

HOUSE Substitute for SENATE BILL No. 345

By Committee on Corrections and Juvenile Justice

3-3

9 AN ACT concerning crimes, punishment and criminal procedure;
10 amending K.S.A. 9-2012, 16-305, 17-12a508, 17-1311a, 19-3519, 21-
11 3437, 21-3701, 21-3704, 21-3707, 21-3720, 21-3729, 21-3734, 21-3761,
12 21-3763, 21-3846, 21-3902, 21-3904, 21-3905, 21-3910, 21-4018, 21-
13 4111, 39-720 and K.S.A. 2009 Supp. 39-717, 40-247, 40-2,118, 40-
14 5013, 44-5,125, 44-719, 47-1827, 65-4167, 74-9101 and 75-5291 and
15 repealing the existing sections.

16

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

18 Section 1. K.S.A. 9-2012 is hereby amended to read as follows: 9-
19 2012. ~~Every~~ (a) *It shall be unlawful for a president, director, cashier,*
20 *assistant cashier, teller, clerk, officer or agent of any bank or trust com-*
21 *pany* ~~who embezzles, abstracts with the intent to injure, defraud or de-~~
22 *ceive any individual, bank, trust company, business entity or agent ap-*
23 *pointed to examine the affairs of the bank or trust company to:*

24 (1) *Embezzle, abstract or willfully* ~~misapplies~~ *misapply* any of the
25 moneys, funds, securities or credits of the bank or trust company, ~~or who~~
26 ~~issues or puts;~~

27 (2) *issue or put* forth any certificate of deposit, ~~draws~~ *draw* any draft
28 or bill of exchange, ~~makes~~ *make* any acceptance, ~~assigns~~ *assign* any note,
29 bond, draft, bill of exchange, ~~or who makes; or~~

30 (3) *make* use of the name of the bank or trust company in any manner;
31 ~~with intent in either case to injure or defraud the bank or trust company~~
32 ~~or any individual, person, partnership, company or corporation, or to de-~~
33 ~~ceive any officer of the bank or trust company or any agent appointed to~~
34 ~~examine the affairs of the bank or trust company, and any person who~~
35 ~~with like intent aids or abets.~~

36 (b) *It shall be unlawful for a person to aid or abet* any officer, clerk
37 or agent in violation of this act, ~~upon conviction shall be guilty of a severity~~
38 ~~level 7, nonperson felony.~~

39 (c) *Violation of this section in an amount of:*

40 (1) *\$100,000 or more is a severity level 5, nonperson felony;*

41 (2) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
42 *person felony;*

43 (3) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*

1 *person felony;*

2 (4) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
3 *person felony;*

4 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
5 *son felony;*

6 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
7 *son felony;*

8 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
9 *meanor; and*

10 (8) *less than \$500 is a class B nonperson misdemeanor.*

11 Sec. 2. K.S.A. 16-305 is hereby amended to read as follows: 16-305.

12 Every person who violates any provision of this act: (a) Other than by
13 misappropriating funds in violation of an agreement ~~shall be~~ *is* guilty of
14 a *class C nonperson* misdemeanor, ~~and, upon conviction shall be fined~~
15 ~~not less than \$100 nor more than \$500, or shall be imprisoned for not~~
16 ~~less than 10 days nor more than 90 days, or both;~~ and (b) by misapprop-
17 riating funds in violation of an agreement in an amount of:

18 ~~(1) Of \$25,000 or more shall be guilty of a severity level 7, nonperson~~
19 ~~felony;~~

20 ~~(2) of at least \$1,000 but less than \$25,000 shall be guilty of a severity~~
21 ~~level 9, nonperson felony; or~~

22 ~~(3) of less than \$1,000 shall be guilty of a class A nonperson misde-~~
23 ~~meanor.~~

24 (1) *\$100,000 or more is guilty of a severity level 5, nonperson felony;*

25 (2) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
26 *person felony;*

27 (3) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
28 *person felony;*

29 (4) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
30 *person felony;*

31 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
32 *son felony;*

33 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
34 *son felony;*

35 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
36 *meanor; and*

37 (8) *less than \$500 is a class B nonperson misdemeanor.*

38 Sec. 3. K.S.A. 17-12a508 is hereby amended to read as follows: 17-

39 12a508. (a) *Criminal penalties.* (1) Except as provided in subsections
40 (a)(2) through (a)(4), a conviction for an intentional violation of ~~this the~~
41 *Kansas uniform securities act*, or a rule adopted or order issued under
42 this act, except K.S.A. 17-12a504, and amendments thereto, or the notice
43 filing requirements of K.S.A. 17-12a302 or 17-12a405, and amendments

1 thereto, is a severity level ~~7~~ 8, nonperson felony. An individual convicted
 2 of violating a rule or order under this act may be fined, but may not be
 3 imprisoned, if the individual did not have knowledge of the rule or order.

4 (2) A conviction for an intentional violation of K.S.A. 17-12a501 or
 5 17-12a502, and amendments thereto, is:

6 ~~(A) A severity level 4, nonperson felony if the violation resulted in a~~
 7 ~~loss of \$100,000 or more;~~

8 ~~(B) a severity level 5, nonperson felony if the violation resulted in a~~
 9 ~~loss of at least \$25,000 but less than \$100,000, or~~

10 ~~(C) a severity level 7, nonperson felony if the violation resulted in a~~
 11 ~~loss of less than \$25,000. if the violation resulted in a loss of an amount~~
 12 ~~of:~~

13 (A) \$1,000,000 or more is a severity level 2, nonperson felony;

14 (B) at least \$250,000 but less than \$1,000,000 is a severity level 3,
 15 nonperson felony;

16 (C) at least \$100,000 but less than \$250,000 is a severity level 4,
 17 nonperson felony;

18 (D) at least \$75,000 but less than \$100,000 is a severity level 5, non-
 19 person felony;

20 (E) at least \$50,000 but less than \$75,000 is a severity level 6, non-
 21 person felony;

22 (F) at least \$25,000 but less than \$50,000 is a severity level 7, non-
 23 person felony; and

24 (G) less than \$25,000 is a severity level 8, nonperson felony.

25 (3) A conviction for an intentional violation of K.S.A. 17-12a301, 17-
 26 12a401(a), ~~17-12a401(c)~~, 17-12a402(a), ~~17-12a402(d)~~, 17-12a403(a), ~~17-~~
 27 ~~12a403(c)~~, ~~17-12a403(d)~~, or 17-12a404(a), or ~~17-12a404(c)~~, and amend-
 28 ments thereto, is:

29 ~~(A) A severity level 5, nonperson felony if the violation resulted in a~~
 30 ~~loss of \$100,000 or more;~~

31 ~~(B) a severity level 6, nonperson felony if the violation resulted in a~~
 32 ~~loss of at least \$25,000 but less than \$100,000, or~~

33 ~~(C) a severity level 7, nonperson felony if the violation resulted in a~~
 34 ~~loss of less than \$25,000. if the violation resulted in a loss of an amount~~
 35 ~~of:~~

36 (A) \$100,000 or more is a severity level 5, nonperson felony;

37 (B) at least \$75,000 but less than \$100,000 is a severity level 6, non-
 38 person felony;

39 (C) at least \$50,000 but less than \$75,000 is a severity level 7, non-
 40 person felony;

41 (D) at least \$25,000 but less than \$50,000 is a severity level 8, non-
 42 person felony;

43 (E) at least \$2,000 but less than \$25,000 is a severity level 9, nonper-

1 *son felony; and*

2 (F) *less than \$2,000 is a severity level 10, nonperson felony.*

3 (4) A conviction for an intentional violation of ~~K.S.A. 17-12a505 or~~
4 ~~17-12a506, and amendments thereto, is a severity level 8, nonperson~~
5 ~~felony.~~

6 (A) *K.S.A. 17-12a404(e), 17-12a505 or 17-12a506, and amendments*
7 *thereto, or an order to cease and desist issued by the administrator pur-*
8 *suant to K.S.A. 17-12a412(c) or 17-12a604(a), and amendments thereto,*
9 *is a severity level 6, nonperson felony.*

10 (B) *K.S.A. 17-12a401(c) or 17-12a403(c), and amendments thereto,*
11 *is a severity level 7, nonperson felony.*

12 (5) Any violation of K.S.A. 17-12a301, 17-12a401(a), ~~17-12a401(c),~~
13 ~~17-12a402(a), 17-12a402(d), 17-12a403(a), 17-12a403(c), 17-12a403(d),~~
14 ~~17-12a404(a), 17-12a404(e), 17-12a501 or 17-12a502, and amendments~~
15 ~~thereto, resulting in a loss of \$25,000 or more shall have a presumptive~~
16 ~~sentence of imprisonment regardless of its location on the sentencing grid~~
17 ~~block be presumed imprisonment.~~

18 (b) *Statute of Limitations.* Except as provided by subsection (9) of
19 K.S.A. 21-3106, and amendments thereto, no prosecution for any crime
20 under this act may be commenced more than 10 years after the alleged
21 violation if the victim is the Kansas public employees retirement system
22 and no prosecution for any other crime under this act may be commenced
23 more than five years after the alleged violation. A prosecution is com-
24 menced when a complaint or information is filed, or an indictment re-
25 turned, and a warrant thereon is delivered to the sheriff or other officer
26 for execution, except that no prosecution shall be deemed to have been
27 commenced if the warrant so issued is not executed without unreasonable
28 delay.

29 (c) *Criminal reference.* The administrator may refer such evidence as
30 may be available concerning violations of this act or of any rules and
31 regulations or order hereunder to the attorney general or the proper
32 county or district attorney, who may in the prosecutor's discretion, with
33 or without such a reference, institute the appropriate criminal proceed-
34 ings under this act. Upon receipt of such reference, the attorney general
35 or the county attorney or district attorney may request that a duly em-
36 ployed attorney of the administrator prosecute or assist in the prosecution
37 of such violation or violations on behalf of the state. Upon approval of the
38 administrator, such employee shall be appointed a special prosecutor for
39 the attorney general or the county attorney or district attorney to serve
40 without compensation from the attorney general or the county attorney
41 or district attorney. Such special prosecutor shall have all the powers and
42 duties prescribed by law for assistant attorneys general or assistant county
43 or district attorneys and such other powers and duties as are lawfully

1 delegated to such special prosecutor by the attorney general or the county
2 attorney or district attorney. If an attorney employed by the administrator
3 acts as a special prosecutor, the administrator may pay extradition and
4 witness expenses associated with the case.

5 (d) *No limitation on other criminal enforcement.* This act does not
6 limit the power of this state to punish a person for conduct that constitutes
7 a crime under other laws of this state.

8 Sec. 4. K.S.A. 17-1311a is hereby amended to read as follows: 17-
9 1311a. (a) Misuse of the permanent maintenance fund or any money
10 belonging thereto is using, lending or permitting another to use, moneys
11 in the fund in a manner not authorized by law, by a custodian or other
12 person having charge or control of such fund or moneys by virtue of his
13 position.

14 (b) Misuse of the permanent maintenance fund is a severity level 7,
15 nonperson felony, in an amount of:

- 16 (1) \$100,000 or more is a severity level 5, nonperson felony;
17 (2) at least \$75,000 but less than \$100,000 is a severity level 6, non-
18 person felony;
19 (3) at least \$50,000 but less than \$75,000 is a severity level 7, non-
20 person felony;
21 (4) at least \$25,000 but less than \$50,000 is a severity level 8, non-
22 person felony;
23 (5) at least \$2,000 but less than \$25,000 is a severity level 9, nonper-
24 son felony;
25 (6) at least \$1,000 but less than \$2,000 is a severity level 10, nonper-
26 son felony;
27 (7) at least \$500 but less than \$1,000 is a class A nonperson misde-
28 meanor; and
29 (8) less than \$500 is a class B nonperson misdemeanor.

30 Sec. 5. K.S.A. 19-3519 is hereby amended to read as follows: 19-
31 3519. (a) All claims, accounts and necessary expenses of the water district
32 lawfully incurred and approved shall be paid from appropriate available
33 funds in bank accounts of the water district by voucher check supported
34 by an appropriate purchase order or statement of service. All such claims
35 shall be presented in writing with a full account of the items and may be
36 the usual statement of account of the vendor or party rendering a service
37 or other written statement showing the required information.

38 (b) ~~(1)~~ Any person who obtains money from the district by inten-
39 tionally making a fraudulent claim for a sum of less than \$1,000 is guilty
40 of a class A nonperson misdemeanor.

41 ~~(2)~~ Any person who obtains money from the district by intentionally
42 making a fraudulent claim for at least \$1,000 but less than \$25,000 is
43 guilty of a severity level 9, nonperson felony.

