections grant funds, including the report's cover letter and any exceptions applicable to community corrections grant funds, in the manner provided by K.S.A. 75-1124, and amendments thereto, within 60 calendar days after receipt by the county.

(c) All reimbursements maintained from current and prior fiscal years, collected, and expended by a community corrections agency shall be included in the fiscal workbook and the quarterly reconciliation budget report and certification documents.

(d) Within 60 calendar days after the end of each state fiscal year, each community corrections agency shall submit, by either original or electronic copy to the secretary, a plan approved by the corrections advisory board and governing authority for the use of the reimbursements.

(e) (1) If a community corrections agency complies with the requirements in subsections (c) and (d), the agency shall retain its reimbursements and use them in accordance with its approved plan.

(2) If a community corrections agency chooses

not to comply with the requirements in subsections (c) and (d), all current reimbursements and those carried over from previous years may be deducted by the secretary from the agency's current or future allocations. These deductions shall be placed by the secretary in a special fund designated for community corrections.

(3) Agencies, except those that chose not to comply with the requirements in subsections (c) and (d) during the state fiscal year in question, may apply for these special funds to maintain or enhance current funded services or add new services, or support or enhance agency operations, or any combination of these uses. (Authorized by K.S.A. 75-5294, K.S.A. 75-5296; implementing K.S.A. 75-5296, K.S.A. 75-52,103, K.S.A. 2010 Supp. 75-52,105 and 75-52,111; effective May 1, 1981; amended Feb. 6, 1989; amended May 15, 1989; amended March 5, 1990; amended March 29, 2002; amended Feb. 24, 2012.)

44-11-123. Changes in the comprehensive plan, budget, and agency outcomes. (a) If a community corrections agency wishes to change or deviate from the comprehensive plan or agency outcomes, the agency may do so if approval of the corrections advisory board or governing authority is first obtained. Documentation of approval shall be reflected in the board meeting minutes.

(b) Quarterly grant or carryover reimbursement budget adjustments totaling $5,000 or one percent of the current grant year award, whichever is higher, shall require signatory approval of the corrections advisory board and the governing authority. The community corrections agency shall submit, by either original or electronic copy to the secretary, documentation of signatory approval along with a description of and justification for the proposed transfer. (Authorized by K.S.A. 75-5294, 75-5296; implementing K.S.A. 2010 Supp. 75-5292, K.S.A. 75-5296, K.S.A. 75-52,102; effective May 1, 1981; amended Feb. 6, 1989; amended May 15, 1989; amended March 5, 1990; amended July 23, 1990; amended March 29, 2002; amended June 1, 2007; amended Feb. 24, 2012.)

44-11-127. Prohibition of use of community corrections grant funds; maintenance and documentation of funds. (a) A governing authority shall not use community corrections grant funds to replace available public or private funding of existing programs.

(b) A governing authority may request community corrections grant funds to continue an existing program that would otherwise cease due to the exhaustion of public or private funds that had been specifically allocated to the program as start-up monies with a predetermined termination date.

(c) A governing authority may request community corrections grant funds to supplement existing public or private funding of an existing program if these community corrections grant funds would enhance services.

(d) Community corrections grant funds for adult services shall be maintained in a separate county general ledger account.

(e) Community corrections grant funds shall not be expended for services, supplies, equipment, or the payment of rent beyond the grant year in which the services, supplies, equipment, or payments are received or due. Only expenditures incurred within the grant year shall be charged to the community corrections grant.

(f) All community corrections expenditures shall have supporting documentation.

(g) Community corrections grant funds shall not be used to fund depreciation.

(h) Community corrections grant funds shall be expended and obligated for operation and management of programs for adult offenders only. Nothing in this regulation shall prohibit the use of state community corrections grant funds to purchase equipment, supplies, and services shared by programs for adult and juvenile offenders if the use by the adult program is proportionate to the monetary contribution of that program.

(i) Community corrections grant funds shall not be expended and obligated for association memberships for individuals. Community corrections grant funds may be expended and obligated by community corrections agencies for staff uniforms or clothing and for association memberships for the agency if specifically authorized by the agency's policies and procedures. Nothing in this regulation shall prohibit housing, transportation, clothing, and billing assistance to indigent offenders, or the acquisition of necessary safety equipment for staff, including bulletproof vests and latex gloves. (Authorized by K.S.A. 75-5294; implementing K.S.A. 2010 Supp. 75-5291, K.S.A. 75-5296, K.S.A. 75-52,103, K.S.A. 2010 Supp. 75-52,105; effective, E-82-25, Dec. 16, 1981; effective May 1, 1982; amended March 29, 2002; amended Feb. 24, 2012.)

