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6 **SENATE BILL No. 35**

7  
8 By Committee on Judiciary

9  
10 1-21

11  
12 AN ACT concerning crimes, criminal procedure and punishment; cre-  
13 ating certain crimes involving use and possession of body armor and  
14 prescribing penalties therefor.

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

17 Section 1. (a) Criminal use of body armor is committing any offense  
18 classified as a person felony **or any felony violation of the controlled**  
19 **substance act** while wearing body armor.

20 ~~(b) The provisions of this section shall not apply to: (1) A uniformed~~  
21 ~~or properly identified state, county or city law enforcement officer, while~~  
22 ~~such officer is engaged in the performance of such officer's duty; or~~  
23 ~~—(2) a security officer, while such officer is engaged in the performance~~  
24 ~~of such officer's duty.~~

25 ~~—(c) (b) As used in this section: (1) "Body, "body armor" means cloth-~~  
26 ~~ing or a device designed or intended to protect a person's body or a~~  
27 ~~portion of a person's body from death or injury caused by a firearm; and~~  
28 ~~—(2) "security officer" means a person lawfully employed to protect~~  
29 ~~another person or to protect the property of another person.~~

30 ~~(d) (c) Criminal use of body armor is a severity level ~~5~~ 7, person~~  
31 ~~[nonperson] felony.~~

32 ~~(e) (d) The provisions of this section shall be part of and supplement-~~  
33 ~~tal to the Kansas criminal code.~~

34 Sec. 2. (a) Criminal possession of body armor is possession, purchase,  
35 ownership or use of body armor by a person who has been convicted of  
36 an offense classified as a person felony.

37 (b) (1) The provisions of this section shall not apply to any person  
38 who has been granted permission to possess, purchase, own or use body  
39 armor as provided in this section.

40 ~~—(2) (A) A person who has been convicted of an offense classified as~~  
41 ~~a person felony whose employment, livelihood or safety is dependent on~~  
42 ~~such person's ability to possess, purchase, own or use body armor may~~  
43 ~~petition the county sheriff of the county in which such person resides for~~

1 ~~written permission to possess, purchase, own or use body armor.~~

2 ~~—(B) The sheriff may grant a person who properly petitions the sheriff~~  
3 ~~under this subsection written permission to possess, purchase, own or use~~  
4 ~~body armor as provided in this section if the sheriff determines that the~~  
5 ~~petitioner is likely to use body armor in a safe and lawful manner and has~~  
6 ~~reasonable need for the protection provided by body armor.~~

7 ~~—(C) In making the determination required under this subsection, the~~  
8 ~~sheriff must consider the petitioner’s continued employment, the inter-~~  
9 ~~ests of justice and other circumstances justifying issuance of such written~~  
10 ~~permission.~~

11 ~~—(D) The sheriff may restrict written permission issued to a petitioner~~  
12 ~~under this section in any manner determined appropriate by the sheriff.~~  
13 ~~If permission is restricted, the sheriff must state the restrictions in the~~  
14 ~~permission document.~~

15 ~~—(E) Sheriffs shall exercise broad discretion in determining whether~~  
16 ~~to issue written permission under this section. Nothing in this section~~  
17 ~~requires a sheriff to issue written permission to any particular petitioner.~~  
18 ~~The issuance of written permission under this section does not relieve~~  
19 ~~any person or entity from criminal liability that might otherwise be~~  
20 ~~imposed.~~

21 ~~—(F) A person who receives written permission from a sheriff pursuant~~  
22 ~~to this section must have the written permission in such person’s posses-~~  
23 ~~sion when possessing, purchasing, owning or using body armor *whose*~~  
24 ~~*conviction has been expunged pursuant to K.S.A. 21-4619, and*~~  
25 ~~*amendments thereto.*~~

26 ~~(3) (2) A law enforcement agency may issue body armor to a person~~  
27 ~~who is in the custody of a law enforcement agency or a local or state~~  
28 ~~correctional facility or who is a witness to a crime for such witness or~~  
29 ~~person’s protection ~~without a petition being filed under this subsection.~~~~  
30 ~~If the law enforcement agency issues body armor to a person under this~~  
31 ~~subsection, the law enforcement agency must document the reasons for~~  
32 ~~issuing the body armor and retain a copy of that document as an official~~  
33 ~~record. The law enforcement agency must issue written permission to the~~  
34 ~~person under this subsection.~~

35 ~~(c) As used in this section, “body armor” means the same as provided~~  
36 ~~in section 1, and amendments thereto.~~

37 ~~(d) Criminal possession of body armor is a severity level 8, ~~person~~~~  
38 ~~*[nonperson]* felony.~~

39 ~~(e) The provisions of this section shall be part of and supplemental~~  
40 ~~to the Kansas criminal code.~~

41 ~~Sec. 3. This act shall take effect and be in force from and after its~~  
42 ~~publication in the statute book.~~