

**HOUSE BILL No. 2175**

By Representatives Hildabrand, Bradford, Christmann, Claeys, Dierks, Esau,  
Garber, Goico, Grosserode, Hedke, Houser, Howell, McPherson, Montgomery,  
O'Brien, Petty, Read, Rothlisberg, Rubin, Todd and Weber

1-30

1 AN ACT concerning crimes and punishments; relating to official  
2 misconduct; amending K.S.A. 2012 Supp. 21-6002 and repealing the  
3 existing section.  
4

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

6 Section 1. K.S.A. 2012 Supp. 21-6002 is hereby amended to read as  
7 follows: 21-6002. (a) Official misconduct is any of the following acts  
8 committed by a public officer or employee in the officer or employee's  
9 public capacity or under color of the officer or employee's office or  
10 employment:

11 (1) Knowingly using or authorizing the use of any aircraft, as defined  
12 by K.S.A. 3-201, and amendments thereto, vehicle, as defined by K.S.A.  
13 8-1485, and amendments thereto, or vessel, as defined by K.S.A. 32-1102,  
14 and amendments thereto, under the officer's or employee's control or  
15 direction, or in the officer's or employee's custody, exclusively for the  
16 private benefit or gain of the officer or employee or another;

17 (2) Knowingly failing to serve civil process when required by law;

18 (3) using confidential information acquired in the course of and  
19 related to the officer's or employee's office or employment for the private  
20 benefit or gain of the officer or employee or another or to intentionally  
21 cause harm to another;

22 (4) except as authorized by law, with the intent to reduce or eliminate  
23 competition among bidders or prospective bidders on any contract or  
24 proposed contract;

25 (A) Disclosing confidential information regarding proposals or  
26 communications from bidders or prospective bidders on any contract or  
27 proposed contract;

28 (B) accepting any bid or proposal on a contract or proposed contract  
29 after the deadline for acceptance of such bid or proposal; or

30 (C) altering any bid or proposal submitted by a bidder on a contract  
31 or proposed contract;

32 (5) except as authorized by law, knowingly destroying, tampering  
33 with or concealing evidence of a crime; or

34 (6) knowingly submitting to a governmental entity a claim for

Balloon Amendments for HB 2175  
Prepared by Jason Long  
Office of the Revisor of Statutes  
February 13, 2013

1 expenses which is false or duplicates expenses for which a claim is  
2 submitted to such governmental entity, another governmental or private  
3 entity; or

4 (7) as part of a determination of whether to grant another person  
5 access to a publicly accessible ~~venue or~~ form of transportation,  
6 intentionally and without probable cause;

7 (A) Touches the genitals, buttocks, anus or female breasts of such  
8 person, including touching through clothing;

9 (B) removes a child younger than 18 years of age from the physical  
10 custody or control of such child's parent or legal guardian;

11 (C) commits a violation of subsection (a) or (b) of K.S.A. 2012 Supp.  
12 21-5412, and amendments thereto; or

13 (D) harasses, delays, coerces, threatens, intimidates, or denies or  
14 conditions such person's accessibility because of such person's refusal to  
15 consent to subsections (a)(7)(A), (a)(7)(B) or (a)(7)(C).

16 (b) (1) Official misconduct as defined in:  
17 (A) Subsections (a)(1) through (a)(4) is a class A nonperson  
18 misdemeanor;

19 (B) subsection (a)(5) is a:

20 (i) Severity level 8, nonperson felony if the evidence is evidence of a  
21 crime which is a felony; and

22 (ii) class A nonperson misdemeanor if the evidence is evidence of a  
23 crime which is a misdemeanor; and

24 (C) subsection (a)(6) if the claim is:

25 (i) \$25,000 or more is a severity level 7, nonperson felony;

26 (ii) at least \$1,000 but less than \$25,000 is a severity level 9,  
27 nonperson felony; and

28 (iii) less than \$1,000 is a class A nonperson misdemeanor;

29 (D) subsection (a)(7) is a class A person misdemeanor.

30 (2) Upon conviction of official misconduct a public officer or  
31 employee shall forfeit such officer or employee's office or employment.

32 (c) The provisions of subsection (a)(1) shall not apply to any use of  
33 persons or property which:

34 (1) At the time of the use, is authorized by law or by formal written  
35 policy of the governmental entity; or

36 (2) constitutes misuse of public funds, as defined in K.S.A. 2012  
37 Supp. 21-6005, and amendments thereto.

38 (d) As used in subsection (a)(7), "public officer or employee"  
39 ~~includes, but is not limited to:~~

40 ~~(1) an officer, employee or agent of;~~

41 ~~(A) a federal branch, department or agency; or~~

42 ~~(B) any person acting under a contract with a federal branch;~~

43

~~department or agency to provide a security or law enforcement service; or  
(2) any person acting under color of federal law~~

means an officer, employee or agent of the federal transportation security administration, or any successor entity, or any person acting under a contract with the federal transportation security administration, or any successor entity.

(d) (e) As used in this section, "confidential" means any information that is not subject to mandatory disclosure pursuant to K.S.A. 45-221, and amendments thereto.

New Sec. 2. The attorney general, with the consent of the proper county or district attorney, shall take any actions necessary on behalf of the state of Kansas to defend the validity of K.S.A. 2012 Supp. 21-6002, and amendments thereto, if such section is challenged on grounds of unconstitutionality, preemption or sovereign immunity. The attorney general may make any legal arguments the attorney general considers appropriate, including, but not limited to, a valid exercise of the states police powers, liberty interests secured by the constitution of the United States, powers reserved to the states by the tenth amendment of the constitution of the United States or any rights and protections secured by the constitution of the state of Kansas.

Sec. 3. K.S.A. 2012 Supp. 21-6002 is hereby repealed.

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

