

## SENATE BILL No. 506

By Committee on Federal and State Affairs

2-11

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1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to crimes against the public safety; increasing the criminal penalty for  
3 criminal use of weapons on a second or subsequent adjudication;  
4 modifying the penalties for criminal possession of a weapon by a  
5 convicted felon and the length of the ban on possessing a weapon;  
6 amending K.S.A. 21-6301 and 21-6304 and repealing the existing  
7 sections.

8  
9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 21-6301 is hereby amended to read as follows: 21-  
11 6301. (a) Criminal use of weapons is knowingly:

12 (1) Selling, manufacturing, purchasing or possessing any bludgeon,  
13 sand club or metal knuckles;

14 (2) possessing with intent to use the same unlawfully against another,  
15 a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged  
16 razor, throwing star, stiletto or any other dangerous or deadly weapon or  
17 instrument of like character;

18 (3) setting a spring gun;

19 (4) possessing any device or attachment of any kind designed, used or  
20 intended for use in suppressing the report of any firearm;

21 (5) selling, manufacturing, purchasing or possessing a shotgun with a  
22 barrel less than 18 inches in length, or any firearm designed to discharge or  
23 capable of discharging automatically more than once by a single function  
24 of the trigger, whether the person knows or has reason to know the length  
25 of the barrel or that the firearm is designed or capable of discharging  
26 automatically;

27 (6) possessing, manufacturing, causing to be manufactured, selling,  
28 offering for sale, lending, purchasing or giving away any cartridge which  
29 can be fired by a handgun and which has a plastic-coated bullet that has a  
30 core of less than 60% lead by weight, whether the person knows or has  
31 reason to know that the plastic-coated bullet has a core of less than 60%  
32 lead by weight;

33 (7) selling, giving or otherwise transferring any firearm with a barrel  
34 less than 12 inches long to any person under 18 years of age whether the  
35 person knows or has reason to know the length of the barrel;

36 (8) selling, giving or otherwise transferring any firearms to any

1 person who is both addicted to and an unlawful user of a controlled  
2 substance;

3 (9) selling, giving or otherwise transferring any firearm to any person  
4 who is or has been a mentally ill person subject to involuntary  
5 commitment for care and treatment, as defined in K.S.A. 59-2946, and  
6 amendments thereto, or a person with an alcohol or substance abuse  
7 problem subject to involuntary commitment for care and treatment as  
8 defined in K.S.A. 59-29b46, and amendments thereto;

9 (10) possessing any firearm by a person who is both addicted to and  
10 an unlawful user of a controlled substance;

11 (11) possessing any firearm by any person, other than a law  
12 enforcement officer, in or on any school property or grounds upon which is  
13 located a building or structure used by a unified school district or an  
14 accredited nonpublic school for student instruction or attendance or  
15 extracurricular activities of pupils enrolled in kindergarten or any of the  
16 grades one through 12 or at any regularly scheduled school sponsored  
17 activity or event whether the person knows or has reason to know that such  
18 person was in or on any such property or grounds;

19 (12) refusing to surrender or immediately remove from school  
20 property or grounds or at any regularly scheduled school sponsored  
21 activity or event any firearm in the possession of any person, other than a  
22 law enforcement officer, when so requested or directed by any duly  
23 authorized school employee or any law enforcement officer;

24 (13) possessing any firearm by a person who is or has been a  
25 mentally ill person subject to involuntary commitment for care and  
26 treatment, as defined in K.S.A. 59-2946, and amendments thereto, or  
27 persons with an alcohol or substance abuse problem subject to involuntary  
28 commitment for care and treatment as defined in K.S.A. 59-29b46, and  
29 amendments thereto;

30 (14) possessing a firearm with a barrel less than 12 inches long by  
31 any person less than 18 years of age;

32 (15) possessing any firearm while a fugitive from justice;

33 (16) possessing any firearm by a person who is an alien illegally or  
34 unlawfully in the United States;

35 (17) possessing any firearm by a person while such person is subject  
36 to a court order that:

37 (A) Was issued after a hearing, of which such person received actual  
38 notice, and at which such person had an opportunity to participate;

39 (B) restrains such person from harassing, stalking or threatening an  
40 intimate partner of such person or a child of such person or such intimate  
41 partner, or engaging in other conduct that would place an intimate partner  
42 in reasonable fear of bodily injury to the partner or the child; and

43 (C) (i) includes a finding that such person represents a credible threat

1 to the physical safety of such intimate partner or child; or

2 (ii) by its terms explicitly prohibits the use, attempted use or  
3 threatened use of physical force against such intimate partner or child that  
4 would reasonably be expected to cause bodily injury; or

5 (18) possessing any firearm by a person who, within the preceding  
6 five years, has been convicted of a misdemeanor for a domestic violence  
7 offense, or a misdemeanor under a law of another jurisdiction which is  
8 substantially the same as such misdemeanor offense.

