

**HOUSE BILL No. 2458**

By Committee on Judiciary

1-11

1 AN ACT concerning crimes, punishment and criminal procedure; ***creating***  
2 ***the crime of counterfeiting currency***; relating to mistreatment of a  
3 dependent adult and mistreatment of an elder person; inherently  
4 dangerous felonies; ***assault and battery***; ***definition of law enforcement***  
5 ***officer***; amending K.S.A. 2017 Supp. 21-5402, ***21-5412, 21-5413*** and  
6 ***21-5417*** and repealing the existing sections.

7  
8 *Be it enacted by the Legislature of the State of Kansas:*

9 ***New Section 1. (a) Counterfeiting currency is, with the intent to***  
10 ***defraud:***

11 ***(1) Making, forging or altering any note, obligation or security of***  
12 ***the United States;***

13 ***(2) distributing, or possessing with the intent to distribute, any***  
14 ***obligation or security of the United States knowing such obligation or***  
15 ***security has been so made, forged or altered; or***

16 ***(3) possessing any paper, ink, printer, press, currency plate or other***  
17 ***item with the intent to produce any counterfeit note, currency, obligation***  
18 ***or security of the United States.***

19 ***(b) Counterfeiting currency as defined in:***

20 ***(1) Subsection (a)(1) or (a)(2) is a:***

21 ***(A) Severity level 7, nonperson felony, if the total face value of the***  
22 ***obligations or securities seized is \$25,000 or more; and***

23 ***(B) severity level 8, nonperson felony, if the total face value of the***  
24 ***obligations or securities seized is less than \$25,000; and***

25 ***(2) subsection (a)(3) is a severity level 9, nonperson felony.***

26 ***(c) This section shall be part of and supplemental to the Kansas***  
27 ***criminal code.***

28 **Section 1. Sec. 2.** K.S.A. 2017 Supp. 21-5402 is hereby amended to  
29 read as follows: 21-5402. (a) Murder in the first degree is the killing of a  
30 human being committed:

31 ***(1) Intentionally, and with premeditation; or***

32 ***(2) in the commission of, attempt to commit, or flight from any***  
33 ***inherently dangerous felony.***

34 ***(b) Murder in the first degree is an off-grid person felony.***

1 (c) As used in this section, an "inherently dangerous felony" means:

2 (1) Any of the following felonies, whether such felony is so distinct  
3 from the homicide alleged to be a violation of subsection (a)(2) as not to  
4 be an ingredient of the homicide alleged to be a violation of subsection (a)  
5 (2):

6 (A) Kidnapping, as defined in ~~subsection (a) of~~ K.S.A. 2017 Supp.  
7 21-5408(a), and amendments thereto;

8 (B) aggravated kidnapping, as defined in ~~subsection (b) of~~ K.S.A.  
9 2017 Supp. 21-5408(b), and amendments thereto;

10 (C) robbery, as defined in ~~subsection (a) of~~ K.S.A. 2017 Supp. 21-  
11 5420(a), and amendments thereto;

12 (D) aggravated robbery, as defined in ~~subsection (b) of~~ K.S.A. 2017  
13 Supp. 21-5420(b), and amendments thereto;

14 (E) rape, as defined in K.S.A. 2017 Supp. 21-5503, and amendments  
15 thereto;

16 (F) aggravated criminal sodomy, as defined in ~~subsection (b) of~~  
17 K.S.A. 2017 Supp. 21-5504(b), and amendments thereto;

18 (G) abuse of a child, as defined in K.S.A. 2017 Supp. 21-5602, and  
19 amendments thereto;

20 (H) felony theft of property, as defined in ~~subsection (a)(1) or (a)(3)~~  
21 ~~of~~ K.S.A. 2017 Supp. 21-5801(a)(1) or (a)(3), and amendments thereto;

22 (I) burglary, as defined in ~~subsection (a) of~~ K.S.A. 2017 Supp. 21-  
23 5807(a), and amendments thereto;