44-11-129. Unexpended funds. (a) Unexpended funds may be transferred by the secretary to another county or counties. Any county may make application to the secretary for the unexpended funds. The county shall provide the secretary with a statement of why the funds are necessary, documentation of need, a budget summary and narrative describing the proposed services, and, if the funds are for a new program, a listing of measurable goals and objectives. The county shall be notified by the secretary of approval or disapproval of the application within 60 calendar days after the application due date.

(b) Any community corrections agency may use approved unexpended funds to maintain or enhance current funded services or to support or enhance agency operations, or any combination of these uses as specified in the application. (Authorized by K.S.A. 75-5294; implementing K.S.A. 75-52,103; effective Feb. 6, 1989; amended March 5, 1990; amended March 29, 2002; amended Feb. 24, 2012.)

44-11-132. Use of grant funds to contract for services. (a) Grant funds may be used to contract for services or to provide services directly.

(b) Each community corrections agency shall make all contracts between the agency and other entities and individuals available to the secretary for review. (Authorized by K.S.A. 75-5294, 75-5296; implementing K.S.A. 75-5295, 75-5296; effective March 5, 1990; amended March 29, 2002; amended Feb. 24, 2012.)

Article 12.—CONDUCT AND PENALTIES

44-12-211. Telephones or other communication devices. (a) When using any authorized inmate telephone, no inmate shall perform or engage in any of the following:

(1) Use another inmate's personalized identification number (PIN) or permit another inmate to use the inmate's PIN;

(2) be a party to call forwarding;

(3) call any telephone number not listed on the inmate's authorized calling list;

(4) participate in any call involving a party at a phone number other than that originally called, including receiving information relayed by an intermediary, and either relaying or receiving information over any telephone service other than that authorized by the secretary of corrections for inmate usage;

(5) initiate any call to a party on the inmate's authorized calling list and then permit the telephone to be used by another inmate, whether in speaking to the authorized party or to another party;

(6) use the telephone in furtherance of any illegal activity; or

(7) use the telephone to communicate or attempt to communicate with a minor, unless correspondence with the minor is authorized by K.A.R. 44-12-601.

(b) Except as specified in subsection (a), the use or possession of any telephone or any communication device by an inmate without the permission of the warden or warden's designee shall be prohibited.

(c) For purposes of this regulation, "minor" shall mean a person under the age of 18.

(d) Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2013 Supp. 75-5210; effective July 13, 2007; amended June 20, 2014.)

44-12-212. Accessing unauthorized computer-based information; unauthorized computer communications. (a) No inmate shall perform any of the following:

(1) Access, or attempt to access, any information, data, images, or other material residing on or stored in any computer or available through any computer network, unless the information, data, images, or other material has been authorized for inmate access by the secretary of corrections and established and maintained by the information technology division of the department of corrections for that purpose;

(2) communicate or attempt to communicate with a minor through any computer or computer network, unless correspondence with the minor is authorized by K.A.R. 44-12-601; or

(3) communicate or attempt to communicate with any person through use of another inmate's authorized electronic mail account.

(b) For purposes of this regulation, "minor" shall mean a person under the age of 18.

(c) Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2013 Supp. 75-5210; effective July 13, 2007; amended June 20, 2014.)

44-12-601. Mail. (a) Definitions.

(1)(A) "Legal mail" means mail affecting the inmate's right of access to the courts or legal counsel. This term shall be limited to letters between

the inmate and any lawyer, a judge, a clerk of a court, or any intern or employee of a lawyer or law firm, legal clinic, or legal services organization, including legal services for prisoners.

(B) "Official mail" means any mail between an inmate and an official of the state or federal government who has authority to control, or to obtain or conduct an investigation of, the custody or conditions of confinement of the inmate.

(C) "Privileged mail" means any mail between the inmate and the inmate's physician, psychiatrist, psychologist, or other licensed mental health therapist.

(2)(A) "Censor" means to remove or change any part or all of the correspondence or literature.

(B) "Inspect" means to open, shake out, look through, feel, or otherwise check for contraband without reading or censoring. This term shall include any cursory reading necessary to verify that mail is legal or official in nature as permitted by paragraph (f)(3).

(C) "Read" means to read the contents of correspondence or literature to ascertain the content.

(3) "Minor" means a person under the age of 18.

