

HOUSE BILL No. 2347

AN ACT concerning crimes, punishment and criminal procedure; relating to crimes against public morals; requiring certain offenders to complete an educational or treatment program regarding commercial sexual exploitation and requiring the attorney general to approve such programs in consultation with the office of judicial administration; creating the crime of unlawful use of a laser pointer and providing criminal penalties therefor; removing provisions regarding city ordinances prohibiting buying sexual relations and increasing the criminal penalties therefor; relating to theft; changing the culpability required for certain types of theft; increasing the criminal penalty when the property is a motor vehicle of the value of at least \$500 but less than \$1,500; modifying criminal use of a financial card to include certain conduct involving gift cards; amending K.S.A. 12-4106, 12-4120, 12-4416, 21-5426, 21-5801, 21-5828, 21-6421, 21-6422 and 22-2909 and repealing the existing sections.

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

New Section 1. (a) On or before July 1, 2027, the attorney general, in consultation with the office of judicial administration, shall approve one or more educational or treatment programs regarding commercial sexual exploitation for use under K.S.A. 21-5426, 21-6421, 21-6422 and 22-2909, and amendments thereto, and as otherwise permitted by law.

(b) (1) In accordance with the provisions of the rules and regulations filing act, K.S.A. 77-415 et seq., and amendments thereto, the attorney general shall adopt, amend and revoke rules and regulations governing the educational or treatment programs described in subsection (a), including, but not limited to:

(A) Criteria for the evaluation, approval and monitoring of such programs;

(B) any form required to implement such programs;

(C) any requirements for staff who will be directly providing services to clients of such programs; and

(D) any report, record or other information that may be required to be kept and maintained by such programs.

(2) On or before January 1, 2027, the attorney general shall adopt rules and regulations required for the approval and operation of the educational or treatment programs described in subsection (a).

New Sec. 2. (a) Unlawful use of a laser pointer is knowingly directing light from a laser pointer at:

(1) A law enforcement officer while such officer is engaged in the performance of such officer's duties; or

(2) an aircraft in flight or the flight path of an aircraft.

(b) Unlawful use of a laser pointer as defined in:

(1) Subsection (a)(1) is a class A person misdemeanor; and

(2) subsection (a)(2) is a severity level 9, person felony.

(c) The provisions of subsection (a)(2) shall not apply to:

(1) Any person who is authorized by an aircraft manufacturer or the federal aviation administration to conduct research and development or flight test operations while such person is conducting research and development or flight test operations;

(2) members or elements of the department of defense or department of homeland security acting in an official capacity for the purpose of research, development, operations, testing or training; or

(3) an individual using a laser emergency signaling device to send an emergency distress signal.

(d) As used in this section, "laser pointer" means a device that emits light amplified by the stimulated emission of radiation that is visible to the human eye.

(e) A person who violates the provisions of this section may also be prosecuted for, convicted of and punished for assault or battery.

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

Sec. 3. K.S.A. 12-4106 is hereby amended to read as follows: 12-4106. (a) The municipal judge shall have the power to administer the oaths and enforce all orders, rules and judgments made by such municipal judge, and may fine or imprison for contempt in the same manner and to the same extent as a judge of the district court.

(b) The municipal judge shall have the power to hear and

determine all cases properly brought before such municipal judge to: Grant continuances; sentence those found guilty to a fine or confinement in jail, or both; commit accused persons to jail in default of bond; determine applications for parole; release on probation; grant time in which a fine may be paid; correct a sentence; suspend imposition of a sentence; set aside a judgment; permit time for post trial motions; and discharge accused persons.

(c) The municipal judge shall maintain a docket in which every cause commenced before such municipal judge shall be entered. Such docket shall contain the names of the accused persons and complainant, the nature or character of the offense, the date of trial, the names of all witnesses sworn and examined, the finding of the court, the judgment and sentence, the date of payment, the date of issuing commitment, if any, and every other fact necessary to show the full proceedings in each case.

(d) The municipal judge shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the supreme court.

(e) The municipal judge shall ensure that information concerning dispositions of city ordinance violations that result in convictions comparable to convictions for offenses under Kansas criminal statutes is forwarded to the Kansas bureau of investigation central repository. This information shall be transmitted, on a form or in a format approved by the attorney general, within 30 days of final disposition.