9 (b) Criminal use of weapons as defined in:

10 (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a  
11 class A nonperson misdemeanor;

12 (2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson  
13 felony;

14 (3) subsection (a)(10) or (a)(11) is a class B nonperson select  
15 misdemeanor;

16 (4) subsection (a)(13), (a)(15), (a)(16), (a)(17) or (a)(18) is a severity  
17 level 8, nonperson felony; and

18 (5) subsection (a)(14) is a:

19 (A) Class A nonperson misdemeanor except as provided in subsection  
20 (b)(5)(B);

21 (B) severity level 8, nonperson felony upon a second or subsequent  
22 conviction *or adjudication*.

23 (c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:

24 (1) Law enforcement officers, or any person summoned by any such  
25 officers to assist in making arrests or preserving the peace while actually  
26 engaged in assisting such officer;

27 (2) wardens, superintendents, directors, security personnel and  
28 keepers of prisons, penitentiaries, jails and other institutions for the  
29 detention of persons accused or convicted of crime, while acting within the  
30 scope of their authority;

31 (3) members of the armed services or reserve forces of the United  
32 States or the Kansas national guard while in the performance of their  
33 official duty; or

34 (4) the manufacture of, transportation to, or sale of weapons to a  
35 person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess  
36 such weapons.

37 (d) Subsections (a)(4) and (a)(5) shall not apply to any person who  
38 sells, purchases, possesses or carries a firearm, device or attachment which  
39 has been rendered unserviceable by steel weld in the chamber and  
40 marriage weld of the barrel to the receiver and which has been registered  
41 in the national firearms registration and transfer record in compliance with  
42 26 U.S.C. § 5841 et seq. in the name of such person and, if such person  
43 transfers such firearm, device or attachment to another person, has been so

1 registered in the transferee's name by the transferor.

2 (e) Subsection (a)(6) shall not apply to a governmental laboratory or  
3 solid plastic bullets.

4 (f) Subsection (a)(4) shall not apply to a law enforcement officer who  
5 is:

6 (1) Assigned by the head of such officer's law enforcement agency to  
7 a tactical unit which receives specialized, regular training;

8 (2) designated by the head of such officer's law enforcement agency  
9 to possess devices described in subsection (a)(4); and

10 (3) in possession of commercially manufactured devices which are:

11 (A) Owned by the law enforcement agency;

12 (B) in such officer's possession only during specific operations; and

13 (C) approved by the bureau of alcohol, tobacco, firearms and  
14 explosives of the United States department of justice.

15 (g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person  
16 employed by a laboratory which is certified by the United States  
17 department of justice, national institute of justice, while actually engaged  
18 in the duties of their employment and on the premises of such certified  
19 laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the  
20 manufacture of, transportation to or sale of weapons to such certified  
21 laboratory.

22 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any  
23 person or entity in compliance with the national firearms act, 26 U.S.C. §  
24 5801 et seq.

25 (i) (1) Subsection (a)(4) shall not apply to or affect any person in  
26 possession of a device or attachment designed, used or intended for use in  
27 suppressing the report of any firearm, if such device or attachment satisfies  
28 the description of a Kansas-made firearm accessory as set forth in K.S.A.  
29 50-1204, and amendments thereto.

30 (2) The provisions of this subsection shall apply to any violation of  
31 subsection (a)(4) that occurred on or after April 25, 2013.

32 (j) Subsection (a)(11) shall not apply to:

33 (1) Possession of any firearm in connection with a firearms safety  
34 course of instruction or firearms education course approved and authorized  
35 by the school;

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

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

42 (4) possession of a firearm secured in a motor vehicle by a registered  
43 voter who is on the school grounds, which contain a polling place for the

1 purpose of voting during polling hours on an election day; or

2 (5) possession of a concealed handgun by an individual who is not  
3 prohibited from possessing a firearm under either federal or state law, and  
4 who is either: (A) 21 years of age or older; or (B) possesses a valid  
5 provisional license issued pursuant to K.S.A. 75-7c03, and amendments  
6 thereto, or a valid license to carry a concealed handgun issued by another  
7 jurisdiction that is recognized in this state pursuant to K.S.A. 75-7c03, and  
8 amendments thereto.

9 (k) Subsections (a)(9) and (a)(13) shall not apply to a person who has  
10 received a certificate of restoration pursuant to K.S.A. 75-7c26, and  
11 amendments thereto.

