

As Amended by House Committee

As Amended by Senate Committee

Session of 2023

SENATE BILL No. 174

By Committee on Judiciary

2-7

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to crimes against the public peace; creating the crime of
3 interference with the conduct of a healthcare facility; increasing
4 the criminal penalty for battery of a healthcare provider; relating
5 to crimes involving controlled substances; adding the placing of
6 controlled substances into pills into the definition of manufacture;
7 excluding materials used to detect the presence of fentanyl,
8 ketamine or gamma hydroxybutyric acid from the definition of
9 drug paraphernalia; increasing the criminal penalties for
10 manufacturing fentanyl-related controlled substances; creating a
11 special sentencing rule for manufacturing fentanyl-related
12 controlled substances; relating to crimes involving property;
13 adding domestic battery and violation of a protection order to the
14 list of crimes a person has intent to commit for the crimes of
15 burglary and aggravated burglary; relating to interference with law
16 enforcement; increasing criminal penalties when the violation involves
17 fleeing from a law enforcement officer; authorizing the attorney
18 general to prosecute any crime that is part of an alleged course of
19 criminal conduct that occurred in two or more counties; amending
20 K.S.A. 75-702 and K.S.A. 2022 Supp. 21-5413, 21-5701, 21-5703, 21-
21 5807, 21-5904 and 21-6805 and repealing the existing ~~section~~
22 sections; also repealing K.S.A. 2022 Supp. 21-5701b.

23
24 *Be it enacted by the Legislature of the State of Kansas:*

25 New Section 1. (a) Interference with the conduct of a healthcare
26 facility is:

27 (1) Conduct at or in a healthcare facility so as to knowingly deny
28 an employee of the healthcare facility to enter, to use the facilities of or
29 to leave any such healthcare facility;

30 (2) knowingly impeding an employee of a healthcare facility from
31 the performance of such employee's duties or activities through the
32 use of restraint, abduction, coercion or intimidation or by force and
33 violence or threat thereof; or

34 (3) knowingly refusing to leave a healthcare facility upon being

1 requested to leave by the employee charged with maintaining order in
2 such healthcare facility, if such person is committing, threatens to
3 commit or incites others to commit any act that did, or would if
4 completed, disrupt, impair, interfere with or obstruct the mission,
5 processes, procedures or functions of the healthcare facility.

6 (b) Aggravated interference with the conduct of a healthcare
7 facility is interference with the conduct of a healthcare facility as
8 defined in subsection (a) when in possession of any weapon as
9 described in K.S.A. 2022 Supp. 21-6301 or 21-6302, and amendments
10 thereto.

11 (c) (1) Interference with the conduct of a healthcare facility is a
12 class A nonperson misdemeanor.

13 (2) Aggravated interference with the conduct of a healthcare
14 facility is a severity level 6, person felony.

15 (d) As used in this section:

16 (1) "Employee" means an individual employed by, providing
17 healthcare services at, volunteering at or participating in an
18 educational course of instruction at a healthcare facility; and

19 (2) "healthcare facility" means any facility or portion thereof
20 operated in whole or in part for the purpose of providing inpatient or
21 outpatient healthcare services by a healthcare provider as defined in
22 K.S.A. 40-3401, and amendments thereto.

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

25 {Sec. 2. K.S.A. 2022 Supp. 21-5413 is hereby amended to read as
26 follows: 21-5413. (a) Battery is:

27 (1) Knowingly or recklessly causing bodily harm to another
28 person; or

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

31 (b) Aggravated battery is:

32 (1) (A) Knowingly causing great bodily harm to another person
33 or disfigurement of another person;

34 (B) knowingly causing bodily harm to another person with a
35 deadly weapon, or in any manner whereby great bodily harm,
36 disfigurement or death can be inflicted; or

37 (C) knowingly causing physical contact with another person when
38 done in a rude, insulting or angry manner with a deadly weapon, or in
39 any manner whereby great bodily harm, disfigurement or death can
40 be inflicted;

41 (2) (A) recklessly causing great bodily harm to another person or
42 disfigurement of another person;

43 (B) recklessly causing bodily harm to another person with a

1 deadly weapon, or in any manner whereby great bodily harm,
2 disfigurement or death can be inflicted; or

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

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

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

13 (A) In violation of any restriction imposed on such person's
14 driving privileges pursuant to article 10 of chapter 8 of the Kansas
15 Statutes Annotated, and amendments thereto;

16 (B) such person's driving privileges are suspended or revoked
17 pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated,
18 and amendments thereto; or

19 (C) such person has been deemed a habitual violator as defined in
20 K.S.A. 8-285, and amendments thereto, including at least one violation
21 of K.S.A. 8-1567, and amendments thereto, or violating an ordinance
22 of any city in this state, any resolution of any county in this state or
23 any law of another state, which ordinance, resolution or law declares
24 to be unlawful the acts prohibited by that statute.

