

As Amended by House Committee

Session of 2024

HOUSE BILL No. 2813

By Committee on Federal and State Affairs

Requested by Representative Schmoie

2-21

1 AN ACT concerning ~~abortion~~ **crimes, punishment and criminal**  
2 **procedure; relating to reproductive coercion;** ~~relating to unlawful~~  
3 ~~coercion to obtain an abortion;~~ creating the crime of **reproductive**  
4 **coercion that includes coercion** to obtain an abortion **or to gain**  
5 **control over the reproductive autonomy of another person by force;**  
6 providing the penalties therefor; providing for enhanced criminal  
7 penalties for offenses committed with the intent to compel a woman to  
8 obtain an abortion **or to gain control over the reproductive**  
9 **autonomy of another person by force;** amending K.S.A. 21-6804 and  
10 repealing the existing section.

11

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

13 New Section 1. (a) **Reproductive** ~~coercion to obtain an abortion~~ is  
14 engaging in coercion with knowledge that a woman is pregnant and with  
15 the intent to compel such woman to obtain an abortion when such woman  
16 has expressed her desire to not obtain an abortion **or to gain control over**  
17 **the reproductive autonomy of another through force, threat of force or**  
18 **intimidation, and may include, but is not limited to, unreasonably**  
19 **pressuring the other party to become pregnant, deliberately**  
20 **interfering with contraception use or using coercive tactics to control**  
21 **pregnancy outcomes.**

22 (b) **Reproductive** ~~coercion to obtain an abortion~~, as defined in  
23 subsection (a), is:

24 (1) A person felony, and the offender shall be sentenced to not less  
25 than 30 days nor more than one year's imprisonment and fined not less  
26 than \$500 nor more than \$5,000; or

27 (2) if committed by the father or the putative father, who is 18 years  
28 of age or older at the time of the violation, of the unborn child of a  
29 pregnant woman and such pregnant woman is less than 18 years of age at  
30 the time of the violation, a person felony, and the offender shall be  
31 sentenced to not less than 90 days nor more than one year's imprisonment  
32 and fined not less than \$1,000 nor more than \$10,000.

33 (c) As used in this section:

34 (1) "Abortion" means the same as defined in K.S.A. 65-6701, and  
35 amendments thereto;

1 (2) "coercion" means any of the following:

2 (A) Threatening to harm or physically restrain an individual or the  
3 creation or execution of any scheme, plan or pattern intended to cause an  
4 individual to believe that failure to perform an act would result in financial  
5 harm to, or physical restraint of, an individual;

6 (B) abusing or threatening abuse of the legal system, including threats  
7 of arrest or deportation without regard to whether the individual being  
8 threatened is subject to arrest or deportation under the laws of this state or  
9 the United States;

10 (C) knowingly destroying, concealing, removing, confiscating or  
11 possessing any actual or purported passport or other immigration  
12 document or any other actual or purported government identification  
13 document from an individual without regard to whether the documents are  
14 fraudulent or fraudulently obtained; or

15 (D) facilitating or controlling an individual's access to a controlled  
16 substance, as defined in K.S.A. 65-4101, and amendments thereto, other  
17 than for a legitimate medical purpose;

18 (3) "financial harm" means any of the following:

19 (A) Any loan, promissory note or other credit instrument that  
20 provides for interest at a rate that is prohibited by state or federal law;

21 (B) any employment contract or other agreement for the payment of  
22 wages that violates the wage payment act, K.S.A. 44-313 et seq., and  
23 amendments thereto;

24 (C) extortion as defined in K.S.A. 21-6501, and amendments thereto;  
25 or

26 (D) any other adverse financial consequence; and

27 (4) "unborn child" means a living individual organism of the species  
28 homo sapiens, in utero, at any stage of gestation from fertilization to birth.

