

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2321

By Committee on Corrections and Juvenile Justice

2-11

1 AN ACT concerning crimes and punishment; creating the ~~erimes~~ **crime** of
2 ~~armed eriminal action~~ and endangerment; relating to further amendments to
3 the recodified criminal code; amending K.S.A. 2010 Supp. 21-4010 and 21-
4 4012 and sections 9, ~~11, 34,~~ 37, 61, ~~68, 71,~~ 81, 92, ~~93,~~ 129, 130, 132, ~~136,~~
5 165, 197, 223, 224 and 300 of chapter 136 of the 2010 Session Laws of
6 Kansas and repealing the existing sections; also repealing **K.S.A. 2009**
7 **Supp. 21-3110, as amended by section 5 of chapter 101 of the 2010**
8 **Session Laws of Kansas, and K.S.A. 2010 Supp. 21-3302, 21-3446, 21-**
9 **3447, 21-3506 and 21-4311.**

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 ~~New Section 1.—(a) Armed eriminal action is committing or attempting~~
13 ~~to commit any felony under the laws of this state by use of a firearm.~~

14 ~~(b) Armed eriminal action is a nonperson felony. Upon conviction, a~~
15 ~~person shall be sentenced to a term of 12 months imprisonment. The person~~
16 ~~convicted shall not be eligible for release on probation, suspension or~~
17 ~~reduction of sentence or parole until the person has served the mandatory 12~~
18 ~~months imprisonment, unless application of such a mandatory sentence would~~
19 ~~result in a manifest injustice.~~

20 ~~(c) The crime of armed eriminal action shall be treated as a separate and~~
21 ~~distinet offense from the crime or crimes committed, and the sentence imposed~~
22 ~~under this section shall be consecutive to any other sentence imposed.~~

23 ~~(d) This section shall not apply when the felony committed is eriminal~~
24 ~~distribution of a firearm to a felon, as defined in section 188 of chapter 136 of~~
25 ~~the 2010 Session Laws of Kansas, and amendments thereto, eriminal~~
26 ~~possession of a firearm by a convicted felon, as defined in section 189 of~~
27 ~~chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,~~
28 ~~eriminal possession of a firearm by a juvenile, as defined in section 186 of~~
29 ~~chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,~~
30 ~~eriminal discharge of a firearm, as defined in section 193 of chapter 136 of the~~
31 ~~2010 Session Laws of Kansas, and amendments thereto, or unauthorized~~
32 ~~possession of a firearm on the grounds of or within certain state-owned or~~
33 ~~leased buildings, as defined in section 194 of chapter 136 of the 2010 Session~~
34 ~~Laws of Kansas, and amendments thereto.~~

35 ~~(e) As used in this section, “use of a firearm” includes: (A) The~~
36 ~~discharge, employment or visible display of any part of a firearm during.~~

~~1 immediately prior to or immediately after the commission of a felony; or (B)
2 communication to another indicating the presence of a firearm during
3 immediately prior to or immediately after the commission of a felony,
4 regardless of whether such firearm was discharged, actively employed or
5 displayed.~~

6 ~~New Sec. 2.~~ **New Section 1.** (a) Endangerment is recklessly exposing
7 another person to a danger of great bodily harm or death.

8 (b) Endangerment is a class A person misdemeanor.

9 ~~New Sec. 3.~~ **2. Sections 1 and 2 Section 1,** and amendments thereto, shall
10 be part of and supplemental to the Kansas criminal code.

11 ~~Sec. 4.~~ **3.** K.S.A. 2010 Supp. 21-4010 is hereby amended to read as
12 follows: 21-4010. (a) ~~No person shall~~ *It shall be unlawful, with no requirement*
13 *of a culpable mental state, to smoke in an enclosed area or at a public meeting*
14 including, but not limited to:

15 (1) Public places;

16 (2) taxicabs and limousines;

17 (3) restrooms, lobbies, hallways and other common areas in public and
18 private buildings, condominiums and other multiple-residential facilities;

19 (4) restrooms, lobbies and other common areas in hotels and motels and
20 in at least 80% of the sleeping quarters within a hotel or motel that may be
21 rented to guests;

22 (5) access points of all buildings and facilities not exempted pursuant to
23 subsection (d); and

24 (6) any place of employment.

25 (b) Each employer having a place of employment that is an enclosed area
26 shall provide a smoke-free workplace for all employees. Such employer shall
27 also adopt and maintain a written smoking policy which shall prohibit
28 smoking without exception in all areas of the place of employment. Such
29 policy shall be communicated to all current employees within one week of its
30 adoption and shall be communicated to all new employees upon hiring. Each
31 employer shall provide a written copy of the smoking policy upon request to
32 any current or prospective employee.

33 (c) Notwithstanding any other provision of this section, K.S.A. 21-4011
34 or 21-4012, and amendments thereto, the proprietor or other person in charge
35 of an adult care home, as defined in K.S.A. 39-923, and amendments thereto,
36 or a medical care facility, may designate a portion of such adult care home, or
37 the licensed long-term care unit of such medical care facility, as a smoking
38 area, and smoking may be permitted within such designated smoking area.

39 (d) The provisions of this section shall not apply to:

40 (1) The outdoor areas of any building or facility beyond the access points
41 of such building or facility;

42 (2) private homes or residences, except when such home or residence is
43 used as a day care home, as defined in K.S.A. 65-530, and amendments

1 thereto;

2 (3) a hotel or motel room rented to one or more guests if the total
3 percentage of such hotel or motel rooms in such hotel or motel does not
4 exceed 20%;

5 (4) the gaming floor of a lottery gaming facility or racetrack gaming
6 facility, as those terms are defined in K.S.A. 74-8702, and amendments
7 thereto;

8 (5) that portion of an adult care home, as defined in K.S.A. 39-923, and
9 amendments thereto, that is expressly designated as a smoking area by the
10 proprietor or other person in charge of such adult care home pursuant to
11 subsection (c) and that is fully enclosed and ventilated;

12 (6) that portion of a licensed long-term care unit of a medical care facility
13 that is expressly designated as a smoking area by the proprietor or other person
14 in charge of such medical care facility pursuant to subsection (c) and that is
15 fully enclosed and ventilated and to which access is restricted to the residents
16 and their guests;

17 (7) tobacco shops;

18 (8) a class A or class B club defined in K.S.A. 41-2601, and amendments
19 thereto, which (A) held a license pursuant to K.S.A. 41-2606 et seq., and
20 amendments thereto, as of January 1, 2009; and (B) notifies the secretary of
21 health and environment in writing, not later than 90 days after the effective
22 date of this act, that it wishes to continue to allow smoking on its premises;
23 and

24 (9) a private club in designated areas where minors are prohibited.

25 ~~Sec. 5.~~ 4. K.S.A. 2010 Supp. 21-4012 is hereby amended to read as
26 follows: 21-4012. (a) It shall be unlawful for any person who owns, manages,
27 operates or otherwise controls the use of any public place, or other area where
28 smoking is prohibited, to fail to comply with all or any of the provisions of
29 K.S.A. 21-4009 through 21-4014, and amendments thereto.

30 (b) It shall be unlawful for any person who owns, manages, operates or
31 otherwise controls the use of any public place, or other area where smoking is
32 prohibited, to allow smoking to occur where prohibited by law. Any such
33 person shall be deemed to allow smoking to occur under this subsection if
34 such person: (1) Has knowledge that smoking is occurring; and (2) ~~acquiesces~~
35 ~~to the~~ *recklessly permits* smoking under the totality of the circumstances.

36 (c) It shall be unlawful for any person, *with no requirement of a culpable*
37 *mental state*, to smoke in any area where smoking is prohibited by the
38 provisions of K.S.A. 21-4010, and amendments thereto.

39 (d) Any person who violates any provision of K.S.A. 21-4009 through
40 21-4014, and amendments thereto, shall be guilty of a cigarette or tobacco
41 infraction punishable by a fine:

42 (1) Not exceeding \$100 for the first violation;

43 (2) not exceeding \$200 for a second violation within a one-year period

1 after the first violation; or

2 (3) not exceeding \$500 for a third or subsequent violation within a one-
3 year period after the first violation.

4 For purposes of this subsection, the number of violations within a year shall
5 be measured by the date the smoking violations occur.

6 (e) Each individual allowed to smoke by a person who owns, manages,
7 operates or otherwise controls the use of any public place, or other area where
8 smoking is prohibited, in violation of subsection (b) shall be considered a
9 separate violation for purposes of determining the number of violations under
10 subsection (d).

11 (f) No employer shall discharge, refuse to hire or ~~in any manner retaliate~~
12 *take any other adverse action* against an employee, applicant for employment
13 or customer ~~because~~ *with the intent to retaliate against* that employee,
14 applicant or customer ~~reports or attempts for reporting or attempting~~
15 prosecute a violation of any of the provisions of K.S.A. 21-4009 through 21-
16 4014, and amendments thereto.

17 ~~Sec. 6.~~ **5.** Section 9 of chapter 136 of the 2010 Session Laws of Kansas is
18 hereby amended to read as follows: Sec. 9. (a) When the same conduct of a
19 defendant may establish the commission of more than one crime under the
20 laws of this state, the defendant may be prosecuted for each of such crimes.
21 Each of such crimes may be alleged as a separate count in a single complaint,
22 information or indictment.