1 ~~(3) Any person who obtains money from the district by intentionally~~
2 ~~making a fraudulent claim for \$25,000 or more is guilty of a severity level~~
3 ~~7, nonperson felony, in an amount of:~~
4 (1) \$100,000 or more is a severity level 5, nonperson felony;
5 (2) at least \$75,000 but less than \$100,000 is a severity level 6, non-
6 person felony;
7 (3) at least \$50,000 but less than \$75,000 is a severity level 7, non-
8 person felony;
9 (4) at least \$25,000 but less than \$50,000 is a severity level 8, non-
10 person felony;
11 (5) at least \$2,000 but less than \$25,000 is a severity level 9, nonper-
12 son felony;
13 (6) at least \$1,000 but less than \$2,000 is a severity level 10, nonper-
14 son felony;
15 (7) at least \$500 but less than \$1,000 is a class A nonperson misde-
16 meanor; and
17 (8) less than \$500 is a class B nonperson misdemeanor.
18 (c) The water district board shall see that there is kept a correct rec-
19 ord of all voucher checks issued showing the number, date and amount
20 thereof and the name of the person or persons to whom such checks are
21 made payable and with appropriate reference to the applicable purchase
22 order or other claim, account or expense record, including payroll re-
23 cords. Any employee or officer authorized to sign or countersign voucher
24 checks shall be covered by a surety bond in the form and amount as
25 determined by the board.
26 Sec. 6. K.S.A. 21-3437 is hereby amended to read as follows: 21-
27 3437. (a) Mistreatment of a dependent adult is knowingly and intention-
28 ally committing one or more of the following acts:
29 (1) Infliction of physical injury, unreasonable confinement or cruel
30 punishment upon a dependent adult;
31 (2) taking unfair advantage of a dependent adult's physical or financial
32 resources for another individual's personal or financial advantage by the
33 use of undue influence, coercion, harassment, duress, deception, false
34 representation or false pretense by a caretaker or another person; or
35 (3) omitting or depriving treatment, goods or services by a caretaker
36 or another person which are necessary to maintain physical or mental
37 health of a dependent adult.
38 (b) No dependent adult is considered to be mistreated for the sole
39 reason that such dependent adult relies upon or is being furnished treat-
40 ment by spiritual means through prayer in lieu of medical treatment in
41 accordance with the tenets and practices of a recognized church or relig-
42 ious denomination of which such dependent adult is a member or
43 adherent.

- 1 (c) For purposes of this section: “Dependent adult” means an indi-
2 vidual 18 years of age or older who is unable to protect their own interest.
3 Such term shall include:
- 4 (1) Any resident of an adult care home including but not limited to
5 those facilities defined by K.S.A. 39-923 and amendments thereto;
 - 6 (2) any adult cared for in a private residence;
 - 7 (3) any individual kept, cared for, treated, boarded or otherwise ac-
8 commodated in a medical care facility;
 - 9 (4) any individual with mental retardation or a developmental disa-
10 bility receiving services through a community mental retardation facility
11 or residential facility licensed under K.S.A. 75-3307b and amendments
12 thereto;
 - 13 (5) any individual with a developmental disability receiving services
14 provided by a community service provider as provided in the develop-
15 mental disability reform act; or
 - 16 (6) any individual kept, cared for, treated, boarded or otherwise ac-
17 commodated in a state psychiatric hospital or state institution for the
18 mentally retarded.
- 19 (d) (1) Mistreatment of a dependent adult as defined in subsection
20 (a)(1) is a severity level 6, person felony.
- 21 (2) Mistreatment of a dependent adult as defined in subsection (a)(2)
22 ~~is a severity level 6, person felony if the aggregate amount of the value~~
23 ~~of the resources is \$100,000 or more.~~
- 24 ~~—(3)— Mistreatment of a dependent adult as defined in subsection (a)(2)~~
25 ~~is a severity level 7, person felony if the aggregate amount of the value~~
26 ~~of the resources is at least \$25,000 but less than \$100,000.~~
- 27 ~~—(4)— Mistreatment of a dependent adult as defined in subsection (a)(2)~~
28 ~~is a severity level 9, person felony if the aggregate amount of the value~~
29 ~~of the resources is at least \$1,000 but less than \$25,000.~~
- 30 ~~—(5)— Mistreatment of a dependent adult as defined in subsection (a)(2)~~
31 ~~is a class A person misdemeanor if the aggregate amount of the value of~~
32 ~~the resources is less than \$1,000.~~
- 33 ~~—(6)—, if the aggregate amount of the value of the resources is:~~
- 34 (A) \$100,000 or more is a severity level 5, nonperson felony;
 - 35 (B) at least \$75,000 but less than \$100,000 is a severity level 6, non-
36 person felony;
 - 37 (C) at least \$50,000 but less than \$75,000 is a severity level 7, non-
38 person felony;
 - 39 (D) at least \$25,000 but less than \$50,000 is a severity level 8, non-
40 person felony;
 - 41 (E) at least \$2,000 but less than \$25,000 is a severity level 9, nonper-
42 son felony;
 - 43 (F) at least \$1,000 but less than \$2,000 is a severity level 10, nonper-

1 *son felony;*
2 (G) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
3 *meanor; and*
4 (H) *less than \$500 is a class B nonperson misdemeanor.*
5 (3) Mistreatment of a dependent adult as defined in subsection (a)(3)
6 is a class A person misdemeanor.
7 ~~(7)~~ (4) Mistreatment of a dependent adult as defined in subsection
8 (a)(2) is a severity level 9, person felony if the aggregate amount of the
9 value of the resources is less than \$1,000 and committed by a person who
10 has, within five years immediately preceding commission of the crime,
11 been convicted of mistreatment of a dependent adult two or more times.
12 Sec. 7. K.S.A. 21-3701 is hereby amended to read as follows: 21-
13 3701. (a) Theft is any of the following acts done with intent to deprive
14 the owner permanently of the possession, use or benefit of the owner's
15 property:
16 (1) Obtaining or exerting unauthorized control over property;
17 (2) obtaining by deception control over property;
18 (3) obtaining by threat control over property; or
19 (4) obtaining control over stolen property knowing the property to
20 have been stolen by another.
21 (b) (1) *Except as provided further,* theft of property of the value of:
22 (A) \$100,000 or more is a severity level 5, nonperson felony;
23 ~~(2) Theft of property of the value of at least \$25,000 but less than~~
24 ~~\$100,000 is a severity level 7, nonperson felony.~~
25 ~~(3) Theft of property of the value of at least \$1,000 but less than~~
26 ~~\$25,000 is a severity level 9, nonperson felony.~~
27 (B) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
28 *person felony;*
29 (C) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
30 *person felony;*
31 (D) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
32 *person felony;*
33 (E) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
34 *son felony;*
35 (F) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
36 *son felony;*
37 (G) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
38 *meanor; and*
39 (H) *less than \$500 is a class B nonperson misdemeanor.*
40 ~~(4)~~ (2) Theft of property regardless of the value from three separate
41 mercantile establishments within a period of 72 hours as part of the same
42 act or transaction or in two or more acts or transactions connected to-
43 gether or constituting parts of a common scheme or course of conduct is

1 a severity level 9, nonperson felony.
2 ~~(5) Theft of property of the value of less than \$1,000 is a class A~~
3 ~~nonperson misdemeanor.~~
4 ~~(6)~~ (3) Theft of property of the value of less than \$1,000 is a severity
5 level 9, nonperson felony if committed by a person who has been con-
6 victed of theft two or more times.
7 (c) Conviction of a violation of a municipal ordinance prohibiting acts
8 which constitute theft as defined by this section shall be considered a
9 conviction of theft for the purpose of determining the number of prior
10 convictions and the classification of the crime under this section.
11 Sec. 8. K.S.A. 21-3704 is hereby amended to read as follows: 21-
12 3704. (a) Theft of services is obtaining services from another by deception,
13 threat, coercion, stealth, tampering or use of false token or device.
14 (b) "Services" within the meaning of this section, includes, but is not
15 limited to, labor, professional service, cable television service, public or
16 municipal utility or transportation service, telephone service, lodging, en-
17 tertainment and the supplying of equipment for use. For purposes of this
18 section, rural water districts and rural electric cooperatives shall be con-
19 sidered public utilities.
20 (c) "Tampering" within the meaning of this section, includes, but is
21 not limited to:
22 (1) Making a connection of any wire, conduit or device, to any service
23 or transmission line owned by a public or municipal utility, or by a cable
24 television service provider;
25 (2) defacing, puncturing, removing, reversing or altering any meter
26 or any connections, for the purpose of securing unauthorized or unmea-
27 sured electricity, natural gas, water, telephone service or cable television
28 service;
29 (3) preventing any such meters from properly measuring or
30 registering;
31 (4) knowingly taking, receiving, using or converting to such person's
32 own use, or the use of another, any electricity, water or natural gas which
33 has not been measured; or any telephone or cable television service which
34 has not been authorized; or
35 (5) causing, procuring, permitting, aiding or abetting any person to
36 do any of the preceding acts.
37 (d) In any prosecution under this section, the existence of any of the
38 connections of meters, alterations or use of unauthorized or unmeasured
39 electricity, natural gas, water, telephone service or cable television serv-
40 ice, specified in subsection (c), shall be prima facie evidence of intent to
41 violate the provisions of this section by the person or persons using or
42 receiving the direct benefits from the use of the electricity, natural gas,
43 water, telephone service or cable television service passing through such

1 connections or meters, or using the electricity, natural gas, water, tele-
 2 phone service or cable television service which has not been authorized
 3 or measured.

4 (e) ~~(1)~~ Theft of services of the value of:

5 (1) \$100,000 or more is a severity level 5, nonperson felony;

6 ~~(2) Theft of services of the value of at least \$25,000 but less than~~
 7 ~~\$100,000 is a severity level 7, nonperson felony.~~

8 ~~(3) Theft of services of the value of at least \$1,000 but less than~~
 9 ~~\$25,000 is a severity level 9, nonperson felony.~~

10 ~~(4) Theft of services of the value of less than \$1,000 is a class A~~
 11 ~~nonperson misdemeanor.~~

12 (2) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
 13 *person felony;*

14 (3) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
 15 *person felony;*

16 (4) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
 17 *person felony;*

18 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
 19 *son felony;*

20 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
 21 *son felony;*

22 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
 23 *meanor; and*

24 (8) *less than \$500 is a class B nonperson misdemeanor.*

25 Sec. 9. K.S.A. 21-3707 is hereby amended to read as follows: 21-
 26 3707. (a) Giving a worthless check is the making, drawing, issuing or
 27 delivering or causing or directing the making, drawing, issuing or deliv-
 28 ering of any check, order or draft on any bank, credit union, savings and
 29 loan association or depository for the payment of money or its equivalent
 30 with intent to defraud and knowing, at the time of the making, drawing,
 31 issuing or delivering of such check, order or draft, that the maker or
 32 drawer has no deposit in or credits with the drawee or has not sufficient
 33 funds in, or credits with, the drawee for the payment of such check, order
 34 or draft in full upon its presentation.

35 (b) In any prosecution against the maker or drawer of a check, order
 36 or draft payment, of which has been refused by the drawee on account
 37 of insufficient funds, the making, drawing, issuing or delivering of such
 38 check shall be prima facie evidence of intent to defraud and of knowledge
 39 of insufficient funds in, or on deposit with, the drawee: (1) Unless the
 40 maker or drawer pays the holder thereof the amount due thereon and a
 41 service charge not exceeding \$30 for each check, within seven days after
 42 notice has been given to the maker or drawer that such check, draft or
 43 order has not been paid by the drawee. As used in this section, "notice"

1 includes oral or written notice to the person entitled thereto. Written
 2 notice shall be presumed to have been given when deposited as restricted
 3 matter in the United States mail, addressed to the person to be given
 4 notice at such person's address as it appears on such check, draft or order;
 5 or (2) if a postdated date is placed on the check, order or draft without
 6 the knowledge or consent of the payee.

7 (c) In addition to all other costs and fees allowed by law, each pros-
 8 ecuting attorney who takes any action under the provisions of this section
 9 may collect from the issuer in such action an administrative handling cost,
 10 except in cases filed in a court of appropriate jurisdiction. The cost shall
 11 not exceed \$10 for each check. If the issuer of the check is convicted in
 12 district court, the administrative handling costs may be assessed as part
 13 of the court costs in the matter. The moneys collected pursuant to this
 14 subsection shall be deposited into a trust fund which shall be administered
 15 by the board of county commissioners. The funds shall be expended only
 16 with the approval of the board of county commissioners, but may be used
 17 to help fund the normal operating expenses of the county or district at-
 18 torney's office.

19 (d) It shall not be a defense to a prosecution under this section that
 20 the check, draft or order upon which such prosecution is based:

21 (1) Was postdated, unless such check, draft or order was presented
 22 for payment prior to the postdated date; or

23 (2) was given to a payee who had knowledge or had been informed,
 24 when the payee accepted such check, draft or order, that the maker did
 25 not have sufficient funds in the hands of the drawee to pay such check,
 26 draft or order upon presentation, unless such check, draft or order was
 27 presented for payment prior to the date the maker informed the payee
 28 there would be sufficient funds.

