

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:31 A.M. on February 20, 2006, in Room 123-S of the Capitol.

All members were present,

Les Donovan arrived, 9:32 a.m.
Phil Journey arrived, 9:35 a.m.
Kay O'Connor arrived, 9:37 a.m.
Greta Goodwin arrived, 9:39 a.m.
Donald Betts arrived, 9:42 a.m.
David Haley arrived, 9:45 a.m.
Derek Schmidt arrived, 9:50 a.m.

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Helen Pedigo, Office of Revisor of Statutes
Karen Clowers, Committee Secretary

Conferees appearing before the committee:

Randy Hearrell, Kansas Judicial Council

Others attending:

See attached list.

The chairman opened the hearing on **SB 550--Prescribing certain duties on judicial council to provide certain legal documents.**

Randy Hearrell appeared in support of the bill which is part of an ongoing project to remove legal forms from the statute books (Attachment 1).

There being no further conferees, the hearing on **SB 550** was closed.

The Chairman called for final action on **SB 335--Evidence of collateral source benefits allowed in personal injury cases where damages requested.**

The Chairman provided a brief synopsis of the bill. Discussion followed and Senator Journey distributed a proposed balloon amendment which would change the bill from a collateral source benefits bill to an insurance subrogation bill (Attachment 2). Senator Journey moved, Senator Bruce seconded, to adopt the balloon amendment provided by Senator Journey. Motion failed.

Following additional discussion, Senator Bruce moved, Senator Donovan seconded, to recommend SB 335 favorably for passage. Motion failed.

The Chairman called for final action on **SB 550--Prescribing certain duties on judicial council to provide certain legal documents.**

Senator Donovan moved, Senator Goodwin seconded, to recommend SB 550 favorably for passage. Motion carried.

The Chairman called for final action on **SB 408--Cruelty to animals; harming or killing certain dogs; non-grid felony; mandatory sentence.**

A copy of a proposed balloon amendment to **SB 408** was distributed which included any amendments the Chairman was aware of that members of the committee might be offering as well as all of the various amendment approved to date (Attachment 3). Helen Pedigo provided a brief of the proposed amendments. Senator Journey moved, Senator O'Connor seconded, to adopt the proposed amendments as reflected in the balloon. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:31 A.M. on February 20, 2006, in Room 123-S of the Capitol.

Following discussion, Senator Journey provided a balloon amendment reflecting practices by exterminators, cosmetic surgery, minor and/or inadvertent injuries (Attachment 4). Senator Journey moved, Senator O'Connor seconded, to adopt the amendments proposed by Senator Journey. Motion failed.

Senator Journey moved, Senator Haley seconded, to favorably recommend **SB 408** for passage. Motion carried.

The Chairman called for final action on **SB 341--DUI excessive blood or breath-alcohol concentration, penalties.**

Senator Schmidt indicated that while there is support for the bill it requires additional technical work and suggest that it may be suitable for interim consideration.

Senator Schmidt moved, Senator Umbarger seconded, to table **SB 341** and recommend it for interim study. Motion carried.

The meeting adjourned at 10:28 a.m. The next scheduled meeting is February 21, 2006.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST



DATE: 2-20-06

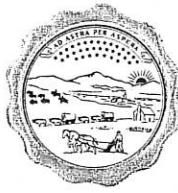
NAME	REPRESENTING
Tracy Sparrow	Judicial Council
UW Ebert	KANSAS Chamber
JIM CLARK	KBA
Michael Shull	KU
Seth McCall	KU
Nicholas Lawrence	KU
Renee Henke	KU
Rebecca Alonel	KU
ALBERT BRIGGS	KU
Rochele Wilbanks	KU
Paul Jones	KID
Lana Waisl	OJA
Lynda LaPlant	KU
Ernie Dominguez	KDOC
Steve Bittel	KF&D
Jim Maag	Foulston Siefkin LLP
Cindy Riedel	4-H
Stephanie Leiker	4-H

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-20-06

NAME	REPRESENTING
Calogero D. Casa	KU
Steven Wallace	KU
Zach Pope	KU
Joe O'Brien	KU
Nathan Stitt	4-H  #1
Hope James	4-H
Halejo Maley	4-H
Ethan Gumm	4-H
Charles Crumley	4-H
Natalie Gibson	KSC
Brenda Harmon	KSC
Amy Taylor	4-H
Sandy Barnett	KCSOV
Patrick Hurley	Humane Network
	John Peterson
Michael White	KCDAA