12 (l) Subsection (a)(14) shall not apply if such person, less than 18  
13 years of age, was:

14 (1) In attendance at a hunter's safety course or a firearms safety  
15 course;

16 (2) engaging in practice in the use of such firearm or target shooting  
17 at an established range authorized by the governing body of the  
18 jurisdiction in which such range is located, or at another private range with  
19 permission of such person's parent or legal guardian;

20 (3) engaging in an organized competition involving the use of such  
21 firearm, or participating in or practicing for a performance by an  
22 organization exempt from federal income tax pursuant to section 501(c)(3)  
23 of the internal revenue code of 1986 which uses firearms as a part of such  
24 performance;

25 (4) hunting or trapping pursuant to a valid license issued to such  
26 person pursuant to article 9 of chapter 32 of the Kansas Statutes  
27 Annotated, and amendments thereto;

28 (5) traveling with any such firearm in such person's possession being  
29 unloaded to or from any activity described in subsections (l)(1) through (l)  
30 (4), only if such firearm is secured, unloaded and outside the immediate  
31 access of such person;

32 (6) on real property under the control of such person's parent, legal  
33 guardian or grandparent and who has the permission of such parent, legal  
34 guardian or grandparent to possess such firearm; or

35 (7) at such person's residence and who, with the permission of such  
36 person's parent or legal guardian, possesses such firearm for the purpose of  
37 exercising the rights contained in K.S.A. 21-5222, 21-5223 or 21-5225,  
38 and amendments thereto.

39 (m) As used in this section:

40 (1) "Domestic violence" means the use or attempted use of physical  
41 force, or the threatened use of a deadly weapon, committed against a  
42 person with whom the offender is involved or has been involved in a  
43 dating relationship or is a family or household member.

1 (2) "Fugitive from justice" means any person having knowledge that  
2 a warrant for the commission of a felony has been issued for the  
3 apprehension of such person under K.S.A. 22-2713, and amendments  
4 thereto.

5 (3) "Intimate partner" means, with respect to a person, the spouse of  
6 the person, a former spouse of the person, an individual who is a parent of  
7 a child of the person or an individual who cohabitates or has cohabitated  
8 with the person.

9 (4) "Throwing star" means any instrument, without handles,  
10 consisting of a metal plate having three or more radiating points with one  
11 or more sharp edges and designed in the shape of a polygon, trefoil, cross,  
12 star, diamond or other geometric shape, manufactured for use as a weapon  
13 for throwing.

14 Sec. 2. K.S.A. 21-6304 is hereby amended to read as follows: 21-  
15 6304. (a) Criminal possession of a weapon by a convicted felon is  
16 possession of any weapon by a person who *has been convicted of or*  
17 *adjudicated as a juvenile offender for:*

18 (1) ~~Has been convicted of a person felony or a violation of article 57~~  
19 ~~of chapter 21 of the Kansas Statutes Annotated, and amendments thereto,~~  
20 ~~K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or~~  
21 ~~any violation of any provision of the uniform controlled substances act~~  
22 ~~prior to July 1, 2009, or a crime under a law of another jurisdiction that is~~  
23 ~~substantially the same as such felony or violation, or was adjudicated a~~  
24 ~~juvenile offender because of the commission of an act which if done by an~~  
25 ~~adult would constitute the commission of a person felony or a violation of~~  
26 ~~article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments~~  
27 ~~thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their~~  
28 ~~transfer, or any violation of any provision of the uniform controlled~~  
29 ~~substances act prior to July 1, 2009, and was found by the convicting court~~  
30 ~~to have used a firearm in the commission of the crime;~~

31 (2) (A) (i) ~~Has been convicted of a person felony, other than those~~  
32 ~~specified in subsection (a)(3)(A)(i), under the laws of Kansas or a crime~~  
33 ~~under the law of another jurisdiction which is substantially the same as~~  
34 ~~such person felony; or~~

35 (ii) ~~was adjudicated as a juvenile offender because of the commission~~  
36 ~~of an act which if done by an adult would constitute the commission of a~~  
37 ~~person felony;~~

38 (B) ~~was not found by the convicting court to have used a firearm in~~  
39 ~~the commission of such crime; and~~

40 (C) ~~less than three years have elapsed since such person satisfied the~~  
41 ~~sentence imposed or the terms of any diversion agreement for such crime,~~  
42 ~~or was discharged from probation, a community correctional services~~  
43 ~~program, parole, postrelease supervision, conditional release or a~~

1 suspended sentence;