25 (c) Battery against a law enforcement officer is:

26 (1) Battery; as defined in subsection (a)(2); committed against a:

27 (A) Uniformed or properly identified university or campus police
28 officer while such officer is engaged in the performance of such
29 officer's duty;

30 (B) uniformed or properly identified state, county or city law
31 enforcement officer, other than a state correctional officer or
32 employee, a city or county correctional officer or employee or a
33 juvenile detention facility officer, or employee, while such officer is
34 engaged in the performance of such officer's duty;

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

38 (D) judge, while such judge is engaged in the performance of such
39 judge's duty;

40 (E) attorney, while such attorney is engaged in the performance
41 of such attorney's duty; or

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

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

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

5 **(B) uniformed or properly identified state, county or city law**
6 **enforcement officer, other than a state correctional officer or**
7 **employee, a city or county correctional officer or employee or a**
8 **juvenile detention facility officer, or employee, while such officer is**
9 **engaged in the performance of such officer's duty;**

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

13 **(D) judge, while such judge is engaged in the performance of such**
14 **judge's duty;**

15 **(E) attorney, while such attorney is engaged in the performance**
16 **of such attorney's duty; or**

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

19 **(3) battery; as defined in subsection (a) committed against a:**

20 **(A) State correctional officer or employee by a person in custody**
21 **of the secretary of corrections, while such officer or employee is**
22 **engaged in the performance of such officer's or employee's duty;**

23 **(B) state correctional officer or employee by a person confined in**
24 **such juvenile correctional facility, while such officer or employee is**
25 **engaged in the performance of such officer's or employee's duty;**

26 **(C) juvenile detention facility officer or employee by a person**
27 **confined in such juvenile detention facility, while such officer or**
28 **employee is engaged in the performance of such officer's or**
29 **employee's duty; or**

30 **(D) city or county correctional officer or employee by a person**
31 **confined in a city holding facility or county jail facility, while such**
32 **officer or employee is engaged in the performance of such officer's or**
33 **employee's duty.**

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

35 **(1) ~~An~~ Aggravated battery; as defined in subsection (b)(1)(A)**
36 **committed against a:**

37 **(A) Uniformed or properly identified state, county or city law**
38 **enforcement officer while the officer is engaged in the performance of**
39 **the officer's duty;**

40 **(B) uniformed or properly identified university or campus police**
41 **officer while such officer is engaged in the performance of such**
42 **officer's duty;**

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

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

1 **employee's duty.**

2 **(f) Battery against a mental health employee is a battery,** as
3 **defined in subsection (a); committed against a mental health employee**
4 **by a person in the custody of the secretary for aging and disability**
5 **services, while such employee is engaged in the performance of such**
6 **employee's duty.**

7 **(g) Battery against a healthcare provider is a battery as defined in**
8 **subsection (a) committed against a healthcare provider while such**
9 **provider is engaged in the performance of such provider's duty.**

10 **(h) (1) Battery is a class B person misdemeanor.**

11 **(2) Aggravated battery as defined in:**

12 **(A) Subsection (b)(1)(A) or (b)(4) is a severity level 4, person**
13 **felony;**

14 **(B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person**
15 **felony;**

16 **(C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person**
17 **felony; and**

18 **(D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person**
19 **felony.**

20 **(3) Battery against a law enforcement officer as defined in:**

21 **(A) Subsection (c)(1) is a class A person misdemeanor;**

22 **(B) subsection (c)(2) is a severity level 7, person felony; and**

23 **(C) subsection (c)(3) is a severity level 5, person felony.**

24 **(4) Aggravated battery against a law enforcement officer as**
25 **defined in:**

26 **(A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony;**
27 **and**

28 **(B) subsection (d)(2) is a severity level 4, person felony.**

29 **(5) Battery against a school employee is a class A person**
30 **misdemeanor.**

31 **(6) Battery against a mental health employee is a severity level 7,**
32 **person felony.**

33 **(7) Battery against a healthcare provider is a class A person**
34 **misdemeanor.**

35 **(h)(i) As used in this section:**

36 **(1) "Correctional institution" means any institution or facility**
37 **under the supervision and control of the secretary of corrections;**

38 **(2) "state correctional officer or employee" means any officer or**
39 **employee of the Kansas department of corrections or any independent**
40 **contractor, or any employee of such contractor, whose duties include**
41 **working at a correctional institution;**

42 **(3) "juvenile detention facility officer or employee" means any**
43 **officer or employee of a juvenile detention facility as defined in K.S.A.**

1 38-2302, and amendments thereto;

2 (4) "city or county correctional officer or employee" means any
3 correctional officer or employee of the city or county or any
4 independent contractor, or any employee of such contractor, whose
5 duties include working at a city holding facility or county jail facility;

6 (5) "school employee" means any employee of a unified school
7 district or an accredited nonpublic school for student instruction or
8 attendance or extracurricular activities of pupils enrolled in
9 kindergarten or any of the grades one through 12;

10 (6) "mental health employee" means: (A) An employee of the
11 Kansas department for aging and disability services working at
12 Larned state hospital, Osawatomie state hospital, Kansas neurological
13 institute and Parsons state hospital and training center and the
14 treatment staff as defined in K.S.A. 59-29a02, and amendments
15 thereto; and (B) contractors and employees of contractors under
16 contract to provide services to the Kansas department for aging and
17 disability services working at any such institution or facility;

18 (7) "judge" means a duly elected or appointed justice of the
19 supreme court, judge of the court of appeals, judge of any district
20 court of Kansas, district magistrate judge or municipal court judge;

21 (8) "attorney" means a: (A) County attorney, assistant county
22 attorney, special assistant county attorney, district attorney, assistant
23 district attorney, special assistant district attorney, attorney general,
24 assistant attorney general or special assistant attorney general; and
25 (B) public defender, assistant public defender, contract counsel for the
26 state board of indigents' defense services or an attorney who is
27 appointed by the court to perform services for an indigent person as
28 provided by article 45 of chapter 22 of the Kansas Statutes Annotated,
29 and amendments thereto;

30 (9) "community corrections officer" means an employee of a
31 community correctional services program responsible for supervision
32 of adults or juveniles as assigned by the court to community
33 corrections supervision and any other employee of a community
34 correctional services program that provides enhanced supervision of
35 offenders such as house arrest and surveillance programs;