KANSAS JUDICIAL COUNCIL

JUSTICE DONALD L. ALLEGRUCCI, CHAIR, TOPEKA
JUDGE JERRY G. ELLIOTT, WICHITA
JUDGE ROBERT J. FLEMING, PARSONS
JUDGE JEAN F. SHEPHERD, LAWRENCE
SEN. JOHN VRATIL, LEAWOOD
REP. MICHAEL R. O'NEAL, HUTCHINSON
J. NICK BADGEROW, OVERLAND PARK
GERALD L. GOODELL, TOPEKA
JOSEPH W. JETER, HAYS
STEPHEN E. ROBISON, WICHITA

Kansas Judicial Center
301 S.W. Tenth Street, Suite 262
Topeka, Kansas 66612-1507

Telephone (785) 296-2498
Facsimile (785) 296-1035

judicial.council@ksjc.state.ks.us
www.kscourts.org/council

RANDY M. HEARRELL
EXECUTIVE DIRECTOR
NANCY J. STROUSE
RESEARCH ATTORNEY
JANELLE L. WILLIAMS
ADMINISTRATIVE ASSISTANT
MARIAN L. CLINKENBEARD
ADMINISTRATIVE ASSISTANT

MEMORANDUM

TO: Senate Judiciary Committee

FROM: Kansas Judicial Council - Randy M. Hearrell

DATE: February 20, 2006

RE: 2006 SB 550

The Judicial Council has undertaken a project to remove legal forms from the statute books, make the forms available on the internet and include the forms in a publication entitled *Kansas Legal Forms*. Last year the Legislature passed SB 258 which removed legal forms from K.S.A. Chapters 48-64. Recently volumes 4 and 4A of the Kansas Statutes Annotated were published without the forms. In June of 2005 the Judicial Council posted updated versions of the removed forms on its website.

The Judicial Council recognizes that legal forms which appear in the statute books are often not kept up to date and also present a difficult printing task for the Revisor of Statutes. The Council has experience preparing and making available forms as directed by statute.

Examples of the forms the Judicial Council prepares may be found on the Council website in such areas as small claims, protection from abuse, protection from stalking, chapter 61 garnishment, and chapter 61 garnishment.

Senate Bill 550 removes forms relating to enforcement of county codes and resolutions, notice under the Eminent Domain Procedure Act, and consent to medical care for minors from the statutes.

Senate Judiciary
2-20-06
Attachment 1

PROPOSED AMENDMENT
Senator Journey
February 20, 2006

SENATE BILL No. 335

By Special Committee on Judiciary

1-6

insurance subrogation and reimburse-
ment rights under health insurance policies;

9 AN ACT concerning civil procedure; relating to collateral source benef-
10 fits; amending K.S.A. 60-3802, 60-3804 and 60-3805 and repealing the
11 existing sections.
12

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

14 Section 1. K.S.A. 60-3802 is hereby amended to read as follows: 60-
15 3802. In any action for personal injury or death, in which the claimant
16 demands judgment for damages ~~in excess of \$150,000~~, evidence of col-
17 lateral source benefits received or evidence of collateral source benefits
18 which are reasonably expected to be received in the future shall be
19 admissible.

20 Sec. 2. K.S.A. 60-3804 is hereby amended to read as follows: 60-
21 3804. In determining damages in an action for personal injury or death,
22 the trier of fact ~~shall~~ may determine the net collateral source benefits
23 received and the net collateral source benefits reasonably expected to be
24 received in the future. If the action for personal injury or death is tried
25 to a jury, *and the jury makes such determination*, the jury will be in-
26 structed to make such determination by itemization of the verdict.

27 Sec. 3. K.S.A. 60-3805 is hereby amended to read as follows: 60-
28 3805. (a) *In the event the trier of fact makes a net collateral source benefit*
29 *determination*, the amount of the judgment shall be reduced by the court
30 by the amount of net collateral source benefits received, or reasonably
31 expected to be received in the future but only to the extent that such
32 benefits exceed the aggregate amount by which:

33 (1) Such judgment was reduced pursuant to subsection (a) of K.S.A.
34 60-258a and amendments thereto;

35 (2) the claimant's ability to recover such judgment was limited by the
36 application of subsections (c) and (d) of K.S.A. 60-258a and amendments
37 thereto, other than by virtue of claimant's settlement with or decision not
38 to assert a legally enforceable claim against a named or an unnamed party;

39 (3) the amount to which the claimant's ability to recover such judg-
40 ment was limited by the insolvency or bankruptcy of a person; and

41 (4) the award of damages has been reduced because of a statutory
42 limit upon the recovery of damages.

43 (b) If there is no amount falling within subsections (a)(1) through

[Insert New Sections 1 through 4 here (see attachment) and renumber
[remaining sections.

2-2

1 (a)(4) then the court shall reduce the judgment by the full amount of the
2 net collateral source benefits.

