TIME LINE OF SELECTED EVENTS RELATED TO THE KSGA

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July 1, 1993

The Kansas Sentencing Guidelines Act (KSGA), at K.S.A. 21-4701 *et seq.*, became law.

March 24, 1994

The limited retroactivity provision of the KSGA found at K.S.A. 1993 Supp. 22-3717(f) was repealed. On March 24, 1994, K.S.A. 1993 Supp. 22-3717(f) was amended so that pre-guideline sentences would not be converted if new crimes were committed while an offender was on parole. This provision had allowed offenders on parole from an indeterminate sentence(s) to have their indeterminate sentence(s) converted to a determinate sentence under the KSGA, if they were convicted of a new crime while out on parole.

K.S.A. 1993 Supp. 21-4603d (Authorized dispositions) and 22-3717 (Parole or postrelease) were amended to eliminate the requirement that felony probation, parole, postrelease supervision, community corrections, or conditional release must be revoked due to a new conviction for a crime committed on one of these statutes and before a nondeparture term of imprisonment may be imposed for the new conviction, if a nonprison sanction is otherwise the presumed sentencing disposition.

July 1, 1994

K.S.A. 1993 Supp. 21-4704 (Sentencing guidelines, nondrug grid) was amended to provide that Felony Driving Under Influence (DUI) offenses committed on or after this date are nongrid crimes with no guidelines severity level. The sentencing for such offenses is to be governed exclusively by the penalty provisions of K.S.A. 1994 Supp. 8-1567. Thus a felony DUI conviction can no longer result in a state prison sentence.

K.S.A. 1993 Supp. 21-4704 was further amended to double the presumptive durations of sentences for crimes committed on or after this date for cases which fall in severity levels 1 thru 5 on the nondrug grid and within criminal history categories A and B.

April 20, 1995

K.S.A. 1994 Supp. 21-4706 (Sentencing) and 21-4722 (Good time credit) were amended. For crimes committed on or after this date, inmates can earn only 15% "good time" credit by which the prison portion of their guidelines sentence can be reduced. Prior to this date an inmate could earn up to a 20% reduction for "good time."

K.S.A. 1994 Supp. 75-5217 (Violation of conditions of release) was amended. For crimes committed on or after this date, the term of imprisonment for technical violations of the conditions of postrelease supervision will be 180 days, subject to a reduction of up to 90 days for good behavior.

K.S.A. 1994 Supp. 22-3717 (Parole or postrelease) was amended. For crimes committed on or after this date, the postrelease supervision term for crimes in nondrug severity levels 1 thru 6 and drug severity levels 1 thru 3, will be 36 months; the term for crimes in nondrug severity levels 7 thru 10 and drug severity level 4, will be 24 months. The postrelease term can be reduced by up to 12 months for good behavior.

July 1, 1996

K.S.A. 21-4714 (Presentence Investigation Report), 22-3426 (Record of Judgment), and 22-3426a (Revocation of Probation), were amended to provide that all Presentence Investigation Report, Journal Entry of Judgment and Journal Entry of Probation Revocation Hearing forms are required to be on a form approved by the Kansas Sentencing Commission.

K.S.A. 21-4704 (Sentencing guidelines, nondrug grid) was amended to double the presumptive sentence lengths for all nondrug grid severity level 1 and 2 crimes. "Border Boxes" were added to the drug grid at levels 3-E, 3-F, 3-G, 3-H, 3-I, 4-E and 4-F.

K.S.A. 21-4705 (Sentencing guidelines, drug grid) subsection (c) the pre-guidelines sentence conversion provision, commonly referred to as the "small sale of marijuana exception" was repealed.

May 29, 1997

K.S.A. 1996 Supp. 21-4705(c) (Sentencing guidelines, drug grid) was amended and the sentencing court is prohibited from distinguishing between cocaine base (904 1 L000) and cocaine hydrochloride (904 1 L005), when sentencing within the sentencing range of the grid block.

July 1, 1998

K.S.A. 1997 Supp. 22-3717 (Parole or postrelease) was amended to require that the conviction carrying the longest postrelease supervision period takes precedence when deciding which postrelease term will be controlling in a multiple conviction case. The 60 months postrelease term for sex crimes may be imposed in a multiple conviction case, even though the sex crime may not have been the crime with the highest severity level.

K.S.A. 1997 Supp. 21-4603d(a) (Authorized dispositions) was amended. Prior to imposing a dispositional departure for an offender whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid; or prior to the sentencing of an offender to incarceration whose offense is classified in grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H, 4-E or 4-F of the sentencing guidelines grid for drug crimes; or prior to the revocation of a nonprison sanction of an offender whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H, 3-I, 4-E or 4-F of the sentencing guidelines grid for drug crimes, the sentencing court shall consider placement of the offender in the Labette Correctional Conservation Camp, conservation camps established by the Kansas Secretary of Corrections pursuant to K.S.A. 75-52,127 and amendments thereto, or to a community intermediate sanction center.

Pursuant to this statute, the offender shall not be sentenced to imprisonment if space is available in a conservation camp, or to a community intermediate sanction center and the offender meets all the conservation camp's or the community intermediate sanction center's placement criteria, unless the sentencing court states on the record the reasons for not placing the offender in a conservation camp or a community intermediate sanction center.

July 1, 1999

K.S.A. 1998 Supp. 8-262(a)(1)(C) (Driving while license canceled, suspended or revoked) was amended to eliminate the felony provision for a third or subsequent conviction for driving on a suspended license. Hereafter a second or subsequent conviction for driving while suspended under K.S.A. 8-262 will be a class A nonperson misdemeanor.

K.S.A. 1998 Supp. 8-287 (Habitual Violator) was amended to change the penalty from a severity level 9 nonperson felony to a class A nonperson misdemeanor.

K.S.A. 1998 Supp. 21-3402(a) (Intentional murder in the second degree) was amended to move it from an off-grid (Hard 10) offense to a nondrug grid severity level 1 person felony.

K.S.A. 1998 Supp. 21-4603d(a) (Authorized dispositions) was further amended to create a new special sentencing rule that provides the sentencing court with the discretion to sentence an offender to imprisonment for a new conviction committed while the offender was on felony bond, even if the offender's new crime and criminal history classification would otherwise presume a nonprison sentence.

Further, a decision by the sentencing court to order an imprisonment sentence in this type of case does not constitute a departure.

K.S.A. 21-4638 (Mandatory 40 or 50 years imprisonment) was likewise amended to allow for the sentence length increase from the "Hard 40" to the "Hard 50." This amended statute makes it clear that a person sentenced to the "Hard 50" shall not be eligible for parole prior to serving 50 years imprisonment, and such 50 years imprisonment shall not be reduced by the application of good time credits.

K.S.A. 1998 Supp. 21-4704 (Sentencing guidelines, nondrug grid) was amended and important changes include: (1) The presumptive sentence lengths for crimes committed on or after July 1, 1999, which have sentences on severity levels 1 and 2 of the nondrug grid are decreased by 20 percent; (2) the presumptive sentence lengths for crimes committed on or after July 1, 1999, which have sentences on severity level 3 of the nondrug grid are increased by 20 percent; (3) subsection (i) of the statute is amended to clarify that sentences for felony domestic battery [K.S.A. 21-3412(c)(3)], shall not be served in a state facility in the custody of the secretary of corrections; and (4) a new subsection (l) is added to the statute which creates a new special sentencing rule requiring that a sentence for the commission of the burglary of a residence, [K.S.A. 21-3715(a)], shall be presumed imprisonment if the person being sentenced has a prior conviction for burglary of a residence, or a non-residence under subsections (a) or (b) of K.S.A. 21-3715, or a prior conviction for aggravated burglary under K.S.A. 21-3716.

K.S.A. 1998 Supp. 21-4711(a) (Criminal history classification) which contains the criminal history aggregation factor for prior convictions for assault, or juvenile adjudications for assault, was amended to clarify that "every three prior adult convictions or juvenile adjudications of assault as defined by K.S.A. 21-3408 and amendments thereto, occurring within a period *commencing* three years *prior to the date of conviction for the current crime of conviction* shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes."

K.S.A. 1998 Supp. 22-3717(b)(2) (Parole or postrelease) was amended to increase the length of the off-grid 15 years "life" sentence to 20 years before an offender was eligible for parole for qualifying crimes committed on or after July 1, 1999. Subsection (b)(3) of K.S.A. 1998 Supp. 22-3711 was also amended, for the purpose of specifying that the prior off-grid "Hard 10" life sentence for intentional second degree murder shall not apply to crimes committed on or after July 1, 1999.

K.S.A. 21-3522 created the crime of Unlawful Voluntary Sexual Relations, a.k.a. the "Romeo and Juliet" statute. Under this statute, unlawful voluntary sexual relations is engaging in voluntary sexual intercourse, sodomy, or lewd fondling or touching with a child who is 14 years of age but less than 16 years of age when the offender is less than 19 years of age and less than four years of age older than the child and the child and the offender are the only parties involved and of the opposite sex. Pursuant to this statute, unlawful voluntary sexual relations involving sexual intercourse is a severity level 8 person felony, unlawful voluntary sexual relations involving sodomy is a severity level 9 person felony and unlawful voluntary sexual relations involving lewd fondling or touching is a severity level 10 person felony.

NOTE: K.S.A. 21-3522 (Unlawful voluntary sexual relations) is not listed as a crime requiring registration under the Kansas Offender Registration Act at K.S.A. 22-4902.

K.S.A. 1998 Supp. 65-4159(b) (Unlawful manufacturing) was amended to provide that a violation of the prohibition against the manufacture of a controlled substance shall be a drug grid severity level 1 felony. Previously a first conviction under K.S.A. 1998 Supp. 65-4159 was a drug grid

severity level 2 felony, and a second or subsequent conviction carried a drug grid severity level 1 penalty.

K.S.A. 1998 Supp. 21-4705 (Sentencing guidelines, drug grid) was amended by the addition of a new subsection (e) that created a special rule for the sentencing of second or subsequent convictions for the manufacture of a controlled substance under K.S.A. 65-4159. Under this special sentencing rule a second or subsequent violation would be a drug grid severity level 1 offense, but the sentencing court would be required to double the presumptive sentence length. However, the special rule permits the sentencing court to order a reduction of not to exceed 50 percent of the mandatory sentence length increase if mitigating circumstances exist. Any decision made by the sentencing court regarding the allowed reduction would not be considered a departure and would not be subject to appeal.

April 6, 2000

K.S.A. 1999 Supp. 75-5217 (Violation of condition of release) was amended to add language at subsection (d) of the statute to state that if a violation of postrelease supervision "results from a conviction for a new misdemeanor, upon revocation, the inmate shall serve a period of confinement, to be determined by the Kansas parole board, which shall not exceed the remaining balance of the period of postrelease supervision."

May 25, 2000

House Substitute for Senate Bill 323

K.S.A. 1999 Supp. 21-4603 (Authorized dispositions, crimes before July 1, 1993) was amended to increase the amount of time an offender could be sentenced to county jail as a condition of an original probation was increased from the current 30 days to 60 days. In addition, an offender could also be sentenced to 60 days jail time for each probation revocation. *The increase in county jail time was not retroactive*.

K.S.A. 22-3716(b) (Violation of probation conditions, revocation) was amended to provide that condition probation violators were required to be placed in a Community Corrections program at least once prior to a revocation resulting in an offender's placement in a state correctional facility. However, a public safety exception was included which would authorize direct placement in a state correctional facility if the court finds and sets forth with particularity the reasons for finding the safety of the members of the public will be jeopardized or the welfare of the inmate will not be served by assignment to community correctional services. *The provision requiring mandatory placement in Community Corrections was not retroactive*.

Subsection (e) was added to provide that condition probation violators who were subject to a probation revocation that resulted in the imposition of the underlying prison sentence to be served in a state correctional facility, would not be placed on a period of postrelease supervision upon their release from prison. Exceptions to this provision include:

1. An offender sentenced to a nonprison sanction pursuant to a dispositional departure.
2. An offender sentenced to a nonprison sanction and whose offense falls within a border box of either sentencing grid.
3. An offender sentenced for a sexually violent offense as defined in K.S.A. 22-3717.
4. An offender whose nonprison sanction was revoked as a result of a conviction for a new misdemeanor or felony offense.

