

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2229

By Committee on Judiciary

2-3

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to ~~theft~~ **property crimes**; increasing criminal penalties for multiple
3 thefts of mail; **increasing felony loss thresholds for certain property**
4 **crimes**; amending K.S.A. 2020 Supp. 21-5801, **21-5802, 21-5813, 21-**
5 **5821, 21-5825, 21-5828, 21-5830, 21-5927, 21-6002, 21-**
6 **6005 and 21-6205** and repealing the existing ~~section~~ **sections**.

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

9 Section 1. K.S.A. 2020 Supp. 21-5801 is hereby amended to read as
10 follows: 21-5801. (a) Theft is any of the following acts done with intent to
11 permanently deprive the owner of the possession, use or benefit of the
12 owner's property or services:

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

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

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

17 (4) obtaining control over stolen property or services knowing the
18 property or services to have been stolen by another; or

19 (5) knowingly dispensing motor fuel into a storage container or the
20 fuel tank of a motor vehicle at an establishment in which motor fuel is
21 offered for retail sale and leaving the premises of the establishment
22 without making payment for the motor fuel.

23 (b) Theft of:

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

26 (2) property or services of the value of at least \$25,000 but less than
27 \$100,000 is a severity level 7, nonperson felony;

28 (3) property or services of the value of at least \$1,500 but less than
29 \$25,000 is a severity level 9, nonperson felony, except as provided in
30 subsection (b)(7);

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

34 (5) property of the value of less than \$1,500 from three separate
35 mercantile establishments within a period of 72 hours as part of the same
36 act or transaction or in two or more acts or transactions connected together

1 or constituting parts of a common scheme or course of conduct is a
2 severity level 9, nonperson felony;

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

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

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

15 (c) As used in this section:

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

19 (2) "*mail*" means a letter, postal card, package or bag sent through
20 the United States postal service or other delivery service, or any other
21 article or thing contained therein, or a sealed article or thing addressed to
22 a person;

23 (3) "regulated scrap metal" means the same as in K.S.A. 2020 Supp.
24 50-6,109, and amendments thereto; and

25 ~~(3)~~(4) "value" means the value of the property or, if the property is
26 regulated scrap metal, the cost to restore the site of the theft of such
27 regulated scrap metal to its condition at the time immediately prior to the
28 theft of such regulated scrap metal, whichever is greater.

29 **Sec. 2. K.S.A. 2020 Supp. 21-5802 is hereby amended to read as**
30 **follows: 21-5802. (a) Theft of property lost, mislaid or delivered by**
31 **mistake is obtaining control of property of another by a person who:**

32 (1) **Knows or learns the identity of the owner thereof;**

33 (2) **fails to take reasonable measures to restore to the owner lost**
34 **property, mislaid property or property delivered by a mistake; and**

35 (3) **intends to permanently deprive the owner of the possession,**
36 **use or benefit of the property.**

37 (b) **Theft of property lost, mislaid or delivered by mistake of the**
38 **value of:**

39 (1) **\$100,000 or more is a severity level 5, nonperson felony;**

40 (2) **at least \$25,000 but less than \$100,000 is a severity level 7,**
41 **nonperson felony;**

42 (3) **at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level 9,**
43 **nonperson felony; and**

1 (4) ~~less than \$1,000~~ *\$1,500* is a class A nonperson misdemeanor.

2 (c) As used in this section, "property delivered by mistake"
3 includes, but is not limited to, a mistake as to the:

4 (1) Nature or amount of the property; or

5 (2) identity of the recipient of the property.

6 Sec. 3. K.S.A. 2020 Supp. 21-5813 is hereby amended to read as
7 follows: 21-5813. (a) Criminal damage to property is by means other
8 than by fire or explosive:

9 (1) Knowingly damaging, destroying, defacing or substantially
10 impairing the use of any property in which another has an interest
11 without the consent of such other person; or

12 (2) damaging, destroying, defacing or substantially impairing the
13 use of any property with intent to injure or defraud an insurer or
14 lienholder.

