

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Michael O'Neal at 3:30 p.m. On February 20, 2001 in Room 313-S of the Capitol.

All members were present except:
Representative Karen DiVita - Excused

Committee staff present:
Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Cindy O'Neal, Committee Secretary

HB 2078 - if a minor shoplifts, the parents are liable for a civil penalty up to \$500

The subcommittee recommended a balloon. (Attachment 1)

Representative Loyd made the motion to adopt the balloon. Representative Long seconded the motion. The motion carried.

Representative Loyd made the motion to report **HB 2078** favorably for passage as amended. Representative Long seconded the motion. With permission of the second Representative Loyd withdrew his motion.

He made the motion to amend in the following language on page 2, line 27, "a claim or judgement under the provisions of this section shall not constitute an obligation or liability against any insurer or third-party payor." Representative DeCastro seconded the motion. The motion carried.

Representative Loyd made the motion to report **HB 2078** favorably for passage as amended. Representative DeCastro seconded the motion. The motion carried 9-6. Representatives Rehorn & Crow asked to be recorded as voting no.

HB 2079 - theft of property from three businesses as part of the same criminal transaction is a severity level 9, nonperson felony

The subcommittee recommended a balloon. (Attachment 2)

Representative Loyd made the motion to adopt the balloon. Representative Long seconded the motion. The motion carried.

Representative Loyd made the motion to report **HB 2079** favorably for passage. Representative Patterson seconded the motion. The motion carried.

HB 2080 - unlawful use of possession of a sale receipt or universal product code label

The subcommittee recommended the committee adopt the balloon and recommended that **HB 2080** be a substitute bill. (Attachment 3)

Representative Loyd made the motion to adopt the balloon. Representative Long seconded the motion. The motion carried.

Representative Loyd made the motion to report **Substitute HB 2080** favorably for passage. Representative Long seconded the motion. The motion carried.

HB 2296 - mandatory sentencing & fines for forgery

The subcommittee recommended a balloon (Attachment 4)

Representative Loyd made the motion to adopt the balloon. Representative Pauls seconded the motion. The motion carried.

Representative Williams made the motion to have no mandatory confinement but keep the fines. Representative Loyd seconded the motion. The motion carried.

Representative Loyd made the motion to redraft pg 5 (i) to clarify that unless criminal history provides otherwise this section shall apply. Representative Williams seconded the motion. The motion carried.

Representative Long made the motion to report **HB 2296** favorably for passage as amended. Representative Loyd seconded the motion. The motion carried.

HB 2329 - allowing criminal justice agencies access to division of vehicle records

Representative Loyd made the motion to report **HB 2329** favorably for passage. Representative Williams seconded the motion.

Representative Loyd made the substitute motion to reference the criminal justice agency definition as found in K.S.A. 22-4701(c). Representative Williams seconded the motion. The motion carried.

Representative Crow made the motion to add "criminal proceedings" to the bill. Representative Ruff seconded the motion. The motion carried.

Representative Loyd made the motion to report **HB 2329** favorably for passage as amended. Representative Williams seconded the motion. The motion carried.

HB 2230 - suspension or revocation of driving privileges

Representative Newton made the motion to report **HB 2230** favorably for passage. Representative Williams seconded the motion.

Representative Newton made the substitute motion to increase DUI fines for:

1st offense \$500 - \$1,000

2nd offense \$1,000 - \$1,500

3rd offense \$1,500 - \$2,500

4th offense \$2,500

Representative Williams seconded the motion. Committee members believed that the most important issue in this bill is the interlock and that if it was combined with an significant increase in fees it would put the bill in jeopardy. The motion failed.

Representative Williams made the motion to increase the fees for reinstatement of a drivers license to:

1st reinstatement \$200

2nd reinstatement \$400

3rd reinstatement \$600

4th reinstatement \$800

Representative DeCastro seconded the motion. With the permission of the seconded the motion was amended to have the reinstatement fees apply only to DUI's. The motion failed 7-8.

Representative DeCastro made the motion to create a class B misdemeanor criminal penalty for refusing to submit to a breath, blood alcohol, or urine test if it has been requested by a law enforcement officer. Representative Loyd seconded the motion. The motion carried.

Representative Patterson made the motion to include a provision granting law enforcement officers probable cause to request a blood alcohol test to be performed in any cases where a motor vehicle was operated in such a manner to cause serious injury or death. The motion carried.

Representative Loyd made the motion to amend in the provisions of **HB 2135 - increasing evaluation fees for DUI's from \$125 to \$150**. Representative Ruff seconded the motion. The motion carried.