24 (J) aggravated burglary, as defined in ~~subsection (b) of~~ K.S.A. 2017  
25 Supp. 21-5807(b), and amendments thereto;

26 (K) arson, as defined in ~~subsection (a) of~~ K.S.A. 2017 Supp. 21-  
27 5812(a), and amendments thereto;

28 (L) aggravated arson, as defined in ~~subsection (b) of~~ K.S.A. 2017  
29 Supp. 21-5812(b), and amendments thereto;

30 (M) treason, as defined in K.S.A. 2017 Supp. 21-5901, and  
31 amendments thereto;

32 (N) any felony offense as provided in K.S.A. 2017 Supp. 21-5703,  
33 21-5705 or 21-5706, and amendments thereto;

34 (O) any felony offense as provided in ~~subsection (a) or (b) of~~ K.S.A.  
35 2017 Supp. 21-6308(a) or (b), and amendments thereto;

36 (P) endangering the food supply, as defined in ~~subsection (a) of~~  
37 K.S.A. 2017 Supp. 21-6317(a), and amendments thereto;

38 (Q) aggravated endangering the food supply, as defined in ~~subsection~~  
39 ~~(b) of~~ K.S.A. 2017 Supp. 21-6317(b), and amendments thereto;

40 (R) fleeing or attempting to elude a police officer, as defined in  
41 ~~subsection (b) of~~ K.S.A. 8-1568(b), and amendments thereto;

42 (S) aggravated endangering a child, as defined in ~~subsection (b)(1) of~~  
43 K.S.A. 2017 Supp. 21-5601(b)(1), and amendments thereto;

1 (T) abandonment of a child, as defined in ~~subsection (a)~~ of K.S.A.  
2 2017 Supp. 21-5605(a), and amendments thereto; ~~or~~

3 (U) aggravated abandonment of a child, as defined in ~~subsection (b)~~  
4 of K.S.A. 2017 Supp. 21-5605(b), and amendments thereto; ~~and or~~

5 (V) *mistreatment of a dependent adult or mistreatment of an elder*  
6 *person, as defined in K.S.A. 2017 Supp. 21-5417, and amendments*  
7 *thereto; and*

8 (2) any of the following felonies, only when such felony is so distinct  
9 from the homicide alleged to be a violation of subsection (a)(2) as to not  
10 be an ingredient of the homicide alleged to be a violation of subsection (a)  
11 (2):

12 (A) Murder in the first degree, as defined in subsection (a)(1);

13 (B) murder in the second degree, as defined in ~~subsection (a)(1)~~ of  
14 K.S.A. 2017 Supp. 21-5403(a)(1), and amendments thereto;

15 (C) voluntary manslaughter, as defined in ~~subsection (a)(1)~~ of K.S.A.  
16 2017 Supp. 21-5404(a)(1), and amendments thereto;

17 (D) aggravated assault, as defined in ~~subsection (b)~~ of K.S.A. 2017  
18 Supp. 21-5412(b), and amendments thereto;

19 (E) aggravated assault of a law enforcement officer, as defined in  
20 ~~subsection (d)~~ of K.S.A. 2017 Supp. 21-5412(d), and amendments thereto;

21 (F) aggravated battery, as defined in ~~subsection (b)(1)~~ of K.S.A. 2017  
22 Supp. 21-5413(b)(1), and amendments thereto; or

23 (G) aggravated battery against a law enforcement officer, as defined  
24 in ~~subsection (d)~~ of K.S.A. 2017 Supp. 21-5413(d), and amendments  
25 thereto.