23 (b) Upon prosecution for a crime, the defendant may be convicted of
24 either the crime charged or a lesser included crime, but not both. A lesser
25 included crime is:

- 26 (1) A lesser degree of the same crime;
- 27 (2) a crime where all elements of the lesser crime are identical to some of
28 the elements of the crime charged;
- 29 (3) an attempt to commit the crime charged; or
- 30 (4) an attempt to commit a crime defined under paragraph (1) or (2).

31 (c) Whenever charges are filed against a person, accusing the person of a
32 crime which includes another crime of which the person has been convicted,
33 the conviction of the lesser included crime shall not bar prosecution or
34 conviction of the crime charged if the crime charged was not consummated at
35 the time of conviction of the lesser included crime, but the conviction of the
36 lesser included crime shall be annulled upon the filing of such charges.
37 Evidence of the person's plea or any admission or statement made by the
38 person in connection therewith in any of the proceedings which resulted in the
39 person's conviction of the lesser included crime shall not be admissible at the
40 trial of the crime charged. If the person is convicted of the crime charged, or of
41 a lesser included crime, the person so convicted shall receive credit against
42 any prison sentence imposed or fine to be paid for the period of confinement
43 actually served or the amount of any fine actually paid under the sentence

1 imposed for the annulled conviction.

2 (d) Unless otherwise provided by law, when crimes differ only in that one
3 is defined to prohibit a designated kind of conduct generally and the other to
4 prohibit a specific instance of such conduct, the defendant:

5 (1) May not be convicted of the two crimes based upon the same conduct;
6 and

7 (2) shall be sentenced according to the terms of the more specific crime.

8 (e) *A defendant may not be convicted of identical offenses based upon the*
9 *same conduct. The prosecution may choose which such offense to charge and,*
10 *upon conviction, the defendant shall be sentenced according to the terms of*
11 *that offense.*

12 ~~Sec. 7.—Section 34 of chapter 136 of the 2010 Session Laws of Kansas is~~
13 ~~hereby amended to read as follows: Sec. 34. (a) A conspiracy is an agreement~~
14 ~~with another person to commit a crime or to assist in committing a crime. No~~
15 ~~person may be convicted of a conspiracy unless an overt act in furtherance of~~
16 ~~such conspiracy is alleged and proved to have been committed by such person~~
17 ~~or by a co-conspirator.~~

18 ~~(b) It is immaterial to the criminal liability of a person charged with~~
19 ~~conspiracy that any other person with whom the defendant conspired lacked~~
20 ~~the actual intent to commit the underlying crime provided that the defendant~~
21 ~~believed the other person did have the actual intent to commit the underlying~~
22 ~~crime.~~

23 ~~(b) (c) It shall be a defense to a charge of conspiracy that the accused~~
24 ~~voluntarily and in good faith withdrew from the conspiracy, and~~
25 ~~communicated the fact of such withdrawal to one or more of the accused~~
26 ~~person's co-conspirators, before any overt act in furtherance of the conspiracy~~
27 ~~was committed by the accused or by a co-conspirator.~~

28 ~~(c) (d) (1) Conspiracy to commit an off-grid felony shall be ranked at~~
29 ~~nondrug severity level 2. Conspiracy to commit any other nondrug felony shall~~
30 ~~be ranked on the nondrug scale at two severity levels below the appropriate~~
31 ~~level for the underlying or completed crime. The lowest severity level for~~
32 ~~conspiracy to commit a nondrug felony shall be a severity level 10.~~

33 ~~(2) The provisions of this subsection shall not apply to a violation of~~
34 ~~conspiracy to commit the crime of:~~

35 ~~(A) Aggravated trafficking, as defined in subsection (b) of section 61 of~~
36 ~~chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, if~~
37 ~~the offender is 18 years of age or older and the victim is less than 14 years of~~
38 ~~age;~~

39 ~~(B) terrorism pursuant to as defined in section 56 of chapter 136 of the~~
40 ~~2010 Session Laws of Kansas, and amendments thereto; or of~~

41 ~~(C) illegal use of weapons of mass destruction pursuant to as defined in~~
42 ~~section 57 of chapter 136 of the 2010 Session Laws of Kansas, and~~
43 ~~amendments thereto;~~

1 ~~(D) rape, as defined in subsection (a)(3) of section 67 of chapter 136 of~~
2 ~~the 2010 Session Laws of Kansas, and amendments thereto, if the offender is~~
3 ~~18 years of age or older;~~

4 ~~(E) aggravated indecent liberties with a child, as defined in subsection (b)~~
5 ~~(3) of section 70 of chapter 136 of the 2010 Session Laws of Kansas, and~~
6 ~~amendments thereto, if the offender is 18 years of age or older;~~

7 ~~(F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2)~~
8 ~~of section 68 of chapter 136 of the 2010 Session Laws of Kansas, and~~
9 ~~amendments thereto, if the offender is 18 years of age or older;~~

10 ~~(G) promoting prostitution, as defined in section 230 of chapter 136 of~~
11 ~~the 2010 Session Laws of Kansas, and amendments thereto, if the offender is~~
12 ~~18 years of age or older and the prostitute is less than 14 years of age; or~~

13 ~~(H) sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4)~~
14 ~~of section 74 of chapter 136 of the 2010 Session Laws of Kansas, and~~
15 ~~amendments thereto, if the offender is 18 years of age or older and the child is~~
16 ~~less than 14 years of age.~~

17 ~~(d) (e) Conspiracy to commit a felony which prescribes a sentence on the~~
18 ~~drug grid shall reduce the prison term prescribed in the drug grid block for an~~
19 ~~underlying or completed crime by six months.~~

20 ~~(e) (f) A conspiracy to commit a misdemeanor is a class C misdemeanor.~~

21 **Sec. 6. Section 11 of chapter 136 of the 2010 Session Laws of Kansas**
22 **is hereby amended as follows: Sec. 11. The following definitions shall**
23 **apply when the words and phrases defined are used in this code, except**
24 **when a particular context clearly requires a different meaning.**

25 **(a) "Act" includes a failure or omission to take action.**

26 **(b) "Another" means a person or persons as defined in this code**
27 **other than the person whose act is claimed to be criminal.**

28 **(c) "Conduct" means an act or a series of acts, and the accompanying**
29 **mental state.**

30 **(d) "Conviction" includes a judgment of guilt entered upon a plea of**
31 **guilty.**

32 **(e) "Deception" means knowingly creating or reinforcing a false**
33 **impression, including false impressions as to law, value, intention or other**
34 **state of mind. Deception as to a person's intention to perform a promise**
35 **shall not be inferred from the fact alone that such person did not**
36 **subsequently perform the promise. Falsity as to matters having no**
37 **pecuniary significance, or puffing by statements unlikely to deceive**
38 **reasonable persons, is not deception.**

39 **(f) "Deprive permanently" means to:**

40 **(1) Take from the owner the possession, use or benefit of property,**
41 **without an intent to restore the same;**

42 **(2) retain property without intent to restore the same or with intent**
43 **to restore it to the owner only if the owner purchases or leases it back, or**

1 pays a reward or other compensation for its return; or

2 (3) sell, give, pledge or otherwise dispose of any interest in property
3 or subject it to the claim of a person other than the owner.

4 (g) "Distribute" means the actual or constructive transfer from one
5 person to another of some item whether or not there is an agency
6 relationship. "Distribute" includes, but is not limited to, sale, offer for
7 sale, furnishing, buying for, delivering, giving, or any act that causes or is
8 intended to cause some item to be transferred from one person to another.
9 "Distribute" does not include acts of administering, dispensing or
10 prescribing a controlled substance as authorized by the pharmacy act of
11 the state of Kansas, the uniform controlled substances act, or otherwise
12 authorized by law.

13 (h) "DNA" means deoxyribonucleic acid.

14 (i) "Domestic violence" means an act or threatened act of violence against
15 a person with whom the offender is involved or has been involved in a dating
16 relationship, or an act or threatened act of violence against a family or
17 household member by a family or household member. Domestic violence also
18 includes any other crime committed against a person or against property, or
19 any municipal ordinance violation against a person or against property, when
20 directed against a person with whom the offender is involved or has been
21 involved in a dating relationship or when directed against a family or
22 household member by a family or household member. For the purposes of this
23 definition:

24 (1) "Dating relationship" means a social relationship of a romantic nature.
25 In addition to any other factors the court deems relevant, the trier of fact may
26 consider the following when making a determination of whether a relationship
27 exists or existed: Nature of the relationship, length of time the relationship
28 existed, frequency of interaction between the parties and time since
29 termination of the relationship, if applicable.

30 (2) "Family or household member" means persons 18 years of age or
31 older who are spouses, former spouses, parents or stepparents and children or
32 stepchildren, and persons who are presently residing together or have resided
33 together in the past, and persons who have a child in common regardless of
34 whether they have been married or have lived together at any time. Family or
35 household member also includes a man and woman if the woman is pregnant
36 and the man is alleged to be the father, regardless of whether they have been
37 married or have lived together at any time.

38 (j) "Domestic violence offense" means any crime committed whereby the
39 underlying factual basis includes an act of domestic violence.

