

As Amended by House Committee

Session of 2018

HOUSE BILL No. 2439

By Representatives Jennings, Brim, Delperdang, Mastroni, Ryckman, Schwab, E. Smith, Tarwater and Wheeler

12-21

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to involuntary manslaughter; **aggravated battery**; involving certain  
3 violations of driving under the influence of alcohol or drugs; amending  
4 K.S.A. 2017 Supp. 8-262, 8-2,144, **8-1013**, 8-1025, 8-1567, 21-5405,  
5 **21-5413**, 21-6811, 38-2312 and 75-52,148 and repealing the existing  
6 sections.

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

9 Section 1. K.S.A. 2017 Supp. 21-5405 is hereby amended to read as  
10 follows: 21-5405. (a) Involuntary manslaughter is the killing of a human  
11 being committed:

12 (1) Recklessly;

13 (2) in the commission of, or attempt to commit, or flight from any  
14 felony, other than an inherently dangerous felony as defined in K.S.A.  
15 2017 Supp. 21-5402, and amendments thereto, that is enacted for the  
16 protection of human life or safety or a misdemeanor that is enacted for the  
17 protection of human life or safety, including acts described in K.S.A. 8-  
18 1566 and ~~subsection (a) of 8-1568(a)~~, and amendments thereto, but  
19 excluding the acts described in K.S.A. 8-1567, and amendments thereto;

20 (3) in the commission of, or attempt to commit, or flight from an act  
21 described in K.S.A. 8-1567, and amendments thereto; ~~or~~

22 (4) during the commission of a lawful act in an unlawful manner; *or*

23 (5) *in the commission of, or attempt to commit, or flight from an act*  
24 *described in K.S.A. 8-1567, and amendments thereto, while:*

25 (A) *in violation of any restriction imposed on such person's driving*  
26 *privileges pursuant to article 10 of chapter 8 of the Kansas Statutes*  
27 *Annotated, and amendments thereto;*

28 (B) *such person's driving privileges are suspended or revoked*  
29 *pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and*  
30 *amendments thereto; or*

31 (C) *such person has been deemed a habitual violator as defined in*  
32 *K.S.A. 8-285, and amendments thereto, including at least one violation of*  
33 *K.S.A. 8-1567, and amendments thereto, or violating an ordinance of any*  
34 *city in this state, any resolution of any county in this state or any law of*  
35 *another state, which ordinance, resolution or law declares to be unlawful*

1 *the acts prohibited by that statute.*

2 (b) Involuntary manslaughter as defined in:

3 (1) Subsection (a)(1), (a)(2) or (a)(4) is a severity level 5, person  
4 felony; ~~and~~

5 (2) subsection (a)(3) is a severity level 4, person felony; *and*

6 (3) *subsection (a)(5) is a severity level 3, person felony.*

7 **Sec. 2. K.S.A. 2017 Supp. 21-5413 is hereby amended to read as**  
8 **follows: 21-5413. (a) Battery is:**

9 (1) **Knowingly or recklessly causing bodily harm to another**  
10 **person; or**

11 (2) **knowingly causing physical contact with another person when**  
12 **done in a rude, insulting or angry manner.**

13 (b) **Aggravated battery is:**

14 (1) (A) **Knowingly causing great bodily harm to another person**  
15 **or disfigurement of another person;**

16 (B) **knowingly causing bodily harm to another person with a**  
17 **deadly weapon, or in any manner whereby great bodily harm,**  
18 **disfigurement or death can be inflicted; or**

19 (C) **knowingly causing physical contact with another person when**  
20 **done in a rude, insulting or angry manner with a deadly weapon, or in**  
21 **any manner whereby great bodily harm, disfigurement or death can**  
22 **be inflicted;**

23 (2) (A) **recklessly causing great bodily harm to another person or**  
24 **disfigurement of another person; ~~or~~**

25 (B) **recklessly causing bodily harm to another person with a**  
26 **deadly weapon, or in any manner whereby great bodily harm,**  
27 **disfigurement or death can be inflicted; or**

28 (3) (A) **committing an act described in K.S.A. 8-1567, and**  
29 **amendments thereto, when great bodily harm to another person or**  
30 **disfigurement of another person results from such act; or**

31 (B) **committing an act described in K.S.A. 8-1567, and**  
32 **amendments thereto, when bodily harm to another person results**  
33 **from such act under circumstances whereby great bodily harm,**  
34 **disfigurement or death can result from such act; or**

35 (4) *committing an act described in K.S.A. 8-1567, and amendments*  
36 *thereto, when great bodily harm to another person or disfigurement of*  
37 *another person results from such act while:*

38 (A) *In violation of any restriction imposed on such person's driving*  
39 *privileges pursuant to article 10 of chapter 8 of the Kansas Statutes*  
40 *Annotated, and amendments thereto;*

41 (B) *such person's driving privileges are suspended or revoked*  
42 *pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and*  
43 *amendments thereto; or*

1       (C) *such person has been deemed a habitual violator as defined in*  
2 *K.S.A. 8-285, and amendments thereto, including at least one violation of*  
3 *K.S.A. 8-1567, and amendments thereto, or violating an ordinance of any*  
4 *city in this state, any resolution of any county in this state or any law of*  
5 *another state, which ordinance, resolution or law declares to be unlawful*  
6 *the acts prohibited by that statute.*

7       (c) **Battery against a law enforcement officer is:**

8       (1) **Battery, as defined in subsection (a)(2), committed against a:**

9       (A) **Uniformed or properly identified university or campus police**  
10 **officer while such officer is engaged in the performance of such**  
11 **officer's duty;**

12       (B) **uniformed or properly identified state, county or city law**  
13 **enforcement officer, other than a state correctional officer or**  
14 **employee, a city or county correctional officer or employee or a**  
15 **juvenile detention facility officer, or employee, while such officer is**  
16 **engaged in the performance of such officer's duty;**

17       (C) **judge, while such judge is engaged in the performance of such**  
18 **judge's duty;**

19       (D) **attorney, while such attorney is engaged in the performance**  
20 **of such attorney's duty; or**

21       (E) **community corrections officer or court services officer, while**  
22 **such officer is engaged in the performance of such officer's duty;**

23       (2) **battery, as defined in subsection (a)(1), committed against a:**

24       (A) **Uniformed or properly identified university or campus police**  
25 **officer while such officer is engaged in the performance of such**  
26 **officer's duty; or**

27       (B) **uniformed or properly identified state, county or city law**  
28 **enforcement officer, other than a state correctional officer or**  
29 **employee, a city or county correctional officer or employee or a**  
30 **juvenile detention facility officer, or employee, while such officer is**  
31 **engaged in the performance of such officer's duty;**

32       (C) **judge, while such judge is engaged in the performance of such**  
33 **judge's duty;**

34       (D) **attorney, while such attorney is engaged in the performance**  
35 **of such attorney's duty; or**

36       (E) **community corrections officer or court services officer, while**  
37 **such officer is engaged in the performance of such officer's duty; or**

38       (3) **battery, as defined in subsection (a) committed against a:**

39       (A) **State correctional officer or employee by a person in custody**  
40 **of the secretary of corrections, while such officer or employee is**  
41 **engaged in the performance of such officer's or employee's duty;**

42       (B) **state correctional officer or employee by a person confined in**  
43 **such juvenile correctional facility, while such officer or employee is**

1 engaged in the performance of such officer's or employee's duty;

2 (C) juvenile detention facility officer or employee by a person  
3 confined in such juvenile detention facility, while such officer or  
4 employee is engaged in the performance of such officer's or  
5 employee's duty; or

6 (D) city or county correctional officer or employee by a person  
7 confined in a city holding facility or county jail facility, while such  
8 officer or employee is engaged in the performance of such officer's or  
9 employee's duty.

10 (d) Aggravated battery against a law enforcement officer is:

11 (1) An aggravated battery, as defined in subsection (b)(1)(A)  
12 committed against a:

13 (A) Uniformed or properly identified state, county or city law  
14 enforcement officer while the officer is engaged in the performance of  
15 the officer's duty;

16 (B) uniformed or properly identified university or campus police  
17 officer while such officer is engaged in the performance of such  
18 officer's duty;

19 (C) judge, while such judge is engaged in the performance of such  
20 judge's duty;

21 (D) attorney, while such attorney is engaged in the performance  
22 of such attorney's duty; or

23 (E) community corrections officer or court services officer, while  
24 such officer is engaged in the performance of such officer's duty;

25 (2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)  
26 (1)(C), committed against a:

27 (A) Uniformed or properly identified state, county or city law  
28 enforcement officer while the officer is engaged in the performance of  
29 the officer's duty;

30 (B) uniformed or properly identified university or campus police  
31 officer while such officer is engaged in the performance of such  
32 officer's duty;

33 (C) judge, while such judge is engaged in the performance of such  
34 judge's duty;

35 (D) attorney, while such attorney is engaged in the performance  
36 of such attorney's duty; or

37 (E) community corrections officer or court services officer, while  
38 such officer is engaged in the performance of such officer's duty; or

39 (3) knowingly causing, with a motor vehicle, bodily harm to a:

40 (A) Uniformed or properly identified state, county or city law  
41 enforcement officer while the officer is engaged in the performance of  
42 the officer's duty; or

43 (B) uniformed or properly identified university or campus police

1 officer while such officer is engaged in the performance of such  
2 officer's duty.

3 (e) Battery against a school employee is a battery, as defined in  
4 subsection (a), committed against a school employee in or on any  
5 school property or grounds upon which is located a building or  
6 structure used by a unified school district or an accredited nonpublic  
7 school for student instruction or attendance or extracurricular  
8 activities of pupils enrolled in kindergarten or any of the grades one  
9 through 12 or at any regularly scheduled school sponsored activity or  
10 event, while such employee is engaged in the performance of such  
11 employee's duty.

12 (f) Battery against a mental health employee is a battery, as  
13 defined in subsection (a), committed against a mental health employee  
14 by a person in the custody of the secretary for aging and disability  
15 services, while such employee is engaged in the performance of such  
16 employee's duty.

17 (g) (1) Battery is a class B person misdemeanor.

18 (2) Aggravated battery as defined in:

19 (A) Subsection (b)(1)(A) *or* (b)(4) is a severity level 4, person  
20 felony;

21 (B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person  
22 felony;

23 (C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person  
24 felony; and

25 (D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person  
26 felony.

27 (3) Battery against a law enforcement officer as defined in:

28 (A) Subsection (c)(1) is a class A person misdemeanor;

29 (B) subsection (c)(2) is a severity level 7, person felony; and

30 (C) subsection (c)(3) is a severity level 5, person felony.

31 (4) Aggravated battery against a law enforcement officer as  
32 defined in:

33 (A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony;  
34 and

35 (B) subsection (d)(2) is a severity level 4, person felony.

36 (5) Battery against a school employee is a class A person  
37 misdemeanor.

38 (6) Battery against a mental health employee is a severity level 7,  
39 person felony.

