

SENATE BILL No. 473

By Senator Straub

2-9

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to escape from custody and aiding escape; increasing penalties for such
3 crimes involving sexually violent predators; amending K.S.A. 2021
4 Supp. 21-5911 and 21-5912 and repealing the existing sections.

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

7 Section 1. K.S.A. 2021 Supp. 21-5911 is hereby amended to read as
8 follows: 21-5911. (a) Escape from custody is escaping while held in
9 custody on a:

10 (1) Charge, conviction of or arrest for a misdemeanor;

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

13 (3) commitment to the state security hospital as provided in K.S.A.
14 22-3428, and amendments thereto, based on a finding that the person
15 committed an act constituting a misdemeanor or by a person 18 years of
16 age or over who is being held in custody on an adjudication of a
17 misdemeanor.

18 (b) Aggravated escape from custody is:

19 (1) Escaping while held in custody:

20 (A) Upon a charge, conviction of or arrest for a felony;

21 (B) upon a charge, adjudication or arrest as a juvenile offender where
22 the act, if committed by an adult, would constitute a felony;

23 (C) prior to or upon a finding of probable cause for evaluation as a
24 sexually violent predator as provided in K.S.A. 59-29a05, and
25 amendments thereto;

26 (D) upon commitment to a treatment facility as a sexually violent
27 predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;

28 (E) upon a commitment to the state security hospital as provided in
29 K.S.A. 22-3428, and amendments thereto, based on a finding that the
30 person committed an act constituting a felony;

31 (F) by a person 18 years of age or over who is being held on an
32 adjudication of a felony; or

33 (G) upon incarceration at a state correctional institution while in the
34 custody of the secretary of corrections.

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

- 1 (A) On a charge or conviction of any crime;
- 2 (B) on a charge or adjudication as a juvenile offender where the act, if
- 3 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
- 6 amendments 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
- 11 person committed an act constituting any crime;
- 12 (F) by a person 18 years of age or over who is being held on a charge
- 13 or adjudication of a misdemeanor or felony; or
- 14 (G) upon incarceration at a state correctional institution while in the
- 15 custody of the secretary of corrections.
- 16 (c) (1) Escape from custody is a class A nonperson misdemeanor.
- 17 (2) Aggravated escape from custody as defined in:
- 18 (A) Subsection (b)(1)(A), (b)(1)(C), ~~(b)(1)(D)~~; (b)(1)(E) or (b)(1)(F)
- 19 is a severity level 8, nonperson felony;
- 20 (B) *subsection (b)(1)(D) is a severity level 6, nonperson felony;*
- 21 (C) subsection (b)(1)(B) or (b)(1)(G) is a severity level 5, nonperson
- 22 felony;
- 23 ~~(C)(D)~~ subsection (b)(2)(A), (b)(2)(C), ~~(b)(2)(D)~~; (b)(2)(E) or (b)(2)
- 24 (F) is a severity level 6, person felony; and
- 25 ~~(D)(E)~~ subsection (b)(2)(B), *(b)(2)(D)* or (b)(2)(G) is a severity level
- 26 5, person felony.
- 27 (d) As used in this section and K.S.A. 2021 Supp. 21-5912, and
- 28 amendments thereto:
- 29 (1) "Custody" means arrest; detention in a facility for holding persons
- 30 charged with or convicted of crimes or charged or adjudicated as a juvenile
- 31 offender; detention for extradition or deportation; detention in a hospital or
- 32 other facility pursuant to court order, imposed as a specific condition of
- 33 probation or parole or imposed as a specific condition of assignment to a
- 34 community correctional services program; commitment to the state
- 35 security hospital as provided in K.S.A. 22-3428, and amendments thereto;
- 36 or any other detention for law enforcement purposes. "Custody" does not
- 37 include general supervision of a person on probation or parole or
- 38 constraint incidental to release on bail;
- 39 (2) "escape" means:
- 40 (A) Departure from custody without lawful authority; or
- 41 (B) failure to return to custody following temporary leave lawfully
- 42 granted by:
- 43 (i) Express authorization of law;

- 1 (ii) order of a court; or
2 (iii) a custodial official authorized to grant such leave;
3 (3) "juvenile offender" means the same as in K.S.A. 38-2302, and
4 amendments thereto; and
5 (4) "state correctional institution" means the same as in K.S.A. 75-
6 5202, and amendments thereto.
7 (e) As used in this section, the term "charge" shall not require that the
8 offender was held on a written charge contained in a complaint,
9 information or indictment, if such offender was arrested prior to such
10 offender's escape from custody.

11 Sec. 2. K.S.A. 2021 Supp. 21-5912 is hereby amended to read as
12 follows: 21-5912. (a) Aiding escape is:

13 (1) Assisting another who is in custody to escape from such custody;
14 or

15 (2) supplying to another who is in custody any object or thing
16 adapted or designed for use in making an escape; or

17 (3) introducing into an institution in which a person is confined any
18 object or thing adapted or designed for use in making any escape.

19 (b) Aiding escape is a:

20 (1) Severity level 8, nonperson felony, except as provided in
21 ~~subsection subsections (b)(2), (b)(3) and (b)(4); and~~

22 (2) *severity level 8, person felony, except as provided in subsections*
23 *(b)(3) and (b)(4), if the person who receives such aid is committed to such*
24 *treatment facility as a sexually violent predator as provided in K.S.A. 59-*
25 *29a01 et seq., and amendments thereto;*

26 (3) *severity level 4, nonperson felony if such aiding escape is by an*
27 *employee or volunteer of the department of corrections, or the employee*
28 *or volunteer of a contractor who is under contract to provide services to*
29 *the department of corrections; and*

30 (4) *severity level 4, person felony if such aiding escape is by an*
31 *employee or volunteer of a treatment facility for sexually violent predators*
32 *and the person who receives such aid is committed to such treatment*
33 *facility as a sexually violent predator as provided in K.S.A. 59-29a01 et*
34 *seq., and amendments thereto.*

35 (c) As used in this section "custody" includes custody on a charge or
36 conviction of crime, on a charge or adjudication of a misdemeanor or
37 felony, or on a commitment to the state security hospital as provided in
38 K.S.A. 22-3428, and amendments thereto, based on a finding that the
39 person committed an act constituting any crime.

40 Sec. 3. K.S.A. 2021 Supp. 21-5911 and 21-5912 are hereby repealed.

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