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

31 Sec. 2. K.S.A. 21-6804 is hereby amended to read as follows: 21-  
32 6804. (a) The provisions of this section shall be applicable to the  
33 sentencing guidelines grid for nondrug crimes. The following sentencing  
34 guidelines grid shall be applicable to nondrug felony crimes:

1

SENTENCING RANGE - NONDRUG OFFENSES

| Category       | A                   | B                 | C                               | D               | E                      | F                    | G                  | H                | I                       |
|----------------|---------------------|-------------------|---------------------------------|-----------------|------------------------|----------------------|--------------------|------------------|-------------------------|
| Severity Level | 3 + Person Felonies | 2 Person Felonies | 1 Person & 1 Nonperson Felonies | 1 Person Felony | 3 + Nonperson Felonies | 2 Nonperson Felonies | 1 Nonperson Felony | 2 + Misdemeanors | 1 Misdemeanor No Record |
| I              | 653 620 592         | 618 586 554       | 285 272 258                     | 267 253 240     | 246 234 221            | 226 214 203          | 203 195 184        | 186 176 166      | 165 155 147             |
| II             | 493 467 442         | 460 438 416       | 216 205 194                     | 200 190 181     | 184 174 165            | 168 160 152          | 154 146 138        | 138 131 123      | 123 117 109             |
| III            | 247 233 221         | 228 216 206       | 107 102 96                      | 100 94 89       | 92 88 82               | 83 79 74             | 77 72 68           | 71 66 61         | 61 59 55                |
| IV             | 172 162 154         | 162 151 144       | 75 71 68                        | 69 66 62        | 64 60 57               | 59 56 52             | 52 50 47           | 48 45 42         | 43 41 38                |
| V              | 136 130 122         | 128 120 114       | 60 57 53                        | 55 52 50        | 51 49 46               | 47 44 41             | 43 41 38           | 38 36 33         | 34 32 31                |
| VI             | 46 43 40            | 41 39 37          | 38 36 34                        | 36 34 32        | 32 30 28               | 29 27 25             | 26 24 22           | 21 20 19         | 19 18 17                |
| VII            | 34 32 30            | 31 29 27          | 29 27 25                        | 26 24 22        | 23 21 19               | 19 18 17             | 17 16 15           | 14 13 12         | 13 12 11                |
| VIII           | 23 21 19            | 20 19 18          | 19 18 17                        | 17 16 15        | 15 14 13               | 13 12 11             | 11 10 9            | 11 10 9          | 9 8 7                   |
| IX             | 17 16 15            | 15 14 13          | 13 12 11                        | 13 12 11        | 11 10 9                | 10 9 8               | 9 8 7              | 8 7 6            | 7 6 5                   |
| X              | 13 12 11            | 12 11 10          | 11 10 9                         | 10 9 8          | 9 8 7                  | 8 7 6                | 7 6 5              | 7 6 5            | 7 6 5                   |

| LEGEND                   |
|--------------------------|
| Presumptive Probation    |
| Presumptive Imprisonment |

1 (b) Sentences expressed in the sentencing guidelines grid for nondrug  
2 crimes represent months of imprisonment.

3 (c) The sentencing guidelines grid is a two-dimensional crime  
4 severity and criminal history classification tool. The grid's vertical axis is  
5 the crime severity scale which classifies current crimes of conviction. The  
6 grid's horizontal axis is the criminal history scale which classifies criminal  
7 histories.

8 (d) The sentencing guidelines grid for nondrug crimes as provided in  
9 this section defines presumptive punishments for felony convictions,  
10 subject to the sentencing court's discretion to enter a departure sentence.  
11 The appropriate punishment for a felony conviction should depend on the  
12 severity of the crime of conviction when compared to all other crimes and  
13 the offender's criminal history.

14 (e) (1) The sentencing court has discretion to sentence at any place  
15 within the sentencing range. In the usual case it is recommended that the  
16 sentencing judge select the center of the range and reserve the upper and  
17 lower limits for aggravating and mitigating factors insufficient to warrant a  
18 departure.

