

**HOUSE BILL No. 2092**

By Committee on Corrections and Juvenile Justice

1-18

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to ~~loss values; warrants, disclosure of affidavits or sworn testimony;~~  
3 ~~conditions of probation, revocation;~~ amending K.S.A. 2016 Supp. ~~21-~~  
4 ~~5417, 21-5802, 21-5813, 21-5821, 21-5825, 21-5828, 21-5830, 21-~~  
5 ~~5927, 21-6002, 21-6004, 21-6005 and, 21-6205, 22-2302 and 22-3716~~  
6 and repealing the existing sections.

7  
8 *Be it enacted by the Legislature of the State of Kansas:*

9 ~~Section 1. K.S.A. 2016 Supp. 21-5417 is hereby amended to read as~~  
10 ~~follows: 21-5417. (a) Mistreatment of a dependent adult is knowingly~~  
11 ~~committing one or more of the following acts:~~

12 ~~(1) Infliction of physical injury, unreasonable confinement or~~  
13 ~~unreasonable punishment upon a dependent adult;~~

14 ~~(2) taking the personal property or financial resources of a dependent~~  
15 ~~adult for the benefit of the defendant or another person by taking control,~~  
16 ~~title, use or management of the personal property or financial resources of~~  
17 ~~a dependent adult through:~~

18 ~~(A) Undue influence, coercion, harassment, duress, deception, false~~  
19 ~~representation, false pretense or without adequate consideration to such~~  
20 ~~dependent adult;~~

21 ~~(B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et~~  
22 ~~seq., and amendments thereto; or~~

23 ~~(C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et~~  
24 ~~seq., and amendments thereto; or~~

25 ~~(3) omission or deprivation of treatment, goods or services that are~~  
26 ~~necessary to maintain physical or mental health of such dependent adult.~~

27 ~~(b) Mistreatment of an elder person is knowingly committing one or~~  
28 ~~more of the following acts:~~

29 ~~(1) Taking the personal property or financial resources of an elder~~  
30 ~~person for the benefit of the defendant or another person by taking control,~~  
31 ~~title, use or management of the personal property or financial resources of~~  
32 ~~an elder person through:~~

33 ~~(A) Undue influence, coercion, harassment, duress, deception, false~~  
34 ~~representation, false pretense or without adequate consideration to such~~

1 ~~elder person;~~

2 ~~(B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et~~  
3 ~~seq., and amendments thereto; or~~

4 ~~(C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et~~  
5 ~~seq., and amendments thereto; or~~

6 ~~(2) omission or deprivation of treatment, goods or services that are~~  
7 ~~necessary to maintain physical or mental health of such elder person;~~

8 ~~(e) Mistreatment of a dependent adult as defined in:~~

9 ~~(1) Subsection (a)(1) is a severity level 5, person felony;~~

10 ~~(2) subsection (a)(2) if the aggregate amount of the value of the~~  
11 ~~personal property or financial resources is:~~

12 ~~(A) \$1,000,000 or more is a severity level 2, person felony;~~

13 ~~(B) at least \$250,000 but less than \$1,000,000 is a severity level 3,~~  
14 ~~person felony;~~

15 ~~(C) at least \$100,000 but less than \$250,000 is a severity level 4,~~  
16 ~~person felony;~~

17 ~~(D) at least \$25,000 but less than \$100,000 is a severity level 5,~~  
18 ~~person felony;~~

19 ~~(E) at least \$1,000 \$1,500 but less than \$25,000 is a severity level 7,~~  
20 ~~person felony;~~

21 ~~(F) less than \$1,000 \$1,500 is a class A person misdemeanor, except~~  
22 ~~as provided in subsection (e)(2)(G); and~~

23 ~~(G) less than \$1,000 \$1,500 and committed by a person who has,~~  
24 ~~within five years immediately preceding commission of the crime, been~~  
25 ~~convicted of mistreatment of a dependent adult two or more times is a~~  
26 ~~severity level 7, person felony; and~~

27 ~~(3) subsection (a)(3) is a severity level 8, person felony;~~

28 ~~(d) Mistreatment of an elder person as defined in:~~

29 ~~(1) Subsection (b)(1) if the aggregate amount of the value of the~~  
30 ~~personal property or financial resources is:~~

31 ~~(A) \$1,000,000 or more is a severity level 2, person felony;~~

32 ~~(B) at least \$250,000 but less than \$1,000,000 is a severity level 3,~~  
33 ~~person felony;~~

34 ~~(C) at least \$100,000 but less than \$250,000 is a severity level 4,~~  
35 ~~person felony;~~

36 ~~(D) at least \$25,000 but less than \$100,000 is a severity level 5,~~  
37 ~~person felony;~~

38 ~~(E) at least \$5,000 but less than \$25,000 is a severity level 7, person~~  
39 ~~felony;~~

40 ~~(F) less than \$5,000 is a class A person misdemeanor, except as~~  
41 ~~provided in subsection (d)(1)(G); and~~

42 ~~(G) less than \$5,000 and committed by a person who has, within five~~  
43 ~~years immediately preceding commission of the crime, been convicted of~~

~~1 mistreatment of an elder person two or more times is a severity level 7;  
2 person felony; and~~

~~3 (2) subsection (b)(2) is a severity level 8, person felony.~~

~~4 (e) It shall be an affirmative defense to any prosecution for  
5 mistreatment of a dependent adult or mistreatment of an elder person as  
6 described in subsections (a)(2) and (b)(1) that:~~

~~7 (1) The personal property or financial resources were given as a gift  
8 consistent with a pattern of gift giving to the person that existed before the  
9 dependent adult or elder person became vulnerable;~~

~~10 (2) the personal property or financial resources were given as a gift  
11 consistent with a pattern of gift giving to a class of individuals that existed  
12 before the dependent adult or elder person became vulnerable;~~

~~13 (3) the personal property or financial resources were conferred as a  
14 gift by the dependent adult or elder person to the benefit of a person or  
15 class of persons, and such gift was reasonable under the circumstances; or~~

~~16 (4) a court approved the transaction before the transaction occurred.~~

~~17 (f) No dependent adult or elder person is considered to be mistreated  
18 under subsection (a)(1), (a)(3) or (b)(2) for the sole reason that such  
19 dependent adult or elder person relies upon or is being furnished treatment  
20 by spiritual means through prayer in lieu of medical treatment in  
21 accordance with the tenets and practices of a recognized church or  
22 religious denomination of which such dependent adult or elder person is a  
23 member or adherent.~~

~~24 (g) As used in this section:~~

~~25 (1) "Adequate consideration" means the personal property or  
26 financial resources were given to the person as payment for bona fide  
27 goods or services provided by such person and the payment was at a rate  
28 customary for similar goods or services in the community that the  
29 dependent adult or elder person resided in at the time of the transaction.~~

~~30 (2) "Dependent adult" means an individual 18 years of age or older  
31 who is unable to protect the individual's own interest. Such term shall  
32 include, but is not limited to, any:~~

~~33 (A) Resident of an adult care home including, but not limited to,  
34 those facilities defined by K.S.A. 39-923, and amendments thereto;~~

~~35 (B) adult cared for in a private residence;~~

~~36 (C) individual kept, cared for, treated, boarded, confined or otherwise  
37 accommodated in a medical care facility;~~

~~38 (D) individual with intellectual disability or a developmental  
39 disability receiving services through a community facility for people with  
40 intellectual disability or residential facility licensed under K.S.A. 75-  
41 3307b, and amendments thereto;~~

~~42 (E) individual with a developmental disability receiving services  
43 provided by a community service provider as provided in the~~

1 ~~developmental disability reform act; or~~

2 ~~(F) individual kept, cared for, treated, boarded, confined or otherwise~~  
3 ~~accommodated in a state psychiatric hospital or state institution for people~~  
4 ~~with intellectual disability;~~