5. Offenders who are serving or are to begin serving a sentence for any other felony offense that is not excluded from postrelease supervision by this subsection on the effective date of this subsection.

This provision was to be applied retroactively to any offender sentenced under the Kansas Sentencing Guidelines Act and the Kansas Department of Corrections was to discharge all eligible offenders from postrelease supervision by September 1, 2000.

K.S.A. 1999 Supp. 21-4611 (Probation duration) was amended to provide the recommended length of probation as follows:

Severity Levels	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
Nondrug	36	36	36	36	36	24	24	*18*	*12*	*12*
Drug	36	36	*18*	*12*	N/A	N/A	N/A	N/A	N/A	N/A

* Recommended probation length in months; amended terms in italics.

In addition, a public safety provision was added which provides the court with the discretion to impose a longer probation period, if it sets forth with particularity the reasons for finding that the safety of the public will be jeopardized or that the welfare of the inmate will not be served by the length of the probation terms as provided. Such an increase is not considered a departure nor is it subject to appeal.

This change in probation terms was to be applied retroactively and the deadline for all conversions or modifications to prior probation sentences was September 1, 2000.

K.S.A. 1999 Supp. 22-3717 (Parole or postrelease) was amended to provide the length of postrelease supervision as follows:

Severity Levels	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
Nondrug	36	36	36	36	*24*	*24*	*12*	*12*	*12*	*12*
Drug	36	36	*24*	*12*	N/A	N/A	N/A	N/A	N/A	N/A

* Mandatory postrelease supervision length in months; amended terms in italics.

These terms are mandatory unless the judge finds substantial and compelling reasons to impose a departure and states such on the record at the time of sentencing. The modified periods of postrelease supervision were eligible for the same good time reduction in supervision periods as set forth in the current statute.

This change in postrelease supervision terms was to be applied retroactively with conversions completed pursuant to the phase-in implementation schedule provided. All conversions were to be completed by January 1, 2001.

K.S.A. 1999 Supp. 75-5291 (Community correctional services) was amended to define the target offender population for Community Corrections programs. Adult offenders convicted of felony offenses who met one of the following criteria were to be eligible for placement in Community Corrections:

- Offenders whose sentence fell within the designated border boxes on both the drug and nondrug sentencing grids;
- Offenders whose sentence fell within nondrug grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7- G, 7-H, or 7-I;
- Offenders whose severity level and criminal history classification designated a presumptive prison sentence but received a nonprison sentence as the result of a dispositional departure;

- Offenders who received a nonprison sentence and were convicted of a severity level 7 or higher sex offense as defined in K.S.A. 22-4902, regardless of the manner in which the sentence was imposed;
- Any offender who violated conditions of release, or assignment, or a presumptive nonprison sentence prior to revocation to a state correctional facility;
- Any offender determined to be high risk or needs, or both by the use of a statewide mandatory standardized risk assessment tool, or instrument validated for Community Corrections placement; (A validated risk assessment tool would be provided by the Kansas Department of Corrections); or
- Any offender who successfully completed an assignment to a conservation camp program.

Subsection (a)(3) was added to provide that juvenile offenders may be placed in Community Corrections programs if the local Community Corrections Advisory Board approves, however, grants from the Community Corrections Fund administered by the Kansas Secretary of Corrections shall not be used for this service.

Subsection (a)(4) was added to provide that the court may require an offender for whom a violation of a condition of release or assignment or a nonprison sanction has been established pursuant to K.S.A. 22-3716, to be placed directly in the custody of secretary of corrections without prior assignment to community correctional services program if the court finds and sets forth with particularity the reasons for finding the safety of the members of the public will be jeopardized or the welfare of the inmate will not be served by such assignment to community correctional services.
The provisions herein were not retroactive.

July 1, 2000

K.S.A. 1999 Supp. 21-4720(b) (Sentencing multiple convictions) was amended for situations where an offender was convicted and sentenced in a multiple conviction case, then the primary crime of conviction was reversed on appeal, but other convictions in the case are affirmed. In such a case the appellate court was to remand the case for resentencing and the sentencing court would assign a new primary crime, use the offender's full criminal history score for that primary crime and resentence the offender.

A new aggravating departure factor was created for both the nondrug grid (K.S.A. 21-4716) and the drug grid (K.S.A. 21-4717) for those cases where the defendant/offender was incarcerated during the commission of the offense.

July 1, 2001

K.S.A. 2000 Supp. 8-1567 (Driving under the influence) was amended to make fourth and subsequent DUI convictions subject to a sentence of from 90 days to 1 year in a county jail, with the jail portion of 72 hours being mandatory incarceration, the remainder of the 90 days eligible for a work release program. After serving this sentence, an offender would be placed in a treatment program under the custody of the Secretary of the Kansas Department of Corrections (KDOC). Upon completion of the treatment program, an offender would be placed in an after care program approved by the Kansas Parole Board for a period of 12 months. *An offender who violates the conditions of the aftercare program is treated as a condition violator and subject to imprisonment in a KDOC facility for up to 6 months*.

The 5 year "decay" rule limiting an offender's DUI convictions to only those which occurred within the past 5 years as counting for an offender's first, second or third offense was deleted. *All prior DUI convictions are to be included and there was no provision for retroactivity*.

K.S.A. 21-4711 (Criminal history classification) was amended to include DUI convictions and

diversion agreements from other states, and convictions under city ordinances and county resolutions as violations of the DUI statute for criminal history scoring under the Kansas Sentencing Guidelines Act.

May 2, 2002

K.S.A. 21-3419 (Criminal threat) was amended to modify the present severity level 9 nonperson felony offense to also include threats made to endanger the food supply. It also created the crime of endangering the food supply, which includes: a new class A nonperson misdemeanor offense; a new severity level 4 nonperson felony offense if the crime involves foot-and-mouth disease; a new severity level 3 nonperson felony offense if the crime is done with the intent to cause damage to plants or animals, or to cause economic harm or social unrest; and a new severity level 3 person felony offense if the crime is done with the intent to cause illness, injury, or death to a human being.

May 23, 2002

K.S.A. 40-5001 through 40-5016 created the Viatical Settlement Act of 2002. K.S.A. 40-5013 provides the penalties for violations of this act and provides differing crime categories depending on the amount involved.

Value of Viatical Settlement Contract	**Severity Level**	**F / M**	**P / NP**
$25,000 or more.	7	F	NP
At least $500 but less than $25,000.	9	F	NP
Less than $500.	A	M	NP
If value of insurance premium is less than $500 and such agent or broker has two or more prior convictions for violating this section within five years immediately preceding commission of current crime.	9	F	NP

* Penalties for violations may include monetary penalties, suspension or revocation of license or certificate or an order to cease and desist from the unlawful act or practice and take affirmative action to carry out the purposes of the violated provisions.

K.S.A. 2001 Supp. 21-3718 (Arson) was amended to create a new severity level 7 person felony offense for "accidentally, by means of fire or explosive as a result of manufacturing or attempting to manufacture a controlled substance in violation of K.S.A. 65-4159, and amendments thereto, damaging any building or property which is a dwelling." In addition, it created a new severity level 7 nonperson felony offense for "accidentally, by means of fire or explosive as a result of manufacturing or attempting to manufacture a controlled substance in violation of K.S.A. 65-4159, and amendments thereto, damaging any building or property which is not a dwelling."

K.S.A. 21-3766 created the crime of tampering with a pipeline. Under this statute, tampering with a pipeline, including but not limited to, any intentional unauthorized adjustment, opening, removal, change or destruction of any part of any pipeline, is a severity level 6 nonperson felony.

K.S.A. 8-1567 (DUI) was amended to create the offense of driving under the influence of an "inhalant." In addition, "toxic vapors" was added to the definition of "drugs" under the DUI statute so that a DUI offense may be prosecuted for driving under the influence of toxic vapors.

K.S.A. 2001 Supp. 21-3520 (Unlawful sexual relations) was amended to expand the definition of unlawful sexual relations to include employees of a contractor that provides supervision services for persons on parole, conditional release, or post release supervision. This added an additional group of potential offenders to the severity level 10 person felony offense under this statute.

K.S.A. 2001 Supp. 21-3438 (Stalking) was amended in subsection (b) to provide that any person who violates this statute when there is a Protection from Stalking Order, a temporary restraining order, or an injunction is in effect against the same person, is guilty of a severity level 9 person felony offense. Subsection (c) was amended to provide that a second or subsequent conviction of a violation of this statute, within seven years of a prior conviction involving the same victim, is a severity level 8 person felony.

July 1, 2003

2003 Senate Bill 123

K.S.A. 21-4729 (Nonprison sanction, certified drug abuse treatment) was created by 2003 Senate Bill 123. The goal of certified drug abuse treatment is to provide community based punishment and the opportunity for treatment to nonviolent adult offenders with drug abuse problems in order to more effectively address the revolving door of drug addicts through the state prisons, which should be reserved for serious, violent offenders. Sentences under K.S.A. 21-4729 result in a drug severity level 4 conviction and require the offender to participate in a certified drug abuse treatment program under the supervision of community corrections. The sentencing court shall commit the offender to treatment until determined suitable for discharge by the court but the term of treatment shall not exceed 18 months.

K.S.A. 21-4729(a) provides the eligibility requirements for this nonprison sanction. Eligible offenders are a defined target population of nonviolent adult offenders convicted of K.S.A. 65-4160 or 65-4162 with no prior convictions of drug trafficking, drug manufacturing or drug possession with intent to sell. Placement in treatment can be mandatory or by court finding that the safety of the public will not be jeopardized by such placement.

A. **Mandatory placement** in a certified drug abuse treatment program is for **adult** offenders sentenced in the 4-E, 4-F, 4-G, 4-H, or 4-I (presumptive probation) blocks of the drug grid, with no prior conviction of:
   - K.S.A. 65-4142 (the unlawful acts involving proceeds derived from violations of the uniform substances control act statute);
   - K.S.A. 65-4159 (the unlawful manufacturing or attempting such of any controlled substance statute);
   - K.S.A. 65-4161 (unlawful acts relating to sale or distribution of opiates, opium, narcotic drugs or designated stimulants statute);
   - K.S.A. 65-4163 (the unlawful acts relating to sale or distribution of depressants, stimulants or hallucinogenic drugs or other substances statute);
   - K.S.A. 65-4164 (the unlawful acts relating to certain narcotic drugs statute); or
   - Any similar offenses from another jurisdiction.

B. **Certified drug abuse treatment with court finding** is for **adult** offenders sentenced in the 4-A, 4-B, 4-C, or 4-D (presumptive prison) blocks of the drug grid, with no prior conviction of:
   - K.S.A. 65-4142 (the unlawful acts involving proceeds derived from violations of the uniform substances control act statute);
   - K.S.A. 65-4159 (the unlawful manufacturing or attempting such of any controlled substance statute);
   - K.S.A. 65-4161 (unlawful acts relating to sale or distribution of opiates, opium, narcotic drugs or designated stimulants statute);
   - K.S.A. 65-4163 (the unlawful acts relating to sale or distribution of depressants,

stimulants or hallucinogenic drugs or other substances statute);

- K.S.A. 65-4164 (the unlawful acts relating to certain narcotic drugs statute); or
- Any similar offenses from another jurisdiction; and
- If such person felonies committed by the offender were severity level 8, 9 or 10 or nongrid offenses and the sentencing court finds and sets forth with particularity, the reasons for finding that the safety of the members of the public will not be jeopardized by placement of the offender in a certified drug abuse treatment program..

C. Offenders with prior convictions for drug possession are eligible.

To coincide with subsection (b), K.S.A. 2002 Supp. 21-4714 was amended to require that, as part of the presentence investigation, all offenders who meet the requirements of K.S.A. 21-4729 (2003 Senate Bill 123) shall be subject to a drug abuse assessment to assess the offender's risk of re-offending and the level of their substance abuse problem. The drug abuse assessment shall include a statewide, mandatory, standardized risk assessment tool and an instrument validated for drug abuse treatment program placements and shall include a clinical interview with a mental health professional.