Representative Klein made the motion to allow undocumented workers who have obtained an internal revenue service individual taxpayer identification number the ability to get a drivers license. Representative Shriver seconded the motion. The motion failed 6-8.

Representative Loyd made the motion to report **HB 2230** favorably for passage as amended. Representative DeCastro seconded the motion. The motion carried.

HB 2212 - branch banks shall designate an officer as the custodian of records to identify records for evidentiary purposes

Representative Pauls made the motion to report **HB 2212** favorably for passage. Representative Lloyd seconded the motion.

Representative Pauls made the substitute motion to amend in the language of K.S.A. 9-813 which states "any office, agency, or other place of business, at which deposits are received, checks paid or money lent." Representative Lloyd seconded the motion. The motion carried.

Representative Pauls made the motion to report **HB 2212** favorably for passage, as amended. Representative Lloyd seconded the motion. The motion carried.

HB 2135 - increasing evaluation fee for DUI's from \$125 to \$150

Representative Klein made the motion to delete the provisions of **HB 2135** and amend in language that would allow undocumented workers who have obtained an internal revenue service individual taxpayer identification number the ability to get a drivers license and report the bill favorably. Representative Swenson seconded the motion. The motion carried.

The committee meeting adjourned at 6:00 p.m. The next meeting is scheduled for February 28, 2001.

HOUSE BILL No. 2078

By Committee on Judiciary

1-19

Subcommittee Report
Rep. Ward Loyd, Chair
Rep. Patterson
Rep. Pauls
2-19-01

House Judiciary
2-20-01
Attachment 1

9 AN ACT concerning civil actions; relating to shoplifting; parents or
10 guardians of minors; amending K.S.A. 60-3331 and repealing the ex-
11 isting section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 60-3331 is hereby amended to read as follows: 60-
15 3331. (a) Except as otherwise provided, a merchant may file a civil action
16 to ~~receive~~ a civil penalty against any ~~adult or emancipated minor~~ who
17 shoplifts from that merchant. If the merchant does not recover the mer-
18 chandise in merchantable condition, the merchant shall be entitled to a
19 civil penalty for an amount equal to twice the retail cost of the merchan-
20 dised, or \$50, whichever is greater, but in no case shall such civil penalty
21 be more than \$500. If the merchant recovers the merchandise in mer-
22 chantable condition, the merchant shall be entitled to a civil penalty of
23 \$50 or 50% of the retail cost of the merchandise, whichever is greater,
24 but in no case shall such civil penalty be more than \$350.

recover
person

25 (b) ~~If an unemancipated minor shoplifts, the parent [or guardian] of~~
26 ~~such minor, shall be civilly liable in an amount of the civil penalty as~~
27 ~~prescribed in subsection (a) [except that the provisions of this subsection~~
28 ~~shall not apply in cases where the guardian is a state agency]~~

the person who shoplifts is
pursuant to a civil action filed as authorized
in subsection (a)

29 (c) Unless the action is brought pursuant to the Kansas small claims
30 act and a final judgment is rendered in small claims court, the prevailing
31 party in such action brought pursuant to this section shall be entitled to
32 reasonable attorney fees and costs. If the action is brought in small claims
33 court and the judgment is appealed to district court pursuant to chapter
34 60 of the Kansas Statutes Annotated or K.S.A. 61-2709 and amendments
35 thereto, the prevailing party on appeal shall be entitled to reasonable
36 attorney fees and costs.

shoplifting or an adjudication as a juvenile
offender or an adjudication as a child in need of
care for committing an offense while a juvenile
which if committed by an adult would constitute
the commission of shoplifting

37 (e) (d) A conviction or a plea of guilty to ~~the offense of theft of the~~
38 ~~merchandise~~ is not a prerequisite to the filing of a civil action under this
39 section.

40 (d) (e) Prior to filing a civil action under this section, a merchant
41 damaged by shoplifting ~~may~~ demand that an individual alleged to be civilly
42 liable under this act reimburse such merchant in an amount of the civil
43 penalty as prescribed in subsection (a). Such demand ~~[if made]~~ shall be

shall

1 in writing and ~~may be~~ offered in consideration for the merchant's agree-
 2 ment not to commence a civil action under this section. Such demand
 3 shall not contain a threat of criminal prosecution against such individual.
 4 Any merchant who makes a demand with a threat of criminal prosecution
 5 against such individual shall be precluded from filing a civil action under
 6 this section and pursuing any other remedy at law or equity. A demand
 7 pursuant to this subsection ~~is not~~ a prerequisite to filing a civil action
 8 under this section, but no demand may be made which does not comply
 9 with this subsection.

shall be

10 ~~(e)~~ (f) Nothing contained in this act shall be construed to preclude a
 11 merchant from pursuing any other remedy at law or equity prior to filing
 12 an action under this act.