26 (d) Murder in the first degree as defined in subsection (a)(2) is an  
27 alternative method of proving murder in the first degree and is not a  
28 separate crime from murder in the first degree as defined in subsection (a)  
29 (1). The provisions of K.S.A. 2017 Supp. 21-5109, and amendments  
30 thereto, are not applicable to murder in the first degree as defined in  
31 subsection (a)(2). Murder in the first degree as defined in subsection (a)(2)  
32 is not a lesser included offense of murder in the first degree as defined in  
33 subsection (a)(1), and is not a lesser included offense of capital murder as  
34 defined in K.S.A. 2017 Supp. 21-5401, and amendments thereto. As set  
35 forth in subsection (b) of K.S.A. 2017 Supp. 21-5109, and amendments  
36 thereto, there are no lesser included offenses of murder in the first degree  
37 under subsection (a)(2).

38 (e) The amendments to this section by ~~this act~~ *chapter 96 of the 2013*  
39 *Session Laws of Kansas* establish a procedural rule for the conduct of  
40 criminal prosecutions and shall be construed and applied retroactively to  
41 all cases currently pending.

42 **Sec. 3. K.S.A. 2017 Supp. 21-5412 is hereby amended to read as**  
43 ***follows: 21-5412. (a) Assault is knowingly placing another person in***

1 *reasonable apprehension of immediate bodily harm;*

2 *(b) Aggravated assault is assault, as defined in subsection (a),*  
 3 *committed:*

4 *(1) With a deadly weapon;*

5 *(2) while disguised in any manner designed to conceal identity; or*

6 *(3) with intent to commit any felony.*

7 *(c) Assault of a law enforcement officer is assault, as defined in*  
 8 *subsection (a), committed against:*

9 *(1) A uniformed or properly identified state, county or city law*  
 10 *enforcement officer while such officer is engaged in the performance of*  
 11 *such officer's duty;*~~or~~

12 *(2) a uniformed or properly identified university or campus police*  
 13 *officer while such officer is engaged in the performance of such officer's*  
 14 *duty; or*

15 *(3) a uniformed or properly identified federal law enforcement officer*  
 16 *as defined in K.S.A. 2017 Supp. 21-5413, and amendments thereto, while*  
 17 *such officer is engaged in the performance of such officer's duty.*

18 *(d) Aggravated assault of a law enforcement officer is assault of a*  
 19 *law enforcement officer, as defined in subsection (c), committed:*

20 *(1) With a deadly weapon;*

21 *(2) while disguised in any manner designed to conceal identity; or*

22 *(3) with intent to commit any felony.*

23 *(e) (1) Assault is a class C person misdemeanor.*

24 *(2) Aggravated assault is a severity level 7, person felony.*

25 *(3) Assault of a law enforcement officer is a class A person*  
 26 *misdemeanor.*

27 *(4) Aggravated assault of a law enforcement officer is a severity*  
 28 *level 6, person felony. A person convicted of aggravated assault of a law*  
 29 *enforcement officer shall be subject to the provisions of ~~subsection (g) of~~*  
 30 *K.S.A. 2017 Supp. 21-6804(g), and amendments thereto.*

31 *Sec. 4. K.S.A. 2017 Supp. 21-5413 is hereby amended to read as*  
 32 *follows: 21-5413. (a) Battery is:*

33 *(1) Knowingly or recklessly causing bodily harm to another person;*  
 34 *or*

35 *(2) knowingly causing physical contact with another person when*  
 36 *done in a rude, insulting or angry manner.*

37 *(b) Aggravated battery is:*

38 *(1) (A) Knowingly causing great bodily harm to another person or*  
 39 *disfigurement of another person;*

40 *(B) knowingly causing bodily harm to another person with a deadly*  
 41 *weapon, or in any manner whereby great bodily harm, disfigurement or*  
 42 *death can be inflicted; or*

43 *(C) knowingly causing physical contact with another person when*

1 *done in a rude, insulting or angry manner with a deadly weapon, or in*  
 2 *any manner whereby great bodily harm, disfigurement or death can be*  
 3 *inflicted;*

4 *(2) (A) recklessly causing great bodily harm to another person or*  
 5 *disfigurement of another person; or*

