

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Corrections and Juvenile Justice** recommends **HB 2321** be amended on page 1, by striking all in lines 11 through 36;

On page 2, by striking all in lines 1 through 7;

And by renumbering the sections accordingly;

Also, on page 2, in line 11, by striking "Sections 1 and 2" and inserting "Section 1";

On page 5, by striking all in lines 20 through 43;

On page 6, by striking all in lines 1 through 32; following line 32, by inserting:

"Sec. 6. Section 11 of chapter 136 of the 2010 Session Laws of Kansas is hereby amended as follows: Sec. 11. The following definitions shall apply when the words and phrases defined are used in this code, except when a particular context clearly requires a different meaning.

(a) "Act" includes a failure or omission to take action.

(b) "Another" means a person or persons as defined in this code other than the person whose act is claimed to be criminal.

(c) "Conduct" means an act or a series of acts, and the accompanying mental state.

(d) "Conviction" includes a judgment of guilt entered upon a plea of guilty.

(e) "Deception" means knowingly creating or reinforcing a false impression, including false impressions as to law, value, intention or other state of mind. Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that such person did not subsequently perform the promise. Falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive reasonable persons, is not deception.

(f) "Deprive permanently" means to:

(1) Take from the owner the possession, use or benefit of property, without an intent to restore the same;

(2) retain property without intent to restore the same or with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or

(3) sell, give, pledge or otherwise dispose of any interest in property or subject it to the claim of a person other than the owner.

(g) "Distribute" means the actual or constructive transfer from one person to another of some item whether or not there is an agency relationship. "Distribute" includes, but is not limited to, sale, offer for sale, furnishing, buying for, delivering, giving, or any act that causes or is intended to cause some item to be transferred from one person to another. "Distribute" does not include acts of administering, dispensing or prescribing a controlled substance as authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act, or otherwise authorized by law.

(h) "DNA" means deoxyribonucleic acid.

(i) "Domestic violence" means an act or threatened act of violence against a person with whom the offender is involved or has been involved in a dating relationship, or an act or threatened act of violence against a family or household member by a family or household member. Domestic violence also includes any other crime committed against a person or against property, or any municipal ordinance violation against a person or against property, when directed against a person with whom the offender is involved or has been involved in a dating relationship or when directed against a family or household member by a family or household member. For the purposes of this definition:

(1) "Dating relationship" means a social relationship of a romantic nature. In addition to any other factors the court deems relevant, the trier of fact may consider the following when making a determination of whether a relationship exists or existed: Nature of the relationship, length of time the

relationship existed, frequency of interaction between the parties and time since termination of the relationship, if applicable.

(2) "Family or household member" means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.

(j) "Domestic violence offense" means any crime committed whereby the underlying factual basis includes an act of domestic violence.

(k) "Dwelling" means a building or portion thereof, a tent, a vehicle or other enclosed space which is used or intended for use as a human habitation, home or residence.

(l) "Expungement" means the sealing of records such that the records are unavailable except to the petitioner and criminal justice agencies as provided by K.S.A. 22-4701 et seq., and amendments thereto, and except as provided in this act.

~~(m) "Firearm" means any weapon designed or having the capacity to propel a projectile by force of an explosion or combustion, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive. "Firearm" does not include an antique firearm. "Antique firearm" means:~~

(1) Any firearm, including any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system, manufactured in or before 1898;

(2) any replica of any firearm described in subsection (m)(1) if such replica: (A) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or (B) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and

which is not readily available in the ordinary channels of commercial trade; and

(3) any muzzle loading rifle, muzzle loading shotgun or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this paragraph, "antique firearm" shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock or any combination thereof.

~~(n)~~(n) "Forcible felony" includes any treason, murder, voluntary manslaughter, rape, robbery, burglary, arson, kidnapping, aggravated battery, aggravated sodomy and any other felony which involves the use or threat of physical force or violence against any person;

~~(m)~~(o) "Intent to defraud" means an intention to deceive another person, and to induce such other person, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property.

~~(n)~~(p) "Law enforcement officer" means:

(1) Any person who by virtue of such person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes;

(2) any officer of the Kansas department of corrections or, for the purposes of ~~sections~~ section 47 and subsection (d) of section 48 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, any employee of the Kansas department of corrections;

(3) any university police officer or campus police officer, as defined in K.S.A. 22-2401a, and amendments thereto.