(4) "Bodily substance" means blood, fecal matter, nasal or sinus mucous or secretions, perspiration, saliva, semen, skin or other tissue, sputum, tears, urine, or vaginal secretions.

(b) General provisions.

(1) Each inmate shall comply with the mail procedures and restrictions established by the order of the warden of the facility. Failure to comply with mail procedures or restrictions, or circumventing or attempting to circumvent mail procedures or restrictions by any means, shall be prohibited. The delivery of mail through an employee, volunteer, teacher, or any other person who is not authorized to perform functions related to the established mail-handling system shall be prohibited.

(2) Contraband. Items identified as contraband shall be dealt with as provided in subsection (d) and then either returned to the sender at the inmate's expense or destroyed, at the inmate's option. Items illegal under Kansas or U.S. federal law shall be seized and held as evidence for other law enforcement officers.

(3) All incoming mail shall identify the inmate recipient by name and inmate identification number.

(4) Violation of mail regulations of the department of corrections, orders of the warden, or the laws of Kansas or the United States may result in additional mail restrictions upon the offender that are sufficient to prevent the continuation or reoccurrence of the violation.

(5) All funds sent for deposit to an inmate's trust account shall be in the form of an electronic funds transfer sent through an entity under contract with the department of corrections to conduct those transactions. These funds shall be sent to the centralized banking location or individual work release location designated by the secretary. All other funds sent for deposit to an inmate's trust account, other than governmental checks, warrants, and worker's compensation benefit checks, shall be returned immediately to the sender, and the intended inmate recipient shall be so notified in writing, without need of formal censorship. Except for correspondence qualifying as legal mail in which funds are enclosed in an envelope clearly marked as such, correspondence or other material sent with funds shall not be forwarded and shall be discarded.

(6) Any incoming or outgoing mail other than legal, official, or privileged mail may be inspected or read at any time.

(7) Incoming mail addressed solely to a specific inmate and not otherwise subject to censorship shall be delivered regardless of whether the mail is sent free of charge or at a reduced rate. All incoming mail shall nonetheless bear the sender's name and address on the envelope, or this mail shall not be delivered and shall be immediately destroyed.

(8) Any outgoing first-class letters may be sent to as many people and to whomever the inmate chooses, subject to the restrictions in this regulation.

(9) Outgoing inmate mail shall bear the full conviction name, inmate number, and address of the sender, and the name and address of the intended recipient. No other words, drawings, or messages shall be placed on the outside of the envelope or package by an inmate except words describing the mail as being legal, official, privileged, or intended to aid postal officials in delivery of the item. Outgoing inmate mail shall be stamped by the facility to indicate that it was mailed from a facility operated by the department of corrections and that it has not been censored.

(10) Inmates shall not correspond with any person, either directly or through third parties, who has filed a written objection to the correspondence with the director of victim services in the

department of corrections central office. The director of victim services in the department of corrections central office shall notify the warden of the facility where the offender is incarcerated of any written objections to correspondence sent by the offender within three business days of its receipt.

(A) The inmate shall be notified of the objection in writing when it is received, but shall not be required to be informed of the exact contents of the objection.

(B) Orders shall be developed by the warden of each facility to prevent further correspondence from being sent to those who have filed an objection.

(C) This regulation shall not prevent an inmate from writing to the inmate's natural or adoptive child, unless the child was the victim of the crime for which the inmate is incarcerated, the person having legal custody of the child files a written objection with the director of victim services in the department of corrections central office, and the inmate has not obtained a court order permitting this written communication with the child. The director of victim services in the department of corrections shall inform the warden of the facility where the inmate is assigned of any objection from the person having legal custody of the child within three business days of its receipt.

(11)(A) No inmate shall correspond with a minor, either directly or through any third party, unless one of the following conditions is met:

(i) A parent or legal guardian of the minor has filed written authorization for the correspondence between the inmate and the minor with the director of victim services in the department of corrections central office.

(ii) If the minor is the inmate's natural or adoptive child, the correspondence is authorized pursuant to paragraph (b)(10)(C), and the inmate has registered the child by providing the name, date of birth, and address of the natural or adoptive child to the director of victim services.

(B) The director of victim services shall notify the warden of the facility where the inmate is incarcerated of any written authorization for correspondence with a minor who is not the natural or adoptive child of the inmate, as well as the registration information of the inmate's natural or adoptive child.

(12) An inmate shall not mail or attempt to mail any of the following:

(A) Any bodily substance;

(B) a substance represented by the inmate as being a bodily substance; or

(C) a substance that a reasonable person would conclude is a bodily substance.

