

SENATE BILL No. 239

By Committee on Judiciary

2-6

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sentencing; creating a special sentencing rule to add 100 months to a
3 sentence for distribution of a controlled substance when the substance
4 involved is fentanyl and such distribution causes the death of a child;
5 amending K.S.A. 2024 Supp. 21-6804 and 21-6805 and repealing the
6 existing sections.

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

9 Section 1. K.S.A. 2024 Supp. 21-6804 is hereby amended to read as
10 follows: 21-6804. (a) The provisions of this section shall be applicable to
11 the sentencing guidelines grid for nondrug crimes. The following
12 sentencing guidelines grid shall be applicable to nondrug felony crimes:

SENTENCING RANGE - NONDRUG OFFENSES

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	285 272 238	267 253 240	246 234 221	226 214 203	203 195 184	188 176 166	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	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	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 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

LEGEND
Presumptive Probation
Presumptive Imprisonment

1 (b) Sentences expressed in the sentencing guidelines grid for nondrug
2 crimes represent months of imprisonment.

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

8 (d) The sentencing guidelines grid for nondrug crimes as provided in
9 this section defines presumptive punishments for felony convictions,
10 subject to the sentencing court's discretion to enter a departure sentence.
11 The appropriate punishment for a felony conviction should depend on the
12 severity of the crime of conviction when compared to all other crimes and
13 the offender's criminal history.

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

19 (2) In presumptive imprisonment cases, the sentencing court shall
20 pronounce the complete sentence which shall include the:

21 (A) Prison sentence;

22 (B) maximum potential reduction to such sentence as a result of good
23 time; and

24 (C) period of postrelease supervision at the sentencing hearing.
25 Failure to pronounce the period of postrelease supervision shall not negate
26 the existence of such period of postrelease supervision.

27 (3) In presumptive nonprison cases, the sentencing court shall
28 pronounce the:

29 (A) Prison sentence; and

30 (B) duration of the nonprison sanction at the sentencing hearing.

31 (f) Each grid block states the presumptive sentencing range for an
32 offender whose crime of conviction and criminal history place such
33 offender in that grid block. If an offense is classified in a grid block below
34 the dispositional line, the presumptive disposition shall be
35 nonimprisonment. If an offense is classified in a grid block above the
36 dispositional line, the presumptive disposition shall be imprisonment. If an
37 offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose
38 an optional nonprison sentence as provided in subsection (q).

39 (g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal,
40 aggravated battery against a law enforcement officer committed prior to
41 July 1, 2006, or a violation of K.S.A. 21-5412(d), and amendments
42 thereto, aggravated assault against a law enforcement officer, which places
43 the defendant's sentence in grid block 6-H or 6-I shall be presumed

1 imprisonment. The court may impose an optional nonprison sentence as
2 provided in subsection (q).

3 (h) When a firearm is used to commit any person felony, the
4 offender's sentence shall be presumed imprisonment. The court may
5 impose an optional nonprison sentence as provided in subsection (q).

6 (i) (1) The sentence for the violation of the felony provision of K.S.A.
7 21-5414(c)(1)(C), 21-5823(b)(3) and (b)(4), 21-6412 and 21-6416, and
8 amendments thereto, shall be as provided by the specific mandatory
9 sentencing requirements of that section and shall not be subject to the
10 provisions of this section or K.S.A. 21-6807, and amendments thereto.

11 (2) If because of the offender's criminal history classification the
12 offender is subject to presumptive imprisonment or if the judge departs
13 from a presumptive probation sentence and the offender is subject to
14 imprisonment, the provisions of this section and K.S.A. 21-6807, and
15 amendments thereto, shall apply and the offender shall not be subject to
16 the mandatory sentence as provided in K.S.A. 21-5823, and amendments
17 thereto.

18 (3) Notwithstanding the provisions of any other section, the term of
19 imprisonment imposed for the violation of the felony provision of K.S.A.
20 21-5414(c)(1)(C), 21-5823(b)(3) and (b)(4), 21-6412 and 21-6416, and
21 amendments thereto, shall not be served in a state facility in the custody of
22 the secretary of corrections. Prior to imposing any sentence pursuant to
23 this subsection, the court may consider assigning the defendant to a house
24 arrest program pursuant to K.S.A. 21-6609, and amendments thereto.