40 (k) "Dwelling" means a building or portion thereof, a tent, a
41 vehicle or other enclosed space which is used or intended for use as a
42 human habitation, home or residence.

43 (l) "Expungement" means the sealing of records such that the

1 records are unavailable except to the petitioner and criminal justice
2 agencies as provided by K.S.A. 22-4701 et seq., and amendments thereto,
3 and except as provided in this act.

4 ~~(k)~~(m) "Firearm" means any weapon designed or having the capacity
5 to propel a projectile by force of an explosion or combustion., including a
6 starter gun, which will or is designed to or may readily be converted to expel a
7 projectile by the action of an explosive. "Firearm" does not include an antique
8 firearm. "Antique firearm" means:

9 (1) Any firearm, including any firearm with a matchlock, flintlock,
10 percussion cap or similar type of ignition system, manufactured in or before
11 1898;

12 (2) any replica of any firearm described in subsection (m)(1) if such
13 replica: (A) Is not designed or redesigned for using rimfire or conventional
14 centerfire fixed ammunition; or (B) uses rimfire or conventional centerfire
15 fixed ammunition which is no longer manufactured in the United States and
16 which is not readily available in the ordinary channels of commercial trade;
17 and

18 (3) any muzzle loading rifle, muzzle loading shotgun or muzzle loading
19 pistol, which is designed to use black powder, or a black powder substitute,
20 and which cannot use fixed ammunition. For purposes of this paragraph,
21 "antique firearm" shall not include any weapon which incorporates a firearm
22 frame or receiver; any firearm which is converted into a muzzle loading
23 weapon or any muzzle loading weapon which can be readily converted to fire
24 fixed ammunition by replacing the barrel, bolt, breechblock or any
25 combination thereof.

26 ~~(h)~~(n) "Forcible felony" includes any treason, murder, voluntary
27 manslaughter, rape, robbery, burglary, arson, kidnapping, aggravated
28 battery, aggravated sodomy and any other felony which involves the use
29 or threat of physical force or violence against any person.

30 ~~(m)~~(o) "Intent to defraud" means an intention to deceive another
31 person, and to induce such other person, in reliance upon such deception,
32 to assume, create, transfer, alter or terminate a right, obligation or power
33 with reference to property.

34 ~~(n)~~(p) "Law enforcement officer" means:

35 (1) Any person who by virtue of such person's office or public
36 employment is vested by law with a duty to maintain public order or to
37 make arrests for crimes, whether that duty extends to all crimes or is
38 limited to specific crimes;

39 (2) any officer of the Kansas department of corrections or, for the
40 purposes of sections section 47 and subsection (d) of section 48 of chapter
41 136 of the 2010 Session Laws of Kansas, and amendments thereto, any
42 employee of the Kansas department of corrections; or

43 (3) any university police officer or campus police officer, as defined in

1 K.S.A. 22-2401a, and amendments thereto.

2 ~~(o)~~(q) "Obtain" means to bring about a transfer of interest in or
3 possession of property, whether to the offender or to another.

4 ~~(p)~~(r) "Obtains or exerts control" over property includes, but is not
5 limited to, the taking, carrying away, sale, conveyance, transfer of title to,
6 interest in, or possession of property.

7 ~~(q)~~(s) "Owner" means a person who has any interest in property.

8 ~~(r)~~(t) "Person" means an individual, public or private corporation,
9 government, partnership, or unincorporated association.

10 ~~(s)~~(u) "Personal property" means goods, chattels, effects, evidences of
11 rights in action and all written instruments by which any pecuniary
12 obligation, or any right or title to property real or personal, shall be
13 created, acknowledged, assigned, transferred, increased, defeated,
14 discharged, or dismissed.

15 ~~(t)~~(v) "Possession" means having joint or exclusive control over an
16 item with knowledge of or intent to have such control or knowingly
17 keeping some item in a place where the person has some measure of access
18 and right of control.

19 ~~(u)~~(w) "Property" means anything of value, tangible or intangible,
20 real or personal.

21 ~~(v)~~(x) "Prosecution" means all legal proceedings by which a person's
22 liability for a crime is determined.

23 ~~(w)~~(y) "Prosecutor" means the same as prosecuting attorney in
24 K.S.A. 22-2202, and amendments thereto.

25 ~~(x)~~(z) "Public employee" is a person employed by or acting for the
26 state or by or for a county, municipality or other subdivision or
27 governmental instrumentality of the state for the purpose of exercising
28 their respective powers and performing their respective duties, and who is
29 not a "public officer."

30 ~~(y)~~(aa) "Public officer" includes the following, whether elected or
31 appointed:

32 (1) An executive or administrative officer of the state, or a county,
33 municipality or other subdivision or governmental instrumentality of or
34 within the state;

35 (2) a member of the legislature or of a governing board of a county,
36 municipality, or other subdivision of or within the state;

37 (3) a judicial officer, which shall include a judge of the district court,
38 juror, master or any other person appointed by a judge or court to hear or
39 determine a cause or controversy;

40 (4) a hearing officer, which shall include any person authorized by
41 law or private agreement, to hear or determine a cause or controversy and
42 who is not a judicial officer;

43 (5) a law enforcement officer; and

1 (6) any other person exercising the functions of a public officer under
2 color of right.

3 ~~(z)~~(bb) "Real property" or "real estate" means every estate, interest,
4 and right in lands, tenements and hereditaments.

5 ~~(aa)~~(cc) "Solicit" or "solicitation" means to command, authorize,
6 urge, incite, request or advise another to commit a crime.

7 ~~(bb)~~(dd) "State" or "this state" means the state of Kansas and all
8 land and water in respect to which the state of Kansas has either exclusive
9 or concurrent jurisdiction, and the air space above such land and water.

10 "Other state" means any state or territory of the United States, the
11 District of Columbia and the Commonwealth of Puerto Rico.

12 ~~(ee)~~(ee) "Stolen property" means property over which control has
13 been obtained by theft.

14 ~~(dd)~~(ff) "Threat" means a communicated intent to inflict physical or
15 other harm on any person or on property.

16 ~~(ee)~~(gg) "Written instrument" means any paper, document or other
17 instrument containing written or printed matter or the equivalent thereof,
18 used for purposes of reciting, embodying, conveying or recording
19 information, and any money, token, stamp, seal, badge, trademark, or
20 other evidence or symbol of value, right, privilege or identification, which
21 is capable of being used to the advantage or disadvantage of some person.

22 Sec.-8: 7. Section 37 of chapter 136 of the 2010 Session Laws of Kansas
23 is hereby amended to read as follows: Sec. 37. (a) Murder in the first degree is
24 the killing of a human being committed:

- 25 (1) Intentionally, and with premeditation; or
- 26 (2) in the commission of, attempt to commit, or flight from any inherently
27 dangerous felony.

28 (b) Murder in the first degree is an off-grid person felony.

29 (c) As used in this section, an "inherently dangerous felony" means:

30 (1) Any of the following felonies, whether such felony is so distinct from
31 the homicide alleged to be a violation of subsection (a)(2) as not to be an
32 ingredient of the homicide alleged to be a violation of subsection (a)(2):

33 (A) Kidnapping, as defined in subsection (a) of section 43 of chapter 136
34 of the 2010 Session Laws of Kansas, and amendments thereto;

35 (B) aggravated kidnapping, as defined in subsection (b) of section 43 of
36 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

37 (C) robbery, as defined in subsection (a) of section 55 of chapter 136 of
38 the 2010 Session Laws of Kansas, and amendments thereto;

39 (D) aggravated robbery, as defined in subsection (b) of section 55 of
40 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

41 (E) rape, as defined in section 67 of chapter 136 of the 2010 Session
42 Laws of Kansas, and amendments thereto;

43 (F) aggravated criminal sodomy, as defined in subsection (b) of section

1 68 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
2 thereto;

3 (G) abuse of a child, as defined in section 79 of chapter 136 of the 2010
4 Session Laws of Kansas, and amendments thereto;

5 (H) felony theft of property as defined in subsection (a)(1) or (a)(3) of
6 section 87 of chapter 136 of the 2010 Session Laws of Kansas, and
7 amendments thereto;

8 (I) burglary, as defined in subsection (a) of section 93 of chapter 136 of
9 the 2010 Session Laws of Kansas, and amendments thereto;

10 (J) aggravated burglary, as defined in subsection (b) of section 93 of
11 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

12 (K) arson, as defined in subsection (a) of section 98 of chapter 136 of the
13 2010 Session Laws of Kansas, and amendments thereto;

14 (L) aggravated arson, as defined in subsection (b) of section 98 of
15 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

16 (M) treason, as defined in section 126 of chapter 136 of the 2010 Session
17 Laws of Kansas, and amendments thereto;

18 (N) any felony offense as provided in K.S.A. ~~2009~~ 2010 Supp. 21-36a03,
19 21-36a05 or 21-36a06, and amendments thereto;

20 (O) any felony offense as provided in subsection (a) or (b) of section 193
21 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

22 (P) endangering the food supply, as defined in subsection (a) of section
23 202 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
24 thereto;

25 (Q) aggravated endangering the food supply, as defined in subsection (b)
26 of section 202 of chapter 136 of the 2010 Session Laws of Kansas, and
27 amendments thereto;