3 New Sec. 4. The provisions of this act shall be considered substantive
4 in nature.

5 New Sec. 5. The provisions of this act shall expire on July 1, 2009.

6 Sec. 6. K.S.A. 60-3802, 60-3804 and 60-3805 are hereby repealed.

7 Sec. 7. This act shall take effect and be in force from and after its
8 publication in the statute book.

contained in sections 5 through 7

New Section 1. For causes of action accruing on or after January 1, 2007, as used in this act:

- (a) "Health care insurer" means any insurer, self-insurer, insurance arrangement or health maintenance organization providing health insurance or health care services or benefits.
- (b) "Health care services" means the same as provided in K.S.A. 40-3202, and amendments thereto.
- (c) "Health insurance" means the same as provided in K.S.A. 40-2118, and amendments thereto.
- (d) "Health maintenance organization" means the same as provided in K.S.A. 40-3202, and amendments thereto.
- (e) "Injured person" means any person suffering injury who has health insurance or is entitled to health care services or benefits through an insurance arrangement, and if the injured person is a minor, incapacitated or deceased, the injured person's legal representative.
- (f) "Injury" means bodily harm, sickness, disease or death.
- (g) "Insurance arrangement" means the same as provided in K.S.A. 40-2118, and amendments thereto, and all government and church employment benefit plans which are exempt from the employee retirement income security act of 1974 under 29 U.S.C. 1003(b) or other applicable law.
- (h) "Insurer" means the same as provided in K.S.A. 40-2118, and amendments thereto.

New Sec. 2. For causes of action accruing on or after January 1, 2007,(a) Any policy, contract or plan of health insurance issued or delivered in this state, or insuring any resident of or person in this state, or insurance arrangement providing health care services or benefits in this state or to any resident of this state, may include or incorporate a provision authorizing the policy, contract, plan or arrangement to assert and enforce the subrogation or reimbursement interest and lien created by this act, provided such provision is consistent with and authorized by this act.

(b) If health care services or benefits are paid or provided by a health care insurer for an injury creating a legal liability against a tortfeasor and if there is recovery from such tort-feasor by the injured person, the health care insurer shall have a right of subrogation or reimbursement to the extent of duplicative health care services or benefits provided to the date of such recovery to or from the injured person's tort recovery. In such case, the health insurer shall have a lien therefor against such recovery and may intervene in any action to protect and enforce such lien.

(c) In the event an injured person, the injured person's dependents or personal representative fails to commence an action against such tort-feasor within 18 months after the date of the accident resulting in the injury, such failure shall operate to permit the health care insurer to file any cause of action in tort which the injured person may have against such tortfeasor for the purpose and to the extent of recovery of all damages caused by the alleged tortfeasor. Such health care insurer may enforce same in the health care insurer's own name or in the name of the injured person as their interest may appear by proper action in any court of competent jurisdiction.

(d) (1) In the event of a recovery, the health care insurer's right of subrogation or reimbursement shall only be enforceable to the extent that its enforcement constitutes an equitable distribution of the settlement or judgment under the circumstances. An equitable distribution is one:

- (A) Which allows subrogation or reimbursement only if the total amount of the subrogation or reimbursement claim is duplicative of amounts actually recovered by the injured person;
- (B) in which the subrogation or reimbursement recovery is reduced by the percentage of negligence attributable to the injured person under K.S.A. 60-258a, and amendments thereto; and
- (C) which takes into account such other equitable factors as are deemed relevant by the trial court.

(2) In the event the injured person and the health care insurer cannot agree to an equitable distribution of a proposed or actual settlement or judgment, the matter shall be submitted to the court having jurisdiction of the injury claim, for determination of an equitable distribution of the proposed or actual settlement or judgment under the circumstances.

(e) Attorney fees and claim expenses shall be paid proportionately by the health care insurer and the injured person, and the attorney shall have a lien therefor against any such tort recovery.

(f) No health care insurer may assert a right of subrogation or reimbursement under this act which does not reasonably take into account subrogation or reimbursement recoveries in determining its premiums or charges.

(g) To the extent a subrogation or reimbursement recovery is allowed under this act, the health care insurer shall credit any lifetime cap or limit under the injured person's insurance policy, plan or arrangement in an amount equal to such recovery.

(h) Nothing in this act shall be interpreted as creating a legal cause of action for subrogation or reimbursement in favor of any entity or plan against whom a legal action for damages for negligence or bad faith in connection with the handling of claims for health care services or benefits is prohibited by federal law.