(f) In all cases alleging a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-2,144, 8-1567, 21-6419 or 32-1131 or K.S.A. 21-6419 or 21-6421, and amendments thereto, the municipal court judge shall ensure that the municipal court ~~reports the filing and disposition of such case to the Kansas bureau of investigation central repository, and, on and after July 1, 2014,~~ reports the filing and disposition of such case electronically to the Kansas bureau of investigation central repository.

(g) In all cases in which a fine is imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-2,144 or 8-1567 or K.S.A. 21-6421, and amendments thereto, the municipal court judge shall ensure that the municipal court remits the appropriate amount of such fine to the state treasurer as provided in K.S.A. 12-4120, and amendments thereto.

Sec. 4. K.S.A. 12-4120 is hereby amended to read as follows: 12-4120. (a) ~~On and after July 1, 2012,~~ The amount of \$250 from each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-1567 or 8-2,144, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the community corrections supervision fund established by K.S.A. 75-52,113, and amendments thereto.

(b) ~~One half of each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 21-6421, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and the remainder shall be remitted as otherwise permitted by law. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the human trafficking victim assistance fund established by K.S.A. 75-758, and amendments thereto.~~

(e) ~~On and after July 1, 2017,~~ The amount of \$20 from each fine imposed for a violation of a city ordinance requiring the use of safety belts for those individuals required by K.S.A. 8-2503(a)(1), and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such

remittance, the state treasurer shall credit the entire amount to the seat belt safety fund established by K.S.A. 8-1,181, and amendments thereto.

Sec. 5. K.S.A. 12-4416 is hereby amended to read as follows: 12-4416. (a) A diversion agreement shall provide that if the defendant fulfills the obligations of the program described therein, as determined by the city attorney, the city attorney shall act to have the criminal charges against the defendant dismissed with prejudice. The diversion agreement shall include specifically the waiver of all rights under the law or the constitution of Kansas or of the United States to counsel, a speedy arraignment, a speedy trial, and the right to trial by jury. The diversion agreement may include, but is not limited to, provisions concerning payment of restitution, including court costs and diversion costs, residence in a specified facility, maintenance of gainful employment, and participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventive guidance and other rehabilitative services. The diversion agreement shall state:

- (1) The defendant's full name;
- (2) the defendant's full name at the time the complaint was filed, if different from the defendant's current name;
- (3) the defendant's sex, race and date of birth;
- (4) the crime with which the defendant is charged;
- (5) the date the complaint was filed; and
- (6) the municipal court with which the agreement is filed.

(b) ~~If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 21-6421, and amendments thereto, the agreement:~~

- (1) ~~Shall include a requirement that the defendant pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 21-6421, and amendments thereto; and~~
- (2) ~~may include a requirement that the defendant enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation.~~

(c) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging an alcohol related offense, the diversion agreement shall include a stipulation, agreed to by the defendant and the city attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint. In addition, the agreement shall include a requirement that the defendant:

- (1) Pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 8-1567, and amendments thereto, for a first offense or, in lieu of payment of the fine, perform community service specified by the agreement, consonant with K.S.A. 8-1567, and amendments thereto; and
- (2) participate in an alcohol and drug evaluation conducted by a licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and follow any recommendation made by the provider after such evaluation.

(d) If the person entering into a diversion agreement is a nonresident, the city attorney shall transmit a copy of the diversion agreement to the division. The division shall forward a copy of the diversion agreement to the motor vehicle administrator of the person's state of residence.

(e) If the city attorney elects to offer diversion in lieu of further criminal proceedings on the complaint and the defendant agrees to all of the terms of the proposed agreement, the diversion agreement shall be filed with the municipal court and the municipal court shall stay further proceedings on the complaint. If the defendant declines to

accept diversion, the municipal court shall resume the criminal proceedings on the complaint.

(f)(e) The city attorney shall forward to the division of vehicles of the state department of revenue a copy of the diversion agreement at the time such agreement is filed with the municipal court. The copy of the agreement shall be made available upon request to any county, district or city attorney or court.

