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3 **SENATE BILL No. 411**

4
5 By Committee on Judiciary

6
7 1-21

8
9 AN ACT concerning crimes and punishment; relating to criminal pos-
10 session of a firearm; amending K.S.A. 2009 Supp. 21-4204 and re-
11 pealing the existing section.

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

14 Section 1. K.S.A. 2009 Supp. 21-4204 is hereby amended to read as
15 follows: 21-4204. (a) Criminal possession of a firearm is:

16 (1) Possession of any firearm by a person who is both addicted to and
17 an unlawful user of a controlled substance;

18 (2) possession of any firearm by a person who has been convicted of
19 a person felony or a violation of K.S.A. 2009 Supp. 21-36a01 through 21-
20 36a17, and amendments thereto, or a crime under a law of another ju-
21 risdiction which is substantially the same as such felony or violation, or
22 was adjudicated a juvenile offender because of the commission of an act
23 which if done by an adult would constitute the commission of a person
24 felony or a violation of K.S.A. 2009 Supp. 21-36a01 through 21-36a17,
25 and amendments thereto, and was found to have been in possession of a
26 firearm at the time of the commission of the offense;

27 (3) possession of any firearm by a person who, within the preceding
28 five years has been convicted of a felony, other than those specified in
29 subsection (a)(4)(A), under the laws of Kansas or a crime under a law of
30 another jurisdiction which is substantially the same as such felony, has
31 been released from imprisonment for a felony or was adjudicated as a
32 juvenile offender because of the commission of an act which if done by
33 an adult would constitute the commission of a felony, and was found not
34 to have been in possession of a firearm at the time of the commission of
35 the offense;

36 (4) possession of any firearm by a person who, within the preceding
37 10 years, has been convicted of: (A) A felony under K.S.A. 21-3401, 21-
38 3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419,
39 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-
40 3716, K.S.A. 2009 Supp. 21-36a03, 21-36a05 ~~or~~, 21-36a06, 21-36a07 or
41 21-36a09, and amendments thereto; K.S.A. 65-4127a, 65-4127b, 65-
42 4159, 65-4160, 65-4161, 65-4162, 65-4163, 65-4164 or 65-7006, prior to
43 such section's repeal; an attempt, conspiracy or criminal solicitation, as

1 *defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto,*
2 *of any such felony;* or a crime under a law of another jurisdiction which
3 is substantially the same as such felony, has been released from impris-
4 onment for such felony, or was adjudicated as a juvenile offender because
5 of the commission of an act which if done by an adult would constitute
6 the commission of such felony, was found not to have been in possession
7 of a firearm at the time of the commission of the offense, and has not
8 had the conviction of such crime expunged or been pardoned for such
9 crime; or (B) a nonperson felony under the laws of Kansas or a crime
10 under the laws of another jurisdiction which is substantially the same as
11 such nonperson felony, has been released from imprisonment for such
12 nonperson felony or was adjudicated as a juvenile offender because of
13 the commission of an act which if done by an adult would constitute the
14 commission of a nonperson felony, and was found to have been in pos-
15 session of a firearm at the time of the commission of the offense;

16 (5) possession of any firearm by any person, other than a law enforce-
17 ment officer, in or on any school property or grounds upon which is
18 located a building or structure used by a unified school district or an
19 accredited nonpublic school for student instruction or attendance or ex-
20 tracurricular activities of pupils enrolled in kindergarten or any of the
21 grades 1 through 12 or at any regularly scheduled school sponsored ac-
22 tivity or event;

23 (6) refusal to surrender or immediately remove from school property
24 or grounds or at any regularly scheduled school sponsored activity or
25 event any firearm in the possession of any person, other than a law en-
26 forcement officer, when so requested or directed by any duly authorized
27 school employee or any law enforcement officer; or

28 (7) possession of any firearm by a person who is or has been a men-
29 tally ill person subject to involuntary commitment for care and treatment,
30 as defined in K.S.A. 59-2946, and amendments thereto, or persons with
31 an alcohol or substance abuse problem subject to involuntary commit-
32 ment for care and treatment as defined in K.S.A. 59-29b46, and amend-
33 ments thereto.

34 (b) Subsection (a)(5) shall not apply to:

35 (1) Possession of any firearm in connection with a firearms safety
36 course of instruction or firearms education course approved and author-
37 ized by the school;

38 (2) any possession of any firearm specifically authorized in writing by
39 the superintendent of any unified school district or the chief administrator
40 of any accredited nonpublic school;

41 (3) possession of a firearm secured in a motor vehicle by a parent,
42 guardian, custodian or someone authorized to act in such person's behalf
43 who is delivering or collecting a student; or

1 (4) possession of a firearm secured in a motor vehicle by a registered
2 voter who is on the school grounds, which contain a polling place for the
3 purpose of voting during polling hours on an election day.
4 (c) Subsection (a)(7) shall not apply to a person who has received a
5 certificate of restoration pursuant to K.S.A. 2009 Supp. 75-7c26, and
6 amendments thereto.
7 (d) Violation of subsection (a)(1) or (a)(5) is a class B nonperson select
8 misdemeanor; violation of subsection (a)(2), (a)(3), (a)(4) or (a)(7) is a
9 severity level 8, nonperson felony; violation of subsection (a)(6) is a class
10 A nonperson misdemeanor.
11 Sec. 2. K.S.A. 2009 Supp. 21-4204 is hereby repealed.
12 Sec. 3. This act shall take effect and be in force from and after its
13 publication in the statute book.
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