

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Corrections and Juvenile Justice** recommends **SB 414** be amended as recommended by the House Committee on Corrections and Juvenile Justice as reported in the Journal of the House on March 14, 2024, and the bill, as printed As Amended by House Committee, be further amended on page 1, following line 8, by inserting:

"New Section 1. (a) Encouraging suicide is knowingly encouraging another person to commit or attempt to commit suicide when the person knows that such other person has communicated a desire to commit suicide and such encouragement:

(1) Is made proximate in time to the other person committing or attempting to commit suicide; and

(2) substantially influences the other person's decision or methods used to commit or attempt to commit suicide.

(b) Encouraging suicide is a:

(1) Severity level 5, person felony if the other person attempts to commit suicide; and

(2) severity level 4, person felony if the other person commits suicide.

(c) As used in this section:

(1) "Attempt to commit suicide" means any physical action done by a person with the intent to commit suicide; and

(2) "encouraging a person to commit or attempt to commit suicide" means oral, written or visual communication that is persuasive or intended to be persuasive and that gives advice to commit suicide, attempt to commit suicide or develop a plan to commit suicide.

(d) This section shall be a part of and supplemental to the Kansas criminal code.

(e) This section shall take effect on and after July 1, 2024.

Sec. 2. On and after July 1, 2024, K.S.A. 21-5601 is hereby amended to read as follows: 21-5601. (a) Endangering a child is knowingly and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health may be endangered.

(b) Aggravated endangering a child is:

(1) Recklessly causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health is endangered;

(2) causing or permitting such child to be in an environment where the person knows or reasonably should know that any person is distributing, possessing with intent to distribute, manufacturing or attempting to manufacture any methamphetamine, ~~or analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto~~ or any fentanyl-related controlled substance; or

(3) causing or permitting such child to be in an environment where the person knows or reasonably should know that:

(A) Drug paraphernalia or volatile, toxic or flammable chemicals are stored or used for the purpose of manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto; or

(B) drug paraphernalia or toxic materials, compounds or mixtures are stored or used for the purpose of manufacturing or attempting to manufacture any fentanyl-related controlled substance.

(c) (1) Endangering a child is a class A person misdemeanor.

(2) Aggravated endangering a child is a:

(A) Severity level 9, person felony except as provided in subsection (c)(2)(B); and

(B) severity level 6, person felony when bodily harm is inflicted upon the child.

(3) The sentence for a violation of aggravated endangering a child shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(d) Nothing in subsection (a) shall be construed to mean a child is endangered for the sole reason the child's parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

(e) As used in this section:

(1) "Drug paraphernalia," "fentanyl-related controlled substance" and "manufacture" means mean the same as defined in K.S.A. 21-5701, and amendments thereto; and

(2) "drug paraphernaliamethamphetamine" means ~~the same as any substance designated~~ in K.S.A. ~~21-5701~~ 65-4107(d)(3) or (f)(1), and amendments thereto, or any analog thereof.;

Also on page 1, in line 9, before "K.S.A." by inserting "On and after July 1, 2024,";

On page 4, following line 35, by inserting:

"Sec. 4. On and after July 1, 2024, K.S.A. 21-6101 is hereby amended to read as follows: 21-6101. (a) Breach of privacy is knowingly and without lawful authority:

(1) Intercepting, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of private communication;

(2) divulging, without the consent of the sender or receiver, the existence or contents of such message if such person knows that the message was illegally intercepted, or if such person illegally learned of the message in the course of employment with an agency in transmitting ~~it~~ such message;

(3) entering with intent to listen surreptitiously to private conversations in a private place or to observe the personal conduct of any other person or persons entitled to privacy therein;

(4) installing or using outside or inside a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible without the use of such device, without the consent of the person or persons entitled to privacy therein;

(5) installing or using any device or equipment for the interception of any telephone, telegraph or other wire or wireless communication without the consent of the person in possession or control of the facilities for such communication;

(6) installing or using a ~~concealed~~ camcorder, motion picture camera or photographic camera of any type to ~~secretly~~ videotape, film, photograph or record, by electronic or other means, another identifiable person under or through the clothing being worn by that other person or another identifiable person who is nude or in a state of undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to invade the privacy of that other person, under circumstances in which that other person has a reasonable expectation of privacy;

(7) disseminating or permitting the dissemination of any videotape, photograph, film or image obtained in violation of subsection (a)(6); or

(8) disseminating any videotape, photograph, film or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity and under circumstances in which such identifiable person had a reasonable expectation of privacy, with the intent to harass, threaten or intimidate such identifiable person, and such identifiable person did not consent to such dissemination.

