

## **INSTRUCTIONS FOR THE KANSAS SENTENCING GUIDELINES ACT JOURNAL ENTRY OF PROBATION VIOLATION HEARING**

The KSGA Journal Entry of Probation Violation Hearing (PVJE) must be on a form approved by the Kansas Sentencing Commission. K.S.A. 2017 Supp. 22-3426a(c). This form must be used by all felony probation violation proceedings involving crimes committed on or after July 1, 1993. In addition, the court must forward a copy of the Journal Entry of Probation Violation Hearing to the Kansas Sentencing Commission within 30 days of final disposition. K.S.A. 22-3439(b). A copy of the original Journal Entry of Judgment, the Presentence Investigation Report (PSI), and the Criminal History Worksheet should also be attached.

**Please use the most recent version of the PVJE, regardless of the date the crime was committed.**

### **COURT SEAL**

The court's electronic seal may be placed anywhere on the top of the page.

### **SECTION I. CASE IDENTIFYING INFORMATION**

#### **1. TRANSACTION NUMBER**

The Transaction Number is the number located at the top of the Kansas Adult Disposition Report for (KDR). (KBI form CCH-4)

#### **2. STATE v.**

Enter the offender's full name as it appears in the case caption and check the appropriate box indicating Male or Female.

#### **3. COURT O.R.I. NUMBER**

Enter the Court O.R.I. (i.e., the Originating Agency Identification) number. This nine-digit number, in the form XX XXX XX X X, is assigned by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation, and serves to identify all agencies having access to the national communications system. Questions concerning an assigned O.R.I number should be addressed to the Central Repository located at the Kansas Bureau of Investigation, (785) 296-2454.

#### **4. K.B.I. NUMBER**

The K.B.I. Number is the state identification number (SID) assigned to an individual by the Kansas Bureau of Investigation Central Repository upon the individual's first entry into the state criminal history record system. The basis for this number is the number contained on the individual's initial arrest fingerprint card. All subsequent records concerning such individual will be assigned this same number (i.e., it is the identification number listed on an Abstract of Record received from the KBI Central Repository).

**5. COUNTY**

Enter the name of the county in which the motion to revoke was filed.

**6. COURT CASE NUMBER**

Enter the official district court case number in the present case in this box and on top of each additional page.

**7. JUDGE AT VIOLATION HEARING**

Enter the name of the district court judge who presided over the revocation proceeding in the present case.

**8. DATE OF VIOLATION HEARING**

Enter the date that the hearing on the motion to revoke probation was held in the present case.

**9. DEFENSE COUNSEL AT VIOLATION PROCEEDING**

Check the applicable box. Please print the name of Counsel retained or assigned by the Court if applicable.

**10. AGENCY REQUESTING HEARING**

Check the applicable box.

**11. REASON FOR VIOLATION HEARING**

Check the applicable box.

**SECTION II. ORIGINAL CONVICTION AND SENTENCE INFORMATION**

**1. ORIGINAL SENTENCING DATE**

Enter the date of the sentencing for the crime giving rise to probation.

**2. ORIGINAL JOURNAL ENTRY**

The original Journal Entry must be attached to the Probation Violation Journal Entry.

Check this box indicating that the required Journal Entry is attached.

**3. NAME OF ORIGINAL SENTENCING JUDGE**

**4. NAME OF PRIMARY OFFENSE OF CONVICTION**

Enter the descriptive name of the Primary offense (i.e., Attempted Burglary/Dwelling, Possession of Cocaine, etc.). The PRIMARY offense is the most serious on-grid offense of conviction. In this same box, enter the Count Number of the Primary offense.

**5. IF THE CRIME IS A DRUG OFFENSE**

Check the box for the statute in which the drug is listed and write the name of the drug. If the drug crime is drug distribution or possession with intent to distribute, write the

quantity of the drug and, if the crime was committed within 1,000 feet of school property, check the appropriate box.

**6. K.S.A., TITLE, SECTION, SUBSECTION(S)**

Enter the offense of conviction by proper K.S.A. number and also include all applicable subsections (i.e., a severity level 4, aggravated battery would be K.S.A. 2017 Supp. 21-5413.) If applicable, check the appropriate box indicating an attempt, a conspiracy, or a solicitation.

