

**HOUSE BILL No. 2092**

By Committee on Corrections and Juvenile Justice

1-18

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et

1 seq., and amendments thereto; or

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

4 (2) omission or deprivation of treatment, goods or services that are  
5 necessary to maintain physical or mental health of such elder person.

6 (c) Mistreatment of a dependent adult as defined in:

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

8 (2) subsection (a)(2) if the aggregate amount of the value of the  
9 personal property or financial resources is:

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

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

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

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

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

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

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

25 (3) subsection (a)(3) is a severity level 8, person felony.

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

27 (1) Subsection (b)(1) if the aggregate amount of the value of the  
28 personal property or financial resources is:

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

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

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

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

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

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

40 (G) less than \$5,000 and committed by a person who has, within five  
41 years immediately preceding commission of the crime, been convicted of  
42 mistreatment of an elder person two or more times is a severity level 7,  
43 person felony; and

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

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

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

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

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

14 (4) a court approved the transaction before the transaction occurred.

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

22 (g) As used in this section:

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

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

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

33 (B) adult cared for in a private residence;

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

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

40 (E) individual with a developmental disability receiving services  
41 provided by a community service provider as provided in the  
42 developmental disability reform act; or

43 (F) individual kept, cared for, treated, boarded, confined or otherwise

1 accommodated in a state psychiatric hospital or state institution for people  
2 with intellectual disability.

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

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

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

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

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

14 (3) intends to permanently deprive the owner of the possession, use  
15 or benefit of the property.

16 (b) Theft of property lost, mislaid or delivered by mistake of the  
17 value of:

18 (1) \$100,000 or more is a severity level 5, nonperson felony;

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

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

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

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

26 (1) Nature or amount of the property; or

27 (2) identity of the recipient of the property.

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

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

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

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

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

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

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

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

8 (5) any agricultural property or agricultural infrastructure;

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

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

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

14 (9) any residential, commercial, industrial or agricultural irrigation,  
15 sprinkler or watering system or component thereof;

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

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

18 (12) any vehicle or transportation building, facility, structure, site or  
19 property; or

20 (13) any other building, structure, residence, facility, site, place,  
21 property, vehicle or any infrastructure thereof.

22 (c) Criminal damage to property if the property:

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

25 (2) is damaged to the extent of at least ~~\$1,000~~ \$1,500 but less than  
26 \$25,000 is a severity level 9, nonperson felony; and

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

30 (d) Aggravated criminal damage to property is a severity level 6,  
31 nonperson felony.

32 (e) (1) As used in subsection (b):

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

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

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

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

42 (A) Construction or existence of any door, gate, fence, barrier or wall;

43 or

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

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

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

17 (b) Giving a worthless check is a:

18 (1) Severity level 7, nonperson felony if:

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

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

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

23 (A) The check is drawn for at least ~~\$1,000~~ *\$1,500* but less than  
24 \$25,000;

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

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

31 (3) class A nonperson misdemeanor if the check is drawn for less than  
32 ~~\$1,000~~ *\$1,500*.

33 (c) As used in this section and K.S.A. 2016 Supp. 21-5822, and  
34 amendments thereto:

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

36 (2) "financial institution" means any bank, credit union, savings and  
37 loan association or depository; and

38 (3) "notice" includes oral or written notice to the person entitled  
39 thereto.

40 (d) In any prosecution against the maker or drawer of a check,  
41 payment of which has been refused by the financial institution on account  
42 of insufficient funds, the making, drawing, issuing or delivering of such  
43 check shall be prima facie evidence of intent to defraud and of knowledge

1 of insufficient funds in, or on deposit with, the financial institution:

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

9 (2) if a postdated date is placed on the check without the knowledge  
10 or consent of the payee.