5 ~~(3) "Elder person" means a person 70 years of age or older.~~

6 ~~(h) An offender who violates the provisions of this section may also~~  
7 ~~be prosecuted for, convicted of, and punished for any other offense in~~  
8 ~~article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated, or~~  
9 ~~K.S.A. 2016 Supp. 21-6418, and amendments thereto.~~

10 ~~Sec. 2. K.S.A. 2016 Supp. 21-5802 is hereby amended to read as~~  
11 ~~follows: 21-5802. (a) Theft of property lost, mislaid or delivered by~~  
12 ~~mistake is obtaining control of property of another by a person who:~~

13 ~~(1) Knows or learns the identity of the owner thereof;~~

14 ~~(2) fails to take reasonable measures to restore to the owner lost~~  
15 ~~property, mislaid property or property delivered by a mistake; and~~

16 ~~(3) intends to permanently deprive the owner of the possession, use~~  
17 ~~or benefit of the property.~~

18 ~~(b) Theft of property lost, mislaid or delivered by mistake of the~~  
19 ~~value of:~~

20 ~~(1) \$100,000 or more is a severity level 5, nonperson felony;~~

21 ~~(2) at least \$25,000 but less than \$100,000 is a severity level 7,~~  
22 ~~nonperson felony;~~

23 ~~(3) at least \$1,000 \$1,500 but less than \$25,000 is a severity level 9,~~  
24 ~~nonperson felony; and~~

25 ~~(4) less than \$1,000 \$1,500 is a class A nonperson misdemeanor.~~

26 ~~(c) As used in this section, "property delivered by mistake" includes,~~  
27 ~~but is not limited to, a mistake as to the:~~

28 ~~(1) Nature or amount of the property; or~~

29 ~~(2) identity of the recipient of the property.~~

30 ~~Sec. 3. K.S.A. 2016 Supp. 21-5813 is hereby amended to read as~~  
31 ~~follows: 21-5813. (a) Criminal damage to property is by means other than~~  
32 ~~by fire or explosive:~~

33 ~~(1) Knowingly damaging, destroying, defacing or substantially~~  
34 ~~impairing the use of any property in which another has an interest without~~  
35 ~~the consent of such other person; or~~

36 ~~(2) damaging, destroying, defacing or substantially impairing the use~~  
37 ~~of any property with intent to injure or defraud an insurer or lienholder.~~

38 ~~(b) Aggravated criminal damage to property is criminal damage to~~  
39 ~~property, as defined in subsection (a)(1), if the value or amount of damage~~  
40 ~~exceeds \$5,000, committed with the intent to obtain any regulated scrap~~  
41 ~~metal as defined in K.S.A. 2016 Supp. 50-6,109, and amendments thereto,~~  
42 ~~or any items listed in K.S.A. 2016 Supp. 50-6,111(d), and amendments~~  
43 ~~thereto, upon:~~

1 ~~(1) Any building, structure, personal property or place used primarily~~  
2 ~~for worship or any religious purpose;~~

3 ~~(2) any building, structure or place used as a school or as an~~  
4 ~~educational facility;~~

5 ~~(3) any building, structure or place used by a non-profit or charitable~~  
6 ~~business, corporation, firm, service or association;~~

7 ~~(4) any grave, cemetery, mortuary or personal property of the~~  
8 ~~cemetery or mortuary or other facility used for the purpose of burial or~~  
9 ~~memorializing the dead;~~

10 ~~(5) any agricultural property or agricultural infrastructure;~~

11 ~~(6) any construction, mining or recycling facility, structure or site;~~

12 ~~(7) any utility, utility service, telecommunication, telecommunication~~  
13 ~~service, cable or video service facility, property, building, structure, site or~~  
14 ~~component thereof;~~

15 ~~(8) any municipal, county or state building, structure, site or property;~~

16 ~~(9) any residential, commercial, industrial or agricultural irrigation,~~  
17 ~~sprinkler or watering system or component thereof;~~

18 ~~(10) the infrastructure of any residence, building or structure;~~

19 ~~(11) any historical marker, plaque or work of art;~~

20 ~~(12) any vehicle or transportation building, facility, structure, site or~~  
21 ~~property; or~~

22 ~~(13) any other building, structure, residence, facility, site, place,~~  
23 ~~property, vehicle or any infrastructure thereof.~~

24 ~~(e) Criminal damage to property if the property:~~

25 ~~(1) Is damaged to the extent of \$25,000 or more is a severity level 7,~~  
26 ~~nonperson felony;~~

27 ~~(2) is damaged to the extent of at least \$1,000 \$1,500 but less than~~  
28 ~~\$25,000 is a severity level 9, nonperson felony; and~~

29 ~~(3) damaged is of the value of less than \$1,000 \$1,500 or is of the~~  
30 ~~value of \$1,000 \$1,500 or more and is damaged to the extent of less than~~  
31 ~~\$1,000 \$1,500 is a class B nonperson misdemeanor.~~

32 ~~(d) Aggravated criminal damage to property is a severity level 6,~~  
33 ~~nonperson felony.~~

34 ~~(e) (1) As used in subsection (b):~~

35 ~~(A) "Infrastructure" includes any fixture to, attachment upon or part~~  
36 ~~of a residence, building or structure's framework, electrical wiring and~~  
37 ~~appurtenances, plumbing or heating and air systems; and~~

38 ~~(B) "site" includes any area, place or location set aside for specific~~  
39 ~~use or uses, including, but not limited to, storage, staging, repair, sorting,~~  
40 ~~transportation, planning or organization.~~

41 ~~(2) Any of the items or locations listed in subsection (b) shall include~~  
42 ~~the curtilage, adjoining land and any improvements thereupon.~~

43 ~~(3) Nothing in subsection (b) shall be construed to require the:~~

1 ~~(A) Construction or existence of any door, gate, fence, barrier or wall;~~  
2 ~~or~~

3 ~~(B) existence of notice, postings or signs to potential trespassers.~~

4 ~~(f) In determining the amount of damage to property, damages may~~  
5 ~~include the cost of repair or replacement of the property that was damaged,~~  
6 ~~the reasonable cost of the loss of production, crops and livestock,~~  
7 ~~reasonable labor costs of any kind, reasonable material costs of any kind~~  
8 ~~and any reasonable costs that are attributed to equipment that is used to~~  
9 ~~abate or repair the damage to the property.~~

10 ~~Sec. 4. K.S.A. 2016 Supp. 21-5821 is hereby amended to read as~~  
11 ~~follows: 21-5821. (a) Giving a worthless check is the making, drawing,~~  
12 ~~issuing or delivering or causing or directing the making, drawing, issuing~~  
13 ~~or delivering of any check on any financial institution for the payment of~~  
14 ~~money or its equivalent with intent to defraud and knowing, at the time of~~  
15 ~~the making, drawing, issuing or delivering of such check that the maker or~~  
16 ~~drawer has no deposit in or credits with the financial institution or has not~~  
17 ~~sufficient funds in, or credits with, the financial institution for the payment~~  
18 ~~of such check in full upon its presentation.~~

19 ~~(b) Giving a worthless check is a:~~

20 ~~(1) Severity level 7, nonperson felony if:~~

21 ~~(A) The check is drawn for \$25,000 or more; or~~

22 ~~(B) more than one worthless check is given within a seven-day period~~  
23 ~~and the combined total of the checks is \$25,000 or more;~~

24 ~~(2) severity level 9, nonperson felony if:~~

25 ~~(A) The check is drawn for at least \$1,000 \$1,500 but less than~~  
26 ~~\$25,000;~~

27 ~~(B) more than one worthless check is given within a seven-day period~~  
28 ~~and the combined total of the checks is at least \$1,000 \$1,500 but less than~~  
29 ~~\$25,000; or~~

30 ~~(C) the person giving the worthless check has, within five years~~  
31 ~~immediately preceding commission of the crime, been convicted of giving~~  
32 ~~a worthless check two or more times; and~~

