

SENATE BILL No. 172

AN ACT concerning crimes, punishment and criminal procedure; creating the crimes of trespassing on a critical infrastructure facility and criminal damage to a critical infrastructure facility; eliminating the crime of tampering with a pipeline; requiring payment of restitution; amending K.S.A. 2020 Supp. 21-5818, 21-6328 and 21-6604 and repealing the existing sections.

WHEREAS, The provisions of this act protect the right to peacefully protest for all Kansans and citizens of the four sovereign nations within the state's borders while also protecting the critical infrastructure located within the state.

Now, therefore:

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

Section 1. K.S.A. 2020 Supp. 21-5818 is hereby amended to read as follows: 21-5818. (a) ~~Tampering with a pipeline is the knowing and unauthorized alteration of or interference with any part of a pipeline~~ *Trespassing on a critical infrastructure facility is, without consent of the owner or the owner's agent, knowingly entering or remaining in:*

(1) *A critical infrastructure facility; or*

(2) *any property containing a critical infrastructure facility, if such property is completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders or is clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization.*

(b) ~~Tampering with a pipeline is a severity level 6, nonperson felony~~ *Aggravated trespassing on a critical infrastructure facility is:*

(1) *Knowingly entering or remaining in:*

(A) *A critical infrastructure facility; or*

(B) *any property containing a critical infrastructure facility, if such property is completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders or is clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization; and*

(2) *with the intent to damage, destroy or tamper with a critical infrastructure facility or impede or inhibit operations of the facility.*

(c) *Criminal damage to a critical infrastructure facility is knowingly damaging, destroying or tampering with a critical infrastructure facility.*

(d) *Aggravated criminal damage to a critical infrastructure facility is knowingly damaging, destroying or tampering with a critical infrastructure facility with the intent to impede or inhibit operations of the facility.*

(e) (1) *Trespassing on a critical infrastructure facility is a class A nonperson misdemeanor.*

(2) *Aggravated trespassing on a critical infrastructure facility is a severity level 7, nonperson felony.*

(3) *Criminal damage to a critical infrastructure facility is a severity level 6, nonperson felony.*

(4) *Aggravated criminal damage to a critical infrastructure facility is a severity level 5, nonperson felony.*

(f) *Nothing in this section shall be construed to prevent:*

(1) *An owner or operator of a critical infrastructure facility that has been damaged from pursuing any other remedy in law or equity; or*

(2) *a person who violates the provisions of this section from being prosecuted for, convicted of and punished for any other offense in article 58 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 66-2303, and amendments thereto.*

(~~e~~)(g) *As used in this section:*

(1) ~~"Alteration of or interference with any part of a pipeline"~~

~~includes, but is not limited to, any adjustment, opening, removal, change or destruction of any part of any pipeline; and~~

~~(2) "pipeline" means any pipeline, and any related facility, building, structure or equipment, used in gathering, transmission or transportation of natural gas, crude oil, petroleum products or anhydrous ammonia. "Pipeline" does not include distribution lines that convey natural gas from a gas main to the ultimate consumer, "critical infrastructure facility" means any:~~

~~(1) Petroleum or alumina refinery;~~

~~(2) electric generation facility, substation, switching station, electrical control center, electric distribution or transmission lines, or associated equipment infrastructure;~~

~~(3) chemical, polymer or rubber manufacturing facility;~~

~~(4) water supply diversion, production, treatment, storage or distribution facility and appurtenances, including, but not limited to, underground pipelines and a wastewater treatment plant or pump station;~~

~~(5) natural gas compressor station;~~

~~(6) liquid natural gas or propane terminal or storage facility;~~

~~(7) facility that is used for wireline, broadband or wireless telecommunications or video services infrastructure, including backup power supplies and cable television headend;~~

~~(8) port, railroad switching yard, railroad tracks, trucking terminal or other freight transportation facility;~~

~~(9) gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas, propane or natural gas liquids;~~

~~(10) transmission facility used by a federally licensed radio or television station;~~

~~(11) steelmaking facility that uses an electric arc furnace to make steel;~~

~~(12) facility identified and regulated by the United States department of homeland security chemical facility anti-terrorism standards program, a facility operated by the office of laboratory services under the supervision of the secretary of health and environment pursuant to K.S.A. 75-5608, and amendments thereto, the national bio and agro-defense facility or the biosecurity research institute at Kansas state university;~~

~~(13) dam that is regulated by the state as a hazard class B or C dam or by the federal government;~~