15 (b) Aggravated criminal damage to property is criminal damage
16 to property, as defined in subsection (a)(1), if the value or amount of
17 damage exceeds \$5,000, committed with the intent to obtain any
18 regulated scrap metal as defined in K.S.A. 2020 Supp. 50-6,109, and
19 amendments thereto, or any items listed in K.S.A. 2020 Supp. 50-
20 6,111(d), and amendments thereto, upon:

21 (1) Any building, structure, personal property or place used
22 primarily for worship or any religious purpose;

23 (2) any building, structure or place used as a school or as an
24 educational facility;

25 (3) any building, structure or place used by a non-profit or
26 charitable business, corporation, firm, service or association;

27 (4) any grave, cemetery, mortuary or personal property of the
28 cemetery or mortuary or other facility used for the purpose of burial
29 or memorializing the dead;

30 (5) any agricultural property or agricultural infrastructure;

31 (6) any construction, mining or recycling facility, structure or
32 site;

33 (7) any utility, utility service, telecommunication,
34 telecommunication service, cable or video service facility, property,
35 building, structure, site or component thereof;

36 (8) any municipal, county or state building, structure, site or
37 property;

38 (9) any residential, commercial, industrial or agricultural
39 irrigation, sprinkler or watering system or component thereof;

40 (10) the infrastructure of any residence, building or structure;

41 (11) any historical marker, plaque or work of art;

42 (12) any vehicle or transportation building, facility, structure, site
43 or property; or

1 (13) any other building, structure, residence, facility, site, place,
2 property, vehicle or any infrastructure thereof.

3 (c) Criminal damage to property if the property:

4 (1) Is damaged to the extent of \$25,000 or more is a severity level
5 7, nonperson felony;

6 (2) is damaged to the extent of at least ~~\$1,000~~ \$1,500 but less than
7 \$25,000 is a severity level 9, nonperson felony; and

8 (3) damaged is of the value of less than ~~\$1,000~~ \$1,500 or is of the
9 value of ~~\$1,000~~ \$1,500 or more and is damaged to the extent of less
10 than ~~\$1,000~~ \$1,500 is a class B nonperson misdemeanor.

11 (d) Aggravated criminal damage to property is a severity level 6,
12 nonperson felony.

13 (e) (1) As used in subsection (b):

14 (A) "Infrastructure" includes any fixture to, attachment upon or
15 part of a residence, building or structure's framework, electrical
16 wiring and appurtenances, plumbing or heating and air systems; and

17 (B) "site" includes any area, place or location set aside for
18 specific use or uses, including, but not limited to, storage, staging,
19 repair, sorting, transportation, planning or organization.

20 (2) Any of the items or locations listed in subsection (b) shall
21 include the curtilage, adjoining land and any improvements
22 thereupon.

23 (3) Nothing in subsection (b) shall be construed to require the:

24 (A) Construction or existence of any door, gate, fence, barrier or
25 wall; or

26 (B) existence of notice, postings or signs to potential trespassers.

27 (f) In determining the amount of damage to property, damages
28 may include the cost of repair or replacement of the property that was
29 damaged, the reasonable cost of the loss of production, crops and
30 livestock, reasonable labor costs of any kind, reasonable material costs
31 of any kind and any reasonable costs that are attributed to equipment
32 that is used to abate or repair the damage to the property.

33 Sec. 4. K.S.A. 2020 Supp. 21-5821 is hereby amended to read as
34 follows: 21-5821. (a) Giving a worthless check is the making, drawing,
35 issuing or delivering or causing or directing the making, drawing,
36 issuing or delivering of any check on any financial institution for the
37 payment of money or its equivalent with intent to defraud and
38 knowing, at the time of the making, drawing, issuing or delivering of
39 such check that the maker or drawer has no deposit in or credits with
40 the financial institution or has not sufficient funds in, or credits with,
41 the financial institution for the payment of such check in full upon its
42 presentation.