New Sec. 3. For causes of action accruing on or after January 1, 2007, in order to enforce the subrogation or reimbursement rights created and authorized by this act, the holder of such rights must provide written notice which must be received prior to the settlement of or the commencement of trial of the tort cause of action in question. Such written notice shall be sent by certified mail, return receipt requested, to the injured person at such person's last known address with a copy sent by certified mail, return receipt requested, to the attorney, if any, representing the injured person, advising such person and such person's attorney of the assertion of such subrogation or reimbursement rights. Such notice shall include an itemized statement of the medical charges in question and a copy of the policy, contract, plan or arrangement provision upon which the subrogation or reimbursement rights are based. Failure to timely provide the required notice is a waiver of the subrogation or reimbursement rights in question.

New Sec. 4. For causes of action accruing on or after January 1, 2007, if any provision or clause contained in New Sections 1 through 3 of this act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

H-2

SENATE BILL No. 408

By Committee on Judiciary

1-19

PROPOSED AMENDMENT TO BILL AS AMENDED BY COMMITTEE

Senator Journey February 17, 2006

Senate Judiciary 2-20-06 Attachment 3

9 AN ACT concerning crimes and punishment; relating to cruelty to animals and ~~harming or killing certain dogs~~; amending K.S.A. 21-4317 and K.S.A. 2005 Supp. 21-4310, 21-4318 and 21-4704 and repealing the existing sections.

and 47-1706

21-4311,

22-4902 and

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

15 Section 1. K.S.A. 2005 Supp. 21-4310 is hereby amended to read as follows: 21-4310. (a) Cruelty to animals is:

17 (1) Intentionally ~~or recklessly~~ killing, injuring, maiming, torturing or mutilating or causing serious physical injury to any animal;

19 (2) abandoning or leaving any animal in any place without making provisions for its proper care;

21 (3) having physical custody of any animal and failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal; ~~or~~

25 (4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment; ~~or~~

28 (5) ~~causing any physical injury other than the acts described in subsection (a)(1).~~

30 (b) The provisions of this section shall not apply to:

31 (1) Normal or accepted veterinary practices;

32 (2) bona fide experiments carried on by commonly recognized research facilities;

34 (3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated;

37 (4) rodeo practices accepted by the rodeo cowboys' association;

38 (5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent

New Section 1. Whenever an offender is convicted of cruelty to animals as described in subsection (a)(1) of K.S.A. 21-4310, and amendments thereto, and sentenced to imprisonment in the county jail, the department of corrections shall reimburse the county for the cost of maintenance of such offender. The reimbursement shall be paid from funds made available by the legislature for that purpose. Such cost of maintenance shall not exceed the per capita daily operating costs, not including inmate programs, for the department of corrections. [Renumber remaining sections.]

intentionally

1 of an incorporated humane society, the operator of an animal shelter or
2 pound, a local or state health officer or a licensed veterinarian three busi-
3 ness days following the receipt of any such animal at such society. shelter
4 or pound;

5 (6) with respect to farm animals, normal or accepted practices of
6 animal husbandry;

7 (7) the killing of any animal by any person at any time which may be
8 found outside of the owned or rented property of the owner or custodian
9 of such animal and which is found injuring or posing a threat to any
10 person, farm animal or property;

11 (8) an animal control officer trained by a licensed veterinarian in the
12 use of a tranquilizer gun, using such gun with the appropriate dosage for
13 the size of the animal, when such animal is vicious or could not be cap-
14 tured after reasonable attempts using other methods; ~~or~~

15 (9) laying an equine down for medical or identification purposes.

16 (c) As used in this section:

17 (1) "Equine" means a horse, pony, mule, jenny, donkey or hinny.

18 (2) "Serious physical injury" means an act to any animal which re-
19 sults in protracted disfigurement, protracted impairment of health, pro-
20 tracted loss or impairment of the function of a limb or bodily organ, or
21 in excessive or repeated infliction of unnecessary pain or suffering, or
22 causing the same to be done.

23 (d) ~~Cruelty to animals as described in subsection (a)(1) is a nonperson~~
24 ~~felony. Upon conviction of this subsection, a person shall be sentenced to~~
25 ~~not less than 30 days or more than one year's imprisonment, be fined not~~
26 ~~less than \$1,500, and undergo psychological counseling or complete an~~
27 ~~anger management treatment program. Cruelty to animals as described~~
28 ~~in subsection (a)(2), (a)(3), (a)(4) and (a)(5) is a class A nonperson~~
29 ~~misdemeanor.~~

30 Sec. 2. K.S.A. 21-4317 is hereby amended to read as follows: 21-
31 4317. (a) Illegal ownership or keeping of ~~a dog~~ an animal is owning or
32 keeping on one's premises ~~a dog~~ an animal by a person convicted of
33 unlawful conduct of dog fighting under K.S.A. 21-4315, and amendments
34 thereto, or cruelty to animals as defined in subsection (a)(1) of K.S.A. 21-
35 4310, and amendments thereto, within five years of the date of such
36 conviction.