13 ~~(f)~~ (g) For purposes of this act, "shoplift" means any one or more of
 14 the following acts committed by a person without the consent of the
 15 merchant and with the intent of appropriating merchandise to that per-
 16 son's or another's own use without payment, obtaining merchandise at
 17 less than its stated sales price or otherwise depriving a merchant of all or
 18 any part of the value or use of merchandise:

- 19 (1) Removing any merchandise from the premises of the merchant's
- 20 establishment;
- 21 (2) concealing any merchandise with intent to leave the premises with
- 22 the merchandise;
- 23 (3) substituting, altering, removing or disfiguring any label or price
- 24 tag;
- 25 (4) transferring any merchandise from a container in which that mer-
- 26 chandise is displayed or packaged to any other container; or
- 27 (5) disarming any alarm tag attached to any merchandise.

28 Sec. 2. K.S.A. 60-3331 is hereby repealed.
 29 Sec. 3. This act shall take effect and be in force from and after its
 30 publication in the statute book.

HOUSE BILL No. 2079

By Committee on Judiciary

1-19

Subcommittee Report
Representative Ward Loyd, Chair
Representative Patterson
Representative Pauls
2/16/01

House Judiciary
2-20-01
Attachment 2

9 AN ACT concerning crimes and punishment; relating to theft; amending
10 K.S.A. 21-3701 and repealing the existing section.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 21-3701 is hereby amended to read as follows: 21-
14 3701. (a) Theft is any of the following acts done with intent to deprive
15 the owner permanently of the possession, use or benefit of the owner's
16 property:

- 17 (1) Obtaining or exerting unauthorized control over property;
- 18 (2) obtaining by deception control over property;
- 19 (3) obtaining by threat control over property; or
- 20 (4) obtaining control over stolen property knowing the property to
21 have been stolen by another.

22 (b) (1) Theft of property of the value of \$25,000 or more is a severity
23 level 7, nonperson felony.

24 (2) Theft of property of the value of at least \$500 but less than
25 \$25,000 ~~is~~ *is a severity level 9, nonperson felony.*
26 *regardless of the value from three separate*
27 *mercantile establishments, as part of the same act or transaction, or in two*
28 *or more acts or transactions connected together or constituting parts of a*
29 *common scheme or course of conduct is a severity level 9, nonperson*

is a severity level 9, nonperson felony.
(3)

30 ~~(3)~~ Theft of property of the value of less than \$500 is a class A non-
31 person misdemeanor.

within a period of 72 hours

32 ~~(4)~~ Theft of property of the value of less than \$500 is a severity level
33 9, nonperson felony if committed by a person who has, within five years
34 immediately preceding commission of the crime, been convicted of theft
35 two or more times.

(4)

(5)

36 Sec. 2. K.S.A. 21-3701 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its
38 publication in the statute book.

PROPOSED SUBSTITUTE FOR HOUSE BILL NO. 2080
By Committee on Judiciary

AN ACT concerning crimes and punishment; relating to theft detection shielding devices; amending K.S.A. 2000 Supp. 21-3764 and repealing the existing section.

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

Section 1. K.S.A. 21-3764 is hereby amended to read as follows: K.S.A. 21-3764.

(a) Unlawful manufacturing or selling of a theft detection shielding device is intentionally manufacturing, selling, offering for sale or distributing in any way a laminated or coated bag or device particular to and intentionally marketed for shielding and intended to shield merchandise from detection by electronic or magnetic theft alarm sensor.

(b) Unlawful possession of a theft detection shielding device is intentionally possessing any laminated or coated bag or device particular to and designed for shielding and intended to shield merchandise from detection by an electronic or magnetic theft alarm sensor, with the intent to commit theft.

(c) Unlawful possession of a theft detection device remover is intentionally possessing any tool or device designed to allow the removal of any theft detection device from any merchandise with the intent to use such tool to remove any theft detection device from any merchandise without the permission of the merchant or person owning or holding such merchandise.

(d) Unlawful removal of a theft detection device is intentionally removing the device from merchandise prior to purchase.