36 (10) "court services officer" means an employee of the Kansas
37 judicial branch or local judicial district responsible for supervising,
38 monitoring or writing reports relating to adults or juveniles as
39 assigned by the court, or performing related duties as assigned by the
40 court; ~~and~~

41 (11) "federal law enforcement officer" means a law enforcement
42 officer employed by the United States federal government who, as part
43 of such officer's duties, is permitted to make arrests and to be armed;

1 *and*

2 (12) *"healthcare provider" means the same as defined in K.S.A. 40-*
3 *3401, and amendments thereto.*}

4 {**Sec. 3. K.S.A. 2022 Supp. 21-5701 is hereby amended to read as**
5 **follows: 21-5701. As used in K.S.A. 2022 Supp. 21-5701 through 21-**
6 **5717, and amendments thereto:**

7 (a) **"Controlled substance" means any drug, substance or**
8 **immediate precursor included in any of the schedules designated in**
9 **K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and**
10 **amendments thereto.**

11 (b) (1) **"Controlled substance analog" means a substance that is**
12 **intended for human consumption, and at least one of the following:**

13 (A) **The chemical structure of the substance is substantially**
14 **similar to the chemical structure of a controlled substance listed in or**
15 **added to the schedules designated in K.S.A. 65-4105 or 65-4107, and**
16 **amendments thereto;**

17 (B) **the substance has a stimulant, depressant or hallucinogenic**
18 **effect on the central nervous system substantially similar to the**
19 **stimulant, depressant or hallucinogenic effect on the central nervous**
20 **system of a controlled substance included in the schedules designated**
21 **in K.S.A. 65-4105 or 65-4107, and amendments thereto; or**

22 (C) **with respect to a particular individual, such individual**
23 **represents or intends the substance to have a stimulant, depressant or**
24 **hallucinogenic effect on the central nervous system substantially**
25 **similar to the stimulant, depressant or hallucinogenic effect on the**
26 **central nervous system of a controlled substance included in the**
27 **schedules designated in K.S.A. 65-4105 or 65-4107, and amendments**
28 **thereto.**

29 (2) **"Controlled substance analog" does not include:**

30 (A) **A controlled substance;**

31 (B) **a substance for which there is an approved new drug**
32 **application; or**

33 (C) **a substance with respect to which an exemption is in effect for**
34 **investigational use by a particular person under section 505 of the**
35 **federal food, drug, and cosmetic act, 21 U.S.C. § 355, to the extent**
36 **conduct with respect to the substance is permitted by the exemption.**

37 (c) **"Cultivate" means the planting or promotion of growth of five**
38 **or more plants that contain or can produce controlled substances.**

39 (d) **"Distribute" means the actual, constructive or attempted**
40 **transfer from one person to another of some item whether or not there**
41 **is an agency relationship. "Distribute" includes, but is not limited to,**
42 **sale, offer for sale or any act that causes some item to be transferred**
43 **from one person to another. "Distribute" does not include acts of**

1 administering, dispensing or prescribing a controlled substance as
2 authorized by the pharmacy act of the state of Kansas, the uniform
3 controlled substances act or otherwise authorized by law.

4 (e) (1) "Drug" means:

5 (A) Substances recognized as drugs in the official United States
6 pharmacopeia, official homeopathic pharmacopoeia of the United
7 States or official national formulary or any supplement to any of
8 them;

9 (B) substances intended for use in the diagnosis, cure, mitigation,
10 treatment or prevention of disease in humans or animals;

11 (C) substances, other than food, intended to affect the structure
12 or any function of the body of humans or animals; and

13 (D) substances intended for use as a component of any article
14 specified in subparagraph (A), (B) or (C).

15 (2) "Drug" does not include devices or their components, parts or
16 accessories.

17 (f) (1) "Drug paraphernalia" means all equipment and materials
18 of any kind that are used, or primarily intended or designed for use in
19 planting, propagating, cultivating, growing, harvesting,
20 manufacturing, compounding, converting, producing, processing,
21 preparing, testing, analyzing, packaging, repackaging, storing,
22 containing, concealing, injecting, ingesting, inhaling or otherwise
23 introducing into the human body a controlled substance and in
24 violation of this act.

25 (2) "Drug paraphernalia" ~~shall include~~ *includes*, but is not limited
26 to:

27 ~~(+)~~(A) Kits used or intended for use in planting, propagating,
28 cultivating, growing or harvesting any species of plant that is a
29 controlled substance or from which a controlled substance can be
30 derived;

31 ~~(=)~~(B) kits used or intended for use in manufacturing,
32 compounding, converting, producing, processing or preparing
33 controlled substances;

34 ~~(=)~~(C) isomerization devices used or intended for use in increasing
35 the potency of any species of plant that is a controlled substance;

36 ~~(4)~~(D) testing equipment used or intended for use in identifying
37 or in analyzing the strength, effectiveness or purity of controlled
38 substances;

39 ~~(=)~~(E) scales and balances used or intended for use in weighing or
40 measuring controlled substances;

41 ~~(6)~~(F) diluents and adulterants, including, but not limited to,
42 quinine hydrochloride, mannitol, mannite, dextrose and lactose that
43 are used or intended for use in cutting controlled substances;

1 ~~(7)~~(G) separation gins and sifters used or intended for use in
2 removing twigs and seeds from or otherwise cleaning or refining
3 marijuana;

4 ~~(8)~~(H) blenders, bowls, containers, spoons and mixing devices
5 used or intended for use in compounding controlled substances;