Subsection (f) provides for offender accountability. Offenders shall be discharged from treatment if the offender is convicted of a new felony other than a conviction of K.S.A. 65-4160 or 65-4162 or the offender has a pattern of intentional conduct demonstrating the offender's refusal to comply with or to participate in the treatment program, <u>as established by a judicial finding</u>. An offender whose probation is revoked shall be subject to the revocation provisions of K.S.A. 21-4603d(n).

K.S.A. 21-4603d(n) provides that if the offender fails to participate in or has a pattern of intentional conduct that demonstrates refusal to comply with or participate in the treatment program as established by judicial finding, the offender shall be subject to revocation of probation and shall serve the underlying prison sentence as established in K.S.A. 21-4705. Offenders who are revoked from certified treatment violate conditions of probation, i.e. the certified drug abuse treatment program, and thus may be subject to additional nonprison sanctions pursuant to K.S.A. 22-3716(f). Such nonprison sanctions include but are not limited to: up to 60 days in a county jail, fines, community service, intensified treatment, house arrest and electronic monitoring.

K.S.A. 75-52,144 was created to provide the certified drug abuse treatment program requirements. Certified drug abuse treatment programs are required to provide one or more treatment options in the continuum of services needed to reach recovery. Certified drug abuse treatment programs include a full cognitive based curriculum in addition to or as part of treatment and may include community based or faith based programs. The state-wide comprehensive drug treatment delivery system includes a continuum of services that allows the offender to move up or down the continuum as the recovery process requires. Regardless of the level of substance abuse treatment assessed, all treatment plans will include an aftercare component.

It may be necessary for residential placements to be outside of an offender's local community especially in rural areas, given the current limited number of facilities available and their geographic locations.

Treatment providers are required to obtain Kansas Department of Corrections (KDOC) certification in addition to any other state licensing or certification required to provide drug and alcohol abuse treatment. KDOC counselor certification is based on case management, cognitive behavior tool skills acquisition and facilitation ability.

Noted sentencing policy changes - Mandatory drug abuse treatment in lieu of incarceration resulted in

several changes in sentencing practices for offenders convicted of drug possession. These changes focus on various levels of treatment options, establishment of certain and immediate sanctions for continued drug usage, and a comprehensive continuum of sanctions that include offender accountability, while ensuring public safety. Since this is a post conviction sentencing policy, all convictions under K.S.A. 21-4729 (2003 Senate Bill 123) result in a felony conviction. Current sentencing practices and procedures are:

- All "pure" felony drug possession convictions are sentenced on severity level 4 of the drug grid.
- Adult offenders with current possession convictions, criminal history 4-E to 4-I (presumptive probation blocks) of the drug grid, with no prior convictions of drug trafficking, drug manufacture or drug possession with intent to sell receive mandatory certified drug abuse treatment. K.S.A. 2003 Supp. 21-4729(a)(1).
- Adult offenders with current possession convictions, criminal history 4-A to 4-D (presumptive prison blocks) of the drug grid, with no prior convictions of drug trafficking, drug manufacture or drug possession with intent to sell are eligible for certified drug abuse treatment if the court finds that the placement of these offenders in a certified drug abuse treatment program will not jeopardize public safety. The prior person felony convictions can only be severity level 8, 9, or 10 or nongrid offenses. K.S.A. 2003 Supp. 21-4729(a)(2).
- An offender with a third or subsequent drug possession conviction who has previously completed at least one prior 18 month certified drug abuse treatment program or has been discharged from or refused to participate in such program shall be sentenced to a presumptive term of imprisonment as provided in the guidelines. K.S.A. 2003 Supp. 21-4705(f).
- Mandatory participation in a certified drug abuse treatment program for offenders sentenced under K.S.A. 21- 4729 (2003 Senate Bill 123) is for a term of <u>up to 18 months</u>. K.S.A. 2003 Supp. 21-4729(c).
- Upon successful completion of a certified drug abuse treatment program, the offender will be discharged and not subject to a period of postrelease supervision. K.S.A. 21-4603d(n).
- K.S.A. 21-4729 (2003 Senate Bill 123) applies to offender with offenses committed on or after November 1, 2003, and is not applied retroactively. K.S.A. 21-4729(a).

July 1, 2004

K.S.A. 2003 Supp. 21-4635 (Mandatory 40 years, 50 years or life imprisonment) was amended to create the new sentence of life imprisonment without the possibility of parole. A defendant convicted of capital murder, pursuant to K.S.A. 21-3439, and amendments thereto, where a sentence of death is not imposed, will be sentenced to life imprisonment without the possibility of parole. A defendant sentenced to life imprisonment without the possibility of parole is not eligible for parole, probation, assignment to a community correctional service program, conditional release, postrelease supervision, or suspension, modification or reduction of sentence. The sentence of death or life imprisonment without the possibility of parole does not apply to juveniles or those determined to be mentally retarded.

K.S.A. 22-5101 created the Kansas Criminal Justice Recodification, Rehabilitation, and Restoration Project (3 R's Committee). This project is designed to recodify the criminal code, identify ways to rehabilitate offenders and work with offenders on community based supervision, and identify ways to restore offenders back into society as productive members.

K.S.A. 21-3608a created the crime of aggravated endangering a child, a severity level 9 person felony. Aggravated endangering a child is:

(1) Intentionally and recklessly causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health is injured or endangered;

(2) Permitting such child to be in an environment where a person is selling, offering for sale or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture or attempt to manufacture any methamphetamine as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto; or

(3) Permitting such child to be in an environment where drug paraphernalia or volatile, toxic or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture any methamphetamine as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto.

K.S.A. 2003 Supp. 21-3701 (Theft) and K.S.A. 21-3704 (Theft of services) were amended to increase the threshold for a class A nonperson misdemeanor was raised from $500 to $1,000.

June 1, 2005

K.S.A. 65-1643 (Registration of Pharmacists; certain acts declared unlawful) was amended to add subsections (k) and (l).

Subsection (k) provides that it is unlawful for any person to sell or distribute in a pharmacy a controlled substances designated in subsection (e) or (f) of K.S.A. 65-4113 (Substances included in schedule V) unless: (1)(A) such controlled substance is sold or distributed by a licensed pharmacist, a registered pharmacy technician or a pharmacy intern or clerk supervised by a licensed pharmacist; and (B) any person receiving, purchasing or otherwise acquiring any such controlled substance produces a photo identification showing their date of birth and signs a log. The log or database must be available for inspection during regular business hours to the board of pharmacy or any law enforcement officer; or (2) there is a lawful prescription.

Subsection (l) provides that it is unlawful for any person to sell or distribute in a pharmacy four or more packages or containers of any controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113 to a specific customer within any seven-day period. Violation is a misdemeanor.

July 1, 2005

K.S.A. 2004 Supp. 12-189 (Confidentiality of retailer sales tax information) was amended to change the penalty from a class B misdemeanor to a class A misdemeanor.

K.S.A. 2004 Supp. 75-5133(d) (Unlawful to divulge licensure, registration and tax information) was amended to change the penalty for a violation of this section from a class B nonperson misdemeanor to a class A nonperson misdemeanor.

K.S.A. 2004 Supp. 79-3234(e) (Tax information; preservation; limits on dissemination and use) was amended to change the penalty for any violation of subsection (b) or (c) from a class B nonperson misdemeanor to a class A nonperson misdemeanor.

K.S.A. 32-1061 through 32-1066 created the wildlife violator compact. It shall be unlawful for any person whose license, privilege, or right to hunt, fish, trap, possess, or transport wildlife, having been suspended or revoked pursuant to the wildlife violator compact, to exercise that right or privilege within this state or to purchase or possess such a license which grants such right or privilege. A person who knowingly violates this section shall be guilty of a class A nonperson misdemeanor and subject to a fine and further restrictions on such persons privileges or rights as described herein. K.S.A. 32-1063.

K.S.A. 2004 Supp. 21-3707 (Giving a worthless check) was amended in subsection (e) to change the penalty portion of the statute.

Description	**Severity Level**	**F / M**	**P / NP**
Giving worthless check $25,000 or more.	7	F	NP
Giving worthless check more than once in 7 days and combined total is $25,000 or more.	*7*	*F*	*NP*
Giving worthless check at least *$1,000* but less than $25,000.	9	F	NP
Giving worthless check more than once in 7 days and combined total is at least $1,000 but less than $25,000.	*9*	*F*	*NP*
Giving worthless check less than *$1,000*.	A	M	NP
Giving worthless check less than *$1,000* if committed by a person who has two or more prior convictions for giving a worthless check within five years immediately preceding commission of current crime.	9	F	NP

* Changes noted in italics.

K.S.A. 21-3446 created the crime of Trafficking; (1) Recruiting, harboring, transporting, providing or obtaining, by any means, another person knowing that force, fraud, threat or coercion will be used to cause the person to engage in forced labor or involuntary servitude; or (2) benefiting financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in subsection (a)(1). Trafficking is a severity level 2 person felony.

K.S.A. 21-3447 created the crime of Aggravated trafficking which is: (1) trafficking as defined in K.S.A. 2005 Supp. 21-3446; (A) involving the commission or attempted commission of kidnapping as defined in K.S.A. 21-3420, (B) committed in whole or in part for the purpose of the sexual gratification of the defendant or another, or (C) resulting in a death; or (2) recruiting, harboring, transporting, providing or obtaining, by any means, a person under 18 years of age knowing that the person, with or without force, fraud, threat or coercion, will be used to engage in forced labor, involuntary servitude or sexual gratification of the defendant or another. Aggravated trafficking is a severity level 1 person felony.

K.S.A. 21-3510(b) (Indecent solicitation of a child) was amended to raise the penalty for Indecent solicitation of a child from a severity level 7 person felony to a severity level 6 person felony.

K.S.A. 21-3511 (Aggravated indecent solicitation of a child) was amended to raise the penalty for Aggravated indecent solicitation of a child from a severity level 6 person felony to a severity level 5 person felony.

K.S.A. 2004 Supp. 21-3516(a)(2) (Sexual exploitation of a child) was amended to change the definition of Sexual exploitation of a child to allow the defendant to be charged with multiple counts of sexual exploitation of a child for each visual depiction of child pornography. Sexual exploitation of a child is a severity level 5 person felony.

K.S.A. 21-3830 (Dealing in false identification documents) was amended in subsection (b) to add "banking instrument including, but not limited to, credit or debit card, certified copies of birth, death,

marriage and divorce certificates to the definition of identification document.

Subsection (c) was amended to change the penalty for Dealing in false identification documents from a severity level 10 nonperson felony to a severity level 8 nonperson felony.

Subsection (d) creates the crime of Vital records identity fraud related to birth, death, marriage and divorce certificates.

Subsection (e) provides that Vital records identity fraud is a severity level 8 nonperson felony.

Subsection (f) provides that sections (a) and (b) do not apply to a person less than 21 years of age who uses the identification document of another person to acquire an alcoholic beverage as defined in K.S.A. 8-1599; or to a person less than 18 years of age who use the identification documents of another person to: buy tobacco or cigarette products; communication mediums that contain or depict nudity; admittance to activities that are denied based on age; or an item that is prohibited by law for use or consumption by such person.

K.S.A. 65-2434(a) (Uniform Vital Statistics Act; Penalties) was amended to provide that Vital records identity fraud related to birth, death, marriage and divorce certificates shall be prosecuted pursuant to K.S.A. 21-3830, and amendments thereto.

K.S.A. 2004 Supp. 21-4018 (Identity theft) was amended in subsection (a) to change the definition of identity theft from knowingly and with intent to defraud for "economic" benefit to knowingly and with intent to defraud for "any" benefit.

Subsection (b) was amended to provide that "Identification documents" has the meaning provided in K.S.A. 21-3830 and amendments thereto.

Subsection (c) was amended to lower the penalty for Identity theft from a severity level 7 person felony to a severity level 8 nonperson felony.