40 (h) As used in this section:

41 (1) "Correctional institution" means any institution or facility  
42 under the supervision and control of the secretary of corrections;

43 (2) "state correctional officer or employee" means any officer or

1 employee of the Kansas department of corrections or any independent  
2 contractor, or any employee of such contractor, whose duties include  
3 working at a correctional institution;

4 (3) "juvenile detention facility officer or employee" means any  
5 officer or employee of a juvenile detention facility as defined in K.S.A.  
6 2017 Supp. 38-2302, and amendments thereto;

7 (4) "city or county correctional officer or employee" means any  
8 correctional officer or employee of the city or county or any  
9 independent contractor, or any employee of such contractor, whose  
10 duties include working at a city holding facility or county jail facility;

11 (5) "school employee" means any employee of a unified school  
12 district or an accredited nonpublic school for student instruction or  
13 attendance or extracurricular activities of pupils enrolled in  
14 kindergarten or any of the grades one through 12;

15 (6) "mental health employee" means: (A) An employee of the  
16 Kansas department for aging and disability services working at  
17 Larned state hospital, Osawatomie state hospital, Kansas neurological  
18 institute and Parsons state hospital and training center and the  
19 treatment staff as defined in K.S.A. 59-29a02, and amendments  
20 thereto; and (B) contractors and employees of contractors under  
21 contract to provide services to the Kansas department for aging and  
22 disability services working at any such institution or facility;

23 (7) "judge" means a duly elected or appointed justice of the  
24 supreme court, judge of the court of appeals, judge of any district  
25 court of Kansas, district magistrate judge or municipal court judge;

26 (8) "attorney" means a: (A) County attorney, assistant county  
27 attorney, special assistant county attorney, district attorney, assistant  
28 district attorney, special assistant district attorney, attorney general,  
29 assistant attorney general or special assistant attorney general; and  
30 (B) public defender, assistant public defender, contract counsel for the  
31 state board of indigents' defense services or an attorney who is  
32 appointed by the court to perform services for an indigent person as  
33 provided by article 45 of chapter 22 of the Kansas Statutes Annotated,  
34 and amendments thereto;

35 (9) "community corrections officer" means an employee of a  
36 community correctional services program responsible for supervision  
37 of adults or juveniles as assigned by the court to community  
38 corrections supervision and any other employee of a community  
39 correctional services program that provides enhanced supervision of  
40 offenders such as house arrest and surveillance programs; and

41 (10) "court services officer" means an employee of the Kansas  
42 judicial branch or local judicial district responsible for supervising,  
43 monitoring or writing reports relating to adults or juveniles as

1 **assigned by the court, or performing related duties as assigned by the**  
2 **court.**

3 ~~Sec. 2.~~ **3.** K.S.A. 2017 Supp. 8-262 is hereby amended to read as  
4 follows: 8-262. (a) (1) Any person who drives a motor vehicle on any  
5 highway of this state at a time when such person's privilege so to do is  
6 canceled, suspended or revoked or while such person's privilege to obtain  
7 a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and  
8 amendments thereto, shall be guilty of a class B nonperson misdemeanor  
9 on the first conviction and a class A nonperson misdemeanor on the second  
10 or subsequent conviction.

11 (2) No person shall be convicted under this section if such person was  
12 entitled at the time of arrest under K.S.A. 8-257, and amendments thereto,  
13 to the return of such person's driver's license.

14 (3) Except as otherwise provided by subsection (a)(4) or (c), every  
15 person convicted under this section shall be sentenced to at least five days'  
16 imprisonment and fined at least \$100 and upon a second conviction shall  
17 not be eligible for parole until completion of five days' imprisonment.

18 (4) Except as otherwise provided by subsection (c), if a person: (A) Is  
19 convicted of a violation of this section, committed while the person's  
20 privilege to drive or privilege to obtain a driver's license was suspended or  
21 revoked for a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp.  
22 8-1025, and amendments thereto, or any ordinance of any city or  
23 resolution of any county or a law of another state, which ordinance or  
24 resolution or law prohibits the acts prohibited by those statutes; and (B) is  
25 or has been also convicted of a violation of K.S.A. 8-2,144 or 8-1567 or  
26 K.S.A. 2017 Supp. 8-1025, and amendments thereto, or any ordinance of  
27 any city or resolution of any county or law of another state, which  
28 ordinance or resolution or law prohibits the acts prohibited by those  
29 statutes, committed while the person's privilege to drive or privilege to  
30 obtain a driver's license was so suspended or revoked, the person shall not  
31 be eligible for suspension of sentence, probation or parole until the person  
32 has served at least 90 days' imprisonment, and any fine imposed on such  
33 person shall be in addition to such a term of imprisonment.

34 (b) The division, upon receiving a record of the conviction of any  
35 person under this section, or any ordinance of any city or resolution of any  
36 county or a law of another state which is in substantial conformity with  
37 this section, upon a charge of driving a vehicle while the license of such  
38 person is revoked or suspended, shall extend the period of such suspension  
39 or revocation for an additional period of 90 days.

40 (c) (1) The person found guilty of a class A nonperson misdemeanor  
41 on a third or subsequent conviction of this section shall be sentenced to not  
42 less than 90 days' imprisonment and fined not less than \$1,500 if such  
43 person's privilege to drive a motor vehicle is canceled, suspended or

1 revoked because such person:

2 (A) Refused to submit and complete any test of blood, breath or urine  
3 requested by law enforcement excluding the preliminary screening test as  
4 set forth in K.S.A. 8-1012, and amendments thereto;

5 (B) was convicted of violating the provisions of K.S.A. 40-3104, and  
6 amendments thereto, relating to motor vehicle liability insurance coverage;

7 (C) was convicted of vehicular homicide, K.S.A. 21-3405, prior to its  
8 repeal, or K.S.A. 2017 Supp. 21-5406, and amendments thereto,  
9 involuntary manslaughter while driving under the influence of alcohol or  
10 drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as  
11 defined in ~~subsection (a)(3) of~~ K.S.A. 2017 Supp. 21-5405(a)(3) and (a)  
12 (5), and amendments thereto, or any other murder or manslaughter crime  
13 resulting from the operation of a motor vehicle; or

14 (D) was convicted of being a habitual violator, K.S.A. 8-287, and  
15 amendments thereto.

16 (2) The person convicted shall not be eligible for release on  
17 probation, suspension or reduction of sentence or parole until the person  
18 has served at least 90 days' imprisonment. The 90 days' imprisonment  
19 mandated by this subsection may be served in a work release program only  
20 after such person has served 48 consecutive hours' imprisonment, provided  
21 such work release program requires such person to return to confinement  
22 at the end of each day in the work release program. The court may place  
23 the person convicted under a house arrest program pursuant to K.S.A.  
24 2017 Supp. 21-6609, and amendments thereto, or any municipal ordinance  
25 to serve the remainder of the minimum sentence only after such person has  
26 served 48 consecutive hours' imprisonment.

27 (d) For the purposes of determining whether a conviction is a first,  
28 second, third or subsequent conviction in sentencing under this section,  
29 "conviction" includes a conviction of a violation of any ordinance of any  
30 city or resolution of any county or a law of another state which is in  
31 substantial conformity with this section.

32 ~~Sec. 4.~~ K.S.A. 2017 Supp. 8-2,144 is hereby amended to read as  
33 follows: 8-2,144. (a) Driving a commercial motor vehicle under the  
34 influence is operating or attempting to operate any commercial motor  
35 vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, within this  
36 state while:

37 (1) The alcohol concentration in the person's blood or breath, as  
38 shown by any competent evidence, including other competent evidence, as  
39 defined in K.S.A. 8-1013(f)(1), and amendments thereto, is 0.04 or more;

40 (2) the alcohol concentration in the person's blood or breath, as  
41 measured within three hours of the time of driving a commercial motor  
42 vehicle, is 0.04 or more; or

43 (3) committing a violation of K.S.A. 8-1567(a), and amendments



1 thereto, or the ordinance of a city or resolution of a county which prohibits  
2 any of the acts prohibited thereunder.

3 (b) (1) Driving a commercial motor vehicle under the influence is:

4 (A) On a first conviction a class B, nonperson misdemeanor. The  
5 person convicted shall be sentenced to not less than 48 consecutive hours  
6 nor more than six months' imprisonment, or in the court's discretion, 100  
7 hours of public service, and fined not less than \$750 nor more than \$1,000.  
8 The person convicted shall serve at least 48 consecutive hours'  
9 imprisonment or 100 hours of public service either before or as a condition  
10 of any grant of probation, suspension or reduction of sentence or parole or  
11 other release;

12 (B) on a second conviction a class A, nonperson misdemeanor. The  
13 person convicted shall be sentenced to not less than 90 days nor more than  
14 one year's imprisonment and fined not less than \$1,250 nor more than  
15 \$1,750. The person convicted shall serve at least five consecutive days'  
16 imprisonment before the person is granted probation, suspension or  
17 reduction of sentence or parole or is otherwise released. The five days'  
18 imprisonment mandated by this subsection may be served in a work  
19 release program only after such person has served 48 consecutive hours'  
20 imprisonment, provided such work release program requires such person  
21 to return to confinement at the end of each day in the work release  
22 program. The person convicted, if placed into a work release program,  
23 shall serve a minimum of 120 hours of confinement. Such 120 hours of  
24 confinement shall be a period of at least 48 consecutive hours of  
25 imprisonment followed by confinement hours at the end of and continuing  
26 to the beginning of the offender's work day. The court may place the  
27 person convicted under a house arrest program pursuant to K.S.A. 2017  
28 Supp. 21-6609, and amendments thereto, to serve the five days'  
29 imprisonment mandated by this subsection only after such person has  
30 served 48 consecutive hours' imprisonment. The person convicted, if  
31 placed under house arrest, shall be monitored by an electronic monitoring  
32 device, which verifies the offender's location. The offender shall serve a  
33 minimum of 120 hours of confinement within the boundaries of the  
34 offender's residence. Any exceptions to remaining within the boundaries of  
35 the offender's residence provided for in the house arrest agreement shall  
36 not be counted as part of the 120 hours; and

37 (C) on a third or subsequent conviction a nonperson felony. The  
38 person convicted shall be sentenced to not less than 90 days nor more than  
39 one year's imprisonment and fined not less than \$1,750 nor more than  
40 \$2,500. The person convicted shall not be eligible for release on probation,  
41 suspension or reduction of sentence or parole until the person has served at  
42 least 90 days' imprisonment. The 90 days' imprisonment mandated by this  
43 subsection may be served in a work release program only after such person

1 has served 48 consecutive hours' imprisonment, provided such work  
2 release program requires such person to return to confinement at the end of  
3 each day in the work release program. The person convicted, if placed into  
4 a work release program, shall serve a minimum of 2,160 hours of  
5 confinement. Such 2,160 hours of confinement shall be a period of at least  
6 48 consecutive hours of imprisonment followed by confinement hours at  
7 the end of and continuing to the beginning of the offender's work day. The  
8 court may place the person convicted under a house arrest program  
9 pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto, to serve  
10 the 90 days' imprisonment mandated by this subsection only after such  
11 person has served 48 consecutive hours' imprisonment. The person  
12 convicted, if placed under house arrest, shall be monitored by an electronic  
13 monitoring device, which verifies the offender's location. The offender  
14 shall serve a minimum of 2,160 hours of confinement within the  
15 boundaries of the offender's residence. Any exceptions to remaining within  
16 the boundaries of the offender's residence provided for in the house arrest  
17 agreement shall not be counted as part of the 2,160 hours.

18 (2) In addition, for any conviction pursuant to subsection (b)(1)(C), at  
19 the time of the filing of the judgment form or journal entry as required by  
20 K.S.A. 22-3426 or K.S.A. 2017 Supp. 21-6711, and amendments thereto,  
21 the court shall cause a certified copy to be sent to the officer having the  
22 offender in charge. The court shall determine whether the offender, upon  
23 release from imprisonment, shall be supervised by community correctional  
24 services or court services based upon the risk and needs of the offender.  
25 The risk and needs of the offender shall be determined by use of a risk  
26 assessment tool specified by the Kansas sentencing commission. The law  
27 enforcement agency maintaining custody and control of a defendant for  
28 imprisonment shall cause a certified copy of the judgment form or journal  
29 entry to be sent to the supervision office designated by the court and upon  
30 expiration of the term of imprisonment shall deliver the defendant to a  
31 location designated by the supervision office designated by the court. After  
32 the term of imprisonment imposed by the court, the person shall be placed  
33 on supervision to community correctional services or court services, as  
34 determined by the court, for a mandatory one-year period of supervision,  
35 which such period of supervision shall not be reduced. During such  
36 supervision, the person shall be required to participate in a  
37 multidisciplinary model of services for substance use disorders facilitated  
38 by a Kansas department for aging and disability services designated care  
39 coordination agency to include assessment and, if appropriate, referral to a  
40 community based substance use disorder treatment including recovery  
41 management and mental health counseling as needed. The  
42 multidisciplinary team shall include the designated care coordination  
43 agency, the supervision officer, the aging and disability services

1 department designated treatment provider and the offender. Any violation  
2 of the conditions of such supervision may subject such person to  
3 revocation of supervision and imprisonment in jail for the remainder of the  
4 period of imprisonment, the remainder of the supervision period, or any  
5 combination or portion thereof.

