

## 2015 PRESENTENCE INVESTIGATION REPORT (PSI) EXPLAINER

This **highlighted** document is intended to explain the changes to the forms that will go into effect on July 1, 2015. These changes are due in part to the passage of new legislation which will go into effect on that date, while some changes are the result of feedback received from those who use the forms.

Please note that unless specified, the statutory (K.S.A.) references are intended to direct the user to the most current version of the statute. If a K.S.A. 2015 Supp. is referenced, this law is already in effect as of July 1, even though the statute itself has not yet been published.

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- The date has been changed and this PSI is to be used for all crimes *committed* on and after July 1, 2015.
- Item 1 - U.S. Armed Forces Veteran has been removed. K.S.A. 2015 Supp. 21-6630 places the burden on the defendant to raise a request to receive treatment under the U.S. Armed Forces Treatment Eligibility. Therefore, PSI writers have no affirmative duty to inquire as to service in the U.S. Armed Forces.
- Item 6 – “Mandatory Prison as per K.S.A. 21-5703”, although not new law, has been added as it is a unique provision in the sentencing law that requires mandatory prison for those convicted of unlawful manufacture of a controlled substance or analog. Subsection (e) of that statute provides that suspended sentence, community service work and probation are not sentencing options.

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- Item 6 - The Placement Options section has been modified to be consistent with the changes in [2015 HB 2051](#) that amend the requirements for the target population for Community Corrections placement at sentencing. This bill was recommended by the Sentencing Commission to make K.S.A. 2015 Supp. 75-5291 consistent with the recommendations made by the Commission in July 2014 as it relates to cutoff scoring of the LSI-R for probation placement. The effective date for this legislation is May 21, 2015.
- Item 8 - Changes in treatment costs of the SB 123 program necessitated a change in the form to reflect the accurate average reimbursement cost of an assessment. The average assessment fee is \$175 rather than \$200 and the reimbursement fees increased to \$125 from \$100. The total fee remains \$300 if the offender is ordered into treatment. If not and the assessment is completed, only the \$175 assessment fee should be ordered.

### SPECIAL RULES SUPPLEMENT

- Special Rule 26 – The reference to July 1, 2008 has been deleted from the form as it created confusion as to whether the prior possession crimes have to be committed on or after that date. This is not the case. The date was a starting time period that removed eligibility restrictions from the prior convictions to allow a presumptive imprisonment sentence. All prior convictions of possession of controlled substances may be considered for application of the sentencing rule regardless of that date of conviction.

- Special Rule 42 – Not new law, but a rule of criminal history calculation that as of July 1, 2015, Commercial DUI and Felony Test Refusal is added with DUI as a list of offenses that elevate previous convictions, adjudications and diversions of those offenses to **person** felonies when the current crime of conviction is Involuntary Manslaughter by DUI. K.S.A. 21-6811(c).
- Special Rule 44 – This is a *new rule* imposed by [2015 HB 2055](#) for the crime of Aggravated Battery while DUI. It provides for a rule of criminal history calculation that as of July 1, 2015, scores the first prior conviction, adjudication or diversion for DUI, Commercial DUI or Felony Test Refusal as a **nonperson** felony. Second and subsequent prior convictions, adjudications or diversions of these same offenses are scored as **person** felonies. K.S.A. 2015 Supp. 21-6811(c)(3).
- Special Rule 45 – This is a *new rule* imposed by [2015 HB 2048](#), which provides for presumptive prison where the underlying crime is Aggravated Criminal Damage to Property (Scrap Metal) and the offender has a prior conviction for any nonperson felony. The threshold loss for the crime is more than \$5,000. K.S.A. 2015 Supp. 21-6804(w).
- Special Rule 46 – This is not new law, but was recently added to the form. K.S.A. 2015 Supp. 21-6804(m) provides that the sentence for a violation of K.S.A. 22-4903 (Kansas Offender Registration Act) or K.S.A. 2015 Supp. 21-5913(a)(2) (Obstructing Apprehension or Prosecution by harboring, concealing or aiding any person required to register under the Kansas Offender Registration Act), and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence as provided in K.S.A. 2015 Supp. 21-6804(q).

#### OFFENDER REGISTRATION SUPPLEMENT

- This is not new law but K.S.A. 22-4906(i) provides that the court may order an offender to register for a crime not normally requiring registration but only for the duration of the diversion agreement, probation or juvenile offender sentencing order. Please mark the time required to register, if applicable.

#### CRIMINAL HISTORY WORKSHEET

- Item 16 – To provide for Special Rules 41, 42, 44, and 45, which modify the offender’s criminal history score, check boxes have been included to notify the parties to the action of the modified scoring of Leaving the Scene of an Accident, Involuntary Manslaughter by DUI, Aggravated Battery While DUI and Aggravated Criminal Damage to Property due to the amended and new special rule statutes. See Special Rules Supplement section above.