Subsection (d) created the crime of Identity fraud.

Subsection (e) provides that Identity fraud is a severity level 8 nonperson felony.

K.S.A. 9-2203(c) (License required to conduct mortgage business) was amended to change the penalty from a misdemeanor to a severity level 7 nonperson felony for a first conviction. A second or subsequent conviction, regardless of its location on the sentencing grid block, is presumptive imprisonment for any person who willfully or knowingly violates any of the provisions of this act, any rule or regulation adopted or order issued under this act. **Note: A second or subsequent conviction pursuant to this statute is reflected as a new special rule on the Presentence Investigation form and Journal Entry of Judgment form.*

K.S.A. 2004 Supp. 21-3404(b) (Involuntary manslaughter) was amended to include reference to subsection (a) of K.S.A. 8-1568 (Fleeing or attempting to elude a police officer). Involuntary manslaughter remains a severity level 5 person felony.

K.S.A. 2004 Supp. 21-3436(b) (Inherently dangerous felony) was amended to add subsection (18) fleeing or attempting to elude a police officer, as defined in subsection (b) of K.S.A. 8-1568 and amendments thereto, to the list of inherently dangerous felonies.

K.S.A. 2004 Supp. 32-1032(a) (Big game and wild turkey violation; penalties) was amended to add stepped up penalties for a violation of the wildlife and parks laws of this state or the rules and regulations of the secretary relating to big game or wild turkey permits and game tags taking big game or wild turkey as further provided in this section:

Conviction	Category	Penalty = fine, county jail or both
First and Second Conviction	Misdemeanor	$500 to $1,000 fine; up to 6 months jail time
Third Conviction	Class B misdemeanor	$1,000 fine; 30 days minimum in county jail
Fourth Conviction	Class A misdemeanor	$1,000 fine; 60 days minimum in county jail
Fifth and Subsequent Conviction	Class A misdemeanor	$1,000 fine; 90 days minimum in county jail

* Any conviction for a wildlife violation that occurs before July 1, 2005 is not considered for purposes of this section. The penalties included in the remaining subsections were not changed.

K.S.A. 2004 Supp. 22-4906 (Registration time) was amended to provide that the required registration period does not apply to any person while such person is incarcerated in any jail, correctional facility, or juvenile facility. The required registration period does not include any time when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement. Liability for registration does not terminate if the convicted offender again becomes liable to register as provided by this act during the required period. Juvenile offenders required to register under this act shall do so until 18 years of age, until the expiration of five years from the date of adjudication or, if confined, at the expiration of five years from the release from confinement, whichever date is later.

K.S.A. 2004 Supp. 22-4909 (Information subject to open records act; nondisclosure of certain information relating to victim) was amended to add subsections (b), (c), (d), and (e). Subsection (b) requires any information posted on an internet website sponsored or created by a sheriff's office or the Kansas Bureau of Investigation to identify, in a prominent manner, whether an offender is or is not a sex offender. Subsections (c), (d) and (e) require that any school district, accredited nonpublic school and licensed child care facility be notified annually of the availability of the Kansas Bureau of Investigation internet website and any internet website containing information on the Kansas offender registration sponsored or created by the sheriff of the county in which the school or facility is located, for the purpose of locating offenders who reside near such school or child care facility. Such notification shall also indicate that the sheriff of the county where the school or child care facility is located is available to assist with use of the registry and provide additional information on the registered offenders.

K.S.A. 65-67a09 created the Child Rape Protection Act. This Act requires any physician who performs an abortion on a minor who was less than 14 years of age at the time of the commission of the procedure to preserve fetal tissue and submit the tissue sample to the Kansas Bureau of Investigation or laboratory designated by the Director of the Kansas Bureau of Investigation.

Subsection (e) provides that failure of a physician to comply with the provisions of this Act is unprofessional conduct and a class A nonperson misdemeanor upon a first conviction and a severity level 10 nonperson felony upon a second or subsequent conviction.

K.S.A. 2004 Supp. 21-3520 (Unlawful sexual relations) was amended to broaden its application by adding Court Services Officers, Community Corrections Officers, employees of the Juvenile Justice Authority or Juvenile Community Supervision Agency, and employees of a contractor who provides supervision services for persons under Court Services or Community Corrections supervision to the list of potential offenders of this crime. The offender must have knowledge that the person with whom the offender is engaging in unlawful sexual relations is currently under the supervision of Court Services or Community Corrections. The definitions of "Community Corrections," "Court Services," "Law

Enforcement Officer," and "Juvenile Community Supervision Agency" were also added. Conviction for unlawful sexual relations remains a severity level 10 person felony.

K.S.A 17-12a101 through 17-12a703 created the Kansas Uniform Securities Act.
K.S.A. 2005 Supp. 17-12a508 (a) provides the Criminal penalties. (1) Except as provided in subsections (a) (2) through (a) (4), a conviction for an intentional violation of this act, or rule adopted or order issued under this act, except K.S.A 2005 Supp.17-12a504, and amendments thereto, or the notice filing requirements of K.S.A. 2005 Supp. 17-12a302 or 17-12a405, and amendments thereto, is a severity level 7 nonperson felony. An individual convicted of violating a rule or order under this act may be fined, but not imprisoned, if the individual did not have knowledge of the rule or order.

Subsection (a)(2) a conviction for an intentional violation of K.S.A. 2005 Supp. 17-12a501 or 17-12a502, and amendments thereto is:

(A) a severity level 4 nonperson felony if the violation resulted in a loss of $100,000 or more;

(B) a severity level 5 nonperson felony if the violation resulted in a loss of at least $25,000 but less than $100,000; or

(C) a severity level 7 nonperson felony if the violation resulted in a loss of less than $25,000.

Subsection (a)(3) a conviction for an intentional violation of K.S.A. 2005 Supp. 17-12a301, 17-12a401(a), 17-12a401(c), 17-12a402(a), 17-12a402(d), 17-12a403(a), 17-12a403(c), 17-12a403(d), 17-12a404(a), or 17-12a404(e), and amendments thereto is:

(A) a severity level 5 nonperson felony if the violation resulted in a loss of $100,000 or more;

(B) a severity level 6 nonperson felony if the violation resulted in a loss of at least $25,000 but less than $100,000; or

(C) a severity level 7 nonperson felony if the violation resulted in a loss of less than $25,000.

Subsection (a)(4) a conviction for an intentional violation of K.S.A. 2005 Supp. 17-12a505 or 17-12a506, and amendments thereto is a severity level 8 nonperson felony.

Subsection (a)(5) any violation of K.S.A. 2005 Supp. 17-12a301, 17-12a401(a), 17-12a401(c), 17-12a402(a), 17-12a402(d), 17-12a403(a), 17-12a403(c), 17-12a403(d), 17-12a404(a), 17-12a404(e), 17-12a501 or 17-12a502, and amendment thereto, resulting in a loss of $25,000 or more shall have a presumptive sentence of imprisonment regardless of its location on the sentencing grid block.

January 1, 2006

K.S.A. 44-719 (Employment Security Law; Penalties for violation of act; repayment of benefits ineligible to receive, interest thereon) was amended to add subsection (f) which created the crime of unlawfully reducing or attempting to reduce liability for unemployment contributions by an employing unit, a severity level 9 nonperson felony.

May 25, 2006

K.S.A. 2006 Supp. 21-4227 (Recruiting criminal street gang membership) is created and defined as causing, encouraging, soliciting or recruiting another person to join a criminal street gang that requires, as a condition of membership or continued membership, the commission of any crime or membership initiation by submission to a sexual or physical assault that is criminal in nature, or would be criminal absent consent by the initiated. Recruiting criminal street gang membership is a <u>severity level 6, person felony</u>.

K.S.A. 2006 Supp. 21-4228 (Criminal street gang intimidation) is created and defined as the communication, directly or indirectly with another, any threat of personal injury or actual personal injury to another or any threat of damage or actual damage to property of another with the intent to: (1) Deter such person from assisting a criminal street gang member or associate to withdraw from such criminal street gang; or (2) punish or retaliate against such person for having withdrawn from a criminal street gang. Criminal street gang intimidation is a severity level 5, person felony.

K.S.A. 2005 Supp. 21-4716(c)(2) (Departure factors) is amended to provide that whether a crime involved two or more participants in the criminal conduct, and the defendant played a major role in the crime as the organizer, leader, recruiter, manager or supervisor, shall be an aggravating factor to be considered in determining whether substantial and compelling reasons for a departure exist. Subsection (e) is added to provide that upon motion of the prosecutor stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who is alleged to have committed an offense, the court may consider such mitigation in determining whether substantial and compelling reasons for a departure exist.

K.S.A. 65-4150(c) (Controlled substance definitions) is amended to remove the term "products" from the definition of "drug paraphernalia." See *State v. Frazier*, 30 Kan. App. 2d 398, 42 P.3d 188, review denied 474 Kan. 1115 (2002).

K.S.A. 2005 Supp. 65-7006(e) (Chemical control – precursors) is amended to change the severity level for a violation **from** a drug severity level 1 **to a drug severity level 2.**

June 1, 2006

K.S.A. 2005 Supp. 22-4902 (Offender registration) is amended to include, "*any person who, on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony*," within the list of offenders required to register under the Kansas offender registration act. Notation of such is now required on the Journal Entry form.

K.S.A. 2005 Supp. 22-4906 (Registration requirements) is amended to add subsection (d) which requires lifetime registration for any person convicted of:

- (1) Aggravated trafficking, as defined in K.S.A. 2005 Supp. 21-3447, and amendments thereto, if the victim is less than 14 years of age;
- (2) rape, as defined in subsection (a)(2) of K.S.A. 2005 Supp. 21-3502, and amendments thereto;
- (3) aggravated indecent liberties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto;
- (4) aggravated criminal sodomy, as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto;
- (5) promoting prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if the prostitute is less than 14 years of age; or
- (6) sexual exploitation of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments thereto.

Subsection (h) is amended to include in subparagraph (1) that a person who is adjudicated a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime as set forth in subsection (c) of K.S.A. 22-4902, *and such crime is an off-grid felony or a felony ranked in*

severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, shall be require to register until such person reaches 18, the expiration of 5 years from the date of adjudication, or, if confined, 5 years from date of release from confinement, whichever date is later.

Subparagraph (2) provides for judicial discretion when ordering registration of juvenile offenders. It provides that; (A) a person who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, and amendments thereto, may, by the court:

(i) Be required to register pursuant to the provisions of paragraph (1);

(ii) not be required to register if the judge, on the record, finds substantial and compelling reasons therefore or

(iii) be required to register with the sheriff pursuant to K.S.A. 22-4904, and amendments thereto, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires the juvenile to register but such registration is not open to the public, the juvenile shall provide a copy of such court order to the sheriff at the time of registration. The sheriff shall forward a copy of such court order to the Kansas bureau of investigation.

(B) If such juvenile offender violates a condition of release during the term of the conditional release, the judge may require the juvenile offender to register pursuant to paragraph (1).

July 1, 2006

K.S.A 2006 Supp. 21-3449 (Terrorism) is created and defined as the commission of, the attempt to commit or the conspiracy to commit any felony with the intent to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of any unit of government. Terrorism is an <u>off-grid person felony</u> with a penalty of life imprisonment.

K.S.A. 2006 Supp. 21-3450 (Illegal use of weapons of mass destruction) is created and designated an <u>off-grid person felony</u> with a penalty of life imprisonment. The illegal use of weapons of mass destruction is:

(1) intentionally, knowingly and without lawful authority, developing, producing, stockpiling, transferring, acquiring, retaining or possessing any:

(A) Biological agent, toxin or delivery system for use as a weapon;

(B) chemical weapon; or

(C) nuclear materials or nuclear byproduct materials for use as a weapon;

(2) knowingly assisting a foreign state or any organization to do any such activities as specified in paragraph (1); or

(3) attempting, threatening or conspiring to do any such activities as specified in paragraph (1) or (2).

K.S.A. 2006 Supp. 21-3451 (Furthering the crime terrorism or illegal use of weapons of mass destruction) is created and designated a <u>severity level 1, person felony</u>.