~~(14) natural gas distribution utility facility or natural gas transmission facility, including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, belowground or aboveground piping, a regular station or a natural gas storage facility;~~

~~(15) crude oil, including y-grade or natural gas liquids, or refined products storage and distribution facility, including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, belowground or aboveground pipeline or piping and truck loading or offloading facility; or~~

~~(16) portion of any belowground or aboveground oil, gas, hazardous liquid or chemical pipeline, tank, railroad facility or any other storage facility that is enclosed by a fence or other physical barrier or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders.~~

Sec. 2. K.S.A. 2020 Supp. 21-6328 is hereby amended to read as follows: 21-6328. As used in the Kansas racketeer influenced and corrupt organization act:

(a) (1) "Beneficial interest" means:

(1)(A) The interest of a person as a beneficiary under any trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or

(2)(B) the interest of a person under any other form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of such person.

(2) The term "beneficial interest" does not include the interest of a stock holder in a corporation or the interest of a partner in either a general partnership or a limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located.

(b) "Covered person" means any person who:

(1) Is a criminal street gang member or criminal street gang associate, as defined in K.S.A. 2020 Supp. 21-6313, and amendments thereto;

(2) has engaged in or is engaging in any conduct prohibited by K.S.A. 2020 Supp. 21-5426, and amendments thereto, human trafficking or aggravated human trafficking, or K.S.A. 2020 Supp. 21-6422, and amendments thereto, commercial sexual exploitation of a child; or

(3) has engaged in or is engaging in any conduct prohibited by K.S.A. 2020 Supp. 21-5703, and amendments thereto, unlawful manufacturing of controlled substances, or K.S.A. 2020 Supp. 21-5705, and amendments thereto, unlawful cultivation or distribution of controlled substances.

(c) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(d) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental, as well as other, entities. A criminal street gang, as defined in K.S.A. 2020 Supp. 21-6313, and amendments thereto, constitutes an enterprise.

(e) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this act and that the last of such incidents occurred within ~~5~~ five years, excluding any period of imprisonment, after a prior incident of racketeering activity.

(f) "Racketeering activity" means to commit, attempt to commit, conspire to commit or to solicit, coerce or intimidate another person to commit:

(1) Any felony or misdemeanor violation of: The felony provisions of K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas money transmitter act; article 12a of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, Kansas uniform securities act; K.S.A. 2020 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 2020 Supp. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 2020 Supp. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 2020 Supp. 21-5408, and amendments thereto, kidnapping or aggravated kidnapping; K.S.A. 2020 Supp. 21-5412, and amendments