(e) Unlawful possession of a sales receipt or universal product code label is possessing 15 or more fraudulent retail sales receipts or universal product code labels, or any combination thereof, or possessing the device which manufactures fraudulent retail receipts or universal product code labels. A person having possession, custody or control of 15 or more such receipts or labels or such device shall be presumed to possess such items with the intent to cheat or defraud a retailer.

(f) Violation of this section is a severity level 9, nonperson felony.

(g) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 2. K.S.A. 2000 Supp. 21-3764 is hereby repealed.

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

HOUSE BILL No. 2296

By Committee on Judiciary

2-5

AN ACT concerning forgery; amending K.S.A. 21-3710 and K.S.A. 2000 Supp. 21-4704 and 60-4104 and repealing the existing sections.

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

Section 1. K.S.A. 21-3710 is hereby amended to read as follows: 21-3710. (a) Forgery is knowingly and with intent to defraud:

(1) Making, altering or endorsing any written instrument in such manner that it purports to have been made, altered or endorsed by another person, either real or fictitious, and if a real person without the authority of such person; or altering any written instrument in such manner that it purports to have been made at another time or with different provisions without the authority of the maker thereof; or making, altering or endorsing any written instrument in such manner that it purports to have been made, altered or endorsed with the authority of one who did not give such authority;

(2) issuing or delivering such written instrument knowing it to have been thus made, altered or endorsed; or

(3) possessing, with intent to issue or deliver, any such written instrument knowing it to have been thus made, altered or endorsed.

(b) (1) Forgery is a severity level 8, nonperson felony.

~~(2) On a second conviction of a violation of this section, a person shall be sentenced to not less than 30 days nor more than one year's imprisonment and fined not less than the amount of the forged instruments nor more than \$1,000. The person convicted must serve at least 30 days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released.~~

~~(3) On the third or subsequent conviction of a violation of this section, a person shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than the amount of forged instruments nor more than \$2,500. The person convicted must serve at least 90 days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released.~~

In any prosecution under this section, it may be alleged in the complaint or information that it is not known whether a purported person is real or fictitious, and in such case there shall be a rebuttable presump-

Subcommittee Report
Rep. Ward Loyd, Chair
Rep. Patterson
Rep. Pauls
2-19-01

House Judiciary
2-20-01
Attachment 4

(2) On a first conviction of a violation of this section, a person shall be required to serve at least 15 days' imprisonment as a condition of probation, and fined not less than the amount of the forged instrument nor more than \$500.

(3) On a second conviction of a violation of this section, a person shall be required to serve at least 30 days; imprisonment as a condition of probation, and fined not less than the amount of the forged instrument nor more than \$1,000.

(4) On a third or subsequent conviction of a violation of this section, a person shall be required to serve a least 45 days' imprisonment as a condition of probation, and fined not less than the amount of the forged instrument nor more than \$2,500.

1 tion that such purported person is fictitious
2 Sec. 2. K.S.A. 2000 Supp 21-4704 is hereby amended to read as
3 follows: 21-4704. (a) For purposes of sentencing the following sentencing
4 guidelines grid for nondrug crimes shall be applied in felony cases for
5 crimes committed on or after July 1, 1993

4-2

SENTENCING RANGE - NONDRUG OFFENSES

HB 2296

Category	A			B			C			D			E			F			G			H			I		
Severity Level	3 + Person Felonies			2 Person Felonies			1 Person & 1 Nonperson Felonies			1 Person Felony			3 + Nonperson Felonies			2 Nonperson Felonies			1 Nonperson Felony			2 + Misdemeanors			1 Misdemeanor No Record		
I	653	620	592	618	586	554	585	572	558	567	553	540	546	534	521	526	514	503	503	495	484	486	476	466	465	455	447
II	493	467	442	460	438	416	426	405	394	400	390	381	384	374	365	368	360	352	354	346	338	338	331	323	323	317	309
III	247	233	221	228	216	206	107	102	96	100	94	89	92	88	82	83	79	74	77	72	68	71	66	61	61	59	55
IV	172	162	154	162	154	144	75	71	68	69	66	62	64	60	57	59	56	52	52	50	47	48	45	42	43	41	38
V	136	130	122	128	120	114	60	57	53	55	52	50	51	48	46	47	44	41	43	41	38	38	36	34	34	32	30
VI	46	43	40	41	39	37	38	36	34	36	34	32	32	30	28	29	27	25	26	24	22	24	22	20	20	18	16
VII	34	32	30	31	29	27	28	26	24	26	24	22	23	21	19	21	19	17	18	16	14	16	14	12	12	10	8
VIII	23	21	19	20	19	18	19	18	17	18	17	16	17	16	15	16	15	14	15	14	13	14	13	12	12	11	10
IX	17	16	15	15	14	13	14	13	12	13	12	11	12	11	10	11	10	9	10	9	8	9	8	7	7	6	5
X	12	12	11	12	11	10	11	10	9	10	9	8	9	8	7	8	7	6	7	6	5	6	5	4	4	3	2

3

LEGEND	
	Presumptive Probation
	State App.
	Presumptive Imprisonment

1 (b) The provisions of this section shall be applicable to the sentencing
2 guidelines grid for nondrug crimes. Sentences expressed in such grid
3 represent months of imprisonment.