K.S.A. 21-3301, 21-3302, and 21-3303 (Anticipatory crimes) are amended exempting an attempt, conspiracy or solicitation of either terrorism or illegal use of weapons of mass destruction from eligibility for a reduced severity level. As a result, <u>an attempt, conspiracy or solicitation to commit either crime is also an off-grid person felony</u>.

K.S.A. 2005 Supp. 21-4706 (Sentencing) is amended to include terrorism and illegal use of weapons of mass destruction in the list of off-grid crimes, the sentence for which shall be life imprisonment, not subject to the provisions for suspended sentence, community service or probation.

K.S.A. 2006 Supp. 65-4167 (Trafficking in counterfeit drugs) is created and defined as intentionally manufacturing, distributing, dispensing, selling or delivering for consumption purposes, or holding or offering for sale, any counterfeit drug.

Trafficking in Counterfeit drugs with a retail value of:	**Severity Level**	**F / M**	**P / NP**
$25,000 or more.	7	F	NP
At least $500 but less than $25,000.	9	F	NP
Less than $500.	A	M	NP

K.S.A. 2006 Supp. 21-4019 makes it a severity level 6, nonperson felony for any person to knowingly and with the intent to defraud, possess or use a scanning device to access, read, obtain, memorize or store, temporarily or permanently, information encoded on the computer chip or magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card.

Subsection (b) makes it a severity level 6, nonperson felony for any person to knowingly and with the intent to defraud, possess or use a reencoder to place encoded information on the computer chip or magnetic strip or stripe of a payment card or any electronic medium that allows an authorized transaction to occur, without the permission of the authorized user of the payment card from which the information is being reencoded.

K.S.A. 2005 Supp. 21-4018(c) (Identity theft/fraud) is amended to provide that if the monetary loss to the victim or victims is more than $100,000, identity theft is a severity level 5, nonperson felony. If the loss is $100,000 or less, identity theft remains a severity level 8, nonperson felony.

K.S.A. 2005 Supp. 21-4310 (Cruelty to animals) is amended to provide that intentionally and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal is a nongrid, nonperson felony the penalty for which shall be not less than 30 days or more than one year's imprisonment and a fine of not less than $500 nor more than $5000. In addition, during the mandatory 30 days imprisonment, the offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program.

Subsection (d)(2) is amended to provide that a second or subsequent conviction for cruelty to animals as described in subsections (a)(2), (a)(3), (a)(4), and (a)(5) is a nongrid, nonperson felony the penalty for which shall be not less than five days or more than one year's imprisonment.

K.S.A. 21-4318(c) (Harming or killing certain dogs) is amended to provide that inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog or search and rescue dog is a nongrid, nonperson felony the penalty for which shall be not less than 30 days or more than one year's imprisonment and a fine of not less than $500 nor more than $5,000. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program.

K.S.A. 2005 Supp. 21-4704(i) (Sentencing guidelines) is amended to include the felony violations of K.S.A. 21-4310 and K.S.A.21-4318 within the list of nongrid felonies, the penalties for

which shall be provided by the specific mandatory sentencing requirements of the statute section violated. Any term of imprisonment imposed for these crimes shall not be served in the custody of the secretary of corrections.

K.S.A. 2005 Supp. 21-4714(b)(9) (Presentence investigation report) is amended to clarify that for defendants being sentenced for convictions of drug possession (K.S.A. 65-4160 or 65-4162) and meet the requirements of K.S.A. 2005 Supp. 21-4729, and amendments thereto, the drug *abuse* assessment, as provided in K.S.A. 2005 Supp. 21-4729, shall be included as part of the presentence investigation.

K.S.A. 2005 Supp. 21-4729(b) (Nonprison sanction, SB 123) is amended to provide that the drug abuse assessment, as required in the presentence investigation, shall include: (1) a clinical interview with a mental health professional and a recommendation concerning drug abuse treatment for the offender; and (2) a criminal risk-need assessment, unless otherwise specifically ordered by the court. The criminal risk-need assessment shall assign a high or low risk status to the offender.

Subsection (f)(1) is amended to provide that offenders sentenced to drug abuse treatment programs under this statute shall be discharged from such program if the offender: (A) is convicted of *a new felony*; or (B) has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding.

Subsection (h) is added to provide in subparagraph (1) that the following offenders who meet the requirement of subsection (a) (SB 123 treatment) shall not be subject to the provisions of this section (SB 123 treatment) and *shall be sentenced as otherwise provided by law*:

- (A) Offenders who are residents of another state and are returning to such state pursuant to the interstate corrections compact or the interstate compact for adult offender supervision; or
- (B) Offenders who are not lawfully present in the United States and being detained for deportation.

Such sentence shall not be considered a departure and shall not be subject to appeal.

K.S.A. 2005 Supp. 21-3413 (Battery against a LEO) is amended to expand its application to include uniformed university or campus police officers.

Battery Against a Law Enforcement Officer	**Severity Level**	**F / M**	**P / NP**
Intentionally causing physical contact, done in a rude, insulting or angry manner	A	M	P
Intentionally or recklessly causing bodily harm	7	F	P
Any battery against any state correctional officer/employee; juvenile correctional facility officer/employee; juvenile detention facility officer/employee; or city or county correctional officer/employee.	5	F	P

K.S.A. 2005 Supp. 21-3415 (Aggravated battery against a LEO) is amended to change the severity level for certain violations.

Aggravated Battery Against a Law Enforcement Officer * Severity level changed in 2006 Legislative Session.	**Severity Level**	**F / M**	**P / NP**
Intentionally causing great bodily harm or disfigurement	3	F	P
Intentionally causing bodily harm with a motor vehicle	3	F	P
Intentionally causing bodily harm with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted	* 4	F	P
Intentionally causing physical contact done in a rude, insulting or angry manner with a deadly weapon, or in any manner whereby great bodily	* 4	F	P

harm, disfigurement or death can be inflicted			

K.S.A. 2006 Supp. 21-3448 (Battery against mental health employee) is created and defined as, any battery, as defined in K.S.A. 21-3412, and amendments thereto, committed against a mental health employee by a person in the custody of the secretary of social and rehabilitation services, while such employee is engaged in the performance of such employee's duty. Battery against a mental health employee is a severity level 7, person felony.

K.S.A. 2005 Supp. 75-5291(a)(2)(E) (Community correctional services) is amended to provide that placement of offenders in community correctional services programs by the court shall be limited to placement of adult offenders including, *on and after July 1, 2008, for offenders who are expected to be subject to supervision in Kansas, [those] who are* determined to be ''high risk or needs, or both'' by the use of a statewide, mandatory, standardized risk assessment tool or instrument *which shall be specified by the Kansas sentencing commission*.

K.S.A. 2005 Supp. 21-4203(a) (Criminal disposal of a firearm) is amended to add subparagraph (6) which provides that, on and after January 1, 2007, selling, giving or otherwise *transferring any firearm to any person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto, and such person has not received a certificate of restoration pursuant to section 12, and amendments thereto* shall be criminal disposal of a firearm, a class A nonperson misdemeanor.

K.S.A. 2005 Supp. 21-4204(a) (Criminal possession of a firearm) is amended to add subparagraph (7) which provides that, on and after January 1, 2007, *possession of any firearm by a person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto* shall be criminal possession of a firearm. If such person has not received a certificate of restoration pursuant to section 12, and amendments thereto a violation of subsection (a)(7), is a severity level 8, nonperson felony.

K.S.A. 2006 Supp. 66-2303 (Criminal trespass on a nuclear generating facility) is created and designated a severity level 6, person felony. It is defined as either:

- Knowingly entering or remaining unlawfully in or on a nuclear generating facility; or
- Knowingly entering or remaining unlawfully within a structure or fenced yard of a nuclear generating facility.

K.S.A. 8-1602 (Vehicle accidents involving death or personal injury) is amended to provide stepped up penalties for failing to remain at the scene of an accident resulting in injury, great bodily harm or death.

Failure of driver involved in vehicle accident to remain at the scene of the accident when such accident results in:	**Severity Level**	**F / M**	**P / NP**
Injury to any person	A	M	P
Great bodily harm to any person	10	F	P
Death of any person	9	F	P

K.S.A. 2005 Supp. 8-1606 (Vehicle accidents – Duty to report) is amended to provide stepped up penalties for failing to report an accident resulting in injury, great bodily harm, death or property damage.

Failure of driver involved in vehicle accident to report the accident to authorities when such accident results in:	**Severity Level**	**F / M**	**P / NP**
Injury to any person or property damage in excess of $1,000	A	M	P
Great bodily harm to any person	10	F	P
Death of any person	9	F	P

* If a driver is physically incapable of report such accident and there is an occupant 18 or older capable of providing notice, such occupant assumes the duty to report the accident.

K.S.A. 9-512 (Banks & Banking; Penalties) is amended to change the penalty for a violation from an unclassified misdemeanor **to** a severity level 9, nonperson felony for any person who *knowingly* violates any provision of this act.

K.S.A. 2006 Supp. 21-3856 (Obstruction of a Medicaid fraud investigation) is created and defined as knowingly and intentionally engaging in one or more of the following during an investigation of any matter pursuant to K.S.A. 21-3844 *et. seq.*, and amendments thereto:

1. Falsifying, concealing or covering up a material fact by any trick, misstatement, scheme or device; or
2. making or causing to be made any materially false writing or document knowing that such writing or document contains any false, fictitious or fraudulent statement or entry.

Obstruction of a Medicaid fraud investigation is a severity level 9, nonperson felony.

K.S.A. 2005 Supp. 21-3847(a) (Unlawful acts related to Medicaid) is amended to add subparagraph (3) which provides that it is a severity level 7, nonperson felony for any *recipient of Medicaid benefits*, family member of such *recipient or provider of Medicaid services* to *knowingly divide or share any funds illegally obtained from the Medicaid program*.

Subsection (b) is added and provides that no Medicaid recipient shall knowingly and intentionally trade a Medicaid number for money or other remuneration, sign for services that are not received by the Medicaid recipient or sell or exchange for value goods purchased or provided under the Medicaid program. A violation of this subsection is a severity level 7, nonperson felony.

K.S.A. 21-3910 (Misuse of public funds) is amended to provide stepped up penalties for violations of the statute. Misuse of Public funds is *knowingly* using, lending or permitting another to use; public money in a manner not authorized by law, by a custodian or other person having control of public money by virtue of such person's official position.

Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is:	**Severity Level**	**F / M**	**P / NP**
$100,000 or more	6	F	NP
At least $25,000 but less than $100,000	7	F	NP
At least $1,000 but less than $25,000	9	F	NP
Less than $1,000	A	M	NP

K.S.A. 8-2,144 (Commercial motor vehicles; DUI) is amended to provide stepped up penalties for subsequent violations involving driving a commercial motor vehicle under the influence of alcohol.

Conviction for violation	Sentence	Severity Level	F / M	P / NP
First conviction	48 hours – 6 month's imprisonment, or 100 hours public service, and a fine of no less than $500 to $1,000	B	M	NP
Second conviction	90 days (five mandatory) to 1 year's imprisonment and a fine of no less than $1,000 to $1,500	A	M	NP
Third conviction	90 days (mandatory) – 1 year's imprisonment and a fine of no less than $1,500 to $2,500	*Unc/10	F	NP

* Unclassified felony sentenced according to provisions in this statute, counted as severity level 10, nonperson felony for criminal history purposes. K.S.A. 21-4707.

Senate Sub for House Bill 2576 (Jessica's Law)

K.S.A. 2006 Supp. 21-4642 (Aggravated habitual sex offender) is created and provides that an aggravated habitual sex offender shall be sentenced to imprisonment for life without the possibility of parole in the custody of the secretary of corrections.

Subsection (c)(1) defines an "aggravated habitual sex offender" as a person who, on and after July 1, 2006: (A) has been convicted in this state of a sexually violent crime; and (B) prior to the current conviction, has been convicted on at least two prior conviction events of any sexually violent crime.