25 (j) (1) The sentence for any persistent sex offender whose current
26 convicted crime carries a presumptive term of imprisonment shall be
27 double the maximum duration of the presumptive imprisonment term. The
28 sentence for any persistent sex offender whose current conviction carries a
29 presumptive nonprison term shall be presumed imprisonment and shall be
30 double the maximum duration of the presumptive imprisonment term.

31 (2) Except as otherwise provided in this subsection, as used in this
32 subsection, "persistent sex offender" means a person who:

33 (A) (i) Has been convicted in this state of a sexually violent crime, as
34 defined in K.S.A. 22-3717, and amendments thereto; and

35 (ii) at the time of the conviction under clause (i) has at least one
36 conviction for a sexually violent crime, as defined in K.S.A. 22-3717, and
37 amendments thereto, in this state or comparable felony under the laws of
38 another state, the federal government or a foreign government; or

39 (B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,
40 prior to its repeal, or K.S.A. 21-5503, and amendments thereto; and

41 (ii) at the time of the conviction under clause (i) has at least one
42 conviction for rape in this state or comparable felony under the laws of
43 another state, the federal government or a foreign government.

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

4 (k) (1) If it is shown at sentencing that the offender committed any
5 felony violation for the benefit of, at the direction of, or in association with
6 any criminal street gang, with the specific intent to promote, further or
7 assist in any criminal conduct by gang members, the offender's sentence
8 shall be presumed imprisonment. The court may impose an optional
9 nonprison sentence as provided in subsection (q).

10 (2) As used in this subsection, "criminal street gang" means any
11 organization, association or group of three or more persons, whether
12 formal or informal, having as one of its primary activities:

13 (A) The commission of one or more person felonies; or

14 (B) the commission of felony violations of article 57 of chapter 21 of
15 the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010
16 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony
17 violation of any provision of the uniform controlled substances act prior to
18 July 1, 2009; and

19 (C) its members have a common name or common identifying sign or
20 symbol; and

21 (D) its members, individually or collectively, engage in or have
22 engaged in the commission, attempted commission, conspiracy to commit
23 or solicitation of two or more person felonies or felony violations of article
24 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
25 thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their
26 transfer, any felony violation of any provision of the uniform controlled
27 substances act prior to July 1, 2009, or any substantially similar offense
28 from another jurisdiction.

29 (l) Except as provided in subsection (o), the sentence for a violation
30 of K.S.A. 21-5807(a)(1), and amendments thereto, or any attempt or
31 conspiracy, as defined in K.S.A. 21-5301 and 21-5302, and amendments
32 thereto, to commit such offense, when such person being sentenced has a
33 prior conviction for a violation of K.S.A. 21-3715(a) or (b), prior to its
34 repeal, 21-3716, prior to its repeal, K.S.A. 21-5807(a)(1) or (a)(2) or 21-
35 5807(b), and amendments thereto, or any attempt or conspiracy to commit
36 such offense, shall be presumptive imprisonment.

37 (m) The sentence for a violation of K.S.A. 22-4903 or K.S.A. 21-
38 5913(a)(2), and amendments thereto, shall be presumptive imprisonment.
39 If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G,
40 5-H or 5-I, the court may impose an optional nonprison sentence as
41 provided in subsection (q).

42 (n) The sentence for a violation of criminal deprivation of property, as
43 defined in K.S.A. 21-5803, and amendments thereto, when such property

1 is a motor vehicle, and when such person being sentenced has any
2 combination of two or more prior convictions of K.S.A. 21-3705(b), prior
3 to its repeal, or of criminal deprivation of property, as defined in K.S.A.
4 21-5803, and amendments thereto, when such property is a motor vehicle,
5 shall be presumptive imprisonment. Such sentence shall not be considered
6 a departure and shall not be subject to appeal.