33 ~~(3) class A nonperson misdemeanor if the check is drawn for less than~~  
34 ~~\$1,000 \$1,500.~~

35 ~~(e) As used in this section and K.S.A. 2016 Supp. 21-5822, and~~  
36 ~~amendments thereto:~~

37 ~~(1) "Check" is any check, order or draft on a financial institution;~~

38 ~~(2) "financial institution" means any bank, credit union, savings and~~  
39 ~~loan association or depository; and~~

40 ~~(3) "notice" includes oral or written notice to the person entitled~~  
41 ~~thereto.~~

42 ~~(d) In any prosecution against the maker or drawer of a check,~~  
43 ~~payment of which has been refused by the financial institution on account~~

1 ~~of insufficient funds, the making, drawing, issuing or delivering of such~~  
2 ~~check shall be prima facie evidence of intent to defraud and of knowledge~~  
3 ~~of insufficient funds in, or on deposit with, the financial institution;~~

4 ~~(1) Unless the maker or drawer pays the holder thereof the amount~~  
5 ~~due thereon and a service charge not exceeding \$30 for each check, within~~  
6 ~~seven days after notice has been given to the maker or drawer that such~~  
7 ~~check has not been paid by the financial institution. Written notice shall be~~  
8 ~~presumed to have been given when deposited as restricted matter in the~~  
9 ~~United States mail, addressed to the person to be given notice at such~~  
10 ~~person's address as it appears on such check; or~~

11 ~~(2) if a postdated date is placed on the check without the knowledge~~  
12 ~~or consent of the payee;~~

13 ~~(e) It shall not be a defense to a prosecution under this section that the~~  
14 ~~check upon which such prosecution is based was:~~

15 ~~(1) Postdated, unless such check was presented for payment prior to~~  
16 ~~the postdated date; or~~

17 ~~(2) given to a payee who had knowledge or had been informed, when~~  
18 ~~the payee accepted such check that the maker did not have sufficient funds~~  
19 ~~in the hands of the financial institution to pay such check upon~~  
20 ~~presentation, unless such check was presented for payment prior to the~~  
21 ~~date the maker informed the payee there would be sufficient funds;~~

22 ~~(f) In addition to all other costs and fees allowed by law, each~~  
23 ~~prosecutor who takes any action under the provisions of this section may~~  
24 ~~collect from the issuer in such action an administrative handling cost,~~  
25 ~~except in cases filed in a court of appropriate jurisdiction. The cost shall~~  
26 ~~not exceed \$10 for each check. If the issuer of the check is convicted in a~~  
27 ~~district court, the administrative handling costs may be assessed as part of~~  
28 ~~the court costs in the matter. The moneys collected pursuant to this~~  
29 ~~subsection shall be deposited into a trust fund which shall be administered~~  
30 ~~by the board of county commissioners. The funds shall be expended only~~  
31 ~~with the approval of the board of county commissioners, but may be used~~  
32 ~~to help fund the normal operating expenses of the county or district~~  
33 ~~attorney's office.~~

34 ~~Sec. 5. K.S.A. 2016 Supp. 21-5825 is hereby amended to read as~~  
35 ~~follows: 21-5825. (a) Counterfeiting is manufacturing, using,~~  
36 ~~displaying, advertising, distributing or possessing with intent to distribute~~  
37 ~~any item or services knowing such item or services bear or are identified~~  
38 ~~by a counterfeit mark;~~

39 ~~(b) Counterfeiting is a:~~

40 ~~(1) Severity level 7, nonperson felony if:~~

41 ~~(A) The retail value of such item or service is \$25,000 or more;~~

42 ~~(B) such counterfeiting involves 1,000 or more items bearing a~~  
43 ~~counterfeit mark; or~~

1 ~~(C) a third or subsequent violation of this section;~~

2 ~~(2) severity level 9, nonperson felony if:~~

3 ~~(A) The retail value of such item or service is at least \$1,000 \$1,500~~  
4 ~~but less than \$25,000;~~

5 ~~(B) such counterfeiting involves more than 100 but less than 1,000~~  
6 ~~items bearing a counterfeit mark; or~~

7 ~~(C) a second violation of this section; and~~

8 ~~(3) class A nonperson misdemeanor, if the retail value of such item or~~  
9 ~~service is less than \$1,000 \$1,500.~~

10 ~~(e) A person having possession, custody or control of more than 25~~  
11 ~~items bearing a counterfeit mark shall be presumed to possess such items~~  
12 ~~with intent to distribute.~~

13 ~~(d) Any state or federal certificate of registration of any intellectual~~  
14 ~~property shall be prima facie evidence of the facts stated therein.~~

15 ~~(e) As used in this section:~~

16 ~~(1) "Counterfeit mark" means:~~

17 ~~(A) Any unauthorized reproduction or copy of intellectual property;~~  
18 ~~or~~

19 ~~(B) intellectual property affixed to any item knowingly sold, offered~~  
20 ~~for sale, manufactured or distributed, or identifying services offered or~~  
21 ~~rendered, without the authority of the owner of the intellectual property;~~

22 ~~(2) "intellectual property" means any trademark, service mark or~~  
23 ~~trade name as such terms are defined in K.S.A. 2016 Supp. 81-202, and~~  
24 ~~amendments thereto; and~~

25 ~~(3) "retail value" means the counterfeiter's regular selling price for the~~  
26 ~~item or service bearing or identified by the counterfeit mark. In the case of~~  
27 ~~items bearing a counterfeit mark which are components of a finished~~  
28 ~~product, the retail value shall be the counterfeiter's regular selling price of~~  
29 ~~the finished product on or in which the component would be utilized.~~

30 ~~(f) The quantity or retail value of items or services shall include the~~  
31 ~~aggregate quantity or retail value of all items bearing, or services~~  
32 ~~identified by, every counterfeit mark the defendant manufactures, uses,~~  
33 ~~displays, advertises, distributes or possesses.~~

34 ~~Sec. 6. K.S.A. 2016 Supp. 21-5828 is hereby amended to read as~~  
35 ~~follows: 21-5828. (a) Criminal use of a financial card is any of the~~  
36 ~~following acts done with intent to defraud and to obtain money, goods,~~  
37 ~~property or services:~~

38 ~~(1) Using a financial card without the consent of the cardholder;~~

39 ~~(2) using a financial card, or the number or description thereof, which~~  
40 ~~has been revoked or canceled; or~~

41 ~~(3) using a falsified, mutilated, altered or nonexistent financial card or~~  
42 ~~a number or description thereof.~~

43 ~~(b) Criminal use of a financial card is a:~~



1 ~~(1) Severity level 7, nonperson felony if the money, goods, property~~  
2 ~~or services obtained within any seven-day period are of the value of~~  
3 ~~\$25,000 or more;~~

4 ~~(2) Severity level 9, nonperson felony if the money, goods, property~~  
5 ~~or services obtained within any seven-day period are of the value of at~~  
6 ~~least \$1,000 \$1,500 but less than \$25,000; and~~

7 ~~(3) class A nonperson misdemeanor if the money, goods, property or~~  
8 ~~services obtained within a seven-day period are of the value of less than~~  
9 ~~\$1,000 \$1,500.~~

10 ~~(e) As used in this section:~~

11 ~~(1) "Financial card" means an identification card, plate, instrument,~~  
12 ~~device or number issued by a business organization authorizing the~~  
13 ~~cardholder to purchase, lease or otherwise obtain money, goods, property~~  
14 ~~or services or to conduct other financial transactions; and~~

15 ~~(2) "cardholder" means the person or entity to whom or for whose~~  
16 ~~benefit a financial card is issued.~~

17 ~~(d) For the purposes of subsection (a)(2), a financial card shall be~~  
18 ~~deemed canceled or revoked when notice in writing thereof has been~~  
19 ~~received by the named holder thereof as shown on such financial card or~~  
20 ~~by the records of the company.~~