Subsection (c)(2) defines "prior conviction event" as one or more felony convictions of a sexually violent crime, occurring on the same day and within a single count. These convictions may result from multiple counts within an information or from more than one information. If a person crosses a county line and commits a felony as part of the same criminal act or acts, such felony, if such person is convicted, shall be considered part of the prior conviction event.

Subsection (c)(3) defines "sexually violent crime" as used in this section to include:

A) Rape, K.S.A. 21-3502, and amendments thereto;
B) Indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;
C) Aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;
D) Criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;
E) Aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;
F) Indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;
G) Aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;
H) Sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;
I) Aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;
J) Aggravated incest, K.S.A. 21-3603, and amendments thereto;
K) Any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent crime as defined in this section;
L) An attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sexually violent crime as defined in this section; or
M) Any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, ''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.

K.S.A. 2006 Supp. 21-4643 (Jessica's Law) is created. Subsection (a)(1) provides that, except as in subsection (b) or (d), a defendant who is 18 years of age or older and convicted of the following crimes, committed on or after July 1, 2006, shall be sentenced to a term of life imprisonment with a mandatory minimum term of not less than 25 years (Hard 25), unless the court determines that the defendant should be sentenced as determined in paragraph (2):

A) Aggravated trafficking, as defined in K.S.A. 2005 Supp. 21-3447, and amendments thereto, if the victim is less than 14 years of age;
B) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;
C) aggravated indecent liberties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto;
D) aggravated criminal sodomy, as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto;
E) promoting prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if the prostitute is less than 14 years of age,
F) sexual exploitation of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments thereto; and
G) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in paragraphs (A) through (F).

Subparagraph (2) provides that the provision of paragraph (1) requiring the Hard 25 shall not apply if the court finds:

A) the defendant is an aggravated habitual sex offender and sentences the defendant to life imprisonment pursuant to section 1; or
B) the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment with a sentencing range exceeding 300 months, pursuant to the sentencing guidelines grid for nondrug crimes. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

Subsection (b) provides that, on and after July 1, 2006, if a defendant, 18 years or older, is convicted of one of the crimes listed above in subsection (a)(1) and the defendant has previously been convicted of a crime listed in subsection (a)(1) or a crime under a law of another jurisdiction which is substantially similar, the court shall sentence the defendant to a term of imprisonment to life with a mandatory minimum of not less than 40 years (Hard 40), unless the court finds:

A) the defendant is an aggravated habitual sex offender and sentences the defendant to life imprisonment pursuant to section 1; or
B) the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment with a sentencing range exceeding 480 months, pursuant to the sentencing guidelines grid for nondrug crimes. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

Subsection (c) provides that offenders sentenced under subsection (a) or (b), shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, a person sentenced pursuant to this section shall not be eligible for parole prior to serving the mandatory term of imprisonment, without the application of good time credits.

Subsection (d) provides that on or after July 1, 2006, for a first time conviction of an offense listed in paragraph (a)(1), the sentencing judge shall impose the mandatory minimum term of imprisonment provided by subsection (a), unless the judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose a departure. If the sentencing judge departs from such mandatory minimum term of imprisonment, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. The departure sentence <u>shall be</u> the sentence pursuant to the sentencing guidelines act, K. S. A. 21-4701 et seq., and amendments thereto, and no

sentence of a mandatory minimum term of imprisonment shall be imposed hereunder. As used in this subsection, mitigating circumstances shall include, but are not limited to, the following:

1. The defendant has no significant history of prior criminal activity.
2. The crime was committed while the defendant was under the influence of extreme mental or emotional disturbances.
3. The victim was an accomplice in the crime committed by another person, and the defendant's participation was relatively minor.
4. The defendant acted under extreme distress or under the substantial domination of another person.
5. The capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law was substantially impaired.
6. The age of the defendant at the time of the crime.

K.S.A. 2006 Supp. 21-4232 (Tampering with electronic monitoring equipment) is created and defined as intentionally removing, disabling, altering, tampering with, damaging or destroying any electronic monitoring equipment used pursuant to court order or as a condition of parole. Unlawfully tampering with electronic monitoring equipment is a severity level 6, nonperson felony.

K.S.A. 2006 Supp. 21-3523 (Electronic solicitation) is created and pertains to electronic solicitation of children. Electronic solicitation is, by means of communication conducted through the telephone, internet, or by other electronic means is:

- Enticing or soliciting a person whom the offender believes to be a child under the age of 16 to commit or submit to an unlawful sexual act, which is a severity level 3, person felony; or
- Enticing or soliciting a person whom the offender believes to be a child under the age of 14 to commit or submit to an unlawful sexual act, which is a severity level 1, person felony.

The following crimes are amended to provide that a violation is an off-grid person felony if the victim is under 14 years of age and the offender is 18 years of age or older:

- K.S.A. 2005 Supp. 21-3502(c) (Rape) as described in subsection (a)(2);
- K.S.A. 21-3506(c) (Aggravated criminal sodomy) as described in subsection (a)(1) or (a)(2);
- K.S.A. 2005 Supp. 21-3447(b) (Aggravated trafficking);
- K.S.A. 21-3504(c) (Aggravated indecent liberties with a child) as described in subsection (a)(3); and
- K.S.A. 21-3513 (b) (Promoting prostitution) as described in subparagraph (4).

K.S.A. 2005 Supp. 21-3516 (Sexual exploitation of a child) is amended to add two new criminal acts and subsequent penalties. Subsection (a)(5) is added to provide that sexual exploitation of a child includes *employing, using, persuading, inducing, enticing or coercing a child under 14 years of age to engage in sexually explicit conduct for the purpose of promoting any performance.* Subsection (a)(6) is also added to provide that sexual exploitation of a child includes *promoting any performance that includes sexually explicit conduct by a child under 14 years of age, knowing the character and content of the performance.*

Subsection (c) is amended to provide that a violation of subsection (a)(5) or (a)(6) is an off-grid person felony when the offender is 18 years of age or older. **Note:** The question remains as to what the penalty will be for a violation of either if these subsections by an offender under 18 years of age whose victim is under 14 years of age.

K.S.A. 21-3812 (Aiding a felon) is amended to provide that aiding a person required to register under the Kansas offender registration act is a severity level 5, person felony.

K.S.A. 2005 Supp. 21-4638 (sentencing, Hard 40 or 50) is amended to provide that *for crimes committed on or after July 1, 2006, a mandatory minimum term of imprisonment of 50 years shall not apply if the court finds that the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 600 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.*

K.S.A. 2005 Supp. 21-4704 (Sentencing guidelines) is amended to add subsection (m) which provides that the sentence for a violation of K.S.A 22-4903 or subsection (d) of K.S.A. 21-3812, and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism, such program is available and the offender can be admitted to such program within a reasonable period of time; or

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

Any decision made by the court regarding the imposition of an optional nonprison sentence pursuant to this section shall not be considered a departure and shall not be subject to appeal.

K.S.A. 2005 Supp. 21-4706 (Good time) is amended to add subsection (d) which provides that as identified in K.S.A. 21-3502, 21-3404, 21-3506, 21-3513 and 21-3516 and K.S.A. 2005 Supp. 21-3447, and amendments thereto, if the offender is 18 years of age or older and the victim is under 14 years of age, such violations are off-grid crimes for the purposes of sentencing. Except as provided in section 1, and amendments thereto, the sentence shall be imprisonment for life pursuant to section 2, and amendments thereto.

K.S.A. 2005 Supp. 22-3717(a) (Parole) is amended to exempt offenders sentenced as aggravated habitual sex offenders from eligibility for parole or good time.

Subsections (b) and (c) are amended to provide that inmates sentenced to a Hard 25, Hard 40 or mandatory guidelines sentence pursuant to section 2 shall be eligible for parole only after serving the mandatory term without the application of any good time credits.

Subsection (d) is amended to provide, in part, that offenders convicted of Indecent solicitation of a child and aggravated indecent solicitation of a child shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

Subparagraph (G) is added and provides that, except as provided in subsection (u), persons convicted of a sexually violent crime, committed on or after July 1, 2006, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life. As used in this section, "sexually violent crime" includes;

- Rape,
- Indecent liberties with a child,
- Aggravated indecent liberties with a child,
- Criminal sodomy,
- Aggravated criminal sodomy,
- Indecent solicitation of a child,

- Aggravated indecent solicitation of a child,
- Sexual exploitation of a child,
- Aggravated sexual battery,
- Aggravated incest, and
- an attempt, conspiracy or criminal solicitation of any of the above.

Subsection (u) is added to provide that an inmate sentenced to imprisonment pursuant to section 2, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the Kansas parole board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

Subsection (v) is also added and provides that whenever the Kansas parole board or the court orders a person to be electronically monitored, the board or court shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board or court shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

K.S.A. 2005 Supp. 22-4903 (Offender registration) is amended to increase the penalty for failing to register as required under the Kansas Offender Registration Act to a severity level 5, person felony. Each 31st consecutive day in violation shall constitute a new and separate offense.

March 29, 2007

House Bill 2074 amends K.S.A. 2006 Supp. 38-2313 (Fingerprints and photographs) to:

- Require fingerprinting and allow photographing, of juveniles when taken into custody, or upon first appearance or in any event before final sentencing, for crimes that would constitute a felony, class A or B misdemeanor, or assault if committed by an adult;
- Require fingerprinting and photographing of any juvenile admitted to a juvenile correctional facility;
- Allow fingerprinting and photographing of a juvenile if the juvenile has been prosecuted as an adult or taken into custody for certain offenses; and
- Allow photographing of any juvenile placed in a detention facility. Photos taken under this section are to be used solely by the detention facility for the purposes of identification, security and protection and shall not be disseminated to others.
- If the juvenile is admitted to a juvenile correctional facility or taken into custody for the offenses mentioned above, the juvenile's fingerprints shall, and the photographs may, be sent to the state and federal repositories.

**Effective March 29, 2007.*

April 19, 2007

Senate Bill 66 pertains to the Kansas expanded lottery act which expands gaming zones in Kansas. The bill creates:

Nine class A nonperson misdemeanors;

- Wager and loan violations - First offense
- Unauthorized playing of an electronic gaming machine at lottery gaming facility - First offense
- Unauthorized playing of an electronic gaming machine at racetrack gaming facility - First offense
- Unauthorized wagering or playing electronic gaming machine by select persons at racetrack gaming facility

- Unauthorized wagering or playing electronic gaming machine or lottery facility game by select persons at lottery gaming facility
- Willful violation of conflict of interest and employment regulations in this section
- Holding a paid position with any facility manager licensee, facility owner licensee or organization licensee or holding an interest in any racetrack facility while a member of the Legislature or within five years following the end of such term (KSA 2007 Supp. 74-8810(b)(1))
- Holding a paid position with any facility manager licensee, facility owner licensee or organization licensee or holding an interest in any racetrack facility if related to a member of the Legislature (KSA 2007 Supp. 74-8810(b)(2))
- Illegal purchase of a parimutuel ticket by person 18 or over but less than 21; 1st offense (KSA 2007 Supp. 74-8810(k)(1))

Five severity level 9, nonperson felonies; and

- Wager and loan violations - Second or subsequent offense
- Unauthorized playing of an electronic gaming machine at racetrack gaming facility - Second or subsequent offense
- Unauthorized playing of an electronic gaming machine at lottery gaming facility - Second or subsequent offense
- Knowingly cheating, including possession of or use of cheating device
- Placing in operation, or continuing to operate any gray machine for use by the public

Two severity level 8, nonperson felonies.

- Manipulation of an electronic gaming machine or lottery facility game with intent to change the outcome, pay out or operation thereof; and
- Illegal purchase of a parimutuel ticket by person 18 or over but less than 21 - second or subsequent offense (K.S.A. 2007 Supp. 74-8810(k)(1)).

The bill also amends K.S.A. 2006 Supp. 74-8810 (Parimutuel racing; prohibited acts) to increase the legal age for purchasing parimutuel tickets to 21 from 18 and, K.S.A. 74-8716 (Conflicts of interest) to expand the list of conflicts of interest and thus increase the number of potential class A misdemeanor violations.

