

## CHAPTER 88

Substitute for SENATE BILL No. 67  
(Amended by Chapters 140 and 155)

AN ACT concerning crimes and punishment; relating to mistreatment of a dependent adult; identity theft and identity fraud; criminal possession of a firearm; amending K.S.A. 21-3437 and 21-4018 and K.S.A. 2009 Supp. 21-4204 and repealing the existing sections.

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

Section 1. K.S.A. 21-3437 is hereby amended to read as follows: 21-3437. (a) Mistreatment of a dependent adult is knowingly and intentionally committing one or more of the following acts:

(1) Infliction of physical injury, unreasonable confinement or ~~cruel~~ *unreasonable* punishment upon a dependent adult;

(2) taking unfair advantage of a dependent adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense ~~by a caretaker or another person~~; or

(3) ~~omitting or depriving~~ *omission or deprivation of* treatment, goods or services ~~by a caretaker or another person which~~ *that* are necessary to maintain physical or mental health of a dependent adult.

(b) No dependent adult is considered to be mistreated for the sole reason that such dependent adult relies upon or is being furnished treatment by spiritual means through prayer in lieu of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination of which such dependent adult is a member or adherent.

(c) For purposes of this section: "Dependent adult" means an individual 18 years of age or older who is unable to protect their own interest. Such term shall include:

(1) Any resident of an adult care home including but not limited to those facilities defined by K.S.A. 39-923 and amendments thereto;

(2) any adult cared for in a private residence;

(3) any individual kept, cared for, treated, boarded or otherwise accommodated in a medical care facility;

(4) any individual with mental retardation or a developmental disability receiving services through a community mental retardation facility or residential facility licensed under K.S.A. 75-3307b and amendments thereto;

(5) any individual with a developmental disability receiving services provided by a community service provider as provided in the developmental disability reform act; or

(6) any individual kept, cared for, treated, boarded or otherwise accommodated in a state psychiatric hospital or state institution for the mentally retarded.

(d) (1) Mistreatment of a dependent adult as defined in subsection (a)(1) is a severity level ~~6~~ 5, person felony.

(2) *Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 2, person felony if the aggregate amount of the value of the resources is \$1,000,000 or more.*

(3) *Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 3, person felony if the aggregate amount of the value of the resources is at least \$250,000 but less than \$1,000,000.*

~~(2)~~ (4) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level ~~6~~, person felony ~~if the aggregate amount of the value of the resources is \$100,000 or more~~ 4, person felony *if the aggregate amount of the value of the resources is at least \$100,000 but less than \$250,000.*

~~(3)~~ (5) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level ~~7~~ 5, person felony *if the aggregate amount of the value of the resources is at least \$25,000 but less than \$100,000.*

~~(4)~~ (6) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level ~~9~~ 7, person felony *if the aggregate amount of the value of the resources is at least \$1,000 but less than \$25,000.*

~~(5)~~ (7) Mistreatment of a dependent adult as defined in subsection (a)(2) is a class A person misdemeanor *if the aggregate amount of the value of the resources is less than \$1,000.*

~~(6)~~ (8) Mistreatment of a dependent adult as defined in subsection (a)(3) is a ~~class A person misdemeanor~~ *severity level 8, person felony.*

~~(7) (9) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 7, person felony if the aggregate amount of the value of the resources is less than \$1,000 and committed by a person who has, within five years immediately preceding commission of the crime, been convicted of mistreatment of a dependent adult two or more times.~~

Sec. 2. K.S.A. 21-4018 is hereby amended to read as follows: 21-4018. ~~(a) Identity theft is knowingly and with intent to defraud for any benefit, obtaining, possessing, transferring, using or attempting to obtain, possess, transfer or use, one or more identification documents or personal identification number of another person other than that issued lawfully for the use of the possessor.~~

~~—(b) “Identification documents” has the meaning provided in K.S.A. 21-3830, and amendments thereto.~~

~~—(c) Except as provided further, identity theft is a severity level 8, nonperson felony. If the monetary loss to the victim or victims is more than \$100,000, identity theft is a severity level 5, nonperson felony.~~

~~—(d) Identity fraud is:~~

~~—(1) Willfully and knowingly supplying false information intending that the information be used to obtain an identification document;~~

~~—(2) making, counterfeiting, altering, amending or mutilating any identification document.~~