19 (2) In presumptive imprisonment cases, the sentencing court shall  
20 pronounce the complete sentence which shall include the:

21 (A) Prison sentence;

22 (B) maximum potential reduction to such sentence as a result of good  
23 time; and

24 (C) period of postrelease supervision at the sentencing hearing.  
25 Failure to pronounce the period of postrelease supervision shall not negate  
26 the existence of such period of postrelease supervision.

27 (3) In presumptive nonprison cases, the sentencing court shall  
28 pronounce the:

29 (A) Prison sentence; and

30 (B) duration of the nonprison sanction at the sentencing hearing.

31 (f) Each grid block states the presumptive sentencing range for an  
32 offender whose crime of conviction and criminal history place such  
33 offender in that grid block. If an offense is classified in a grid block below  
34 the dispositional line, the presumptive disposition shall be  
35 nonimprisonment. If an offense is classified in a grid block above the  
36 dispositional line, the presumptive disposition shall be imprisonment. If an  
37 offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose  
38 an optional nonprison sentence as provided in subsection (q).

39 (g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal,  
40 aggravated battery against a law enforcement officer committed prior to  
41 July 1, 2006, or a violation of K.S.A. 21-5412(d), and amendments  
42 thereto, aggravated assault against a law enforcement officer, which places  
43 the defendant's sentence in grid block 6-H or 6-I shall be presumed

1 imprisonment. The court may impose an optional nonprison sentence as  
2 provided in subsection (q).

3 (h) When a firearm is used to commit any person felony, the  
4 offender's sentence shall be presumed imprisonment. The court may  
5 impose an optional nonprison sentence as provided in subsection (q).

6 (i) (1) The sentence for the violation of the felony provision of K.S.A.  
7 21-5414(c)(1)(C), 21-5823(b)(3) and (b)(4), 21-6412 and 21-6416, and  
8 amendments thereto, shall be as provided by the specific mandatory  
9 sentencing requirements of that section and shall not be subject to the  
10 provisions of this section or K.S.A. 21-6807, and amendments thereto.

11 (2) If because of the offender's criminal history classification the  
12 offender is subject to presumptive imprisonment or if the judge departs  
13 from a presumptive probation sentence and the offender is subject to  
14 imprisonment, the provisions of this section and K.S.A. 21-6807, and  
15 amendments thereto, shall apply and the offender shall not be subject to  
16 the mandatory sentence as provided in K.S.A. 21-5823, and amendments  
17 thereto.

18 (3) Notwithstanding the provisions of any other section, the term of  
19 imprisonment imposed for the violation of the felony provision of K.S.A.  
20 21-5414(c)(1)(C), 21-5823(b)(3) and (b)(4), 21-6412 and 21-6416, and  
21 amendments thereto, shall not be served in a state facility in the custody of  
22 the secretary of corrections. Prior to imposing any sentence pursuant to  
23 this subsection, the court may consider assigning the defendant to a house  
24 arrest program pursuant to K.S.A. 21-6609, and amendments thereto.

25 (j) (1) The sentence for any persistent sex offender whose current  
26 convicted crime carries a presumptive term of imprisonment shall be  
27 double the maximum duration of the presumptive imprisonment term. The  
28 sentence for any persistent sex offender whose current conviction carries a  
29 presumptive nonprison term shall be presumed imprisonment and shall be  
30 double the maximum duration of the presumptive imprisonment term.

31 (2) Except as otherwise provided in this subsection, as used in this  
32 subsection, "persistent sex offender" means a person who:

33 (A) (i) Has been convicted in this state of a sexually violent crime, as  
34 defined in K.S.A. 22-3717, and amendments thereto; and

35 (ii) at the time of the conviction under clause (i) has at least one  
36 conviction for a sexually violent crime, as defined in K.S.A. 22-3717, and  
37 amendments thereto, in this state or comparable felony under the laws of  
38 another state, the federal government or a foreign government; or

39 (B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,  
40 prior to its repeal, or K.S.A. 21-5503, and amendments thereto; and

41 (ii) at the time of the conviction under clause (i) has at least one  
42 conviction for rape in this state or comparable felony under the laws of  
43 another state, the federal government or a foreign government.