29 (e) (1) ~~(A) Except as provided further, giving a worthless check is a~~
 30 ~~severity level 7, nonperson felony, if the check, draft or order is drawn~~
 31 ~~for \$25,000 or more.~~

32 (A) \$100,000 or more is a severity level 5, nonperson felony;

33 (B) at least \$75,000 but less than \$100,000 is a severity level 6, non-
 34 person felony;

35 (C) at least \$50,000 but less than \$75,000 is a severity level 7, non-
 36 person felony;

37 (D) at least \$25,000 but less than \$50,000 is a severity level 8, non-
 38 person felony;

39 (E) at least \$2,000 but less than \$25,000 is a severity level 9, nonper-
 40 son felony;

41 (F) at least \$1,000 but less than \$2,000 is a severity level 10, nonper-
 42 son felony;

43 (G) at least \$500 but less than \$1,000 is a class A nonperson misde-

1 *meanor; and*

2 *(H) less than \$500 is a class B nonperson misdemeanor.*

3 ~~(B) (2) Giving a worthless check more than once within a seven-day~~
 4 ~~period is a severity level 7, nonperson felony, if the combined total of the~~
 5 ~~checks, drafts or orders is \$25,000 or more.~~

6 *(A) At least \$1,000 but less than \$2,000 is a severity level 10, non-*
 7 *person felony; and*

8 *(B) at least \$500 but less than \$1,000 is a class A nonperson misde-*
 9 *meanor.*

10 ~~(2) (A) Giving a worthless check is a severity level 9, nonperson fel-~~
 11 ~~ony if the check, draft or order is drawn for at least \$1,000 but less than~~
 12 ~~\$25,000.~~

13 ~~(B) Giving a worthless check more than once within a seven-day pe-~~
 14 ~~riod is a severity level 9, nonperson felony, if the combined total of the~~
 15 ~~checks, drafts or orders is at least \$1,000 but less than \$25,000.~~

16 ~~(3) Giving a worthless check is a class A nonperson misdemeanor if~~
 17 ~~the check, draft or order is drawn for less than \$1,000.~~

18 ~~(4) (3) Giving a worthless check, draft or order drawn for less than~~
 19 ~~\$1,000 is a severity level 9, nonperson felony if committed by a person~~
 20 ~~who has, within five years immediately preceding commission of the~~
 21 ~~crime, been convicted of giving a worthless check two or more times.~~

22 Sec. 10. K.S.A. 21-3720 is hereby amended to read as follows: 21-
 23 3720. (a) Criminal damage to property is by means other than by fire or
 24 explosive:

25 (1) Intentionally injuring, damaging, mutilating, defacing, destroying,
 26 or substantially impairing the use of any property in which another has
 27 an interest without the consent of such other person; or

28 (2) injuring, damaging, mutilating, defacing, destroying, or substan-
 29 tially impairing the use of any property with intent to injure or defraud
 30 an insurer or lienholder.

31 (b) (1) *Except as provided further,* criminal damage to property ~~is a~~
 32 ~~severity level 7, nonperson felony,~~ if the property is damaged to the extent
 33 ~~of \$25,000 or more.~~

34 ~~(2) Criminal damage to property is a severity level 9, nonperson fel-~~
 35 ~~ony if the property is damaged to the extent of at least \$1,000 but less~~
 36 ~~than \$25,000.~~

37 *(A) \$100,000 or more is a severity level 5, nonperson felony;*

38 *(B) at least \$75,000 but less than \$100,000 is a severity level 6, non-*
 39 *person felony;*

40 *(C) at least \$50,000 but less than \$75,000 is a severity level 7, non-*
 41 *person felony;*

42 *(D) at least \$25,000 but less than \$50,000 is a severity level 8, non-*
 43 *person felony;*

- 1 (E) at least \$2,000 but less than \$25,000 is a severity level 9, nonper-
 2 son felony;
- 3 (F) at least \$1,000 but less than \$2,000 is a severity level 10, nonper-
 4 son felony;
- 5 (G) at least \$500 but less than \$1,000 is a class A nonperson misde-
 6 meanor; and
- 7 (H) less than \$500 is a class B nonperson misdemeanor.
- 8 ~~(2)~~ (2) Criminal damage to property is a class B nonperson misde-
 9 meanor if the property damaged is of the value of less than ~~\$1,000~~ \$500
 10 or is of the value of ~~\$1,000~~ \$500 or more and is damaged to the extent
 11 of less than ~~\$1,000~~ \$500.
- 12 Sec. 11. K.S.A. 21-3729 is hereby amended to read as follows: 21-
 13 3729. (a) Criminal use of a financial card is any of the following acts done
 14 with intent to defraud and for the purpose of obtaining money, goods,
 15 property, services or communication services:
- 16 (1) Using a financial card without the consent of the cardholder; or
 17 (2) knowingly using a financial card, or the number or description
 18 thereof, which has been revoked or canceled; or
 19 (3) using a falsified, mutilated, altered or nonexistent financial card
 20 or a number or description thereof.
- 21 (b) For the purposes of this section:
- 22 (1) "Financial card" means an identification card, plate, instrument,
 23 device or number issued by a business organization authorizing the card-
 24 holder to purchase, lease or otherwise obtain money, goods, property,
 25 services or communication services or to conduct other financial
 26 transactions.
- 27 (2) "Cardholder" means the person or entity to whom or for whose
 28 benefit a financial card is issued.
- 29 (c) For the purposes of subsection (a)(2), a financial card shall be
 30 deemed canceled or revoked when notice in writing thereof has been
 31 received by the named holder thereof as shown on such financial card or
 32 by the records of the company.
- 33 (d) ~~(1)~~ Criminal use of a financial card is a severity level 7, nonperson
 34 felony, if the money, goods, property, services or communication services
 35 obtained within any seven-day period are of the value of ~~\$25,000 or more.~~
 36 ~~(2)~~ Criminal use of a financial card is a severity level 9, nonperson
 37 felony if the money, goods, property, services or communication services
 38 obtained within any seven-day period are of the value of at least \$1,000
 39 but less than \$25,000.
- 40 ~~(3)~~ Criminal use of a financial card is a class A nonperson misde-
 41 meanor if the money, goods, property, services or communication services
 42 obtained within a seven-day period are of the value of less than \$1,000:
 43 (1) \$100,000 or more is a severity level 5, nonperson felony;

- 1 (2) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
 2 *person felony;*
 3 (3) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
 4 *person felony;*
 5 (4) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
 6 *person felony;*
 7 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
 8 *son felony;*
 9 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
 10 *son felony;*
 11 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
 12 *meanor; and*
 13 (8) *less than \$500 is a class B nonperson misdemeanor.*
 14 Sec. 12. K.S.A. 21-3734 is hereby amended to read as follows: 21-
 15 3734. (a) Impairing a security interest is:
 16 (1) Damaging, destroying or concealing any personal property subject
 17 to a security interest with intent to defraud the secured party;
 18 (2) selling, exchanging or otherwise disposing of any personal prop-
 19 erty subject to a security interest without the written consent of the se-
 20 cured party, where such sale, exchange or other disposition is not au-
 21 thorized by the secured party under the terms of the security agreement;
 22 or
 23 (3) failure to account to the secured party for the proceeds of the
 24 sale, exchange or other disposition of any personal property subject to a
 25 security interest, where such sale, exchange or other disposition is au-
 26 thorized and such accounting for proceeds is required by the secured
 27 party under the terms of the security agreement or otherwise.
 28 (b) ~~(1) Impairing a security interest is a severity level 7, nonperson~~
 29 ~~felony, when the personal property subject to the security interest is of~~
 30 ~~the value of \$25,000 or more and is subject to a security interest of~~
 31 ~~\$25,000 or more.~~
 32 ~~—(2)— Impairing a security interest is a severity level 9, nonperson felony~~
 33 ~~when the personal property subject to the security interest is of the value~~
 34 ~~of at least \$1,000 and is subject to a security interest of at least \$1,000~~
 35 ~~and either the value of the property or the security interest is less than~~
 36 ~~\$25,000.~~
 37 ~~—(3)— Impairing a security interest is a class A nonperson misdemeanor~~
 38 ~~when the personal property subject to the security interest is of the value~~
 39 ~~of less than \$1,000, or of the value of \$1,000 or more but subject to a~~
 40 ~~security interest of less than \$1,000.:~~
 41 (1) *\$100,000 or more is a severity level 5, nonperson felony;*
 42 (2) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
 43 *person felony;*

- 1 (3) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
2 *person felony;*
- 3 (4) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
4 *person felony;*
- 5 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
6 *son felony;*
- 7 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
8 *son felony;*
- 9 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
10 *meanor; and*
- 11 (8) *less than \$500 is a class B nonperson misdemeanor.*
- 12 Sec. 13. K.S.A. 21-3761 is hereby amended to read as follows: 21-
13 3761. (a) It shall be unlawful for any person to:
- 14 (1) Without consent of the owner or the owner's agent, enter or re-
15 main on railroad property, knowing that it is railroad property; or
- 16 (2) maliciously or wantonly cause in any manner the derailment of a
17 train, railroad car or rail-mounted work equipment.
- 18 Violation of this subsection is a class A nonperson misdemeanor.
- 19 (b) Any person violating subsection (a) which results in a demonstra-
20 ble monetary loss, damage or destruction of railroad property when such
21 loss is valued at ~~more than \$1,500 upon conviction shall be guilty of a~~
22 ~~severity level 8, nonperson felony.~~
- 23 (1) *\$100,000 or more is a severity level 5, nonperson felony;*
- 24 (2) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
25 *person felony;*
- 26 (3) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
27 *person felony;*
- 28 (4) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
29 *person felony;*
- 30 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
31 *son felony;*
- 32 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
33 *son felony;*
- 34 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
35 *meanor; and*
- 36 (8) *less than \$500 is a class B nonperson misdemeanor.*
- 37 (c) Subsection (a) shall not be construed to interfere with the lawful
38 use of a public or private crossing.
- 39 (d) Nothing in this section shall be construed as limiting a represen-
40 tative or member of a labor organization which represents or is seeking
41 to represent the employees of the railroad, from conducting such business
42 as provided under the railway labor act (45 U.S.C. 151, et seq.) and other
43 federal labor laws.

1 (e) As used in this section “railroad property” includes, but is not
2 limited to, any train, locomotive, railroad car, caboose, rail-mounted work
3 equipment, rolling stock, work equipment, safety device, switch, elec-
4 tronic signal, microwave communication equipment, connection, railroad
5 track, rail, bridge, trestle, right-of-way or other property that is owned,
6 leased, operated or possessed by a railroad company.

7 Sec. 14. K.S.A. 21-3763 is hereby amended to read as follows: 21-
8 3763. (a) Counterfeiting is intentionally manufacturing, using, displaying,
9 advertising, distributing, offering for sale, selling or possessing with intent
10 to sell or distribute any item or services bearing or identified by a coun-
11 terfeit mark.

12 (b) A person having possession, custody or control of more than 25
13 items bearing a counterfeit mark shall be presumed to possess such items
14 with intent to sell or distribute.

15 (c) Any state or federal certificate of registration of any intellectual
16 property shall be prima facie evidence of the facts stated therein.

17 (d) As used in this section:

18 (1) “Counterfeit mark” means:

19 (A) Any unauthorized reproduction or copy of intellectual property;
20 or

21 (B) intellectual property affixed to any item knowingly sold, offered
22 for sale, manufactured or distributed, or identifying services offered or
23 rendered, without the authority of the owner of the intellectual property.

24 (2) “Intellectual property” means any trademark, service mark or
25 trade name as such terms are defined in K.S.A. 2007 Supp. 81-202, and
26 amendments thereto.

27 (3) “Retail value” means the counterfeiter’s regular selling price for
28 the item or service bearing or identified by the counterfeit mark. In the
29 case of items bearing a counterfeit mark which are components of a fin-
30 ished product, the retail value shall be the counterfeiter’s regular selling
31 price of the finished product on or in which the component would be
32 utilized.

33 (4) The quantity or retail value of items or services shall include the
34 aggregate quantity or retail value of all items bearing, or services identi-
35 fied by, every counterfeit mark the defendant manufactures, uses, dis-
36 plays, advertises, distributes, offers for sale, sells or possesses.

37 (e) (1) *Except as provided further*, counterfeiting of the retail value
38 of less than \$1,000 is a class A nonperson misdemeanor.