~~—(A) Without lawful authority; and~~

~~—(B) with the intent to deceive; or~~

~~—(3) willfully and knowingly obtaining, possessing, using, selling or furnishing or attempting to obtain, possess or furnish to another for any purpose of deception an identification document.~~

~~—(e) Identity fraud is a severity level 8, nonperson felony. (a) Identity theft is obtaining, possessing, transferring, using, selling or purchasing any personal identifying information, or document containing the same, belonging to or issued to another person, with the intent to defraud that person, or any one else, in order to receive any benefit.~~

~~(b) Identity fraud is:~~

~~(1) Using or supplying information the person knows to be false in order to obtain a document containing any personal identifying information; or~~

~~(2) altering, amending, counterfeiting, making, manufacturing or otherwise replicating any document containing personal identifying information with the intent to deceive;~~

~~(c) (1) identity theft is a:~~

~~(A) Severity level 8, nonperson felony, except as provided in subsection (c)(1)(B); and~~

~~(B) severity level 5, nonperson felony if the monetary loss to the victim or victims is more than \$100,000.~~

~~(2) Identity fraud is a severity level 8, nonperson felony.~~

~~(d) It is not a defense that the person did not know that such personal identifying information belongs to another person, or that the person to whom such personal identifying information belongs or was issued is deceased.~~

~~(e) As used in this section “personal identifying information” includes, but is not limited to, the following:~~

~~(1) Name;~~

~~(2) birth date;~~

~~(3) address;~~

~~(4) telephone number;~~

~~(5) drivers license number or card or non-drivers identification number or card;~~

~~(6) social security number or card;~~

~~(7) place of employment;~~

~~(8) employee identification numbers or other personal identification numbers or cards;~~

~~(9) mother’s maiden name;~~

~~(10) birth, death or marriage certificates;~~

~~(11) electronic identification numbers;~~

~~(12) electronic signatures; and~~

~~(13) any financial number, or password that can be used to access a person’s financial resources, including, but not limited to, checking or savings accounts, credit or debit card information, demand deposit or medical information.~~

~~(f) This section shall be part of and supplemental to the Kansas crim-~~

inal code.

Sec. 3. K.S.A. 2009 Supp. 21-4204 is hereby amended to read as follows: 21-4204. (a) Criminal possession of a firearm is:

(1) Possession of any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(2) possession of any firearm by a person who has been convicted of a person felony or a violation of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as such felony or violation, or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony or a violation of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, and was found to have been in possession of a firearm at the time of the commission of the offense;

(3) possession of any firearm by a person who, within the preceding five years has been convicted of a felony, other than those specified in subsection (a)(4)(A), under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for a felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a felony, and was found not to have been in possession of a firearm at the time of the commission of the offense;

(4) possession of any firearm by a person who, within the preceding 10 years, has been convicted of: (A) A felony under K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, K.S.A. 2009 Supp. 21-36a03, 21-36a05 ~~or~~, 21-36a06, 21-36a07 or 21-36a09, and amendments thereto; K.S.A. 65-4127a, 65-4127b, 65-4159, 65-4160, 65-4161, 65-4162, 65-4163, 65-4164 or 65-7006, prior to such section's repeal; an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of any such felony; or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for such felony, or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of such felony, was found not to have been in possession of a firearm at the time of the commission of the offense, and has not had the conviction of such crime expunged or been pardoned for such crime; or (B) a nonperson felony under the laws of Kansas or a crime under the laws of another jurisdiction which is substantially the same as such nonperson felony, has been released from imprisonment for such nonperson felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony, and was found to have been in possession of a firearm at the time of the commission of the offense;

(5) possession of any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades 1 through 12 or at any regularly scheduled school sponsored activity or event;

(6) refusal to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer; or

(7) possession of any firearm by a person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto.

(b) Subsection (a)(5) shall not apply to:

(1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;

(2) any possession of any firearm specifically authorized in writing by

the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;

(3) possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student; or

(4) possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day.

(c) Subsection (a)(7) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. 2009 Supp. 75-7c26, and amendments thereto.

(d) Violation of subsection (a)(1) or (a)(5) is a class B nonperson select misdemeanor; violation of subsection (a)(2), (a)(3), (a)(4) or (a)(7) is a severity level 8, nonperson felony; violation of subsection (a)(6) is a class A nonperson misdemeanor.

Sec. 4. K.S.A. 21-3437 and 21-4018 and K.S.A. 2009 Supp. 21-4204 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 8, 2010.

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