6 *(B) recklessly causing bodily harm to another person with a deadly*  
 7 *weapon, or in any manner whereby great bodily harm, disfigurement or*  
 8 *death can be inflicted; or*

9 *(3) (A) committing an act described in K.S.A. 8-1567, and*  
 10 *amendments thereto, when great bodily harm to another person or*  
 11 *disfigurement of another person results from such act; or*

12 *(B) committing an act described in K.S.A. 8-1567, and amendments*  
 13 *thereto, when bodily harm to another person results from such act under*  
 14 *circumstances whereby great bodily harm, disfigurement or death can*  
 15 *result from such act.*

16 *(c) Battery against a law enforcement officer is:*

17 *(1) Battery, as defined in subsection (a)(2), committed against a:*

18 *(A) Uniformed or properly identified university or campus police*  
 19 *officer while such officer is engaged in the performance of such officer's*  
 20 *duty;*

21 *(B) uniformed or properly identified state, county or city law*  
 22 *enforcement officer, other than a state correctional officer or employee,*  
 23 *a city or county correctional officer or employee or a juvenile detention*  
 24 *facility officer, or employee, while such officer is engaged in the*  
 25 *performance of such officer's duty;*

26 *(C) uniformed or properly identified federal law enforcement officer*  
 27 *while such officer is engaged in the performance of such officer's duty;*

28 ~~*(D) judge, while such judge is engaged in the performance of*~~  
 29 ~~*such judge's duty;*~~

30 ~~*(E) attorney, while such attorney is engaged in the performance*~~  
 31 ~~*of such attorney's duty; or*~~

32 ~~*(F) community corrections officer or court services officer, while*~~  
 33 ~~*such officer is engaged in the performance of such officer's duty;*~~

34 *(2) battery, as defined in subsection (a)(1), committed against a:*

35 *(A) Uniformed or properly identified university or campus police*  
 36 *officer while such officer is engaged in the performance of such officer's*  
 37 *duty;*~~or~~

38 *(B) uniformed or properly identified state, county or city law*  
 39 *enforcement officer, other than a state correctional officer or employee,*  
 40 *a city or county correctional officer or employee or a juvenile detention*  
 41 *facility officer, or employee, while such officer is engaged in the*  
 42 *performance of such officer's duty;*

43 *(C) uniformed or properly identified federal law enforcement officer*

1 while such officer is engaged in the performance of such officer's duty;

2 ~~(D)~~ judge, while such judge is engaged in the performance of  
3 such judge's duty;

4 ~~(E)~~ attorney, while such attorney is engaged in the performance  
5 of such attorney's duty; or

6 ~~(F)~~ community corrections officer or court services officer, while  
7 such officer is engaged in the performance of such officer's duty; or

8 (3) battery, as defined in subsection (a) committed against a:

9 (A) State correctional officer or employee by a person in custody of  
10 the secretary of corrections, while such officer or employee is engaged in  
11 the performance of such officer's or employee's duty;

12 (B) state correctional officer or employee by a person confined in  
13 such juvenile correctional facility, while such officer or employee is  
14 engaged in the performance of such officer's or employee's duty;

15 (C) juvenile detention facility officer or employee by a person  
16 confined in such juvenile detention facility, while such officer or  
17 employee is engaged in the performance of such officer's or employee's  
18 duty; or

19 (D) city or county correctional officer or employee by a person  
20 confined in a city holding facility or county jail facility, while such  
21 officer or employee is engaged in the performance of such officer's or  
22 employee's duty.