thereto; K.S.A. 2020 Supp. 21-5413, and amendments thereto; K.S.A. 2020 Supp. 21-5414, and amendments thereto, domestic battery; K.S.A. 2020 Supp. 21-5415, and amendments thereto, criminal threat or aggravated criminal threat; K.S.A. 2020 Supp. 21-5420, and amendments thereto, robbery or aggravated robbery; K.S.A. 2020 Supp. 21-5421, and amendments thereto, terrorism; K.S.A. 2020 Supp. 21-5422, and amendments thereto, illegal use of weapons of mass destruction; K.S.A. 2020 Supp. 21-5423, and amendments thereto; K.S.A. 2020 Supp. 21-5426, and amendments thereto, human trafficking or aggravated human trafficking; K.S.A. 2020 Supp. 21-5428, and amendments thereto, blackmail; K.S.A. 2020 Supp. 21-5510, and amendments thereto, sexual exploitation of a child; K.S.A. 2020 Supp. 21-5601, and amendments thereto, endangering a child or aggravated endangering a child; K.S.A. 2020 Supp. 21-5602, and amendments thereto, abuse of a child; K.S.A. 2020 Supp. 21-5603, and amendments thereto, contributing to a child's misconduct or deprivation; K.S.A. 2020 Supp. 21-5607(b), and amendments thereto, furnishing alcoholic beverages to a minor for illicit purposes; article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, crimes involving controlled substances; K.S.A. 2020 Supp. 21-5801, and amendments thereto, theft; K.S.A. 2020 Supp. 21-5803, and amendments thereto, criminal deprivation of property; K.S.A. 2020 Supp. 21-5805, and amendments thereto; K.S.A. 2020 Supp. 21-5807, and amendments thereto, burglary or aggravated burglary; K.S.A. 2020 Supp. 21-5812, and amendments thereto, arson or aggravated arson; K.S.A. 2020 Supp. 21-5813, and amendments thereto, criminal damage to property; K.S.A. 2020 Supp. 21-5814, and amendments thereto, criminal use of an explosive; ~~K.S.A. 2020 Supp. 21-5818, and amendments thereto, tampering with a pipeline;~~ K.S.A. 2020 Supp. 21-5821, and amendments thereto, giving a worthless check; K.S.A. 2020 Supp. 21-5823, and amendments thereto, forgery; K.S.A. 2020 Supp. 21-5824, and amendments thereto, making false information; K.S.A. 2020 Supp. 21-5825, and amendments thereto, counterfeiting; K.S.A. 2020 Supp. 21-5826, and amendments thereto, destroying written instrument; K.S.A. 2020 Supp. 21-5828, and amendments thereto, criminal use of a financial card; K.S.A. 2020 Supp. 21-5838, and amendments thereto, conducting a pyramid promotional scheme; K.S.A. 2020 Supp. 21-5839, and amendments thereto; K.S.A. 2020 Supp. 21-5903, and amendments thereto, perjury; K.S.A. 2020 Supp. 21-5904, and amendments thereto, interference with law enforcement; K.S.A. 2020 Supp. 21-5905, and amendments thereto, interference with the judicial process; K.S.A. 2020 Supp. 21-5909, and amendments thereto, intimidation of a witness or victim or aggravated intimidation of a witness or victim; K.S.A. 2020 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2020 Supp. 21-5913, and amendments thereto, obstructing apprehension or prosecution; K.S.A. 2020 Supp. 21-5918, and amendments thereto; K.S.A. 2020 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2020 Supp. 21-6002, and amendments thereto, official misconduct; K.S.A. 2020 Supp. 21-6301, and amendments thereto, criminal use of weapons; K.S.A. 2020 Supp. 21-6302, and amendments thereto, criminal carrying of a weapon; K.S.A. 2020 Supp. 21-6303, and amendments thereto, criminal distribution of firearms to a felon; K.S.A. 2020 Supp. 21-6304, and amendments thereto, criminal possession of a firearm by a convicted felon; K.S.A. 2020 Supp. 21-6305, and amendments thereto, aggravated weapons violation by a convicted felon; K.S.A. 2020 Supp. 21-6306, and amendments thereto, defacing identification marks of a firearm; K.S.A. 2020 Supp. 21-6308, and amendments thereto, criminal discharge of a firearm; K.S.A. 2020 Supp. 21-6310, and amendments

thereto, unlawful endangerment; K.S.A. 2020 Supp. 21-6312, and amendments thereto; K.S.A. 2020 Supp. 21-6314, and *amendments thereto, recruiting criminal street gang membership*; K.S.A. 2020 Supp. 21-6315, and amendments thereto, *criminal street gang intimidation*; K.S.A. 2020 Supp. 21-6401, and amendments thereto, promoting obscenity or promoting obscenity to minors; K.S.A. 2020 Supp. 21-6404, and amendments thereto, gambling; K.S.A. 2020 Supp. 21-6405, and amendments thereto, illegal bingo operation; K.S.A. 2020 Supp. 21-6406, and amendments thereto, commercial gambling; K.S.A. 2020 Supp. 21-6407, and amendments thereto, dealing in gambling devices; K.S.A. 2020 Supp. 21-6408, and amendments thereto; K.S.A. 2020 Supp. 21-6409, and amendments thereto, installing communication facilities for gamblers; K.S.A. 2020 Supp. 21-6414(a) or (b), and amendments thereto, unlawful conduct of dog fighting or unlawful possession of dog fighting paraphernalia; K.S.A. 2020 Supp. 21-6417(a) or (b), and amendments thereto, unlawful conduct of cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A. 2020 Supp. 21-6419, and amendments thereto, selling sexual relations; K.S.A. 2020 Supp. 21-6420, and amendments thereto, promoting the sale of sexual relations; K.S.A. 2020 Supp. 21-6422, and amendments thereto, commercial sexual exploitation of a child; K.S.A. 2020 Supp. 21-6501, and amendments thereto, extortion; K.S.A. 2020 Supp. 21-6502, and amendments thereto, debt adjusting; K.S.A. 2020 Supp. 21-6504, and amendments thereto, equity skimming; K.S.A. 2020 Supp. 21-6506, and amendments thereto, commercial bribery; K.S.A. 2020 Supp. 21-6507, and amendments thereto, sports bribery; K.S.A. 2020 Supp. 21-6508, and amendments thereto, tampering with a sports contest; K.S.A. 39-720, and amendments thereto, social welfare service fraud; K.S.A. 40-2,118, and amendments thereto, fraudulent insurance acts; K.S.A. 41-101 et seq., and amendments thereto, Kansas liquor control act; K.S.A. 44-5,125, and amendments thereto, workers' compensation act; K.S.A. 65-1657, and amendments thereto, nonresident pharmacy registration; K.S.A. 65-3441, and amendments thereto, hazardous waste; K.S.A. 65-4167, and amendments thereto, trafficking in counterfeit drugs; article 88 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas parimutuel racing act; or K.S.A. 79-3321, and amendments thereto, Kansas cigarette and tobacco products act; or