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

13 (1) Postdated, unless such check was presented for payment prior to  
14 the postdated date; or

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

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

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

37 (b) Counterfeiting is a:

38 (1) Severity level 7, nonperson felony if:

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

40 (B) such counterfeiting involves 1,000 or more items bearing a  
41 counterfeit mark; or

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

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

- 1 (A) The retail value of such item or service is at least ~~\$1,000~~ *\$1,500*  
2 but less than \$25,000;
- 3 (B) such counterfeiting involves more than 100 but less than 1,000  
4 items bearing a counterfeit mark; or
- 5 (C) a second violation of this section; and
- 6 (3) class A nonperson misdemeanor, if the retail value of such item or  
7 service is less than ~~\$1,000~~ *\$1,500*.
- 8 (c) A person having possession, custody or control of more than 25  
9 items bearing a counterfeit mark shall be presumed to possess such items  
10 with intent to distribute.
- 11 (d) Any state or federal certificate of registration of any intellectual  
12 property shall be prima facie evidence of the facts stated therein.
- 13 (e) As used in this section:
- 14 (1) "Counterfeit mark" means:
- 15 (A) Any unauthorized reproduction or copy of intellectual property;  
16 or
- 17 (B) intellectual property affixed to any item knowingly sold, offered  
18 for sale, manufactured or distributed, or identifying services offered or  
19 rendered, without the authority of the owner of the intellectual property;
- 20 (2) "intellectual property" means any trademark, service mark or  
21 trade name as such terms are defined in K.S.A. 2016 Supp. 81-202, and  
22 amendments thereto; and
- 23 (3) "retail value" means the counterfeiter's regular selling price for the  
24 item or service bearing or identified by the counterfeit mark. In the case of  
25 items bearing a counterfeit mark which are components of a finished  
26 product, the retail value shall be the counterfeiter's regular selling price of  
27 the finished product on or in which the component would be utilized.
- 28 (f) The quantity or retail value of items or services shall include the  
29 aggregate quantity or retail value of all items bearing, or services  
30 identified by, every counterfeit mark the defendant manufactures, uses,  
31 displays, advertises, distributes or possesses.
- 32 Sec. 6. K.S.A. 2016 Supp. 21-5828 is hereby amended to read as  
33 follows: 21-5828. (a) Criminal use of a financial card is any of the  
34 following acts done with intent to defraud and to obtain money, goods,  
35 property or services:
- 36 (1) Using a financial card without the consent of the cardholder;
- 37 (2) using a financial card, or the number or description thereof, which  
38 has been revoked or canceled; or
- 39 (3) using a falsified, mutilated, altered or nonexistent financial card or  
40 a number or description thereof.
- 41 (b) Criminal use of a financial card is a:
- 42 (1) Severity level 7, nonperson felony if the money, goods, property  
43 or services obtained within any seven-day period are of the value of

1 \$25,000 or more;

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

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

8 (c) As used in this section:

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

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

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

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

22 (1) Damaging, destroying or concealing any personal property subject  
23 to a security interest;

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

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

34 (b) Impairing a security interest, when the personal property subject  
35 to the security interest is of the value of:

36 (1) \$25,000 or more and is subject to a security interest of \$25,000 or  
37 more is a severity level 7, nonperson felony;

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

41 (3) less than ~~\$1,000~~ \$1,500, or of the value of ~~\$1,000~~ \$1,500 or more  
42 but subject to a security interest of less than ~~\$1,000~~ \$1,500 is a class A  
43 nonperson misdemeanor.

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

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

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

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

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

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

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

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

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

40       (H) any wholly or partially false or fraudulent book, record,  
41 document, data or instrument to any properly identified law enforcement  
42 officer, any properly identified employee or authorized representative of  
43 the attorney general, or to any properly identified employee or agent of the

1 Kansas department for aging and disability services, Kansas department of  
2 health and environment, or its fiscal agent, in connection with any audit or  
3 investigation involving any claim for payment or rate of payment for any  
4 goods, service, item, facility or accommodation payable, in whole or in  
5 part, under the medicaid program; or

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

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

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

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

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

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

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

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

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

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

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

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

39 (c) In determining what is medically necessary pursuant to subsection  
40 (a)(1)(F), the attorney general may contract with or consult with qualified  
41 health care providers and other qualified individuals to identify  
42 professionally recognized parameters for the diagnosis or treatment of the  
43 recipient's condition, illness or injury.

1 (d) In sentencing for medicaid fraud, subsection (c)(3) of K.S.A.  
2 2016 Supp. 21-6815, and amendments thereto, shall not apply and an act  
3 or omission by the defendant that resulted in any medicaid recipient  
4 receiving any service that was of lesser quality or amount than the service  
5 to which such recipient was entitled may be considered an aggravating  
6 factor in determining whether substantial and compelling reasons for  
7 departure exist pursuant to K.S.A. 2016 Supp. 21-6801 through 21-6824,  
8 and amendments thereto.