Sec. 6. K.S.A. 21-5426 is hereby amended to read as follows: 21-5426. (a) Human trafficking is:

(1) Except as provided in subsection (b)(4) and (5), the intentional recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjecting the person to involuntary servitude or forced labor;

(2) intentionally ~~benefitting~~ *benefiting* financially or by receiving anything of value from participation in a venture that the person has reason to know has engaged in acts set forth in subsection (a)(1);

(3) knowingly coercing employment by obtaining or maintaining labor or services that are performed or provided by another person through any of the following:

(A) Causing or threatening to cause physical injury to any person;

(B) physically restraining or threatening to physically restrain another person;

(C) abusing or threatening to abuse the law or legal process;

(D) threatening to withhold food, lodging or clothing; or

(E) knowingly destroying, concealing, removing, confiscating or possessing any actual or purported government identification document of another person; or

(4) knowingly holding another person in a condition of peonage in satisfaction of a debt owed the person who is holding such other person.

(b) Aggravated human trafficking is:

(1) Human trafficking, as defined in subsection (a), involving the commission or attempted commission of kidnapping, as defined in K.S.A. 21-5408(a), and amendments thereto;

(2) human trafficking, as defined in subsection (a), committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(3) human trafficking, as defined in subsection (a), resulting in a death;

(4) recruiting, harboring, transporting, providing or obtaining, by any means, a child knowing that the child, with or without force, fraud, threat or coercion, will be used to engage in:

(A) Forced labor;

(B) involuntary servitude; or

(C) sexual gratification of the defendant or another involving the exchange of anything of value; or

(5) hiring a child by giving, or offering or agreeing to give, anything of value to any person, to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act, and the offender recklessly disregards the age of the child.

(c) (1) Human trafficking is a severity level 2, person felony.

(2) Aggravated human trafficking is a severity level 1, person felony, except as provided in subsection (c)(3).

(3) Aggravated human trafficking or attempt, conspiracy or criminal solicitation to commit aggravated human trafficking is an off-grid person felony, when the offender is 18 years of age or older and the victim is less than 14 years of age.

(4) In addition to any other sentence imposed, a person convicted under subsection (c)(1) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (c)(2) or (c)(3) shall be fined not less than

\$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 75-758, and amendments thereto.

(5) In addition to any other sentence imposed, for any conviction under this section;—

(A) *Occurring prior to July 1, 2027, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child; and*

(B) *occurring on or after July 1, 2027, the court may order the person convicted to enter into and complete an educational or treatment program approved by the attorney general pursuant to section 1, and amendments thereto, regarding commercial sexual exploitation.*

(d) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:

(1) K.S.A. 21-5301(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated human trafficking pursuant to this section;

(2) K.S.A. 21-5302(d), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated human trafficking pursuant to this section; and

(3) K.S.A. 21-5303(d), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated human trafficking pursuant to this section.

(e) It shall be an affirmative defense to any prosecution under subsection (b)(4) or (5) that the defendant:

(1) Was under 18 years of age at the time of the violation; and

(2) committed the violation because such defendant, at the time of the violation, was subjected to human trafficking or aggravated human trafficking, as defined by this section.

(f) It shall not be a defense to a charge of aggravated human trafficking, as defined in subsection (b)(4) or (5), that:

(1) The victim consented or willingly participated in the forced labor, involuntary servitude or sexual gratification of the defendant or another; or

(2) the offender had no knowledge of the age of the victim.

(g) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for commercial sexual exploitation of a child, as defined by K.S.A. 21-6422, and amendments thereto, or for any form of homicide.

(h) The provisions of this section shall not apply to the use of the labor of any person incarcerated in a state or county correctional facility or city jail.

(i) As used in this section:

(1) "Child" means a person under 18 years of age; and

(2) "peonage" means a condition of involuntary servitude in which the victim is forced to work for another person by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.

Sec. 7. K.S.A. 21-5801 is hereby amended to read as follows: 21-5801. (a) Theft is any of the following acts done with intent to permanently deprive the owner of the possession, use or benefit of the owner's property or services:

(1) Obtaining or exerting unauthorized control over property or services;

(2) obtaining control over property or services, by deception;

(3) obtaining control over property or services, by threat;

(4) obtaining control over stolen property or services knowing, or having reason to know, the property or services to have been were stolen by from another; or

(5) knowingly dispensing motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaving the premises of the establishment

without making payment for the motor fuel.