7 (o) (1) The sentence for a felony violation of theft of property as
8 defined in K.S.A. 21-5801, and amendments thereto, or burglary as
9 defined in K.S.A. 21-5807(a), and amendments thereto, when such person
10 being sentenced has no prior convictions for a violation of K.S.A. 21-3701
11 or 21-3715, prior to their repeal, or theft of property as defined in K.S.A.
12 21-5801, and amendments thereto, or burglary as defined in K.S.A. 21-
13 5807(a), and amendments thereto; or the sentence for a felony violation of
14 theft of property as defined in K.S.A. 21-5801, and amendments thereto,
15 when such person being sentenced has one or two prior felony convictions
16 for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their
17 repeal, or theft of property as defined in K.S.A. 21-5801, and amendments
18 thereto, or burglary or aggravated burglary as defined in K.S.A. 21-5807,
19 and amendments thereto; or the sentence for a felony violation of burglary
20 as defined in K.S.A. 21-5807(a), and amendments thereto, when such
21 person being sentenced has one prior felony conviction for a violation of
22 K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of
23 property as defined in K.S.A. 21-5801, and amendments thereto, or
24 burglary or aggravated burglary as defined in K.S.A. 21-5807, and
25 amendments thereto, shall be the sentence as provided by this section,
26 except that the court may order an optional nonprison sentence for a
27 defendant to participate in a drug treatment program, including, but not
28 limited to, an approved aftercare plan, if the court makes the following
29 findings on the record:

30 (A) Substance abuse was an underlying factor in the commission of
31 the crime;

32 (B) substance abuse treatment in the community is likely to be more
33 effective than a prison term in reducing the risk of offender recidivism;
34 and

35 (C) participation in an intensive substance abuse treatment program
36 will serve community safety interests.

37 (2) A defendant sentenced to an optional nonprison sentence under
38 this subsection shall be supervised by community correctional services.
39 The provisions of K.S.A. 21-6824(f)(1), and amendments thereto, shall
40 apply to a defendant sentenced under this subsection. The sentence under
41 this subsection shall not be considered a departure and shall not be subject
42 to appeal.

43 (p) (1) The sentence for a felony violation of theft of property as

1 defined in K.S.A. 21-5801, and amendments thereto, when such person
2 being sentenced has any combination of three or more prior felony
3 convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to
4 their repeal, or theft of property as defined in K.S.A. 21-5801, and
5 amendments thereto, or burglary or aggravated burglary as defined in
6 K.S.A. 21-5807, and amendments thereto; or the sentence for a violation
7 of burglary as defined in K.S.A. 21-5807(a), and amendments thereto,
8 when such person being sentenced has any combination of two or more
9 prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716,
10 prior to their repeal, or theft of property as defined in K.S.A. 21-5801, and
11 amendments thereto, or burglary or aggravated burglary as defined in
12 K.S.A. 21-5807, and amendments thereto, shall be presumed
13 imprisonment and the defendant shall be sentenced to prison as provided
14 by this section, except that the court may recommend that an offender be
15 placed in the custody of the secretary of corrections, in a facility
16 designated by the secretary to participate in an intensive substance abuse
17 treatment program, upon making the following findings on the record:

18 (A) Substance abuse was an underlying factor in the commission of
19 the crime;

20 (B) substance abuse treatment with a possibility of an early release
21 from imprisonment is likely to be more effective than a prison term in
22 reducing the risk of offender recidivism; and

23 (C) participation in an intensive substance abuse treatment program
24 with the possibility of an early release from imprisonment will serve
25 community safety interests by promoting offender reformation.

26 (2) The intensive substance abuse treatment program shall be
27 determined by the secretary of corrections, but shall be for a period of at
28 least four months. Upon the successful completion of such intensive
29 treatment program, the offender shall be returned to the court and the court
30 may modify the sentence by directing that a less severe penalty be
31 imposed in lieu of that originally adjudged within statutory limits. If the
32 offender's term of imprisonment expires, the offender shall be placed
33 under the applicable period of postrelease supervision. The sentence under
34 this subsection shall not be considered a departure and shall not be subject
35 to appeal.