(2) any conduct defined as "racketeering activity" under 18 U.S.C. § 1961(1).

(g) "Real property" means any real property or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

(h) (1) "Trustee" means:

(A) Any person acting as trustee pursuant to a trust in which the trustee holds legal or record title to real property;

(B) any person who holds legal or record title to real property in which any other person has a beneficial interest; or

(C) any successor trustee or trustees to any or all of the foregoing persons.

(2) The term "trustee" does not include any person appointed or acting as a personal representative as defined in K.S.A. 59-102, and amendments thereto, or appointed or acting as a trustee of any testamentary trust or as a trustee of any indenture of trust under which any bonds have been or are to be issued.

(i) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(1) In violation of any of the following provisions of law: Article 88 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas parimutuel racing act; K.S.A. 2020 Supp. 21-6404, and amendments thereto, gambling; K.S.A. 2020 Supp. 21-6405, and amendments thereto, illegal bingo operation; K.S.A. 2020 Supp. 21-6406, and amendments thereto, commercial gambling; K.S.A. 2020 Supp. 21-6407, and amendments thereto, dealing in gambling devices; K.S.A. 2020 Supp. 21-6408, and amendments thereto, unlawful possession of a gambling device; or K.S.A. 2020 Supp. 21-6409, and amendments thereto, installing communication facilities for gamblers;

or

(2) in gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

Sec. 3. K.S.A. 2020 Supp. 21-6604 is hereby amended to read as follows: 21-6604. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense and may impose the provisions of subsection (q);

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567 or 8-2,144, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by K.S.A. 2020 Supp. 21-6602(c), and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity that materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape from custody or aggravated escape from custody, as defined in K.S.A. 2020 Supp. 21-5911, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire that has been determined to be arson or aggravated arson as defined in K.S.A. 2020 Supp. 21-5812, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances

from the defendant during the investigation that leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) if the defendant is convicted of a misdemeanor or convicted of a felony specified in K.S.A. 2020 Supp. 21-6804(i), and amendments thereto, assign the defendant to work release program, other than a program at a correctional institution under the control of the secretary of corrections as defined in K.S.A. 75-5202, and amendments thereto, provided such work release program requires such defendant to return to confinement at the end of each day in the work release program. On a second or subsequent conviction of K.S.A. 8-1567, and amendments thereto, an offender placed into a work release program shall serve the total number of hours of confinement mandated by that section;

(12) order the defendant to pay the full amount of unpaid costs associated with the conditions of release of the appearance bond under K.S.A. 22-2802, and amendments thereto;

(13) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12); or

(14) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime. Restitution shall be due immediately unless: (A) The court orders that the defendant be given a specified time to pay or be allowed to pay in specified installments; or (B) the court finds compelling circumstances that would render restitution unworkable, either in whole or in part. In regard to a violation of K.S.A. 2020 Supp. 21-6107, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. In regard to a violation of K.S.A. 2020 Supp. 21-5801, 21-5807-~~08~~, 21-5813 *or* 21-5818, and amendments thereto, such damage or loss shall include the cost of repair or replacement of the property that was damaged, the reasonable cost of any loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property. If the court finds restitution unworkable, either in whole or in part, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant that may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the restitution order, and the victim to whom restitution is ordered paid has not initiated proceedings in

accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the judicial administrator pursuant to K.S.A. 20-169, and amendments thereto, to collect the restitution on behalf of the victim. The chief judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(3) If a restitution order entered prior to the effective date of this act does not give the defendant a specified time to pay or set payment in specified installments, the defendant may file a motion with the court prior to December 31, 2020, proposing payment of restitution in specified installments. The court may recall the restitution order from the agent assigned pursuant to K.S.A. 20-169, and amendments thereto, until the court rules on such motion. If the court does not order payment in specified installments or if the defendant does not file a motion prior to December 31, 2020, the restitution shall be due immediately.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by K.S.A. 2020 Supp. 21-6602(d), and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court that sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony, a new sentence shall be imposed consecutively pursuant to the provisions of K.S.A. 2020 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed during a period of time when the defendant would have been on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony had the defendant not been granted release by the court pursuant to K.S.A. 2020 Supp. 21-6608(d), and amendments thereto, or the prisoner review board pursuant to K.S.A.