(b) Theft of:

(1) Property or services of the value of \$100,000 or more is a severity level 5, nonperson felony;

(2) property or services of the value of at least \$25,000 but less than \$100,000 is a severity level 7, nonperson felony;

(3) property or services of the value of at least \$1,500 but less than \$25,000 is a severity level 9, nonperson felony, except as provided in subsection (b)(7);

(4) property or services of the value of less than \$1,500 is a class A nonperson misdemeanor, except as provided in subsection (b)(5), (b)(6), (b)(7) or (b)(8);

(5) property of the value of less than \$1,500 from three separate mercantile establishments within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct is a severity level 9, nonperson felony;

(6) property of the value of at least \$50 but less than \$1,500 is a severity level 9, nonperson felony if committed by a person who has, within five years immediately preceding commission of the crime, excluding any period of imprisonment, been convicted of theft two or more times;

(7) property that is a firearm of the value of less than \$25,000 is a severity level 9, nonperson felony; ~~and~~

(8) property that is mail of the value of less than \$1,500 from three separate locations within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct is a severity level 9, nonperson felony

; and

(9) *property that is a motor vehicle of the value of at least \$500 but less than \$1,500 is a severity level 10, nonperson felony.*

(c) As used in this section:

(1) "Conviction" or "convicted" includes being convicted of a violation of K.S.A. 21-3701, prior to its repeal, this section or a municipal ordinance which prohibits the acts that this section prohibits;

(2) "mail" means a letter, postal card, package or bag sent through the United States postal service or other delivery service, or any other article or thing contained therein;

(3) "regulated scrap metal" means the same as defined in K.S.A. 50-6,109, and amendments thereto;

(4) "remote service unit" means the same as defined in K.S.A. 9-1111, and amendments thereto, and includes, but is not limited to, automated cash dispensing machines and automated teller machines; and

(5) "value" means the value of the property or, if the property is regulated scrap metal or a remote service unit, the cost to restore the site of the theft of such regulated scrap metal or remote service unit to its condition at the time immediately prior to the theft of such regulated scrap metal or remote service unit, whichever is greater.

Sec. 8. K.S.A. 21-5828 is hereby amended to read as follows: 21-5828. (a) Criminal use of a financial card *or gift card* is any of the following acts done with intent to defraud and to obtain money, goods, property or services:

(1) Using a financial card without the consent of the cardholder;

(2) using a financial card, or the number or description thereof, which has been revoked or canceled; ~~or~~

(3) using a falsified, mutilated, altered or nonexistent financial card or a number or description thereof;

(4) *acquiring or retaining possession of a gift card or gift card redemption information without the consent of the cardholder, gift card issuer or gift card seller; or*

(5) *altering or tampering with a gift card.*

(b) Criminal use of a financial card *or gift card* is a:

(1) Severity level 7, nonperson felony if the money, goods, property or services obtained within any seven-day period are of the value of \$25,000 or more;

(2) severity level 9, nonperson felony if the money, goods, property or services obtained within any seven-day period are of the value of at least \$1,000 but less than \$25,000; and

(3) class A nonperson misdemeanor if the money, goods, property or services obtained within a seven-day period are of the value of less than \$1,000.

(c) As used in this section:

(1) *"Cardholder"* means:

(A) *The person or entity to whom or for whose benefit a financial card is issued; or*

(B) *the person to whom a physical or virtual gift card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a gift card to another person;*

(2) *"closed-loop gift card"* means a card, code or device that is issued to a consumer on a prepaid basis primarily for personal, family or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and is redeemable upon presentation by a consumer at a single merchant or group of affiliated merchants;

(3) *"financial card"* means an identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property or services or to conduct other financial transactions; and

(2) ~~"cardholder"~~ means the person or entity to whom or for whose benefit a financial card is issued

(4) *"gift card"* means a physical or digital closed-loop gift card or open-loop gift card that is either activated or inactivated;

(5) *"gift card issuer"* means any person that issues a gift card or the agent of that person with respect to such card;

(6) *"gift card redemption information"* means information unique to each gift card that allows the cardholder to access, transfer or spend the funds on such gift card;

(7) *"gift card seller"* means a merchant that is engaged in the business of selling gift cards to consumers; and

(8) *"open-loop gift card"* means a card, code or device that is issued to a consumer on a prepaid basis primarily for personal, family or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and is redeemable upon presentation at multiple unaffiliated merchants for goods or services within the payment card network.

(d) For the purposes of subsection (a)(2), a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company.

Sec. 9. K.S.A. 21-6421 is hereby amended to read as follows: 21-6421. (a) Buying sexual relations is knowingly:

(1) Entering or remaining in a place where sexual relations are being sold or offered for sale with intent to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act with a person selling sexual relations who is 18 years of age or older; or

(2) hiring a person selling sexual relations who is 18 years of age or older to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act.