43 (b) Giving a worthless check is a:

- 1 **(1) Severity level 7, nonperson felony if:**
2 **(A) The check is drawn for \$25,000 or more; or**
3 **(B) more than one worthless check is given within a seven-day**
4 **period and the combined total of the checks is \$25,000 or more;**
5 **(2) severity level 9, nonperson felony if:**
6 **(A) The check is drawn for at least ~~\$1,000~~ \$1,500 but less than**
7 **\$25,000;**
8 **(B) more than one worthless check is given within a seven-day**
9 **period and the combined total of the checks is at least ~~\$1,000~~ \$1,500**
10 **but less than \$25,000; or**
11 **(C) the person giving the worthless check has, within five years**
12 **immediately preceding commission of the crime, been convicted of**
13 **giving a worthless check two or more times; and**
14 **(3) class A nonperson misdemeanor if the check is drawn for less**
15 **than ~~\$1,000~~ \$1,500.**
16 **(c) As used in this section and K.S.A. 2020 Supp. 21-5822, and**
17 **amendments thereto:**
18 **(1) "Check" is any check, order or draft on a financial**
19 **institution;**
20 **(2) "financial institution" means any bank, credit union, savings**
21 **and loan association or depository; and**
22 **(3) "notice" includes oral or written notice to the person entitled**
23 **thereto.**
24 **(d) In any prosecution against the maker or drawer of a check,**
25 **payment of which has been refused by the financial institution on**
26 **account of insufficient funds, the making, drawing, issuing or**
27 **delivering of such check shall be prima facie evidence of intent to**
28 **defraud and of knowledge of insufficient funds in, or on deposit with,**
29 **the financial institution:**
30 **(1) Unless the maker or drawer pays the holder thereof the**
31 **amount due thereon and a service charge not exceeding \$30 for each**
32 **check, within seven days after notice has been given to the maker or**
33 **drawer that such check has not been paid by the financial institution.**
34 **Written notice shall be presumed to have been given when deposited**
35 **as restricted matter in the United States mail, addressed to the person**
36 **to be given notice at such person's address as it appears on such**
37 **check; or**
38 **(2) if a postdated date is placed on the check without the**
39 **knowledge or consent of the payee.**
40 **(e) It shall not be a defense to a prosecution under this section**
41 **that the check upon which such prosecution is based was:**
42 **(1) Postdated, unless such check was presented for payment prior**
43 **to the postdated date; or**

1 (2) given to a payee who had knowledge or had been informed,
2 when the payee accepted such check that the maker did not have
3 sufficient funds in the hands of the financial institution to pay such
4 check upon presentation, unless such check was presented for
5 payment prior to the date the maker informed the payee there would
6 be sufficient funds.

7 (f) In addition to all other costs and fees allowed by law, each
8 prosecutor who takes any action under the provisions of this section
9 may collect from the issuer in such action an administrative handling
10 cost, except in cases filed in a court of appropriate jurisdiction. The
11 cost shall not exceed \$10 for each check. If the issuer of the check is
12 convicted in a district court, the administrative handling costs may be
13 assessed as part of the court costs in the matter. The moneys collected
14 pursuant to this subsection shall be deposited into a trust fund which
15 shall be administered by the board of county commissioners. The
16 funds shall be expended only with the approval of the board of county
17 commissioners, but may be used to help fund the normal operating
18 expenses of the county or district attorney's office.

19 Sec. 5. K.S.A. 2020 Supp. 21-5825 is hereby amended to read as
20 follows: 21-5825. (a) Counterfeiting is manufacturing, using,
21 displaying, advertising, distributing or possessing with intent to
22 distribute any item or services knowing such item or services bear or
23 are identified by a counterfeit mark.

24 (b) Counterfeiting is a:

25 (1) Severity level 7, nonperson felony if:

26 (A) The retail value of such item or service is \$25,000 or more;

27 (B) such counterfeiting involves 1,000 or more items bearing a
28 counterfeit mark; or

29 (C) a third or subsequent violation of this section;

30 (2) severity level 9, nonperson felony if:

31 (A) The retail value of such item or service is at least ~~\$1,000~~
32 *\$1,500* but less than \$25,000;

33 (B) such counterfeiting involves more than 100 but less than 1,000
34 items bearing a counterfeit mark; or

35 (C) a second violation of this section; and

36 (3) class A nonperson misdemeanor, if the retail value of such
37 item or service is less than ~~\$1,000~~ *\$1,500*.