23 (d) Aggravated battery against a law enforcement officer is:

24 (1) An aggravated battery, as defined in subsection (b)(1)(A)  
25 committed against a:

26 (A) Uniformed or properly identified state, county or city law  
27 enforcement officer while the officer is engaged in the performance of  
28 the officer's duty;

29 (B) uniformed or properly identified university or campus police  
30 officer while such officer is engaged in the performance of such officer's  
31 duty;

32 (C) uniformed or properly identified federal law enforcement officer  
33 while such officer is engaged in the performance of such officer's duty;

34 ~~(D)~~ judge, while such judge is engaged in the performance of  
35 such judge's duty;

36 ~~(E)~~ attorney, while such attorney is engaged in the performance  
37 of such attorney's duty; or

38 ~~(F)~~ community corrections officer or court services officer, while  
39 such officer is engaged in the performance of such officer's duty;

40 (2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)  
41 (1)(C), committed against a:

42 (A) Uniformed or properly identified state, county or city law  
43 enforcement officer while the officer is engaged in the performance of

- 1 *the officer's duty;*  
 2 **(B) uniformed or properly identified university or campus police**  
 3 **officer while such officer is engaged in the performance of such officer's**  
 4 **duty;**  
 5 **(C) uniformed or properly identified federal law enforcement officer**  
 6 **while such officer is engaged in the performance of such officer's duty;**  
 7 ~~**(D) judge, while such judge is engaged in the performance of**~~  
 8 ~~**such judge's duty;**~~  
 9 ~~**(E) attorney, while such attorney is engaged in the performance**~~  
 10 ~~**of such attorney's duty; or**~~  
 11 ~~**(F) community corrections officer or court services officer, while**~~  
 12 ~~**such officer is engaged in the performance of such officer's duty; or**~~  
 13 **(3) knowingly causing, with a motor vehicle, bodily harm to a:**  
 14 **(A) Uniformed or properly identified state, county or city law**  
 15 **enforcement officer while the officer is engaged in the performance of**  
 16 **the officer's duty;**~~or~~  
 17 **(B) uniformed or properly identified university or campus police**  
 18 **officer while such officer is engaged in the performance of such officer's**  
 19 **duty; or**  
 20 **(C) uniformed or properly identified federal law enforcement officer**  
 21 **while such officer is engaged in the performance of such officer's duty.**  
 22 **(e) Battery against a school employee is a battery, as defined in**  
 23 **subsection (a), committed against a school employee in or on any school**  
 24 **property or grounds upon which is located a building or structure used**  
 25 **by a unified school district or an accredited nonpublic school for student**  
 26 **instruction or attendance or extracurricular activities of pupils enrolled**  
 27 **in kindergarten or any of the grades one through 12 or at any regularly**  
 28 **scheduled school sponsored activity or event, while such employee is**  
 29 **engaged in the performance of such employee's duty.**  
 30 **(f) Battery against a mental health employee is a battery, as defined**  
 31 **in subsection (a), committed against a mental health employee by a**  
 32 **person in the custody of the secretary for aging and disability services,**  
 33 **while such employee is engaged in the performance of such employee's**  
 34 **duty.**  
 35 **(g) (1) Battery is a class B person misdemeanor.**  
 36 **(2) Aggravated battery as defined in:**  
 37 **(A) Subsection (b)(1)(A) is a severity level 4, person felony;**  
 38 **(B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person**  
 39 **felony;**  
 40 **(C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person**  
 41 **felony; and**  
 42 **(D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person**  
 43 **felony.**