37 (b) Illegal ownership or keeping of ~~a dog~~ an animal is a class B non-
38 person misdemeanor.

39 Sec. 3. K.S.A. 2005 Supp. 21-4318 is hereby amended to read as
40 follows: 21-4318. (a) Inflicting harm, disability or death to a police dog,
41 arson dog, assistance dog, game warden dog or search and rescue dog is
42 knowingly and intentionally, and without lawful cause or justification poi-
43 soning, inflicting great bodily harm, permanent disability or death, upon

, including the normal and accepted practices for the slaughter of such animals for food or by-products

; or
(10) the killing of any animal by a law enforcement officer if such animal is posing a threat to such officer while serving a warrant

(1)

\$500 nor more than \$5,000

have a psychological evaluation prepared for the court

(2) The first conviction of

The second or subsequent conviction of cruelty to animals as described in subsection (a)(2), (a)(3), (a)(4) and (a)(5) is a severity level 10, nonperson felony, and the offender shall be sentenced to not less than five days imprisonment as a condition of probation.

(e) For purposes of this section, "animal" shall have the meaning ascribed to it in K.S.A. 21-4313, and amendments thereto.

Sec. 2. K.S.A. 2005 Supp. 21-4311 is hereby amended to read as follows. [See attached. Renumber remaining sections.]

Sec. 2. K.S.A. 2005 Supp. 21-4311 is hereby amended to read as follows: 21-4311. (a) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. If the owner or custodian is charged with a violation of K.S.A. 21-4310, and amendments thereto, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after 20 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 20 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.

(b) The owner or custodian of an animal placed for adoption or killed pursuant to subsection (a) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

(c) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (a), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime. If no such conviction results, the animal shall be returned to the owner or keeper and the court shall order the county where the animal was taken into custody to pay to the animal shelter all expenses incurred by the shelter for the care, treatment and boarding of such animal, including any damages caused by such animal, prior to its return.

(d) Upon the filing of a sworn complaint by any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility alleging the commission of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, the county or district attorney shall determine the validity of the complaint and shall forthwith file charges for the crime if the complaint appears to be valid.

(e) If a person is adjudicated guilty of the crime of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

1 a police dog, arson dog, assistance dog, game warden dog or search and
2 rescue dog.

3 (b) As used in this section:

4 (1) "Arson dog" means any dog which is owned, or the service of
5 which is employed, by the state fire marshal or a fire department for the
6 principal purpose of aiding in the detection of liquid accelerants in the
7 investigation of fires.

8 (2) "Assistance dog" has the meaning provided by K.S.A. 2005 Supp.
9 39-1113, and amendments thereto.

10 (3) "Fire department" means a public fire department under the con-
11 trol of the governing body of a city, township, county, fire district or
12 benefit district or a private fire department operated by a nonprofit cor-
13 poration providing fire protection services for a city, township, county,
14 fire district or benefit district under contract with the governing body of
15 the city, township, county or district.

16 (4) "Game warden dog" means any dog which is owned, or the service
17 of which is employed, by the department of wildlife and parks for the
18 purpose of aiding in detection of criminal activity, enforcement of laws,
19 apprehension of offenders or location of persons or wildlife.

20 (5) "Police dog" means any dog which is owned, or the service of
21 which is employed, by a law enforcement agency for the principal purpose
22 of aiding in the detection of criminal activity, enforcement of laws or
23 apprehension of offenders.

24 (6) "Search and rescue dog" means any dog which is owned or the
25 service of which is employed, by a law enforcement or emergency re-
26 sponse agency for the purpose of aiding in the location of persons missing
27 in disasters or other times of need.

28 (c) Inflicting harm, disability or death to a police dog, arson dog,
29 assistance dog, game warden dog or search and rescue dog is a ~~class A~~
30 ~~nonperson misdemeanor. nonperson felony. Upon conviction of this sub-~~
31 ~~section, a person shall be sentenced to not less than 30 days or more than~~
32 ~~one year's imprisonment, be fined not less than \$1,500, and~~
33 ~~undergo psy-~~
34 ~~chological counseling or complete an anger management treatment pro-~~
35 ~~gram.~~

35 (d) This section shall be part of and supplemental to the Kansas crim-
36 inal code.

