

SENATE BILL No. 183

By Senator Haley

2-7

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to criminal discharge of a firearm; increasing the penalty for violations
3 when a person was present in the dwelling, building, structure or motor
4 vehicle at which the offender discharged a firearm and when a person
5 less than 14 years of age was present in the dwelling, building,
6 structure or motor vehicle at which the offender discharged a firearm;
7 amending K.S.A. 2022 Supp. 21-6308 and 21-6804 and repealing the
8 existing sections.
9

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

11 Section 1. K.S.A. 2022 Supp. 21-6308 is hereby amended to read as
12 follows: 21-6308. (a) Criminal discharge of a firearm is the:

13 (1) Reckless and unauthorized discharge of any firearm *at*:

14 (A) ~~At~~A dwelling, building or structure in which there is a human
15 being, *regardless of* whether the person discharging the firearm knows or
16 has reason to know that there is a human being present;

17 (B) ~~at~~a motor vehicle; *in which there is a human being, regardless of*
18 *whether the person discharging the firearm knows or has reason to know*
19 *that there is a human being present; or*

20 (C) *an* aircraft, watercraft, train, locomotive, railroad car, caboose,
21 rail-mounted work equipment or rolling stock or other means of
22 conveyance of persons, *other than a motor vehicle*, or property in which
23 there is a human being, *regardless of* whether the person discharging the
24 firearm knows or has reason to know that there is a human being present;

25 (2) reckless and unauthorized discharge of any firearm at a dwelling
26 in which there is no human being; or

27 (3) discharge of any firearm:

28 (A) Upon any land or nonnavigable body of water of another, without
29 having obtained permission of the owner or person in possession of such
30 land; or

31 (B) upon or from any public road, public road right-of-way or
32 railroad right-of-way except as otherwise authorized by law.

33 (b) Criminal discharge of a firearm as defined in:

34 (1) Subsection (a)(1) is a:

35 (A) Severity level 7, person felony except as provided in subsection
36 (b)(1)(B) or (b)(1)(C);

1 (B) *severity level 5, person felony if such criminal discharge results*
2 *in bodily harm to a person during the commission thereof; and*

3 (C) *severity level 3, person felony if such criminal discharge results*
4 *in great bodily harm to a person during the commission thereof; or*

5 ~~(C) *severity level 5, person felony if such criminal discharge results*~~
6 ~~*in bodily harm to a person during the commission thereof;*~~

7 (2) subsection (a)(2) is a severity level 8, person felony; and

8 (3) subsection (a)(3) is a class C *nonperson* misdemeanor.

9 (c) Subsection (a)(1) shall not apply if the act is a violation of K.S.A.
10 2022 Supp. 21-5412(d), and amendments thereto.

11 (d) Subsection (a)(3) shall not apply to any of the following:

12 (1) Law enforcement officers, or any person summoned by any such
13 officers to assist in making arrests or preserving the peace while actually
14 engaged in assisting such officer;

15 (2) wardens, superintendents, directors, security personnel and
16 keepers of prisons, penitentiaries, jails and other institutions for the
17 detention of persons accused or convicted of crime, while acting within the
18 scope of their authority;

19 (3) members of the armed services or reserve forces of the United
20 States or the national guard while in the performance of their official duty;

21 (4) watchmen, while actually engaged in the performance of the
22 duties of their employment;

23 (5) private detectives licensed by the state to carry the firearm
24 involved, while actually engaged in the duties of their employment;

25 (6) detectives or special agents regularly employed by railroad
26 companies or other corporations to perform full-time security or
27 investigative service, while actually engaged in the duties of their
28 employment;

29 (7) the state fire marshal, the state fire marshal's deputies or any
30 member of a fire department authorized to carry a firearm pursuant to
31 K.S.A. 31-157, and amendments thereto, while engaged in an investigation
32 in which such fire marshal, deputy or member is authorized to carry a
33 firearm pursuant to K.S.A. 31-157, and amendments thereto; or

34 (8) the United States attorney for the district of Kansas, the attorney
35 general, or any district attorney or county attorney, while actually engaged
36 in the duties of their employment or any activities incidental to such
37 duties; any assistant United States attorney if authorized by the United
38 States attorney for the district of Kansas and while actually engaged in the
39 duties of their employment or any activities incidental to such duties; any
40 assistant attorney general if authorized by the attorney general and while
41 actually engaged in the duties of their employment or any activities
42 incidental to such duties; or any assistant district attorney or assistant
43 county attorney if authorized by the district attorney or county attorney by

1 whom such assistant is employed and while actually engaged in the duties
2 of their employment or any activities incidental to such duties.