28 (R) fleeing or attempting to elude a police officer, as defined in
29 subsection (b) of K.S.A. 8-1568, and amendments thereto; ~~or~~

30 (S) aggravated endangering a child, as defined in subsection (b)(1) of
31 section 78 of chapter 136 of the 2010 Session Laws of Kansas, and
32 amendments thereto; ~~and or~~

33 (T) abandonment of a child, as defined in section 82 of chapter 136 of the
34 2010 Session Laws of Kansas, and amendments thereto; and

35 (2) any of the following felonies, only when such felony is so distinct
36 from the homicide alleged to be a violation of subsection (a)(2) as to not be an
37 ingredient of the homicide alleged to be a violation of subsection (a)(2):

38 (A) Murder in the first degree, as defined in subsection (a)(1);

39 (B) murder in the second degree, as defined in subsection (a)(1) of
40 section 38 of chapter 136 of the 2010 Session Laws of Kansas, and
41 amendments thereto;

42 (C) voluntary manslaughter, as defined in subsection (a)(1) of section 39
43 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

1 (D) aggravated assault, as defined in subsection (b) of section 47 of
2 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

3 (E) aggravated assault of a law enforcement officer, as defined in
4 subsection (d) of section 47 of chapter 136 of the 2010 Session Laws of
5 Kansas, and amendments thereto;

6 (F) aggravated battery, as defined in subsection (b)(1) of section 48 of
7 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto; or

8 (G) aggravated battery against a law enforcement officer, as defined in
9 subsection (d) of section 48 of chapter 136 of the 2010 Session Laws of
10 Kansas, and amendments thereto.

11 ~~Sec. 9.~~ **8.** Section 61 of chapter 136 of the 2010 Session Laws of Kansas
12 is hereby amended to read as follows: Sec. 61. (a) *Human trafficking is:*

13 (1) ~~Recruiting, harboring, transporting, providing or obtaining, by any~~
14 ~~means, another person with knowledge that force, fraud, threat or coercion will~~
15 ~~be used to cause the person to engage in forced labor or involuntary servitude;~~
16 ~~or The intentional recruitment, harboring, transportation, provision or~~
17 ~~obtaining of a person for labor or services, through the use of force, fraud or~~
18 ~~coercion for the purpose of subjecting the person to involuntary servitude or~~
19 ~~forced labor;~~

20 (2) *intentionally benefiting financially or by receiving anything of value*
21 *from participation in a venture that the person has reason to know has engaged*
22 *in acts set forth in subsection (a)(1);*

23 (3) *knowingly coercing employment by obtaining or maintaining labor or*
24 *services that are performed or provided by another person through any of the*
25 *following:*

26 (A) *Causing or threatening to cause physical injury to any person;*

27 (B) *physically restraining or threatening to physically restrain another*
28 *person;*

29 (C) *abusing or threatening to abuse the law or legal process;*

30 (D) *threatening to withhold food, lodging or clothing; or*

31 (E) *knowingly destroying, concealing, removing, confiscating or*
32 *possessing any actual or purported government identification document of*
33 *another person; or*

34 (4) *knowingly holding another person in a condition of peonage in*
35 *satisfaction of a debt owed the person who is holding such other person.*

36 (b) *Aggravated human trafficking is:*

37 ~~(+)~~ *human trafficking, as defined in subsection (a):*

38 ~~(A)~~ (1) *Involving the commission or attempted commission of*
39 *kidnapping, as defined in subsection (a) of section 43 of chapter 136 of the*
40 *2010 Session Laws of Kansas, and amendments thereto;*

41 ~~(B)~~ (2) *committed in whole or in part for the purpose of the sexual*
42 *gratification of the defendant or another; or*

43 ~~(C)~~ (3) *resulting in a death; or*

1 (2) (4) involving recruiting, harboring, transporting, providing or
2 obtaining, by any means, a person under 18 years of age knowing that the
3 person, with or without force, fraud, threat or coercion, will be used to engage
4 in forced labor, involuntary servitude or sexual gratification of the defendant
5 or another.

6 (c) (1) Human trafficking is a severity level 2, person felony.

7 (2) Aggravated human trafficking is a:

8 (A) severity level 1, person felony, except as provided in subsection (c)
9 ~~(2)(B); and (3).~~

10 ~~(B)(3) Aggravated human trafficking or attempt, conspiracy or criminal~~
11 ~~solicitation to commit aggravated human trafficking is an off-grid person~~
12 ~~felony, when the offender is 18 years of age or older and the victim is less than~~
13 ~~14 years of age.~~

14 (d) If the offender is 18 years of age or older and the victim is less than
15 14 years of age, the provisions of:

16 (1) Subsection (c) of section 33 of chapter 136 of the 2010 Session Laws
17 of Kansas, and amendments thereto, shall not apply to a violation of
18 attempting to commit the crime of aggravated human trafficking pursuant to
19 this section;

20 (2) subsection (c) of section 34 of chapter 136 of the 2010 Session Laws
21 of Kansas, and amendments thereto, shall not apply to a violation of
22 conspiracy to commit the crime of aggravated human trafficking pursuant to
23 this section; and

24 (3) subsection (d) of section 35 of chapter 136 of the 2010 Session Laws
25 of Kansas, and amendments thereto, shall not apply to a violation of criminal
26 solicitation to commit the crime of aggravated human trafficking pursuant to
27 this section.

28 (e) The provisions of this section shall not apply to the use of the labor of
29 any person incarcerated in a state or county correctional facility or city jail.

30 (f) As used in this section, "peonage" means a condition of involuntary
31 servitude in which the victim is forced to work for another person by the use
32 or threat of physical restraint or physical injury, or by the use or threat of
33 coercion through law or the legal process.

34 Sec. 10.—Section 68 of chapter 136 of the 2010 Session Laws of Kansas is
35 hereby amended to read as follows: Sec. 68. (a) Criminal sodomy is:

36 ~~(1) Sodomy between persons who are 16 or more years of age and~~
37 ~~members of the same sex;~~

38 ~~(2)(1) Sodomy between a person and an animal;~~

39 ~~(3)(2) sodomy with a child who is 14 or more years of age but less than~~
40 ~~16 years of age; or~~

41 ~~(4)(3) causing a child 14 or more years of age but less than 16 years of~~
42 ~~age to engage in sodomy with any person or animal.~~

43 ~~(b) Aggravated criminal sodomy is:~~

1 (1) Sodomy with a child who is under 14 years of age;
2 (2) causing a child under 14 years of age to engage in sodomy with any
3 person or an animal; or
4 (3) sodomy with a victim who does not consent to the sodomy or causing
5 a victim, without the victim's consent, to engage in sodomy with any person or
6 an animal under any of the following circumstances:
7 (A) When the victim is overcome by force or fear;
8 (B) when the victim is unconscious or physically powerless; or
9 (C) when the victim is incapable of giving consent because of mental
10 deficiency or disease, or when the victim is incapable of giving consent
11 because of the effect of any alcoholic liquor, narcotic, drug or other substance,
12 which condition was known by, or was reasonably apparent to, the offender.
13 (e) (1) Criminal sodomy as defined in:
14 (A) Subsection (a)(1) or (a)(2) is a class B nonperson misdemeanor; and
15 (B) subsection (a)(2) or (a)(3) or (a)(4) is a severity level 3, person-
16 felony.
17 (e) (2) Aggravated criminal sodomy as defined in:
18 (A) Subsection (b)(3) is a severity level 1, person felony; and
19 (B) subsection (b)(1) or (b)(2) is a:
20 (i) severity level 1, person felony, except as provided in subsection (c)(2)
21 (B)(ii); and (3).
22 (ii) off-grid person felony, when the offender is 18 years of age or older.
23 (3) Aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2)
24 or attempt, conspiracy or criminal solicitation to commit aggravated criminal
25 sodomy as defined in subsection (b)(1) or (b)(2) is an off-grid person felony;
26 when the offender is 18 years of age or older.
27 (d) If the offender is 18 years of age or older, the provisions of:
28 (1) Subsection (e) of section 33 of chapter 136 of the 2010 Session Laws
29 of Kansas, and amendments thereto, shall not apply to a violation of
30 attempting to commit the crime of aggravated criminal sodomy as defined in
31 subsection (b)(1) or (b)(2);
32 (2) subsection (c) of section 34 of chapter 136 of the 2010 Session Laws
33 of Kansas, and amendments thereto, shall not apply to a violation of
34 conspiracy to commit the crime of aggravated criminal sodomy as defined in
35 subsection (b)(1) or (b)(2); and
36 (3) subsection (d) of section 35 of chapter 136 of the 2010 Session Laws
37 of Kansas, and amendments thereto, shall not apply to a violation of criminal
38 solicitation to commit the crime of aggravated criminal sodomy as defined in
39 subsection (b)(1) or (b)(2).
40 (d)(e) It shall be a defense to a prosecution of criminal sodomy, as
41 defined in subsection (a)(3) (2), and aggravated criminal sodomy, as defined in
42 subsection (b)(1), that the child was married to the accused at the time of the
43 offense.