36 (q) (1) As used in this section, an "optional nonprison sentence" is a
37 sentence which the court may impose, in lieu of the presumptive sentence,
38 upon making the following findings on the record:

39 (A) An appropriate treatment program exists which is likely to be
40 more effective than the presumptive prison term in reducing the risk of
41 offender recidivism; and

42 (B) the recommended treatment program is available and the offender
43 can be admitted to such program within a reasonable period of time; or

1 (C) the nonprison sanction will serve community safety interests by
2 promoting offender reformation.

3 (2) Any decision made by the court regarding the imposition of an
4 optional nonprison sentence shall not be considered a departure and shall
5 not be subject to appeal.

6 (r) The sentence for a violation of K.S.A. 21-5413(c)(2), and
7 amendments thereto, shall be presumptive imprisonment and shall be
8 served consecutively to any other term or terms of imprisonment imposed.
9 Such sentence shall not be considered a departure and shall not be subject
10 to appeal.

11 (s) The sentence for a violation of K.S.A. 21-5512, and amendments
12 thereto, shall be presumptive imprisonment. Such sentence shall not be
13 considered a departure and shall not be subject to appeal.

14 (t) (1) If the trier of fact makes a finding beyond a reasonable doubt
15 that an offender wore or used ballistic resistant material in the commission
16 of, or attempt to commit, or flight from any felony, in addition to the
17 sentence imposed pursuant to the Kansas sentencing guidelines act, the
18 offender shall be sentenced to an additional 30 months' imprisonment.

19 (2) The sentence imposed pursuant to paragraph (1) shall be
20 presumptive imprisonment and shall be served consecutively to any other
21 term or terms of imprisonment imposed. Such sentence shall not be
22 considered a departure and shall not be subject to appeal.

23 (3) As used in this subsection, "ballistic resistant material" means
24 any:

25 (A) Commercially produced material designed with the purpose of
26 providing ballistic and trauma protection, including, but not limited to,
27 bulletproof vests and kevlar vests; and

28 (B) homemade or fabricated substance or item designed with the
29 purpose of providing ballistic and trauma protection.

30 (u) The sentence for a violation of K.S.A. 21-6107, and amendments
31 thereto, or any attempt or conspiracy, as defined in K.S.A. 21-5301 and
32 21-5302, and amendments thereto, to commit such offense, when such
33 person being sentenced has a prior conviction for a violation of K.S.A. 21-
34 4018, prior to its repeal, or K.S.A. 21-6107, and amendments thereto, or
35 any attempt or conspiracy to commit such offense, shall be presumptive
36 imprisonment. Such sentence shall not be considered a departure and shall
37 not be subject to appeal.

38 (v) The sentence for a third or subsequent violation of K.S.A. 8-1568,
39 and amendments thereto, shall be presumptive imprisonment and shall be
40 served consecutively to any other term or terms of imprisonment imposed.
41 Such sentence shall not be considered a departure and shall not be subject
42 to appeal.

43 (w) The sentence for aggravated criminal damage to property as

1 defined in K.S.A. 21-5813(b), and amendments thereto, when such person
2 being sentenced has a prior conviction for any nonperson felony shall be
3 presumptive imprisonment. Such sentence shall not be considered a
4 departure and shall not be subject to appeal.

5 (x) The sentence for a violation of K.S.A. 21-5807(a)(1), and
6 amendments thereto, shall be presumptive imprisonment if the offense
7 under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such
8 sentence shall not be considered a departure and shall not be subject to
9 appeal.

10 (y) (1) Except as provided in paragraph (3), if the trier of fact makes a
11 finding beyond a reasonable doubt that an offender committed a nondrug
12 felony offense, or any attempt or conspiracy, as defined in K.S.A. 21-5301
13 and 21-5302, and amendments thereto, to commit a nondrug felony
14 offense, against a law enforcement officer, as defined in K.S.A. 21-5111(p)
15 (1) and (3), and amendments thereto, while such officer was engaged in
16 the performance of such officer's duty, or in whole or in any part because
17 of such officer's status as a law enforcement officer, the sentence for such
18 offense shall be:

19 (A) If such offense is classified in severity level 2 through 10, one
20 severity level above the appropriate level for such offense; and

21 (B) (i) if such offense is classified in severity level 1, except as
22 otherwise provided in clause (ii), imprisonment for life, and such offender
23 shall not be eligible for probation or suspension, modification or reduction
24 of sentence. In addition, such offender shall not be eligible for parole prior
25 to serving 25 years' imprisonment, and such 25 years' imprisonment shall
26 not be reduced by the application of good time credits. No other sentence
27 shall be permitted.