~~(e)~~(q) "Obtain" means to bring about a transfer of interest in or possession of property, whether to the offender or to another.

~~(p)~~(r) "Obtains or exerts control" over property includes, but is not limited to, the taking, carrying away, sale, conveyance, transfer of title to, interest in, or possession of property.

~~(q)~~(s) "Owner" means a person who has any interest in property.

~~(r)~~(t) "Person" means an individual, public or private corporation, government, partnership, or unincorporated association.

~~(s)~~(u) "Personal property" means goods, chattels, effects, evidences of rights in action and all written instruments by which any pecuniary obligation, or any right or title to property real or personal, shall be created, acknowledged, assigned, transferred, increased, defeated, discharged, or dismissed.

~~(t)~~(v) "Possession" means having joint or exclusive control over an item with knowledge of or intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control.

~~(u)~~(w) "Property" means anything of value, tangible or intangible, real or personal.

~~(v)~~(x) "Prosecution" means all legal proceedings by which a person's liability for a crime is determined.

~~(w)~~(y) "Prosecutor" means the same as prosecuting attorney in K.S.A. 22-2202, and amendments thereto.

~~(x)~~(z) "Public employee" is a person employed by or acting for the state or by or for a county, municipality or other subdivision or governmental instrumentality of the state for the purpose of exercising their respective powers and performing their respective duties, and who is not a "public officer."

~~(y)~~(aa) "Public officer" includes the following, whether elected or appointed:

(1) An executive or administrative officer of the state, or a county, municipality or other subdivision or governmental instrumentality of or within the state;

(2) a member of the legislature or of a governing board of a county, municipality, or other

subdivision of or within the state;

(3) a judicial officer, which shall include a judge of the district court, juror, master or any other person appointed by a judge or court to hear or determine a cause or controversy;

(4) a hearing officer, which shall include any person authorized by law or private agreement, to hear or determine a cause or controversy and who is not a judicial officer;

(5) a law enforcement officer; and

(6) any other person exercising the functions of a public officer under color of right.

~~(z)~~(bb) "Real property" or "real estate" means every estate, interest, and right in lands, tenements and hereditaments.

~~(aa)~~(cc) "Solicit" or "solicitation" means to command, authorize, urge, incite, request or advise another to commit a crime.

~~(bb)~~(dd) "State" or "this state" means the state of Kansas and all land and water in respect to which the state of Kansas has either exclusive or concurrent jurisdiction, and the air space above such land and water. "Other state" means any state or territory of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

~~(ee)~~(ee) "Stolen property" means property over which control has been obtained by theft.

~~(dd)~~(ff) "Threat" means a communicated intent to inflict physical or other harm on any person or on property.

~~(ee)~~(gg) "Written instrument" means any paper, document or other instrument containing written or printed matter or the equivalent thereof, used for purposes of reciting, embodying, conveying or recording information, and any money, token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.";

On page 10, by striking all in lines 15 through 43;

By striking all on page 11;

On page 12, by striking all in lines 1 through 7;

On page 14, by striking all in lines 28 through 43;

On page 15, by striking all in lines 1 through 9;

On page 17, by striking all in lines 31 through 43;

By striking all on page 18;

On page 19, by striking all in lines 1 through 22;

On page 26, in line 14, after "K.S.A." by inserting "2009 Supp. 21-3110, as amended by section 5 of chapter 101 of the 2010 Session Laws of Kansas, and K.S.A."; in line 15, by striking "34," and inserting "11,"; also in line 15, by striking "68, 71,"; in line 16, by striking "93,"; also in line 16, by striking "136,";

On page 1, in the title, in line 1, by striking "crimes" and inserting "crime"; in line 2, by striking "armed criminal action and"; in line 4, by striking "34," and inserting "11,"; also in line 4, by striking "68, 71,"; in line 5, by striking "93,"; also in line 5, by striking "136," where it appears the first time; in line 7, after "repealing" by inserting "K.S.A. 2009 Supp. 21-3110, as amended by section 5 of chapter 101 of the 2010 Session Laws of Kansas, and "; and the bill be passed as amended.

Chairperson