1 (e)(f) ~~Except as provided in subsection (b)(3)(C), it shall not be a defense~~
2 ~~that the offender did not know or have reason to know that the victim did not~~
3 ~~consent to the sodomy, that the victim was overcome by force or fear, or that~~
4 ~~the victim was unconscious or physically powerless.~~

5 ~~Sec. 11.— Section 71 of chapter 136 of the 2010 Session Laws of Kansas is~~
6 ~~hereby amended to read as follows: Sec. 71. (a) Unlawful voluntary sexual~~
7 ~~relations is:~~

8 (1) ~~Engaging in any of the following acts with a child who is 14 or more~~
9 ~~years of age but less than 16 years of age:~~

- 10 (A) ~~Voluntary sexual intercourse;~~
- 11 (B) ~~voluntary sodomy; or~~
- 12 (C) ~~voluntary lewd fondling or touching;~~

13 (2) ~~when the offender is less than 19 years of age;~~

14 (3) ~~when the offender is less than four years of age older than the child;~~

15 ~~and~~

16 (4) ~~when the child and the offender are the only parties involved; and~~

17 (5) ~~when the child and the offender are members of the opposite sex.~~

18 (b) ~~Unlawful voluntary sexual relations as defined in:~~

19 (1) ~~Subsection (a)(1)(A) is a severity level 8, person felony;~~

20 (2) ~~subsection (a)(1)(B) is a severity level 9, person felony; and~~

21 (3) ~~subsection (a)(1)(C) is a severity level 10, person felony.~~

22 ~~Sec. 12. 9. Section 81 of chapter 136 of the 2010 Session Laws of Kansas~~
23 ~~is hereby amended to read as follows: Sec. 81. (a) Incest is marriage to or~~
24 ~~engaging in otherwise lawful sexual intercourse or sodomy, as defined in~~
25 ~~section 65, and amendments thereto, with a person who is 18 or more years of~~
26 ~~age and who is known to the offender to be related to the offender as any of~~
27 ~~the following biological relatives: Parent, child, grandparent of any degree,~~
28 ~~grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt,~~
29 ~~nephew or niece.~~

30 (b) ~~Aggravated incest is:~~

31 (1) ~~Marriage to a person who is under 18 years of age and who is known~~
32 ~~to the offender to be related to the offender as any of the following biological,~~
33 ~~step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-~~
34 ~~brother, half-sister, uncle, aunt, nephew or niece; or~~

35 (2) ~~engaging in the following acts with a person who is 16 or more years~~
36 ~~of age but under 18 years of age and who is known to the offender to be~~
37 ~~related to the offender as any of the following biological, step or adoptive~~
38 ~~relatives: Child, grandchild of any degree, brother, sister, half-brother, half-~~
39 ~~sister, uncle, aunt, nephew or niece:~~

40 (A) ~~Otherwise lawful sexual intercourse or sodomy as defined by section~~
41 ~~65 of chapter 136 of the 2010 Session Laws of Kansas, and amendments~~
42 ~~thereto; or~~

43 (B) ~~any lewd fondling, as described in subsection (a)(1) of section 70 of~~

1 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.*

2 (c) (1) Incest is a severity level 10, person felony.

3 (2) Aggravated incest as defined in:

4 (A) Subsection (b)(2)(A) is a :

5 (i) Severity level 5, person felony, *except as provided in subsection (c)(2)*
6 *(A)(ii); and*

7 (ii) *severity level 3, person felony if the victim is the offender's biological,*
8 *step or adoptive child; and*

9 (B) subsection (b)(1) or (b)(2)(B) is a severity level 7, person felony.

10 ~~Sec. 10.~~ Section 92 of chapter 136 of the 2010 Session Laws of
11 Kansas is hereby amended to read as follows: Sec. 92. (a) Unlawful use of
12 recordings is:

13 (1) Knowingly, and without the consent of the owner, duplicating or
14 causing to be duplicated any sounds recorded on a phonograph record, disc,
15 wire, tape, film or other article on which sounds are recorded, or recording or
16 causing to be recorded any live performance, with the intent to sell, rent or
17 cause to be sold or rented, any such duplicated sounds or any such recorded
18 performance, or to give away such duplicated sounds or recorded performance
19 as part of a promotion for any product or service;

20 (2) distributing or possessing with the intent to distribute, any article
21 produced in violation of subsection (a)(1) knowing or having reasonable
22 grounds to know that such article was produced in violation of law; ~~or~~

23 (3) *possessing any article produced in violation of subsection (a)(1)*
24 *knowing or having reasonable grounds to know that such article was produced*
25 *in violation of law; or*

26 ~~(3)~~ (4) knowingly selling, renting, offering for sale or rental, or
27 possessing, transporting or manufacturing with intent to sell or rent, any
28 phonograph record, audio or video disc, wire, audio or video tape, film or
29 other article now known or later developed on which sounds, images, or both
30 sounds and images are recorded or otherwise stored, unless the outside cover,
31 box or jacket clearly and conspicuously discloses the name and address of the
32 manufacturer of such recorded article.

33 (b) Unlawful use of recordings:

34 (1) Is a severity level 9, nonperson felony, except as provided in
35 *subsections (b)(2) and (b)(3); and*

36 (2) as defined in subsection (a)(2) or ~~(a)(3)~~ (4), is a class A nonperson
37 misdemeanor if the offense involves fewer than seven audio visual recordings,
38 or fewer than 100 sound recordings during a 180-day period: ; *and*

39 (3) *as defined in subsection (a)(3), is a class B nonperson misdemeanor.*

40 (c) The provisions of subsection (a)(1) shall not apply to:

41 (1) Any broadcaster who, in connection with or as part of a radio or
42 television broadcast or cable transmission, or for the purpose of archival
43 preservation, duplicates any such sounds recorded on a sound recording;

1 (2) any person who duplicates such sounds or such performance for
2 personal use, and without compensation for such duplication; or

3 (3) any sounds initially fixed in a tangible medium of expression after
4 February 15, 1972.

5 (d) The provisions of subsections (a)(1) and (a)(3) shall not apply to any
6 computer program or any audio or visual recording that is part of any
7 computer program or to any article or device on which is exclusively recorded
8 any such computer program.

9 (e) As used in this section:

10 (1) "Owner" means the person who owns the original fixation of sounds
11 embodied in the master phonograph record, master disc, master wire, master
12 tape, master film or other device used for reproducing sounds on phonograph
13 records, discs, wires, tapes, films or other articles now known or later
14 developed upon which sound is recorded or otherwise stored, and from which
15 the duplicated recorded sounds are directly or indirectly derived, or the person
16 who owns the right to record such live performance; and

17 (2) "computer program" means a set of statements or instructions to be
18 used directly or indirectly in a computer in order to bring about a certain
19 result.

20 (f) It shall be the duty of all law enforcement officers, upon discovery, to
21 confiscate all recorded devices that do not conform to the provisions of this
22 section and that are possessed for the purpose of selling or renting such
23 recorded devices, and all equipment and components used or intended to be
24 used to knowingly manufacture recorded devices that do not conform to the
25 provisions of such section for the purpose of selling or renting such recorded
26 devices. The nonconforming recorded devices that are possessed for the
27 purpose of selling or renting such recorded devices are contraband and shall be
28 delivered to the district attorney for the county in which the confiscation was
29 made, by court order, and shall be destroyed or otherwise disposed of, if the
30 court finds that the person claiming title to such recorded devices possessed
31 such recorded devices for the purpose of selling or renting such recorded
32 devices. The equipment and components confiscated shall be delivered to the
33 district attorney for the county in which the confiscation was made, by court
34 order upon conviction, and may be given to a charitable or educational
35 organization.

36 ~~Sec. 14.—Section 93 of chapter 136 of the 2010 Session Laws of Kansas is~~
37 ~~hereby amended to read as follows: Sec. 93. (a) Burglary is, without authority,~~
38 ~~entering into or remaining within any:~~

39 ~~(1) Dwelling, with intent to commit a felony, theft or sexual battery~~
40 ~~sexually motivated crime therein;~~

41 ~~(2) building, manufactured home, mobile home, tent or other structure~~
42 ~~which is not a dwelling, with intent to commit a felony, theft or sexual battery~~
43 ~~sexually motivated crime therein; or~~

1 ~~(3) vehicle, aircraft, watercraft, railroad car or other means of conveyance~~
2 ~~of persons or property, with intent to commit a felony, theft or sexual battery~~
3 ~~sexually motivated crime therein.~~

4 ~~(b) Aggravated burglary is, without authority, entering into or remaining~~
5 ~~within any building, manufactured home, mobile home, tent or other structure,~~
6 ~~or any vehicle, aircraft, watercraft, railroad car or other means of conveyance~~
7 ~~of persons or property in which there is a human being with intent to commit a~~
8 ~~felony, theft or sexual battery sexually motivated crime therein.~~

9 ~~(e) (1) Burglary as defined in:~~

10 ~~(A) Subsection (a)(1) is a severity level 7, person felony;~~

11 ~~(B) subsection (a)(2) is a severity level 7, nonperson felony; and~~

12 ~~(C) subsection (a)(3) is a severity level 9, nonperson felony.~~

13 ~~(2) Aggravated burglary is a severity level 5, person felony.~~

14 ~~(d) As used in this section, “sexually motivated” means that one of the~~
15 ~~purposes for which the defendant committed the crime was for the purpose of~~
16 ~~the defendant’s sexual gratification.~~

