

SENATE BILL No. 174

AN ACT concerning crimes, punishment and criminal procedure; relating to crimes against the public peace; increasing the criminal penalty for battery of a healthcare provider; relating to crimes involving controlled substances; adding the placing of controlled substances into pills into the definition of manufacture; excluding materials used to detect the presence of fentanyl, ketamine or gamma hydroxybutyric acid from the definition of drug paraphernalia; increasing the criminal penalties for manufacturing fentanyl-related controlled substances; creating a special sentencing rule for manufacturing fentanyl-related controlled substances and for manufacturing or distributing any controlled substances that are likely to be attractive to minors because of their appearance or packaging; relating to crimes involving property; adding domestic battery and violation of a protection order to the list of crimes a person has intent to commit for the crimes of burglary and aggravated burglary; relating to interference with law enforcement; increasing criminal penalties when the violation involves fleeing from a law enforcement officer; authorizing the attorney general to prosecute certain crimes that are part of an alleged course of criminal conduct that occurred in two or more counties; amending K.S.A. 75-702 and K.S.A. 2022 Supp. 21-5413, 21-5701, 21-5703, 21-5807, 21-5904 and 21-6805 and repealing the existing sections; also repealing K.S.A. 2022 Supp. 21-5701b.

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

Section 1. K.S.A. 2022 Supp. 21-5413 is hereby amended to read as follows: 21-5413. (a) Battery is:

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

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

(b) Aggravated battery is:

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

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

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

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

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

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

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

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

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

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

(C) such person has been deemed a habitual violator as defined in K.S.A. 8-285, and amendments thereto, including at least one violation of K.S.A. 8-1567, and amendments thereto, or violating an ordinance of any city in this state, any resolution of any county in this state or any law of another state, which ordinance, resolution or law declares to be

unlawful the acts prohibited by that statute.

(c) Battery against a law enforcement officer is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) ~~An~~ Aggravated battery, as defined in subsection (b)(1)(A) committed against a:

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) knowingly causing, with a motor vehicle, bodily harm to a:

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

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

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

(e) Battery against a school employee is a battery, as defined in subsection (a); committed against a school employee in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event, while such employee is engaged in the performance of such employee's duty.

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

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

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

(2) Aggravated battery as defined in:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(h)~~(i) As used in this section:

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

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

(3) "juvenile detention facility officer or employee" means any officer or employee of a juvenile detention facility as defined in K.S.A. 38-2302, and amendments thereto;

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

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

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

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

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

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

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

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

(12) *"healthcare provider" means an individual who is licensed, registered, certified or otherwise authorized by the state of Kansas to provide healthcare services in this state.*

Sec. 2. K.S.A. 2022 Supp. 21-5701 is hereby amended to read as follows: 21-5701. As used in K.S.A. 2022 Supp. 21-5701 through 21-5717, and amendments thereto:

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

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

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

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

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

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

(A) A controlled substance;

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

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

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

(d) "Distribute" means the actual, constructive or attempted transfer from one person to another of some item whether or not there is an agency relationship. "Distribute" includes, but is not limited to, sale, offer for sale or any act that causes some item to be transferred from one person to another. "Distribute" does not include acts of administering, dispensing or prescribing a controlled substance as authorized by the pharmacy act of the state of Kansas, the uniform

controlled substances act or otherwise authorized by law.

(e) (1) "Drug" means:

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

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

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

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

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

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

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

~~(1)~~(A) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

~~(2)~~(B) kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

~~(3)~~(C) isomerization devices used or intended for use in increasing the potency of any species of plant that is a controlled substance;

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

~~(5)~~(E) scales and balances used or intended for use in weighing or measuring controlled substances;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

substance; or

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

~~(j)~~(k) "Marijuana" means all parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. "Marijuana" does not include:

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

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

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

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

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

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

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

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

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

(3) opium poppy and poppy straw;

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

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

~~(n)~~(o) "Opium poppy" means the plant of the species *Papaver somniferum* L. except its seeds.

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

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

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

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

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

Sec. 3. K.S.A. 2022 Supp. 21-5703 is hereby amended to read as follows: 21-5703. (a) It shall be unlawful for any person to manufacture any controlled substance or controlled substance analog.

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

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

(2) drug severity level 1 felony if:

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

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

(C) the offender has a prior conviction for unlawful manufacturing of a controlled substance under this section, K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or a substantially similar offense from another jurisdiction and the substance was not methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1),~~ and amendments thereto, or an analog thereof, in any such prior conviction; and

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

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

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

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

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

Sec. 4. K.S.A. 2022 Supp. 21-5807 is hereby amended to read as follows: 21-5807. (a) Burglary is, without authority, entering into or remaining within any:

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

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

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

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

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

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

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

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

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

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

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

(c) (1) Burglary as defined in:

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

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

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

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

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

(2) Aggravated burglary as defined in:

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

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

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

(e) This section shall not apply to any person entering into or remaining in a retail or commercial premises at any time that it is open to the public after having received a personal communication from the owner or manager of such premises not to enter such premises pursuant to K.S.A. 2022 Supp. 21-5808, and amendments thereto, except when such person is entering into or remaining in such premises with the intent to commit a person felony or sexually motivated crime therein.