38 (c) A person having possession, custody or control of more than
39 25 items bearing a counterfeit mark shall be presumed to possess such
40 items with intent to distribute.

41 (d) Any state or federal certificate of registration of any
42 intellectual property shall be prima facie evidence of the facts stated
43 therein.

1 (e) As used in this section:

2 (1) "Counterfeit mark" means:

3 (A) Any unauthorized reproduction or copy of intellectual
4 property; or

5 (B) intellectual property affixed to any item knowingly sold,
6 offered for sale, manufactured or distributed, or identifying services
7 offered or rendered, without the authority of the owner of the
8 intellectual property;

9 (2) "intellectual property" means any trademark, service mark
10 or trade name as such terms are defined in K.S.A. 81-202, and
11 amendments thereto; and

12 (3) "retail value" means the counterfeiter's regular selling price
13 for the item or service bearing or identified by the counterfeit mark.
14 In the case of items bearing a counterfeit mark which are components
15 of a finished product, the retail value shall be the counterfeiter's
16 regular selling price of the finished product on or in which the
17 component would be utilized.

18 (f) The quantity or retail value of items or services shall include
19 the aggregate quantity or retail value of all items bearing, or services
20 identified by, every counterfeit mark the defendant manufactures,
21 uses, displays, advertises, distributes or possesses.

22 Sec. 6. K.S.A. 2020 Supp. 21-5828 is hereby amended to read as
23 follows: 21-5828. (a) Criminal use of a financial card is any of the
24 following acts done with intent to defraud and to obtain money, goods,
25 property or services:

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

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

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

31 (b) Criminal use of a financial card is a:

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

35 (2) severity level 9, nonperson felony if the money, goods,
36 property or services obtained within any seven-day period are of the
37 value of at least ~~\$1,000~~ \$1,500 but less than \$25,000; and

38 (3) class A nonperson misdemeanor if the money, goods, property
39 or services obtained within a seven-day period are of the value of less
40 than ~~\$1,000~~ \$1,500.

41 (c) As used in this section:

42 (1) "Financial card" means an identification card, plate,
43 instrument, device or number issued by a business organization

1 authorizing the cardholder to purchase, lease or otherwise obtain
2 money, goods, property or services or to conduct other financial
3 transactions; and

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

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

10 Sec. 7. K.S.A. 2020 Supp. 21-5830 is hereby amended to read as
11 follows: 21-5830. (a) Impairing a security interest is, with intent to
12 defraud the secured party:

13 (1) Damaging, destroying or concealing any personal property
14 subject to a security interest;

15 (2) selling, exchanging or otherwise disposing of any personal
16 property subject to a security interest without the written consent of
17 the secured party, where such sale, exchange or other disposition is not
18 authorized by the secured party under the terms of the security
19 agreement; or

20 (3) failing to account to the secured party for the proceeds of the
21 sale, exchange or other disposition of any personal property subject to
22 a security interest, where such sale, exchange or other disposition is
23 authorized and such accounting for proceeds is required by the
24 secured party under the terms of the security agreement or otherwise.

25 (b) Impairing a security interest, when the personal property
26 subject to the security interest is of the value of:

27 (1) \$25,000 or more and is subject to a security interest of \$25,000
28 or more is a severity level 7, nonperson felony;

29 (2) at least ~~\$1,000~~ \$1,500 and is subject to a security interest of at
30 least ~~\$1,000~~ \$1,500 and either the value of the property or the security
31 interest is less than \$25,000 is a severity level 9, nonperson felony; and

32 (3) less than ~~\$1,000~~ \$1,500, or of the value of ~~\$1,000~~ \$1,500 or
33 more but subject to a security interest of less than ~~\$1,000~~ \$1,500 is a
34 class A nonperson misdemeanor.