6 ~~(9)~~(I) capsules, balloons, envelopes, bags and other containers
7 used or intended for use in packaging small quantities of controlled
8 substances;

9 ~~(10)~~(J) containers and other objects used or intended for use in
10 storing or concealing controlled substances;

11 ~~(11)~~(K) hypodermic syringes, needles and other objects used or
12 intended for use in parenterally injecting controlled substances into
13 the human body;

14 ~~(12)~~(L) objects used or primarily intended or designed for use in
15 ingesting, inhaling or otherwise introducing marijuana, cocaine,
16 hashish, hashish oil, phencyclidine (PCP), methamphetamine or
17 amphetamine into the human body, such as:

18 ~~(A)~~(i) Metal, wooden, acrylic, glass, stone, plastic or ceramic
19 pipes with or without screens, permanent screens, hashish heads or
20 punctured metal bowls;

21 ~~(B)~~(ii) water pipes, bongs or smoking pipes designed to draw
22 smoke through water or another cooling device;

23 ~~(C)~~(iii) carburetion pipes, glass or other ~~heat resistant~~ *heat-*
24 *resistant* tubes or any other device used, intended to be used or
25 designed to be used to cause vaporization of a controlled substance for
26 inhalation;

27 ~~(D)~~(iv) smoking and carburetion masks;

28 ~~(E)~~(v) roach clips, objects used to hold burning material, such as
29 a marijuana cigarette, that has become too small or too short to be
30 held in the hand;

31 ~~(F)~~(vi) miniature cocaine spoons and cocaine vials;

32 ~~(G)~~(vii) chamber smoking pipes;

33 ~~(H)~~(viii) carburetor smoking pipes;

34 ~~(I)~~(ix) electric smoking pipes;

35 ~~(J)~~(x) air-driven smoking pipes;

36 ~~(K)~~(xi) chillums;

37 ~~(L)~~(xii) bongs;

38 ~~(M)~~(xiii) ice pipes or chillers;

39 ~~(N)~~(xiv) any smoking pipe manufactured to disguise its intended
40 purpose;

41 ~~(O)~~(xv) wired cigarette papers; or

42 ~~(P)~~(xvi) cocaine freebase kits.

43 (3) "Drug paraphernalia" ~~shall~~ *does not include:*

1 (A) **Any products, chemicals or materials described in K.S.A.**
2 **2022 Supp. 21-5709(a), and amendments thereto; or**

3 (B) *any materials used or intended for use to test a substance for the*
4 *presence of fentanyl, a fentanyl analog, ketamine or gamma*
5 *hydroxybutyric acid.*

6 (g) *"Fentanyl-related controlled substance" means any substance*
7 *designated in K.S.A. 65-4105(b)(1), (b)(2), (b)(4), (b)(10), (b)(11), (b)(14),*
8 *(b)(15), (b)(16), (b)(20), (b)(22), (b)(23), (b)(24), (b)(37), (b)(41), (b)(45),*
9 *(b)(46), (b)(47), (b)(49), (b)(57), (b)(58), (b)(59), (b)(60), (b)(61), (b)(62),*
10 *(b)(73), (b)(74), (b)(78), (g)(1) or (g)(2) or 65-4107(c)(1), (c)(6), (c)(9),*
11 *(c)(26), (c)(28), (c)(30), (f)(3)(A) or (f)(3)(B), and amendments thereto, or*
12 *any analog thereof.*

13 (h) **"Immediate precursor" means a substance that the state**
14 **board of pharmacy has found to be and by rules and regulations**
15 **designates as being the principal compound commonly used or**
16 **produced primarily for use and that is an immediate chemical**
17 **intermediary used or likely to be used in the manufacture of a**
18 **controlled substance, the control of which is necessary to prevent,**
19 **curtail or limit manufacture.**

20 ~~(h)~~(i) **"Isomer" means all enantiomers and diastereomers.**

21 ~~(h)~~(j) **"Manufacture" means the production, preparation,**
22 **propagation, compounding, conversion or processing of or placing into**
23 **pill or capsule form a controlled substance either directly or indirectly**
24 **or by extraction from substances of natural origin or independently by**
25 **means of chemical synthesis or by a combination of extraction and**
26 **chemical synthesis. "Manufacture" does not include:**

27 (1) **The preparation or compounding of a controlled substance by**
28 **an individual for the individual's own lawful use or the preparation,**
29 **compounding, packaging or labeling of a controlled substance:**

30 (A) **By a practitioner or the practitioner's agent pursuant to a**
31 **lawful order of a practitioner as an incident to the practitioner's**
32 **administering or dispensing of a controlled substance in the course of**
33 **the practitioner's professional practice; or**

34 (B) **by a practitioner or by the practitioner's authorized agent**
35 **under such practitioner's supervision for the purpose of or as an**
36 **incident to research, teaching or chemical analysis or by a pharmacist**
37 **or medical care facility as an incident to dispensing of a controlled**
38 **substance; or**

39 (2) **the addition of diluents or adulterants, including, but not**
40 **limited to, quinine hydrochloride, mannitol, mannite, dextrose or**
41 **lactose that are intended for use in cutting a controlled substance.**

42 ~~(h)~~(k) **"Marijuana" means all parts of all varieties of the plant**
43 **Cannabis whether growing or not, the seeds thereof, the resin**

1 extracted from any part of the plant and every compound,
2 manufacture, salt, derivative, mixture or preparation of the plant, its
3 seeds or resin. "Marijuana" does not include:

4 (1) The mature stalks of the plant, fiber produced from the stalks,
5 oil or cake made from the seeds of the plant, any other compound,
6 manufacture, salt, derivative, mixture or preparation of the mature
7 stalks, except the resin extracted therefrom, fiber, oil or cake or the
8 sterilized seed of the plant that is incapable of germination;

9 (2) any substance listed in schedules II through V of the uniform
10 controlled substances act;

11 (3) drug products approved by the United States food and drug
12 administration as of the effective date of this act;

13 (4) cannabidiol (other trade name: 2-[(3-methyl-6-(1-
14 methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol); or

15 (5) industrial hemp as defined in K.S.A. 2-3901, and amendments
16 thereto, when cultivated, produced, possessed or used for activities
17 authorized by the commercial industrial hemp act.