28 (ii) The provisions of clause (i) requiring the court to impose a
29 mandatory minimum term of imprisonment of 25 years shall not apply if
30 the court finds the offender, because of the offender's criminal history
31 classification, is subject to presumptive imprisonment and the sentencing
32 range exceeds 300 months. In such case, the offender is required to serve a
33 mandatory minimum term equal to the sentence established pursuant to the
34 sentencing range.

35 (2) The sentence imposed pursuant to paragraph (1) shall not be
36 considered a departure and shall not be subject to appeal.

37 (3) The provisions of this subsection shall not apply to an offense
38 described in paragraph (1) if the factual aspect concerning a law
39 enforcement officer is a statutory element of such offense.

40 (z) (1) Notwithstanding K.S.A. 21-5109(b)(2), and amendments
41 thereto, or any other provision of law to the contrary, the sentence for a
42 violation of criminal possession of a weapon by a convicted felon as
43 defined in K.S.A. 21-6304, and amendments thereto, shall be presumptive

1 imprisonment and shall be served consecutively to any other term or terms
2 of imprisonment imposed if the trier of fact makes a finding beyond a
3 reasonable doubt that:

4 (A) The weapon the offender possessed during such violation was a
5 firearm; and

6 (B) such firearm was used by the offender during the commission of
7 any violent felony.

8 (2) The sentence imposed pursuant to paragraph (1) shall not be
9 considered a departure and shall not be subject to appeal. No other
10 sentence shall be permitted.

11 (3) The provisions of this subsection shall not apply to an offender
12 who is prohibited from possessing a weapon pursuant to K.S.A. 21-6304,
13 and amendments thereto, as a result of a juvenile adjudication.

14 (4) As used in this subsection, "violent felony" means any of the
15 following:

16 (A) Capital murder, as defined in K.S.A. 21-5401, and amendments
17 thereto;

18 (B) murder in the first degree, as defined in K.S.A. 21-5402, and
19 amendments thereto;

20 (C) murder in the second degree, as defined in K.S.A. 21-5403, and
21 amendments thereto;

22 (D) voluntary manslaughter, as defined in K.S.A. 21-5404, and
23 amendments thereto;

24 (E) kidnapping, as defined in K.S.A. 21-5408(a)(1), and amendments
25 thereto, or aggravated kidnapping, as defined in K.S.A. 21-5408(b), and
26 amendments thereto;

27 (F) aggravated assault, as defined in K.S.A. 21-5412(b)(1), and
28 amendments thereto, and aggravated assault of a law enforcement officer,
29 as defined in K.S.A. 21-5412(d)(1), and amendments thereto;

30 (G) aggravated battery, as defined in K.S.A. 21-5413(b)(1)(A) or (b)
31 (1)(B), and amendments thereto, and aggravated battery against a law
32 enforcement officer, as defined in K.S.A. 21-5413(d)(1) or (d)(2), and
33 amendments thereto;

34 (H) mistreatment of a dependent adult or mistreatment of an elder
35 person, as defined in K.S.A. 21-5417(a)(1), and amendments thereto;

36 (I) rape, as defined in K.S.A. 21-5503, and amendments thereto;

37 (J) aggravated criminal sodomy, as defined in K.S.A. 21-5504(b), and
38 amendments thereto;

39 (K) abuse of a child, as defined in K.S.A. 21-5602(a)(1) or (a)(3), and
40 amendments thereto;

41 (L) any felony offense described in K.S.A. 21-5703 or 21-5705, and
42 amendments thereto;

43 (M) treason, as defined in K.S.A. 21-5901, and amendments thereto;

1 (N) criminal discharge of a firearm, as defined in K.S.A. 21-6308(a)
2 (1), and amendments thereto;

3 (O) fleeing or attempting to elude a police officer, as defined in
4 K.S.A. 8-1568(b), and amendments thereto;

5 (P) any felony that includes the domestic violence designation
6 pursuant to K.S.A. 22-4616, and amendments thereto; or

7 (Q) any attempt, conspiracy or criminal solicitation, as defined in
8 K.S.A. 21-5301, 21-5302 and 21-5303, and amendments thereto, of any
9 felony offense defined in this subsection.