6 (3) In addition, prior to sentencing for any conviction pursuant to  
7 subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to  
8 participate in an alcohol and drug evaluation conducted by a provider in  
9 accordance with K.S.A. 8-1008, and amendments thereto. The person shall  
10 be required to follow any recommendation made by the provider after such  
11 evaluation, unless otherwise ordered by the court.

12 (c) Any person convicted of a violation of this section, or a violation  
13 of a city ordinance or county resolution prohibiting the acts prohibited by  
14 this section, who had one or more children under the age of 14 years in the  
15 vehicle at the time of the offense shall have such person's punishment  
16 enhanced by one month of imprisonment. This imprisonment shall be  
17 served consecutively to any other minimum mandatory penalty imposed  
18 for a violation of this section, or a violation of a city ordinance or county  
19 resolution prohibiting the acts prohibited by this section. Any enhanced  
20 penalty imposed shall not exceed the maximum sentence allowable by law.  
21 During the service of the enhanced penalty, the judge may order the person  
22 on house arrest, work release or other conditional release.

23 (d) If a person is charged with a violation of this section involving  
24 drugs, the fact that the person is or has been entitled to use the drug under  
25 the laws of this state shall not constitute a defense against the charge.

26 (e) The court may establish the terms and time for payment of any  
27 fines, fees, assessments and costs imposed pursuant to this section. Any  
28 assessment and costs shall be required to be paid not later than 90 days  
29 after imposed, and any remainder of the fine shall be paid prior to the final  
30 release of the defendant by the court.

31 (f) In lieu of payment of a fine imposed pursuant to this section, the  
32 court may order that the person perform community service specified by  
33 the court. The person shall receive a credit on the fine imposed in an  
34 amount equal to \$5 for each full hour spent by the person in the specified  
35 community service. The community service ordered by the court shall be  
36 required to be performed not later than one year after the fine is imposed  
37 or by an earlier date specified by the court. If by the required date the  
38 person performs an insufficient amount of community service to reduce to  
39 zero the portion of the fine required to be paid by the person, the  
40 remaining balance of the fine shall become due on that date.

41 (g) Prior to filing a complaint alleging a violation of this section, a  
42 prosecutor shall request and shall receive from the: (1) Division a record  
43 of all prior convictions obtained against such person for any violations of

1 any of the motor vehicle laws of this state; and (2) Kansas bureau of  
2 investigation central repository all criminal history record information  
3 concerning such person.

4 (h) The court shall electronically report every conviction of a  
5 violation of this section and every diversion agreement entered into in lieu  
6 of further criminal proceedings on a complaint alleging a violation of this  
7 section to the division. Prior to sentencing under the provisions of this  
8 section, the court shall request and shall receive from the: (1) Division a  
9 record of all prior convictions obtained against such person for any  
10 violation of any of the motor vehicle laws of this state; and (2) Kansas  
11 bureau of investigation central repository all criminal history record  
12 information concerning such person.

13 (i) Upon conviction of a person of a violation of this section or a  
14 violation of a city ordinance or county resolution prohibiting the acts  
15 prohibited by this section, the division, upon receiving a report of  
16 conviction, shall: (1) Disqualify the person from driving a commercial  
17 motor vehicle under K.S.A. 8-2,142, and amendments thereto; and (2)  
18 suspend, restrict or suspend and restrict the person's driving privileges as  
19 provided by K.S.A. 8-1014, and amendments thereto.

20 (j) (1) Nothing contained in this section shall be construed as  
21 preventing any city from enacting ordinances, or any county from adopting  
22 resolutions, declaring acts prohibited or made unlawful by this section as  
23 unlawful or prohibited in such city or county and prescribing penalties for  
24 violation thereof.

25 (2) The minimum penalty prescribed by any such ordinance or  
26 resolution shall not be less than the minimum penalty prescribed by this  
27 section for the same violation, and the maximum penalty in any such  
28 ordinance or resolution shall not exceed the maximum penalty prescribed  
29 for the same violation.

30 (3) Any such ordinance or resolution shall authorize the court to order  
31 that the convicted person pay restitution to any victim who suffered loss  
32 due to the violation for which the person was convicted.

33 (k) (1) Upon the filing of a complaint, citation or notice to appear  
34 alleging a person has violated a city ordinance prohibiting the acts  
35 prohibited by this section, and prior to conviction thereof, a city attorney  
36 shall request and shall receive from the: (A) Division of vehicles a record  
37 of all prior convictions obtained against such person for any violations of  
38 any of the motor vehicle laws of this state; and (B) Kansas bureau of  
39 investigation central repository all criminal history record information  
40 concerning such person.

41 (2) If the elements of such ordinance violation are the same as the  
42 elements of a violation of this section that would constitute, and be  
43 punished as, a felony, the city attorney shall refer the violation to the

1 appropriate county or district attorney for prosecution. The county or  
2 district attorney shall accept such referral and pursue a disposition of such  
3 violation, and shall not refer any such violation back to the city attorney.

4 (l) No plea bargaining agreement shall be entered into nor shall any  
5 judge approve a plea bargaining agreement entered into for the purpose of  
6 permitting a person charged with a violation of this section, or a violation  
7 of any ordinance of a city or resolution of any county in this state which  
8 prohibits the acts prohibited by this section, to avoid the mandatory  
9 penalties established by this section or by the ordinance or resolution.

10 (m) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3)  
11 may be pleaded in the alternative, and the state, city or county may, but  
12 shall not be required to, elect one or two of the three prior to submission of  
13 the case to the fact finder.

14 (n) For the purpose of determining whether a conviction is a first,  
15 second, third or subsequent conviction in sentencing under this section:

16 (1) Convictions for a violation of K.S.A. 8-1567, and amendments  
17 thereto, or a violation of an ordinance of any city or resolution of any  
18 county which prohibits the acts that such section prohibits, or entering into  
19 a diversion agreement in lieu of further criminal proceedings on a  
20 complaint alleging any such violations, shall be taken into account, but  
21 only convictions or diversions occurring on or after July 1, 2001. Nothing  
22 in this provision shall be construed as preventing any court from  
23 considering any convictions or diversions occurring during the person's  
24 lifetime in determining the sentence to be imposed within the limits  
25 provided for a first, second, third, fourth or subsequent offense;

26 (2) any convictions for a violation of the following sections occurring  
27 during a person's lifetime shall be taken into account: (A) This section; (B)  
28 refusing to submit to a test to determine the presence of alcohol or drugs,  
29 K.S.A. 2017 Supp. 8-1025, and amendments thereto; (C) operating a  
30 vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and  
31 amendments thereto; (D) involuntary manslaughter while driving under  
32 the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or  
33 K.S.A. 2017 Supp. 21-5405(a)(3) *or* (a)(5), and amendments thereto; (E)  
34 aggravated battery as described in K.S.A. 2017 Supp. 21-5413(b)(3) **or** (b)  
35 (4), and amendments thereto; and (F) aggravated vehicular homicide,  
36 K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b,  
37 prior to its repeal, if the crime was committed while committing a  
38 violation of K.S.A. 8-1567, and amendments thereto;

39 (3) "conviction" includes: (A) Entering into a diversion agreement in  
40 lieu of further criminal proceedings on a complaint alleging a violation of  
41 a crime described in subsection (n)(2); (B) conviction of a violation of an  
42 ordinance of a city in this state, a resolution of a county in this state or any  
43 law of another state which would constitute a crime described in

1 subsection (n)(1) or (n)(2); and (C) receiving punishment under the  
2 uniform code of military justice or Kansas code of military justice for an  
3 act which was committed on a military reservation and which would  
4 constitute a crime described in subsection (n)(1) or (n)(2) if committed off  
5 a military reservation in this state;

6 (4) it is irrelevant whether an offense occurred before or after  
7 conviction for a previous offense; and

8 (5) multiple convictions of any crime described in subsection (n)(1)  
9 or (n)(2) arising from the same arrest shall only be counted as one  
10 conviction.

11 (o) For the purpose of this section:

12 (1) "Alcohol concentration" means the number of grams of alcohol  
13 per 100 milliliters of blood or per 210 liters of breath;

14 (2) "imprisonment" shall include any restrained environment in which  
15 the court and law enforcement agency intend to retain custody and control  
16 of a defendant and such environment has been approved by the board of  
17 county commissioners or the governing body of a city; and

18 (3) "drug" includes toxic vapors as such term is defined in K.S.A.  
19 2017 Supp. 21-5712, and amendments thereto.

20 (p) On and after July 1, 2011, the amount of \$250 from each fine  
21 imposed pursuant to this section shall be remitted by the clerk of the  
22 district court to the state treasurer in accordance with the provisions of  
23 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
24 remittance, the state treasurer shall credit the entire amount to the  
25 community corrections supervision fund established by K.S.A. 2017 Supp.  
26 75-52,113, and amendments thereto.

27 **Sec. 5. K.S.A. 2017 Supp. 8-1013 is hereby amended to read as**  
28 **follows: 8-1013. As used in K.S.A. 8-1001 through 8-1010, 8-1011, 8-**  
29 **1012, 8-1014, 8-1015, 8-1016, 8-1017 and 8-1018, and amendments**  
30 **thereto, and this section:**

31 **(a) "Alcohol concentration" means the number of grams of**  
32 **alcohol per 100 milliliters of blood or per 210 liters of breath.**

33 **(b) (1) "Alcohol or drug-related conviction" means any of the**  
34 **following: (A) Conviction of vehicular battery or aggravated vehicular**  
35 **homicide, prior to their repeal, if the crime is committed while**  
36 **committing a violation of K.S.A. 8-1567, and amendments thereto, or**  
37 **the ordinance of a city or resolution of a county in this state which**  
38 **prohibits any acts prohibited by that statute, or conviction of a**  
39 **violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and**  
40 **amendments thereto, or conviction of a violation of aggravated battery**  
41 **as described in subsection (b)(3) of K.S.A. 2017 Supp. 21-5413(b)(3) or**  
42 **(b)(4), and amendments thereto, or conviction of a violation of**  
43 **involuntary manslaughter as described in K.S.A. 2017 Supp. 21-5405(a)**

1 (3) or (a)(5), and amendments thereto; (B) conviction of a violation of a  
2 law of another state which would constitute a crime described in  
3 subsection (b)(1)(A) if committed in this state; (C) conviction of a  
4 violation of an ordinance of a city in this state or a resolution of a  
5 county in this state which would constitute a crime described in  
6 subsection (b)(1)(A), whether or not such conviction is in a court of  
7 record; or (D) conviction of an act which was committed on a military  
8 reservation and which would constitute a violation of K.S.A. 8-2,144  
9 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, or  
10 would constitute a crime described in subsection (b)(1)(A) if  
11 committed off a military reservation in this state.

12 (2) For the purpose of determining whether an occurrence is a  
13 first, second or subsequent occurrence: (A) "Alcohol or drug-related  
14 conviction" also includes entering into a diversion agreement in lieu of  
15 further criminal proceedings on a complaint alleging commission of a  
16 crime described in subsection (b)(1), including a diversion agreement  
17 entered into prior to the effective date of this act; and (B) it is  
18 irrelevant whether an offense occurred before or after conviction or  
19 diversion for a previous offense.

20 (c) "Division" means the division of vehicles of the department of  
21 revenue.

22 (d) "Ignition interlock device" means a device which uses a  
23 breath analysis mechanism to prevent a person from operating a  
24 motor vehicle if such person has consumed an alcoholic beverage.

25 (e) "Occurrence" means a test refusal, test failure or alcohol or  
26 drug-related conviction, or any combination thereof arising from one  
27 arrest, including an arrest which occurred prior to the effective ~~day~~  
28 *date* of this act.

29 (f) "Other competent evidence" includes: (1) Alcohol  
30 concentration tests obtained from samples taken three hours or more  
31 after the operation or attempted operation of a vehicle; and (2)  
32 readings obtained from a partial alcohol concentration test on a  
33 breath testing machine.

34 (g) "Samples" includes breath supplied directly for testing, which  
35 breath is not preserved.

36 (h) "Test failure" or "fails a test" refers to a person's having  
37 results of a test administered pursuant to this act, other than a  
38 preliminary screening test, which show an alcohol concentration of .08  
39 or greater in the person's blood or breath, and includes failure of any  
40 such test on a military reservation.