39 (A) *\$100,000 or more is a severity level 5, nonperson felony;*

40 (B) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
41 *person felony;*

42 (C) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
43 *person felony;*

- 1 (D) at least \$25,000 but less than \$50,000 is a severity level 8, non-
 2 person felony;
- 3 (E) at least \$2,000 but less than \$25,000 is a severity level 9, nonper-
 4 son felony;
- 5 (F) at least \$1,000 but less than \$2,000 is a severity level 10, nonper-
 6 son felony;
- 7 (G) at least \$500 but less than \$1,000 is a class A nonperson misde-
 8 meanor; and
- 9 (H) less than \$500 is a class B nonperson misdemeanor.
- 10 (2) Counterfeiting of the retail value of at least \$1,000 but less than
 11 \$25,000, that involves more than 100 but less than 1,000 items bearing a
 12 counterfeit mark; or on a second violation of subsection (e)(1)(F),
 13 (e)(1)(G) or (e)(1)(H) if the offender has a previous conviction of this
 14 section, is a severity level 9, nonperson felony.
- 15 (3) Counterfeiting of the retail value of \$25,000 or more, that involves
 16 1,000 or more items bearing a counterfeit mark, or on a third or subse-
 17 quent violation of subsection (e)(1)(D), (e)(1)(E), (e)(1)(F), (e)(1)(G) or
 18 (e)(1)(H) if the offender has two previous convictions of any combination
 19 of subsection (e)(1)(D), (e)(1)(E), (e)(1)(F), (e)(1)(G) or (e)(1)(H), is a
 20 severity level 7, nonperson felony.
- 21 (f) This section shall be part of and supplemental to the Kansas crim-
 22 inal code.
- 23 Sec. 15. K.S.A. 21-3846 is hereby amended to read as follows: 21-
 24 3846. (a) Making a false claim, statement, or representation to the med-
 25 icaid program is, knowingly and with intent to defraud, engaging in a
 26 pattern of making, presenting, submitting, offering or causing to be made,
 27 presented, submitted or offered:
- 28 (1) Any false or fraudulent claim for payment for any goods, service,
 29 item, facility, accommodation for which payment may be made, in whole
 30 or in part, under the medicaid program, whether or not the claim is
 31 allowed or allowable;
- 32 (2) any false or fraudulent statement or representation for use in de-
 33 termining payments which may be made, in whole or in part, under the
 34 medicaid program, whether or not the claim is allowed or allowable;
- 35 (3) any false or fraudulent report or filing which is or may be used in
 36 computing or determining a rate of payment for any goods, service, item,
 37 facility or accommodation, for which payment may be made, in whole or
 38 in part, under the medicaid program, whether or not the claim is allowed
 39 or allowable;
- 40 (4) any false or fraudulent statement or representation made in con-
 41 nection with any report or filing which is or may be used in computing
 42 or determining a rate of payment for any goods, service, item, facility or
 43 accommodation for which payment may be made, in whole or in part,

1 under the medicaid program, whether or not the claim is allowed or
2 allowable;

3 (5) any statement or representation for use by another in obtaining
4 any goods, service, item, facility or accommodation for which payment
5 may be made, in whole or in part, under the medicaid program, knowing
6 the statement or representation to be false, in whole or in part, by com-
7 mission or omission, whether or not the claim is allowed or allowable;

8 (6) any claim for payment, for any goods, service, item, facility, or
9 accommodation, which is not medically necessary in accordance with pro-
10 fessionally recognized parameters or as otherwise required by law, for
11 which payment may be made, in whole or in part, under the medicaid
12 program, whether or not the claim is allowed or allowable; or

13 (7) any wholly or partially false or fraudulent book, record, document,
14 data or instrument, which is required to be kept or which is kept as
15 documentation for any goods, service, item, facility or accommodation or
16 of any cost or expense claimed for reimbursement for any goods, service,
17 item, facility or accommodation for which payment is, has been, or can
18 be sought, in whole or in part, under the medicaid program, whether or
19 not the claim is allowed or allowable.

20 (8) Any wholly or partially false or fraudulent book, record, docu-
21 ment, data or instrument to any properly identified law enforcement of-
22 ficer, any properly identified employee or authorized representative of
23 the attorney general, or to any properly identified employee or agent of
24 the department of social and rehabilitation services, or its fiscal agent, in
25 connection with any audit or investigation involving any claim for payment
26 or rate of payment for any goods, service, item, facility or accommodation
27 payable, in whole or in part, under the medicaid program.

28 (9) Any false or fraudulent statement or representation made, with
29 the intent to influence any acts or decision of any official, employee or
30 agent of a state or federal agency having regulatory or administrative
31 authority over the Kansas medicaid program.

32 (b) (1) As defined by subsection (a)(1) through (a)(7), making a false
33 claim, statement or representation to the medicaid program where the
34 aggregate amount of payments illegally claimed is ~~\$25,000 or more is a~~
35 ~~severity level 7, nonperson felony.~~

36 ~~—(2) As defined by subsection (a)(1) through (a)(7), making a false~~
37 ~~claim, statement or representation to the medicaid program where the~~
38 ~~aggregate amount of payments illegally claimed is at least \$1,000 but less~~
39 ~~than \$25,000 is a severity level 9, nonperson felony.~~

40 ~~—(3) As defined by subsection (a)(1) through (a)(7), making a false~~
41 ~~claim, statement or representation to the medicaid program where the~~
42 ~~aggregate amount of payments illegally claimed is less than \$1,000 is a~~
43 ~~class A misdemeanor.~~

- 1 ~~(4)~~ (A) \$100,000 or more is a severity level 5, nonperson felony;
2 (B) at least \$75,000 but less than \$100,000 is a severity level 6, non-
3 person felony;
4 (C) at least \$50,000 but less than \$75,000 is a severity level 7, non-
5 person felony;
6 (D) at least \$25,000 but less than \$50,000 is a severity level 8, non-
7 person felony;
8 (E) at least \$2,000 but less than \$25,000 is a severity level 9, nonper-
9 son felony;
10 (F) at least \$1,000 but less than \$2,000 is a severity level 10, nonper-
11 son felony;
12 (G) at least \$500 but less than \$1,000 is a class A nonperson misde-
13 meanor; and
14 (H) less than \$500 is a class B nonperson misdemeanor.
15 (2) As defined by subsections (a)(8) and (a)(9), making a false claim,
16 statement or representation to the medicaid program is a severity level
17 9, nonperson felony.
18 (c) In determining what is medically necessary pursuant to subsection
19 (a)(6) ~~of this section~~, the attorney general may contract with or consult
20 with qualified health care providers and other qualified individuals to
21 identify professionally recognized parameters for the diagnosis or treat-
22 ment of the recipient's condition, illness or injury.
23 Sec. 16. K.S.A. 21-3902 is hereby amended to read as follows: 21-
24 3902. (a) Official misconduct is any of the following acts committed by a
25 public officer or employee in the officer or employee's public capacity or
26 under color of the officer or employee's office or employment:
27 (1) Using or authorizing the use of any aircraft, as defined by K.S.A.
28 3-201, and amendments thereto, vehicle, as defined by K.S.A. 8-1485,
29 and amendments thereto, or vessel, as defined by K.S.A. 32-1102, and
30 amendments thereto, under the officer's or employee's control or direc-
31 tion, or in the officer's or employee's custody, exclusively for the private
32 benefit or gain of the officer or employee or another.
33 (2) Knowingly and willfully failing to serve civil process when re-
34 quired by law.
35 (3) Using confidential information acquired in the course of and re-
36 lated to the officer's or employee's office or employment for the private
37 benefit or gain of the officer or employee or another or to maliciously
38 cause harm to another. As used in this section, "confidential" means any
39 information that is not subject to mandatory disclosure pursuant to K.S.A.
40 45-221, and amendments thereto.
41 (4) Except as authorized by law, knowingly, willfully and with the
42 intent to reduce or eliminate competition among bidders or prospective
43 bidders on any contract or proposed contract: (A) Disclosing confidential

- 1 information regarding proposals or communications from bidders or pro-
 2 spective bidders on any contract or proposed contract; (B) accepting any
 3 bid or proposal on a contract or proposed contract after the deadline for
 4 acceptance of such bid or proposal; or (C) altering any bid or proposal
 5 submitted by a bidder on a contract or proposed contract.
- 6 (5) Except as authorized by law, knowingly destroying, tampering
 7 with or concealing evidence of a crime.
- 8 (6) Knowingly and willfully submitting to a governmental entity a
 9 claim for expenses which is false or duplicates expenses for which a claim
 10 is submitted to such governmental entity, another governmental or pri-
 11 vate entity.
- 12 (b) The provisions of subsection (a)(1) shall not apply to any use of
 13 persons or property which:
- 14 (1) At the time of the use, is authorized by law or by formal written
 15 policy of the governmental entity; or
- 16 (2) constitutes misuse of public funds, as defined in K.S.A. 21-3910
 17 and amendments thereto.
- 18 (c) (1) Official misconduct as defined in subsections (a)(1) through
 19 (a)(4) is a class A nonperson misdemeanor.
- 20 (2) Official misconduct as defined in subsection (a)(5) is: (A) A se-
 21 verity level 8, nonperson felony if the evidence is evidence of a crime
 22 which is a felony; and (B) a class A nonperson misdemeanor if the evi-
 23 dence is evidence of a crime which is a misdemeanor.
- 24 (3) Official misconduct as defined in subsection (a)(6) is: ~~(A) A se-~~
 25 ~~verity level 7, nonperson felony if the claim is for \$25,000 or more; (B) a~~
 26 ~~severity level 9, nonperson felony if the claim is for at least \$1,000 but~~
 27 ~~less than \$25,000; and (C) a class A nonperson misdemeanor for a claim~~
 28 ~~of less than \$1,000.~~
 29 ~~(4) if the claim is for:~~
- 30 (A) \$100,000 or more is a severity level 5, nonperson felony;
- 31 (B) at least \$75,000 but less than \$100,000 is a severity level 6, non-
 32 person felony;
- 33 (C) at least \$50,000 but less than \$75,000 is a severity level 7, non-
 34 person felony;
- 35 (D) at least \$25,000 but less than \$50,000 is a severity level 8, non-
 36 person felony;
- 37 (E) at least \$2,000 but less than \$25,000 is a severity level 9, nonper-
 38 son felony;
- 39 (F) at least \$1,000 but less than \$2,000 is a severity level 10, nonper-
 40 son felony;
- 41 (G) at least \$500 but less than \$1,000 is a class A nonperson misde-
 42 meanor; and
- 43 (H) less than \$500 is a class B nonperson misdemeanor.

1 (d) Upon conviction of official misconduct a public officer or em-
2 ployee shall forfeit such officer or employee's office or employment.

3 Sec. 17. K.S.A. 21-3904 is hereby amended to read as follows: 21-
4 3904. (a) Presenting a false claim is knowingly and with intent to defraud
5 presenting a claim or demand which is false in whole or in part, to a
6 public officer or body authorized to audit, allow or pay such claim.

7 (b) ~~(1) Presenting a false claim for \$25,000 or more is a severity level~~
8 ~~7, nonperson felony.~~

9 ~~—(2) Presenting a false claim for at least \$1,000 but less than \$25,000~~
10 ~~is a severity level 9, nonperson felony.~~

11 ~~—(3) Presenting a false claim for less than \$1,000 is a class A nonperson~~
12 ~~misdemeanor.~~

13 (1) *\$100,000 or more is a severity level 5, nonperson felony;*

14 (2) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
15 *person felony;*

16 (3) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
17 *person felony;*

18 (4) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
19 *person felony;*

20 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
21 *son felony;*

22 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
23 *son felony;*

24 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
25 *meanor; and*

26 (8) *less than \$500 is a class B nonperson misdemeanor.*

27 Sec. 18. K.S.A. 21-3905 is hereby amended to read as follows: 21-
28 3905. (a) Permitting a false claim is the auditing, allowing, or paying of
29 any claim or demand made upon the state or any subdivision thereof or
30 other governmental instrumentality within the state by a public officer or
31 public employee who knows such claim or demand is false or fraudulent
32 in whole or in part.

33 (b) ~~(1) Permitting a false claim for \$25,000 or more is a severity level~~
34 ~~7, nonperson felony.~~

35 ~~—(2) Permitting a false claim for at least \$1,000 but less than \$25,000~~
36 ~~is a severity level 9, nonperson felony.~~

37 ~~—(3) Permitting a false claim for less than \$1,000 is a class A nonperson~~
38 ~~misdemeanor.~~

39 ~~—(4):~~

40 (1) *\$100,000 or more is a severity level 5, nonperson felony;*

41 (2) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
42 *person felony;*

43 (3) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*

- 1 *person felony;*
 2 (4) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
 3 *person felony;*
 4 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
 5 *son felony;*
 6 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
 7 *son felony;*
 8 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
 9 *meanor; and*
 10 (8) *less than \$500 is a class B nonperson misdemeanor.*
 11 (c) Upon conviction of permitting a false claim, a public officer or
 12 public employee shall forfeit the officer or employee's office or
 13 employment.
 14 Sec. 19. K.S.A. 21-3910 is hereby amended to read as follows: 21-
 15 3910. (a) Misuse of public funds is knowingly using, lending or permitting
 16 another to use public money in a manner not authorized by law, by a
 17 custodian or other person having control of public money by virtue of
 18 such person's official position.
 19 (b) As used in this section, "public money" means any money or ne-
 20 gotiable instrument which belongs to the state of Kansas or any political
 21 subdivision thereof.
 22 (c) ~~(1) Misuse of public funds where the aggregate amount of money~~
 23 ~~paid or claimed in violation of this section is \$100,000 or more is a severity~~
 24 ~~level 5, nonperson felony.~~
 25 ~~(2) Misuse of public funds where the aggregate amount of money~~
 26 ~~paid or claimed in violation of this section is at least \$25,000 but less than~~
 27 ~~\$100,000 is a severity level 7, nonperson felony.~~
 28 ~~(3) Misuse of public funds where the aggregate amount of money~~
 29 ~~paid or claimed in violation of this section is at least \$1,000 but less than~~
 30 ~~\$25,000 is a severity level 9, nonperson felony.~~
 31 ~~(4) Misuse of public funds where the aggregate amount of money~~
 32 ~~paid or claimed in violation of this section is less than \$1,000 is a class A~~
 33 ~~nonperson misdemeanor.~~
 34 (1) *\$100,000 or more is a severity level 5, nonperson felony;*
 35 (2) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
 36 *person felony;*
 37 (3) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
 38 *person felony;*
 39 (4) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
 40 *person felony;*
 41 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
 42 *son felony;*
 43 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*