35 Sec. 8. K.S.A. 2020 Supp. 21-5927 is hereby amended to read as
36 follows: 21-5927. (a) Medicaid fraud is:

37 (1) With intent to defraud, making, presenting, submitting,
38 offering or causing to be made, presented, submitted or offered:

39 (A) Any false or fraudulent claim for payment for any goods,
40 service, item, facility *or* accommodation for which payment may be
41 made, in whole or in part, under the medicaid program, whether or
42 not the claim is allowed or allowable;

43 (B) any false or fraudulent statement or representation for use in

1 determining payments which may be made, in whole or in part, under
2 the medicaid program, whether or not the claim is allowed or
3 allowable;

4 (C) any false or fraudulent report or filing which is or may be
5 used in computing or determining a rate of payment for any goods,
6 service, item, facility or accommodation, for which payment may be
7 made, in whole or in part, under the medicaid program, whether or
8 not the claim is allowed or allowable;

9 (D) any false or fraudulent statement or representation made in
10 connection with any report or filing which is or may be used in
11 computing or determining a rate of payment for any goods, service,
12 item, facility or accommodation for which payment may be made, in
13 whole or in part, under the medicaid program, whether or not the
14 claim is allowed or allowable;

15 (E) any statement or representation for use by another in
16 obtaining any goods, service, item, facility or accommodation for
17 which payment may be made, in whole or in part, under the medicaid
18 program, knowing the statement or representation to be false, in
19 whole or in part, by commission or omission, whether or not the claim
20 is allowed or allowable;

21 (F) any claim for payment, for any goods, service, item, facility,
22 or accommodation, which is not medically necessary in accordance
23 with professionally recognized parameters or as otherwise required by
24 law, for which payment may be made, in whole or in part, under the
25 medicaid program, whether or not the claim is allowed or allowable;

26 (G) any wholly or partially false or fraudulent book, record,
27 document, data or instrument, which is required to be kept or which is
28 kept as documentation for any goods, service, item, facility or
29 accommodation or of any cost or expense claimed for reimbursement
30 for any goods, service, item, facility or accommodation for which
31 payment is, has been, or can be sought, in whole or in part, under the
32 medicaid program, whether or not the claim is allowed or allowable;

33 (H) any wholly or partially false or fraudulent book, record,
34 document, data or instrument to any properly identified law
35 enforcement officer, any properly identified employee or authorized
36 representative of the attorney general, or to any properly identified
37 employee or agent of the Kansas department for aging and disability
38 services, Kansas department of health and environment, or its fiscal
39 agent, in connection with any audit or investigation involving any
40 claim for payment or rate of payment for any goods, service, item,
41 facility or accommodation payable, in whole or in part, under the
42 medicaid program; or

43 (I) any false or fraudulent statement or representation made, with

1 the intent to influence any acts or decision of any official, employee or
2 agent of a state or federal agency having regulatory or administrative
3 authority over the medicaid program; or

4 (2) intentionally executing or attempting to execute a scheme or
5 artifice to defraud the medicaid program or any contractor or
6 subcontractor thereof.

7 (b) (1) Except as provided in subsection (b)(2), for each individual
8 count of medicaid fraud as defined in subsection (a)(1)(A), (a)(1)(B),
9 (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F), (a)(1)(G) or (a)(2), where the
10 aggregate amount of payments illegally claimed is:

11 (A) \$250,000 or more, medicaid fraud is a severity level 3,
12 nonperson felony;

13 (B) at least \$100,000 but less than \$250,000, medicaid fraud is a
14 severity level 5, nonperson felony;

15 (C) at least \$25,000 but less than \$100,000, medicaid fraud is a
16 severity level 7, nonperson felony;

17 (D) at least ~~\$1,000~~ \$1,500 but less than \$25,000, medicaid fraud is
18 a severity level 9, nonperson felony; and

19 (E) less than ~~\$1,000~~ \$1,500, medicaid fraud is a class A nonperson
20 misdemeanor.

21 (2) For each individual count of medicaid fraud as defined in
22 subsection (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F),
23 (a)(1)(G) or (a)(2):

24 (A) When great bodily harm results from such act, regardless of
25 the aggregate amount of payments illegally claimed, medicaid fraud is
26 a severity level 4, person felony, except as provided in subsection (b)(2)
27 (B); and

28 (B) when death results from such act, regardless of the aggregate
29 amount of payments illegally claimed, medicaid fraud is a severity
30 level 1, person felony.