17 ~~Sec. 15. 11.~~ Section 129 of chapter 136 of the 2010 Session Laws of
18 Kansas is hereby amended to read as follows: Sec. 129. (a) Interference with
19 law enforcement is:

20 (1) ~~Falsely reporting to a law enforcement officer or state investigative~~
21 ~~agency that a crime has been committed, knowing that such information is~~
22 ~~false and intending that the officer or agency shall act in reliance upon such~~
23 ~~information; or :~~

24 (A) *That a particular person has committed a crime, knowing that such*
25 *information is false and intending that the officer or agency shall act in*
26 *reliance upon such information; or*

27 (B) *any information, knowing that such information is false and intending*
28 *to influence, impede or obstruct such officer’s or agency’s duty;*

29 (2) *concealing, destroying or materially altering evidence with the intent*
30 *to prevent or hinder the apprehension or prosecution of any person; or*

31 ~~(2)~~ (3) *knowingly obstructing, resisting or opposing any person*
32 *authorized by law to serve process in the service or execution or in the attempt*
33 *to serve or execute any writ, warrant, process or order of a court, or in the*
34 *discharge of any official duty.*

35 (b) (1) *Interference with law enforcement as defined in subsection (a)(1)*
36 *or (a)(2) is a class A nonperson misdemeanor, except as provided in*
37 *subsection (b)(2).*

38 (2) *Interference with law enforcement as defined in:*

39 (A) *Subsection (a)(1)(A) or (a)(2) is a severity level 8, nonperson felony*
40 *in the case of a felony; and*

41 (B) *subsection (a)(1)(B) is a severity level 9, nonperson felony in the case*
42 *of a felony.*

43 ~~(2)~~ (3) *Interference with law enforcement as defined in subsection (a)(2)*

1 (3) is a:

2 (A) Severity level 9, nonperson felony in the case of a felony, or resulting
3 from parole or any authorized disposition for a felony; and

4 (B) class A nonperson misdemeanor in the case of a misdemeanor, or
5 resulting from any authorized disposition for a misdemeanor, or a civil case.

6 ~~Sec. 16.~~ **12.** Section 130 of chapter 136 of the 2010 Session Laws of
7 Kansas is hereby amended to read as follows: Sec. 130. (a) Interference with
8 the judicial process is:

9 (1) Communicating with any judicial officer in relation to any matter
10 which is or may be brought before such judge, magistrate, master or juror with
11 intent improperly to influence such officer;

12 (2) committing any of the following acts, with intent to influence, impede
13 or obstruct the finding, decision, ruling, order, judgment or decree of such
14 judicial officer or prosecutor on any matter then pending before the officer or
15 prosecutor:

16 (A) Communicating in any manner a threat of violence to any judicial
17 officer or any prosecutor;

18 (B) harassing a judicial officer or a prosecutor by repeated vituperative
19 communication; or

20 (C) picketing, parading or demonstrating near such officer's or
21 prosecutor's residence or place of abode;

22 (3) picketing, parading or demonstrating in or near a building housing a
23 judicial officer or a prosecutor with intent to impede or obstruct the finding,
24 decision, ruling, order, judgment or decree of such judicial officer or
25 prosecutor on any matter then pending before the officer or prosecutor;

26 (4) knowingly accepting or agreeing to accept anything of value as
27 consideration for a promise:

28 (A) Not to initiate or aid in the prosecution of a person who has
29 committed a crime; or

30 (B) to conceal or, *destroy or materially alter* evidence of a crime; or

31 *(5) concealing, destroying or materially altering evidence with the intent*
32 *to influence, impede or obstruct any proceeding, civil or criminal; or*

33 ~~(5)~~ (6) when performed by a person summoned or sworn as a juror in any
34 case:

35 (A) Intentionally soliciting, accepting or agreeing to accept from another
36 any benefit as consideration to wrongfully give a verdict for or against any
37 party in any proceeding, civil or criminal;

38 (B) intentionally promising or agreeing to wrongfully give a verdict for or
39 against any party in any proceeding, civil or criminal; or

40 (C) knowingly receiving any evidence or information from anyone in
41 relation to any matter or cause for the trial of which such juror has been or will
42 be sworn, without the authority of the court or officer before whom such juror
43 has been summoned, and without immediately disclosing the same to such

1 court or officer.

2 (b) Interference with the judicial process as defined in:

3 (1) Subsection (a)(1) is a severity level 9, nonperson felony;

4 (2) subsection (a)(2) and (a)(3) is a class A nonperson misdemeanor;

5 (3) subsection (a)(4) is a:

6 (A) Severity level 8, nonperson felony if the crime is a felony; ~~or~~ and

7 (B) class A nonperson misdemeanor if the crime is a misdemeanor;

8 (4) *subsection (a)(5) is a:*

9 (A) *Severity level 8, nonperson felony if the proceeding is a felony*
10 *prosecution; and*

11 (B) *class A nonperson misdemeanor if the proceeding is any proceeding*
12 *other than a felony prosecution;*

13 ~~(4) (5) subsection (a)(5)(A) (a)(6)(A) is a severity level 7, nonperson~~
14 ~~felony; and~~

15 ~~(5) (6) subsection (a)(5)(B) (a)(6)(B) or (a)(5)(C) (a)(6)(C) is a severity~~
16 ~~level 9, nonperson felony.~~

17 (c) Nothing in this section shall limit or prevent the exercise by any court
18 of this state of its power to punish for contempt.

19 ~~Sec. 17.~~ **13.** Section 132 of chapter 136 of the 2010 Session Laws of
20 Kansas is hereby amended to read as follows: Sec. 132. (a) Simulating legal
21 process is:

22 (1) Distributing to another any document which simulates or purports to
23 be, or is designed to cause others to believe it to be, a summons, petition,
24 complaint or other ~~judicial~~ legal process, with ~~intent thereby to induce~~
25 ~~payment of a claim~~ *the intent to mislead the recipient and cause the recipient*
26 *to take action in reliance thereon; or*

27 (2) printing or distributing any such document, knowing that it shall be so
28 used.

29 (b) Simulating legal process is a class A nonperson misdemeanor.

30 (c) This section shall not apply to the printing or distribution of blank
31 forms of legal documents intended for actual use in judicial proceedings.

32 ~~Sec. 18.—Section 136 of chapter 136 of the 2010 Session Laws of Kansas~~
33 ~~is hereby amended to read as follows: Sec. 136. (a) Escape from custody is~~
34 ~~escaping while held in custody on a:~~

35 ~~(1) Charge or conviction of or arrest for a misdemeanor;~~

36 ~~(2) charge or , adjudication or arrest as a juvenile offender where the act,~~
37 ~~if committed by an adult, would constitute a misdemeanor; or~~

38 ~~(3) commitment to the state security hospital as provided in K.S.A. 22-~~
39 ~~3428, and amendments thereto, based on a finding that the person committed~~
40 ~~an act constituting a misdemeanor or by a person 18 years of age or over who~~
41 ~~is being held in custody on a adjudication of a misdemeanor.~~

42 ~~(b) Aggravated escape from custody is:~~

43 ~~(1) Escaping while held in custody:~~

- 1 ~~(A) Upon a charge or conviction of or arrest for a felony;~~
- 2 ~~(B) upon a charge or , adjudication or arrest as a juvenile offender where~~
- 3 ~~the act, if committed by an adult, would constitute a felony;~~
- 4 ~~(C) prior to or upon a finding of probable cause for evaluation as a~~
- 5 ~~sexually violent predator as provided in K.S.A. 59-29a05, and amendments~~
- 6 ~~thereto;~~
- 7 ~~(D) upon commitment to a treatment facility as a sexually violent~~
- 8 ~~predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;~~
- 9 ~~(E) upon a commitment to the state security hospital as provided in~~
- 10 ~~K.S.A. 22-3428, and amendments thereto, based on a finding that the person~~
- 11 ~~committed an act constituting a felony;~~
- 12 ~~(F) by a person 18 years of age or over who is being held on an~~
- 13 ~~adjudication of a felony; or~~
- 14 ~~(G) upon incarceration at a state correctional institution while in the~~
- 15 ~~custody of the secretary of corrections.~~
- 16 ~~(2) Escaping effected or facilitated by the use of violence or the threat of~~
- 17 ~~violence against any person while held in custody:~~
- 18 ~~(A) On a charge or conviction of any crime;~~
- 19 ~~(B) on a charge or adjudication as a juvenile offender where the act, if~~
- 20 ~~committed by an adult, would constitute a felony;~~
- 21 ~~(C) prior to or upon a finding of probable cause for evaluation as a~~
- 22 ~~sexually violent predator as provided in K.S.A. 59-29a05, and amendments~~
- 23 ~~thereto;~~
- 24 ~~(D) upon commitment to a treatment facility as a sexually violent~~
- 25 ~~predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;~~
- 26 ~~(E) upon a commitment to the state security hospital as provided in~~
- 27 ~~K.S.A. 22-3428, and amendments thereto, based on a finding that the person~~
- 28 ~~committed an act constituting any crime;~~
- 29 ~~(F) by a person 18 years of age or over who is being held on a charge or~~
- 30 ~~adjudication of a misdemeanor or felony; or~~
- 31 ~~(G) upon incarceration at a state correctional institution while in the~~
- 32 ~~custody of the secretary of corrections.~~
- 33 ~~(e) (1) Escape from custody is a class A nonperson misdemeanor.~~
- 34 ~~(2) Aggravated escape from custody as defined in:~~
- 35 ~~(A) Subsection (b)(1)(A), (b)(1)(C), (b)(1)(D), (b)(1)(E) or (b)(1)(F) is a~~
- 36 ~~severity level 8, nonperson felony;~~
- 37 ~~(B) subsection (b)(1)(B), or (b)(1)(G), (b)(2)(B) or (b)(2)(G) is a severity~~
- 38 ~~level 5, nonperson felony;~~
- 39 ~~(C) subsection (b)(2)(A), (b)(2)(C), (b)(2)(D), (b)(2)(E) or (b)(2)(F) is a~~
- 40 ~~severity level 6, nonperson person felony; and~~
- 41 ~~(D) subsection (b)(2)(B) or (b)(2)(G) is a severity level 5, person felony.~~
- 42 ~~(d) As used in this section and section 137 of chapter 136 of the 2010~~
- 43 ~~Session Laws of Kansas, and amendments thereto:~~