- 1 *son felony;*
2 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
3 *meanor; and*
4 (8) *less than \$500 is a class B nonperson misdemeanor.*
5 (d) Upon conviction of misuse of public funds, the convicted person
6 shall forfeit the person's official position.
7 Sec. 20. K.S.A. 21-4018 is hereby amended to read as follows: 21-
8 4018. (a) Identity theft is knowingly and with intent to defraud for any
9 benefit, obtaining, possessing, transferring, using or attempting to obtain,
10 possess, transfer or use, one or more identification documents or personal
11 identification number of another person other than that issued lawfully
12 for the use of the possessor.
13 (b) "Identification documents" has the meaning provided in K.S.A.
14 21-3830, and amendments thereto.
15 (c) (1) Except as provided further, identity theft is a severity level 8,
16 nonperson felony. ~~If the monetary loss to the victim or victims is more~~
17 ~~than \$100,000, identity theft is a severity level 5, nonperson felony.~~
18 (2) *Identity theft, if the monetary loss to the victim or victims is:*
19 (A) *\$100,000 or more is a severity level 5, nonperson felony;*
20 (B) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
21 *person felony;*
22 (C) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
23 *person felony;*
24 (D) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
25 *person felony;*
26 (E) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
27 *son felony;*
28 (F) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
29 *son felony;*
30 (G) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
31 *meanor; and*
32 (H) *less than \$500 is a class B nonperson misdemeanor.*
33 (d) Identity fraud is:
34 (1) Willfully and knowingly supplying false information intending that
35 the information be used to obtain an identification document;
36 (2) making, counterfeiting, altering, amending or mutilating any iden-
37 tification document:
38 (A) Without lawful authority; and
39 (B) with the intent to deceive; or
40 (3) willfully and knowingly obtaining, possessing, using, selling or fur-
41 nishing or attempting to obtain, possess or furnish to another for any
42 purpose of deception an identification document.
43 (e) Identity fraud is a severity level 8, nonperson felony.

1 (f) This section shall be part of and supplemental to the Kansas crim-
2 inal code.

3 Sec. 21. K.S.A. 21-4111 is hereby amended to read as follows: 21-
4 4111. (a) Criminal desecration is:

5 (1) Obtaining or attempting to obtain unauthorized control of a dead
6 body or remains of any human being or the coffin, urn or other article
7 containing a dead body or remains of any human being;

8 (2) by means other than by fire or explosive:

9 (A) Damaging, defacing or destroying the flag, ensign or other symbol
10 of the United States or this state in which another has a property interest
11 without the consent of such other person;

12 (B) damaging, defacing or destroying any public monument or
13 structure;

14 (C) damaging, defacing or destroying any tomb, monument, memo-
15 rial, marker, grave, vault, crypt gate, tree, shrub, plant or any other prop-
16 erty in a cemetery; or

17 (D) damaging, defacing or destroying any place of worship.

18 (b) (1) Criminal desecration as described in subsections (a)(2)(B),
19 (a)(2)(C) and (a)(2)(D) ~~is, if the property is damaged to the extent of:~~

20 ~~(A) A severity level 7, nonperson felony if the property is damaged~~
21 ~~to the extent of \$25,000 or more;~~

22 ~~(B) a severity level 9, nonperson felony if the property is damaged to~~
23 ~~the extent of at least \$1,000 but less than \$25,000; and~~

24 ~~(C) a class A nonperson misdemeanor if the property is damaged to~~
25 ~~the extent of less than \$1,000.~~

26 (A) *\$100,000 or more is a severity level 5, nonperson felony;*

27 (B) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
28 *person felony;*

29 (C) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
30 *person felony;*

31 (D) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
32 *person felony;*

33 (E) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
34 *son felony;*

35 (F) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
36 *son felony;*

37 (G) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
38 *meanor; and*

39 (H) *less than \$500 is a class B nonperson misdemeanor.*

40 (2) Criminal desecration as described in subsections (a)(1) and
41 (a)(2)(A) is a class A nonperson misdemeanor.

42 Sec. 22. K.S.A. 2009 Supp. 39-717 is hereby amended to read as
43 follows: 39-717. (a) Assistance granted under the provisions of this act

1 shall not:

2 (1) Be sold or otherwise disposed of to others by the client or by
3 anyone else except under the rules and regulations of the secretary of
4 social and rehabilitation services; or

5 (2) knowingly be purchased, acquired or possessed by anyone unless
6 the purchase, acquisition or possession is authorized by the rules and
7 regulations of the secretary of social and rehabilitation services or the
8 laws under which the assistance was granted.

9 (b) ~~(1)~~ Any person convicted of violating the provisions of this section
10 ~~shall be guilty of a class A nonperson misdemeanor~~, if the value of the
11 assistance sold or otherwise disposed of, purchased, acquired or possessed
12 ~~was less than \$1,000.~~

13 ~~(2) Any person convicted of violating the provisions of this section~~
14 ~~shall be guilty of a severity level 9, nonperson felony if the value of the~~
15 ~~assistance sold or otherwise disposed of, purchased, acquired or possessed~~
16 ~~was at least \$1,000 but less than \$25,000.~~

17 ~~(3) Any person convicted of violating the provisions of this section~~
18 ~~shall be guilty of a severity level 7, nonperson felony if the value of the~~
19 ~~assistance sold or otherwise disposed of, purchased, acquired or possessed~~
20 ~~was \$25,000 or more.:~~

21 (1) *\$100,000 or more is a severity level 5, nonperson felony;*

22 (2) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
23 *person felony;*

24 (3) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
25 *person felony;*

26 (4) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
27 *person felony;*

28 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
29 *son felony;*

30 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
31 *son felony;*

32 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
33 *meanor; and*

34 (8) *less than \$500 is a class B nonperson misdemeanor.*

35 (c) None of the money paid, payable, or to be paid, or any tangible
36 assistance received under this act shall be subject to execution, levy, at-
37 tachment, garnishment, or other legal process, or to the operation of any
38 bankruptcy or insolvency law.

39 Sec. 23. K.S.A. 39-720 is hereby amended to read as follows: 39-720.

40 (a) Any person who obtains or attempts to obtain, or aids or abets any
41 other person to obtain, by means of a willfully false statement or repre-
42 sentation, or by impersonation, collusion, or other fraudulent device, as-
43 sistance to which the applicant or client is not entitled, ~~shall be guilty of~~

- 1 ~~the crime of theft, as defined by K.S.A. 21-3701, and he~~ *in an amount of:*
 2 (1) *\$100,000 or more is a severity level 5, nonperson felony;*
 3 (2) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
 4 *person felony;*
 5 (3) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
 6 *person felony;*
 7 (4) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
 8 *person felony;*
 9 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
 10 *son felony;*
 11 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
 12 *son felony;*
 13 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
 14 *meanor; and*
 15 (8) *less than \$500 is a class B nonperson misdemeanor.*
 16 (b) *In addition to the provisions of this section, the person shall be*
 17 *required to remit to the secretary the amount of any assistance given him*
 18 *to such person under such fraudulent act.*
 19 (c) *In any civil action for the recovery of assistance on the grounds*
 20 *the assistance was fraudulently obtained, proof that the recipient of the*
 21 *assistance possesses or did possess resources which does or would have*
 22 *rendered him such recipient ineligible to receive such assistance shall be*
 23 *deemed prima facie evidence that such assistance was fraudulently*
 24 *obtained.*
 25 Sec. 24. K.S.A. 2009 Supp. 40-247 is hereby amended to read as
 26 follows: 40-247. (a) An insurance agent or broker who acts in negotiating
 27 or renewing or continuing a contract of insurance including any type of
 28 annuity by an insurance company lawfully doing business in this state,
 29 and who receives any money or substitute for money as a premium for
 30 such a contract from the insured, whether such agent or broker shall be
 31 entitled to an interest in same or otherwise, shall be deemed to hold such
 32 premium in trust for the company making the contract. If such agent or
 33 broker fails to pay the same over to the company after written demand
 34 made upon such agent or broker, less such agent's or broker's commission
 35 and any deductions, to which by the written consent of the company such
 36 agent or broker may be entitled, such failure shall be prima facie evidence
 37 that such agent or broker has used or applied the premium for a purpose
 38 other than paying the same over to the company.
 39 (b) (1) An agent or broker who violates the provisions of this section
 40 ~~shall be guilty of a:~~
 41 ~~—(A)— Severity level 7, nonperson felony if the value of the insurance~~
 42 ~~premium is \$25,000 or more;~~
 43 ~~—(B)— severity level 9, nonperson felony if the value of the insurance~~

1 ~~premium is at least \$1,000 but less than \$25,000, or~~
 2 ~~(C) class A nonperson misdemeanor if the value of the insurance~~
 3 ~~premium is less than \$1,000, if the value of the insurance premium is:~~
 4 (A) \$100,000 or more is a severity level 5, nonperson felony;
 5 (B) at least \$75,000 but less than \$100,000 is a severity level 6, non-
 6 person felony;
 7 (C) at least \$50,000 but less than \$75,000 is a severity level 7, non-
 8 person felony;
 9 (D) at least \$25,000 but less than \$50,000 is a severity level 8, non-
 10 person felony;
 11 (E) at least \$2,000 but less than \$25,000 is a severity level 9, nonper-
 12 son felony;
 13 (F) at least \$1,000 but less than \$2,000 is a severity level 10, nonper-
 14 son felony;
 15 (G) at least \$500 but less than \$1,000 is a class A nonperson misde-
 16 meanor; and
 17 (H) less than \$500 is a class B nonperson misdemeanor.
 18 (2) If the value of the insurance premium is less than \$1,000 and such
 19 agent or broker has, within five years immediately preceding commission
 20 of the crime, been convicted of violating this section two or more times
 21 shall be guilty of a severity level 9, nonperson felony.
 22 Sec. 25. K.S.A. 2009 Supp. 40-2,118 is hereby amended to read as
 23 follows: 40-2,118. (a) For purposes of this act a “fraudulent insurance act”
 24 means an act committed by any person who, knowingly and with intent
 25 to defraud, presents, causes to be presented or prepares with knowledge
 26 or belief that it will be presented to or by an insurer, purported insurer,
 27 broker or any agent thereof, any written statement as part of, or in support
 28 of, an application for the issuance of, or the rating of an insurance policy
 29 for personal or commercial insurance, or a claim for payment or other
 30 benefit pursuant to an insurance policy for commercial or personal in-
 31 surance which such person knows to contain materially false information
 32 concerning any fact material thereto; or conceals, for the purpose of mis-
 33 leading, information concerning any fact material thereto.
 34 (b) An insurer that has knowledge or a good faith belief that a fraud-
 35 ulent insurance act is being or has been committed shall provide to the
 36 commissioner, on a form prescribed by the commissioner, any and all
 37 information and such additional information relating to such fraudulent
 38 insurance act as the commissioner may require.
 39 (c) Any other person that has knowledge or a good faith belief that a
 40 fraudulent insurance act is being or has been committed may provide to
 41 the commissioner, on a form prescribed by the commissioner, any and
 42 all information and such additional information relating to such fraudu-
 43 lent insurance act as the commissioner may request.

1 (d) (1) Each insurer shall have antifraud initiatives reasonably cal-
2 culated to detect fraudulent insurance acts. Antifraud initiatives may in-
3 clude: fraud investigators, who may be insurer employees or independent
4 contractors; or an antifraud plan submitted to the commissioner no later
5 than July 1, 2007. Each insurer that submits an antifraud plan shall notify
6 the commissioner of any material change in the information contained in
7 the antifraud plan within 30 days after such change occurs. Such insurer
8 shall submit to the commissioner in writing the amended antifraud plan.

9 The requirement for submitting any antifraud plan, or any amendment
10 thereof, to the commissioner shall expire on the date specified in para-
11 graph (2) of this subsection unless the legislature reviews and reenacts
12 the provisions of paragraph (2) pursuant to K.S.A. 45-229 and amend-
13 ments thereto.

14 (2) Any antifraud plan, or any amendment thereof, submitted to the
15 commissioner for informational purposes only shall be confidential and
16 not be a public record and shall not be subject to discovery or subpoena
17 in a civil action unless following an in camera review, the court determines
18 that the antifraud plan is relevant and otherwise admissible under the
19 rules of evidence set forth in article 4, chapter 60 of the Kansas Statutes
20 Annotated, and amendments thereto. The provisions of this paragraph
21 shall expire on July 1, 2011, unless the legislature reviews and reenacts
22 this provision pursuant to K.S.A. 45-229, and amendments thereto, prior
23 to July 1, 2011.

