

2023 Kansas Statutes

21-5911. Escape from custody; aggravated escape from custody. (a) Escape from custody is escaping while held in custody on a:

- (1) Charge, conviction of or arrest for a misdemeanor;
- (2) charge, adjudication or arrest as a juvenile offender where the act, if committed by an adult, would constitute a misdemeanor; or
- (3) commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto, based on a finding that the person committed an act constituting a misdemeanor or by a person 18 years of age or over who is being held in custody on an adjudication of a misdemeanor.

(b) Aggravated escape from custody is:

(1) Escaping while held in custody:

- (A) Upon a charge, conviction of or arrest for a felony;
- (B) upon a charge, adjudication or arrest as a juvenile offender where the act, if committed by an adult, would constitute a felony;
- (C) prior to or upon a finding of probable cause for evaluation as a sexually violent predator as provided in K.S.A. 59-29a05, and amendments thereto;
- (D) upon commitment to a treatment facility as a sexually violent predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;
- (E) upon a commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto, based on a finding that the person committed an act constituting a felony;
- (F) by a person 18 years of age or over who is being held on an adjudication of a felony; or
- (G) upon incarceration at a state correctional institution while in the custody of the secretary of corrections.

(2) Escaping effected or facilitated by the use of violence or the threat of violence against any person while held in custody:

- (A) On a charge or conviction of any crime;
- (B) on a charge or adjudication as a juvenile offender where the act, if committed by an adult, would constitute a felony;
- (C) prior to or upon a finding of probable cause for evaluation as a sexually violent predator as provided in K.S.A. 59-29a05, and amendments thereto;
- (D) upon commitment to a treatment facility as a sexually violent predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;
- (E) upon a commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto, based on a finding that the person committed an act constituting any crime;
- (F) by a person 18 years of age or over who is being held on a charge or adjudication of a misdemeanor or felony; or
- (G) upon incarceration at a state correctional institution while in the custody of the secretary of corrections.

(c) (1) Escape from custody is a class A nonperson misdemeanor.

(2) Aggravated escape from custody as defined in:

- (A) Subsection (b)(1)(A), (b)(1)(C), (b)(1)(D), (b)(1)(E) or (b)(1)(F) is a severity level 8, nonperson felony;
- (B) subsection (b)(1)(B) or (b)(1)(G) is a severity level 5, nonperson felony;
- (C) subsection (b)(2)(A), (b)(2)(C), (b)(2)(D), (b)(2)(E) or (b)(2)(F) is a severity level 6, person felony; and
- (D) subsection (b)(2)(B) or (b)(2)(G) is a severity level 5, person felony.

(d) As used in this section and K.S.A. 21-5912, and amendments thereto:

- (1) "Custody" means arrest; detention in a facility for holding persons charged with or convicted of crimes or charged or adjudicated as a juvenile offender; detention for extradition or deportation; detention in a hospital or other facility pursuant to court order, imposed as a specific condition of probation or parole or imposed as a specific condition of assignment to a community correctional services program; commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto; or any other detention for law enforcement purposes. "Custody" does not include

general supervision of a person on probation or parole or constraint incidental to release on bail;

(2) "escape" means:

(A) Departure from custody without lawful authority; or

(B) failure to return to custody following temporary leave lawfully granted by:

(i) Express authorization of law;

(ii) order of a court; or

(iii) a custodial official authorized to grant such leave;

(3) "juvenile offender" means the same as in K.S.A. 38-2302, and amendments thereto; and

(4) "state correctional institution" means the same as in K.S.A. 75-5202, and amendments thereto.

(e) As used in this section, the term "charge" shall not require that the offender was held on a written charge contained in a complaint, information or indictment, if such offender was arrested prior to such offender's escape from custody.

History: L. 2010, ch. 136, § 136; L. 2011, ch. 30, § 39; L. 2012, ch. 150, § 22; L. 2018, ch. 112, § 7; July 1.