18 ~~(k)~~(l) "Minor" means a person under 18 years of age.

19 ~~(j)~~(m) "Narcotic drug" means any of the following whether
20 produced directly or indirectly by extraction from substances of
21 vegetable origin or independently by means of chemical synthesis or
22 by a combination of extraction and chemical synthesis:

23 (1) Opium and opiate and any salt, compound, derivative or
24 preparation of opium or opiate;

25 (2) any salt, compound, isomer, derivative or preparation thereof
26 that is chemically equivalent or identical with any of the substances
27 referred to in paragraph (1) but not including the isoquinoline
28 alkaloids of opium;

29 (3) opium poppy and poppy straw;

30 (4) coca leaves and any salt, compound, derivative or preparation
31 of coca leaves and any salt, compound, isomer, derivative or
32 preparation thereof that is chemically equivalent or identical with any
33 of these substances, but not including decocainized coca leaves or
34 extractions of coca leaves that do not contain cocaine or ecgonine.

35 ~~(m)~~(n) "Opiate" means any substance having an addiction-
36 forming or addiction-sustaining liability similar to morphine or being
37 capable of conversion into a drug having addiction-forming or
38 addiction-sustaining liability. "Opiate" does not include, unless
39 specifically designated as controlled under K.S.A. 65-4102, and
40 amendments thereto, the dextrorotatory isomer of 3-methoxy-n-
41 methylmorphinan and its salts (dextromethorphan). "Opiate" does
42 include its racemic and levorotatory forms.

43 ~~(n)~~(o) "Opium poppy" means the plant of the species *Papaver*

1 somniferum l. except its seeds.

2 ~~(p)~~ **"Person"** means an individual, corporation, government or
3 governmental subdivision or agency, business trust, estate, trust,
4 partnership, association or any other legal entity.

5 ~~(q)~~ **"Poppy straw"** means all parts, except the seeds, of the
6 opium poppy, after mowing.

7 ~~(q)~~ **"Possession"** means having joint or exclusive control over an item
8 with knowledge of and intent to have such control or knowingly keeping
9 some item in a place where the person has some measure of access and
10 right of control.

11 **(r) "School property"** means property upon which is located a
12 structure used by a unified school district or an accredited nonpublic
13 school for student instruction or attendance or extracurricular
14 activities of pupils enrolled in kindergarten or any of the grades one
15 through 12. This definition shall not be construed as requiring that
16 school be in session or that classes are actually being held at the time
17 of the offense or that children must be present within the structure or
18 on the property during the time of any alleged criminal act. If the
19 structure or property meets the above definition, the actual use of that
20 structure or property at the time alleged shall not be a defense to the
21 crime charged or the sentence imposed.

22 **(s) "Simulated controlled substance"** means any product that
23 identifies itself by a common name or slang term associated with a
24 controlled substance and that indicates on its label or accompanying
25 promotional material that the product simulates the effect of a
26 controlled substance.}

27 {Sec. 4. K.S.A. 2022 Supp. 21-5703 is hereby amended to read as
28 follows: 21-5703. (a) It shall be unlawful for any person to
29 manufacture any controlled substance or controlled substance analog.

30 **(b) Violation or attempted violation of subsection (a) is a:**

31 **(1) Drug severity level 2 felony, except as provided in subsections**
32 **(b)(2) and (b)(3);**

33 **(2) drug severity level 1 felony if:**

34 **(A) The controlled substance is not methamphetamine, as defined**
35 **by subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1), and**
36 **amendments thereto, or an analog thereof; and**

37 **(B) the controlled substance is not a fentanyl-related controlled**
38 **substance; and**

39 **(C) the offender has a prior conviction for unlawful**
40 **manufacturing of a controlled substance under this section, K.S.A. 65-**
41 **4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its**
42 **transfer, or a substantially similar offense from another jurisdiction**
43 **and the substance was not methamphetamine, as defined by subsection**

1 ~~(d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1), and amendments~~
2 **thereto, or an analog thereof, in any such prior conviction; and**

3 **(3) drug severity level 1 felony if the controlled substance is**
4 **methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of K.S.A.~~**
5 **65-4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof,**
6 **or is a fentanyl-related controlled substance.**

7 **(c) The provisions of ~~subsection (d) of K.S.A. 2022 Supp. 21-~~**
8 **5301(d), and amendments thereto, shall not apply to a violation of**
9 **attempting to unlawfully manufacture any controlled substance or**
10 **controlled substance analog pursuant to this section.**

11 **(d) For persons arrested and charged under this section, bail shall**
12 **be at least \$50,000 cash or surety, and such person shall not be**
13 **released upon the person's own recognizance pursuant to K.S.A. 22-**
14 **2802, and amendments thereto, unless the court determines, on the**
15 **record, that the defendant is not likely to re-offend, the court imposes**
16 **pretrial supervision, or the defendant agrees to participate in a**
17 **licensed or certified drug treatment program.**