21 ~~Sec. 7. K.S.A. 2016 Supp. 21-5830 is hereby amended to read as~~  
22 ~~follows: 21-5830. (a) Impairing a security interest is, with intent to~~  
23 ~~defraud the secured party:~~

24 ~~(1) Damaging, destroying or concealing any personal property subject~~  
25 ~~to a security interest;~~

26 ~~(2) selling, exchanging or otherwise disposing of any personal~~  
27 ~~property subject to a security interest without the written consent of the~~  
28 ~~secured party, where such sale, exchange or other disposition is not~~  
29 ~~authorized by the secured party under the terms of the security agreement;~~  
30 ~~or~~

31 ~~(3) failing to account to the secured party for the proceeds of the sale,~~  
32 ~~exchange or other disposition of any personal property subject to a security~~  
33 ~~interest, where such sale, exchange or other disposition is authorized and~~  
34 ~~such accounting for proceeds is required by the secured party under the~~  
35 ~~terms of the security agreement or otherwise.~~

36 ~~(b) Impairing a security interest, when the personal property subject~~  
37 ~~to the security interest is of the value of:~~

38 ~~(1) \$25,000 or more and is subject to a security interest of \$25,000 or~~  
39 ~~more is a severity level 7, nonperson felony;~~

40 ~~(2) at least \$1,000 \$1,500 and is subject to a security interest of at~~  
41 ~~least \$1,000 \$1,500 and either the value of the property or the security~~  
42 ~~interest is less than \$25,000 is a severity level 9, nonperson felony; and~~

43 ~~(3) less than \$1,000 \$1,500, or of the value of \$1,000 \$1,500 or more~~

1 ~~but subject to a security interest of less than \$1,000 \$1,500 is a class A~~  
2 ~~nonperson misdemeanor.~~

3 ~~Sec. 8. K.S.A. 2016 Supp. 21-5927 is hereby amended to read as~~  
4 ~~follows: 21-5927. (a) Medicaid fraud is:~~

5 ~~(1) With intent to defraud, making, presenting, submitting, offering or~~  
6 ~~causing to be made, presented, submitted or offered:~~

7 ~~(A) Any false or fraudulent claim for payment for any goods, service,~~  
8 ~~item, facility [or] accommodation for which payment may be made, in~~  
9 ~~whole or in part, under the medicaid program, whether or not the claim is~~  
10 ~~allowed or allowable;~~

11 ~~(B) any false or fraudulent statement or representation for use in~~  
12 ~~determining payments which may be made, in whole or in part, under the~~  
13 ~~medicaid program, whether or not the claim is allowed or allowable;~~

14 ~~(C) any false or fraudulent report or filing which is or may be used in~~  
15 ~~computing or determining a rate of payment for any goods, service, item,~~  
16 ~~facility or accommodation, for which payment may be made, in whole or~~  
17 ~~in part, under the medicaid program, whether or not the claim is allowed or~~  
18 ~~allowable;~~

19 ~~(D) any false or fraudulent statement or representation made in~~  
20 ~~connection with any report or filing which is or may be used in computing~~  
21 ~~or determining a rate of payment for any goods, service, item, facility or~~  
22 ~~accommodation for which payment may be made, in whole or in part,~~  
23 ~~under the medicaid program, whether or not the claim is allowed or~~  
24 ~~allowable;~~

25 ~~(E) any statement or representation for use by another in obtaining~~  
26 ~~any goods, service, item, facility or accommodation for which payment~~  
27 ~~may be made, in whole or in part, under the medicaid program, knowing~~  
28 ~~the statement or representation to be false, in whole or in part, by~~  
29 ~~commission or omission, whether or not the claim is allowed or allowable;~~

30 ~~(F) any claim for payment, for any goods, service, item, facility, or~~  
31 ~~accommodation, which is not medically necessary in accordance with~~  
32 ~~professionally recognized parameters or as otherwise required by law, for~~  
33 ~~which payment may be made, in whole or in part, under the medicaid~~  
34 ~~program, whether or not the claim is allowed or allowable;~~

35 ~~(G) any wholly or partially false or fraudulent book, record,~~  
36 ~~document, data or instrument, which is required to be kept or which is kept~~  
37 ~~as documentation for any goods, service, item, facility or accommodation~~  
38 ~~or of any cost or expense claimed for reimbursement for any goods,~~  
39 ~~service, item, facility or accommodation for which payment is, has been,~~  
40 ~~or can be sought, in whole or in part, under the medicaid program, whether~~  
41 ~~or not the claim is allowed or allowable;~~

42 ~~(H) any wholly or partially false or fraudulent book, record,~~  
43 ~~document, data or instrument to any properly identified law enforcement~~

~~1 officer, any properly identified employee or authorized representative of  
2 the attorney general, or to any properly identified employee or agent of the  
3 Kansas department for aging and disability services, Kansas department of  
4 health and environment, or its fiscal agent, in connection with any audit or  
5 investigation involving any claim for payment or rate of payment for any  
6 goods, service, item, facility or accommodation payable, in whole or in  
7 part, under the medicaid program; or~~

~~8 (1) any false or fraudulent statement or representation made, with the  
9 intent to influence any acts or decision of any official, employee or agent  
10 of a state or federal agency having regulatory or administrative authority  
11 over the medicaid program; or~~

~~12 (2) intentionally executing or attempting to execute a scheme or  
13 artifice to defraud the medicaid program or any contractor or subcontractor  
14 thereof.~~

~~15 (b) (1) Except as provided in subsection (b)(2), for each individual  
16 count of medicaid fraud as defined in subsection (a)(1)(A), (a)(1)(B), (a)  
17 (1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F), (a)(1)(G) or (a)(2), where the  
18 aggregate amount of payments illegally claimed is:~~

~~19 (A) \$250,000 or more, medicaid fraud is a severity level 3, nonperson  
20 felony;~~

~~21 (B) at least \$100,000 but less than \$250,000, medicaid fraud is a  
22 severity level 5, nonperson felony;~~

~~23 (C) at least \$25,000 but less than \$100,000, medicaid fraud is a  
24 severity level 7, nonperson felony;~~

~~25 (D) at least \$1,000 \$1,500 but less than \$25,000, medicaid fraud is a  
26 severity level 9, nonperson felony; and~~

~~27 (E) less than \$1,000 \$1,500, medicaid fraud is a class A nonperson  
28 misdemeanor.~~

~~29 (2) For each individual count of medicaid fraud as defined in  
30 subsection (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F),  
31 (a)(1)(G) or (a)(2):~~

~~32 (A) When great bodily harm results from such act, regardless of the  
33 aggregate amount of payments illegally claimed, medicaid fraud is a  
34 severity level 4, person felony, except as provided in subsection (b)(2)(B);  
35 and~~

~~36 (B) when death results from such act, regardless of the aggregate  
37 amount of payments illegally claimed, medicaid fraud is a severity level 1,  
38 person felony.~~

~~39 (3) Medicaid fraud as defined in subsection (a)(1)(H) or (a)(1)(I) is a  
40 severity level 9, nonperson felony.~~

~~41 (e) In determining what is medically necessary pursuant to subsection  
42 (a)(1)(F), the attorney general may contract with or consult with qualified  
43 health care providers and other qualified individuals to identify~~

1 ~~professionally recognized parameters for the diagnosis or treatment of the~~  
2 ~~recipient's condition, illness or injury.~~

3 ~~(d) In sentencing for medicaid fraud, subsection (c)(3) of K.S.A.~~  
4 ~~2016 Supp. 21-6815, and amendments thereto, shall not apply and an act~~  
5 ~~or omission by the defendant that resulted in any medicaid recipient~~  
6 ~~receiving any service that was of lesser quality or amount than the service~~  
7 ~~to which such recipient was entitled may be considered an aggravating~~  
8 ~~factor in determining whether substantial and compelling reasons for~~  
9 ~~departure exist pursuant to K.S.A. 2016 Supp. 21-6801 through 21-6824,~~  
10 ~~and amendments thereto.~~