3 Sec. 2. K.S.A. 2022 Supp. 21-6804 is hereby amended to read as
4 follows: 21-6804. (a) The provisions of this section shall be applicable to
5 the sentencing guidelines grid for nondrug crimes. The following
6 sentencing guidelines grid shall be applicable to nondrug felony crimes:

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level	3-4 Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3-4 Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	24 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	6 5 4

LEGEND
Presumptive Probation
Presumptive Felony Probation
Presumptive Imprisonment

1
2 (b) Sentences expressed in the sentencing guidelines grid for nondrug
3 crimes represent months of imprisonment.

4 (c) The sentencing guidelines grid is a two-dimensional crime
5 severity and criminal history classification tool. The grid's vertical axis is
6 the crime severity scale which classifies current crimes of conviction. The
7 grid's horizontal axis is the criminal history scale which classifies criminal
8 histories.

9 (d) The sentencing guidelines grid for nondrug crimes as provided in
10 this section defines presumptive punishments for felony convictions,
11 subject to the sentencing court's discretion to enter a departure sentence.
12 The appropriate punishment for a felony conviction should depend on the
13 severity of the crime of conviction when compared to all other crimes and
14 the offender's criminal history.

15 (e) (1) The sentencing court has discretion to sentence at any place
16 within the sentencing range. In the usual case it is recommended that the
17 sentencing judge select the center of the range and reserve the upper and
18 lower limits for aggravating and mitigating factors insufficient to warrant a
19 departure.

20 (2) In presumptive imprisonment cases, the sentencing court shall
21 pronounce the complete sentence which shall include the:

22 (A) Prison sentence;

23 (B) maximum potential reduction to such sentence as a result of good
24 time; and

25 (C) period of postrelease supervision at the sentencing hearing.
26 Failure to pronounce the period of postrelease supervision shall not negate
27 the existence of such period of postrelease supervision.

28 (3) In presumptive nonprison cases, the sentencing court shall
29 pronounce the:

30 (A) Prison sentence; and

31 (B) duration of the nonprison sanction at the sentencing hearing.

32 (f) Each grid block states the presumptive sentencing range for an
33 offender whose crime of conviction and criminal history place such
34 offender in that grid block. If an offense is classified in a grid block below
35 the dispositional line, the presumptive disposition shall be
36 nonimprisonment. If an offense is classified in a grid block above the
37 dispositional line, the presumptive disposition shall be imprisonment. If an
38 offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose
39 an optional nonprison sentence as provided in subsection (q).

40 (g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal,
41 aggravated battery against a law enforcement officer committed prior to
42 July 1, 2006, or a violation of K.S.A. 2022 Supp. 21-5412(d), and
43 amendments thereto, aggravated assault against a law enforcement officer,

1 which places the defendant's sentence in grid block 6-H or 6-I shall be
2 presumed imprisonment. The court may impose an optional nonprison
3 sentence as provided in subsection (q).

4 (h) When a firearm is used to commit any person felony, the
5 offender's sentence shall be presumed imprisonment. The court may
6 impose an optional nonprison sentence as provided in subsection (q).

7 (i) (1) The sentence for the violation of the felony provision of K.S.A.
8 2022 Supp. 21-5414~~(b)(3)(c)(1)(C)~~, 21-5823(b)(3) and (b)(4), 21-6412 and
9 21-6416, and amendments thereto, shall be as provided by the specific
10 mandatory sentencing requirements of that section and shall not be subject
11 to the provisions of this section or K.S.A. 2022 Supp. 21-6807, and
12 amendments thereto.