1 (1) ~~"Custody" means arrest; detention in a facility for holding persons~~
2 ~~charged with or convicted of crimes or charged or adjudicated as a juvenile~~
3 ~~offender; detention for extradition or deportation; detention in a hospital or~~
4 ~~other facility pursuant to court order, imposed as a specific condition of~~
5 ~~probation or parole or imposed as a specific condition of assignment to a~~
6 ~~community correctional services program; commitment to the state security~~
7 ~~hospital as provided in K.S.A. 22-3428, and amendments thereto; or any other~~
8 ~~detention for law enforcement purposes. "Custody" does not include general~~
9 ~~supervision of a person on probation or parole or constraint incidental to~~
10 ~~release on bail;~~

11 (2) ~~"escape" means departure from custody without lawful authority or~~
12 ~~failure to return to custody following temporary leave lawfully granted~~
13 ~~pursuant to express authorization of law or order of a court;~~

14 (3) ~~"juvenile offender" means the same as in K.S.A. 2009-2010 Supp. 38-~~
15 ~~2302, and amendments thereto; and~~

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

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

22 ~~Sec. 19. 14.~~ Section 165 of chapter 136 of the 2010 Session Laws of
23 Kansas is hereby amended to read as follows: Sec. 165. (a) Bribery is:

24 (1) ~~Offering, giving or promising to give, directly or indirectly, to any~~
25 ~~person who is a public officer, candidate for public office or public employee~~
26 ~~any benefit, reward or consideration to which the person is not legally entitled~~
27 ~~with intent thereby to influence the person with respect to the performance of~~
28 ~~the person's powers or duties as a public officer or employee~~ *with the intent to*
29 *improperly influence a public official, offering, giving or promising to give,*
30 *directly or indirectly, to any public official any benefit, reward or*
31 *consideration which the public official is not permitted by law to accept, in*
32 *exchange for the performance or omission of performance of the public*
33 *official's powers or duties or a promise to perform or omit performance of*
34 *such powers or duties; or*

35 (2) ~~the act of a person who is a public officer, candidate for public office~~
36 ~~or public employee, in requesting, receiving or agreeing to receive, directly or~~
37 ~~indirectly, any benefit, reward or consideration given with intent that the~~
38 ~~person will be so influenced~~ *the act of a public official, intentionally*
39 *requesting, receiving or agreeing to receive, directly or indirectly, any benefit,*
40 *reward or consideration, which the public official is not permitted by law to*
41 *accept, with the intent to improperly influence such public official and in*
42 *exchange for the performance or omission of performance of the public*
43 *official's powers or duties or a promise to perform or omit performance of*

1 *such powers or duties.*

2 (b) Bribery is a severity level 7, nonperson felony. Upon conviction of
3 bribery, a public ~~officer or public employee~~ *official* shall forfeit the person's
4 office or employment. Notwithstanding an expungement of the conviction
5 pursuant to section 254 *of chapter 136 of the 2010 Session Laws of Kansas,*
6 and amendments thereto, any person convicted of bribery under the provisions
7 of this section shall be forever disqualified from holding public office or
8 public employment in this state.

9 (c) *As used in this section, "public official" means any person who is a*
10 *public officer, candidate for public office or public employee.*

11 ~~Sec. 20.~~ **15.** Section 197 of chapter 136 of the 2010 Session Laws of
12 Kansas is hereby amended to read as follows: Sec. 197. (a) Criminal
13 possession of explosives is the possession of any explosive or detonating
14 substance by a person who, within five years preceding such possession, has
15 been convicted of a felony under the laws of this or any other jurisdiction or
16 has been released from imprisonment for a felony.

17 (b) Criminal disposal of explosives is knowingly *and without lawful*
18 *authority* distributing any explosive or detonating substance to a person:

19 (1) Under 21 years of age, *regardless of whether the seller, donor or*
20 *transferor knows the age of such person;*

21 (2) who is both addicted to and an unlawful user of a controlled
22 substance; or

23 (3) who, within the preceding five years, has been convicted of a felony
24 under the laws of this or any other jurisdiction or has been released from
25 imprisonment for a felony.

26 (c) Carrying concealed explosives is carrying any explosive or detonating
27 substance on the person in a wholly or partly concealed manner.

28 (d) (1) Criminal possession of explosives is a severity level 7, person
29 felony.

30 (2) Criminal disposal of explosives is a severity level 10, person felony.

31 (3) Carrying concealed explosives is a class *E A person* misdemeanor.

32 (e) As used in subsections (a) and (b), "explosives" means any chemical
33 compound, mixture or device, of which the primary purpose is to function by
34 explosion, and includes, but is not limited to, dynamite and other high
35 explosives, black powder, pellet powder, initiating explosives, detonators,
36 safety fuses, squibs, detonating cord, igniter cord and igniters.

37 ~~Sec. 24.~~ **16.** Section 223 of chapter 136 of the 2010 Session Laws of
38 Kansas is hereby amended to read as follows: Sec. 223. (a) Cruelty to animals
39 is:

40 (1) Knowingly and maliciously killing, injuring, maiming, torturing,
41 burning or mutilating any animal;

42 (2) knowingly abandoning any animal in any place without making
43 provisions for its proper care;

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

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

8 (5) knowingly but not maliciously killing or injuring any animal; or

9 (6) administering any poison to any domestic animal.

10 (b) Cruelty to animals as defined in:

11 (1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of
12 subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days
13 or more than one year's imprisonment and be fined not less than \$500 nor
14 more than \$5,000. The person convicted shall not be eligible for release on
15 probation, suspension or reduction of sentence or parole until the person has
16 served the minimum mandatory sentence as provided herein. During the
17 mandatory 30 days imprisonment, such offender shall have a psychological
18 evaluation prepared for the court to assist the court in determining conditions
19 of probation. Such conditions shall include, but not be limited to, the
20 completion of an anger management program; and

21 (2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) ~~are~~ is a:

22 (A) Class A nonperson misdemeanor, except as provided in subsection (b)
23 (2)(B); and

24 (B) nonperson felony upon the second or subsequent conviction of
25 cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon
26 such conviction, a person shall be sentenced to not less than five days or more
27 than one year's imprisonment and be fined not less than \$500 nor more than
28 \$2,500. The person convicted shall not be eligible for release on probation,
29 suspension or reduction of sentence or parole until the person has served the
30 minimum mandatory sentence as provided herein.

31 (c) The provisions of this section shall not apply to:

32 (1) Normal or accepted veterinary practices;

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

35 (3) killing, attempting to kill, trapping, catching or taking of any animal
36 in accordance with the provisions of chapter 32 or chapter 47 of the Kansas
37 Statutes Annotated, and amendments thereto;

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

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

1 request of the owner thereof, or by any officer or agent of an incorporated
2 humane society, the operator of an animal shelter or pound, a local or state
3 health officer or a licensed veterinarian three business days following the
4 receipt of any such animal at such society, shelter or pound;

5 (6) with respect to farm animals, normal or accepted practices of animal
6 husbandry, including the normal and accepted practices for the slaughter of
7 such animals for food or by-products and the careful or thrifty management of
8 one's herd or animals, including animal care practices common in the industry
9 or region;

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

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

18 (9) laying an equine down for medical or identification purposes;

19 (10) normal or accepted practices of pest control, as defined in subsection
20 (x) of K.S.A. 2-2438a, and amendments thereto; or

21 (11) accepted practices of animal husbandry pursuant to regulations
22 promulgated by the United States department of agriculture for domestic pet
23 animals under the animal welfare act, public law 89-544, as amended and in
24 effect on July 1, 2006.

25 (d) The provisions of subsection (a)(6) shall not apply to any person
26 exposing poison upon their premises for the purpose of destroying wolves,
27 coyotes or other predatory animals.

