

HOUSE BILL No. 2826

By Committee on Health and Human Services

2-6

9 AN ACT concerning crimes and punishments; relating to sentencing;
10 amending K.S.A. 2005 Supp. 21-4717 and repealing the existing
11 section.

12

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

14 Section 1. K.S.A. 2005 Supp. 21-4717 is hereby amended to read as
15 follows: 21-4717. (a) The following aggravating factors, which apply to
16 drug crimes committed on or after July 1, 1993, under the sentencing
17 guidelines system, may be considered in determining whether substantial
18 and compelling reasons for departure exist:

19 (1) The crime was committed as part of a major organized drug man-
20 ufacture, production, cultivation or delivery activity. Two or more of the
21 following nonexclusive factors constitute evidence of major organized
22 drug manufacture, production, cultivation or delivery activity:

23 (A) The offender derived a substantial amount of money or asset
24 ownership from the illegal drug sale activity.

25 (B) The presence of a substantial quantity or variety of weapons or
26 explosives at the scene of arrest or associated with the illegal drug activity.

27 (C) The presence of drug transaction records or customer lists that
28 indicate a drug sale activity of major size.

29 (D) The presence of manufacturing or distribution materials such as,
30 but not limited to, drug recipes, precursor chemicals, laboratory equip-
31 ment, lighting, irrigation systems, ventilation, power-generation, scales or
32 packaging material.

33 (E) Building acquisitions or building modifications including but not
34 limited to painting, wiring, plumbing or lighting which advanced or fa-
35 cilitated the commission of the offense.

36 (F) Possession of large amounts of illegal drugs or substantial quan-
37 tities of controlled substances.

38 (G) A showing that the offender has engaged in repeated criminal
39 acts associated with the manufacture, production, cultivation or delivery
40 of controlled substances.

41 (H) *The offender manufactured or attempted to manufacture con-*
42 *trolled substances in or on, or within 1,000 feet of any licensed day care,*
43 *public park, playground, school property or other property upon which*

- 1 *is located a structure used by a unified school district or an accredited*
2 *nonpublic school for student instruction or attendance or extracurricular*
3 *activities of pupils enrolled in kindergarten or any of the grades one*
4 *through 12, or in the presence of a person under 18 years of age.*
- 5 (2) The offender possessed illegal drugs:
- 6 (A) With intent to sell, which were sold or were offered for sale to a
7 person under 18 years of age; or
- 8 (B) with the intent to sell, deliver or distribute or which were sold or
9 offered for sale in the immediate presence of a person under 18 years of
10 age.
- 11 (3) The offender, 18 or more years of age, employs, hires, uses, per-
12 suades, induces, entices or coerces any individual under 16 years of age
13 to violate or assist in avoiding detection or apprehension for violation of
14 any provision of the uniform controlled substances act, K.S.A. 65-4101 *et*
15 *seq.* and amendments thereto or any attempt, conspiracy or solicitation
16 as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments
17 thereto to commit a violation of any provision of the uniform controlled
18 substances act regardless of whether the offender knew the age of the
19 individual under 16 years of age.
- 20 (4) The offender was incarcerated during the commission of the
21 offense.
- 22 (b) In determining whether aggravating factors exist as provided in
23 this section, the court shall review the victim impact statement.
- 24 Sec. 2. K.S.A. 2005 Supp. 21-4717 is hereby repealed.
- 25 Sec. 3. This act shall take effect and be in force from and after its
26 publication in the statute book.