13 (2) If because of the offender's criminal history classification the
14 offender is subject to presumptive imprisonment or if the judge departs
15 from a presumptive probation sentence and the offender is subject to
16 imprisonment, the provisions of this section and K.S.A. 2022 Supp. 21-
17 6807, and amendments thereto, shall apply and the offender shall not be
18 subject to the mandatory sentence as provided in K.S.A. 2022 Supp. 21-
19 5823, and amendments thereto.

20 (3) Notwithstanding the provisions of any other section, the term of
21 imprisonment imposed for the violation of the felony provision of K.S.A.
22 2022 Supp. 21-5414~~(b)(3)(c)(1)(C)~~, 21-5823(b)(3) and (b)(4), 21-6412 and
23 21-6416, and amendments thereto, shall not be served in a state facility in
24 the custody of the secretary of corrections. Prior to imposing any sentence
25 pursuant to this subsection, the court may consider assigning the defendant
26 to a house arrest program pursuant to K.S.A. 2022 Supp. 21-6609, and
27 amendments thereto.

28 (j) (1) The sentence for any persistent sex offender whose current
29 convicted crime carries a presumptive term of imprisonment shall be
30 double the maximum duration of the presumptive imprisonment term. The
31 sentence for any persistent sex offender whose current conviction carries a
32 presumptive nonprison term shall be presumed imprisonment and shall be
33 double the maximum duration of the presumptive imprisonment term.

34 (2) Except as otherwise provided in this subsection, as used in this
35 subsection, "persistent sex offender" means a person who:

36 (A) (i) Has been convicted in this state of a sexually violent crime, as
37 defined in K.S.A. 22-3717, and amendments thereto; and

38 (ii) at the time of the conviction under ~~subsection (j)(2)(A)(i) clause~~
39 (i) has at least one conviction for a sexually violent crime, as defined in
40 K.S.A. 22-3717, and amendments thereto, in this state or comparable
41 felony under the laws of another state, the federal government or a foreign
42 government; or

43 (B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,

1 prior to its repeal, or K.S.A. 2022 Supp. 21-5503, and amendments
2 thereto; and

3 (ii) at the time of the conviction under ~~subsection (j)(2)(B)(i)~~ *clause*
4 (i) has at least one conviction for rape in this state or comparable felony
5 under the laws of another state, the federal government or a foreign
6 government.

7 (3) Except as provided in subsection (j)(2)(B), the provisions of this
8 subsection shall not apply to any person whose current convicted crime is
9 a severity level 1 or 2 felony.

10 (k) (1) If it is shown at sentencing that the offender committed any
11 felony violation for the benefit of, at the direction of, or in association with
12 any criminal street gang, with the specific intent to promote, further or
13 assist in any criminal conduct by gang members, the offender's sentence
14 shall be presumed imprisonment. The court may impose an optional
15 nonprison sentence as provided in subsection (q).

16 (2) As used in this subsection, "criminal street gang" means any
17 organization, association or group of three or more persons, whether
18 formal or informal, having as one of its primary activities:

19 (A) The commission of one or more person felonies; or

20 (B) the commission of felony violations of article 57 of chapter 21 of
21 the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010
22 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony
23 violation of any provision of the uniform controlled substances act prior to
24 July 1, 2009; and

25 (C) its members have a common name or common identifying sign or
26 symbol; and

27 (D) its members, individually or collectively, engage in or have
28 engaged in the commission, attempted commission, conspiracy to commit
29 or solicitation of two or more person felonies or felony violations of article
30 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
31 thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their
32 transfer, any felony violation of any provision of the uniform controlled
33 substances act prior to July 1, 2009, or any substantially similar offense
34 from another jurisdiction.

35 (l) Except as provided in subsection (o), the sentence for a violation
36 of K.S.A. 2022 Supp. 21-5807(a)(1), and amendments thereto, or any
37 attempt or conspiracy, as defined in K.S.A. 2022 Supp. 21-5301 and 21-
38 5302, and amendments thereto, to commit such offense, when such person
39 being sentenced has a prior conviction for a violation of K.S.A. 21-3715(a)
40 or (b), prior to its repeal, 21-3716, prior to its repeal, K.S.A. 2022 Supp.
41 21-5807(a)(1) or (a)(2) or 21-5807(b), and amendments thereto, or any
42 attempt or conspiracy to commit such offense, shall be presumptive
43 imprisonment.