28 (e) Any public health officer, law enforcement officer, licensed
29 veterinarian or officer or agent of any incorporated humane society, animal
30 shelter or other appropriate facility may take into custody any animal, upon
31 either private or public property, which clearly shows evidence of cruelty to
32 animals, ~~as defined in this section~~. Such officer, agent or veterinarian may
33 inspect, care for or treat such animal or place such animal in the care of a duly
34 incorporated humane society or licensed veterinarian for treatment, boarding
35 or other care or, if an officer of such humane society or such veterinarian
36 determines that the animal appears to be diseased or disabled beyond recovery
37 for any useful purpose, for humane killing. If the animal is placed in the care
38 of an animal shelter, the animal shelter shall notify the owner or custodian, if
39 known or reasonably ascertainable. If the owner or custodian is charged with a
40 violation of this section, the board of county commissioners in the county
41 where the animal was taken into custody shall establish and approve
42 procedures whereby the animal shelter may petition the district court to be
43 allowed to place the animal for adoption or euthanize the animal at any time

1 after 2021 days after the owner or custodian is notified or, if the owner or
2 custodian is not known or reasonably ascertainable after 2021 days after the
3 animal is taken into custody, unless the owner or custodian of the animal files
4 a renewable cash or performance bond with the county clerk of the county
5 where the animal is being held, in an amount equal to not less than the cost of
6 care and treatment of the animal for 30 days. Upon receiving such petition, the
7 court shall determine whether the animal may be placed for adoption or
8 euthanized. The board of county commissioners in the county where the
9 animal was taken into custody shall review the cost of care and treatment
10 being charged by the animal shelter maintaining the animal.

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

15 (g) Expenses incurred for the care, treatment or boarding of any animal,
16 taken into custody pursuant to subsection (e), pending prosecution of the
17 owner or custodian of such animal for the crime of cruelty to animals, shall be
18 assessed to the owner or custodian as a cost of the case if the owner or
19 custodian is adjudicated guilty of such crime.

20 ~~(h) Upon the filing of a sworn complaint by any public health officer, law~~
21 ~~enforcement officer, licensed veterinarian or officer or agent of any~~
22 ~~incorporated humane society, animal shelter or other appropriate facility~~
23 ~~alleging the commission of cruelty to animals, the county or district attorney~~
24 ~~shall determine the validity of the complaint and shall forthwith file charges~~
25 ~~for the crime if the complaint appears to be valid.~~

26 (i) If a person is adjudicated guilty of the crime of cruelty to animals,
27 and the court having jurisdiction is satisfied that an animal owned or possessed
28 by such person would be in the future subjected to such crime, such animal
29 shall not be returned to or remain with such person. Such animal may be
30 turned over to a duly incorporated humane society or licensed veterinarian for
31 sale or other disposition.

32 (j) (i) As used in this section:

- 33 (1) "Equine" means a horse, pony, mule, jenny, donkey or hinny; and
- 34 (2) "maliciously" means a state of mind characterized by actual evil-
35 mindedness or specific intent to do a harmful act without a reasonable
36 justification or excuse.

37 ~~Sec. 22. 17.~~ Section 224 of chapter 136 of the 2010 Session Laws of
38 Kansas is hereby amended to read as follows: Sec. 224. (a) Unlawful
39 disposition of animals is knowingly raffling; *or* giving as a prize or premium
40 ~~or using as an advertising device or promotional display~~ living rabbits or
41 chickens, ducklings or goslings.

42 (b) Unlawful disposition of animals is a class C misdemeanor.

43 (c) The provisions of this section shall not apply to a person giving such

1 animals to minors for use in agricultural projects under the supervision of
 2 commonly recognized youth farm organizations.

3 ~~Sec. 23.~~ **18.** Section 300 of chapter 136 of the 2010 Session Laws of
 4 Kansas is hereby amended to read as follows: Sec. 300. (a) The provisions of
 5 subsections (a), (b), (c), (d), (e) and (h) of section 246 *of chapter 136 of the*
 6 *2010 Session Laws of Kansas*, and amendments thereto, regarding multiple
 7 sentences shall apply to the sentencing of offenders pursuant to the sentencing
 8 guidelines. The mandatory consecutive sentence requirements contained in
 9 subsections (c), (d) and (e) of section 246 *of chapter 136 of the 2010 Session*
 10 *Laws of Kansas*, and amendments thereto, shall not apply if such application
 11 would result in a manifest injustice.

12 (b) The sentencing judge shall otherwise have discretion to impose
 13 concurrent or consecutive sentences in multiple conviction cases. The
 14 sentencing judge *may consider the need to impose an overall sentence that is*
 15 *proportionate to the harm and culpability and shall state on the record if the*
 16 *sentence is to be served concurrently or consecutively. In cases where*
 17 *consecutive sentences may be imposed by the sentencing judge, the following*
 18 *shall apply:*

19 (1) When the sentencing judge imposes multiple sentences consecutively,
 20 the consecutive sentences shall consist of an imprisonment term which *is may*
 21 *not exceed* the sum of the consecutive imprisonment terms, and a supervision
 22 term. *The sentencing judge shall have the discretion to impose a consecutive*
 23 *term of imprisonment for a crime other than the primary crime of any term of*
 24 *months not to exceed the nonbase sentence as determined under subsection (b)*
 25 *(5). The postrelease supervision term will be based on the longest supervision*
 26 *term imposed for any of the crimes.*

27 (2) The sentencing judge shall establish a base sentence for the primary
 28 crime. The primary crime is the crime with the highest crime severity ranking.
 29 An off-grid crime shall not be used as the primary crime in determining the
 30 base sentence when imposing multiple sentences. If sentences for off-grid and
 31 on-grid convictions are ordered to run consecutively, the offender shall not
 32 begin to serve the on-grid sentence until paroled from the off-grid sentence,
 33 and the postrelease supervision term will be based on the off-grid crime. If
 34 more than one crime of conviction is classified in the same crime category, the
 35 sentencing judge shall designate which crime will serve as the primary crime.
 36 In the instance of sentencing with both the drug grid and the nondrug grid and
 37 simultaneously having a presumption of imprisonment and probation, the
 38 sentencing judge shall use the crime which presumes imprisonment as the
 39 primary crime. In the instance of sentencing with both the drug grid and the
 40 nondrug grid and simultaneously having a presumption of either both
 41 probation or both imprisonment, the sentencing judge shall use the crime with
 42 the longest sentence term as the primary crime.

43 (3) The base sentence is set using the total criminal history score

1 assigned.

2 (4) The total prison sentence imposed in a case involving multiple
3 convictions arising from multiple counts within an information, complaint or
4 indictment cannot exceed twice the base sentence. This limit shall apply only
5 to the total sentence, and it shall not be necessary to reduce the duration of any
6 of the nonbase sentences imposed to be served consecutively to the base
7 sentence. The postrelease supervision term will reflect only the longest such
8 term assigned to any of the crimes for which consecutive sentences are
9 imposed. Supervision periods shall not be aggregated.

10 (5) Nonbase sentences shall not have criminal history scores applied, as
11 calculated in the criminal history I column of the grid, but base sentences shall
12 have the full criminal history score assigned. In the event a conviction
13 designated as the primary crime in a multiple conviction case is reversed on
14 appeal, the appellate court shall remand the multiple conviction case for
15 resentencing. Upon resentencing, if the case remains a multiple conviction
16 case the court shall follow all of the provisions of this section concerning the
17 sentencing of multiple conviction cases.

18 (6) If the sentence for the primary crime is a prison term, the entire
19 imprisonment term of the consecutive sentences will be served in prison.

20 (7) If the sentence for the consecutive sentences is a prison term, the
21 postrelease supervision term is a term of postrelease supervision as established
22 for the primary crime.

23 (8) If the sentence for the primary crime is a nonprison sentence, a
24 nonprison term will be imposed for each crime conviction, but the nonprison
25 terms shall not be aggregated or served consecutively even though the
26 underlying prison sentences have been ordered to be served consecutively.
27 Upon revocation of the nonprison sentence, the offender shall serve the prison
28 sentences consecutively as provided in this section.

29 (c) The following shall apply for a departure from the presumptive
30 sentence based on aggravating factors within the context of consecutive
31 sentences:

32 (1) The court may depart from the presumptive limits for consecutive
33 sentences only if the judge finds substantial and compelling reasons to impose
34 a departure sentence for any of the individual crimes being sentenced
35 consecutively.

36 (2) When a departure sentence is imposed for any of the individual
37 crimes sentenced consecutively, the imprisonment term of that departure
38 sentence shall not exceed twice the maximum presumptive imprisonment term
39 that may be imposed for that crime.

40 (3) The total imprisonment term of the consecutive sentences, including
41 the imprisonment term for the departure crime, shall not exceed twice the
42 maximum presumptive imprisonment term of the departure sentence following
43 aggravation.

1 ~~Sec. 24.~~ **19.** K.S.A. **2009 Supp. 21-3110**, as amended by section 5 of
2 **chapter 101 of the 2010 Session Laws of Kansas, and K.S.A** 2010 Supp. 21-
3 3302, 21-3446, 21-3447, 21-3506, 21-4010, 21-4012 and 21-4311 and sections
4 9, ~~11, 34,~~ 37, 61, ~~68, 71,~~ 81, 92, ~~93,~~ 129, 130, 132, ~~136,~~ 165, 197, 223, 224 and
5 300 of chapter 136 of the 2010 Session Laws of Kansas are hereby repealed.

6 ~~Sec. 25.~~ **20.** This act shall take effect and be in force from and after its
7 publication in the statute book.
8