(c) Legal, official, and privileged mail.

(1) Subject to the provisions of paragraph (f)(3), outgoing privileged, official, or legal mail sent by any inmate shall be opened and read only upon authorization of the warden for good cause shown. However, if any inmate threatens or terrorizes any person through this mail, any subsequent mail, including official or legal mail, from the inmate to the person threatened or terrorized may, at the request of that person, be read and censored for a time period and to the extent necessary to remedy the abuse.

(2) Incoming mail clearly identified as legal, official, or privileged mail shall be opened only in the inmate's presence. This mail shall be inspected for contraband but shall not be read or censored, unless authorized by the warden based upon a documented previous abuse of the right or other good cause.

(3) All legal mail and official mail shall be indefinitely forwarded to the inmate's last known address. If any mail is returned to a facility as undeliverable when sent to the inmate's last known address, the mail shall be returned to the sender with a notice that the mail was forwarded unsuccessfully and is now returned to the sender for further disposition.

(d) Censorship grounds and procedures.

(1) Incoming or outgoing mail, other than legal, official, or privileged mail, may be censored only when there is reasonable belief in any of the following:

(A) There is a threat to institutional safety, order, or security.

(B) There is a threat to the safety and security of public officials or the general public.

(C) The mail is being used in furtherance of illegal activities.

(D) The mail is correspondence between offenders, including any former inmate regardless of current custodial status, that has not been authorized according to subsection (e). Correspondence between offenders may be inspected or read at any time.

(E) The mail contains sexually explicit material, as defined and proscribed by K.A.R. 44-12-313.

(2) If any communication to or from an inmate is censored, all of the following requirements shall be met:

(A) Each inmate shall be given a written notice of the censorship and the reason for the censorship, without disclosing the censored material.

(B) Each inmate shall be given the name and address of the sender of incoming mail, if known, or the addressee of outgoing mail and the date the item was received in the mail room. Notice of the censorship of correspondence by the facility shall be provided to the sender, if known, by staff in the facility's mail room within three business days of the decision to censor.

(C) The author or addressee of the censored correspondence shall have 15 business days from the date of the notice of censorship to protest that decision.

(D) All protests shall be forwarded to the secretary of corrections or the secretary's designee for final review and disposition.

(E) Each inmate shall have the option of having censored correspondence or other materials in their entirety either mailed out at the expense of the inmate or discarded.

(e) Offender correspondence with other offenders.

Offenders sentenced to the custody of the Kansas department of corrections shall not correspond with any person who is in the custody of or under the supervision of any state, federal, county, community corrections, or municipal law enforcement agency, or with any former inmate regardless of current custodial status, unless either of the following conditions is met:

(1) The proposed correspondents are members of the same immediate family or are parties in the same legal action, or one of the persons is a party and the other person is a witness in the same legal action.

(2) Permission for correspondence is granted due to exceptional circumstances. Verification and approval of offender correspondence shall be conducted pursuant to the internal policies and procedures of the department of corrections.

(f) Writing supplies and postage.

(1) Stationery and stamps shall be available for purchase from the inmate canteen.

(2) Indigent inmates, as defined by the internal management policies and procedures of the department of corrections, shall receive reasonable amounts of free writing paper, envelopes, and postage for first-class domestic mail weighing one ounce or less, not to exceed four letters per month.

(3) All postage for legal and official mail shall be paid by the inmate, unless the inmate is indigent, as defined by the internal management policies and procedures of the department of corrections. The cost of postage for legal or official mail paid by the facility on behalf of an indigent inmate shall be deducted from the inmate's funds, if available. Credit for postage for legal and official mail shall be extended to indigent inmates under the terms and conditions of the internal management policies and procedures of the department of corrections. Outgoing legal or official mail sent with postage provided on credit shall be subject to inspection and a cursory reading in the presence of the inmate for the purpose of ascertaining that the mail is indeed legal or official mail, and the inmate shall then be permitted to seal the envelope containing the mail.

(4) The facility shall not pay postage for inmate groups or organizations.

(5) The mailing of postage stamps by an offender shall be prohibited.

(g) Publications.

(1) Inmates may receive books, newspapers, and periodicals as permitted by the internal management policies and procedures of the department of corrections. All books, newspapers, and periodicals shall be purchased through account withdrawal requests. Only books, newspapers, and periodicals received directly from a publisher or a vendor shall be accepted. However, an inmate shall be permitted to receive printed material, including newspaper and magazine clippings, if the material is included as part of a first-class letter that does not exceed one ounce in total weight.