1 (3) Except as provided in subsection (j)(2)(B), the provisions of this  
2 subsection shall not apply to any person whose current convicted crime is  
3 a severity level 1 or 2 felony.

4 (k) (1) If it is shown at sentencing that the offender committed any  
5 felony violation for the benefit of, at the direction of, or in association with  
6 any criminal street gang, with the specific intent to promote, further or  
7 assist in any criminal conduct by gang members, the offender's sentence  
8 shall be presumed imprisonment. The court may impose an optional  
9 nonprison sentence as provided in subsection (q).

10 (2) As used in this subsection, "criminal street gang" means any  
11 organization, association or group of three or more persons, whether  
12 formal or informal, having as one of its primary activities:

13 (A) The commission of one or more person felonies; or

14 (B) the commission of felony violations of article 57 of chapter 21 of  
15 the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010  
16 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony  
17 violation of any provision of the uniform controlled substances act prior to  
18 July 1, 2009; and

19 (C) its members have a common name or common identifying sign or  
20 symbol; and

21 (D) its members, individually or collectively, engage in or have  
22 engaged in the commission, attempted commission, conspiracy to commit  
23 or solicitation of two or more person felonies or felony violations of article  
24 57 of chapter 21 of the Kansas Statutes Annotated, and amendments  
25 thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their  
26 transfer, any felony violation of any provision of the uniform controlled  
27 substances act prior to July 1, 2009, or any substantially similar offense  
28 from another jurisdiction.

29 (l) Except as provided in subsection (o), the sentence for a violation  
30 of K.S.A. 21-5807(a)(1), and amendments thereto, or any attempt or  
31 conspiracy, as defined in K.S.A. 21-5301 and 21-5302, and amendments  
32 thereto, to commit such offense, when such person being sentenced has a  
33 prior conviction for a violation of K.S.A. 21-3715(a) or (b), prior to its  
34 repeal, 21-3716, prior to its repeal, K.S.A. 21-5807(a)(1) or (a)(2) or 21-  
35 5807(b), and amendments thereto, or any attempt or conspiracy to commit  
36 such offense, shall be presumptive imprisonment.

37 (m) The sentence for a violation of K.S.A. 22-4903 or K.S.A. 21-  
38 5913(a)(2), and amendments thereto, shall be presumptive imprisonment.  
39 If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G,  
40 5-H or 5-I, the court may impose an optional nonprison sentence as  
41 provided in subsection (q).

42 (n) The sentence for a violation of criminal deprivation of property, as  
43 defined in K.S.A. 21-5803, and amendments thereto, when such property

1 is a motor vehicle, and when such person being sentenced has any  
2 combination of two or more prior convictions of K.S.A. 21-3705(b), prior  
3 to its repeal, or of criminal deprivation of property, as defined in K.S.A.  
4 21-5803, and amendments thereto, when such property is a motor vehicle,  
5 shall be presumptive imprisonment. Such sentence shall not be considered  
6 a departure and shall not be subject to appeal.

7 (o) (1) The sentence for a felony violation of theft of property as  
8 defined in K.S.A. 21-5801, and amendments thereto, or burglary as  
9 defined in K.S.A. 21-5807(a), and amendments thereto, when such person  
10 being sentenced has no prior convictions for a violation of K.S.A. 21-3701  
11 or 21-3715, prior to their repeal, or theft of property as defined in K.S.A.  
12 21-5801, and amendments thereto, or burglary as defined in K.S.A. 21-  
13 5807(a), and amendments thereto; or the sentence for a felony violation of  
14 theft of property as defined in K.S.A. 21-5801, and amendments thereto,  
15 when such person being sentenced has one or two prior felony convictions  
16 for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their  
17 repeal, or theft of property as defined in K.S.A. 21-5801, and amendments  
18 thereto, or burglary or aggravated burglary as defined in K.S.A. 21-5807,  
19 and amendments thereto; or the sentence for a felony violation of burglary  
20 as defined in K.S.A. 21-5807(a), and amendments thereto, when such  
21 person being sentenced has one prior felony conviction for a violation of  
22 K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of  
23 property as defined in K.S.A. 21-5801, and amendments thereto, or  
24 burglary or aggravated burglary as defined in K.S.A. 21-5807, and  
25 amendments thereto, shall be the sentence as provided by this section,  
26 except that the court may order an optional nonprison sentence for a  
27 defendant to participate in a drug treatment program, including, but not  
28 limited to, an approved aftercare plan, if the court makes the following  
29 findings on the record:

30 (A) Substance abuse was an underlying factor in the commission of  
31 the crime;

32 (B) substance abuse treatment in the community is likely to be more  
33 effective than a prison term in reducing the risk of offender recidivism;  
34 and

35 (C) participation in an intensive substance abuse treatment program  
36 will serve community safety interests.

37 (2) A defendant sentenced to an optional nonprison sentence under  
38 this subsection shall be supervised by community correctional services.  
39 The provisions of K.S.A. 21-6824(f)(1), and amendments thereto, shall  
40 apply to a defendant sentenced under this subsection. The sentence under  
41 this subsection shall not be considered a departure and shall not be subject  
42 to appeal.

43 (p) (1) The sentence for a felony violation of theft of property as

1 defined in K.S.A. 21-5801, and amendments thereto, when such person  
2 being sentenced has any combination of three or more prior felony  
3 convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to  
4 their repeal, or theft of property as defined in K.S.A. 21-5801, and  
5 amendments thereto, or burglary or aggravated burglary as defined in  
6 K.S.A. 21-5807, and amendments thereto; or the sentence for a violation  
7 of burglary as defined in K.S.A. 21-5807(a), and amendments thereto,  
8 when such person being sentenced has any combination of two or more  
9 prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716,  
10 prior to their repeal, or theft of property as defined in K.S.A. 21-5801, and  
11 amendments thereto, or burglary or aggravated burglary as defined in  
12 K.S.A. 21-5807, and amendments thereto, shall be presumed  
13 imprisonment and the defendant shall be sentenced to prison as provided  
14 by this section, except that the court may recommend that an offender be  
15 placed in the custody of the secretary of corrections, in a facility  
16 designated by the secretary to participate in an intensive substance abuse  
17 treatment program, upon making the following findings on the record:

18 (A) Substance abuse was an underlying factor in the commission of  
19 the crime;

20 (B) substance abuse treatment with a possibility of an early release  
21 from imprisonment is likely to be more effective than a prison term in  
22 reducing the risk of offender recidivism; and

23 (C) participation in an intensive substance abuse treatment program  
24 with the possibility of an early release from imprisonment will serve  
25 community safety interests by promoting offender reformation.

26 (2) The intensive substance abuse treatment program shall be  
27 determined by the secretary of corrections, but shall be for a period of at  
28 least four months. Upon the successful completion of such intensive  
29 treatment program, the offender shall be returned to the court and the court  
30 may modify the sentence by directing that a less severe penalty be  
31 imposed in lieu of that originally adjudged within statutory limits. If the  
32 offender's term of imprisonment expires, the offender shall be placed  
33 under the applicable period of postrelease supervision. The sentence under  
34 this subsection shall not be considered a departure and shall not be subject  
35 to appeal.

36 (q) (1) As used in this section, an "optional nonprison sentence" is a  
37 sentence which the court may impose, in lieu of the presumptive sentence,  
38 upon making the following findings on the record:

39 (A) An appropriate treatment program exists which is likely to be  
40 more effective than the presumptive prison term in reducing the risk of  
41 offender recidivism; and

42 (B) the recommended treatment program is available and the offender  
43 can be admitted to such program within a reasonable period of time; or

1 (C) the nonprison sanction will serve community safety interests by  
2 promoting offender reformation.