- 1       (3) *Battery against a law enforcement officer as defined in:*  
2       (A) *Subsection (c)(1) is a class A person misdemeanor;*  
3       (B) *subsection (c)(2) is a severity level 7, person felony; and*  
4       (C) *subsection (c)(3) is a severity level 5, person felony.*  
5       (4) *Aggravated battery against a law enforcement officer as defined*  
6 *in:*  
7       (A) *Subsection (d)(1) or (d)(3) is a severity level 3, person felony;*  
8 *and*  
9       (B) *subsection (d)(2) is a severity level 4, person felony.*  
10      (5) *Battery against a school employee is a class A person*  
11 *misdemeanor.*  
12      (6) *Battery against a mental health employee is a severity level 7,*  
13 *person felony.*  
14      (h) *As used in this section:*  
15      (1) *"Correctional institution" means any institution or facility*  
16 *under the supervision and control of the secretary of corrections;*  
17      (2) *"state correctional officer or employee" means any officer or*  
18 *employee of the Kansas department of corrections or any independent*  
19 *contractor, or any employee of such contractor, whose duties include*  
20 *working at a correctional institution;*  
21      (3) *"juvenile detention facility officer or employee" means any*  
22 *officer or employee of a juvenile detention facility as defined in K.S.A.*  
23 *2017 Supp. 38-2302, and amendments thereto;*  
24      (4) *"city or county correctional officer or employee" means any*  
25 *correctional officer or employee of the city or county or any independent*  
26 *contractor, or any employee of such contractor, whose duties include*  
27 *working at a city holding facility or county jail facility;*  
28      (5) *"school employee" means any employee of a unified school*  
29 *district or an accredited nonpublic school for student instruction or*  
30 *attendance or extracurricular activities of pupils enrolled in*  
31 *kindergarten or any of the grades one through 12;*  
32      (6) *"mental health employee" means: (A) An employee of the*  
33 *Kansas department for aging and disability services working at Larned*  
34 *state hospital, Osawatomie state hospital, Kansas neurological institute*  
35 *and Parsons state hospital and training center and the treatment staff as*  
36 *defined in K.S.A. 59-29a02, and amendments thereto; and (B)*  
37 *contractors and employees of contractors under contract to provide*  
38 *services to the Kansas department for aging and disability services*  
39 *working at any such institution or facility;*  
40      (7) *"judge" means a duly elected or appointed justice of the*  
41 *supreme court, judge of the court of appeals, judge of any district court*  
42 *of Kansas, district magistrate judge or municipal court judge;*  
43      (8) *"attorney" means a: (A) County attorney, assistant county*



1 *attorney, special assistant county attorney, district attorney, assistant*  
 2 *district attorney, special assistant district attorney, attorney general,*  
 3 *assistant attorney general or special assistant attorney general; and (B)*  
 4 *public defender, assistant public defender, contract counsel for the state*  
 5 *board of indigents' defense services or an attorney who is appointed by*  
 6 *the court to perform services for an indigent person as provided by*  
 7 *article 45 of chapter 22 of the Kansas Statutes Annotated, and*  
 8 *amendments thereto;*

9 (9) *"community corrections officer" means an employee of a*  
 10 *community correctional services program responsible for supervision of*  
 11 *adults or juveniles as assigned by the court to community corrections*  
 12 *supervision and any other employee of a community correctional*  
 13 *services program that provides enhanced supervision of offenders such*  
 14 *as house arrest and surveillance programs; and*

15 (10) *"court services officer" means an employee of the Kansas*  
 16 *judicial branch or local judicial district responsible for supervising,*  
 17 *monitoring or writing reports relating to adults or juveniles as assigned*  
 18 *by the court, or performing related duties as assigned by the court; and*

19 (11) *"federal law enforcement officer" means a law enforcement*  
 20 *officer employed by the United States federal government who, as part of*  
 21 *such officer's duties, is permitted to make arrests and to be armed.*

22 Sec. 5. K.S.A. 2017 Supp. 21-5417 is hereby amended to read as  
 23 follows: 21-5417. (a) Mistreatment of a dependent adult **or an elder**  
 24 **person** is knowingly committing one or more of the following acts:

25 (1) Infliction of physical injury, unreasonable confinement or  
 26 unreasonable punishment upon a dependent adult **or an elder person**;

27 (2) taking the personal property or financial resources of a dependent  
 28 adult **or an elder person** for the benefit of the defendant or another person  
 29 by taking control, title, use or management of the personal property or  
 30 financial resources of a dependent adult **or an elder person** through:

31 (A) Undue influence, coercion, harassment, duress, deception, false  
 32 representation, false pretense or without adequate consideration to such  
 33 dependent adult **or elder person**;