41 (i) "Test refusal" or "refuses a test" refers to a person's failure to  
42 submit to or complete any test of the person's blood, breath, urine or  
43 other bodily substance, other than a preliminary screening test, in

1 **accordance with this act, and includes refusal of any such test on a**  
2 **military reservation.**

3 **(j) "Law enforcement officer" has the meaning provided by**  
4 **K.S.A. 2017 Supp. 21-5111, and amendments thereto, and includes any**  
5 **person authorized by law to make an arrest on a military reservation**  
6 **for an act which would constitute a violation of K.S.A. 8-1567 or**  
7 **K.S.A. 2017 Supp. 8-1025, and amendments thereto, if committed off a**  
8 **military reservation in this state.**

9 ~~Sec. 4:~~ **6.** K.S.A. 2017 Supp. 8-1025 is hereby amended to read as  
10 follows: 8-1025. (a) Refusing to submit to a test to determine the presence  
11 of alcohol or drugs is refusing to submit to or complete a test or tests  
12 deemed consented to under K.S.A. 8-1001(a), and amendments thereto, if  
13 such person has:

14 (1) Any prior test refusal as defined in K.S.A. 8-1013, and  
15 amendments thereto, which occurred: (A) On or after July 1, 2001; and (B)  
16 when such person was 18 years of age or older; or

17 (2) any prior conviction for a violation of K.S.A. 8-1567 or 8-2,144,  
18 and amendments thereto, or a violation of an ordinance of any city or  
19 resolution of any county which prohibits the acts that such section  
20 prohibits, or entering into a diversion agreement in lieu of further criminal  
21 proceedings on a complaint alleging any such violations, which occurred:  
22 (A) On or after July 1, 2001; and (B) when such person was 18 years of  
23 age or older.

24 (b) (1) Refusing to submit to a test to determine the presence of  
25 alcohol or drugs is:

26 (A) On a first conviction a class A, nonperson misdemeanor. The  
27 person convicted shall be sentenced to not less than 90 days nor more than  
28 one year's imprisonment and fined not less than \$1,250 nor more than  
29 \$1,750. The person convicted shall serve at least five consecutive days'  
30 imprisonment before the person is granted probation, suspension or  
31 reduction of sentence or parole or is otherwise released. The five days'  
32 imprisonment mandated by this subsection may be served in a work  
33 release program only after such person has served 48 consecutive hours'  
34 imprisonment, provided such work release program requires such person  
35 to return to confinement at the end of each day in the work release  
36 program. The person convicted, if placed into a work release program,  
37 shall serve a minimum of 120 hours of confinement. Such 120 hours of  
38 confinement shall be a period of at least 48 consecutive hours of  
39 imprisonment followed by confinement hours at the end of and continuing  
40 to the beginning of the offender's work day. The court may place the  
41 person convicted under a house arrest program pursuant to K.S.A. 2017  
42 Supp. 21-6609, and amendments thereto, to serve the five days'  
43 imprisonment mandated by this subsection only after such person has



1 served 48 consecutive hours' imprisonment. The person convicted, if  
2 placed under house arrest, shall be monitored by an electronic monitoring  
3 device, which verifies the offender's location. The offender shall serve a  
4 minimum of 120 hours of confinement within the boundaries of the  
5 offender's residence. Any exceptions to remaining within the boundaries of  
6 the offender's residence provided for in the house arrest agreement shall  
7 not be counted as part of the 120 hours;

8 (B) on a second conviction a class A, nonperson misdemeanor, except  
9 as provided in subsection (b)(1)(C). The person convicted shall be  
10 sentenced to not less than 90 days nor more than one year's imprisonment  
11 and fined not less than \$1,750 nor more than \$2,500. The person convicted  
12 shall not be eligible for release on probation, suspension or reduction of  
13 sentence or parole until the person has served at least 90 days'  
14 imprisonment. The 90 days' imprisonment mandated by this subsection  
15 may be served in a work release program only after such person has served  
16 48 consecutive hours' imprisonment, provided such work release program  
17 requires such person to return to confinement at the end of each day in the  
18 work release program. The person convicted, if placed into a work release  
19 program, shall serve a minimum of 2,160 hours of confinement. Such  
20 2,160 hours of confinement shall be a period of at least 48 consecutive  
21 hours of imprisonment followed by confinement hours at the end of and  
22 continuing to the beginning of the offender's work day. The court may  
23 place the person convicted under a house arrest program pursuant to  
24 K.S.A. 2017 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
25 imprisonment mandated by this subsection only after such person has  
26 served 48 consecutive hours' imprisonment. The person convicted, if  
27 placed under house arrest, shall be monitored by an electronic monitoring  
28 device, which verifies the offender's location. The offender shall serve a  
29 minimum of 2,160 hours of confinement within the boundaries of the  
30 offender's residence. Any exceptions to remaining within the boundaries of  
31 the offender's residence provided for in the house arrest agreement shall  
32 not be counted as part of the 2,160 hours;

33 (C) on a second conviction a nonperson felony if the person has a  
34 prior conviction which occurred within the preceding 10 years, not  
35 including any period of incarceration. The person convicted shall be  
36 sentenced to not less than 90 days nor more than one year's imprisonment  
37 and fined not less than \$1,750 nor more than \$2,500. The person convicted  
38 shall not be eligible for release on probation, suspension or reduction of  
39 sentence or parole until the person has served at least 90 days'  
40 imprisonment. The 90 days' imprisonment mandated by this subsection  
41 may be served in a work release program only after such person has served  
42 48 consecutive hours' imprisonment, provided such work release program  
43 requires such person to return to confinement at the end of each day in the

1 work release program. The person convicted, if placed into a work release  
2 program, shall serve a minimum of 2,160 hours of confinement. Such  
3 2,160 hours of confinement shall be a period of at least 48 consecutive  
4 hours of imprisonment followed by confinement hours at the end of and  
5 continuing to the beginning of the offender's work day. The court may  
6 place the person convicted under a house arrest program pursuant to  
7 K.S.A. 2017 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
8 imprisonment mandated by this subsection only after such person has  
9 served 48 consecutive hours' imprisonment. The person convicted, if  
10 placed under house arrest, shall be monitored by an electronic monitoring  
11 device, which verifies the offender's location. The offender shall serve a  
12 minimum of 2,160 hours of confinement within the boundaries of the  
13 offender's residence. Any exceptions to remaining within the boundaries of  
14 the offender's residence provided for in the house arrest agreement shall  
15 not be counted as part of the 2,160 hours; and

16 (D) on a third or subsequent conviction a nonperson felony. The  
17 person convicted shall be sentenced to not less than 90 days nor more than  
18 one year's imprisonment and fined \$2,500. The person convicted shall not  
19 be eligible for release on probation, suspension or reduction of sentence or  
20 parole until the person has served at least 90 days' imprisonment. The 90  
21 days' imprisonment mandated by this subsection may be served in a work  
22 release program only after such person has served 72 consecutive hours'  
23 imprisonment, provided such work release program requires such person  
24 to return to confinement at the end of each day in the work release  
25 program. The person convicted, if placed into a work release program,  
26 shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of  
27 confinement shall be a period of at least 72 consecutive hours of  
28 imprisonment followed by confinement hours at the end of and continuing  
29 to the beginning of the offender's work day. The court may place the  
30 person convicted under a house arrest program pursuant to K.S.A. 2017  
31 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
32 imprisonment mandated by this subsection only after such person has  
33 served 72 consecutive hours' imprisonment. The person convicted, if  
34 placed under house arrest, shall be monitored by an electronic monitoring  
35 device, which verifies the offender's location. The offender shall serve a  
36 minimum of 2,160 hours of confinement within the boundaries of the  
37 offender's residence. Any exceptions to remaining within the boundaries of  
38 the offender's residence provided for in the house arrest agreement shall  
39 not be counted as part of the 2,160 hours.

40 (2) The court may order that the term of imprisonment imposed  
41 pursuant to subsection (b)(1)(C) or (b)(1)(D) be served in a state facility in  
42 the custody of the secretary of corrections in a facility designated by the  
43 secretary for the provision of substance abuse treatment pursuant to the

1 provisions of K.S.A. 2017 Supp. 21-6804, and amendments thereto. The  
2 person shall remain imprisoned at the state facility only while participating  
3 in the substance abuse treatment program designated by the secretary and  
4 shall be returned to the custody of the sheriff for execution of the balance  
5 of the term of imprisonment upon completion of or the person's discharge  
6 from the substance abuse treatment program. Custody of the person shall  
7 be returned to the sheriff for execution of the sentence imposed in the  
8 event the secretary of corrections determines: (A) That substance abuse  
9 treatment resources or the capacity of the facility designated by the  
10 secretary for the incarceration and treatment of the person is not available;  
11 (B) the person fails to meaningfully participate in the treatment program of  
12 the designated facility; (C) the person is disruptive to the security or  
13 operation of the designated facility; or (D) the medical or mental health  
14 condition of the person renders the person unsuitable for confinement at  
15 the designated facility. The determination by the secretary that the person  
16 either is not to be admitted into the designated facility or is to be  
17 transferred from the designated facility is not subject to review. The sheriff  
18 shall be responsible for all transportation expenses to and from the state  
19 correctional facility.

20 (3) In addition, for any conviction pursuant to subsection (b)(1)(B),  
21 (b)(1)(C) or (b)(1)(D), at the time of the filing of the judgment form or  
22 journal entry as required by K.S.A. 22-3426 or K.S.A. 2017 Supp. 21-  
23 6711, and amendments thereto, the court shall cause a certified copy to be  
24 sent to the officer having the offender in charge. The court shall determine  
25 whether the offender, upon release from imprisonment, shall be supervised  
26 by community correctional services or court services based upon the risk  
27 and needs of the offender. The risk and needs of the offender shall be  
28 determined by use of a risk assessment tool specified by the Kansas  
29 sentencing commission. The law enforcement agency maintaining custody  
30 and control of a defendant for imprisonment shall cause a certified copy of  
31 the judgment form or journal entry to be sent to the supervision office  
32 designated by the court and upon expiration of the term of imprisonment  
33 shall deliver the defendant to a location designated by the supervision  
34 office designated by the court. After the term of imprisonment imposed by  
35 the court, the person shall be placed on supervision to community  
36 correctional services or court services, as determined by the court, for a  
37 mandatory one-year period of supervision, which such period of  
38 supervision shall not be reduced. During such supervision, the person shall  
39 be required to participate in a multidisciplinary model of services for  
40 substance use disorders facilitated by a Kansas department for aging and  
41 disability services designated care coordination agency to include  
42 assessment and, if appropriate, referral to a community based substance  
43 use disorder treatment including recovery management and mental health

1 counseling as needed. The multidisciplinary team shall include the  
2 designated care coordination agency, the supervision officer, the aging and  
3 disability services department designated treatment provider and the  
4 offender. Any violation of the conditions of such supervision may subject  
5 such person to revocation of supervision and imprisonment in jail for the  
6 remainder of the period of imprisonment, the remainder of the supervision  
7 period, or any combination or portion thereof.

8 (4) In addition, prior to sentencing for any conviction pursuant to  
9 subsection (b)(1)(A), the court shall order the person to participate in an  
10 alcohol and drug evaluation conducted by a provider in accordance with  
11 K.S.A. 8-1008, and amendments thereto. The person shall be required to  
12 follow any recommendation made by the provider after such evaluation,  
13 unless otherwise ordered by the court.

14 (c) Any person convicted of violating this section or an ordinance  
15 which prohibits the acts that this section prohibits who had one or more  
16 children under the age of 14 years in the vehicle at the time of the offense  
17 shall have such person's punishment enhanced by one month of  
18 imprisonment. This imprisonment must be served consecutively to any  
19 other minimum mandatory penalty imposed for a violation of this section  
20 or an ordinance which prohibits the acts that this section prohibits. Any  
21 enhanced penalty imposed shall not exceed the maximum sentence  
22 allowable by law. During the service of the enhanced penalty, the judge  
23 may order the person on house arrest, work release or other conditional  
24 release.