3 (2) Any decision made by the court regarding the imposition of an  
4 optional nonprison sentence shall not be considered a departure and shall  
5 not be subject to appeal.

6 (r) The sentence for a violation of K.S.A. 21-5413(c)(2), and  
7 amendments thereto, shall be presumptive imprisonment and shall be  
8 served consecutively to any other term or terms of imprisonment imposed.  
9 Such sentence shall not be considered a departure and shall not be subject  
10 to appeal.

11 (s) The sentence for a violation of K.S.A. 21-5512, and amendments  
12 thereto, shall be presumptive imprisonment. Such sentence shall not be  
13 considered a departure and shall not be subject to appeal.

14 (t) (1) If the trier of fact makes a finding beyond a reasonable doubt  
15 that an offender wore or used ballistic resistant material in the commission  
16 of, or attempt to commit, or flight from any felony, in addition to the  
17 sentence imposed pursuant to the Kansas sentencing guidelines act, the  
18 offender shall be sentenced to an additional 30 months' imprisonment.

19 (2) The sentence imposed pursuant to paragraph (1) shall be  
20 presumptive imprisonment and shall be served consecutively to any other  
21 term or terms of imprisonment imposed. Such sentence shall not be  
22 considered a departure and shall not be subject to appeal.

23 (3) As used in this subsection, "ballistic resistant material" means  
24 any:

25 (A) Commercially produced material designed with the purpose of  
26 providing ballistic and trauma protection, including, but not limited to,  
27 bulletproof vests and kevlar vests; and

28 (B) homemade or fabricated substance or item designed with the  
29 purpose of providing ballistic and trauma protection.

30 (u) The sentence for a violation of K.S.A. 21-6107, and amendments  
31 thereto, or any attempt or conspiracy, as defined in K.S.A. 21-5301 and  
32 21-5302, and amendments thereto, to commit such offense, when such  
33 person being sentenced has a prior conviction for a violation of K.S.A. 21-  
34 4018, prior to its repeal, or K.S.A. 21-6107, and amendments thereto, or  
35 any attempt or conspiracy to commit such offense, shall be presumptive  
36 imprisonment. Such sentence shall not be considered a departure and shall  
37 not be subject to appeal.

38 (v) The sentence for a third or subsequent violation of K.S.A. 8-1568,  
39 and amendments thereto, shall be presumptive imprisonment and shall be  
40 served consecutively to any other term or terms of imprisonment imposed.  
41 Such sentence shall not be considered a departure and shall not be subject  
42 to appeal.

43 (w) The sentence for aggravated criminal damage to property as

1 defined in K.S.A. 21-5813(b), and amendments thereto, when such person  
2 being sentenced has a prior conviction for any nonperson felony shall be  
3 presumptive imprisonment. Such sentence shall not be considered a  
4 departure and shall not be subject to appeal.

5 (x) The sentence for a violation of K.S.A. 21-5807(a)(1), and  
6 amendments thereto, shall be presumptive imprisonment if the offense  
7 under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such  
8 sentence shall not be considered a departure and shall not be subject to  
9 appeal.

10 (y) (1) Except as provided in paragraph (3), if the trier of fact makes a  
11 finding beyond a reasonable doubt that an offender committed a nondrug  
12 felony offense, or any attempt or conspiracy, as defined in K.S.A. 21-5301  
13 and 21-5302, and amendments thereto, to commit a nondrug felony  
14 offense, against a law enforcement officer, as defined in K.S.A. 21-5111(p)  
15 (1) and (3), and amendments thereto, while such officer was engaged in  
16 the performance of such officer's duty, or in whole or in any part because  
17 of such officer's status as a law enforcement officer, the sentence for such  
18 offense shall be:

19 (A) If such offense is classified in severity level 2 through 10, one  
20 severity level above the appropriate level for such offense; and

21 (B) (i) if such offense is classified in severity level 1, except as  
22 otherwise provided in clause (ii), imprisonment for life, and such offender  
23 shall not be eligible for probation or suspension, modification or reduction  
24 of sentence. In addition, such offender shall not be eligible for parole prior  
25 to serving 25 years' imprisonment, and such 25 years' imprisonment shall  
26 not be reduced by the application of good time credits. No other sentence  
27 shall be permitted.