31 (3) Medicaid fraud as defined in subsection (a)(1)(H) or (a)(1)(I)
32 is a severity level 9, nonperson felony.

33 (c) In determining what is medically necessary pursuant to
34 subsection (a)(1)(F), the attorney general may contract with or consult
35 with qualified health care providers and other qualified individuals to
36 identify professionally recognized parameters for the diagnosis or
37 treatment of the recipient's condition, illness or injury.

38 (d) In sentencing for medicaid fraud, ~~subsection (c)(3) of K.S.A.~~
39 ~~2020 Supp. 21-6815(c)(3), and amendments thereto, shall not apply~~
40 ~~and an act or omission by the defendant that resulted in any medicaid~~
41 ~~recipient receiving any service that was of lesser quality or amount~~
42 ~~than the service to which such recipient was entitled may be~~
43 ~~considered an aggravating factor in determining whether substantial~~

1 and compelling reasons for departure exist pursuant to K.S.A. 2020
2 Supp. 21-6801 through 21-6824, and amendments thereto.

3 (e) A person who violates the provisions of this section may also
4 be prosecuted for, convicted of, and punished for any form of battery
5 or homicide.

6 Sec. 9. K.S.A. 2020 Supp. 21-6002 is hereby amended to read as
7 follows: 21-6002. (a) Official misconduct is any of the following acts
8 committed by a public officer or employee in the officer or employee's
9 public capacity or under color of the officer or employee's office or
10 employment:

11 (1) Knowingly using or authorizing the use of any aircraft, as
12 defined by K.S.A. 3-201, and amendments thereto, vehicle, as defined
13 by K.S.A. 8-1485, and amendments thereto, or vessel, as defined by
14 K.S.A. 32-1102, and amendments thereto, under the officer's or
15 employee's control or direction, or in the officer's or employee's
16 custody, exclusively for the private benefit or gain of the officer or
17 employee or another;

18 (2) knowingly failing to serve civil process when required by law;

19 (3) using confidential information acquired in the course of and
20 related to the officer's or employee's office or employment for the
21 private benefit or gain of the officer or employee or another or to
22 intentionally cause harm to another;

23 (4) except as authorized by law, with the intent to reduce or
24 eliminate competition among bidders or prospective bidders on any
25 contract or proposed contract:

26 (A) Disclosing confidential information regarding proposals or
27 communications from bidders or prospective bidders on any contract
28 or proposed contract;

29 (B) accepting any bid or proposal on a contract or proposed
30 contract after the deadline for acceptance of such bid or proposal; or

31 (C) altering any bid or proposal submitted by a bidder on a
32 contract or proposed contract;

33 (5) except as authorized by law, knowingly destroying, tampering
34 with or concealing evidence of a crime; or

35 (6) knowingly submitting to a governmental entity a claim for
36 expenses ~~which~~ *that* is false or duplicates expenses for which a claim is
37 submitted to such governmental entity, another governmental or
38 private entity.

39 (b) (1) Official misconduct as defined in:

40 (A) Subsections (a)(1) through (a)(4) is a class A nonperson
41 misdemeanor;

42 (B) subsection (a)(5) is a:

43 (i) Severity level 8, nonperson felony if the evidence is evidence of

1 a crime ~~which~~ *that* is a felony; and

2 (ii) class A nonperson misdemeanor if the evidence is evidence of
3 a crime ~~which~~ *that* is a misdemeanor; and

4 (C) subsection (a)(6) if the claim is:

5 (i) \$25,000 or more is a severity level 7, nonperson felony;

6 (ii) at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level
7 9, nonperson felony; and

8 (iii) less than ~~\$1,000~~ \$1,500 is a class A nonperson misdemeanor.

9 (2) Upon conviction of official misconduct a public officer or
10 employee shall forfeit such officer or employee's office or employment.

11 (c) The provisions of subsection (a)(1) shall not apply to any use
12 of persons or property ~~which~~ *that*:

13 (1) At the time of the use, is authorized by law or by formal
14 written policy of the governmental entity; or

15 (2) constitutes misuse of public funds, as defined in K.S.A. 2020
16 Supp. 21-6005, and amendments thereto.