10 (aa) (1) The sentence for a violation of K.S.A. 21-6308(a)(1)(A) or
11 (a)(1)(B), and amendments thereto, if the trier of fact makes a finding
12 beyond a reasonable doubt that the offender discharged a firearm and that
13 the offender knew or reasonably should have known that:

14 (A) A person was present in the dwelling, building, structure or motor
15 vehicle at which the offender discharged a firearm, shall be presumptive
16 imprisonment and, in addition to the sentence imposed pursuant to the
17 Kansas sentencing guidelines act, the offender shall be sentenced to an
18 additional 60 months of imprisonment; and

19 (B) a person less than 14 years of age was present in the dwelling,
20 building, structure or motor vehicle at which the offender discharged a
21 firearm, shall be presumptive imprisonment and, in addition to the
22 sentence imposed pursuant to the Kansas sentencing guidelines act, the
23 offender shall be sentenced to an additional 120 months of imprisonment.

24 (2) The sentence imposed pursuant to paragraph (1) shall be served
25 consecutively to any other term or terms of imprisonment imposed. Such
26 sentence shall not be considered a departure and shall not be subject to
27 appeal.

28 (bb) (1) If the trier of fact makes a finding beyond a reasonable doubt
29 that an offender committed any act described in K.S.A. 21-5408, 21-5409,
30 21-5411, 21-5412, 21-5413, 21-5414, 21-5415, 21-5426, 21-5427, 21-5428,
31 21-5429, 21-5503, 21-5504, 21-5505, 21-5506, 21-5507, 21-5508, 21-
32 5509, 21-5510, 21-5515, 21-5601, 21-5602, 21-5604 or 21-5605, and
33 amendments thereto, or any attempt or conspiracy, as defined in K.S.A.
34 21-5301 and 21-5302, and amendments thereto, to commit any such act
35 with knowledge that a woman is pregnant and with the intent that such act
36 will compel such woman to obtain an abortion when such woman has
37 expressed her desire to not obtain an abortion, the sentence for such
38 offense shall be:

39 (A) If such offense is classified in severity level 2 through 10, one
40 severity level above the appropriate level for such offense; and

41 (B) (i) if such offense is classified in severity level 1, except as
42 otherwise provided in clause (ii), imprisonment for life, and such offender
43 shall not be eligible for probation or suspension, modification or reduction

1 of sentence. In addition, such offender shall not be eligible for parole prior
2 to serving 25 years' imprisonment, and such 25 years' imprisonment shall
3 not be reduced by the application of good time credits. No other sentence
4 shall be permitted.

5 (ii) The provisions of clause (i) requiring the court to impose a
6 mandatory minimum term of imprisonment of 25 years shall not apply if
7 the court finds the offender, because of the offender's criminal history
8 classification, is subject to presumptive imprisonment and the sentencing
9 range exceeds 300 months. In such case, the offender is required to serve a
10 mandatory minimum term equal to the sentence established pursuant to the
11 sentencing range.

12 (2) The sentence imposed pursuant to paragraph (1) shall not be
13 considered a departure and shall not be subject to appeal.