25 (d) The court may establish the terms and time for payment of any  
26 fines, fees, assessments and costs imposed pursuant to this section. Any  
27 assessments and costs shall be required to be paid not later than 90 days  
28 after imposed, and any remainder of the fine shall be paid prior to the final  
29 release of the defendant by the court.

30 (e) In lieu of payment of a fine imposed pursuant to this section, the  
31 court may order that the person perform community service specified by  
32 the court. The person shall receive a credit on the fine imposed in an  
33 amount equal to \$5 for each full hour spent by the person in the specified  
34 community service. The community service ordered by the court shall be  
35 required to be performed not later than one year after the fine is imposed  
36 or by an earlier date specified by the court. If by the required date the  
37 person performs an insufficient amount of community service to reduce to  
38 zero the portion of the fine required to be paid by the person, the  
39 remaining balance of the fine shall become due on that date.

40 (f) Prior to filing a complaint alleging a violation of this section, a  
41 prosecutor shall request and shall receive from the:

42 (1) Division a record of all prior convictions obtained against such  
43 person for any violations of any of the motor vehicle laws of this state; and

1 (2) Kansas bureau of investigation central repository all criminal  
2 history record information concerning such person.

3 (g) The court shall electronically report every conviction of a  
4 violation of this section and every diversion agreement entered into in lieu  
5 of further criminal proceedings on a complaint alleging a violation of this  
6 section to the division. Prior to sentencing under the provisions of this  
7 section, the court shall request and shall receive from the division a record  
8 of all prior convictions obtained against such person for any violations of  
9 any of the motor vehicle laws of this state.

10 (h) For the purpose of determining whether a conviction is a first,  
11 second, third, fourth or subsequent conviction in sentencing under this  
12 section:

13 (1) Convictions for a violation of K.S.A. 8-1567, and amendments  
14 thereto, or a violation of an ordinance of any city or resolution of any  
15 county which prohibits the acts that such section prohibits, or entering into  
16 a diversion agreement in lieu of further criminal proceedings on a  
17 complaint alleging any such violations, shall be taken into account, but  
18 only convictions or diversions occurring: (A) On or after July 1, 2001; and  
19 (B) when such person was 18 years of age or older. Nothing in this  
20 provision shall be construed as preventing any court from considering any  
21 convictions or diversions occurring during the person's lifetime in  
22 determining the sentence to be imposed within the limits provided for a  
23 first, second, third, fourth or subsequent offense;

24 (2) any convictions for a violation of the following sections which  
25 occurred during a person's lifetime shall be taken into account, but only  
26 convictions occurring when such person was 18 years of age or older: (A)  
27 This section; (B) driving a commercial motor vehicle under the influence,  
28 K.S.A. 8-2,144, and amendments thereto; (C) operating a vessel under the  
29 influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;  
30 (D) involuntary manslaughter while driving under the influence of alcohol  
31 or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 2017 Supp. 21-  
32 5405(a)(3) *or* (a)(5), and amendments thereto; (E) aggravated battery as  
33 described in K.S.A. 2017 Supp. 21-5413(b)(3) **or** (b)(4), and amendments  
34 thereto; and (F) aggravated vehicular homicide, K.S.A. 21-3405a, prior to  
35 its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the  
36 crime was committed while committing a violation of K.S.A. 8-1567, and  
37 amendments thereto;

38 (3) "conviction" includes: (A) Entering into a diversion agreement in  
39 lieu of further criminal proceedings on a complaint alleging a violation of  
40 a crime described in subsection (h)(2); (B) conviction of a violation of an  
41 ordinance of a city in this state, a resolution of a county in this state or any  
42 law of another state which would constitute a crime described in  
43 subsection (h)(1) or (h)(2); and (C) receiving punishment under the

1 uniform code of military justice or Kansas code of military justice for an  
2 act which was committed on a military reservation and which would  
3 constitute a crime described in subsection (h)(1) or (h)(2) if committed off  
4 a military reservation in this state;

5 (4) it is irrelevant whether an offense occurred before or after  
6 conviction for a previous offense;

7 (5) multiple convictions of any crime described in subsection (h)(1)  
8 or (h)(2) arising from the same arrest shall only be counted as one  
9 conviction;

10 (6) the prior conviction that is an element of the crime of refusing to  
11 submit to a test to determine the presence of alcohol or drugs shall not be  
12 used for the purpose of determining whether a conviction is a first, second,  
13 third or subsequent conviction in sentencing under this section and shall  
14 not be considered in determining the sentence to be imposed within the  
15 limits provided for a first, second, third or subsequent offense; and

16 (7) a person may enter into a diversion agreement in lieu of further  
17 criminal proceedings for a violation of this section, or an ordinance which  
18 prohibits the acts of this section, only once during the person's lifetime.

19 (i) Upon conviction of a person of a violation of this section or a  
20 violation of a city ordinance or county resolution prohibiting the acts  
21 prohibited by this section, the division, upon receiving a report of  
22 conviction, shall suspend, restrict or suspend and restrict the person's  
23 driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

24 (j) (1) Nothing contained in this section shall be construed as  
25 preventing any city from enacting ordinances, or any county from adopting  
26 resolutions, declaring acts prohibited or made unlawful by this act as  
27 unlawful or prohibited in such city or county and prescribing penalties for  
28 violation thereof.

29 (2) The minimum penalty prescribed by any such ordinance or  
30 resolution shall not be less than the minimum penalty prescribed by this  
31 section for the same violation, and the maximum penalty in any such  
32 ordinance or resolution shall not exceed the maximum penalty prescribed  
33 for the same violation.

34 (3) An ordinance may grant to a municipal court jurisdiction over a  
35 violation of such ordinance which is concurrent with the jurisdiction of the  
36 district court over a violation of this section, notwithstanding that the  
37 elements of such ordinance violation are the same as the elements of a  
38 violation of this section that would constitute, and be punished as, a felony.

39 (4) Any such ordinance or resolution shall authorize the court to order  
40 that the convicted person pay restitution to any victim who suffered loss  
41 due to the violation for which the person was convicted.

42 (k) (1) Upon the filing of a complaint, citation or notice to appear  
43 alleging a person has violated a city ordinance prohibiting the acts

1 prohibited by this section, and prior to conviction thereof, a city attorney  
2 shall request and shall receive from the:

3 (A) Division a record of all prior convictions obtained against such  
4 person for any violations of any of the motor vehicle laws of this state; and

5 (B) Kansas bureau of investigation central repository all criminal  
6 history record information concerning such person.

7 (2) If the elements of such ordinance violation are the same as the  
8 elements of a violation of this section that would constitute, and be  
9 punished as, a felony, the city attorney shall refer the violation to the  
10 appropriate county or district attorney for prosecution.

11 (l) No plea bargaining agreement shall be entered into nor shall any  
12 judge approve a plea bargaining agreement entered into for the purpose of  
13 permitting a person charged with a violation of this section, or a violation  
14 of any ordinance of a city or resolution of any county in this state which  
15 prohibits the acts prohibited by this section, to avoid the mandatory  
16 penalties established by this section or by the ordinance. For the purpose  
17 of this subsection, entering into a diversion agreement pursuant to K.S.A.  
18 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not  
19 constitute plea bargaining.

20 (m) As used in this section, "imprisonment" shall include any  
21 restrained environment in which the court and law enforcement agency  
22 intend to retain custody and control of a defendant and such environment  
23 has been approved by the board of county commissioners or the governing  
24 body of a city.

25 (n) On and after July 1, 2012, the amount of \$250 from each fine  
26 imposed pursuant to this section shall be remitted by the clerk of the  
27 district court to the state treasurer in accordance with the provisions of  
28 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
29 remittance, the state treasurer shall credit the entire amount to the  
30 community corrections supervision fund established by K.S.A. 2017 Supp.  
31 75-52,113, and amendments thereto.

32 ~~Sec. 5-~~ 7. K.S.A. 2017 Supp. 8-1567 is hereby amended to read as  
33 follows: 8-1567. (a) Driving under the influence is operating or attempting  
34 to operate any vehicle within this state while:

35 (1) The alcohol concentration in the person's blood or breath as  
36 shown by any competent evidence, including other competent evidence, as  
37 defined in ~~paragraph (1) of subsection (f) of~~ K.S.A. 8-1013(f)(1), and  
38 amendments thereto, is .08 or more;

39 (2) the alcohol concentration in the person's blood or breath, as  
40 measured within three hours of the time of operating or attempting to  
41 operate a vehicle, is .08 or more;

42 (3) under the influence of alcohol to a degree that renders the person  
43 incapable of safely driving a vehicle;

1 (4) under the influence of any drug or combination of drugs to a  
2 degree that renders the person incapable of safely driving a vehicle; or

3 (5) under the influence of a combination of alcohol and any drug or  
4 drugs to a degree that renders the person incapable of safely driving a  
5 vehicle.

6 (b) (1) Driving under the influence is:

7 (A) On a first conviction a class B, nonperson misdemeanor. The  
8 person convicted shall be sentenced to not less than 48 consecutive hours  
9 nor more than six months' imprisonment, or in the court's discretion 100  
10 hours of public service, and fined not less than \$750 nor more than \$1,000.  
11 The person convicted shall serve at least 48 consecutive hours'  
12 imprisonment or 100 hours of public service either before or as a condition  
13 of any grant of probation or suspension, reduction of sentence or parole.  
14 The court may place the person convicted under a house arrest program  
15 pursuant to K.S.A. 2017 Supp. 21-6609, and amendments thereto, to serve  
16 the remainder of the sentence only after such person has served 48  
17 consecutive hours' imprisonment;

18 (B) on a second conviction a class A, nonperson misdemeanor. The  
19 person convicted shall be sentenced to not less than 90 days nor more than  
20 one year's imprisonment and fined not less than \$1,250 nor more than  
21 \$1,750. The person convicted shall serve at least five consecutive days'  
22 imprisonment before the person is granted probation, suspension or  
23 reduction of sentence or parole or is otherwise released. The five days'  
24 imprisonment mandated by this subsection may be served in a work  
25 release program only after such person has served 48 consecutive hours'  
26 imprisonment, provided such work release program requires such person  
27 to return to confinement at the end of each day in the work release  
28 program. The person convicted, if placed into a work release program,  
29 shall serve a minimum of 120 hours of confinement. Such 120 hours of  
30 confinement shall be a period of at least 48 consecutive hours of  
31 imprisonment followed by confinement hours at the end of and continuing  
32 to the beginning of the offender's work day. The court may place the  
33 person convicted under a house arrest program pursuant to K.S.A. 2017  
34 Supp. 21-6609, and amendments thereto, to serve the five days'  
35 imprisonment mandated by this subsection only after such person has  
36 served 48 consecutive hours' imprisonment. The person convicted, if  
37 placed under house arrest, shall be monitored by an electronic monitoring  
38 device, which verifies the offender's location. The offender shall serve a  
39 minimum of 120 hours of confinement within the boundaries of the  
40 offender's residence. Any exceptions to remaining within the boundaries of  
41 the offender's residence provided for in the house arrest agreement shall  
42 not be counted as part of the 120 hours;

43 (C) on a third conviction a class A, nonperson misdemeanor, except



1 as provided in subsection (b)(1)(D). The person convicted shall be  
2 sentenced to not less than 90 days nor more than one year's imprisonment  
3 and fined not less than \$1,750 nor more than \$2,500. The person convicted  
4 shall not be eligible for release on probation, suspension or reduction of  
5 sentence or parole until the person has served at least 90 days'  
6 imprisonment. The 90 days' imprisonment mandated by this subsection  
7 may be served in a work release program only after such person has served  
8 48 consecutive hours' imprisonment, provided such work release program  
9 requires such person to return to confinement at the end of each day in the  
10 work release program. The person convicted, if placed into a work release  
11 program, shall serve a minimum of 2,160 hours of confinement. Such  
12 2,160 hours of confinement shall be a period of at least 48 consecutive  
13 hours of imprisonment followed by confinement hours at the end of and  
14 continuing to the beginning of the offender's work day. The court may  
15 place the person convicted under a house arrest program pursuant to  
16 K.S.A. 2017 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
17 imprisonment mandated by this subsection only after such person has  
18 served 48 consecutive hours' imprisonment. The person convicted, if  
19 placed under house arrest, shall be monitored by an electronic monitoring  
20 device, which verifies the offender's location. The offender shall serve a  
21 minimum of 2,160 hours of confinement within the boundaries of the  
22 offender's residence. Any exceptions to remaining within the boundaries of  
23 the offender's residence provided for in the house arrest agreement shall  
24 not be counted as part of the 2,160 hours;