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

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

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

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

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

28 (4) except as authorized by law, with the intent to reduce or eliminate  
29 competition among bidders or prospective bidders on any contract or  
30 proposed contract:

31 (A) Disclosing confidential information regarding proposals or  
32 communications from bidders or prospective bidders on any contract or  
33 proposed contract;

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

36 (C) altering any bid or proposal submitted by a bidder on a contract  
37 or proposed contract;

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

40 (6) knowingly submitting to a governmental entity a claim for  
41 expenses which is false or duplicates expenses for which a claim is  
42 submitted to such governmental entity, another governmental or private  
43 entity.

- 1 (b) (1) Official misconduct as defined in:
- 2 (A) Subsections (a)(1) through (a)(4) is a class A nonperson
- 3 misdemeanor;
- 4 (B) subsection (a)(5) is a:
- 5 (i) Severity level 8, nonperson felony if the evidence is evidence of a
- 6 crime which is a felony; and
- 7 (ii) class A nonperson misdemeanor if the evidence is evidence of a
- 8 crime which is a misdemeanor; and
- 9 (C) subsection (a)(6) if the claim is:
- 10 (i) \$25,000 or more is a severity level 7, nonperson felony;
- 11 (ii) at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level 9,
- 12 nonperson felony; and
- 13 (iii) less than ~~\$1,000~~ \$1,500 is a class A nonperson misdemeanor.
- 14 (2) Upon conviction of official misconduct a public officer or
- 15 employee shall forfeit such officer or employee's office or employment.
- 16 (c) The provisions of subsection (a)(1) shall not apply to any use of
- 17 persons or property which:
- 18 (1) At the time of the use, is authorized by law or by formal written
- 19 policy of the governmental entity; or
- 20 (2) constitutes misuse of public funds, as defined in K.S.A. 2016
- 21 Supp. 21-6005, and amendments thereto.
- 22 (d) As used in this section, "confidential" means any information that
- 23 is not subject to mandatory disclosure pursuant to K.S.A. 45-221, and
- 24 amendments thereto.
- 25 Sec. 10. K.S.A. 2016 Supp. 21-6004 is hereby amended to read as
- 26 follows: 21-6004. (a) Presenting a false claim is, with the intent to
- 27 defraud, presenting a claim or demand which is false in whole or in part, to
- 28 a public officer or body authorized to audit, allow or pay such claim.
- 29 (b) Permitting a false claim is the auditing, allowing or paying of any
- 30 claim or demand made upon the state or any subdivision thereof or other
- 31 governmental instrumentality within the state by a public officer or public
- 32 employee who knows such claim or demand is false or fraudulent in whole
- 33 or in part.
- 34 (c) (1) Presenting a false claim or permitting a false claim for:
- 35 (A) \$25,000 or more is a severity level 7, nonperson felony;
- 36 (B) at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level 9,
- 37 nonperson felony; and
- 38 (C) less than ~~\$1,000~~ \$1,500 is a class A nonperson misdemeanor.
- 39 (2) Upon conviction of permitting a false claim, a public officer or
- 40 public employee shall forfeit the officer or employee's office or
- 41 employment.
- 42 Sec. 11. K.S.A. 2016 Supp. 21-6005 is hereby amended to read as
- 43 follows: 21-6005. (a) Misuse of public funds is knowingly using,

1 lending or permitting another to use public money in a manner not  
2 authorized by law, by a custodian or other person having control of public  
3 money by virtue of such person's official position.

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

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

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

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

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

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

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

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

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

22 (2) recklessly, by means other than by fire or explosive:

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

26 (B) damaging, defacing or destroying any public monument or  
27 structure;

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

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

32 (b) Criminal desecration as defined in:

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

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

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

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

39 (2) subsections (a)(1) or (a)(2)(A) is a class A nonperson  
40 misdemeanor.