24 (e) (1) Except as otherwise specifically provided in K.S.A. 21-3718
25 ~~and amendments thereto~~ and K.S.A. 44-5,125, and amendments thereto,
26 a fraudulent insurance act shall constitute a severity level 6, nonperson
27 felony, if the amount involved is ~~\$25,000 or more, a severity level 7,~~
28 ~~nonperson felony if the amount is at least \$5,000 but less than \$25,000,~~
29 ~~a severity level 8, nonperson felony if the amount is at least \$1,000 but~~
30 ~~less than \$5,000, and a class C nonperson misdemeanor if the amount is~~
31 ~~less than \$1,000.~~

32 (A) *\$100,000 or more is a severity level 5, nonperson felony;*

33 (B) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
34 *person felony;*

35 (C) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
36 *person felony;*

37 (D) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
38 *person felony;*

39 (E) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
40 *son felony;*

41 (F) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
42 *son felony;*

43 (G) *at least \$500 but less than \$1,000 is a class A nonperson misde-*

1 *meanor; and*

2 *(H) less than \$500 is a class B nonperson misdemeanor.*

3 (2) Any combination of fraudulent acts as defined in subsection (a)
4 which occur in a period of six consecutive months which involves \$25,000
5 or more shall have a presumptive sentence of imprisonment regardless
6 of its location on the sentencing grid block.

7 (f) In addition to any other penalty, a person who violates this statute
8 shall be ordered to make restitution to the insurer or any other person
9 or entity for any financial loss sustained as a result of such violation. An
10 insurer shall not be required to provide coverage or pay any claim in-
11 volving a fraudulent insurance act.

12 (g) This act shall apply to all insurance applications, ratings, claims
13 and other benefits made pursuant to any insurance policy.

14 Sec. 26. K.S.A. 2009 Supp. 40-5013 is hereby amended to read as
15 follows: 40-5013. (a) If the commissioner determines after notice and
16 opportunity for a hearing that any person has engaged or is engaging in
17 any act or practice constituting a violation of any provision of this act, the
18 Kansas insurance statutes or any rule and regulation or order thereunder,
19 the commissioner may in the exercise of discretion, order any one or more
20 of the following:

21 (1) Payment of a monetary penalty of not more than \$1,000 for each
22 and every act or violation, unless the person knew or reasonably should
23 have known such person was in violation of this act, the Kansas insurance
24 statutes or any rule and regulation or order thereunder, in which case the
25 penalty shall be not more than \$2,000 for each and every act or violation;

26 (2) suspension or revocation of the person's license or certificate if
27 such person knew or reasonably should have known that such person was
28 in violation of this act, the Kansas insurance statutes or any rule and
29 regulation or order thereunder; or

30 (3) that such person cease and desist from the unlawful act or practice
31 and take such affirmative action as in the judgment of the commissioner
32 will carry out the purposes of the violated or potentially violated provision.

33 (b) If any person fails to file any report or other information with the
34 commissioner as required by statute or fails to respond to any proper
35 inquiry of the commissioner, the commissioner, after notice and oppor-
36 tunity for hearing, may impose a penalty of up to \$500 for each violation
37 or act, along with an additional penalty of up to \$100 for each week
38 thereafter that such report or other information is not provided to the
39 commissioner.

40 (c) If the commissioner makes written findings of fact that there is a
41 situation involving an immediate danger to the public health, safety or
42 welfare or the public interest will be irreparably harmed by delay in is-
43 suing an order under paragraph (3) of subsection (a), the commissioner

1 may issue an emergency temporary cease and desist order. Such order,
2 even when not an order within the meaning of K.S.A. 77-502, and amend-
3 ments thereto, shall be subject to the same procedures as an emergency
4 order issued under K.S.A. 77-536, and amendments thereto. Upon the
5 entry of such an order, the commissioner shall promptly notify the person
6 subject to the order that: (1) It has been entered; (2) the reasons therefor;
7 and (3) that upon written request within 15 days after service of the order
8 the matter will be set for a hearing which shall be conducted in accord-
9 ance with the provisions of the Kansas administrative procedure act. If
10 no hearing is requested and none is ordered by the commissioner, the
11 order will remain in effect until it is modified or vacated by the commis-
12 sioner. If a hearing is requested or ordered, the commissioner, after no-
13 tice of and opportunity for hearing to the person subject to the order, by
14 written findings of fact and conclusions of law, shall vacate, modify or
15 make permanent the order.

16 (d) (1) Any person who violates the provisions of this act ~~shall be~~
17 ~~guilty of a~~

18 ~~—(A) Severity level 7, nonperson felony if the value of the viatical set-~~
19 ~~tlement contract is \$25,000 or more;~~

20 ~~—(B) severity level 9, nonperson felony if the value of the viatical set-~~
21 ~~tlement contract is at least \$1,000 but less than \$25,000; or~~

22 ~~—(C) class A nonperson misdemeanor if the value of the viatical settle-~~
23 ~~ment contract is less than \$1,000; if the value of the viatical settlement~~
24 ~~contract is:~~

25 (A) *\$100,000 or more is a severity level 5, nonperson felony;*

26 (B) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
27 *person felony;*

28 (C) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
29 *person felony;*

30 (D) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
31 *person felony;*

32 (E) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
33 *son felony;*

34 (F) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
35 *son felony;*

36 (G) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
37 *meanor; and*

38 (H) *less than \$500 is a class B nonperson misdemeanor.*

39 (2) If the value of the insurance premium is less than \$1,000 and such
40 agent or broker has, within five years immediately preceding commission
41 of the crime, been convicted of violating this section two or more times
42 shall be guilty of a severity level 9, nonperson felony.

43 (e) Restitution may be ordered in addition to, but not in lieu of, any

1 other penalty imposed under this act.

2 Sec. 27. K.S.A. 2009 Supp. 44-5,125 is hereby amended to read as
3 follows: 44-5,125. (a) (1) *It shall be unlawful for any person who obtains*
4 *or attempts to obtain workers compensation benefits for such person or*
5 *another, or who denies or attempts to deny the obligation to make any*
6 *payment of workers compensation benefits by knowingly or intentionally:*
7 *(A) Making a false or misleading statement, (B) misrepresenting or con-*
8 *cealing a material fact, (C) fabricating, altering, concealing or destroying*
9 *a document; (D) receiving temporary total disability benefits or perma-*
10 *nent total disability benefits to which they are not entitled, while em-*
11 *ployed, or (E) conspiring with another person to commit any act de-*
12 *scribed by this paragraph (1) of this subsection (a), shall be guilty of:*

13 ~~—(i) A class A nonperson misdemeanor, if the amount received as a~~
14 ~~benefit or other payment under the workers compensation act as a result~~
15 ~~of such act or the amount that the person otherwise benefitted monetarily~~
16 ~~as a result of a violation of this subsection (a) is \$1,000 or less;~~

17 ~~—(ii) a severity level 9, nonperson felony, if such amount is more than~~
18 ~~\$1,000 but less than \$25,000;~~

19 ~~—(iii) a severity level 7, nonperson felony, if the amount is more than~~
20 ~~\$25,000, but less than \$50,000;~~

21 ~~—(iv) a severity level 6, nonperson felony if the amount is more than~~
22 ~~\$50,000, but less than \$100,000; or~~

23 ~~—(v) a severity level 5, nonperson felony if the amount is more than~~
24 ~~\$100,000.~~

25 (2) *Violation of this subsection, if the amount received as a benefit or*
26 *other payment under the workers compensation act as a result of such act*
27 *or the amount that the person otherwise benefitted monetarily as a result*
28 *of a violation of this subsection is:*

29 (A) *\$100,000 or more is a severity level 5, nonperson felony;*

30 (B) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
31 *person felony;*

32 (C) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
33 *person felony;*

34 (D) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
35 *person felony;*

36 (E) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
37 *son felony;*

38 (F) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
39 *son felony;*

40 (G) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
41 *meanor; and*

42 (H) *less than \$500 is a class B nonperson misdemeanor.*

43 (b) Any person who knowingly and intentionally presents a false cer-

- 1 tificate of insurance that purports that the presenter is insured under the
2 workers compensation act, ~~shall be~~ *is* guilty of a level 8, nonperson felony.
- 3 (c) A health care provider under the workers compensation act who
4 knowingly and intentionally submits a charge for health care that was not
5 furnished, ~~shall be~~ *is* guilty of a level 9, nonperson felony.
- 6 (d) Any person who obtains or attempts to obtain a more favorable
7 workers compensation insurance premium rate than that to which the
8 person is entitled, who prevents, reduces, avoids or attempts to prevent,
9 reduce or avoid the payment of any compensation under the workers
10 compensation act, or who fails to communicate a settlement offer or sim-
11 ilar information to a claimant under the workers compensation act, by, in
12 any such case knowingly or intentionally: (1) Making a false or misleading
13 statement; (2) misrepresenting or concealing a material fact; (3) fabricat-
14 ing, concealing or destroying a document; or (4) conspiring with another
15 person or persons to commit the acts described in clause (1), (2) or (3)
16 of this subsection ~~shall be~~ *is* guilty of a level 9, nonperson felony.
- 17 (e) Any person who has received any amount of money as a benefit
18 or other payment under the workers compensation act as a result of a
19 violation of subsection (a) or (c) and any person who has otherwise ben-
20 efitied monetarily as a result of a violation of subsection (a) or (c) shall be
21 liable to repay an amount equal to the amount so received by such person
22 or the amount by which such person has benefited monetarily, with in-
23 terest thereon. Any such amount, plus any accrued interest thereon, shall
24 bear interest at the current rate of interest prescribed by law for judg-
25 ments under subsection (e)(1) of K.S.A. 16-204 and amendments thereto
26 per month or fraction of a month until repayment of such amount, plus
27 any accrued interest thereon. The interest shall accrue from the date of
28 overpayment or erroneous payment of any such amount or the date such
29 person benefited monetarily.
- 30 (f) Any person aggrieved by a violation of subsection (a), (b), (c) or
31 (d) shall have a cause of action against any other person to recover any
32 amounts of money erroneously paid as benefits or any other amounts of
33 money paid under the workers compensation act, and to seek relief for
34 other monetary damages, for which liability has accrued under this section
35 against such other person. Relief under this subsection is to be predicated
36 upon exhaustion of administrative remedies available in K.S.A. 44-5,120
37 and amendments thereto.
- 38 (g) Nothing in this section shall prohibit an employer from exercising
39 a right to reimbursement under K.S.A. 44-534a, 44-556 or 44-569a and
40 amendments thereto.
- 41 (h) Prosecution for any crime under this section shall be commenced
42 within five years subject to the time period set forth in subsection (8) of
43 K.S.A. 21-3106 and amendments thereto.

1 Sec. 28. K.S.A. 2009 Supp. 44-719 is hereby amended to read as
2 follows: 44-719. (a) Any person who makes a false statement or represen-
3 tation knowing it to be false or knowingly fails to disclose a material fact,
4 to obtain or increase any benefit or other payment under this act, either
5 for such person or for any other person, ~~shall be guilty of theft and shall~~
6 ~~be punished in accordance with the provisions of K.S.A. 21-3701 and~~
7 ~~amendments thereto. in an amount of:~~
8 (1) *\$100,000 or more is a severity level 5, nonperson felony;*
9 (2) *at least \$75,000 but less than \$100,000 is a severity level 6, non-*
10 *person felony;*
11 (3) *at least \$50,000 but less than \$75,000 is a severity level 7, non-*
12 *person felony;*
13 (4) *at least \$25,000 but less than \$50,000 is a severity level 8, non-*
14 *person felony;*
15 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
16 *son felony;*
17 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
18 *son felony;*
19 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
20 *meanor; and*
21 (8) *less than \$500 is a class B nonperson misdemeanor.*
22 (b) Any employing unit or any officer or agent for any employing unit
23 or any other person who makes a false statement or representation know-
24 ing it to be false, or who knowingly fails to disclose a material fact, to
25 prevent or reduce the payment of benefits to any individual entitled
26 thereto, or to avoid becoming or remaining subject hereto or to avoid or
27 reduce any contribution or other payment required from an employing
28 unit under this act, or who willfully fails or refuses to make any such
29 contributions or other payment or to furnish any reports required here-
30 under or to produce or permit the inspection or copying of records as
31 required hereunder, ~~shall be punished by a fine of not less than \$20 nor~~
32 ~~more than \$200, or by imprisonment for not longer than 60 days, or both~~
33 ~~such fine and imprisonment is guilty of a class C, nonperson misde-~~
34 ~~meanor.~~ Each such false statement or representation or failure to disclose
35 a material fact and each day of such failure or refusal shall constitute a
36 separate offense.
37 (c) Any person who willfully violates any provision of this act or any
38 rule and regulation adopted by the secretary hereunder, the violation of
39 which is made unlawful or the observance of which is required under the
40 terms of this act, and for which a penalty is neither prescribed herein or
41 provided by any other applicable statute, ~~shall be punished by a fine of~~
42 ~~not less than \$20 nor more than \$200, or by imprisonment for not longer~~
43 ~~than 60 days, or by both such fine and imprisonment, and is guilty of a~~

1 *class C, nonperson misdemeanor*. Each day such violation continues shall
2 be deemed to be a separate offense.