17 (d) As used in this section, "confidential" means any information
18 that is not subject to mandatory disclosure pursuant to K.S.A. 45-221,
19 and amendments thereto.

20 Sec. 10. K.S.A. 2020 Supp. 21-6004 is hereby amended to read as
21 follows: 21-6004. (a) Presenting a false claim is, with the intent to
22 defraud, presenting a claim or demand ~~which~~ *that* is false in whole or
23 in part, to a public officer or body authorized to audit, allow or pay
24 such claim.

25 (b) Permitting a false claim is the auditing, allowing or paying of
26 any claim or demand made upon the state or any subdivision thereof
27 or other governmental instrumentality within the state by a public
28 officer or public employee who knows such claim or demand is false or
29 fraudulent in whole or in part.

30 (c) (1) Presenting a false claim or permitting a false claim for:

31 (A) \$25,000 or more is a severity level 7, nonperson felony;

32 (B) at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level
33 9, nonperson felony; and

34 (C) less than ~~\$1,000~~ \$1,500 is a class A nonperson misdemeanor.

35 (2) Upon conviction of permitting a false claim, a public officer or
36 public employee shall forfeit the officer or employee's office or
37 employment.

38 Sec. 11. K.S.A. 2020 Supp. 21-6005 is hereby amended to read as
39 follows: 21-6005. (a) Misuse of public funds is knowingly using,
40 lending or permitting another to use public money in a manner not
41 authorized by law, by a custodian or other person having control of
42 public money by virtue of such person's official position.

43 (b) (1) Misuse of public funds where the aggregate amount of

1 money paid or claimed in violation of this section is:

- 2 (A) \$100,000 or more is a severity level 5, nonperson felony;
- 3 (B) at least \$25,000 but less than \$100,000 is a severity level 7,
- 4 nonperson felony;
- 5 (C) at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level
- 6 9, nonperson felony; and
- 7 (D) less than ~~\$1,000~~ \$1,500 is a class A nonperson misdemeanor.

8 (2) Upon conviction of misuse of public funds, the convicted

9 person shall forfeit the person's official position.

10 (c) As used in this section, "public money" means any money or

11 negotiable instrument ~~which~~ *that* belongs to the state of Kansas or any

12 political subdivision thereof.

13 Sec. 12. K.S.A. 2020 Supp. 21-6205 is hereby amended to read as

14 follows: 21-6205. (a) Criminal desecration is:

15 (1) Knowingly obtaining or attempting to obtain unauthorized

16 control of a dead body or remains of any human being or the coffin,

17 urn or other article containing a dead body or remains of any human

18 being; or

19 (2) recklessly, by means other than by fire or explosive:

20 (A) Damaging, defacing or destroying the flag, ensign or other

21 symbol of the United States or this state in which another has a

22 property interest without the consent of such other person;

23 (B) damaging, defacing or destroying any public monument or

24 structure;

25 (C) damaging, defacing or destroying any tomb, monument,

26 memorial, marker, grave, vault, crypt gate, tree, shrub, plant or any

27 other property in a cemetery; or

28 (D) damaging, defacing or destroying any place of worship.

29 (b) Criminal desecration as defined in:

30 (1) ~~Subsections~~ *Subsection* (a)(2)(B), (a)(2)(C) or (a)(2)(D) if the

31 property is damaged to the extent of:

32 (A) \$25,000 or more is a severity level 7, nonperson felony;

33 (B) at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level

34 9, nonperson felony; and

35 (C) less than ~~\$1,000~~ \$1,500 is a class A nonperson misdemeanor;

36 and

37 (2) ~~subsections~~ *subsection* (a)(1) or (a)(2)(A) is a class A nonperson

38 misdemeanor.

39 ~~Sec. 13.~~ K.S.A. 2020 Supp. 21-5801 ~~is,~~ 21-5802, 21-5813, 21-

40 5821, 21-5825, 21-5828, 21-5830, 21-5927, 21-6002, 21-6004, 21-6005

41 and 21-6205 are hereby repealed.

42 ~~Sec. 14.~~ This act shall take effect and be in force from and after its

43 publication in the statute book.