25 (D) on a third conviction a nonperson felony if the person has a prior  
26 conviction which occurred within the preceding 10 years, not including  
27 any period of incarceration. The person convicted shall be sentenced to not  
28 less than 90 days nor more than one year's imprisonment and fined not less  
29 than \$1,750 nor more than \$2,500. The person convicted shall not be  
30 eligible for release on probation, suspension or reduction of sentence or  
31 parole until the person has served at least 90 days' imprisonment. The 90  
32 days' imprisonment mandated by this subsection may be served in a work  
33 release program only after such person has served 48 consecutive hours'  
34 imprisonment, provided such work release program requires such person  
35 to return to confinement at the end of each day in the work release  
36 program. The person convicted, if placed into a work release program,  
37 shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of  
38 confinement shall be a period of at least 48 consecutive hours of  
39 imprisonment followed by confinement hours at the end of and continuing  
40 to the beginning of the offender's work day. The court may place the  
41 person convicted under a house arrest program pursuant to K.S.A. 2017  
42 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
43 imprisonment mandated by this subsection only after such person has

1 served 48 consecutive hours' imprisonment. The person convicted, if  
2 placed under house arrest, shall be monitored by an electronic monitoring  
3 device, which verifies the offender's location. The offender shall serve a  
4 minimum of 2,160 hours of confinement within the boundaries of the  
5 offender's residence. Any exceptions to remaining within the boundaries of  
6 the offender's residence provided for in the house arrest agreement shall  
7 not be counted as part of the 2,160 hours; and

8 (E) on a fourth or subsequent conviction a nonperson felony. The  
9 person convicted shall be sentenced to not less than 90 days nor more than  
10 one year's imprisonment and fined \$2,500. The person convicted shall not  
11 be eligible for release on probation, suspension or reduction of sentence or  
12 parole until the person has served at least 90 days' imprisonment. The 90  
13 days' imprisonment mandated by this subsection may be served in a work  
14 release program only after such person has served 72 consecutive hours'  
15 imprisonment, provided such work release program requires such person  
16 to return to confinement at the end of each day in the work release  
17 program. The person convicted, if placed into a work release program,  
18 shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of  
19 confinement shall be a period of at least 72 consecutive hours of  
20 imprisonment followed by confinement hours at the end of and continuing  
21 to the beginning of the offender's work day. The court may place the  
22 person convicted under a house arrest program pursuant to K.S.A. 2017  
23 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
24 imprisonment mandated by this subsection only after such person has  
25 served 72 consecutive hours' imprisonment. The person convicted, if  
26 placed under house arrest, shall be monitored by an electronic monitoring  
27 device, which verifies the offender's location. The offender shall serve a  
28 minimum of 2,160 hours of confinement within the boundaries of the  
29 offender's residence. Any exceptions to remaining within the boundaries of  
30 the offender's residence provided for in the house arrest agreement shall  
31 not be counted as part of the 2,160 hours.

32 (2) The court may order that the term of imprisonment imposed  
33 pursuant to subsection (b)(1)(D) or (b)(1)(E) be served in a state facility in  
34 the custody of the secretary of corrections in a facility designated by the  
35 secretary for the provision of substance abuse treatment pursuant to the  
36 provisions of K.S.A. 2017 Supp. 21-6804, and amendments thereto. The  
37 person shall remain imprisoned at the state facility only while participating  
38 in the substance abuse treatment program designated by the secretary and  
39 shall be returned to the custody of the sheriff for execution of the balance  
40 of the term of imprisonment upon completion of or the person's discharge  
41 from the substance abuse treatment program. Custody of the person shall  
42 be returned to the sheriff for execution of the sentence imposed in the  
43 event the secretary of corrections determines: (A) That substance abuse

1 treatment resources or the capacity of the facility designated by the  
2 secretary for the incarceration and treatment of the person is not available;  
3 (B) the person fails to meaningfully participate in the treatment program of  
4 the designated facility; (C) the person is disruptive to the security or  
5 operation of the designated facility; or (D) the medical or mental health  
6 condition of the person renders the person unsuitable for confinement at  
7 the designated facility. The determination by the secretary that the person  
8 either is not to be admitted into the designated facility or is to be  
9 transferred from the designated facility is not subject to review. The sheriff  
10 shall be responsible for all transportation expenses to and from the state  
11 correctional facility.

12 (3) In addition, for any conviction pursuant to subsection (b)(1)(C),  
13 (b)(1)(D) or (b)(1)(E), at the time of the filing of the judgment form or  
14 journal entry as required by K.S.A. 22-3426 or K.S.A. 2017 Supp. 21-  
15 6711, and amendments thereto, the court shall cause a certified copy to be  
16 sent to the officer having the offender in charge. The court shall determine  
17 whether the offender, upon release from imprisonment, shall be supervised  
18 by community correctional services or court services based upon the risk  
19 and needs of the offender. The risk and needs of the offender shall be  
20 determined by use of a risk assessment tool specified by the Kansas  
21 sentencing commission. The law enforcement agency maintaining custody  
22 and control of a defendant for imprisonment shall cause a certified copy of  
23 the judgment form or journal entry to be sent to the supervision office  
24 designated by the court and upon expiration of the term of imprisonment  
25 shall deliver the defendant to a location designated by the supervision  
26 office designated by the court. After the term of imprisonment imposed by  
27 the court, the person shall be placed on supervision to community  
28 correctional services or court services, as determined by the court, for a  
29 mandatory one-year period of supervision, which such period of  
30 supervision shall not be reduced. During such supervision, the person shall  
31 be required to participate in a multidisciplinary model of services for  
32 substance use disorders facilitated by a Kansas department for aging and  
33 disability services designated care coordination agency to include  
34 assessment and, if appropriate, referral to a community based substance  
35 use disorder treatment including recovery management and mental health  
36 counseling as needed. The multidisciplinary team shall include the  
37 designated care coordination agency, the supervision officer, the Kansas  
38 department for aging and disability services designated treatment provider  
39 and the offender. Any violation of the conditions of such supervision may  
40 subject such person to revocation of supervision and imprisonment in jail  
41 for the remainder of the period of imprisonment, the remainder of the  
42 supervision period, or any combination or portion thereof.

43 (4) In addition, prior to sentencing for any conviction pursuant to

1 subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to  
2 participate in an alcohol and drug evaluation conducted by a provider in  
3 accordance with K.S.A. 8-1008, and amendments thereto. The person shall  
4 be required to follow any recommendation made by the provider after such  
5 evaluation, unless otherwise ordered by the court.

6 (c) Any person convicted of violating this section or an ordinance  
7 which prohibits the acts that this section prohibits who had one or more  
8 children under the age of 14 years in the vehicle at the time of the offense  
9 shall have such person's punishment enhanced by one month of  
10 imprisonment. This imprisonment must be served consecutively to any  
11 other minimum mandatory penalty imposed for a violation of this section  
12 or an ordinance which prohibits the acts that this section prohibits. Any  
13 enhanced penalty imposed shall not exceed the maximum sentence  
14 allowable by law. During the service of the enhanced penalty, the judge  
15 may order the person on house arrest, work release or other conditional  
16 release.

17 (d) If a person is charged with a violation of this section involving  
18 drugs, the fact that the person is or has been entitled to use the drug under  
19 the laws of this state shall not constitute a defense against the charge.

20 (e) The court may establish the terms and time for payment of any  
21 fines, fees, assessments and costs imposed pursuant to this section. Any  
22 assessment and costs shall be required to be paid not later than 90 days  
23 after imposed, and any remainder of the fine shall be paid prior to the final  
24 release of the defendant by the court.

25 (f) In lieu of payment of a fine imposed pursuant to this section, the  
26 court may order that the person perform community service specified by  
27 the court. The person shall receive a credit on the fine imposed in an  
28 amount equal to \$5 for each full hour spent by the person in the specified  
29 community service. The community service ordered by the court shall be  
30 required to be performed not later than one year after the fine is imposed  
31 or by an earlier date specified by the court. If by the required date the  
32 person performs an insufficient amount of community service to reduce to  
33 zero the portion of the fine required to be paid by the person, the  
34 remaining balance of the fine shall become due on that date.

35 (g) Prior to filing a complaint alleging a violation of this section, a  
36 prosecutor shall request and shall receive from the:

37 (1) Division a record of all prior convictions obtained against such  
38 person for any violations of any of the motor vehicle laws of this state; and

39 (2) Kansas bureau of investigation central repository all criminal  
40 history record information concerning such person.

41 (h) The court shall electronically report every conviction of a  
42 violation of this section and every diversion agreement entered into in lieu  
43 of further criminal proceedings on a complaint alleging a violation of this

1 section to the division. Prior to sentencing under the provisions of this  
2 section, the court shall request and shall receive from the division a record  
3 of all prior convictions obtained against such person for any violations of  
4 any of the motor vehicle laws of this state.

5 (i) For the purpose of determining whether a conviction is a first,  
6 second, third, fourth or subsequent conviction in sentencing under this  
7 section:

8 (1) Convictions for a violation of this section, or a violation of an  
9 ordinance of any city or resolution of any county which prohibits the acts  
10 that this section prohibits, or entering into a diversion agreement in lieu of  
11 further criminal proceedings on a complaint alleging any such violations,  
12 shall be taken into account, but only convictions or diversions occurring  
13 on or after July 1, 2001. Nothing in this provision shall be construed as  
14 preventing any court from considering any convictions or diversions  
15 occurring during the person's lifetime in determining the sentence to be  
16 imposed within the limits provided for a first, second, third, fourth or  
17 subsequent offense;

18 (2) any convictions for a violation of the following sections occurring  
19 during a person's lifetime shall be taken into account: (A) Refusing to  
20 submit to a test to determine the presence of alcohol or drugs, K.S.A. 2017  
21 Supp. 8-1025, and amendments thereto; (B) driving a commercial motor  
22 vehicle under the influence, K.S.A. 8-2,144, and amendments thereto; (C)  
23 operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131,  
24 and amendments thereto; (D) involuntary manslaughter while driving  
25 under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal,  
26 or ~~subsection (a)(3) of K.S.A. 2017 Supp. 21-5405(a)(3) or (a)(5), and~~  
27 ~~amendments thereto; (E) aggravated battery as described in subsection (b)~~  
28 ~~(3) of K.S.A. 2017 Supp. 21-5413(b)(3) or (b)(4), and amendments~~  
29 ~~thereto; and (F) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the~~  
30 ~~crime was committed while committing a violation of K.S.A. 8-1567, and~~  
31 ~~amendments thereto;~~

32  
33 (3) "conviction" includes: (A) Entering into a diversion agreement in  
34 lieu of further criminal proceedings on a complaint alleging a violation of  
35 a crime described in subsection (i)(2); (B) conviction of a violation of an  
36 ordinance of a city in this state, a resolution of a county in this state or any  
37 law of another state which would constitute a crime described in  
38 subsection (i)(1) or (i)(2); and (C) receiving punishment under the uniform  
39 code of military justice or Kansas code of military justice for an act which  
40 was committed on a military reservation and which would constitute a  
41 crime described in subsection (i)(1) or (i)(2) if committed off a military  
42 reservation in this state;

43 (4) multiple convictions of any crime described in subsection (i)(1) or

1 (i)(2) arising from the same arrest shall only be counted as one conviction;

2 (5) it is irrelevant whether an offense occurred before or after  
3 conviction for a previous offense; and

4 (6) a person may enter into a diversion agreement in lieu of further  
5 criminal proceedings for a violation of this section, and amendments  
6 thereto, or an ordinance which prohibits the acts of this section, and  
7 amendments thereto, only once during the person's lifetime.