34 (B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et  
 35 seq., and amendments thereto; ~~or~~

36 (C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et  
 37 seq., and amendments thereto; or

38 (D) a violation of the act for obtaining a guardian or a conservator,  
 39 or both, K.S.A. 59-3050 et seq., and amendments thereto; or

40 (3) omission or deprivation of treatment, goods or services that are  
 41 necessary to maintain physical or mental health of such dependent adult **or**  
 42 **elder person.**

43 (b) ~~Mistreatment of an elder person is knowingly committing one or~~

1 more of the following acts:

2 ~~(1) Infliction of physical injury, unreasonable confinement or~~  
 3 ~~unreasonable punishment upon an elder person; or~~

4 ~~(2) taking the personal property or financial resources of an elder~~  
 5 ~~person for the benefit of the defendant or another person by taking control,~~  
 6 ~~title, use or management of the personal property or financial resources of~~  
 7 ~~an elder person through:~~

8 ~~(A) Undue influence, coercion, harassment, duress, deception, false~~  
 9 ~~representation, false pretense or without adequate consideration to such~~  
 10 ~~elder person;~~

11 ~~(B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et~~  
 12 ~~seq., and amendments thereto; or~~

13 ~~(C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et~~  
 14 ~~seq., and amendments thereto; or~~

15 ~~(D) a violation of the act for obtaining a guardian or conservator; or~~  
 16 ~~both, K.S.A. 59-3050 et seq., and amendments thereto; or~~

17 ~~(2)(3) omission or deprivation of treatment, goods or services that are~~  
 18 ~~necessary to maintain physical or mental health of such elder person.~~

19 ~~(e) Mistreatment of a dependent adult or an elder person as defined~~  
 20 ~~in:~~

21 (1) Subsection (a)(1) is a severity level 5, person felony;

22 (2) subsection (a)(2) if the aggregate amount of the value of the  
 23 personal property or financial resources is:

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

25 (B) at least \$250,000 but less than \$1,000,000 is a severity level 3,  
 26 person felony;

27 (C) at least \$100,000 but less than \$250,000 is a severity level 4,  
 28 person felony;

29 (D) at least \$25,000 but less than \$100,000 is a severity level 5,  
 30 person felony;

31 (E) at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level 7,  
 32 person felony;

33 (F) less than ~~\$1,000~~ \$1,500 is a class A person misdemeanor, except  
 34 as provided in subsection ~~(e)~~ (b)(2)(G); and

35 (G) less than ~~\$1,000~~ \$1,500 and committed by a person who has,  
 36 within five years immediately preceding commission of the crime, been  
 37 convicted of ~~mistreatment of a dependent adult~~ a violation of this section  
 38 two or more times is a severity level 7, person felony; and

39 (3) subsection (a)(3) is a severity level 8, person felony.

40 ~~(d) Mistreatment of an elder person as defined in:~~

41 ~~(1) Subsection (b)(1) is a severity level 5, person felony;~~

42 ~~(2) subsection (b)(1) (b)(2) if the aggregate amount of the value of~~  
 43 ~~the personal property or financial resources is:~~