**Effective April 19, 2007.*

May 17, 2007

House Bill 2062 amends several statutes including those pertaining to; explosives, aggravated battery of a Law Enforcement Officer, battery to a mental health employee, special sentencing provisions, select drug violations, controlled substances and "Alexa's Law", allowing prosecution for crimes against unborn children. The amendments are as follows:

- K.S.A. 21-3731 (Criminal use of explosives) is amended to expand the definition of explosive to explicitly include materials that, when combined, cause a chemical reaction and explode. Violation of this section is a severity level 6, person felony. However, it is a severity level 5, person felony if:
  - the violation is done with the intent to use the explosive for a crime;
  - a public safety officer is placed at risk to defuse the explosive; or
  - the explosive is placed in a building in which there is another person.

  The possession, creation or construction of a simulated explosive is a severity level 8, person felony.
- K.S.A. 21-4704(g) (Sentencing guidelines) is amended to change the special rule pertaining to aggravated assault or battery against a Law Enforcement Officer (L.E.O.). The sentence for aggravated battery against a L.E.O., *committed prior to July 1, 2006*, or aggravated assault

against a L.E.O. which places the defendant in grid block 6-H or 6-I shall be presumptive prison. This amendment is in response to the change to the severity level for aggravated battery of a L.E.O. made in the 2006 Legislative session.

- K.S.A. 21-4704(l) (Sentencing guidelines) is further amended to provide that *the sentence for a burglary (K.S.A. 21-3715) when the person being sentenced has two or more prior convictions for burglary or, a prior conviction for burglary and aggravated burglary (K.S.A. 21-3716), shall be presumed imprisonment.* This special rule will increase the potential for an offender to receive a presumptive prison sentence upon conviction for burglary.
- K.S.A. 21-3448 (Battery against a mental health employee) is amended to expand its application to include employees at Osawatomie State Hospital, Rainbow Mental Health Facility, Kansas Neurological Institute and Parsons State Hospital and Training Center.
- Alexa's Law is enacted and pertains to crimes against unborn children, defined as "a living individual organism of the homo sapiens species, in utero, at any stage of gestation from fertilization to birth." Crimes to which this statute would apply include:
  - Battery, Aggravated Battery, 1st Degree Murder, 2nd Degree Murder, Voluntary Manslaughter, Involuntary Manslaughter, Vehicular Homicide, Capital Murder, and Involuntary Manslaughter DUI.
  - It does not apply to:
    - An act committed by the mother of the unborn child
    - Any medical procedure, including abortion; and
    - The lawful dispensation or administration of lawfully prescribed medication.
- K.S.A. 65-4153 (Simulated controlled substances and drug paraphernalia) is amended to increase the penalty for violating provisions of the statute within 1000 feet of a school. The penalties are provided in the following table.

K.S.A. 65-4153: No person shall sell, offer for sale, have in such person's possession with intent to sell, deliver, possess with intent to deliver, manufacture with intent to deliver or cause to be delivered within this state:	**Current Law - General Severity Levels**	**New Provisions - Severity Levels, if violation is within 1000 foot of a school**
(a)(1) Any simulated controlled substance	• Nondrug severity level 9, nonperson felony.	• Nondrug severity level **7**, nonperson felony
(a)(2) any drug paraphernalia to be used for consumption of controlled substance in violation of 65-4162	• Class A nonperson misdemeanor; • Nondrug severity level 9, nonperson felony if delivered to one under 18 years of age	• Nondrug severity level **9**, nonperson felony regardless of the age of the person delivered to
(a)(3) any drug paraphernalia to be used for consumption of controlled substance in violation of other than 65-4162	• Nondrug severity level 9, nonperson felony; • Drug severity level 4, felony if delivered to one under 18 years of age	• Drug severity level **4**, felony regardless of the age of the person delivered to
(a)(4) any drug paraphernalia to be used for propagation, manufacture, or distribution of controlled substance	• Drug severity level 4, felony	• Drug severity level **3**, felony

- K.S.A. 65-1643 (Regulation of pharmacists) is amended to clarify identification requirements

concerning the purchase or sale of ephedrine or pseudoephedrine and access to the product.

- K.S.A. 65-4113 (Substances included in schedule V) is amended to make all forms of ephedrine, pseudoephedrine and phenylpropanolamine controlled substances.
- K.S.A. 65-7006 (Drug paraphernalia) is amended to create a class A, nonperson misdemeanor for the purchase or receipt of a compound or mixture containing amounts of pseudoephedrine or ephedrine in excess of;
  - 3.6 grams in a single transaction or,
  - 9 grams within any 30-day period.

**Effective May 17, 2007.*

May 24, 2007

Senate Bill 166 amends several statutes to change penalties, create new special rules, expand application of special rules in existence and repeal some seldom used and outdated statutes. The amendments in pertinent part are as follows:

- K.S.A. 17-1311a (Cemetery Corporations) is amended to change the penalty for misuse of the permanent maintenance fund **from** a class D felony **to** a severity level 7, nonperson felony.
- K.S.A. 2006 Supp. 21-3516 (Sexual exploitation of a child) is amended to clarify that sexual exploitation of a child is a severity level 5, person felony unless the child is less than 14 and the offender is 18 or older, then it is an off-grid felony.
- K.S.A. 2006 Supp. 21-3610c (Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage) is amended to strike reference to the age 18 and insert the word "minor" which serves to broaden the potential application of the statute.
- K.S.A. 2006 Supp. 21-4603d(f) (Authorized dispositions) is amended to create a new special rule which provides that when a new felony is committed *while the offender is incarcerated in a juvenile correctional facility for an offense which if committed by an adult would constitute the commission of a felony*, the sentence shall be presumptive prison. The following statutes are then amended to coincide with this special rule:
  - K.S.A. 2006 Supp. 38-2304 (Juvenile jurisdiction) is amended to provide that the district court will lose jurisdiction over a juvenile under the juvenile justice code if the juvenile offender is convicted of a new felony while incarcerated in a juvenile correctional facility for an offense which if committed by an adult would constitute a felony.
  - K.S.A. 2006 Supp. 38-2376 (Discharge from commitment) is amended to provide that a juvenile offender will no longer be under JJA custody if convicted as an adult while serving a term of incarceration at a juvenile facility.
- K.S.A. 2006 Supp. 21-4603d(f) (Authorized dispositions) is further amended to expand application of the special rule pertaining to crimes committed while on felony bond under Kansas statutes to include instances where an offender is on bond *under similar provisions of the laws of another jurisdiction*. In such cases, the new sentence is to run consecutive to the first and the court may impose a prison sentence regardless of the presumption in the current case.
- K.S.A. 2006 Supp. 21-4643 (Child sex offenses) is amended to expand the list of offenses that qualify a second-time sex offender for a hard 40 sentence to include crimes in effect prior to the effective date of the Act or crimes under the laws of another state which are substantially the same as:
  - Aggravated trafficking where the victim is < 14
  - Rape of a child < 14
  - Aggravated indecent liberties of a child < 14
  - Aggravated criminal sodomy of a child < 14

- Promoting prostitution where the prostitute is < 14
- Sexual exploitation of a child < 14
- Any attempt, conspiracy or solicitation of these.

Hard 40 does not apply to unlawful voluntary sexual relations under K.S.A. 21-3522 or any substantially similar crimes from another jurisdiction.

- K.S.A. 47-604 (Domestic animals – quarantine) is amended to change the penalty for a violation of a quarantine affecting domestic animals **from** a class D felony **to** a severity level 7, nonperson felony.
- K.S.A. 65-28,107 (Healing arts – unlawful acts) is amended to change the penalty for falsifying or forging the declaration of another **from** a class E felony **to** severity level 7, person felony.
- K.S.A. 66-276 (Duties and liabilities of railroad companies), which provided the unclassified misdemeanor penalty for a violation of 66-275 which was repealed in 1998, is repealed.
- K.S.A. 75-7b19 (Private Investigative or Security Operations), which provided the class E felony penalty for falsifying fingerprints or photos regarding private investigative or security operations, is repealed.

** Effective May 24, 2007.*

House Bill 2128 pertains to elections and amends K.S.A. 25-3005a (Authorized poll agent) to set out certain requirements for a person appointed to be an authorized poll agent and provide that a violation of this section shall be a class C nonperson misdemeanor. The bill also amends K.S.A. 25-2407 (Corrupt political advertising) to expand its application to include published political advertising items such as brochures, flyers or fact sheets. Information in these items must indicate who paid for or sponsored such information. Finally, the bill creates the crime of advance voting suppression, a severity level 9, nonperson felony. Advance voting suppression is knowingly, with intent to impede, obstruct or exert undue influence on the election process:

- Destroying or altering another's advance voting ballot without written consent;
- Obstructing delivery of an advance voting ballot
- Failing to deliver an advance voting ballot to the appropriate officer within the required time;
- Exercising undue influence upon an advance voter; or
- Opening an advance voting ballot envelope sealed by the voter or examining or disclosing the contents of such voter's advance voting ballot unless fulfilling official duties.

**Effective May 24, 2007.*

July 1, 2007

House Substitute for Senate Bill 14 creates a grant program to be administered by the Secretary of Corrections. The goal of such program is to reduce each community corrections program's revocation rates by at least 20% from such program's fiscal year 2006 rate. In addition, the bill:

- Amends K.S.A. 2006 Supp. 21-4706 (Sentencing; good time) to increase good time credit to 20% for crimes of nondrug severity level 7-10 or drug severity level 3 or 4, committed on or after January 1, 2008;
- Amends K.S.A. 2006 Supp. 21-4722 (Good time credit; calculation) to coincide with the change to 20% good time and to create a program credit of up to 60 days for offenders serving a sentence for a nondrug severity level 4-10 offense or a drug severity level 3 or 4 offense who successfully complete a GED, technical or vocational program, substance abuse program or other risk reduction program designated by the Secretary;
- Creates the Kansas Criminal Code Recodification Commission and sets guidelines for its composition, compensation, and duties (Sunsets July 1, 2010); and

- Amends K.S.A. 75-5268 to authorize the Secretary of Corrections to disburse reasonable amounts of money earned by an inmate for payment of costs assessed in the inmate's criminal case and prioritizes payments of those costs as follows; restitution, costs, fines and fees.

**Effective July 1, 2007, but the Recodification Commission provision was effective May 24, 2007.*

House Substitute for Senate Bill 35 includes provisions pertaining to driving while suspended and driving under the influence of alcohol or drugs. K.S.A. 2006 Supp. 8-262 (Penalty; Driving with canceled, suspended or revoked license) is amended in subsection (c) to provide that on a third or subsequent violation of this section, the person shall be sentenced to not less than 90 days and fined not less than $1,500 *if the offender's privilege to drive was canceled, suspended or revoked because the offender:*

- *Refused to submit and complete any blood, breath or urine test requested by law enforcement (excluding the preliminary screening test);*
- *Was convicted of driving without vehicle insurance in violation of K.S.A. 40-3104 (vehicle liability insurance);*
- *Was convicted of vehicular homicide, K.S.A. 21-3405, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or*
- *Was convicted of being a habitual violator, K.S.A. 8-287.*

The bill amends K.S.A. 2006 Supp. 8-1014 (Suspension and restriction of driving privilege) to provide longer terms of restriction to a vehicle fitted with an ignition interlock device for persons who have failed a test with .15 BAC or greater as follows:

Penalty for failing DUI test	**First**	**Second**	**Third**	**Fourth**	**Fifth**
BAC at least .08 but less than .15	DL suspended 30 days, then restricted for 330 days as provided by K.S.A. 8-1015	DL suspended 1 yr, then restricted for 1 yr to vehicle with ignition interlock device	DL suspended 1 yr, then restricted for 1 yr to vehicle with ignition interlock device	DL suspended 1 yr, then restricted for 1 yr to vehicle with ignition interlock device	DL Permanently revoked
BAC .15 or more	*DL suspended 1 yr, then restricted for 1 yr to vehicle with ignition interlock device*	*DL suspended 1 yr, then restricted for 2 yrs. to vehicle with ignition interlock device*	*DL suspended 1 yr, then restricted for 3 yrs. to vehicle with ignition interlock device*	*DL suspended 1 yr, then restricted for 4 yrs. to vehicle with ignition interlock device*	*DL Permanently revoked*
If offender is less than 21 yoa, and BAC at least .08 but less than .15	DL suspended 1 yr	DL suspended 1 yr, then restricted for 1 yr to vehicle with ignition interlock device	DL suspended 1 yr, then restricted for 1 yr to vehicle with ignition interlock device	DL suspended 1 yr, then restricted for 1 yr to vehicle with ignition interlock device	DL Permanently revoked
If offender is less than 21 yoa, and BAC .15 or more	*DL suspended 1 yr, then restricted for 1 yr to vehicle with ignition interlock device*	*DL suspended 1 yr, then restricted for 2 yrs. to vehicle with ignition interlock device*	*DL suspended 1 yr, then restricted for 3 yrs. to vehicle with ignition interlock device*	*DL suspended 1 yr, then restricted for 4 yrs. to vehicle with ignition interlock device*	*DL Permanently revoked*

The bill also amends K.S.A. 2006 Supp. 8-1567 (DUI) to provide that the court may order that the term of imprisonment imposed for a third, fourth or subsequent DUI violation may be served in a state facility in the custody of the secretary of corrections in a facility designated for the provision of substance abuse treatment pursuant to K.S.A. 21-4704. The person shall remain imprisoned in the state facility only while participating in the substance abuse treatment program and shall be released to the custody of the sheriff for execution of the balance of the term of imprisonment upon completion of or discharge from the substance abuse treatment program. Several potential reasons for discharge are included in the amendment along with the requirement that entrance into and completion of a substance abuse treatment program **shall** be required as a condition of parole.