18 **(e) The sentence of a person who violates this section shall not be**
19 **subject to statutory provisions for suspended sentence, community**
20 **service work or probation.**

21 **(f) The sentence of a person who violates this section, K.S.A. 65-**
22 **4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its**
23 **transfer, shall not be reduced because these sections prohibit conduct**
24 **identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to**
25 **their repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or**
26 **K.S.A. 2022 Supp. 21-5705, and amendments thereto.}**

27 **{Sec. 5. K.S.A. 2022 Supp. 21-5807 is hereby amended to read as**
28 **follows: 21-5807. (a) Burglary is, without authority, entering into or**
29 **remaining within any:**

30 **(1) (A) Dwelling, with intent to commit a felony, theft, *domestic***
31 ***battery, violation of a protection order or sexually motivated crime***
32 **therein; or**

33 **(B) locked or secured portion of any dwelling, with intent to**
34 **commit a felony, theft, *domestic battery, violation of a protection order***
35 **or sexually motivated crime therein;**

36 **(2) (A) building, manufactured home, mobile home, tent or other**
37 **structure which is not a dwelling, with intent to commit a felony, theft,**
38 ***domestic battery, violation of a protection order or sexually motivated***
39 **crime therein; or**

40 **(B) locked or secured portion of any building, manufactured**
41 **home, mobile home, tent or other structure which is not a dwelling,**
42 **with intent to commit a felony, theft, *domestic battery, violation of a***
43 ***protection order or sexually motivated crime therein; or***

1 **(3) vehicle, aircraft, watercraft, railroad car or other means of**
2 **conveyance of persons or property, with intent to commit a felony,**
3 **theft, *domestic battery*, *violation of a protection order* or sexually**
4 **motivated crime therein.**

5 **(b) Aggravated burglary is, without authority, entering into or**
6 **remaining within any:**

7 **(1) (A) Dwelling in which there is a human being, with intent to**
8 **commit a felony, theft, *domestic battery*, *violation of a protection order***
9 **or sexually motivated crime therein; or**

10 **(B) locked or secured portion of any dwelling in which there is a**
11 **human being, with intent to commit a felony, theft, *domestic battery*,**
12 ***violation of a protection order* or sexually motivated crime therein;**

13 **(2) (A) building, manufactured home, mobile home, tent or other**
14 **structure which is not a dwelling in which there is a human being,**
15 **with intent to commit a felony, theft, *domestic battery*, *violation of a***
16 ***protection order* or sexually motivated crime therein; or**

17 **(B) locked or secured portion of any building, manufactured**
18 **home, mobile home, tent or other structure which is not a dwelling in**
19 **which there is a human being, with intent to commit a felony, theft,**
20 ***domestic battery*, *violation of a protection order* or sexually motivated**
21 **crime therein; or**

22 **(3) vehicle, aircraft, watercraft, railroad car or other means of**
23 **conveyance of persons or property in which there is a human being,**
24 **with intent to commit a felony, theft, *domestic battery*, *violation of a***
25 ***protection order* or sexually motivated crime therein.**

26 **(c) (1) Burglary as defined in:**

27 **(A) (i) Subsection (a)(1) is a severity level 7, person felony, except**
28 **as provided in subsection (c)(1)(B);**

29 **(ii) subsection (a)(2) is a severity level 7, nonperson felony, except**
30 **as provided in subsection (c)(1)(B); and**

31 **(iii) subsection (a)(3) is a severity level 9, nonperson felony, except**
32 **as provided in subsection (c)(1)(B); and**

33 **(B) (i) subsection (a)(1), with intent to commit the theft of a**
34 **firearm, is a severity level 5, person felony; and**

35 **(ii) subsection (a)(2) or (a)(3), with intent to commit the theft of a**
36 **firearm, is a severity level 5, nonperson felony.**

37 **(2) Aggravated burglary as defined in:**

38 **(A) Subsection (b)(1) is a severity level 4, person felony; and**

39 **(B) subsection (b)(2) or (b)(3) is a severity level 5, person felony.**

40 **(d) As used in this section, "sexually motivated" means that one**
41 **of the purposes for which the defendant committed the crime was for**
42 **the purpose of the defendant's sexual gratification.**

43 **(e) This section shall not apply to any person entering into or**

1 remaining in a retail or commercial premises at any time that it is
2 open to the public after having received a personal communication
3 from the owner or manager of such premises not to enter such
4 premises pursuant to K.S.A. 2022 Supp. 21-5808, and amendments
5 thereto, except when such person is entering into or remaining in such
6 premises with the intent to commit a person felony or sexually
7 motivated crime therein.}

8 ~~Section 1.~~ **Sec. 6.** K.S.A. 2022 Supp. 21-5904 is hereby amended to
9 read as follows: 21-5904. (a) Interference with law enforcement is:

10 (1) Falsely reporting to a law enforcement officer, law enforcement
11 agency or state investigative agency:

12 (A) That a particular person has committed a crime, knowing that
13 such information is false and intending that the officer or agency shall act
14 in reliance upon such information;

15 (B) that a law enforcement officer has committed a crime or
16 committed misconduct in the performance of such officer's duties,
17 knowing that such information is false and intending that the officer or
18 agency shall act in reliance upon such information;

19 (C) any information, knowing that such information is false and
20 intending to influence, impede or obstruct such officer's or agency's duty;
21 or

22 (D) any information concerning the death, disappearance or potential
23 death or disappearance of a child under the age of 13, knowing that such
24 information is false and intending that the officer or agency shall act in
25 reliance upon such information;

26 (2) concealing, destroying or materially altering evidence with the
27 intent to prevent or hinder the apprehension or prosecution of any person;
28 or