11 ~~(e) A person who violates the provisions of this section may also be~~  
12 ~~prosecuted for, convicted of, and punished for any form of battery or~~  
13 ~~homicide.~~

14 ~~Sec. 9. K.S.A. 2016 Supp. 21-6002 is hereby amended to read as~~  
15 ~~follows: 21-6002. (a) Official misconduct is any of the following acts~~  
16 ~~committed by a public officer or employee in the officer or employee's~~  
17 ~~public capacity or under color of the officer or employee's office or~~  
18 ~~employment:~~

19 ~~(1) Knowingly using or authorizing the use of any aircraft, as defined~~  
20 ~~by K.S.A. 3-201, and amendments thereto, vehicle, as defined by K.S.A.~~  
21 ~~8-1485, and amendments thereto, or vessel, as defined by K.S.A. 32-1102,~~  
22 ~~and amendments thereto, under the officer's or employee's control or~~  
23 ~~direction, or in the officer's or employee's custody, exclusively for the~~  
24 ~~private benefit or gain of the officer or employee or another;~~

25 ~~(2) knowingly failing to serve civil process when required by law;~~

26 ~~(3) using confidential information acquired in the course of and~~  
27 ~~related to the officer's or employee's office or employment for the private~~  
28 ~~benefit or gain of the officer or employee or another or to intentionally~~  
29 ~~cause harm to another;~~

30 ~~(4) except as authorized by law, with the intent to reduce or eliminate~~  
31 ~~competition among bidders or prospective bidders on any contract or~~  
32 ~~proposed contract;~~

33 ~~(A) Disclosing confidential information regarding proposals or~~  
34 ~~communications from bidders or prospective bidders on any contract or~~  
35 ~~proposed contract;~~

36 ~~(B) accepting any bid or proposal on a contract or proposed contract~~  
37 ~~after the deadline for acceptance of such bid or proposal; or~~

38 ~~(C) altering any bid or proposal submitted by a bidder on a contract~~  
39 ~~or proposed contract;~~

40 ~~(5) except as authorized by law, knowingly destroying, tampering~~  
41 ~~with or concealing evidence of a crime; or~~

42 ~~(6) knowingly submitting to a governmental entity a claim for~~  
43 ~~expenses which is false or duplicates expenses for which a claim is~~

1 ~~submitted to such governmental entity, another governmental or private~~  
2 ~~entity.~~

3 ~~(b) (1) Official misconduct as defined in:~~

4 ~~(A) Subsections (a)(1) through (a)(4) is a class A nonperson~~  
5 ~~misdemeanor;~~

6 ~~(B) subsection (a)(5) is a:~~

7 ~~(i) Severity level 8, nonperson felony if the evidence is evidence of a~~  
8 ~~crime which is a felony; and~~

9 ~~(ii) class A nonperson misdemeanor if the evidence is evidence of a~~  
10 ~~crime which is a misdemeanor; and~~

11 ~~(C) subsection (a)(6) if the claim is:~~

12 ~~(i) \$25,000 or more is a severity level 7, nonperson felony;~~

13 ~~(ii) at least \$1,000 \$1,500 but less than \$25,000 is a severity level 9,~~  
14 ~~nonperson felony; and~~

15 ~~(iii) less than \$1,000 \$1,500 is a class A nonperson misdemeanor.~~

16 ~~(2) Upon conviction of official misconduct a public officer or~~  
17 ~~employee shall forfeit such officer or employee's office or employment.~~

18 ~~(e) The provisions of subsection (a)(1) shall not apply to any use of~~  
19 ~~persons or property which:~~

20 ~~(1) At the time of the use, is authorized by law or by formal written~~  
21 ~~policy of the governmental entity; or~~

22 ~~(2) constitutes misuse of public funds, as defined in K.S.A. 2016-~~  
23 ~~Supp. 21-6005, and amendments thereto;~~

24 ~~(d) As used in this section, "confidential" means any information that~~  
25 ~~is not subject to mandatory disclosure pursuant to K.S.A. 45-221, and~~  
26 ~~amendments thereto.~~

27 ~~Sec. 10. K.S.A. 2016 Supp. 21-6004 is hereby amended to read as~~  
28 ~~follows: 21-6004. (a) Presenting a false claim is, with the intent to~~  
29 ~~defraud, presenting a claim or demand which is false in whole or in part, to~~  
30 ~~a public officer or body authorized to audit, allow or pay such claim.~~

31 ~~(b) Permitting a false claim is the auditing, allowing or paying of any~~  
32 ~~claim or demand made upon the state or any subdivision thereof or other~~  
33 ~~governmental instrumentality within the state by a public officer or public~~  
34 ~~employee who knows such claim or demand is false or fraudulent in whole~~  
35 ~~or in part.~~

36 ~~(c) (1) Presenting a false claim or permitting a false claim for:~~

37 ~~(A) \$25,000 or more is a severity level 7, nonperson felony;~~

38 ~~(B) at least \$1,000 \$1,500 but less than \$25,000 is a severity level 9,~~  
39 ~~nonperson felony; and~~

40 ~~(C) less than \$1,000 \$1,500 is a class A nonperson misdemeanor.~~

41 ~~(2) Upon conviction of permitting a false claim, a public officer or~~  
42 ~~public employee shall forfeit the officer or employee's office or~~  
43 ~~employment.~~

1        ~~Sec. 11. K.S.A. 2016 Supp. 21-6005 is hereby amended to read as~~  
2 ~~follows: 21-6005. (a) Misuse of public funds is knowingly using,~~  
3 ~~lending or permitting another to use public money in a manner not~~  
4 ~~authorized by law, by a custodian or other person having control of public~~  
5 ~~money by virtue of such person's official position.~~

6        ~~(b) (1) Misuse of public funds where the aggregate amount of money~~  
7 ~~paid or claimed in violation of this section is:~~

8        ~~(A) \$100,000 or more is a severity level 5, nonperson felony;~~

9        ~~(B) at least \$25,000 but less than \$100,000 is a severity level 7,~~  
10 ~~nonperson felony;~~

11        ~~(C) at least \$1,000 \$1,500 but less than \$25,000 is a severity level 9,~~  
12 ~~nonperson felony; and~~

13        ~~(D) less than \$1,000 \$1,500 is a class A nonperson misdemeanor.~~

14        ~~(2) Upon conviction of misuse of public funds, the convicted person~~  
15 ~~shall forfeit the person's official position.~~

16        ~~(c) As used in this section, "public money" means any money or~~  
17 ~~negotiable instrument which belongs to the state of Kansas or any political~~  
18 ~~subdivision thereof.~~

19        ~~Sec. 12. K.S.A. 2016 Supp. 21-6205 is hereby amended to read as~~  
20 ~~follows: 21-6205. (a) Criminal desecration is:~~

21        ~~(1) Knowingly obtaining or attempting to obtain unauthorized control~~  
22 ~~of a dead body or remains of any human being or the coffin, urn or other~~  
23 ~~article containing a dead body or remains of any human being; or~~

24        ~~(2) recklessly, by means other than by fire or explosive;~~

25        ~~(A) Damaging, defacing or destroying the flag, ensign or other~~  
26 ~~symbol of the United States or this state in which another has a property~~  
27 ~~interest without the consent of such other person;~~

28        ~~(B) damaging, defacing or destroying any public monument or~~  
29 ~~structure;~~

30        ~~(C) damaging, defacing or destroying any tomb, monument,~~  
31 ~~memorial, marker, grave, vault, crypt gate, tree, shrub, plant or any other~~  
32 ~~property in a cemetery; or~~

33        ~~(D) damaging, defacing or destroying any place of worship.~~

34        ~~(b) Criminal desecration as defined in:~~

35        ~~(1) Subsections (a)(2)(B), (a)(2)(C) or (a)(2)(D) if the property is~~  
36 ~~damaged to the extent of:~~