37 Sec. 4. K.S.A. 2005 Supp. 21-4704 is hereby amended to read as
38 follows: 21-4704. (a) For purposes of sentencing, the following sentencing
39 guidelines grid for nondrug crimes shall be applied in felony cases for
40 crimes committed on or after July 1, 1993:

have a psychological evaluation prepared for
the court

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

SENTENCING RANGE - NONDRUG OFFENSES

SB 408

Category	A		B		C		D		E		F		G		H		I										
Priority 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	633	620	618	586	554	285	272	258	267	253	240	246	234	221	226	214	203	203	195	184	186	176	166	165	155	147	
II	493	467	442	460	438	416	216	205	194	200	190	181	184	174	165	168	160	152	154	146	138	131	123	123	117	109	
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	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	51	49	46	47	44	41	43	41	38	36	34	32	34	32	31	29
VI	46	43	40	41	39	37	38	36	34	36	34	32	32	30	28	29	27	25	26	24	22	20	19	18	18	17	16
VII	34	32	30	31	29	27	29	27	25	26	24	22	24	21	19	19	18	17	17	16	15	14	13	13	13	12	11
VIII	23	21	19	20	19	18	19	18	17	17	16	15	15	14	13	12	11	11	11	10	9	9	9	9	8	8	7
IX	17	16	15	15	14	13	13	12	11	13	12	11	11	10	9	9	8	8	8	7	7	7	7	7	6	6	5
X	13	12	11	12	11	10	11	10	9	10	9	8	8	7	7	7	6	6	6	5	5	5	5	5	4	4	3

4

LEGEND	
	Presumptive Probation
	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
39 offender recidivism; and

40 (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, and amend-
6 ments thereto, aggravated assault against a law enforcement officer or
7 K.S.A. 21-3415, and amendments thereto, aggravated battery against a
8 law enforcement officer and amendments thereto which places the de-
9 fendant's sentence in grid block 6-H or 6-I shall be presumed impris-
10 onment. The court may impose an optional nonprison sentence upon
11 making a finding on the record that the nonprison sanction will serve
12 community safety interests by promoting offender reformation. Any de-
13 cision made by the court regarding the imposition of the optional non-
14 prison sentence, if the offense is classified in grid block 6-H or 6-I, shall
15 not be considered departure and shall not be subject to appeal.

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

23 (i) The sentence for the violation of the felony provision of K.S.A. 8-
24 1567 ~~and~~ subsection (b)(3) of K.S.A. 21-3412a, ~~and~~ subsections (b)(3)
25 and (b)(4) of K.S.A. 21-3710, ~~subsection (a)(1) of K.S.A. 21-4310 and~~
26 ~~K.S.A. 21-4318~~, and amendments thereto, shall be as provided by the
27 specific mandatory sentencing requirements of that section and shall not
28 be subject to the provisions of this section or K.S.A. 21-4707 and amend-
29 ments thereto. If because of the offender's criminal history classification
30 the offender is subject to presumptive imprisonment or if the judge de-
31 parts from a presumptive probation sentence and the offender is subject
32 to imprisonment, the provisions of this section and K.S.A. 21-4707, and
33 amendments thereto, shall apply and the offender shall not be subject to
34 the mandatory sentence as provided in K.S.A. 21-3710, and amendments
35 thereto. Notwithstanding the provisions of any other section, the term of
36 imprisonment imposed for the violation of the felony provision of K.S.A.
37 8-1567, subsection (b)(3) of K.S.A. 21-3412a ~~and~~, subsections (b)(3) and
38 (b)(4) of K.S.A. 21-3710, ~~subsection (a)(1) of K.S.A. 21-4310 and K.S.A.~~
39 ~~21-4318~~, and amendments thereto, shall not be served in a state facility
40 in the custody of the secretary of corrections.

41 (j) (1) The sentence for any persistent sex offender whose current
42 convicted crime carries a presumptive term of imprisonment shall be
43 double the maximum duration of the presumptive imprisonment term.

1 The sentence for any persistent sex offender whose current conviction
2 carries a presumptive nonprison term shall be presumed imprisonment
3 and shall be double the maximum duration of the presumptive impris-
4 onment term.

5 (2) Except as otherwise provided in this subsection, as used in this
6 subsection, "persistent sex offender" means a person who: (A) (i) Has
7 been convicted in this state of a sexually violent crime, as defined in K.S.A.
8 22-3717 and amendments thereto; and (ii) at the time of the conviction
9 under paragraph (A) (i) has at least one conviction for a sexually violent
10 crime, as defined in K.S.A. 22-3717 and amendments thereto in this state
11 or comparable felony under the laws of another state, the federal gov-
12 ernment or a foreign government; or (B) (i) has been convicted of rape,
13 K.S.A. 21-3502, and amendments thereto; and (ii) at the time of the
14 conviction under paragraph (B) (i) has at least one conviction for rape in
15 this state or comparable felony under the laws of another state, the federal
16 government or a foreign government.

17 (3) Except as provided in paragraph (2) (B), the provisions of this
18 subsection shall not apply to any person whose current convicted crime
19 is a severity level 1 or 2 felony.