29 (3) knowingly obstructing, resisting or opposing any person
30 authorized by law to serve process in the service or execution or in the
31 attempt to serve or execute any writ, warrant, process or order of a court,
32 or in the discharge of any official duty; or

33 (4) *knowingly fleeing from a law enforcement officer who has reason*
34 *to stop the person under K.S.A. 22-2402, and amendments thereto, other*
35 *than fleeing by operation of a motor vehicle.*

36 (b) Interference with law enforcement as defined in:

37 (1) Subsection (a)(1)(A) and (a)(1)(B) is a:

38 (A) Class A nonperson misdemeanor, except as provided in
39 subsection (b)(1)(B); and

40 (B) severity level 8, nonperson felony in the case of a felony;

41 (2) subsection (a)(1)(C) is a:

42 (A) Class A nonperson misdemeanor, except as provided in
43 subsection (b)(2)(B); and

- 1 (B) severity level 9, nonperson felony in the case of a felony;
2 (3) subsection (a)(1)(D) is a severity level 8, nonperson felony;
3 (4) subsection (a)(2) is a:
4 (A) Class A nonperson misdemeanor, except as provided in
5 subsection (b)(4)(B); and
6 (B) severity level 8, nonperson felony in the case of a felony; ~~and~~
7 (5) subsection (a)(3) is a:
8 (A) Severity level 9, nonperson felony in the case of a felony, or
9 resulting from parole or any authorized disposition for a felony; and
10 (B) class A nonperson misdemeanor in the case of a misdemeanor, or
11 resulting from any authorized disposition for a misdemeanor, or a civil
12 case; *and*
13 (6) *subsection (a)(4) is a:*
14 (A) *Class A nonperson misdemeanor in the case of a misdemeanor, or*
15 *resulting from any authorized disposition for a misdemeanor, or a civil*
16 *case;*
17 (B) *severity level 7, nonperson felony in the case of a felony, or*
18 *resulting from parole or any authorized disposition for a felony; and*
19 (C) *severity level 5, nonperson felony if the offender ~~possessed~~*
20 *discharged or used a firearm while fleeing.*
21 **{Sec. 7. K.S.A. 2022 Supp. 21-6805 is hereby amended to read as**
22 **follows: 21-6805. (a) The provisions of this section shall be applicable**
23 **to the sentencing guidelines grid for drug crimes. The following**
24 **sentencing guidelines grid for drug crimes shall be applicable to felony**
25 **crimes under K.S.A. 2022 Supp. 21-5701 through 21-5717, and**
26 **amendments thereto, except as otherwise provided by law:**

SENTENCING RANGE - DRUG 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	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	144 136 130	137 130 122	130 123 117	124 117 111	116 111 105	113 108 101	110 104 99	108 100 96	103 98 92
III	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
IV	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	26 24 23	23 22 20	19 18 17	16 15 14
V	42 40 37	36 34 32	32 30 28	26 24 23	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

LEGEND
Presumptive Probation
Presumptive Imprisonment

1
2 **(b) Sentences expressed in the sentencing guidelines grid for drug**
3 **crimes in subsection (a) represent months of imprisonment.**

4 **(c) (1) The sentencing court has discretion to sentence at any**
5 **place within the sentencing range. In the usual case it is recommended**
6 **that the sentencing judge select the center of the range and reserve the**
7 **upper and lower limits for aggravating and mitigating factors**
8 **insufficient to warrant a departure. The sentencing court shall not**
9 **distinguish between the controlled substances cocaine base (9041L000)**
10 **and cocaine hydrochloride (9041L005) when sentencing within the**
11 **sentencing range of the grid block.**

12 **(2) In presumptive imprisonment cases, the sentencing court shall**
13 **pronounce the complete sentence which shall include the:**

14 **(A) Prison sentence;**

15 **(B) maximum potential reduction to such sentence as a result of**
16 **good time; and**

17 **(C) period of postrelease supervision at the sentencing hearing.**
18 **Failure to pronounce the period of postrelease supervision shall not**
19 **negate the existence of such period of postrelease supervision.**

20 **(3) In presumptive nonprison cases, the sentencing court shall**
21 **pronounce the prison sentence as well as the duration of the nonprison**
22 **sanction at the sentencing hearing.**

23 **(d) Each grid block states the presumptive sentencing range for**
24 **an offender whose crime of conviction and criminal history place such**
25 **offender in that grid block. If an offense is classified in a grid block**
26 **below the dispositional line, the presumptive disposition shall be**
27 **nonimprisonment. If an offense is classified in a grid block above the**
28 **dispositional line, the presumptive disposition shall be imprisonment.**
29 **If an offense is classified in grid blocks 4-E, 4-F, 4-G, 4-H, 4-I, 5-C or**
30 **5-D, the court may impose an optional nonprison sentence as provided**
31 **in ~~subsection (q) of~~ K.S.A. 2022 Supp. 21-6804(q), and amendments**
32 **thereto.**

33 **(e) The sentence for a second or subsequent conviction for**
34 **unlawful manufacturing of a controlled substance, K.S.A. 65-4159,**
35 **prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer,**
36 **K.S.A. 2022 Supp. 21-5703, and amendments thereto, or a**
37 **substantially similar offense from another jurisdiction, if the**
38 **controlled substance in any prior conviction was methamphetamine,**
39 **as defined by ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-4107(d)(3) or (f)(1),**
40 **and amendments thereto, or an analog thereof, shall be a presumptive**
41 **term of imprisonment of two times the maximum duration of the**
42 **presumptive term of imprisonment. The court may impose an optional**
43 **reduction in such sentence of not to exceed 50% of the mandatory**

1 increase provided by this subsection upon making a finding on the
2 record that one or more of the mitigating factors as specified in K.S.A.
3 2022 Supp. 21-6815, and amendments thereto, justify such a reduction
4 in sentence. Any decision made by the court regarding the reduction in
5 such sentence shall not be considered a departure and shall not be
6 subject to appeal.