37        ~~(A) \$25,000 or more is a severity level 7, nonperson felony;~~

38        ~~(B) at least \$1,000 \$1,500 but less than \$25,000 is a severity level 9,~~  
39 ~~nonperson felony; and~~

40        ~~(C) less than \$1,000 \$1,500 is a class A nonperson misdemeanor; and~~

41        ~~(2) subsections (a)(1) or (a)(2)(A) is a class A nonperson~~  
42 ~~misdemeanor.~~

43        ~~Sec. 13. {Section 1.} K.S.A. 2016 Supp. 22-2302 is hereby amended~~

1 *to read as follows: 22-2302. (a) If the magistrate finds from the*  
2 *complaint, or from an affidavit or affidavits filed with the complaint or*  
3 *from sworn testimony, that there is probable cause to believe both that a*  
4 *crime has been committed and that the defendant has committed it, a*  
5 *warrant for the arrest of the defendant shall issue, except that a*  
6 *summons instead of a warrant may be issued if: (1) The prosecuting*  
7 *attorney so requests; or (2) in the case of a complaint alleging*  
8 *commission of a misdemeanor, the magistrate determines that a*  
9 *summons should be issued. More than one warrant or summons may*  
10 *issue on the same complaint. If a defendant fails to appear in response*  
11 *to the summons, a warrant shall issue.*

12 *(b) For a warrant or summons executed prior to July 1, 2014,*  
13 *affidavits or sworn testimony in support of the probable cause*  
14 *requirement of this section shall not be made available for examination*  
15 *without a written order of the court, except that such affidavits or*  
16 *testimony when requested shall be made available to the defendant or*  
17 *the defendant's counsel for such disposition as either may desire.*

18 *(c) (1) For a warrant or summons executed on or after July 1,*  
19 *2014, affidavits or sworn testimony in support of the probable cause*  
20 *requirement of this section shall not be open to the public until the*  
21 *warrant or summons has been executed. After the warrant or summons*  
22 *has been executed, such affidavits or sworn testimony shall be made*  
23 *available to:*

24 *(A) The defendant or the defendant's counsel, when requested, for*  
25 *such disposition as either may desire; and*

26 *(B) any person, when requested, in accordance with the*  
27 *requirements of this subsection.*

28 *(2) Any person may request that affidavits or sworn testimony be*  
29 *disclosed by filing such request with the clerk of the court. Upon entry of*  
30 *appearance by an attorney on behalf of the defendant, or indication by the*  
31 *defendant to the court that such defendant will represent the defendant's*  
32 *self, the clerk of the court shall promptly notify the defendant or the*  
33 *defendant's counsel, the prosecutor and the magistrate that such request*  
34 *was filed. The prosecutor shall promptly notify any victim. For the*  
35 *purposes of this subsection, victim shall include any victim of an alleged*  
36 *crime that resulted in the issuance of the arrest warrant, or, if the victim*  
37 *is deceased, the victim's family, as defined in K.S.A. 74-7335, and*  
38 *amendments thereto.*

39 *(3) Within five business days after receiving notice of a request for*  
40 *disclosure from the clerk of the court, the defendant or the defendant's*  
41 *counsel and the prosecutor may submit to the magistrate, under seal,*  
42 *either:*

43 *(A) Proposed redactions, if any, to the affidavits or sworn testimony*

1 *and the reasons supporting such proposed redactions; or*

2 *(B) a motion to seal the affidavits or sworn testimony and the*  
3 *reasons supporting such proposed seal.*

4 *(4) The magistrate shall review the requested affidavits or sworn*  
5 *testimony and any proposed redactions or motion to seal submitted by*  
6 *the defendant, the defendant's counsel or the prosecutor. The magistrate*  
7 *shall make appropriate redactions, or seal the affidavits or sworn*  
8 *testimony, as necessary to prevent public disclosure of information that*  
9 *would:*

10 *(A) Jeopardize the physical, mental or emotional safety or well-*  
11 *being of a victim, witness, confidential source or undercover agent, or*  
12 *cause the destruction of evidence;*

13 *(B) reveal information obtained from a court-ordered wiretap or*  
14 *from a search warrant for a tracking device that has not expired;*

15 *(C) interfere with any prospective law enforcement action, criminal*  
16 *investigation or prosecution;*

17 *(D) reveal the identity of any confidential source or undercover*  
18 *agent;*

19 *(E) reveal confidential investigative techniques or procedures not*  
20 *known to the general public;*

21 *(F) endanger the life or physical safety of any person;*

22 *(G) reveal the name, address, telephone number or any other*  
23 *information which specifically and individually identifies the victim of*  
24 *any sexual offense described in article 35 of chapter 21 of the Kansas*  
25 *Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of*  
26 *the Kansas Statutes Annotated or K.S.A. 2016 Supp. 21-6419 through*  
27 *21-6422, and amendments thereto;*

28 *(H) reveal the name of any minor;*

29 *(I) reveal any date of birth, personal or business telephone number,*  
30 *driver's license number, nondriver's identification number, social*  
31 *security number, employee identification number, taxpayer identification*  
32 *number, vehicle identification number or financial account information;*  
33 *or*

34 *(J) constitute a clearly unwarranted invasion of personal privacy.*  
35 *As used in this subparagraph, "clearly unwarranted invasion of*  
36 *personal privacy" means revealing information that would be highly*  
37 *offensive to a reasonable person and is totally unrelated to the alleged*  
38 *crime that resulted in the issuance of the arrest warrant, including*  
39 *information totally unrelated to the alleged crime that may pose a risk to*  
40 *a person or property and is not of legitimate concern to the public. The*  
41 *provisions of this subparagraph shall only be used to redact and shall*  
42 *not be used to seal affidavits or sworn testimony.*

43 *(5) Within five business days after receiving proposed redactions or*



1 *a motion to seal from the defendant, the defendant's counsel or the*  
2 *prosecutor, or within 10 business days after receiving notice of a request*  
3 *for disclosure, whichever is earlier, the magistrate shall either:*

4 *(A) Order disclosure of the affidavits or sworn testimony with*  
5 *appropriate redactions, if any; or*

6 *(B) order the affidavits or sworn testimony sealed and not subject to*  
7 *public disclosure.*

8 *(6) (A) If the magistrate orders disclosure of the affidavits or sworn*  
9 *testimony with appropriate redactions, if any, to any person in*  
10 *accordance with the requirements of this subsection, then such affidavits*  
11 *or sworn testimony shall become part of the court record and shall be*  
12 *accessible to the public.*

13 *(B) If the magistrate orders the affidavits or sworn testimony sealed*  
14 *and not subject to public disclosure in accordance with the requirements*  
15 *of this subsection, then such affidavits or sworn testimony shall become*  
16 *part of the court record that is not accessible to the public.*

17 *(C) Any request for disclosure of affidavits or sworn testimony in*  
18 *accordance with the requirements of this subsection shall become part of*  
19 *the court record and shall be accessible to the public, regardless of*  
20 *whether the magistrate orders disclosure with appropriate redactions, if*  
21 *any, or sealing of the requested affidavit or sworn testimony.*

22 *Sec. ~~14~~ {2.} K.S.A. 2016 Supp. 22-3716 is hereby amended to read*  
23 *as follows: 22-3716. (a) At any time during probation, assignment to a*  
24 *community correctional services program, suspension of sentence or*  
25 *pursuant to subsection (e) for defendants who committed a crime prior*  
26 *to July 1, 1993, and at any time during which a defendant is serving a*  
27 *nonprison sanction for a crime committed on or after July 1, 1993, or*  
28 *pursuant to subsection (e), the court may issue a warrant for the arrest*  
29 *of a defendant for violation of any of the conditions of release or*  
30 *assignment, a notice to appear to answer to a charge of violation or a*  
31 *violation of the defendant's nonprison sanction. The notice shall be*  
32 *personally served upon the defendant. The warrant shall authorize all*  
33 *officers named in the warrant to return the defendant to the custody of*  
34 *the court or to any certified detention facility designated by the court.*  
35 *Any court services officer or community correctional services officer*  
36 *may arrest the defendant without a warrant or may deputize any other*  
37 *officer with power of arrest to do so by giving the officer a written or*  
38 *verbal statement setting forth that the defendant has, in the judgment of*  
39 *the court services officer or community correctional services officer,*  
40 *violated the conditions of the defendant's release or a nonprison*  
41 *sanction. A written statement delivered to the official in charge of a*  
42 *county jail or other place of detention shall be sufficient warrant for the*  
43 *detention of the defendant. After making an arrest, the court services*