(b) (1) Buying sexual relations is a:

(A) ~~Class A person misdemeanor, except as provided in subsection (b)(1)(B); and~~

(B) ~~severity level 9, person felony when committed by a person~~

~~who has, prior to the commission of the crime, been convicted of a violation of this section, or any prior version of this section.~~

(2) In addition to any other sentence imposed, a person convicted under this section shall be fined not less than ~~\$1,200~~ \$2,000 nor more than \$5,000. One-half of all fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 75-758, and amendments thereto, and the remainder shall be remitted as otherwise provided by law.

(3) In addition to any other sentence imposed, for any conviction under this section;:

(A) *Occurring prior to July 1, 2027, the court may shall order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation; and*

(B) *occurring on or after July 1, 2027, the court shall order the person convicted to enter into and complete an educational or treatment program approved by the attorney general pursuant to section 1, and amendments thereto, regarding commercial sexual exploitation.*

(c) (1) ~~For the purpose of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section:~~

(1) ~~Convictions for a violation of this section, or any prior version of this section, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account; and~~

(2) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section ~~or an ordinance which prohibits the acts of this section only once during the person's lifetime.~~

(2) *A person shall not enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section if such person has entered into a diversion agreement for a violation of an ordinance that prohibits the acts prohibited by this section that occurred prior to July 1, 2026.*

(d) (1) ~~Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.~~

(2) ~~The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.~~

Sec. 10. K.S.A. 21-6422 is hereby amended to read as follows: 21-6422. (a) Commercial sexual exploitation of a child is knowingly:

(1) Hiring a person younger than 18 years of age by giving, or offering or agreeing to give, anything of value to any person, to engage in a manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act;

(2) establishing, owning, maintaining or managing any property, whether real or personal, where sexual relations are being sold or offered for sale by a person younger than 18 years of age, or participating in the establishment, ownership, maintenance or management thereof; or

(3) permitting any property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a place where sexual relations are being sold or offered for sale by a person who is younger than 18 years of age.

(b) (1) Commercial sexual exploitation of a child is a:

(A) Severity level 4, person felony, except as provided in

subsections (b)(1)(B) and (b)(2); and

(B) severity level 2, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, except as provided in subsection (b)(2).

(2) Commercial sexual exploitation of a child or attempt, conspiracy or criminal solicitation to commit commercial sexual exploitation of a child is an off-grid person felony when the offender is 18 years of age or older and the victim is less than 14 years of age.

(3) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) or (b)(2) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 75-758, and amendments thereto.

(4) In addition to any other sentence imposed, for any conviction under this section:

(A) *Occurring prior to July 1, 2027, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child; and*

(B) *occurring on or after July 1, 2027, the court may order the person convicted to enter into and complete an educational or treatment program approved by the attorney general pursuant to section 1, and amendments thereto, regarding commercial sexual exploitation.*

(c) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:

(1) K.S.A. 21-5301(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of commercial sexual exploitation of a child pursuant to this section;

(2) K.S.A. 21-5302(d), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of commercial sexual exploitation of a child pursuant to this section; and

(3) K.S.A. 21-5303(d), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of commercial sexual exploitation of a child pursuant to this section.

Sec. 11. K.S.A. 22-2909 is hereby amended to read as follows: 22-2909. (a) (1) A diversion agreement shall provide that if the defendant fulfills the obligations of the program described therein, as determined by the attorney general or county or district attorney, such attorney shall act to have the criminal charges against the defendant dismissed with prejudice. The diversion agreement shall include specifically the waiver of all rights under the law or the constitution of Kansas or of the United States to a speedy arraignment, preliminary examinations and hearings, and a speedy trial, and in the case of diversion under subsection (c) waiver of the rights to counsel and trial by jury. The diversion agreement may include, but is not limited to, provisions concerning:

(A) Payment of restitution, including court costs and diversion costs;

(B) residence in a specified facility;

(C) maintenance of gainful employment;

(D) participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventive guidance and other rehabilitative services; and

(E) supervision by the county or district attorney, or by court services or community correctional services pursuant to a memorandum of understanding entered into by the county or district attorney pursuant to K.S.A. 22-2907, and amendments thereto, including the diversion supervision fee and urinalysis costs described in K.S.A. 22-2907, and amendments thereto, when applicable.