4 (c) The sentencing guidelines grid is a two-dimensional crime severity
5 and criminal history classification tool. The grid's vertical axis is the crime
6 severity scale which classifies current crimes of conviction. The grid's
7 horizontal axis is the criminal history scale which classifies criminal
8 histories.

9 (d) The sentencing guidelines grid for nondrug crimes as provided in
10 this section defines presumptive punishments for felony convictions, sub-
11 ject to judicial discretion to deviate for substantial and compelling reasons
12 and impose a different sentence in recognition of aggravating and miti-
13 gating factors as provided in this act. The appropriate punishment for a
14 felony conviction should depend on the severity of the crime of conviction
15 when compared to all other crimes and the offender's criminal history.

16 (e) (1) The sentencing court has discretion to sentence at any place
17 within the sentencing range. The sentencing judge shall select the center
18 of the range in the usual case and reserve the upper and lower limits for
19 aggravating and mitigating factors insufficient to warrant a departure.

20 (2) In presumptive imprisonment cases, the sentencing court shall
21 pronounce the complete sentence which shall include the prison sen-
22 tence, the maximum potential reduction to such sentence as a result of
23 good time and the period of postrelease supervision at the sentencing
24 hearing. Failure to pronounce the period of postrelease supervision shall
25 not negate the existence of such period of postrelease supervision.

26 (3) In presumptive nonprison cases, the sentencing court shall pro-
27 nounce the prison sentence as well as the duration of the nonprison sanc-
28 tion at the sentencing hearing.

29 (f) Each grid block states the presumptive sentencing range for an
30 offender whose crime of conviction and criminal history place such of-
31 fender in that grid block. If an offense is classified in a grid block below
32 the dispositional line, the presumptive disposition shall be nonimprison-
33 ment. If an offense is classified in a grid block above the dispositional
34 line, the presumptive disposition shall be imprisonment. If an offense is
35 classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional
36 nonprison sentence upon making the following findings on the record:

37 (1) An appropriate treatment program exists which is likely to be
38 more effective than the presumptive prison term in reducing the risk of
offender recidivism; and

(2) the recommended treatment program is available and the of-
41 fender can be admitted to such program within a reasonable period of
42 time; or

43 (3) the nonprison sanction will serve community safety interests by

1 promoting offender reformation.

2 Any decision made by the court regarding the imposition of an optional
3 nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or
4 6-G shall not be considered a departure and shall not be subject to appeal.

5 (g) The sentence for the violation of K.S.A. 21-3411, aggravated as-
6 sult against a law enforcement officer or K.S.A. 21-3415, aggravated
7 battery against a law enforcement officer and amendments thereto which
8 places the defendant's sentence in grid block 6-H or 6-I shall be pre-
9 sumed imprisonment. The court may impose an optional nonprison sen-
10 tence upon making a finding on the record that the nonprison sanction
11 will serve community safety interests by promoting offender reformation.
12 Any decision made by the court regarding the imposition of the optional
13 nonprison sentence, if the offense is classified in grid block 6-H or 6-I,
14 shall not be considered departure and shall not be subject to appeal.

15 (h) When a firearm is used to commit any person felony, the of-
16 fender's sentence shall be presumed imprisonment. The court may im-
17 pose an optional nonprison sentence upon making a finding on the record
18 that the nonprison sanction will serve community safety interests by pro-
19 moting offender reformation. Any decision made by the court regarding
20 the imposition of the optional nonprison sentence shall not be considered
21 a departure and shall not be subject to appeal.