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

38 (l) The sentence for a violation of subsection (a) of K.S.A. 21-3715
39 and amendments thereto when such person being sentenced has a prior
40 conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-
41 3716 and amendments thereto shall be presumed imprisonment.

42 Sec. 5. K.S.A. 21-4317 and K.S.A. 2005 Supp. 21-4310, 21-4318 and
43 21-4704 are hereby repealed.

Sec. 5. K.S.A. 2005 Supp. 22-4902 is hereby amended to read as follows. [See attached.]
Sec. 6. K.S.A. 47-1706 is hereby amended to read as follows.
[See attached. Renumber remaining sections.]

and 47-1706
21-4311,
and 22-4902

the
Sec. 5. K.S.A. 2005 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in this Kansas offender registration act, unless the context otherwise requires:

(a) "Offender" means: (1) A sex offender as defined in subsection (b);
(2) a violent offender as defined in subsection (d);
(3) a sexually violent predator as defined in subsection (f);
(4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:

(A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;
(B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or
(C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;
(5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

(A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;
(B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;
(C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;
(D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;
(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto; or
(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;
(6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;

(7) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4) or (5), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4) or (5); or

(8) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4) or (5); or

(9) any person convicted of subsection (a)(1) of K.S.A. 21-4310, and amendments thereto.

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).

(c) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502 and amendments thereto;
(2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;
(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto; (6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;

(7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;

(8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;

(9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;
(10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;
(11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or
(12) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;

(13) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or

(14) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Violent offender" includes any person who, after the effective date of this act, is convicted of any of the following crimes:

(1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;

(2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;

(3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;

(4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;

(5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto; or

(6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq. and amendments thereto.

(g) "Nonresident student or worker" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(i) "Institution of higher education" means any post-secondary school under the supervision of the Kansas board of regents.

Sec. ~~5~~¹⁶ K.S.A. 47-1706 is hereby amended to read as follows: 47-1706.

(a) The commissioner may refuse to issue or renew or may suspend or revoke any license or permit required under K.S.A. 47-1701 et seq., and amendments thereto, for any one or more of the following reasons:

- (1) Material misstatement in the application for the original license or permit, or in the application for any renewal of a license or permit;
- (2) willful disregard of any provision of the Kansas pet animal act or any rule and regulation adopted hereunder, or any willful aiding or abetting of another in the violation of any provision of the Kansas pet animal act or any rule and regulation adopted hereunder;
- (3) permitting any license or permit issued hereunder to be used by an unlicensed or unpermitted person or transferred to unlicensed or unpermitted premises;
- (4) the conviction of any crime relating to the theft of animals or a first conviction of cruelty to animals;
- (5) substantial misrepresentation;
- (6) misrepresentation or false promise, made through advertising, salespersons, agents or otherwise, in connection with the operation of business of the licensee or permittee;
- (7) fraudulent bill of sale;
- (8) the housing facility or the primary enclosure is inadequate; or
- (9) the feeding, watering, sanitizing and housing practices at the licensee's or permittee's premises are not consistent with the Kansas pet animal act or the rules and regulations adopted hereunder.

(b) The commissioner shall refuse to issue or renew and shall suspend or revoke any license or permit required under K.S.A. 47-1701 et. seq., and amendments thereto, for the second or subsequent conviction of cruelty to animals, K.S.A. 21-4310, and amendments thereto.

~~(b)~~ (c) Any refusal to issue or renew a license or permit, and any suspension or revocation of a license or permit, under this section shall be in accordance with the provisions of the Kansas administrative procedure act and shall be subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

~~(c)~~ (d) Whenever the commissioner denies, suspends or revokes a license or permit under this section, the commissioner or the commissioner's authorized, trained representatives shall seize and impound any animals in the possession, custody or care of the person whose license or permit is denied, suspended or revoked if there are reasonable grounds to believe that the animals' health, safety or welfare is endangered. Except as provided by K.S.A. 21-4311, and amendments thereto, such animals may be returned to the person owning them if there is satisfactory evidence that the animals will receive adequate care by that person or such animals may be sold, placed or euthanized, at the discretion of the commissioner. Costs of care and services for such animals while seized and impounded shall be paid by the person from whom the animals were seized and impounded, if that person's license or permit is denied, suspended or revoked. Such funds shall be paid to the commissioner for reimbursement of care and services provided during seizure and impoundment. If such person's license or permit is not denied, suspended or revoked, the commissioner shall pay the costs of care and services provided during seizure and impoundment.