14 *(cc) The sentence for a violation of K.S.A. 21-5430, and amendments*
15 *thereto, shall be presumed imprisonment and the offender shall be*
16 *sentenced to an additional 100 months of imprisonment if the trier of fact*
17 *makes a finding beyond a reasonable doubt that the violation of K.S.A. 21-*
18 *5430, and amendments thereto, caused the death of a person less than 18*
19 *years of age. Such sentence shall not be considered a departure and shall*
20 *not be subject to appeal.*

21 Sec. 2. K.S.A. 2024 Supp. 21-6805 is hereby amended to read as
22 follows: 21-6805. (a) The provisions of this section shall be applicable to
23 the sentencing guidelines grid for drug crimes. The following sentencing
24 guidelines grid for drug crimes shall be applicable to felony crimes under
25 K.S.A. 21-5701 through 21-5717, and amendments thereto, except as
26 otherwise provided by law:

SENTENCING RANGE - DRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level I	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	204 194 185	186 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	144 136 130	137 130 122	130 123 117	124 117 111	116 111 105	113 108 101	110 104 99	108 100 96	103 98 92
III	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
IV	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	30 28 26	28 26 24	26 24 22	24 22 20
V	42 40 37	36 34 32	32 30 28	28 26 24	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

LEGEND
Presumptive Probation
Presumptive Imprisonment

1 (b) Sentences expressed in the sentencing guidelines grid for drug
2 crimes in subsection (a) represent months of imprisonment.

3 (c) (1) The sentencing court has discretion to sentence at any place
4 within the sentencing range. In the usual case it is recommended that the
5 sentencing judge select the center of the range and reserve the upper and
6 lower limits for aggravating and mitigating factors insufficient to warrant a
7 departure. The sentencing court shall not distinguish between the
8 controlled substances cocaine base (9041L000) and cocaine hydrochloride
9 (9041L005) when sentencing within the sentencing range of the grid
10 block.

11 (2) In presumptive imprisonment cases, the sentencing court shall
12 pronounce the complete sentence which shall include the:

13 (A) Prison sentence;

14 (B) maximum potential reduction to such sentence as a result of good
15 time; and

16 (C) period of postrelease supervision at the sentencing hearing.
17 Failure to pronounce the period of postrelease supervision shall not negate
18 the existence of such period of postrelease supervision.

19 (3) In presumptive nonprison cases, the sentencing court shall
20 pronounce the prison sentence as well as the duration of the nonprison
21 sanction at the sentencing hearing.

22 (d) Each grid block states the presumptive sentencing range for an
23 offender whose crime of conviction and criminal history place such
24 offender in that grid block. If an offense is classified in a grid block below
25 the dispositional line, the presumptive disposition shall be
26 nonimprisonment. If an offense is classified in a grid block above the
27 dispositional line, the presumptive disposition shall be imprisonment. If an
28 offense is classified in grid blocks 4-E, 4-F, 4-G, 4-H, 4-I, 5-C or 5-D, the
29 court may impose an optional nonprison sentence as provided in K.S.A.
30 21-6804(q), and amendments thereto.

31 (e) The sentence for a second or subsequent conviction for unlawful
32 manufacturing of a controlled substance, K.S.A. 65-4159, prior to its
33 repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, K.S.A. 21-5703,
34 and amendments thereto, or a substantially similar offense from another
35 jurisdiction, if the controlled substance in any prior conviction was
36 methamphetamine, as defined by K.S.A. 65-4107(d)(3) or (f)(1), and
37 amendments thereto, or an analog thereof, shall be a presumptive term of
38 imprisonment of two times the maximum duration of the presumptive term
39 of imprisonment. The court may impose an optional reduction in such
40 sentence of not to exceed 50% of the mandatory increase provided by this
41 subsection upon making a finding on the record that one or more of the
42 mitigating factors as specified in K.S.A. 21-6815, and amendments
43 thereto, justify such a reduction in sentence. Any decision made by the

1 court regarding the reduction in such sentence shall not be considered a
2 departure and shall not be subject to appeal.