22 (i) The sentence for the violation of the felony provision of K.S.A. 8-
23 1567 and, subsection (c)(3) of K.S.A. 21-3412 and ~~subsections (b)(2) and~~
24 ~~(b)(3) of~~ K.S.A. 21-3710, and amendments thereto shall be as provided
25 by the specific mandatory sentencing requirements of that section and
26 shall not be subject to the provisions of this section or K.S.A. 21-4707
27 and amendments thereto. Notwithstanding the provisions of any other
28 section, the term of imprisonment imposed for the violation of the felony
29 provision of K.S.A. 8-1567 and, subsection (c)(3) of K.S.A. 21-3412 and
30 ~~subsections (b)(2) and (b)(3) of~~ K.S.A. 21-3710, and amendments thereto
31 shall not be served in a state facility in the custody of the secretary of
32 corrections.

33 (j) The sentence for any persistent sex offender whose current con-
34 victed crime carries a presumptive term of imprisonment shall be double
35 the maximum duration of the presumptive imprisonment term. The sen-
36 tence for any persistent sex offender whose current conviction carries a
37 presumptive nonprison term shall be presumed imprisonment and shall
38 be double the maximum duration of the presumptive imprisonment term.
39 Except as otherwise provided in this subsection, as used in this subsection,
40 "persistent sex offender" means a person who: (1) Has been convicted in
41 this state of a sexually violent crime, as defined in K.S.A. 22-3717 and
42 amendments thereto; and (2) at the time of the conviction under subsec-
43 tion (1) has at least one conviction for a sexually violent crime, as defined

1 in K.S.A. 22-3717 and amendments thereto in this state or comparable
2 felony under the laws of another state, the federal government or a for-
3 eign government. The provisions of this subsection shall not apply to any
4 person whose current convicted crime is a severity level 1 or 2 felony.

5 (k) If it is shown at sentencing that the offender committed any felony
6 violation for the benefit of, at the direction of, or in association with any
7 criminal street gang, with the specific intent to promote, further or assist
8 in any criminal conduct by gang members, the offender's sentence shall
9 be presumed imprisonment. Any decision made by the court regarding
10 the imposition of the optional nonprison sentence shall not be considered
11 a departure and shall not be subject to appeal. As used in this subsection,
12 "criminal street gang" means any organization, association or group of
13 three or more persons, whether formal or informal, having as one of its
14 primary activities the commission of one or more person felonies or felony
15 violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*,
16 and amendments thereto, which has a common name or common iden-
17 tifying sign or symbol, whose members, individually or collectively engage
18 in or have engaged in the commission, attempted commission, conspiracy
19 to commit or solicitation of two or more person felonies or felony viola-
20 tions of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and
21 amendments thereto, or any substantially similar offense from another
22 jurisdiction.

23 (l) The sentence for a violation of subsection (a) of K.S.A. 21-3715
24 and amendments thereto when such person being sentenced has a prior
25 conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-
26 3716 and amendments thereto shall be presumed imprisonment.

27 Sec. 3. K.S.A. 2000 Supp. 60-4104 is hereby amended to read as
28 follows: 60-4104. Conduct and offenses giving rise to forfeiture under this
29 act, whether or not there is a prosecution or conviction related to the
30 offense, are:

31 (a) All offenses which statutorily and specifically authorize forfeiture;

32 (b) violations of the uniform controlled substances act, K.S.A. 65-
33 4101 *et seq.*, and amendments thereto;

34 (c) theft which is classified as a felony violation pursuant to K.S.A.
35 21-3701, and amendments thereto, in which the property taken was
36 livestock;

37 (d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments
38 thereto;

39 (e) money laundering, K.S.A. 65-4142, and amendments thereto;

40 (f) gambling, K.S.A. 21-4303, and amendments thereto, and com-
41 mercial gambling, K.S.A. 21-4304, and amendments thereto;

42 (g) counterfeiting, K.S.A. 2000 Supp. 21-3763, and amendments
43 thereto;

- 1 (h) *forgery, K.S.A. 21-3710, and amendments thereto;*
2 (i) an act or omission occurring outside this state, which would be a
3 violation in the place of occurrence and would be described in this section
4 if the act occurred in this state, whether or not it is prosecuted in any
5 state;
6 (†) (j) an act or omission committed in furtherance of any act or omis-
7 sion described in this section including any inchoate or preparatory of-
8 fense, whether or not there is a prosecution or conviction related to the
9 act or omission;
10 (†) (k) any solicitation or conspiracy to commit any act or omission
11 described in this section, whether or not there is a prosecution or con-
12 viction related to the act or omission.
13 Sec. 4. K.S.A. 21-3710 and K.S.A. 2000 Supp. 21-4704 and 60-4104
14 are hereby repealed.
15 Sec. 5. This act shall take effect and be in force from and after its
16 publication in the statute book.