1 Sec. 6. This act shall take effect and be in force from and after its
2 publication in the statute book.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

SENATE BILL No. 408

By Committee on Judiciary

L-19

PROPOSED AMENDMENT
Senator Journey
February 20, 2006

Senate Judiciary
S-20-06
Attachment 4

9 AN ACT concerning crimes and punishment; relating to cruelty to animals and harming or killing certain dogs; amending K.S.A. 21-4317
10 and K.S.A. 2005 Supp. 21-4310, 21-4318 and 21-4704 and repealing
11 the existing sections.
12
13

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

15 Section 1. K.S.A. 2005 Supp. 21-4310 is hereby amended to read as
16 follows: 21-4310. (a) Cruelty to animals is:

17 (1) ~~Intentionally or recklessly killing, injuring, maiming, torturing or~~
18 ~~mutilating or causing serious physical injury to any animal;~~

19 (2) abandoning or leaving any animal in any place without making
20 provisions for its proper care;

21 (3) having physical custody of any animal and failing to provide such
22 food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such
23 kind of animal; ~~or~~

24
25 (4) intentionally using a wire, pole, stick, rope or any other object to
26 cause an equine to lose its balance or fall, for the purpose of sport or
27 entertainment; *or*

28 (5) *causing any physical injury other than the acts described in sub-*
29 *section (a)(1).*

30 (b) The provisions of this section shall not apply to:

31 (1) Normal or accepted veterinary practices;

32 (2) bona fide experiments carried on by commonly recognized research facilities;

33 (3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the
34 Kansas Statutes Annotated;

35 (4) rodeo practices accepted by the rodeo cowboys' association;

36 (5) the humane killing of an animal which is diseased or disabled
37 beyond recovery for any useful purpose, or the humane killing of animals
38 for population control, by the owner thereof or the agent of such owner
39 residing outside of a city or the owner thereof within a city if no animal
40 shelter, pound or licensed veterinarian is within the city, or by a licensed
41 veterinarian at the request of the owner thereof, or by any officer or agent
42
43

2-H

1 of an incorporated humane society, the operator of an animal shelter or
2 pound, a local or state health officer or a licensed veterinarian three busi-
3 ness days following the receipt of any such animal at such society, shelter
4 or pound;

5 (6) with respect to farm animals, normal or accepted practices of
6 animal husbandry;

7 (7) the killing of any animal by any person at any time which may be
8 found outside of the owned or rented property of the owner or custodian
9 of such animal and which is found injuring or posing a threat to any
10 person, farm animal or property;

11 (8) an animal control officer trained by a licensed veterinarian in the
12 use of a tranquilizer gun, using such gun with the appropriate dosage for
13 the size of the animal, when such animal is vicious or could not be cap-
14 tured after reasonable attempts using other methods; or

15 (9) laying an equine down for medical or identification purposes.

16 (c) As used in this section:

17 (1) "Equine" means a horse, pony, mule, jenny, donkey or hinny.

18 (2) "Serious physical injury" means an act to any animal which re-
19 sults in protracted disfigurement, protracted impairment of health, pro-
20 tracted loss or impairment of the function of a limb or bodily organ, or
21 in excessive or repeated infliction of unnecessary pain or suffering, or
22 causing the same to be done.

23 (d) Cruelty to animals as described in subsection (a)(1) is a nonperson
24 felony. Upon conviction of this subsection, a person shall be sentenced to
25 not less than 30 days or more than one year's imprisonment, be fined not
26 less than \$1,500, and undergo psychological counseling or complete an
27 anger management treatment program. Cruelty to animals as described
28 in subsection (a)(2), (a)(3), (a)(4) and (a)(5) is a class A nonperson
29 misdemeanor.

30 Sec. 2. K.S.A. 21-4317 is hereby amended to read as follows: 21-
31 4317. (a) Illegal ownership or keeping of ~~a dog~~ an animal is owning or
32 keeping on one's premises ~~a dog~~ an animal by a person convicted of
33 unlawful conduct of dog fighting under K.S.A. 21-4315, and amendments
34 thereto, or cruelty to animals as defined in subsection (a)(1) of K.S.A. 21-
35 4310, and amendments thereto, within five years of the date of such
36 conviction.

37 (b) Illegal ownership or keeping of ~~a dog~~ an animal is a class B non-
38 person misdemeanor.

39 Sec. 3. K.S.A. 2005 Supp. 21-431S is hereby amended to read as
40 follows: 21-431S. (a) Inflicting harm, disability or death to a police dog,
41 arson dog, assistance dog, game warden dog or search and rescue dog is
42 knowingly and intentionally, and without lawful cause or justification poi-
43 soning, inflicting great bodily harm, permanent disability or death, upon

(8) the extermination of insects, arachnids, mice rats
and other vermin or pests;
(9) minor cosmetic surgery to an animal;
(10) injury that is minor or incidental in nature;
(11) inadvertent or accidental injury, unless such
injury is due to gross negligence;

[Renumber remaining paragraphs.]

4-2