**7. GRADE OF OFFENSE**

Check the appropriate boxes indicating whether the offense is a felony or misdemeanor and insert the appropriate severity level of the felony or class rank of the misdemeanor. Check the appropriate box indicating whether the offense is a person or nonperson offense.

**8. OFFENSE CATEGORY**

Check the appropriate box indicating whether the offense is on the nondrug or drug grid or if it is a nongrid offense.

**9. CRIMINAL HISTORY CLASSIFICATION**

Enter the offender's Criminal History Classification for the Primary offense as found by the sentencing court at the time of the original sentencing.

**10. IMPRISONMENT TERM PRONOUNCED FOR THIS OFFENSE**

Enter the imprisonment term (in months) that was pronounced for the offense at sentencing.

**11. POSTRELEASE SUPERVISION TERM**

If prison term is given, postrelease or parole period must be given. Check the appropriate box indicating the term of postrelease supervision or parole imposed for the offense. K.S.A. 2017 Supp. 22-3717(d)(1)(A), (B), (C).

If no postrelease is given, indicate by checking the "No Postrelease" box, however this will not be an available option for crimes committed on and after July 1, 2013.

For more information on Postrelease Supervision, please see Chapter X.

**12. PROBATION TERM**

Check the box indicating the length of probation that was originally imposed on the offender. If "Other" is checked, enter the number of months of probation in the space provided.

The sentencing court shall order SB 123 offenders to serve a period of probation pursuant to K.S.A. 2017 Supp. 21-6608.

### 13. PRISON TERM

Enter the total period of imprisonment originally pronounced by the sentencing court for all of the offenses of conviction within the case. If the sentencing court has imposed consecutive sentences, enter the total controlling term of imprisonment pronounced.

### CASE NO.

Please indicate the case number.

### SECTION III. VIOLATION SANCTION HISTORY

Please note the change in the terminology of the word “revoke.” Under the framework imposed by 2013 House Bill 2170 and subsequent amendments, a court may no longer revoke and subsequently reinstate probation. Rather, the court may now impose sanctions, lengthen the period of probation or modify the conditions of probation without revocation. “Revocation” now means that the offender is being sent to prison to serve the underlying sentence and will no longer be eligible for reinstatement. For all instances in which the court wants to impose a quick dip or 120/180-day prison sanction, extend the length of probation or modify the conditions of probation, the court should not revoke probation.

**For more information on the graduated sanctions, please see Chapter VIII and the Sentencing Commission website: <http://www.sentencing.ks.gov/hb-2170> and <http://www.sentencing.ks.gov/hb-2170/s-sub-for-hb-2448>.**

**List all of the offender’s prior probation violation sanctions.**

Section III of the PVJE is to be used to **only** record past violation sanctions, **not** the disposition of the current probation violation(s).

In the left column, check whether the offender has received any previous “Quick Dip” county jail sanctions. Quick dips should be 2 or 3 days in length. Write the length of each sanction in the provided space and check whether the court or the offender’s supervising officer imposed each county jail sanction. See K.S.A. 2017 Supp. 22-3716(c).

In the right column, check whether the offender has previously received a 120 or 180-day prison sanction, or both.

In the Comments box, please explain the nature of the previous sanctions. If the offender has previously had any 60-day (or less) county jail sanctions imposed pursuant to K.S.A. 2017 Supp. 21-6604(a)(3) or K.S.A. 2017 Supp. 22-3716(c)(11), please note these in the comments box.

## **SECTION IV. DISPOSITION OF THIS VIOLATION HEARING**

Please use the comment boxes as provided to fully explain the nature of the disposition of this hearing.

### **1. DISPOSITION**

Check the appropriate box for the outcome of the revocation hearing. If no probation violation was determined, check “No Violation Determined.”

#### **• VIOLATIONS DETERMINED, PROBATION NOT REVOKED BUT:**

If the court modified the conditions of the offender’s probation, mark the applicable box or combination of boxes.

*Note: “Assigned to Conservation Camp per K.S.A. 21-6604(g)” and “KDOC Drug Treatment Program (minimum 120 days),” while authorized by statute, are no longer funded and are therefore, no longer available options.*

#### **• VIOLATION DETERMINED, PROBATION REVOKED AND DEFENDANT ORDERED TO SERVE:**

If the defendant’s probation is revoked, check whether the court imposed the original underlying prison sentence or a modified sentence. If the court imposed a modified sentence, write the length of the sentence in the space provided.