3 (d) (1) Any person who has received any amount of money as ben-
4 efits under this act while any conditions for the receipt of benefits im-
5 posed by this act were not fulfilled in such person's case, or while such
6 person was disqualified from receiving benefits, shall in the discretion of
7 the secretary, either be liable to have such amount of money deducted
8 from any future benefits payable to such person under this act or shall
9 be liable to repay to the secretary for the employment security fund an
10 amount of money equal to the amount so received by such person. After
11 a period of five years, the secretary may waive the collection of any such
12 amount of money when the secretary has determined that the payment
13 of such amount of money was not due to fraud, misrepresentation, or
14 willful nondisclosure on the part of the person receiving such amount of
15 money, and the collection thereof would be against equity or would cause
16 extreme hardship with regard to such person. The collection of benefit
17 overpayments which were made in the absence of fraud, misrepresenta-
18 tion or willful nondisclosure of required information on the part of the
19 person who received such overpayments, may be waived by the secretary
20 at any time if such person met all eligibility requirements of the employ-
21 ment security law during the weeks in which the overpayments were
22 made.

23 (2) Any benefit erroneously paid which is not repaid shall bear inter-
24 est at the rate of 1.5% per month or fraction of a month. If the benefit
25 was received as a result of fraud, misrepresentation or willful nondisclo-
26 sure of required information, interest shall accrue from the date of the
27 final determination of overpayment until repayment plus interest is re-
28 ceived by the secretary. If the overpayment was without fraud, misrep-
29 resentation or willful nondisclosure of required information, interest shall
30 accrue upon any balance which remains unpaid two years after the final
31 determination of overpayment is made and shall continue until payment
32 plus accrued interest is received by the secretary. Interest collected pur-
33 suant to this section shall be paid into the special employment security
34 fund, except that interest collected on federal administrative programs
35 shall be returned to the federal government. Upon written request and
36 for good cause shown, the secretary may abate any interest or portion
37 thereof provided for by this subsection (d)(2). Interest accrued may not
38 be paid by money deducted from any future benefits payable to such
39 persons liable for any overpayment.

40 (3) Unless collection is waived by the secretary, any such amount shall
41 be collectible in the manner provided in subsection (b) of K.S.A. 44-717
42 and amendments thereto for the collection of past due contributions. The
43 courts of this state shall in like manner entertain actions to collect

1 amounts of money erroneously paid as benefits, or unlawfully obtained,
2 for which liability has accrued under the employment security law of any
3 other state or of the federal government.

4 (e) Any employer or person who willfully fails or refuses to pay con-
5 tributions, payments in lieu of contributions or benefit cost payments or
6 attempts in any manner to evade or defeat any such contributions, pay-
7 ments in lieu of contributions or benefit cost payments or the payment
8 thereof, shall be liable for the payment of such contributions, payments
9 in lieu of contributions or benefit cost payments and, in addition to any
10 other penalties provided by law, shall be liable to pay a penalty equal to
11 the total amount of the contributions, payments in lieu of contributions
12 or benefit cost payments evaded or not paid.

13 (f) (1) It shall be unlawful for an employing unit to knowingly obtain
14 or attempt to obtain a reduced liability for contributions under subsection
15 (b)(1) of K.S.A. 44-710a and amendments thereto through manipulation
16 of the employer's workforce, or for an employing unit that is not an em-
17 ploying unit at the time it acquires the trade or business, to knowingly
18 obtain or attempt to obtain a reduced liability for contributions under
19 subsection (b)(5) of K.S.A. 44-710a and amendments thereto, or any other
20 provision of K.S.A. 44-710a and amendments thereto related to deter-
21 mining the assignment of a contribution rate, when the sole or primary
22 purpose of the business acquisition was for the purpose of obtaining a
23 lower rate of contributions, or for a person to knowingly advise an em-
24 ploying unit in such a way that results in such a violation, such employing
25 unit or person shall be subject to the following penalties:

26 (A) If the person is an employer, then such employer shall be as-
27 signed the highest rate assignable under K.S.A. 44-710a, and amendments
28 thereto, for the rate year during which such violation or attempted vio-
29 lation occurred and the three rate years immediately following this rate
30 year. However, if the employer's business is already at such highest rate
31 for any year, or if the amount of increase in the employer's rate would
32 be less than 2% for such year, then a penalty rate of contributions of 2%
33 of taxable wages shall be imposed for such year. Any moneys resulting
34 from the difference of the computed rate and the penalty rate shall be
35 remitted to the state treasurer in accordance with the provisions of K.S.A.
36 75-4215 and amendments thereto. Upon receipt of each such remittance,
37 the state treasurer shall deposit the entire amount in the state treasury
38 to the credit of the special employment security fund.

39 (B) If the person is not an employer, such person shall be subject to
40 a civil money penalty of not more than \$5,000. All fines assessed and
41 collected under this section shall be remitted to the state treasurer in
42 accordance with the provisions of K.S.A. 75-4215 and amendments
43 thereto. Upon receipt of each such remittance, the state treasurer shall

1 deposit the entire amount in the state treasury to the credit of the special
2 employment security fund.

3 (2) For purposes of this subsection, the term “knowingly” means hav-
4 ing actual knowledge of or acting with deliberate ignorance or reckless
5 disregard for the prohibition involved.

6 (3) For purposes of this subsection, the term “violates or attempts to
7 violate” includes, but is not limited to, any intent to evade, misrepresen-
8 tation or willful nondisclosure.

9 (4) (A) In addition to, or in lieu of, any civil penalty imposed by
10 paragraph (1) if, the director of employment security or a special assistant
11 attorney general assigned to the department of labor, has probable cause
12 to believe that a violation of this subsection (f) should be prosecuted as
13 a crime, a copy of any order, all investigative reports and any evidence in
14 the possession of the division of employment security which relates to
15 such violation, may be forwarded to the prosecuting attorney in the
16 county in which the act or any of the acts were performed which consti-
17 tute a violation of this subsection (f). Any case which a county or district
18 attorney fails to prosecute within 90 days shall be returned promptly to
19 the director of employment security. The special assistant attorney gen-
20 eral assigned to the Kansas department of labor shall then prosecute the
21 case, if, in the opinion of the special assistant attorney general, the acts
22 or practices involved still warrant prosecution.

23 (B) Violation of this subsection (f) ~~shall be~~ is a level 9, nonperson
24 felony.

25 (5) The secretary shall establish procedures to identify the transfer
26 or acquisition of a business for purposes of this section.

27 (6) For purposes of subsection (f):

28 (A) “Person” has the meaning given such term by section 7701(a)(1)
29 of the internal revenue code of 1986;

30 (B) “trade or business” shall include the employer’s workforce; and

31 (C) the provisions of K.S.A. 21-3206 and K.S.A. 21-3207, and amend-
32 ments thereto, shall apply.

33 (7) This subsection (f) shall be interpreted and applied in such a man-
34 ner as to meet the minimum requirements contained in any guidance or
35 regulation issued by the United States department of labor.

36 Sec. 29. K.S.A. 2009 Supp. 47-1827 is hereby amended to read as
37 follows: 47-1827. (a) No person shall, without the effective consent of the
38 owner and with the intent to damage the enterprise conducted at the
39 animal facility, damage or destroy an animal facility or any animal or
40 property in or on an animal facility.

41 (b) No person shall, without the effective consent of the owner, ac-
42 quire or otherwise exercise control over an animal facility, an animal from
43 an animal facility or other property from an animal facility, with the intent

- 1 to deprive the owner of such facility, animal or property and to damage
2 the enterprise conducted at the animal facility.
- 3 (c) No person shall, without the effective consent of the owner and
4 with the intent to damage the enterprise conducted at the animal facility:
- 5 (1) Enter an animal facility, not then open to the public, with intent
6 to commit an act prohibited by this section;
- 7 (2) remain concealed, with intent to commit an act prohibited by this
8 section, in an animal facility;
- 9 (3) enter an animal facility and commit or attempt to commit an act
10 prohibited by this section; or
- 11 (4) enter an animal facility to take pictures by photograph, video cam-
12 era or by any other means.
- 13 (d) (1) No person shall, without the effective consent of the owner
14 and with the intent to damage the enterprise conducted at the animal
15 facility, enter or remain on an animal facility if the person:
- 16 (A) Had notice that the entry was forbidden; or
- 17 (B) received notice to depart but failed to do so.
- 18 (2) For purposes of this subsection (d), “notice” means:
- 19 (A) Oral or written communication by the owner or someone with
20 apparent authority to act for the owner;
- 21 (B) fencing or other enclosure obviously designed to exclude intrud-
22 ers or to contain animals; or
- 23 (C) a sign or signs posted on the property or at the entrance to the
24 building, reasonably likely to come to the attention of intruders, indicating
25 that entry is forbidden.
- 26 (e) No person shall, without the effective consent of the owner and
27 with the intent to damage or destroy the field crop product, damage or
28 destroy any field crop product that is grown in the context of a product
29 development program in conjunction or coordination with a private re-
30 search facility or a university or any federal, state or local governmental
31 agency.
- 32 (f) No person shall, without the effective consent of the owner and
33 with the intent to damage or destroy the field crop product, enter any
34 property, with the intent to damage or destroy any field crop product that
35 is grown in the context of a product development program in conjunction
36 or coordination with a private research facility or a university or any fed-
37 eral, state or local governmental agency.
- 38 (g) (1) Violation of subsection (a) or (e) ~~is a severity level 7, nonper-~~
39 ~~son felony, if the facility, animals, field crop product or property is dam-~~
40 ~~aged or destroyed to the extent of \$25,000 or more. Violation of subsec-~~
41 ~~tion (a) or (e) is a severity level 9, nonperson felony if the facility, animals,~~
42 ~~field crop product or property is damaged or destroyed to the extent of~~
43 ~~at least \$1,000 but less than \$25,000. Violation of subsection (a) or (e) is~~

- 1 a class A nonperson misdemeanor if the facility, animals, field crop prod-
2 uct or property damaged or destroyed is of the value of less than \$1,000
3 or is of the value of \$1,000 or more and is damaged to the extent of less
4 than \$1,000.:
- 5 (A) \$100,000 or more is a severity level 5, nonperson felony;
 - 6 (B) at least \$75,000 but less than \$100,000 is a severity level 6, non-
7 person felony;
 - 8 (C) at least \$50,000 but less than \$75,000 is a severity level 7, non-
9 person felony;
 - 10 (D) at least \$25,000 but less than \$50,000 is a severity level 8, non-
11 person felony;
 - 12 (E) at least \$2,000 but less than \$25,000 is a severity level 9, nonper-
13 son felony;
 - 14 (F) at least \$1,000 but less than \$2,000 is a severity level 10, nonper-
15 son felony;
 - 16 (G) at least \$500 but less than \$1,000 is a class A nonperson misde-
17 meanor; and
 - 18 (H) less than \$500 is a class B nonperson misdemeanor.
- 19 (2) Violation of subsection (b) is a severity level 10, nonperson felony.
20 (3) Violation of subsection (c) is a class A, nonperson misdemeanor.
21 (4) Violation of subsection (d) or (f) is a class B nonperson
22 misdemeanor.
- 23 (h) The provisions of this section shall not apply to lawful activities
24 of any governmental agency or employees or agents thereof carrying out
25 their duties under law.
- 26 Sec. 30. K.S.A. 2009 Supp. 65-4167 is hereby amended to read as
27 follows: 65-4167. (a) Trafficking in counterfeit drugs is intentionally man-
28 ufacturing, distributing, ~~dispensing, selling or delivering~~ or possessing
29 *with the intent to distribute* for consumption purposes, ~~or holding or~~
30 ~~offering for sale~~, any counterfeit drug.
- 31 (b) Trafficking in counterfeit drugs which have a retail value of less
32 ~~than \$500 is a class A nonperson misdemeanor, trafficking in counterfeit~~
33 ~~drugs which have a retail value of at least \$500 but less than \$25,000 is a~~
34 ~~severity level 9, nonperson felony and trafficking in counterfeit drugs~~
35 ~~which have a retail value of \$25,000 or more is a severity level 7, non-~~
36 ~~person felony.:~~
- 37 (1) \$100,000 or more is a severity level 5, nonperson felony;
 - 38 (2) at least \$75,000 but less than \$100,000 is a severity level 6, non-
39 person felony;
 - 40 (3) at least \$50,000 but less than \$75,000 is a severity level 7, non-
41 person felony;
 - 42 (4) at least \$25,000 but less than \$50,000 is a severity level 8, non-
43 person felony;