1 *officer or community correctional services officer shall present to the*  
2 *detaining authorities a similar statement of the circumstances of*  
3 *violation. Provisions regarding release on bail of persons charged with a*  
4 *crime shall be applicable to defendants arrested under these provisions.*

5 *(b) (1) Upon arrest and detention pursuant to subsection (a), the*  
6 *court services officer or community correctional services officer shall*  
7 *immediately notify the court and shall submit in writing a report*  
8 *showing in what manner the defendant has violated the conditions of*  
9 *release or assignment or a nonprison sanction.*

10 *(2) Unless the defendant, after being apprised of the right to a*  
11 *hearing by the supervising court services or community correctional*  
12 *services officer, waives such hearing, the court shall cause the defendant*  
13 *to be brought before it without unnecessary delay for a hearing on the*  
14 *violation charged. The hearing shall be in open court and the state shall*  
15 *have the burden of establishing the violation. The defendant shall have*  
16 *the right to be represented by counsel and shall be informed by the judge*  
17 *that, if the defendant is financially unable to obtain counsel, an attorney*  
18 *will be appointed to represent the defendant. The defendant shall have*  
19 *the right to present the testimony of witnesses and other evidence on the*  
20 *defendant's behalf. Relevant written statements made under oath may be*  
21 *admitted and considered by the court along with other evidence*  
22 *presented at the hearing.*

23 *(3) (A) Except as otherwise provided, if the original crime of*  
24 *conviction was a felony, other than a felony specified in K.S.A. 2016*  
25 *Supp. 21-6804(i), and amendments thereto, and a violation is*  
26 *established, the court may impose the violation sanctions as provided in*  
27 *subsection (c)(1).*

28 *(B) Except as otherwise provided, if the original crime of conviction*  
29 *was a misdemeanor or a felony specified in K.S.A. 2016 Supp. 21-*  
30 *6804(i), and amendments thereto, and a violation is established, the*  
31 *court may:*

32 *(i) Continue or modify the probation, assignment to a community*  
33 *correctional services program, suspension of sentence or nonprison*  
34 *sanction and impose confinement in a county jail not to exceed 60 days.*  
35 *If an offender is serving multiple probation terms concurrently, any*  
36 *confinement periods imposed shall be imposed concurrently;*

37 *(ii) impose an intermediate sanction of confinement in a county*  
38 *jail, to be imposed as a two-day or three-day consecutive period. The*  
39 *total of all such sanctions imposed pursuant to this subparagraph and*  
40 *subsections (b)(4)(A) and (b)(4)(B) shall not exceed 18 total days during*  
41 *the term of supervision; or*

42 *(iii) revoke the probation, assignment to a community correctional*  
43 *services program, suspension of sentence or nonprison sanction and*

1 *require the defendant to serve the sentence imposed, or any lesser*  
2 *sentence, and, if imposition of sentence was suspended, may impose any*  
3 *sentence which might originally have been imposed.*

4 *(4) Except as otherwise provided, if the defendant waives the right*  
5 *to a hearing and the sentencing court has not specifically withheld the*  
6 *authority from court services or community correctional services to*  
7 *impose sanctions, the following sanctions may be imposed without*  
8 *further order of the court:*

9 *(A) If the defendant was on probation at the time of the violation,*  
10 *the defendant's supervising court services officer, with the concurrence*  
11 *of the chief court services officer, may impose an intermediate sanction*  
12 *of confinement in a county jail, to be imposed as a two-day or three-day*  
13 *consecutive period. The total of all such sanctions imposed pursuant to*  
14 *this subparagraph and subsections (b)(4)(B) and (c)(1)(B) shall not*  
15 *exceed 18 total days during the term of supervision; and*

16 *(B) if the defendant was assigned to a community correctional*  
17 *services program at the time of the violation, the defendant's community*  
18 *corrections officer, with the concurrence of the community corrections*  
19 *director, may impose an intermediate sanction of confinement in a*  
20 *county jail, to be imposed as a two-day or three-day consecutive period.*  
21 *The total of all such sanctions imposed pursuant to this subparagraph*  
22 *and subsections (b)(4)(A) and (c)(1)(B) shall not exceed 18 total days*  
23 *during the term of supervision.*

24 *(c) (1) Except as otherwise provided, if the original crime of*  
25 *conviction was a felony, other than a felony specified in K.S.A. 2016*  
26 *Supp. 21-6804(i), and amendments thereto, and a violation is*  
27 *established, the court may impose the following sanctions:*

28 *(A) Continuation or modification of the release conditions of the*  
29 *probation, assignment to a community correctional services program,*  
30 *suspension of sentence or nonprison sanction;*

31 *(B) continuation or modification of the release conditions of the*  
32 *probation, assignment to a community correctional services program,*  
33 *suspension of sentence or nonprison sanction and an intermediate*  
34 *sanction of confinement in a county jail to be imposed as a two-day or*  
35 *three-day consecutive period. The total of all such sanctions imposed*  
36 *pursuant to this subparagraph and subsections (b)(4)(A) and (b)(4)(B)*  
37 *shall not exceed 18 total days during the term of supervision;*

38 *(C) if the violator already had at least one intermediate sanction*  
39 *imposed pursuant to subsection (b)(4)(A), (b)(4)(B) or (c)(1)(B) related*  
40 *to the crime for which the original supervision was imposed,*  
41 *continuation or modification of the release conditions of the probation,*  
42 *assignment to a community correctional services program, suspension of*  
43 *sentence or nonprison sanction and remanding the defendant to the*

1 *custody of the secretary of corrections for a period of 120 days, subject*  
2 *to a reduction of up to 60 days in the discretion of the secretary. This*  
3 *sanction shall not be imposed more than once during the term of*  
4 *supervision. The sanction imposed pursuant to this subparagraph shall*  
5 *begin upon pronouncement by the court and shall not be served by prior*  
6 *confinement credit, except as provided in subsection (c)(7);*

7 *(D) if the violator already had a sanction imposed pursuant to*  
8 *subsection (b)(4)(A), (b)(4)(B), (c)(1)(B) or (c)(1)(C) related to the crime*  
9 *for which the original supervision was imposed, continuation or*  
10 *modification of the release conditions of the probation, assignment to a*  
11 *community correctional services program, suspension of sentence or*  
12 *nonprison sanction and remanding the defendant to the custody of the*  
13 *secretary of corrections for a period of 180 days, subject to a reduction*  
14 *of up to 90 days in the discretion of the secretary. This sanction shall not*  
15 *be imposed more than once during the term of supervision. The sanction*  
16 *imposed pursuant to this subparagraph shall begin upon*  
17 *pronouncement by the court and shall not be served by prior*  
18 *confinement credit, except as provided in subsection (c)(7); or*

19 *(E) if the violator already had a sanction imposed pursuant to*  
20 *subsection (c)(1)(C) or (c)(1)(D) related to the crime for which the*  
21 *original supervision was imposed, revocation of the probation,*  
22 *assignment to a community corrections services program, suspension of*  
23 *sentence or nonprison sanction and requiring such violator to serve the*  
24 *sentence imposed, or any lesser sentence and, if imposition of sentence*  
25 *was suspended, imposition of any sentence which might originally have*  
26 *been imposed.*