41 ***Sec. 13. K.S.A. 2016 Supp. 22-2302 is hereby amended to read as***  
42 ***follows: 22-2302. (a) If the magistrate finds from the complaint, or from***  
43 ***an affidavit or affidavits filed with the complaint or from sworn***

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

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

16 *(c) (1) For a warrant or summons executed on or after July 1,*  
17 *2014, affidavits or sworn testimony in support of the probable cause*  
18 *requirement of this section shall not be open to the public until the*  
19 *warrant or summons has been executed. After the warrant or summons*  
20 *has been executed, such affidavits or sworn testimony shall be made*  
21 *available to:*

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

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

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

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

41 *(A) Proposed redactions, if any, to the affidavits or sworn testimony*  
42 *and the reasons supporting such proposed redactions; or*

43 *(B) a motion to seal the affidavits or sworn testimony and the*

1 *reasons supporting such proposed seal.*

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

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

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

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

15 *(D) reveal the identity of any confidential source or undercover*  
16 *agent;*

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

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

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

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

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

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

41 *(5) Within five business days after receiving proposed redactions or*  
42 *a motion to seal from the defendant, the defendant's counsel or the*  
43 *prosecutor, or within 10 business days after receiving notice of a request*

1 *for disclosure, whichever is earlier, the magistrate shall either:*

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

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

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

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

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

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

1 *violation. Provisions regarding release on bail of persons charged with a*  
2 *crime shall be applicable to defendants arrested under these provisions.*

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

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

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

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

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

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

40 *(iii) revoke the probation, assignment to a community correctional*  
41 *services program, suspension of sentence or nonprison sanction and*  
42 *require the defendant to serve the sentence imposed, or any lesser*  
43 *sentence, and, if imposition of sentence was suspended, may impose any*

1 *sentence which might originally have been imposed.*

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

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

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

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

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

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

36 *(C) if the violator already had at least one intermediate sanction*  
37 *imposed pursuant to subsection (b)(4)(A), (b)(4)(B) or (c)(1)(B) related*  
38 *to the crime for which the original supervision was imposed,*  
39 *continuation or modification of the release conditions of the probation,*  
40 *assignment to a community correctional services program, suspension of*  
41 *sentence or nonprison sanction and remanding the defendant to the*  
42 *custody of the secretary of corrections for a period of 120 days, subject*  
43 *to a reduction of up to 60 days in the discretion of the secretary. This*

1 *sanction shall not be imposed more than once during the term of*  
2 *supervision. The sanction imposed pursuant to this subparagraph shall*  
3 *begin upon pronouncement by the court and shall not be served by prior*  
4 *confinement credit, except as provided in subsection (c)(7);*

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

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

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

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

37 *(4) The court may require an offender for whom a violation of*  
38 *conditions of release or assignment or a nonprison sanction has been*  
39 *established as provided in this section to serve any time for the sentence*  
40 *imposed or which might originally have been imposed in a state facility*  
41 *in the custody of the secretary of corrections without a prior assignment*  
42 *to a community correctional services program if the court finds and sets*  
43 *forth with particularity the reasons for finding that the safety of the*

1 *members of the public will be jeopardized or that the welfare of the*  
2 *inmate will not be served by such assignment to a community*  
3 *correctional services program.*

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

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

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

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

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

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

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

39 *(9) The court may revoke the probation, assignment to a*  
40 *community correctional services program, suspension of sentence or*  
41 *nonprison sanction of an offender pursuant to subsection (c)(1)(E)*  
42 *without having previously imposed a sanction pursuant to subsection (c)*  
43 *(1)(B), (c)(1)(C) or (c)(1)(D) if:*

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

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

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

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

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

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

40       (e) *The court shall have 30 days following the date probation,*  
41 *assignment to a community correctional service program, suspension of*  
42 *sentence or a nonprison sanction was to end to issue a warrant for the*  
43 *arrest or notice to appear for the defendant to answer a charge of a*

1 *violation of the conditions of probation, assignment to a community*  
2 *correctional service program, suspension of sentence or a nonprison*  
3 *sanction.*

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

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

17 Sec. ~~13~~ 15. K.S.A. 2016 Supp. 21-5417, 21-5802, 21-5813, 21-5821,  
18 21-5825, 21-5828, 21-5830, 21-5927, 21-6002, 21-6004, 21-6005 ~~and~~, 21-  
19 6205, ~~22-2302 and 22-3716~~ are hereby repealed.

20 Sec. ~~14~~ 16. This act shall take effect and be in force from and after  
21 its publication in the statute book.