1 (m) The sentence for a violation of K.S.A. 22-4903 or K.S.A. 2022
2 Supp. 21-5913(a)(2), and amendments thereto, shall be presumptive
3 imprisonment. If an offense under such sections is classified in grid blocks
4 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison
5 sentence as provided in subsection (q).

6 (n) The sentence for a violation of criminal deprivation of property, as
7 defined in K.S.A. 2022 Supp. 21-5803, and amendments thereto, when
8 such property is a motor vehicle, and when such person being sentenced
9 has any combination of two or more prior convictions of K.S.A. 21-
10 3705(b), prior to its repeal, or of criminal deprivation of property, as
11 defined in K.S.A. 2022 Supp. 21-5803, and amendments thereto, when
12 such property is a motor vehicle, shall be presumptive imprisonment. Such
13 sentence shall not be considered a departure and shall not be subject to
14 appeal.

15 (o) (I) The sentence for a felony violation of theft of property as
16 defined in K.S.A. 2022 Supp. 21-5801, and amendments thereto, or
17 burglary as defined in K.S.A. 2022 Supp. 21-5807(a), and amendments
18 thereto, when such person being sentenced has no prior convictions for a
19 violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of
20 property as defined in K.S.A. 2022 Supp. 21-5801, and amendments
21 thereto, or burglary as defined in K.S.A. 2022 Supp. 21-5807(a), and
22 amendments thereto; or the sentence for a felony violation of theft of
23 property as defined in K.S.A. 2022 Supp. 21-5801, and amendments
24 thereto, when such person being sentenced has one or two prior felony
25 convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior
26 to their repeal, or theft of property as defined in K.S.A. 2022 Supp. 21-
27 5801, and amendments thereto, or burglary or aggravated burglary as
28 defined in K.S.A. 2022 Supp. 21-5807, and amendments thereto; or the
29 sentence for a felony violation of burglary as defined in K.S.A. 2022 Supp.
30 21-5807(a), and amendments thereto, when such person being sentenced
31 has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715
32 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A.
33 2022 Supp. 21-5801, and amendments thereto, or burglary or aggravated
34 burglary as defined in K.S.A. 2022 Supp. 21-5807, and amendments
35 thereto, shall be the sentence as provided by this section, except that the
36 court may order an optional nonprison sentence for a defendant to
37 participate in a drug treatment program, including, but not limited to, an
38 approved aftercare plan, if the court makes the following findings on the
39 record:

40 (1)(A) Substance abuse was an underlying factor in the commission
41 of the crime;

42 (2)(B) substance abuse treatment in the community is likely to be
43 more effective than a prison term in reducing the risk of offender

1 recidivism; and

2 ~~(3)~~(C) participation in an intensive substance abuse treatment
3 program will serve community safety interests.

4 (2) A defendant sentenced to an optional nonprison sentence under
5 this subsection shall be supervised by community correctional services.
6 The provisions of K.S.A. 2022 Supp. 21-6824(f)(1), and amendments
7 thereto, shall apply to a defendant sentenced under this subsection. The
8 sentence under this subsection shall not be considered a departure and
9 shall not be subject to appeal.

10 (p) (1) The sentence for a felony violation of theft of property as
11 defined in K.S.A. 2022 Supp. 21-5801, and amendments thereto, when
12 such person being sentenced has any combination of three or more prior
13 felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716,
14 prior to their repeal, or theft of property as defined in K.S.A. 2022 Supp.
15 21-5801, and amendments thereto, or burglary or aggravated burglary as
16 defined in K.S.A. 2022 Supp. 21-5807, and amendments thereto; or the
17 sentence for a violation of burglary as defined in K.S.A. 2022 Supp. 21-
18 5807(a), and amendments thereto, when such person being sentenced has
19 any combination of two or more prior convictions for violations of K.S.A.
20 21-3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as
21 defined in K.S.A. 2022 Supp. 21-5801, and amendments thereto, or
22 burglary or aggravated burglary as defined in K.S.A. 2022 Supp. 21-5807,
23 and amendments thereto, shall be presumed imprisonment and the
24 defendant shall be sentenced to prison as provided by this section, except
25 that the court may recommend that an offender be placed in the custody of
26 the secretary of corrections, in a facility designated by the secretary to
27 participate in an intensive substance abuse treatment program, upon
28 making the following findings on the record:

29 ~~(+)~~(A) Substance abuse was an underlying factor in the commission
30 of the crime;

31 ~~(2)~~(B) substance abuse treatment with a possibility of an early release
32 from imprisonment is likely to be more effective than a prison term in
33 reducing the risk of offender recidivism; and

34 ~~(3)~~(C) participation in an intensive substance abuse treatment
35 program with the possibility of an early release from imprisonment will
36 serve community safety interests by promoting offender reformation.

37 (2) The intensive substance abuse treatment program shall be
38 determined by the secretary of corrections, but shall be for a period of at
39 least four months. Upon the successful completion of such intensive
40 treatment program, the offender shall be returned to the court and the court
41 may modify the sentence by directing that a less severe penalty be
42 imposed in lieu of that originally adjudged within statutory limits. If the
43 offender's term of imprisonment expires, the offender shall be placed

1 under the applicable period of postrelease supervision. The sentence under
2 this subsection shall not be considered a departure and shall not be subject
3 to appeal.

4 (q) (I) As used in this section, an "optional nonprison sentence" is a
5 sentence which the court may impose, in lieu of the presumptive sentence,
6 upon making the following findings on the record:

7 (1)(A) An appropriate treatment program exists which is likely to be
8 more effective than the presumptive prison term in reducing the risk of
9 offender recidivism; and

10 (2)(B) the recommended treatment program is available and the
11 offender can be admitted to such program within a reasonable period of
12 time; or

13 (3)(C) the nonprison sanction will serve community safety interests
14 by promoting offender reformation.

15 (2) Any decision made by the court regarding the imposition of an
16 optional nonprison sentence shall not be considered a departure and shall
17 not be subject to appeal.

18 (r) The sentence for a violation of K.S.A. 2022 Supp. 21-5413(c)(2),
19 and amendments thereto, shall be presumptive imprisonment and shall be
20 served consecutively to any other term or terms of imprisonment imposed.
21 Such sentence shall not be considered a departure and shall not be subject
22 to appeal.

23 (s) The sentence for a violation of K.S.A. 2022 Supp. 21-5512, and
24 amendments thereto, shall be presumptive imprisonment. Such sentence
25 shall not be considered a departure and shall not be subject to appeal.

26 (t) (1) If the trier of fact makes a finding beyond a reasonable doubt
27 that an offender wore or used ballistic resistant material in the commission
28 of, or attempt to commit, or flight from any felony, in addition to the
29 sentence imposed pursuant to the Kansas sentencing guidelines act, the
30 offender shall be sentenced to an additional 30 months' imprisonment.

31 (2) The sentence imposed pursuant to ~~subsection (t)(1) paragraph (1)~~
32 shall be presumptive imprisonment and shall be served consecutively to
33 any other term or terms of imprisonment imposed. Such sentence shall not
34 be considered a departure and shall not be subject to appeal.

35 (3) As used in this subsection, "ballistic resistant material" means
36 any:

37 (A) ~~any~~ Commercially produced material designed with the purpose
38 of providing ballistic and trauma protection, including, but not limited to,
39 bulletproof vests and kevlar vests; and

40 (B) ~~any~~ homemade or fabricated substance or item designed with the
41 purpose of providing ballistic and trauma protection.

42 (u) The sentence for a violation of K.S.A. 2022 Supp. 21-6107, and
43 amendments thereto, or any attempt or conspiracy, as defined in K.S.A.

1 2022 Supp. 21-5301 and 21-5302, and amendments thereto, to commit
2 such offense, when such person being sentenced has a prior conviction for
3 a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2022 Supp. 21-
4 6107, and amendments thereto, or any attempt or conspiracy to commit
5 such offense, shall be presumptive imprisonment. Such sentence shall not
6 be considered a departure and shall not be subject to appeal.

7 (v) The sentence for a third or subsequent violation of K.S.A. 8-1568,
8 and amendments thereto, shall be presumptive imprisonment and shall be
9 served consecutively to any other term or terms of imprisonment imposed.
10 Such sentence shall not be considered a departure and shall not be subject
11 to appeal.