7 (f) (1) The sentence for a third or subsequent felony conviction of
8 K.S.A. 65-4160 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-
9 36a06, prior to its transfer, or K.S.A. 2022 Supp. 21-5706, and
10 amendments thereto, shall be a presumptive term of imprisonment
11 and the defendant shall be sentenced to prison as provided by this
12 section. The defendant's term of imprisonment shall be served in the
13 custody of the secretary of corrections in a facility designated by the
14 secretary. Subject to appropriations therefore, the defendant shall
15 participate in an intensive substance abuse treatment program, of at
16 least four months duration, selected by the secretary of corrections. If
17 the secretary determines that substance abuse treatment resources are
18 otherwise available, such term of imprisonment may be served in a
19 facility designated by the secretary of corrections in the custody of the
20 secretary of corrections to participate in an intensive substance abuse
21 treatment program. The secretary's determination regarding the
22 availability of treatment resources shall not be subject to review. Upon
23 the successful completion of such intensive treatment program, the
24 offender shall be returned to the court and the court may modify the
25 sentence by directing that a less severe penalty be imposed in lieu of
26 that originally adjudged. If the offender's term of imprisonment
27 expires, the offender shall be placed under the applicable period of
28 postrelease supervision.

29 (2) Such defendant's term of imprisonment shall not be subject to
30 modification under paragraph (1) if:

31 (A) The defendant has previously completed a certified drug
32 abuse treatment program, as provided in K.S.A. 75-52,144, and
33 amendments thereto;

34 (B) has been discharged or refused to participate in a certified
35 drug abuse treatment program, as provided in K.S.A. 75-52,144, and
36 amendments thereto;

37 (C) has completed an intensive substance abuse treatment
38 program under paragraph (1); or

39 (D) has been discharged or refused to participate in an intensive
40 substance abuse treatment program under paragraph (1).

41 The sentence under this subsection shall not be considered a
42 departure and shall not be subject to appeal.

43 (g) (1) Except as provided further, if the trier of fact makes a

1 finding that an offender carried a firearm to commit a drug felony, or
2 in furtherance of a drug felony, possessed a firearm, in addition to the
3 sentence imposed pursuant to K.S.A. 2022 Supp. 21-6801 through 21-
4 6824, and amendments thereto, the offender shall be sentenced to:

5 (A) Except as provided in subsection (g)(1)(B), an additional 6
6 months' imprisonment; and

7 (B) if the trier of fact makes a finding that the firearm was
8 discharged, an additional 18 months' imprisonment.

9 (2) The sentence imposed pursuant to subsection (g)(1) shall be
10 presumptive imprisonment. Such sentence shall not be considered a
11 departure and shall not be subject to appeal.

12 (3) The provisions of this subsection shall not apply to violations
13 of K.S.A. 2022 Supp. 21-5706 or 21-5713, and amendments thereto.

14 (h) *The sentence for a violation of K.S.A. 2022 Supp. 21-5703, and*
15 *amendments thereto, with respect to material containing any quantity of a*
16 *fentanyl-related controlled substance shall be presumed imprisonment and*
17 *shall be two times the maximum duration of the presumptive term of*
18 *imprisonment. Such sentence shall not be considered a departure and*
19 *shall not be subject to appeal.*}

20 {**Sec. 8. K.S.A. 75-702 is hereby amended to read as follows: 75-**
21 **702. (a) The attorney general shall appear for the state, and prosecute**
22 **and defend any and all actions and proceedings, civil or criminal, in**
23 **the Kansas supreme court, the Kansas court of appeals and in all**
24 **federal courts, in which the state shall be interested or a party, and**
25 **shall, when so appearing, control the state's prosecution or defense.**

26 (b) *The attorney general shall also, when required by the*
27 *governor or either branch of the legislature, appear for the state and*
28 *prosecute or defend, in any other court or before any officer, in any*
29 *cause or matter, civil or criminal, in which this state may be a party or*
30 *interested or when the constitutionality of any law of this state is at*
31 *issue and when so directed shall seek final resolution of such issue in*
32 *the supreme court of the state of Kansas.*

33 (c) (1) *The attorney general shall have authority to prosecute any*
34 *matter related to a violation of K.S.A. 12-189 or 75-5133, and*
35 *amendment amendments thereto, related to unlawful acts when the*
36 *offender is an officer or employee of a city or county.*

37 (2) *Notwithstanding any provision of law to the contrary, the attorney*
38 *general shall have concurrent authority with any county or district*
39 *attorney to prosecute any crime or an attempt, conspiracy or criminal*
40 *solicitation as defined in K.S.A. 2022 Supp. 21-5301, 21-5302 or 21-5303,*
41 *and amendments thereto, of any crime that is part of an alleged course of*
42 *criminal conduct that occurred in two or more counties.*}

43 **Sec. 2 9. K.S.A. 75-702 and K.S.A. 2022 Supp. 21-5413, 21-5701,**

1 **21-5701b, 21-5703, 21-5807, 21-5904~~is~~** and **21-6805** are hereby
2 repealed.

3 Sec. ~~3~~ **10**. This act shall take effect and be in force from and after its
4 publication in the statute book.