(2) If a county creates a local fund under the property crime restitution and compensation act, a county or district attorney may

require in all diversion agreements as a condition of diversion the payment of a diversion fee in an amount not to exceed \$100. Such fees shall be deposited into the local fund and disbursed pursuant to recommendations of the local board under the property crime restitution and victims compensation act.

(3) If the attorney general enters into a diversion agreement:

(A) Any diversion costs or fees collected pursuant to such agreement shall be deposited in the fraud and abuse criminal prosecution fund established by K.S.A. 75-765, and amendments thereto; and

(B) the attorney general may enter into agreements with the appropriate county or district attorney or other appropriate parties regarding the supervision of conditions of such diversion agreement.

(b) The diversion agreement shall state:

(1) The defendant's full name;

(2) the defendant's full name at the time the complaint was filed, if different from the defendant's current name;

(3) the defendant's sex, race and date of birth;

(4) the crime with which the defendant is charged;

(5) the date the complaint was filed; and

(6) the district court with which the agreement is filed.

(c) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto, the diversion agreement shall include a stipulation, agreed to by the defendant, the defendant's attorney if the defendant is represented by an attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint. In addition, the agreement shall include a requirement that the defendant:

(1) Pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 8-1567, and amendments thereto, for a first offense or, in lieu of payment of the fine, perform community service specified by the agreement, in accordance with K.S.A. 8-1567, and amendments thereto; and

(2) participate in an alcohol and drug evaluation conducted by a licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and follow any recommendation made by the provider after such evaluation.

(d) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a domestic violence offense, as defined in K.S.A. 21-5111, and amendments thereto, the diversion agreement shall include a requirement that the defendant undergo a domestic violence offender assessment and follow all recommendations unless otherwise agreed to with the prosecutor in the diversion agreement. The defendant shall be required to pay for such assessment and, unless otherwise agreed to with the prosecutor in the diversion agreement, for completion of all recommendations.

(e) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation other than K.S.A. 8-1567, and amendments thereto, the diversion agreement may include a stipulation, agreed to by the defendant, the defendant's attorney if the defendant is represented by an attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint.

(f) If the person entering into a diversion agreement is a nonresident, the attorney general or county or district attorney shall

transmit a copy of the diversion agreement to the division. The division shall forward a copy of the diversion agreement to the motor vehicle administrator of the person's state of residence.

(g) If the attorney general or county or district attorney elects to offer diversion in lieu of further criminal proceedings on the complaint and the defendant agrees to all of the terms of the proposed agreement, the diversion agreement shall be filed with the district court and the district court shall stay further proceedings on the complaint. If the defendant declines to accept diversion, the district court shall resume the criminal proceedings on the complaint.

(h) Except as provided in subsection (i), if a diversion agreement is entered into in lieu of further criminal proceedings alleging commission of a misdemeanor by the defendant, while under 21 years of age, under K.S.A. 21-5701 through 21-5717, and amendments thereto, or K.S.A. 41-719, 41-727, 41-804, 41-2719 or 41-2720, and amendments thereto, the agreement shall require the defendant to participate in an alcohol and drug evaluation conducted by a licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and follow any recommendation made by the provider after such evaluation.

(i) If the defendant is 18 or more years of age but less than 21 years of age and allegedly committed a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of subsection (h) are permissive and not mandatory.

(j) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 21-6421, and amendments thereto, the agreement *shall include*:

(1) ~~Shall include~~—A requirement that the defendant pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 21-6421, and amendments thereto; and

(2) *(A) may include for agreements entered into prior to July 1, 2027, a requirement that the defendant enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation; and*

(B) for agreements entered into on or after July 1, 2027, a requirement that the defendant enter into and complete an educational or treatment program approved by the attorney general pursuant to section 1, and amendments thereto, regarding commercial sexual exploitation.

(k) Except diversion agreements reported under subsection (l), the attorney general or county or district attorney shall forward to the Kansas bureau of investigation a copy of the diversion agreement at the time such agreement is filed with the district court. The copy of the agreement shall be made available upon request to the attorney general or any county, district or city attorney or court.

(l) At the time of filing the diversion agreement with the district court, the attorney general or county or district attorney shall forward to the division of vehicles of the state department of revenue a copy of any diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto. The copy of the agreement shall be made available upon request to the attorney general or any county, district or city attorney or court.

Sec. 12. K.S.A. 12-4106, 12-4120, 12-4416, 21-5426, 21-5801, 21-5828, 21-6421, 21-6422 and 22-2909 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.