- 1       (A) ~~\$1,000,000 or more is a severity level 2, person felony;~~
- 2       (B) ~~at least \$250,000 but less than \$1,000,000 is a severity level 3,~~
- 3 ~~person felony;~~
- 4       (C) ~~at least \$100,000 but less than \$250,000 is a severity level 4,~~
- 5 ~~person felony;~~
- 6       (D) ~~at least \$25,000 but less than \$100,000 is a severity level 5,~~
- 7 ~~person felony;~~
- 8       (E) ~~at least \$5,000 \$1,500 but less than \$25,000 is a severity level 7,~~
- 9 ~~person felony;~~
- 10       (F) ~~less than \$5,000 \$1,500 is a class A person misdemeanor, except~~
- 11 ~~as provided in subsection (d)(1)(G); and~~
- 12       (G) ~~less than \$5,000 \$1,500 and committed by a person who has,~~
- 13 ~~within five years immediately preceding commission of the crime, been~~
- 14 ~~convicted of mistreatment of an elder person a violation of this section two~~
- 15 ~~or more times is a severity level 7, person felony; and~~
- 16       ~~(2)(3)~~ ~~subsection (b)(2)(3) is a severity level 8, person felony.~~
- 17       ~~(e)(c)~~ It shall be an affirmative defense to any prosecution for
- 18 mistreatment of a dependent adult or ~~mistreatment~~ of an elder person as
- 19 described in ~~subsections (a)(2) and (b)(1)(2)~~ **subsection (a)(2)** that:
- 20       (1) The personal property or financial resources were given as a gift
- 21 consistent with a pattern of gift giving to the person that existed before the
- 22 dependent adult or elder person became vulnerable;
- 23       (2) the personal property or financial resources were given as a gift
- 24 consistent with a pattern of gift giving to a class of individuals that existed
- 25 before the dependent adult or elder person became vulnerable;
- 26       (3) the personal property or financial resources were conferred as a
- 27 gift by the dependent adult or elder person to the benefit of a person or
- 28 class of persons, and such gift was reasonable under the circumstances; or
- 29       (4) a court approved the transaction before the transaction occurred.
- 30       ~~(d)~~ **(d)** No dependent adult or elder person is considered to be
- 31 mistreated under subsection (a)(1); ~~or (a)(3) or (b)(2) (b)(3)~~ for the sole
- 32 reason that such dependent adult or elder person relies upon or is being
- 33 furnished treatment by spiritual means through prayer in lieu of medical
- 34 treatment in accordance with the tenets and practices of a recognized
- 35 church or religious denomination of which such dependent adult or elder
- 36 person is a member or adherent.
- 37       ~~(g)~~ **(e)** As used in this section:
- 38       (1) "Adequate consideration" means the personal property or
- 39 financial resources were given to the person as payment for bona fide
- 40 goods or services provided by such person and the payment was at a rate
- 41 customary for similar goods or services in the community that the
- 42 dependent adult or elder person resided in at the time of the transaction.
- 43       (2) "Dependent adult" means an individual 18 years of age or older

1 who is unable to protect the individual's own interest. Such term shall  
2 include, but is not limited to, any:

3 (A) Resident of an adult care home including, but not limited to,  
4 those facilities defined by K.S.A. 39-923, and amendments thereto;

5 (B) adult cared for in a private residence;

6 (C) individual kept, cared for, treated, boarded, confined or otherwise  
7 accommodated in a medical care facility;

8 (D) individual with intellectual disability or a developmental  
9 disability receiving services through a community facility for people with  
10 intellectual disability or residential facility licensed under K.S.A.—~~75-~~  
11 ~~3307b~~ 2017 Supp. 39-2001 *et seq.*, and amendments thereto;

12 (E) individual with a developmental disability receiving services  
13 provided by a community service provider as provided in the  
14 developmental disability reform act; or

15 (F) individual kept, cared for, treated, boarded, confined or otherwise  
16 accommodated in a state psychiatric hospital or state institution for people  
17 with intellectual disability.

18 (3) "Elder person" means a person—~~70~~ 60 years of age or older.

19 ~~(h)~~**(f)** An offender who violates the provisions of this section may  
20 also be prosecuted for, convicted of, and punished for any other offense in  
21 article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated, or  
22 K.S.A. 2017 Supp. 21-6418, and amendments thereto.

23 Sec. ~~3~~ **6**. K.S.A. 2017 Supp. 21-5402, **21-5412**, **21-5413** and 21-5417  
24 are hereby repealed.

25 Sec. ~~4~~ **7**. This act shall take effect and be in force from and after its  
26 publication in the statute book.