8 (j) Upon conviction of a person of a violation of this section or a  
9 violation of a city ordinance or county resolution prohibiting the acts  
10 prohibited by this section, the division, upon receiving a report of  
11 conviction, shall suspend, restrict or suspend and restrict the person's  
12 driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

13 (k) (1) Nothing contained in this section shall be construed as  
14 preventing any city from enacting ordinances, or any county from adopting  
15 resolutions, declaring acts prohibited or made unlawful by this act as  
16 unlawful or prohibited in such city or county and prescribing penalties for  
17 violation thereof.

18 (2) The minimum penalty prescribed by any such ordinance or  
19 resolution shall not be less than the minimum penalty prescribed by this  
20 section for the same violation, and the maximum penalty in any such  
21 ordinance or resolution shall not exceed the maximum penalty prescribed  
22 for the same violation.

23 (3) On and after July 1, 2007, and retroactive for ordinance violations  
24 committed on or after July 1, 2006, an ordinance may grant to a municipal  
25 court jurisdiction over a violation of such ordinance which is concurrent  
26 with the jurisdiction of the district court over a violation of this section,  
27 notwithstanding that the elements of such ordinance violation are the same  
28 as the elements of a violation of this section that would constitute, and be  
29 punished as, a felony.

30 (4) Any such ordinance or resolution shall authorize the court to order  
31 that the convicted person pay restitution to any victim who suffered loss  
32 due to the violation for which the person was convicted.

33 (l) (1) Upon the filing of a complaint, citation or notice to appear  
34 alleging a person has violated a city ordinance prohibiting the acts  
35 prohibited by this section, and prior to conviction thereof, a city attorney  
36 shall request and shall receive from the:

37 (A) Division a record of all prior convictions obtained against such  
38 person for any violations of any of the motor vehicle laws of this state; and

39 (B) Kansas bureau of investigation central repository all criminal  
40 history record information concerning such person.

41 (2) If the elements of such ordinance violation are the same as the  
42 elements of a violation of this section that would constitute, and be  
43 punished as, a felony, the city attorney shall refer the violation to the

1 appropriate county or district attorney for prosecution.

2 (m) No plea bargaining agreement shall be entered into nor shall any  
3 judge approve a plea bargaining agreement entered into for the purpose of  
4 permitting a person charged with a violation of this section, or a violation  
5 of any ordinance of a city or resolution of any county in this state which  
6 prohibits the acts prohibited by this section, to avoid the mandatory  
7 penalties established by this section or by the ordinance. For the purpose  
8 of this subsection, entering into a diversion agreement pursuant to K.S.A.  
9 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not  
10 constitute plea bargaining.

11 (n) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3)  
12 may be pleaded in the alternative, and the state, city or county, but shall  
13 not be required to, may elect one or two of the three prior to submission of  
14 the case to the fact finder.

15 (o) As used in this section: (1) "Alcohol concentration" means the  
16 number of grams of alcohol per 100 milliliters of blood or per 210 liters of  
17 breath;

18 (2) "imprisonment" shall include any restrained environment in which  
19 the court and law enforcement agency intend to retain custody and control  
20 of a defendant and such environment has been approved by the board of  
21 county commissioners or the governing body of a city; and

22 (3) "drug" includes toxic vapors as such term is defined in K.S.A.  
23 2017 Supp. 21-5712, and amendments thereto.

24 (p) (1) The amount of the increase in fines as specified in this section  
25 shall be remitted by the clerk of the district court to the state treasurer in  
26 accordance with the provisions of K.S.A. 75-4215, and amendments  
27 thereto. Upon receipt of remittance of the increase provided in this act, the  
28 state treasurer shall deposit the entire amount in the state treasury and the  
29 state treasurer shall credit 50% to the community alcoholism and  
30 intoxication programs fund and 50% to the department of corrections  
31 alcohol and drug abuse treatment fund, which is hereby created in the state  
32 treasury.

33 (2) On and after July 1, 2011, the amount of \$250 from each fine  
34 imposed pursuant to this section shall be remitted by the clerk of the  
35 district court to the state treasurer in accordance with the provisions of  
36 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
37 remittance, the state treasurer shall credit the entire amount to the  
38 community corrections supervision fund established by K.S.A. 2017 Supp.  
39 75-52,113, and amendments thereto.

40 ~~Sec. 8.~~ K.S.A. 2017 Supp. 21-6811 is hereby amended to read as  
41 follows: 21-6811. In addition to the provisions of K.S.A. 2017 Supp. 21-  
42 6810, and amendments thereto, the following shall apply in determining an  
43 offender's criminal history classification as contained in the presumptive

1 sentencing guidelines grids:

2 (a) Every three prior adult convictions or juvenile adjudications of  
3 class A and class B person misdemeanors in the offender's criminal history,  
4 or any combination thereof, shall be rated as one adult conviction or one  
5 juvenile adjudication of a person felony for criminal history purposes.  
6 Every three prior adult convictions or juvenile adjudications of assault as  
7 defined in K.S.A. 21-3408, prior to its repeal, or K.S.A. 2017 Supp. 21-  
8 5412(a), and amendments thereto, occurring within a period commencing  
9 three years prior to the date of conviction for the current crime of  
10 conviction shall be rated as one adult conviction or one juvenile  
11 adjudication of a person felony for criminal history purposes.

12 (b) A conviction of criminal possession of a firearm as defined in  
13 K.S.A. 21-4204(a)(1) or (a)(5), prior to its repeal, criminal use of weapons  
14 as defined in K.S.A. 2017 Supp. 21-6301(a)(10) or (a)(11), and  
15 amendments thereto, or unlawful possession of a firearm as in effect on  
16 June 30, 2005, and as defined in K.S.A. 21-4218, prior to its repeal, will be  
17 scored as a select class B nonperson misdemeanor conviction or  
18 adjudication and shall not be scored as a person misdemeanor for criminal  
19 history purposes.

20 (c) (1) If the current crime of conviction was committed before July  
21 1, 1996, and is for K.S.A. 21-3404(b), as in effect on June 30, 1996,  
22 involuntary manslaughter in the commission of driving under the  
23 influence, then, each prior adult conviction or juvenile adjudication for  
24 K.S.A. 8-1567, and amendments thereto, shall count as one person felony  
25 for criminal history purposes.

26 (2) If the current crime of conviction was committed on or after July  
27 1, 1996, and is for a violation of K.S.A. 2017 Supp. 21-5405(a)(3) *or* (a)  
28 (5), and amendments thereto, each prior adult conviction, diversion in lieu  
29 of criminal prosecution or juvenile adjudication for: (A) Any act described  
30 in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and  
31 amendments thereto; or (B) a violation of a law of another state or an  
32 ordinance of any city, or resolution of any county, which prohibits any act  
33 described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and  
34 amendments thereto, shall count as one person felony for criminal history  
35 purposes.

36 (3) If the current crime of conviction is for a violation of K.S.A. 2017  
37 Supp. 21-5413(b)(3) **or** (b)(4), and amendments thereto:

38 (A) The first prior adult conviction, diversion in lieu of criminal  
39 prosecution or juvenile adjudication for the following shall count as one  
40 nonperson felony for criminal history purposes: (i) Any act described in  
41 K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments  
42 thereto; or (ii) a violation of a law of another state or an ordinance of any  
43 city, or resolution of any county, which prohibits any act described in



1 K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments  
2 thereto; and

3 (B) each second or subsequent prior adult conviction, diversion in  
4 lieu of criminal prosecution or juvenile adjudication for the following shall  
5 count as one person felony for criminal history purposes: (i) Any act  
6 described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and  
7 amendments thereto; or (ii) a violation of a law of another state or an  
8 ordinance of any city, or resolution of any county, which prohibits any act  
9 described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and  
10 amendments thereto.

11 (d) Prior burglary adult convictions and juvenile adjudications will be  
12 scored for criminal history purposes as follows:

13 (1) As a prior person felony if the prior conviction or adjudication  
14 was classified as a burglary as defined in K.S.A. 21-3715(a), prior to its  
15 repeal, or K.S.A. 2017 Supp. 21-5807(a)(1), and amendments thereto.

16 (2) As a prior nonperson felony if the prior conviction or adjudication  
17 was classified as a burglary as defined in K.S.A. 21-3715(b) or (c), prior to  
18 its repeal, or K.S.A. 2017 Supp. 21-5807(a)(2) or (a)(3), and amendments  
19 thereto.

20 The facts required to classify prior burglary adult convictions and  
21 juvenile adjudications shall be established by the state by a preponderance  
22 of the evidence.

23 (e) (1) Out-of-state convictions and juvenile adjudications shall be  
24 used in classifying the offender's criminal history.

25 (2) An out-of-state crime will be classified as either a felony or a  
26 misdemeanor according to the convicting jurisdiction:

27 (A) If a crime is a felony in another state, it will be counted as a  
28 felony in Kansas.

29 (B) If a crime is a misdemeanor in another state, the state of Kansas  
30 shall refer to the comparable offense in order to classify the out-of-state  
31 crime as a class A, B or C misdemeanor. If the comparable misdemeanor  
32 crime in the state of Kansas is a felony, the out-of-state crime shall be  
33 classified as a class A misdemeanor. If the state of Kansas does not have a  
34 comparable crime, the out-of-state crime shall not be used in classifying  
35 the offender's criminal history.

36 (3) The state of Kansas shall classify the crime as person or  
37 nonperson. In designating a crime as person or nonperson, comparable  
38 offenses under the Kansas criminal code in effect on the date the current  
39 crime of conviction was committed shall be referred to. If the state of  
40 Kansas does not have a comparable offense in effect on the date the  
41 current crime of conviction was committed, the out-of-state conviction  
42 shall be classified as a nonperson crime.

43 (4) Convictions or adjudications occurring within the federal system,

1 other state systems, the District of Columbia, foreign, tribal or military  
2 courts are considered out-of-state convictions or adjudications.

3 (5) The facts required to classify out-of-state adult convictions and  
4 juvenile adjudications shall be established by the state by a preponderance  
5 of the evidence.

6 (f) Except as provided in K.S.A. 21-4710(d)(4), (d)(5) and (d)(6),  
7 prior to its repeal, or K.S.A. 2017 Supp. 21-6810(d)(3)(B), (d)(3)(C), (d)  
8 (3)(D), (d)(4) and (d)(5), and amendments thereto, juvenile adjudications  
9 will be applied in the same manner as adult convictions. Out-of-state  
10 juvenile adjudications will be treated as juvenile adjudications in Kansas.

11 (g) A prior felony conviction of an attempt, a conspiracy or a  
12 solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303, prior to  
13 their repeal, or K.S.A. 2017 Supp. 21-5301, 21-5302 or 21-5303, and  
14 amendments thereto, to commit a crime shall be treated as a person or  
15 nonperson crime in accordance with the designation assigned to the  
16 underlying crime.

17 (h) Drug crimes are designated as nonperson crimes for criminal  
18 history scoring.

19 (i) If the current crime of conviction is for a violation of K.S.A. 8-  
20 1602(b)(3) through (b)(5), and amendments thereto, each of the following  
21 prior convictions for offenses committed on or after July 1, 2011, shall  
22 count as a person felony for criminal history purposes: K.S.A. 8-235, 8-  
23 262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-1602, 8-1605 and 40-3104,  
24 and amendments thereto, and K.S.A. 2017 Supp. 21-5405(a)(3) *or* (a)(5)  
25 and 21-5406, and amendments thereto, or a violation of a city ordinance or  
26 law of another state which would also constitute a violation of such  
27 sections.

28 (j) The amendments made to this section by chapter 5 of the 2015  
29 Session Laws of Kansas are procedural in nature and shall be construed  
30 and applied retroactively.

31 ~~Sec. 7. 9.~~ K.S.A. 2017 Supp. 38-2312 is hereby amended to read as  
32 follows: 38-2312. (a) Except as provided in subsections (b) and (c), any  
33 records or files specified in this code concerning a juvenile may be  
34 expunged upon application to a judge of the court of the county in which  
35 the records or files are maintained. The application for expungement may  
36 be made by the juvenile, if 18 years of age or older or, if the juvenile is  
37 less than 18 years of age, by the juvenile's parent or next friend.