Other amendments to K.S.A. 2006 Supp. 8-1567 include:

- Amendment to subsection (h) which provides that any person convicted of a DUI violation who had *one or more children* under the age of 14 in the vehicle at the time of the offense shall have such person's punishment enhanced by one month's imprisonment which must be served consecutive to any other *minimum mandatory* penalty imposed under this statute. *Any enhanced penalty shall not exceed the maximum sentence allowable by law*;
- A new subsection is added to the statute and provides that for a second or subsequent DUI conviction, in addition to any other penalty, the court shall order that each motor vehicle owned or leased by the person shall either be equipped with an ignition interlock device or be impounded or immobilized for a period of two years or until the lease expires if such lease is to expire in less than two years; and
- Subsection (v) is added to require that for every DUI conviction, the court shall order a pre-sentence alcohol and drug abuse evaluation pursuant to K.S.A. 8-2008 and such report shall be made available to the court for consideration at sentencing.

**Effective July 1, 2007.*

House Substitute for Senate Bill 103 pertains to palm prints, DNA samples & appearance bonds and amends:

- K.S.A. 21-2501 (Fingerprinting of suspects) to include the requirement to take a set of palm print impressions whenever fingerprints are taken;
- K.S.A. 2006 Supp. 75-724 (DNA database fee) to require juveniles, upon adjudication, to pay the court cost of $100 as a KBI DNA database fee; and
- K.S.A. 2006 Supp. 21-2511 (Collection of specimens) to:
  - Require that, beginning July 1, 2008, any adult or juvenile charged with commission or attempted commission of certain felonies shall submit a DNA specimen whenever fingerprints are required.
  - Require any person required to register as an offender to submit a DNA specimen whenever fingerprints are required.

**Effective July 1, 2007.*

Senate Bill 201 pertains to restrictions on persons maintaining or residing, working or volunteering at child care facilities or family day care homes. The bill amends K.S.A. 2006 Supp. 65-516 to add subsection (i) which provides rules pertaining to criminal history records of persons living, working or volunteering under the child placement agency's sponsorship. Any staff of a child placement agency who receives information under this section shall keep such confidential with limited exceptions. Violation of this section is an <u>unclassified misdemeanor</u> having a penalty of a fine of $100 per violation.

**Effective July 1, 2007.*

Senate Bill 204 amends several statutes pertaining to the Kansas Offender Registration Act

(KORA) as follows:

- K.S.A. 2006 Supp. 22-4902 (Offender definitions) is amended to expand the list of offenders required to register to include a person convicted of aggravated trafficking or any attempt, conspiracy, or solicitation to commit aggravated trafficking.
- K.S.A. 2006 Supp. 22-4902 (Offender definitions) is further amended to require registration of offenders who are convicted of:
  - Unlawful manufacture or attempt to manufacture any controlled substance in violation of K.S.A. 65-4159;
  - Possession of precursors with intent to manufacture any controlled substance in violation of K.S.A. 65-7006; or
  - K.S.A. 65-4161 (Unlawful acts relating to sale or distribution of opiates, opium, narcotic drugs or designated stimulants.)
  - <u>However, registration is not required if the court makes a finding that the manufacture or attempted manufacture in violation of K.S.A. 65-4159 was for personal use or that the possession of the precursor in violation of K.S.A. 65-7006 was intended to be used to manufacture for personal use.</u>
- K.S.A. 2006 Supp. 22-4903 (Penalties) is amended to clarify that jurisdiction for prosecution of failure to register lies: in the county where the offender resides; is temporarily domiciled if required to be registered in that county; or, in the county where the offender is required to be registered.
- K.S.A. 2006 Supp. 22-4904 (Registration of offender) is amended to:
  - Require written notification of a change of address to be given to the KBI as well as the law enforcement agency where the offender last registered;
  - Eliminate the requirement that the KBI send verification letters to the offender every 90 days;
  - Require the offender to update and verify information and update photographs at the sheriff's office 3 times/year, once during month of the person's birth and every four months thereafter (Updated info and photo shall be sent to the KBI); and
  - Require that the money collected from the offender reporting requirement be used solely by the sheriff's office for law enforcement and criminal prosecution purposes.
- K.S.A. 2006 Supp. 22-4906 (Time period in which required to register) is amended to:
  - Insert a retroactive provision in subsection (i) which requires an offender, who is moving to Kansas and has been convicted in another state of an offense requiring registration, to register in Kansas for the time required in the other state or Kansas, whichever is longer. This requirement now applies to convictions prior to June 1, 2006 and to persons who moved to Kansas prior to June 1, 2006; and
  - Insert a retroactive provision in subsection (h) pertaining to the discretion of the court to not require juveniles to register. The discretionary provision now applies to adjudications on or after July 1, 2007 and retroactively to adjudications prior to July 1, 2007.
- K.S.A. 2006 Supp. 22-4907 (Information required in registration) is amended to:
  - Require the offender to provide the registration number of each license plate assigned to a motor vehicle normally operated by the offender; and
  - Require the offender to provide any email addresses and online identities.

* *Effective July 1, 2007.*

Senate Bill 271 pertains to insurance and relates to certain forms and rate filings, examination reports of insurance companies, insurance fraud, long-term care insurance, and prompt payment of claims. In pertinent part, the bill amends K.S.A. 2006 Supp. 40-2,118(e) (fraudulent

insurance acts) to provide that any combination of fraudulent acts as defined in subsection (a) which occur within a period of six consecutive months which involves $25,000 or more shall have a presumptive sentence of imprisonment regardless of its location on the sentencing grid block.

**Effective July 1, 2007.*

Senate Bill 324 pertains to mistreatment of dependent adults and unlawful sexual relations and amends the following:

- K.S.A. 2006 Supp. 21-3437 (Mistreatment of dependent adults) is amended to provide that taking advantage of a dependent adult's physical or financial resources for personal or financial advantage by means of undue influence, coercion, harassment, duress, deception, false representation or false pretense is:
  - *A severity level 6, person felony if the aggregate amount is $100,000 or more*, and
  - A severity level 7, person felony if the aggregate amount is *at least $25,000 but less than $100,000*.
- K.S.A. 2006 Supp. 21-3520 (Unlawful sexual relations) is amended to broaden its application to include *volunteers* of the department of corrections or *volunteers* of contractors of services within a correctional institution, to the list of persons who could potentially engage in illegal acts under this statute. In addition, the statute is amended to clarify that the definition of teacher would include those listed professional school employees of any grades kindergarten through 12. The reference to the age of the student as being 16 or 17 years of age is stricken so that the statute applies if the violation is not otherwise subject to one of the child sex offenses and the student is enrolled at the school where the offender is employed.

** Effective July 1, 2007.*

House Substitute for Senate Bill 354 pertains to alcohol and drug addiction treatment and the regulation of such treatment facilities. In pertinent part, the bill amends K.S.A. 65-4012 (Licensure of treatment facilities) to make a violation of the licensing requirements for public or private treatment programs a class C misdemeanor.

**Effective July 1, 2007.*

House Bill 2010 enacts the Revised Uniform Anatomical Gift Act (RUAGA) to replace the Kansas Uniform Anatomical Gift Act of 1968, enacted in 1969. The bill covers rules and regulations pertaining to the making of anatomical gifts and creates two new crimes:

- Knowingly purchasing or selling an anatomical part for transplantation or therapy, if removal of a part is intended to occur after the individual's death is a severity level 5, nonperson felony; and
- Intentionally falsifying, forging, concealing, defacing or obliterating a document of gift, an amendment or revocation of such, or a refusal, for financial gain is a severity level 10, nonperson felony.

**Effective July 1, 2007.*

Senate Substitute for House Bill 2035 pertains to scrap metal dealers operating from a fixed location and dealing in "regulated scrap metal." The bill creates certain requirements for the sale of scrap metal by persons who are not dealers or who are not known to be an established business. The bill also creates requirements for maintenance of records and establishes legal conditions for dealers to purchase regulated scrap metal. An intentional violation of these provisions a class C misdemeanor upon a first or second offense. A third and subsequent violation within a two-year period is a class A misdemeanor.

**Effective July 1, 2007.*

House Bill 2081 pertains to campaign finance and elections. In pertinent part, it creates a penalty for certain advertising violations and increases the severity level for certain types of fraud. The bill amends:

- K.S.A. 25-4156 (Corrupt political advertising) to provide that any paid campaign advertisement made by telephonic means which expressly advocates the nomination, election or defeat of a clearly identified candidate for state or local office and which is not followed by a statement indicating who paid for or sponsored the ad is a <u>class C misdemeanor</u>.
- K.S.A. 25-4414 (Electronic or electromechanical voting system fraud) to increase the penalty for a violation **from** a severity level 10, nonperson felony **to** a <u>severity level 9, nonperson felony</u>.
- K.S.A. 25-4612 (Optical scanning equipment fraud) to increase the penalty for a violation **from** a severity level 10, nonperson felony **to** a <u>severity level 9, nonperson felony</u>.

**Effective July 1, 2007.*

Senate Substitute for House Bill 2171 amends K.S.A. 2006 Supp. 79-3606 (Tax exempt sales) to add subsections (xxx) and (yyy) which provide a sales tax exemptions for the Booth Theatre Foundation and TLC charities, and make it an <u>unclassified misdemeanor</u> for any contractor or any agent, employee or subcontractor thereof, to use or dispose of materials purchased under the tax exempt certificate of either entity, for any purpose other than that for which the certificate was issued without payment of the sales tax imposed on such materials.

**Effective July 1, 2007.*

House Bill 2190 concerns the discretion of the Secretary of Corrections, or his designee. The bill amends K.S.A. 2006 Supp. 75-5217 (Violations of conditions of release) to provide that the Secretary of Corrections, or his designee, has the authority to dismiss charges that a released inmate has violated the conditions of release and order the released inmate to remain on parole, conditional release or post-release supervision.

**Effective July 1, 2007.*

House Bill 2230 pertains to program agreements between the Secretary of Corrections and inmates. It amends K.S.A. 75-5210a (DOC programs) to require that inmates serving indeterminate sentences or off-grid sentences shall enter into a written agreement with the Secretary pertaining to the type of educational, vocational, mental health or other programs that the inmate must complete in order to be prepared for release on parole. Failure to complete the program(s) may impact the inmate's post-release date.

**Effective July 1, 2007.*