- 1 (5) *at least \$2,000 but less than \$25,000 is a severity level 9, nonper-*
2 *son felony;*
3 (6) *at least \$1,000 but less than \$2,000 is a severity level 10, nonper-*
4 *son felony;*
5 (7) *at least \$500 but less than \$1,000 is a class A nonperson misde-*
6 *meanor; and*
7 (8) *less than \$500 is a class B nonperson misdemeanor.*
8 (c) A pharmacy which is inadvertently in possession of counterfeit
9 drugs may return those drugs to the supplier who provided the drugs to
10 the pharmacy.
11 Sec. 31. K.S.A. 2009 Supp. 74-9101 is hereby amended to read as
12 follows: 74-9101. (a) There is hereby established the Kansas sentencing
13 commission.
14 (b) The commission shall:
15 (1) Develop a sentencing guideline model or grid based on fairness
16 and equity and shall provide a mechanism for linking justice and correc-
17 tions policies. The sentencing guideline model or grid shall establish ra-
18 tional and consistent sentencing standards which reduce sentence dis-
19 parity, to include, but not be limited to, racial and regional biases which
20 may exist under current sentencing practices. The guidelines shall specify
21 the circumstances under which imprisonment of an offender is appro-
22 priate and a presumed sentence for offenders for whom imprisonment is
23 appropriate, based on each appropriate combination of reasonable of-
24 fense and offender characteristics. In developing its recommended sen-
25 tencing guidelines, the commission shall take into substantial considera-
26 tion current sentencing and release practices and correctional resources,
27 including but not limited to the capacities of local and state correctional
28 facilities. In its report, the commission shall make recommendations re-
29 garding whether there is a continued need for and what is the projected
30 role of, if any, the Kansas parole board and whether the policy of allo-
31 cating good time credits for the purpose of determining an inmate's eli-
32 gibility for parole or conditional release should be continued;
33 (2) consult with and advise the legislature with reference to the im-
34 plementation, management, monitoring, maintenance and operations of
35 the sentencing guidelines system;
36 (3) direct implementation of the sentencing guidelines system;
37 (4) assist in the process of training judges, county and district attor-
38 neys, court services officers, state parole officers, correctional officers,
39 law enforcement officials and other criminal justice groups. For these
40 purposes, the sentencing commission shall develop an implementation
41 policy and shall construct an implementation manual for use in its training
42 activities;
43 (5) receive presentence reports and journal entries for all persons

1 who are sentenced for crimes committed on or after July 1, 1993, to
2 develop post-implementation monitoring procedures and reporting
3 methods to evaluate guideline sentences. In developing the evaluative
4 criteria, the commission shall take into consideration rational and consis-
5 tent sentencing standards which reduce sentence disparity to include, but
6 not be limited to, racial and regional biases;

7 (6) advise and consult with the secretary of corrections and members
8 of the legislature in developing a mechanism to link guidelines sentence
9 practices with correctional resources and policies, including but not lim-
10 ited to the capacities of local and state correctional facilities. Such linkage
11 shall include a review and determination of the impact of the sentencing
12 guidelines on the state's prison population, review of corrections pro-
13 grams and a study of ways to more effectively utilize correction dollars
14 and to reduce prison population;

15 (7) make recommendations relating to modification to the sentencing
16 guidelines as provided in K.S.A. 21-4725, and amendments thereto;

17 (8) prepare and submit fiscal impact and correctional resource state-
18 ment as provided in K.S.A. 74-9106, and amendments thereto;

19 (9) make recommendations to those responsible for developing a
20 working philosophy of sentencing guideline consistency and rationality;

21 (10) develop prosecuting standards and guidelines to govern the con-
22 duct of prosecutors when charging persons with crimes and when engag-
23 ing in plea bargaining;

24 (11) analyze problems in criminal justice, identify alternative solu-
25 tions and make recommendations for improvements in criminal law, pros-
26 ecution, community and correctional placement, programs, release pro-
27 cedures and related matters including study and recommendations
28 concerning the statutory definition of crimes and criminal penalties and
29 review of proposed criminal law changes;

30 (12) perform such other criminal justice studies or tasks as may be
31 assigned by the governor or specifically requested by the legislature, de-
32 partment of corrections, the chief justice or the attorney general;

33 (13) develop a program plan which includes involvement of business
34 and industry in the public or other social or fraternal organizations for
35 admitting back into the mainstream those offenders who demonstrate
36 both the desire and ability to reconstruct their lives during their incar-
37 ceration or during conditional release;

38 (14) appoint a task force to make recommendations concerning the
39 consolidation of probation, parole and community corrections services;

40 (15) produce official inmate population projections annually on or
41 before six weeks following the date of receipt of the data from the de-
42 partment of corrections. When the commission's projections indicate that
43 the inmate population will exceed available prison capacity within two

1 years of the date of the projection, the commission shall identify and
2 analyze the impact of specific options for (A) reducing the number of
3 prison admissions; or (B) adjusting sentence lengths for specific groups
4 of offenders. Options for reducing the number of prison admissions shall
5 include, but not be limited to, possible modification of ~~both~~ the sentenc-
6 ing ~~grids~~ *grid* to include presumptive intermediate dispositions for certain
7 categories of offenders. Intermediate sanction dispositions shall include,
8 but not be limited to: intensive supervision; short-term jail sentences;
9 halfway houses; community-based work release; electronic monitoring
10 and house arrest; substance abuse treatment; and pre-revocation incar-
11 ceration. Intermediate sanction options shall include, but not be limited
12 to, mechanisms to explicitly target offenders that would otherwise be
13 placed in prison. Analysis of each option shall include an assessment of
14 such options impact on the overall size of the prison population, the effect
15 on public safety and costs. In preparing the assessment, the commission
16 shall review the experience of other states and shall review available re-
17 search regarding the effectiveness of such option. The commission's find-
18 ings relative to each sentencing policy option shall be presented to the
19 governor and the joint committee on corrections and juvenile justice over-
20 sight no later than November 1;

21 (16) at the request of the governor or the joint committee on correc-
22 tions and juvenile justice oversight, initiate and complete an analysis of
23 other sentencing policy adjustments not otherwise evaluated by the
24 commission;

25 (17) develop information relating to the number of offenders on post-
26 release supervision and subject to electronic monitoring for the duration
27 of the person's natural life;

28 (18) determine the effect the mandatory sentencing established in
29 K.S.A. 21-4642 and 21-4643, and amendments thereto, would have on
30 the number of offenders civilly committed to a treatment facility as a
31 sexually violent predator as provided pursuant to K.S.A. 59-29a01 et seq.,
32 and amendments thereto;

33 (19) assume the designation and functions of the state statistical anal-
34 ysis center. All criminal justice agencies, as defined in subsection (c) of
35 K.S.A. 22-4701, and amendments thereto, and the juvenile justice au-
36 thority shall provide any data or information, including juvenile offender
37 information, requested by the commission to facilitate the function of the
38 state statistical analysis center; and

39 (20) subject to the provisions of appropriation acts and the availability
40 of funds therefor, produce official juvenile correctional facility population
41 projections annually on or before November 1, not more than six weeks
42 following the receipt of the data from the juvenile justice authority and
43 develop bed impacts regarding legislation that may affect juvenile cor-

1 rectional facility population.

2 Sec. 32. K.S.A. 2009 Supp. 75-5291 is hereby amended to read as
3 follows: 75-5291. (a) (1) The secretary of corrections may make grants to
4 counties for the development, implementation, operation and improve-
5 ment of community correctional services that address the criminogenic
6 needs of felony offenders including, but not limited to, adult intensive
7 supervision, substance abuse and mental health services, employment and
8 residential services, and facilities for the detention or confinement, care
9 or treatment of offenders as provided in this section except that no com-
10 munity corrections funds shall be expended by the secretary for the pur-
11 pose of establishing or operating a conservation camp as provided by
12 K.S.A. 75-52,127 and amendments thereto.

13 (2) Except as otherwise provided, placement of offenders in com-
14 munity correctional services programs by the court shall be limited to
15 placement of adult offenders, convicted of a felony offense:

16 (A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the
17 sentencing guidelines grid ~~for nondrug crimes~~ or in grid blocks 3-E, 3-F,
18 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, *prior*
19 *to such grid's repeal*. In addition, the court may place in a community
20 correctional services program adult offenders, convicted of a felony of-
21 fense, whose offense is classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E,
22 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid ~~for nondrug crimes~~;

23 (B) whose severity level and criminal history score designate a pre-
24 sumptive prison sentence on ~~either~~ *the* sentencing guidelines grid but
25 receive a nonprison sentence as a result of departure;

26 (C) all offenders convicted of an offense which satisfies the definition
27 of offender pursuant to K.S.A. 22-4902, and amendments thereto, and
28 which is classified as a severity level 7 or higher offense and who receive
29 a nonprison sentence, regardless of the manner in which the sentence is
30 imposed;

31 (D) any offender for whom a violation of conditions of release or
32 assignment or a nonprison sanction has been established as provided in
33 K.S.A. 22-3716, and amendments thereto, prior to revocation resulting
34 in the offender being required to serve any time for the sentence imposed
35 or which might originally have been imposed in a state facility in the
36 custody of the secretary of corrections;

37 (E) on and after January 1, 2011, for offenders who are expected to
38 be subject to supervision in Kansas, who are determined to be "high risk
39 or needs, or both" by the use of a statewide, mandatory, standardized risk
40 assessment tool or instrument which shall be specified by the Kansas
41 sentencing commission;

42 (F) placed in community correctional services programs as a condi-
43 tion of supervision following the successful completion of a conservation

- 1 camp program; or
2 (G) who has been sentenced to community corrections supervision
3 pursuant to K.S.A. 21-4729, and amendments thereto.
- 4 (3) Notwithstanding any law to the contrary and subject to the avail-
5 ability of funding therefor, adult offenders sentenced to community su-
6 pervision in Johnson county for felony crimes that occurred on or after
7 July 1, 2002, but before January 1, 2011, shall be placed under court
8 services or community corrections supervision based upon court rules
9 issued by the chief judge of the 10th judicial district. The provisions con-
10 tained in this subsection shall not apply to offenders transferred by the
11 assigned agency to an agency located outside of Johnson county. The
12 provisions of this paragraph shall expire on January 1, 2011.
- 13 (4) Nothing in this act shall prohibit a community correctional serv-
14 ices program from providing services to juvenile offenders upon approval
15 by the local community corrections advisory board. Grants from com-
16 munity corrections funds administered by the secretary of corrections
17 shall not be expended for such services.
- 18 (5) The court may require an offender for whom a violation of con-
19 ditions of release or assignment or a nonprison sanction has been estab-
20 lished, as provided in K.S.A. 22-3716, and amendments thereto, to serve
21 any time for the sentence imposed or which might originally have been
22 imposed in a state facility in the custody of the secretary of corrections
23 without a prior assignment to a community correctional services program
24 if the court finds and sets forth with particularity the reasons for finding
25 that the safety of the members of the public will be jeopardized or that
26 the welfare of the inmate will not be served by such assignment to a
27 community correctional services program.
- 28 (b) (1) In order to establish a mechanism for community correctional
29 services to participate in the department of corrections annual budget
30 planning process, the secretary of corrections shall establish a community
31 corrections advisory committee to identify new or enhanced correctional
32 or treatment interventions designed to divert offenders from prison.
- 33 (2) The secretary shall appoint one member from the southeast com-
34 munity corrections region, one member from the northeast community
35 corrections region, one member from the central community corrections
36 region and one member from the western community corrections region.
37 The deputy secretary of community and field services shall designate two
38 members from the state at large. The secretary shall have final appoint-
39 ment approval of the members designated by the deputy secretary. The
40 committee shall reflect the diversity of community correctional services
41 with respect to geographical location and average daily population of of-
42 fenders under supervision.
- 43 (3) Each member shall be appointed for a term of three years and

1 such terms shall be staggered as determined by the secretary. Members
2 shall be eligible for reappointment.

3 (4) The committee, in collaboration with the deputy secretary of com-
4 munity and field services or the deputy secretary's designee, shall rou-
5 tinely examine and report to the secretary on the following issues:

- 6 (A) Efficiencies in the delivery of field supervision services;
- 7 (B) effectiveness and enhancement of existing interventions;
- 8 (C) identification of new interventions; and
- 9 (D) statewide performance indicators.

10 (5) The committee's report concerning enhanced or new interven-
11 tions shall address:

- 12 (A) Goals and measurable objectives;
- 13 (B) projected costs;
- 14 (C) the impact on public safety; and
- 15 (D) the evaluation process.

16 (6) The committee shall submit its report to the secretary annually
17 on or before July 15 in order for the enhanced or new interventions to
18 be considered for inclusion within the department of corrections budget
19 request for community correctional services or in the department's en-
20 hanced services budget request for the subsequent fiscal year.

21 Sec. 33. K.S.A. 9-2012, 16-305, 17-12a508, 17-1311a, 19-3519, 21-
22 3437, 21-3701, 21-3704, 21-3707, 21-3720, 21-3729, 21-3734, 21-3761,
23 21-3763, 21-3846, 21-3902, 21-3904, 21-3905, 21-3910, 21-4018, 21-
24 4111, 39-720 and K.S.A. 2009 Supp. 39-717, 40-247, 40-2,118, 40-5013,
25 44-5,125, 44-719, 47-1827, 65-4167, 74-9101 and 75-5291 are hereby
26 repealed.

27 Sec. 34. This act shall take effect and be in force from and after its
28 publication in the statute book.