If applicable, check the appropriate box if the court bypassed the graduated sanctions and revoked because:

- The offender committed a new crime or absconded from supervision (K.S.A. 2017 Supp. 22-3716(c)(8); OR
- The court found on the record that the safety of the public will be jeopardized or the offender’s welfare will not be served by the graduated sanction. (K.S.A. 2017 Supp. 22-3716(c)(9).
- The offender was on probation due to a dispositional departure (K.S.A. 22-3716(c)(9).

### **2. BIDS FEES ORDERED**

K.S.A. 2017 Supp. 22-4529 requires the court to order a \$100 application fee if an offender enlists the services of a BIDS attorney. This is applicable for each probation revocation. However, this amount may be reduced or waived for “manifest hardship”. K.S.A. 2017 Supp. 22-4513 provides for BIDS attorney fees to be ordered by the court.

### **3. IF PROBATION WAS REVOKED, MODIFIED OR EXTENDED FOR ANY REASON, PLEASE PROVIDE A BRIEF DESCRIPTION OF THE VIOLATION(S)**

If the offender’s probation is revoked, modified, or extended, then briefly describe the nature of the violation or violations.

**4. IF PROBATION WAS MODIFIED OR EXTENDED FOR ANY REASON, PLEASE PROVIDE A BRIEF DESCRIPTION OF ANY NEW CONDITIONS IMPOSED**

If the offender's probation is revoked, modified, or extended, describe any new conditions imposed by the sentencing court (i.e., House Arrest, Jail Time, or Electronic Monitoring, etc.)

Conservation Camps and the KDOC Treatment Program are not available at this time.

**5. INCARCERATION CREDIT**

This box should only be completed if the offender is being revoked to prison.

Enter the number of days of incarceration credit awarded at the original sentencing. Then enter the incarceration credit details for the case from sentencing to present. Enter the location code to indicate the type of location where the offender may have earned incarceration credit while on probation in the current case (to include any KDOC violation sanctions pursuant to K.S.A. 22-3716) and then enter the date range and number of days for which the credit may potentially be awarded. Do this for each separate period of time for which the offender may potentially be awarded credit. For each date range check whether jail credit was "A," actually awarded by the court, or "N," not awarded by the court. From the date ranges and days entered, total the number of days of credit actually awarded while on probation for the current crime and enter that number in the second space provided at the top of the box. Add the number of days of credit awarded at the original sentencing to the total number of days of credit awarded while on probation in the current case to arrive at the total number of days of credit actually awarded.

Enter the revocation date and subtract the "Total Number of Days of Credit Actually Awarded" as determined by the sentencing court, to determine the sentence begins date.

**6. PRIOR CASE(S) TO WHICH THE CURRENT SENTENCE IS TO RUN CONCURRENT OR CONSECUTIVE**

Enter the Case No., County of conviction, and the Sentence Length of each prior case to which the sentencing court has ordered the sentence in the current case to run either concurrent or consecutive, and then also enter whether the prior case is concurrent or consecutive to the sentence in the current case.

**SECTION V. SIGNATURES**

**1. JUDGE'S SIGNATURE**

Provide signature and printed name of the Sentencing Judge, as well as the date the Journal Entry of Probation Violation was signed by the judge.

**2. PROSECUTING ATTORNEY**

Enter the name of the prosecuting attorney, signed and printed; the date the journal entry was signed by the prosecuting attorney; the Supreme Court number of the prosecuting attorney and the prosecuting attorney's address and phone number.

**3. DEFENSE ATTORNEY**

Enter the name of the defense attorney, signed and printed; the date the journal entry was signed by the defense attorney; the Supreme Court number of the defense attorney and the defense attorney's address and phone number.

**ADDITIONAL OFFENSES PAGE**

Make as many copies of this page as needed in order to include all of the offender's additional offenses. The instructions for completion of additional offense pages for additional convictions are identical to that of the Journal Entry of Probation Violation with the exception that the supplemental pages require indication of whether the sentence for each additional crime is to be served concurrent or consecutive to the other counts. The instructions for that particular question are as follows:

**7. CONCURRENT/CONSECUTIVE**

Check the appropriate box indicating, when the sentence was originally imposed, if the sentencing court ordered the offense to run either concurrent or consecutive to any other offense, and enter the other count to which the current offense was ordered to run concurrent or consecutive.