38 (b) There shall be no expungement of records or files concerning acts  
39 committed by a juvenile which, if committed by an adult, would constitute  
40 a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2017 Supp. 21-  
41 5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402,  
42 prior to its repeal, or K.S.A. 2017 Supp. 21-5403, and amendments  
43 thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal,

1 or K.S.A. 2017 Supp. 21-5404, and amendments thereto, voluntary  
2 manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2017 Supp.  
3 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-  
4 3439, prior to its repeal, or K.S.A. 2017 Supp. 21-5401, and amendments  
5 thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or K.S.A. 2017  
6 Supp. 21-5405(a)(3) *or* (a)(5), and amendments thereto, involuntary  
7 manslaughter while driving under the influence of alcohol or drugs; K.S.A.  
8 21-3502, prior to its repeal, or K.S.A. 2017 Supp. 21-5503, and  
9 amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or K.S.A.  
10 2017 Supp. 21-5506(a), and amendments thereto, indecent liberties with a  
11 child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2017 Supp. 21-  
12 5506(b), and amendments thereto, aggravated indecent liberties with a  
13 child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2017 Supp. 21-  
14 5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A.  
15 21-3510, prior to its repeal, or K.S.A. 2017 Supp. 21-5508(a), and  
16 amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior  
17 to its repeal, or K.S.A. 2017 Supp. 21-5508(b), and amendments thereto,  
18 aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its  
19 repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto, sexual  
20 exploitation of a child; K.S.A. 2017 Supp. 21-5514(a), and amendments  
21 thereto, internet trading in child pornography; K.S.A. 2017 Supp. 21-  
22 5514(b), and amendments thereto, aggravated internet trading in child  
23 pornography; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2017 Supp. 21-  
24 5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608,  
25 prior to its repeal, or K.S.A. 2017 Supp. 21-5601(a), and amendments  
26 thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A.  
27 2017 Supp. 21-5602, and amendments thereto, abuse of a child; or which  
28 would constitute an attempt to commit a violation of any of the offenses  
29 specified in this subsection.

30 (c) Notwithstanding any other law to the contrary, for any offender  
31 who is required to register as provided in the Kansas offender registration  
32 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no  
33 expungement of any conviction or any part of the offender's criminal  
34 record while the offender is required to register as provided in the Kansas  
35 offender registration act.

36 (d) When a petition for expungement is filed, the court shall set a date  
37 for a hearing on the petition and shall give notice thereof to the county or  
38 district attorney. The petition shall state: (1) The juvenile's full name; (2)  
39 the full name of the juvenile as reflected in the court record, if different  
40 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which  
41 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity  
42 of the trial court. Except as otherwise provided by law, a petition for  
43 expungement shall be accompanied by a docket fee in the amount of \$176.

1 On and after July 1, 2017, through June 30, 2019, the supreme court may  
2 impose a charge, not to exceed \$19 per case, to fund the costs of non-  
3 judicial personnel. All petitions for expungement shall be docketed in the  
4 original action. Any person who may have relevant information about the  
5 petitioner may testify at the hearing. The court may inquire into the  
6 background of the petitioner.

7 (e) (1) After hearing, the court shall order the expungement of the  
8 records and files if the court finds that:

9 (A) (i) The juvenile has reached 23 years of age or that two years  
10 have elapsed since the final discharge;

11 (ii) one year has elapsed since the final discharge for an adjudication  
12 concerning acts committed by a juvenile which, if committed by an adult,  
13 would constitute a violation of K.S.A. 2017 Supp. 21-6419, and  
14 amendments thereto; or

15 (iii) the juvenile is a victim of human trafficking, aggravated human  
16 trafficking or commercial sexual exploitation of a child, the adjudication  
17 concerned acts committed by the juvenile as a result of such victimization,  
18 including, but not limited to, acts which, if committed by an adult, would  
19 constitute a violation of K.S.A. 2017 Supp. 21-6203 or 21-6419, and  
20 amendments thereto, and the hearing on expungement occurred on or after  
21 the date of final discharge. The provisions of this clause shall not allow an  
22 expungement of records or files concerning acts described in subsection  
23 (b);

24 (B) since the final discharge of the juvenile, the juvenile has not been  
25 convicted of a felony or of a misdemeanor other than a traffic offense or  
26 adjudicated as a juvenile offender under the revised Kansas juvenile justice  
27 code and no proceedings are pending seeking such a conviction or  
28 adjudication; and

29 (C) the circumstances and behavior of the petitioner warrant  
30 expungement.

31 (2) The court may require that all court costs, fees and restitution  
32 shall be paid.

33 (f) Upon entry of an order expunging records or files, the offense  
34 which the records or files concern shall be treated as if it never occurred,  
35 except that upon conviction of a crime or adjudication in a subsequent  
36 action under this code the offense may be considered in determining the  
37 sentence to be imposed. The petitioner, the court and all law enforcement  
38 officers and other public offices and agencies shall properly reply on  
39 inquiry that no record or file exists with respect to the juvenile. Inspection  
40 of the expunged files or records thereafter may be permitted by order of  
41 the court upon petition by the person who is the subject thereof. The  
42 inspection shall be limited to inspection by the person who is the subject of  
43 the files or records and the person's designees.

1 (g) A certified copy of any order made pursuant to subsection (a) or  
2 (d) shall be sent to the Kansas bureau of investigation, which shall notify  
3 every juvenile or criminal justice agency which may possess records or  
4 files ordered to be expunged. If the agency fails to comply with the order  
5 within a reasonable time after its receipt, such agency may be adjudged in  
6 contempt of court and punished accordingly.

7 (h) The court shall inform any juvenile who has been adjudicated a  
8 juvenile offender of the provisions of this section.

9 (i) Nothing in this section shall be construed to prohibit the  
10 maintenance of information relating to an offense after records or files  
11 concerning the offense have been expunged if the information is kept in a  
12 manner that does not enable identification of the juvenile.

13 (j) Nothing in this section shall be construed to permit or require  
14 expungement of files or records related to a child support order registered  
15 pursuant to the revised Kansas juvenile justice code.

16 (k) Whenever the records or files of any adjudication have been  
17 expunged under the provisions of this section, the custodian of the records  
18 or files of adjudication relating to that offense shall not disclose the  
19 existence of such records or files, except when requested by:

20 (1) The person whose record was expunged;

21 (2) a private detective agency or a private patrol operator, and the  
22 request is accompanied by a statement that the request is being made in  
23 conjunction with an application for employment with such agency or  
24 operator by the person whose record has been expunged;

25 (3) a court, upon a showing of a subsequent conviction of the person  
26 whose record has been expunged;

27 (4) the secretary for aging and disability services, or a designee of the  
28 secretary, for the purpose of obtaining information relating to employment  
29 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,  
30 of the Kansas department for aging and disability services of any person  
31 whose record has been expunged;

32 (5) a person entitled to such information pursuant to the terms of the  
33 expungement order;

34 (6) the Kansas lottery, and the request is accompanied by a statement  
35 that the request is being made to aid in determining qualifications for  
36 employment with the Kansas lottery or for work in sensitive areas within  
37 the Kansas lottery as deemed appropriate by the executive director of the  
38 Kansas lottery;

39 (7) the governor or the Kansas racing commission, or a designee of  
40 the commission, and the request is accompanied by a statement that the  
41 request is being made to aid in determining qualifications for executive  
42 director of the commission, for employment with the commission, for  
43 work in sensitive areas in parimutuel racing as deemed appropriate by the

1 executive director of the commission or for licensure, renewal of licensure  
2 or continued licensure by the commission;

3 (8) the Kansas sentencing commission; or

4 (9) the Kansas bureau of investigation, for the purposes of:

5 (A) Completing a person's criminal history record information within  
6 the central repository in accordance with K.S.A. 22-4701 et seq., and  
7 amendments thereto; or

8 (B) providing information or documentation to the federal bureau of  
9 investigation, in connection with the national instant criminal background  
10 check system, to determine a person's qualification to possess a firearm.

11 (l) The provisions of subsection (k)(9) shall apply to all records  
12 created prior to, on and after July 1, 2011.

13 ~~Sec. 8.~~ **10.** K.S.A. 2017 Supp. 75-52,148 is hereby amended to read  
14 as follows: 75-52,148. (a) The department of corrections shall be required  
15 to review and report on the following serious offenses committed by sex  
16 offenders, as defined by K.S.A. 22-4902, and amendments thereto, while  
17 such offenders are in the custody of the secretary of corrections:

18 (1) Murder in the first degree, as defined in K.S.A. 2017 Supp. 21-  
19 5402, and amendments thereto;

20 (2) murder in the second degree, as defined in K.S.A. 2017 Supp. 21-  
21 5403, and amendments thereto;

22 (3) capital murder, as defined in K.S.A. 2017 Supp. 21-5401, and  
23 amendments thereto;

24 (4) rape, as defined in K.S.A. 2017 Supp. 21-5503, and amendments  
25 thereto;

26 (5) aggravated criminal sodomy, as defined in ~~subsection (b) of~~  
27 K.S.A. 2017 Supp. 21-5504(b), and amendments thereto;

28 (6) sexual exploitation of a child, as defined in K.S.A. 2017 Supp. 21-  
29 5510, and amendments thereto;

30 (7) kidnapping as defined in ~~subsection (a) of~~ K.S.A. 2017 Supp. 21-  
31 5408(a), and amendments thereto;

32 (8) aggravated kidnapping, as defined in ~~subsection (b) of~~ K.S.A.  
33 2017 Supp. 21-5408(b), and amendments thereto;

34 (9) criminal restraint, as defined in K.S.A. 2017 Supp. 21-5411, and  
35 amendments thereto;

36 (10) indecent solicitation of a child, as defined in ~~subsection (a) of~~  
37 K.S.A. 2017 Supp. 21-5508(a), and amendments thereto;

38 (11) aggravated indecent solicitation of a child, as defined in  
39 ~~subsection (b) of~~ K.S.A. 2017 Supp. 21-5508(b), and amendments thereto;

40 (12) indecent liberties with a child, as defined in ~~subsection (a) of~~  
41 K.S.A. 2017 Supp. 21-5506(a), and amendments thereto;

42 (13) aggravated indecent liberties with a child, as defined in  
43 ~~subsection (b) of~~ K.S.A. 2017 Supp. 21-5506(b), and amendments thereto;

- 1 (14) criminal sodomy, as defined in ~~subsection (a)~~ of K.S.A. 2017  
2 Supp. 21-5504(a), and amendments thereto;
- 3 (15) child abuse, as defined in K.S.A. 2017 Supp. 21-5602, and  
4 amendments thereto;
- 5 (16) aggravated robbery, as defined in ~~subsection (b)~~ of K.S.A. 2017  
6 Supp. 21-5420(b), and amendments thereto;
- 7 (17) burglary, as defined in ~~subsection (a)~~ of K.S.A. 2017 Supp. 21-  
8 5807(a), and amendments thereto;
- 9 (18) aggravated burglary, as defined in ~~subsection (b)~~ of K.S.A. 2017  
10 Supp. 21-5807(b), and amendments thereto;
- 11 (19) theft, as defined in K.S.A. 2017 Supp. 21-5801, and amendments  
12 thereto;
- 13 (20) vehicular homicide, as defined in K.S.A. 2017 Supp. 21-5406,  
14 and amendments thereto;
- 15 (21) involuntary manslaughter while driving under the influence, as  
16 defined in ~~subsection (a)(3)~~ of K.S.A. 2017 Supp. 21-5405(a)(3) or (a)(5),  
17 and amendments thereto; or
- 18 (22) stalking, as defined in K.S.A. 2017 Supp. 21-5427, and  
19 amendments thereto.
- 20 (b) The secretary of corrections shall submit such report to the  
21 speaker of the house of representatives and the president of the senate  
22 annually, beginning January 1, 2007.
- 23 ~~Sec. 9.~~ **11.** K.S.A. 2017 Supp. 8-262, 8-2,144, **8-1013**, 8-1025, 8-  
24 1567, 21-5405, **21-5413**, 21-6811, 38-2312 and 75-52,148 are hereby  
25 repealed.
- 26 ~~Sec. 10.~~ **12.** This act shall take effect and be in force from and after  
27 its publication in the statute book.