28 (ii) The provisions of clause (i) requiring the court to impose a  
29 mandatory minimum term of imprisonment of 25 years shall not apply if  
30 the court finds the offender, because of the offender's criminal history  
31 classification, is subject to presumptive imprisonment and the sentencing  
32 range exceeds 300 months. In such case, the offender is required to serve a  
33 mandatory minimum term equal to the sentence established pursuant to the  
34 sentencing range.

35 (2) The sentence imposed pursuant to paragraph (1) shall not be  
36 considered a departure and shall not be subject to appeal.

37 (3) The provisions of this subsection shall not apply to an offense  
38 described in paragraph (1) if the factual aspect concerning a law  
39 enforcement officer is a statutory element of such offense.

40 (z) (1) Notwithstanding K.S.A. 21-5109(b)(2), and amendments  
41 thereto, or any other provision of law to the contrary, the sentence for a  
42 violation of criminal possession of a weapon by a convicted felon as  
43 defined in K.S.A. 21-6304, and amendments thereto, shall be presumptive

1 imprisonment and shall be served consecutively to any other term or terms  
2 of imprisonment imposed if the trier of fact makes a finding beyond a  
3 reasonable doubt that:

4 (A) The weapon the offender possessed during such violation was a  
5 firearm; and

6 (B) such firearm was used by the offender during the commission of  
7 any violent felony.

8 (2) The sentence imposed pursuant to paragraph (1) shall not be  
9 considered a departure and shall not be subject to appeal. No other  
10 sentence shall be permitted.

11 (3) The provisions of this subsection shall not apply to an offender  
12 who is prohibited from possessing a weapon pursuant to K.S.A. 21-6304,  
13 and amendments thereto, as a result of a juvenile adjudication.

14 (4) As used in this subsection, "violent felony" means any of the  
15 following:

16 (A) Capital murder, as defined in K.S.A. 21-5401, and amendments  
17 thereto;

18 (B) murder in the first degree, as defined in K.S.A. 21-5402, and  
19 amendments thereto;

20 (C) murder in the second degree, as defined in K.S.A. 21-5403, and  
21 amendments thereto;

22 (D) voluntary manslaughter, as defined in K.S.A. 21-5404, and  
23 amendments thereto;

24 (E) kidnapping, as defined in K.S.A. 21-5408(a)(1), and amendments  
25 thereto, or aggravated kidnapping, as defined in K.S.A. 21-5408(b), and  
26 amendments thereto;

27 (F) aggravated assault, as defined in K.S.A. 21-5412(b)(1), and  
28 amendments thereto, and aggravated assault of a law enforcement officer,  
29 as defined in K.S.A. 21-5412(d)(1), and amendments thereto;

30 (G) aggravated battery, as defined in K.S.A. 21-5413(b)(1)(A) or (b)  
31 (1)(B), and amendments thereto, and aggravated battery against a law  
32 enforcement officer, as defined in K.S.A. 21-5413(d)(1) or (d)(2), and  
33 amendments thereto;

34 (H) mistreatment of a dependent adult or mistreatment of an elder  
35 person, as defined in K.S.A. 21-5417(a)(1), and amendments thereto;

36 (I) rape, as defined in K.S.A. 21-5503, and amendments thereto;

37 (J) aggravated criminal sodomy, as defined in K.S.A. 21-5504(b), and  
38 amendments thereto;

39 (K) abuse of a child, as defined in K.S.A. 21-5602(a)(1) or (a)(3), and  
40 amendments thereto;

41 (L) any felony offense described in K.S.A. 21-5703 or 21-5705, and  
42 amendments thereto;

43 (M) treason, as defined in K.S.A. 21-5901, and amendments thereto;

1 (N) criminal discharge of a firearm, as defined in K.S.A. 21-6308(a)  
2 (1), and amendments thereto;

3 (O) fleeing or attempting to elude a police officer, as defined in  
4 K.S.A. 8-1568(b), and amendments thereto;

5 (P) any felony that includes the domestic violence designation  
6 pursuant to K.S.A. 22-4616, and amendments thereto; or

7 (Q) any attempt, conspiracy or criminal solicitation, as defined in  
8 K.S.A. 21-5301, 21-5302 and 21-5303, and amendments thereto, of any  
9 felony offense defined in this subsection.