(2) The procedures for censorship of mail listed in subsection (d) shall be used for censorship of publications.

(3) No publication that meets either of the following conditions shall be allowed into the facility:

(A) Contains sexually explicit material, as described in K.A.R. 44-12-313, or is otherwise illegal, in whole or in part; or

(B) meets, in whole or in part, the test for censorship of mail in subsection (d).

(4) Inmates shall have the option of having censored publications in their entirety either mailed out of the facility at their own expense or discarded.

(5) Before transferring between facilities, the inmate shall arrange for a change of address for the inmate's mail, including newspapers and periodicals. Mail, with the exception of legal mail or

official mail, shall not be forwarded for more than 30 days after the date of transfer.

(h) Regulation violation. Each violation of this regulation shall be a class I offense. (Authorized by K.S.A. 2013 Supp. 75-5210, K.S.A. 2013 Supp. 75-5251; implementing K.S.A. 2013 Supp. 75-5210, K.S.A. 2013 Supp. 75-5251, and K.S.A. 75-5256; effective May 1, 1980; amended May 1, 1981; amended May 1, 1984; amended May 1, 1986; amended May 1, 1988; amended April 20, 1992; amended Jan. 3, 1995; amended April 17, 1998; amended Feb. 15, 2002; amended, T-44-3-19-04, March 19, 2004; amended July 2, 2004; amended July 13, 2007; amended June 20, 2014.)

Article 15.—GRIEVANCE PROCEDURE FOR INMATES

44-15-204. Special procedures for sexual abuse grievances; sexual harassment grievances and grievances alleging retaliation for filing same; reports of sexual abuse or sexual harassment submitted by third parties. (a) Definitions. For the purpose of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Sexual abuse of an inmate by another inmate" means any of the following acts if the victim does not consent, is coerced into the act by overt or implied threats of violence, or is unable to consent or refuse:

(A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(B) contact between the mouth and the penis, vulva, or anus;

(C) penetration of the anal or genital opening of another person, however slight, by a hand, finger, or object; or

(D) any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

(2) "Sexual abuse of an inmate by a staff member, contractor, or volunteer" means any of the following acts, with or without the consent of the inmate:

(A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(B) contact between the mouth and the penis, vulva, or anus;

(C) contact between the mouth and any body part if the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(D) penetration of the anal or genital opening, however slight, by a hand, finger, or object, that is unrelated to official duties or if the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(E) any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or if the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(F) any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the acts described in paragraphs (a)(2)(A)-(E);

(G) any display by a staff member, contractor, or volunteer of that individual's uncovered genitalia, buttocks, or breast in the presence of an inmate; or

(H) voyeurism by a staff member, contractor, or volunteer.

(3) "Voyeurism by a staff member, contractor, or volunteer" means an invasion of privacy of an inmate by staff for reasons unrelated to official duties, including peering at an inmate who is using a toilet in the inmate's cell to perform bodily functions; requiring an inmate to expose the inmate's buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

(4) "Sexual harassment" means either of the following:

(A) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed to another; or

(B) repeated verbal comments or gestures of a sexual nature to an inmate by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

(b) Submission of grievances concerning sexual abuse.

(1) Each inmate submitting a grievance concerning sexual abuse alleged to have already occurred shall state that inmate's intentions by writing "Sexual Abuse Grievance" clearly on the grievance form.

(2) Inmates shall not be required to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse by a staff member, contractor, or volunteer, or a grievance in which it is alleged that sexual abuse by another inmate or by a staff member, contractor, or volunteer was the result of staff neglect or violation of responsibilities.

(3) Any inmate may submit a grievance to security staff, a unit team member, or administrative personnel in person or by utilizing the inmate internal mail system.

(4) Any inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint. The grievance shall not be referred to a staff member who is the subject of the complaint.

(c) Warden's response.

(1) Upon receipt of each grievance report form alleging sexual abuse, a serial number shall be assigned by the warden or designee, and the date of receipt shall be indicated on the form by the warden or designee.

(2) Each grievance alleging sexual abuse shall be returned to the inmate, with an answer, within 10 working days from the date of receipt.

(3) Each answer shall contain findings of fact, conclusions drawn, the reasons for those conclusions, and the action taken by the warden. Each answer shall inform the inmate that the inmate may appeal by submitting the appropriate form to the secretary of corrections.