3 (f) (1) The sentence for a third or subsequent felony conviction of
4 K.S.A. 65-4160 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-
5 36a06, prior to its transfer, or K.S.A. 21-5706, and amendments thereto,
6 shall be a presumptive term of imprisonment and the defendant shall be
7 sentenced to prison as provided by this section. The defendant's term of
8 imprisonment shall be served in the custody of the secretary of corrections
9 in a facility designated by the secretary. Subject to appropriations
10 therefore, the defendant shall participate in an intensive substance abuse
11 treatment program, of at least four months duration, selected by the
12 secretary of corrections. If the secretary determines that substance abuse
13 treatment resources are otherwise available, such term of imprisonment
14 may be served in a facility designated by the secretary of corrections in the
15 custody of the secretary of corrections to participate in an intensive
16 substance abuse treatment program. The secretary's determination
17 regarding the availability of treatment resources shall not be subject to
18 review. Upon the successful completion of such intensive treatment
19 program, the offender shall be returned to the court and the court may
20 modify the sentence by directing that a less severe penalty be imposed in
21 lieu of that originally adjudged. If the offender's term of imprisonment
22 expires, the offender shall be placed under the applicable period of
23 postrelease supervision.

24 (2) Such defendant's term of imprisonment shall not be subject to
25 modification under paragraph (1) if:

26 (A) The defendant has previously completed a certified drug abuse
27 treatment program, as provided in K.S.A. 75-52,144, and amendments
28 thereto;

29 (B) has been discharged or refused to participate in a certified drug
30 abuse treatment program, as provided in K.S.A. 75-52,144, and
31 amendments thereto;

32 (C) has completed an intensive substance abuse treatment program
33 under paragraph (1); or

34 (D) has been discharged or refused to participate in an intensive
35 substance abuse treatment program under paragraph (1).

36 (3) The sentence under this subsection shall not be considered a
37 departure and shall not be subject to appeal.

38 (g) (1) Except as provided further, if the trier of fact makes a finding
39 that an offender carried a firearm to commit a drug felony, or in
40 furtherance of a drug felony, possessed a firearm, in addition to the
41 sentence imposed pursuant to K.S.A. 21-6801 through 21-6824, and
42 amendments thereto, the offender shall be sentenced to:

43 (A) Except as provided in subsection (g)(1)(B), an additional 6

1 months' imprisonment; and

2 (B) if the trier of fact makes a finding that the firearm was
3 discharged, an additional 18 months' imprisonment.

4 (2) The sentence imposed pursuant to subsection (g)(1) shall be
5 presumptive imprisonment. Such sentence shall not be considered a
6 departure and shall not be subject to appeal.

7 (3) The provisions of this subsection shall not apply to violations of
8 K.S.A. 21-5706 or 21-5713, and amendments thereto.

9 (h) (1) *Except as provided in subsection (j), the sentence for a*
10 *violation of the following with respect to material containing any quantity*
11 *of a fentanyl-related controlled substance shall be presumed imprisonment*
12 *and shall be two times the maximum duration of the presumptive term of*
13 *imprisonment:*

14 (A) K.S.A. 21-5703, and amendments thereto; and

15 (B) K.S.A. 21-5705, and amendments thereto, if the violation is
16 classified as a drug severity level 1, 2 or 3 felony.

17 (2) Such sentence shall not be considered a departure and shall not be
18 subject to appeal.

19 (i) The sentence for a violation of K.S.A. 21-5703 or 21-5705, and
20 amendments thereto, shall be presumed imprisonment and shall be two
21 times the maximum duration of the presumptive term of imprisonment if
22 the trier of fact makes a finding beyond a reasonable doubt that the
23 controlled substance involved, because of its appearance or packaging,
24 was likely to be attractive to minors. Such sentence shall not be considered
25 a departure and shall not be subject to appeal.

26 (j) *The sentence for a violation of K.S.A. 21-5705, and amendments*
27 *thereto, with respect to material containing any quantity of a fentanyl-*
28 *related controlled substances shall be presumed imprisonment and the*
29 *offender shall be sentenced to an additional 100 months of imprisonment*
30 *if the trier of fact makes a finding beyond a reasonable doubt that the*
31 *violation of K.S.A. 21-5705, and amendments thereto, caused the death of*
32 *a person less than 18 years of age. Such sentence shall not be considered*
33 *a departure and shall not be subject to appeal.*

34 Sec. 3. K.S.A. 2024 Supp. 21-6804 and 21-6805 are hereby repealed.

35 Sec. 4. This act shall take effect and be in force from and after its
36 publication in the statute book.