27 *(2) Except as otherwise provided in subsections (c)(3), (c)(8) and (c)*  
28 *(9), no offender for whom a violation of conditions of release or*  
29 *assignment or a nonprison sanction has been established as provided in*  
30 *this section shall be required to serve any time for the sentence imposed*  
31 *or which might originally have been imposed in a state facility in the*  
32 *custody of the secretary of corrections for such violation, unless such*  
33 *person has already had at least one prior assignment to a community*  
34 *correctional services program related to the crime for which the original*  
35 *sentence was imposed.*

36 *(3) The provisions of subsection (c)(2) shall not apply to adult*  
37 *felony offenders as described in K.S.A. 75-5291(a)(3), and amendments*  
38 *thereto.*

39 *(4) The court may require an offender for whom a violation of*  
40 *conditions of release or assignment or a nonprison sanction has been*  
41 *established as provided in this section to serve any time for the sentence*  
42 *imposed or which might originally have been imposed in a state facility*  
43 *in the custody of the secretary of corrections without a prior assignment*

1 *to a community correctional services program if the court finds and sets*  
2 *forth with particularity the reasons for finding that the safety of the*  
3 *members of the public will be jeopardized or that the welfare of the*  
4 *inmate will not be served by such assignment to a community*  
5 *correctional services program.*

6 *(5) When a new felony is committed while the offender is on*  
7 *probation or assignment to a community correctional services program,*  
8 *the new sentence shall be imposed consecutively pursuant to the*  
9 *provisions of K.S.A. 2016 Supp. 21-6606, and amendments thereto, and*  
10 *the court may sentence the offender to imprisonment for the new*  
11 *conviction, even when the new crime of conviction otherwise presumes a*  
12 *nonprison sentence. In this event, imposition of a prison sentence for the*  
13 *new crime does not constitute a departure.*

14 *(6) Except as provided in subsection (f), upon completion of a*  
15 *violation sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D)*  
16 *such offender shall return to community correctional services*  
17 *supervision. The sheriff shall not be responsible for the return of the*  
18 *offender to the county where the community correctional services*  
19 *supervision is assigned.*

20 *(7) A violation sanction imposed pursuant to subsection (c)(1)(B),*  
21 *(c)(1)(C) or (c)(1)(D) shall not be longer than the amount of time*  
22 *remaining on the offender's underlying prison sentence.*

23 *(8) (A) If the offender commits a new felony or misdemeanor while*  
24 *the offender is on probation, assignment to a community correctional*  
25 *services program, suspension of sentence or nonprison sanction, the*  
26 *court may revoke the probation, assignment to a community correctional*  
27 *services program, suspension of sentence or nonprison sanction of an*  
28 *offender pursuant to subsection (c)(1)(E) without having previously*  
29 *imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)*  
30 *(D).*

31 *(B) If the offender absconds from supervision while the offender is*  
32 *on probation, assignment to a community correctional services program,*  
33 *suspension of sentence or nonprison sanction, the court may:*

34 *(i) Revoke the probation, assignment to a community correctional*  
35 *services program, suspension of sentence or nonprison sanction of an*  
36 *offender pursuant to subsection (c)(1)(E) without having previously*  
37 *imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)*  
38 *(D); or*

39 *(ii) sanction the offender under subsection (c)(1)(A), (c)(1)(C) or*  
40 *(c)(1)(D) without imposing a sanction under (c)(1)(B).*

41 *(9) The court may revoke the probation, assignment to a*  
42 *community correctional services program, suspension of sentence or*  
43 *nonprison sanction of an offender pursuant to subsection (c)(1)(E)*

1 *without having previously imposed a sanction pursuant to subsection (c)*  
2 *(1)(B), (c)(1)(C) or (c)(1)(D) if:*

3 *(A) The court finds and sets forth with particularity the reasons for*  
4 *finding that the safety of members of the public will be jeopardized or*  
5 *that the welfare of the offender will not be served by such sanction; or*

6 *(B) the probation, assignment to a community correctional services*  
7 *program, suspension of sentence or nonprison sanction was originally*  
8 *granted as the result of a dispositional departure granted by the*  
9 *sentencing court pursuant to K.S.A. 2016 Supp. 21-6815, and amendments*  
10 *thereto.*

11 *(10) If an offender is serving multiple probation terms*  
12 *concurrently, any violation sanctions imposed pursuant to subsection (c)*  
13 *(1)(B), (c)(1)(C) or (c)(1)(D), or any sanction imposed pursuant to*  
14 *subsection (c)(11), shall be imposed concurrently.*

15 *(11) If the original crime of conviction was a felony, except for*  
16 *violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2016 Supp. 8-1025, and*  
17 *amendments thereto, and the court makes a finding that the offender*  
18 *has committed one or more violations of the release conditions of the*  
19 *probation, assignment to a community correctional services program,*  
20 *suspension of sentence or nonprison sanction, the court may impose*  
21 *confinement in a county jail not to exceed 60 days upon each such*  
22 *finding. Such confinement is separate and distinct from the violation*  
23 *sanctions provided in subsection (c)(1)(B), (c)(1)(C), (c)(1)(D) and (c)(1)*  
24 *(E) and shall not be imposed at the same time as any such violation*  
25 *sanction.*

26 *(12) The violation sanctions provided in this subsection shall apply*  
27 *to any violation of conditions of release or assignment or a nonprison*  
28 *sanction occurring on and after July 1, 2013, regardless of when the*  
29 *offender was sentenced for the original crime or committed the original*  
30 *crime for which sentenced.*

31 *(d) A defendant who is on probation, assigned to a community*  
32 *correctional services program, under suspension of sentence or serving*  
33 *a nonprison sanction and for whose return a warrant has been issued by*  
34 *the court shall be considered a fugitive from justice if it is found that the*  
35 *warrant cannot be served. If it appears that the defendant has violated*  
36 *the provisions of the defendant's release or assignment or a nonprison*  
37 *sanction, the court shall determine whether the time from the issuing of*  
38 *the warrant to the date of the defendant's arrest, or any part of it, shall*  
39 *be counted as time served on probation, assignment to a community*  
40 *correctional services program, suspended sentence or pursuant to a*  
41 *nonprison sanction.*

42 *(e) The court shall have 30 days following the date probation,*  
43 *assignment to a community correctional service program, suspension of*

1 *sentence or a nonprison sanction was to end to issue a warrant for the*  
2 *arrest or notice to appear for the defendant to answer a charge of a*  
3 *violation of the conditions of probation, assignment to a community*  
4 *correctional service program, suspension of sentence or a nonprison*  
5 *sanction.*

6 *(f) For crimes committed on and after July 1, 2013, a felony*  
7 *offender whose nonprison sanction is revoked pursuant to subsection (c)*  
8 *or whose underlying prison term expires while serving a sanction*  
9 *pursuant to subsection (c)(1)(C) or (c)(1)(D) shall serve a period of*  
10 *postrelease supervision upon the completion of the prison portion of the*  
11 *underlying sentence.*

12 *(g) Offenders who have been sentenced pursuant to K.S.A. 2016*  
13 *Supp. 21-6824, and amendments thereto, and who subsequently violate a*  
14 *condition of the drug and alcohol abuse treatment program shall be*  
15 *subject to an additional nonprison sanction for any such subsequent*  
16 *violation. Such nonprison sanctions shall include, but not be limited to,*  
17 *up to 60 days in a county jail, fines, community service, intensified*  
18 *treatment, house arrest and electronic monitoring.*

19 ~~Sec. 13-15 {3.}~~ K.S.A. 2016 Supp. ~~21-5417, 21-5802, 21-5813, 21-~~  
20 ~~5821, 21-5825, 21-5828, 21-5830, 21-5927, 21-6002, 21-6004, 21-6005~~  
21 ~~and, 21-6205, 22-2302 and 22-3716~~ are hereby repealed.

22 ~~Sec. 14-16 {4.}~~ This act shall take effect and be in force from and  
23 after its publication in the statute book.