(b) Breach of privacy as defined in:

(1) Subsection (a)(1) through (a)(5) is a class A nonperson misdemeanor;

(2) subsection (a)(6) or (a)(8) is a:

(A) Severity level 8, person felony, except as provided in subsection (b)(2)(B); and

(B) severity level 5, person felony upon a second or subsequent conviction within the previous five years; and

(3) subsection (a)(7) is a severity level 5, person felony.

(c) Subsection (a)(1) shall not apply to messages overheard through a regularly installed instrument on a telephone party line or on an extension.

(d) The provisions of this section shall not apply to:

(1) ~~__~~An operator of a switchboard, or any officer, employee or agent of any public utility providing telephone communications service, whose facilities are used in the transmission of a communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which is incident to the rendition of public utility service or to the protection of the rights of property of such public utility;

(2) ~~__~~a provider of an interactive computer service, as defined in 47 U.S.C. § 230, for content provided by another person;

(3) ~~__~~a radio common carrier, as defined in K.S.A. 66-1,143, and amendments thereto; and

(4) ~~__~~a local exchange carrier or telecommunications carrier as defined in K.S.A. 66-1,187, and amendments thereto.

(e) The provisions of subsection (a)(8) shall not apply to a person acting with a bona fide and lawful scientific, educational, governmental, news or other similar public purpose.

(f) As used in this section, "private place" means a place where one may reasonably

expect to be safe from uninvited intrusion or surveillance.

Sec. 5. K.S.A. 21-6615 is hereby amended to read as follows: 21-6615. (a) (1) In any criminal action in which the defendant is convicted, the judge, if the judge sentences the defendant to confinement, shall direct that for the purpose of computing the defendant's sentence and parole eligibility and conditional release dates thereunder, that such sentence is to be computed from a date, to be specifically designated by the court in the sentencing order of the journal entry of judgment. Such date shall be established to reflect and shall be computed as an allowance for the time ~~which~~ that the defendant has spent incarcerated pending the disposition of the defendant's case. The defendant shall be entitled to have credit applied for each day spent incarcerated. In recording the commencing date of such sentence the date as specifically set forth by the court shall be used as the date of sentence and all good time allowances as are authorized by the secretary of corrections are to be allowed on such sentence from such date as though the defendant were actually incarcerated in any of the institutions of the state correctional system.

(2) When computing the defendant's sentence, the following shall not be considered time spent incarcerated pending disposition of the defendant's case:

(A) Any time awarded as credit in another case when consecutive sentences are imposed on a defendant; or

(B) any time spent incarcerated in another jurisdiction if no hold has been issued in such jurisdiction for the case being sentenced.

(b) In any criminal action in which probation; or ~~assignment to a conservation camp or assignment~~ to community corrections is revoked and the defendant is sentenced to confinement, for the purpose of computing the defendant's sentence and parole eligibility and conditional release date, the defendant's sentence is to be computed from a date, hereafter to be specifically designated in the sentencing order of the journal entry of judgment. Such date shall be

established to reflect and shall be computed as an allowance for the time ~~which that~~ the defendant has spent in a residential facility while on probation, ~~or assignment to a conservation camp or assignment~~ to community correctional residential services program. The commencing date of such sentence shall be used as the date of sentence and all good time allowances as are authorized by law are to be allowed on such sentence from such date as though the defendant were actually incarcerated in a correctional institution.

(c) Such credit is not to be considered to reduce the minimum or maximum terms of confinement authorized by law for the offense of which the defendant has been convicted.";

Also on page 4, in line 36, before "K.S.A." by inserting "On and after July 1, 2024,";

On page 8, following line 26, by inserting:

"Sec. 7. K.S.A. 21-6615 is hereby repealed.";

Also on page 8, in line 27, before "K.S.A." by inserting "On and after July 1, 2024,"; also in line 27, after "K.S.A." by inserting "21-5601,"; also in line 27, after "21-5705" by inserting ", 21-6101"; in line 29, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the semicolon by inserting "relating to crimes against persons; creating the crime of encouraging suicide and providing criminal penalties therefor; relating to aggravated endangering a child; increasing the criminal penalties in certain environments associated with fentanyl-related controlled substances or when bodily harm to the child results,"; in line 5, after the semicolon by inserting "relating to crimes involving violations of personal rights; eliminating the element of concealment from the crime of breach of privacy related to installing or using a device to photograph or record another identifiable person under or through the clothing being worn by that other person or another identifiable person who is nude or in a state of undress; relating to sentencing; calculation of confinement; excluding

certain types of incarceration time from the allowance of time against a person's criminal sentence;"; in line 6, after "K.S.A." by inserting "21-5601,"; also in line 6, after "21-5705" by inserting ", 21-6101, 21-6615"; and the bill be passed as amended.

_____Chairperson