10 (aa) (1) The sentence for a violation of K.S.A. 21-6308(a)(1)(A) or  
11 (a)(1)(B), and amendments thereto, if the trier of fact makes a finding  
12 beyond a reasonable doubt that the offender discharged a firearm and that  
13 the offender knew or reasonably should have known that:

14 (A) A person was present in the dwelling, building, structure or motor  
15 vehicle at which the offender discharged a firearm, shall be presumptive  
16 imprisonment and, in addition to the sentence imposed pursuant to the  
17 Kansas sentencing guidelines act, the offender shall be sentenced to an  
18 additional 60 months of imprisonment; and

19 (B) a person less than 14 years of age was present in the dwelling,  
20 building, structure or motor vehicle at which the offender discharged a  
21 firearm, shall be presumptive imprisonment and, in addition to the  
22 sentence imposed pursuant to the Kansas sentencing guidelines act, the  
23 offender shall be sentenced to an additional 120 months of imprisonment.

24 (2) The sentence imposed pursuant to paragraph (1) shall be served  
25 consecutively to any other term or terms of imprisonment imposed. Such  
26 sentence shall not be considered a departure and shall not be subject to  
27 appeal.

28 *(bb) (1) If the trier of fact makes a finding beyond a reasonable doubt*  
29 *that an offender committed any act described in K.S.A. 21-5408, 21-5409,*  
30 *21-5411, 21-5412, 21-5413, 21-5414, 21-5415, 21-5426, 21-5427, 21-*  
31 *5428, 21-5429, 21-5503, 21-5504, 21-5505, 21-5506, 21-5507, 21-5508,*  
32 *21-5509, 21-5510, 21-5515, 21-5601, 21-5602, 21-5604 or 21-5605, and*  
33 *amendments thereto, or any attempt or conspiracy, as defined in K.S.A.*  
34 *21-5301 and 21-5302, and amendments thereto, to commit any such act*  
35 *with knowledge that a woman is pregnant and with the intent that such act*  
36 *will compel such woman to obtain an abortion when such woman has*  
37 *expressed her desire to not obtain an abortion, the sentence for such*  
38 *offense shall be:*

39 (A) *If such offense is classified in severity level 2 through 10, one*  
40 *severity level above the appropriate level for such offense; and*

41 (B) (i) *if such offense is classified in severity level 1, except as*  
42 *otherwise provided in clause (ii), imprisonment for life, and such offender*  
43 *shall not be eligible for probation or suspension, modification or*

1 *reduction of sentence. In addition, such offender shall not be eligible for*  
2 *parole prior to serving 25 years' imprisonment, and such 25 years'*  
3 *imprisonment shall not be reduced by the application of good time credits.*  
4 *No other sentence shall be permitted.*

5 *(ii) The provisions of clause (i) requiring the court to impose a*  
6 *mandatory minimum term of imprisonment of 25 years shall not apply if*  
7 *the court finds the offender, because of the offender's criminal history*  
8 *classification, is subject to presumptive imprisonment and the sentencing*  
9 *range exceeds 300 months. In such case, the offender is required to serve*  
10 *a mandatory minimum term equal to the sentence established pursuant to*  
11 *the sentencing range.*

12 *(2) The sentence imposed pursuant to paragraph (1) shall not be*  
13 *considered a departure and shall not be subject to appeal.*

14 Sec. 3. K.S.A. 21-6804 is hereby repealed.

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