(4) In all cases, the original and one copy of the grievance report shall be returned by the warden to the inmate. The copy shall be retained by the inmate for the inmate's files. The original may be used for appeal to the secretary if the inmate desires. The necessary copies shall be provided by the warden.

(5) A second copy shall be retained by the warden.

(6) Each facility shall maintain a file for grievance reports alleging sexual abuse, with each grievance report indexed by inmate name and coded as a sexual abuse complaint. Grievance report forms shall not be placed in the inmate's institution file.

(7) If no response is received from the warden in the time allowed, any grievance may be sent by an inmate to the secretary of corrections with an explanation of the reason for the delay, if known, with a notation that no response from the warden was received.

(d) Appeal to the secretary of corrections.

(1) If the warden's answer is not satisfactory to the inmate, the inmate may appeal to the secretary's office by indicating on the grievance appeal form exactly what the inmate is displeased with and what action the inmate believes the secretary should take.

(2) The inmate shall send the appeal directly and promptly by U.S. mail to the department of corrections' central office in Topeka.

(3) If an appeal of the warden's decision is made to the secretary, the secretary shall have 20 working days from receipt to return the grievance report form to the inmate with an answer. The answer shall include findings of fact, conclusions made, and actions taken.

(4) If a grievance report form is submitted to the secretary without prior action by the warden, the form may be returned to the warden for further action, at the option of the secretary's designee.

(5) In all cases, a final decision on the merits of any portion of a grievance alleging sexual abuse, or an appeal thereof, shall be issued by the secretary within 90 days of the initial filing of the grievance.

(6) Computation of the 90-day time period shall not include time taken by inmates in preparing and submitting any administrative appeal.

(7) At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level and may proceed to the next level of appeal.

(8) An appropriate official may be designated by the secretary to prepare the answer.

(e) Imminent sexual abuse.

(1) Each inmate submitting a grievance concerning imminent sexual abuse shall state that inmate's intentions by writing "Emergency Sexual Abuse Grievance" clearly on the grievance form.

(2) Each grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse shall be treated as an emergency grievance under K.A.R. 44-15-106.

(3) After receiving an emergency grievance alleging imminent sexual abuse, the warden or designee shall provide an initial response within 48 hours and shall issue a final decision within five calendar days. The initial response and final decision shall document the determination whether

the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(f) Submission of grievances concerning sexual harassment or concerning retaliation for submission of a report or grievance concerning sexual abuse or harassment.

(1) Each inmate shall be required to use the informal grievance process specified in K.A.R. 44-15-101 and 44-15-102 for grievances concerning sexual harassment or concerning retaliation for submission of a report or grievance concerning sexual abuse or harassment. These grievances shall otherwise be treated and processed according to the ordinary grievance procedure specified in K.A.R. 44-15-101 and 44-15-102.

(2) Any inmate who alleges sexual harassment or retaliation may submit a grievance without submitting it to a staff member who is the subject of the complaint. The grievance shall not be referred to a staff member who is the subject of the complaint.

(3) Each facility shall maintain a file for grievance reports alleging sexual harassment or retaliation for submission of a report or grievance alleging sexual abuse or harassment, with each grievance report indexed by inmate name and coded accordingly. No grievance report form shall be placed in the inmate's institution file.

(g) Time limits.

(1) There shall be no time limit for submission of a grievance regarding an allegation of sexual abuse.

(2) The time limits for any grievance or portion thereof that does not allege an incident of sexual abuse or imminent sexual abuse shall be the limits specified in K.A.R. 44-15-101b.

(h) Third-party submissions.

(1) Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist any inmate in filing requests for administrative remedies relating to allegations of sexual abuse and shall also be permitted to file these requests on behalf of any inmate.

(2) If a third party files such a request on behalf of an inmate, the alleged victim shall agree to have the request filed on behalf of the alleged victim. The alleged victim shall personally pursue any subsequent steps in the administrative remedy process.

(3) If the inmate declines to have the request processed on that individual's behalf, the facility shall document the inmate's decision.

(i) Grievances in bad faith. Any inmate may be disciplined for filing a grievance related to alleged sexual abuse only if it can be demonstrated that the inmate filed the grievance in bad faith. In this instance, a disciplinary report alleging violation of K.A.R. 44-12-303 or 44-12-317, as appropriate, may be issued. (Authorized by and implementing K.S.A. 2012 Supp. 75-5210 and 75-5251; effective, T-44-6-28-13, June 28, 2013; effective Sept. 27, 2013.)