2 (3) (A) (i) ~~has been convicted of a felony under:~~

3 (a) ~~K.S.A. 21-5402, 21-5403, 21-5404, 21-5405, 21-5408, 21-5412(b)~~  
 4 ~~or (d), 21-5413(b) or (d), 21-5415(a), 21-5420(b), 21-5503, 21-5504(b),~~  
 5 ~~21-5505(b), and 21-5807(b), and amendments thereto;~~

6 (b) ~~article 57 of chapter 21 of the Kansas Statutes Annotated, and~~  
 7 ~~amendments thereto;~~

8 (c) ~~K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their~~  
 9 ~~transfer;~~

10 (d) ~~K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411,~~  
 11 ~~21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-~~  
 12 ~~3502, 21-3506, 21-3518, 21-3716, 65-4127a, 65-4127b, 65-4159 through~~  
 13 ~~65-4165 or 65-7006, prior to their repeal;~~

14 (e) ~~an attempt, conspiracy or criminal solicitation as defined in~~  
 15 ~~K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-~~  
 16 ~~5301, 21-5302 or 21-5303, and amendments thereto, of any such felony; or~~

17 (f) ~~a crime under a law of another jurisdiction that is substantially the~~  
 18 ~~same as such felony; or~~

19 (ii) ~~has been released from imprisonment for such felony, or was~~  
 20 ~~adjudicated as a juvenile offender because of the commission of an act~~  
 21 ~~which if done by an adult would constitute the commission of such felony;~~  
 22 ~~and~~

23 (B) ~~less than eight years have elapsed since such person satisfied the~~  
 24 ~~sentence imposed or the terms of any diversion agreement for such crime,~~  
 25 ~~or was discharged from probation, a community correctional services~~  
 26 ~~program, parole, postrelease supervision, conditional release or a~~  
 27 ~~suspended sentence; or~~

28 (4) (A) (i) ~~has been convicted of any other nonperson felony, other~~  
 29 ~~than those specified in subsections (a)(1) through (a)(3), under the laws of~~  
 30 ~~Kansas or a crime under the law of another jurisdiction which is~~  
 31 ~~substantially the same as such nonperson felony; or~~

32 (ii) ~~was adjudicated as a juvenile offender because of the commission~~  
 33 ~~of an act which if done by an adult would constitute the commission of a~~  
 34 ~~nonperson felony; and~~

35 (B) ~~less than three months have elapsed since such person satisfied~~  
 36 ~~the sentence imposed or the terms of any diversion agreement for such~~  
 37 ~~crime, or was discharged from probation, a community correctional~~  
 38 ~~services program, parole, postrelease supervision, conditional release or a~~  
 39 ~~suspended sentence~~*An off-grid or severity level 1 through 5 person felony,*  
 40 *a violation of K.S.A 21-3401, 21-3402, 21-3403, 21-3404, 21-3420, 21-*  
 41 *3421, 21-3427, 21-3439, 21-3502, 21-3504, 21-3506 or 21-4217, prior to*  
 42 *their repeal, or a substantially similar offense from another jurisdiction,*  
 43 *regardless of the date of conviction or adjudication;*

1       (2) a drug severity level 1 through 3 felony or a substantially similar  
2 offense from another jurisdiction, if less than 20 years have elapsed since  
3 the date of conviction or adjudication;

4       (3) a severity level 6 through 10 person felony, any nonperson felony,  
5 a drug severity level 4 or 5 felony or a substantially similar offense from  
6 another jurisdiction, if less than 10 years have elapsed since the date of  
7 conviction or adjudication; or

8       (4) a misdemeanor in which the trier of fact made a finding beyond a  
9 reasonable doubt that the offender committed a domestic violence offense  
10 pursuant to K.S.A. 22-4616, and amendments thereto, or a substantially  
11 similar offense from another jurisdiction, if less than five years have  
12 elapsed since the date of conviction.

13       (b) Criminal possession of a weapon by a convicted felon as defined  
14 in:

15       (1) Subsection (a)(1) is a severity level 5, nonperson felony; and

16       (2) subsection (a)(2), (a)(3) or (a)(4) is a severity level 8, nonperson  
17 felony.

18       (c) The provisions of ~~subsections (a)(1), (a)(2) and (a)(4)~~ subsection  
19 (a) shall not apply to a person who has been convicted of a crime and has  
20 had the conviction of such crime expunged or has been pardoned for such  
21 crime.

22       (d) As used in this section:

23       (1) "Knife" means a dagger, dirk, switchblade, stiletto, straight-edged  
24 razor or any other dangerous or deadly cutting instrument of like character;  
25 and

26       (2) "weapon" means a firearm or a knife.

27       Sec. 3. K.S.A. 21-6301 and 21-6304 are hereby repealed.

28       Sec. 4. This act shall take effect and be in force from and after its  
29 publication in the statute book.