Sec. 5. K.S.A. 2022 Supp. 21-5904 is hereby amended to read as follows: 21-5904. (a) Interference with law enforcement is:

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

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

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

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

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

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

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

(4) *knowingly fleeing from a law enforcement officer, other than fleeing by operation of a motor vehicle, when the law enforcement officer has:*

(A) *Reason to stop the person under K.S.A. 22-2402, and amendments thereto; and*

(B) *given the person visual or audible signal to stop.*

(b) Interference with law enforcement as defined in:

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

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

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

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

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

(B) severity level 9, nonperson felony in the case of a felony;

(3) subsection (a)(1)(D) is a severity level 8, nonperson felony;

(4) subsection (a)(2) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(4)(B); and

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

(5) subsection (a)(3) is a:

(A) Severity level 9, nonperson felony in the case of a felony, or resulting from parole or any authorized disposition for a felony; and

(B) class A nonperson misdemeanor in the case of a misdemeanor, or resulting from any authorized disposition for a misdemeanor, or a civil case; *and*

(6) *subsection (a)(4) is a:*

(A) Class A nonperson misdemeanor in the case of a misdemeanor; or resulting from any authorized disposition for a misdemeanor; or a civil case;

(B) severity level 7, nonperson felony in the case of a felony, or resulting from parole or any authorized disposition for a felony; and

(C) severity level 5, nonperson felony if the offender discharged or used a firearm while fleeing.

Sec. 6. K.S.A. 2022 Supp. 21-6805 is hereby amended to read as follows: 21-6805. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for drug crimes. The following sentencing guidelines grid for drug crimes shall be applicable to felony crimes under K.S.A. 2022 Supp. 21-5701 through 21-5717, and amendments thereto, except as otherwise provided by law:

SENTENCING RANGE - DRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level I	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 31 28	36 24 22	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
Barred Box
Presumptive Imprisonment

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

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

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

(A) Prison sentence;

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

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

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

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

(e) The sentence for a second or subsequent conviction for unlawful manufacturing of a controlled substance, K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, K.S.A. 2022 Supp. 21-5703, and amendments thereto, or a substantially similar offense from another jurisdiction, if the controlled substance in any prior conviction was methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1)~~, and amendments thereto, or an analog thereof, shall be a presumptive term of imprisonment of two times the maximum duration of the presumptive term of imprisonment. The court may impose an optional reduction in such sentence of not to exceed 50% of the mandatory increase provided by this subsection upon making a finding on the record that one or more of the mitigating factors as specified in K.S.A. 2022 Supp. 21-6815, and amendments thereto, justify such a reduction in sentence. Any decision made by the court regarding the reduction in such sentence shall not be considered a departure and shall not be subject to appeal.

(f) (1) The sentence for a third or subsequent felony conviction of K.S.A. 65-4160 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-36a06, prior to its transfer, or K.S.A. 2022 Supp. 21-5706, and amendments thereto, shall be a presumptive term of imprisonment and the defendant shall be sentenced to prison as provided by this section. The defendant's term of imprisonment shall be served in the custody of the secretary of corrections in a facility designated by the secretary. Subject to appropriations therefore, the defendant shall participate in an intensive substance abuse treatment program, of at least four months duration, selected by the secretary of corrections. If the secretary determines that substance abuse treatment resources are otherwise

available, such term of imprisonment may be served in a facility designated by the secretary of corrections in the custody of the secretary of corrections to participate in an intensive substance abuse treatment program. The secretary's determination regarding the availability of treatment resources shall not be subject to review. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision.

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

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

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

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

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

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

(g) (1) Except as provided further, if the trier of fact makes a finding that an offender carried a firearm to commit a drug felony, or in furtherance of a drug felony, possessed a firearm, in addition to the sentence imposed pursuant to K.S.A. 2022 Supp. 21-6801 through 21-6824, and amendments thereto, the offender shall be sentenced to:

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

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

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

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

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

(i) The sentence for a violation of K.S.A. 2022 Supp. 21-5703 or 21-5705, and amendments thereto, shall be presumed imprisonment and shall be two times the maximum duration of the presumptive term of imprisonment if the trier of fact makes a finding beyond a reasonable doubt that the controlled substance involved, because of its appearance or packaging, was likely to be attractive to minors. Such sentence shall not be considered a departure and shall not be subject to appeal.

Sec. 7. K.S.A. 75-702 is hereby amended to read as follows: 75-702. (a) The attorney general shall appear for the state, and prosecute and defend any and all actions and proceedings, civil or criminal, in the Kansas supreme court, the Kansas court of appeals and in all federal courts, in which the state shall be interested or a party, and shall, when so appearing, control the state's prosecution or defense.

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

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

(2) Notwithstanding any provision of law to the contrary, the attorney general shall have concurrent authority with any county or district attorney to prosecute theft as defined in K.S.A. 2022 Supp. 21-5801, and amendments thereto, a violation of the Kansas racketeer influenced and corrupt organizations act, K.S.A. 2022 Supp. 21-6327 et seq., and amendments thereto, or an attempt, conspiracy or criminal solicitation as defined in K.S.A. 2022 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of such crimes that is part of an alleged course of criminal conduct that occurred in two or more counties.

Sec. 8. K.S.A. 75-702 and K.S.A. 2022 Supp. 21-5413, 21-5701, 21-5701b, 21-5703, 21-5807, 21-5904 and 21-6805 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.