12 (w) The sentence for aggravated criminal damage to property as
13 defined in K.S.A. 2022 Supp. 21-5813(b), and amendments thereto, when
14 such person being sentenced has a prior conviction for any nonperson
15 felony shall be presumptive imprisonment. Such sentence shall not be
16 considered a departure and shall not be subject to appeal.

17 (x) The sentence for a violation of K.S.A. 2022 Supp. 21-5807(a)(1),
18 and amendments thereto, shall be presumptive imprisonment if the offense
19 under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such
20 sentence shall not be considered a departure and shall not be subject to
21 appeal.

22 (y) (1) Except as provided in ~~subsection (y)(3) paragraph (3)~~, if the
23 trier of fact makes a finding beyond a reasonable doubt that an offender
24 committed a nondrug felony offense, or any attempt or conspiracy, as
25 defined in K.S.A. 2022 Supp. 21-5301 and 21-5302, and amendments
26 thereto, to commit a nondrug felony offense, against a law enforcement
27 officer, as defined in K.S.A. 2022 Supp. 21-5111(p)(1) and (3), and
28 amendments thereto, while such officer was engaged in the performance of
29 such officer's duty, or in whole or in any part because of such officer's
30 status as a law enforcement officer, the sentence for such offense shall be:

31 (A) If such offense is classified in severity level 2 through 10, one
32 severity level above the appropriate level for such offense; and

33 (B) (i) if such offense is classified in severity level 1, except as
34 otherwise provided in ~~subsection (y)(1)(B)(ii) clause (ii)~~, imprisonment for
35 life, and such offender shall not be eligible for probation or suspension,
36 modification or reduction of sentence. In addition, such offender shall not
37 be eligible for parole prior to serving 25 years' imprisonment, and such 25
38 years' imprisonment shall not be reduced by the application of good time
39 credits. No other sentence shall be permitted.

40 (ii) The provisions of ~~subsection (y)(1)(B)(i) clause (i)~~ requiring the
41 court to impose a mandatory minimum term of imprisonment of 25 years
42 shall not apply if the court finds the offender, because of the offender's
43 criminal history classification, is subject to presumptive imprisonment and

1 the sentencing range exceeds 300 months. In such case, the offender is
2 required to serve a mandatory minimum term equal to the sentence
3 established pursuant to the sentencing range.

4 (2) The sentence imposed pursuant to ~~subsection (y)(1)~~ *paragraph*
5 *(1)* shall not be considered a departure and shall not be subject to appeal.

6 (3) The provisions of this subsection shall not apply to an offense
7 described in ~~subsection (y)(1)~~ *paragraph (1)* if the factual aspect
8 concerning a law enforcement officer is a statutory element of such
9 offense.

10 (z) (1) *The sentence for a violation of K.S.A. 2022 Supp. 21-6308(a)*
11 *(1)(A) or (B), and amendments thereto, if the trier of fact makes a finding*
12 *beyond a reasonable doubt that the offender discharged a firearm and that*
13 *the offender knew or reasonably should have known that:*

14 (A) *A person was present in the dwelling, building, structure or motor*
15 *vehicle at which the offender discharged a firearm, shall be presumptive*
16 *imprisonment and, in addition to the sentence imposed pursuant to the*
17 *Kansas sentencing guidelines act, the offender shall be sentenced to an*
18 *additional 60 months of imprisonment; and*

19 (B) *a person less than 14 years of age was present in the dwelling,*
20 *building, structure or motor vehicle at which the offender discharged a*
21 *firearm, shall be presumptive imprisonment and, in addition to the*
22 *sentence imposed pursuant to the Kansas sentencing guidelines act, the*
23 *offender shall be sentenced to an additional 120 months of imprisonment.*

24 (2) *The sentence imposed pursuant to paragraph (1) shall be served*
25 *consecutively to any other term or terms of imprisonment imposed. Such*
26 *sentence shall not be considered a departure and shall not be subject to*
27 *appeal.*

28 Sec. 3. K.S.A. 2022 Supp. 21-6308 and 21-6804 are hereby repealed.

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