22-3717, and amendments thereto, the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(3) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2020 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(4) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed consecutively pursuant to the provisions of K.S.A. 2020 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2020 Supp. 21-6824, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2020 Supp. 21-6824, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant 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, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendments thereto, or a community

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

(h) In committing a defendant to the custody of the secretary of corrections, the court shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court that sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate:

(1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense that is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, or for an offense that is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and such offense does not meet the requirements of K.S.A. 2020 Supp. 21-6824, and amendments thereto; and

(2) otherwise meets admission criteria of the camp.

If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 2020 Supp. 21-6608, and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) (1) Except as provided by K.S.A. 2020 Supp. 21-6630 and 21-6805(f), and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 2020 Supp. 21-5706, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 2020 Supp. 21-6824, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 75-52,144, and amendments thereto, including, but not limited to, an approved after-care plan. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(2) If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the defendant's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to sanction or revocation pursuant to the provisions of K.S.A. 22-3716, and amendments thereto. If the defendant's probation is revoked, the defendant shall serve the underlying prison sentence as established in K.S.A. 2020 Supp. 21-6805, and amendments thereto.

(A) Except as provided in subsection (n)(2)(B), for those offenders who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon completion of the underlying prison sentence, the offender shall not be subject to a period of postrelease supervision.

(B) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation is revoked pursuant to K.S.A. 22-3716(c), and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to K.S.A. 22-3716(c)(1), and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A. 2020 Supp. 21-5706, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order that places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license, which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" mean the same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

(p) In addition to any of the above, for any criminal offense that includes the domestic violence designation pursuant to K.S.A. 2020 Supp. 22-4616, and amendments thereto, the court shall require the defendant to: (1) Undergo a domestic violence offender assessment conducted by a certified batterer intervention program; and (2) follow all recommendations made by such program, unless otherwise ordered by the court or the department of corrections. The court may order a domestic violence offender assessment and any other evaluation prior to sentencing if the assessment or evaluation would assist the court in determining an appropriate sentence. The entity completing the assessment or evaluation shall provide the assessment or evaluation and recommendations to the court and the court shall provide the domestic violence offender assessment to any entity responsible for supervising such defendant. A defendant ordered to undergo a domestic violence offender assessment shall be required to pay for the assessment and, unless otherwise ordered by the court or the department of corrections,

for completion of all recommendations.

(q) In imposing a fine, the court may authorize the payment thereof in installments. In lieu of payment of any fine imposed, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed by the later of one year after the fine is imposed or one year after release from imprisonment or jail, or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance shall become due on that date. If conditional reduction of any fine is rescinded by the court for any reason, then pursuant to the court's order the person may be ordered to perform community service by one year after the date of such rescission or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date. All credits for community service shall be subject to review and approval by the court.

(r) In addition to any other penalty or disposition imposed by law, for any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2020 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the court shall order that the defendant be electronically monitored upon release from imprisonment for the duration of the defendant's natural life and that the defendant shall reimburse the state for all or part of the cost of such monitoring as determined by the prisoner review board.

(s) Whenever the court has released the defendant on probation pursuant to subsection (a)(3), the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order of the court, unless the defendant, after being apprised of the right to a revocation hearing before the court pursuant to K.S.A. 22-3716(b), and amendments thereto, refuses to waive such right.

(t) Whenever the court has assigned the defendant to a community correctional services program pursuant to subsection (a)(4), the defendant's community corrections officer, with the concurrence of the community corrections director, may impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order of the court unless the defendant, after being apprised of the right to a revocation hearing before the court pursuant to K.S.A. 22-3716(b), and amendments thereto, refuses to waive such right.

(u) In addition to any of the above, the court shall authorize an additional 18 days of confinement in a county jail to be reserved for sanctions as set forth in K.S.A. 22-3716(b)(3)(B), (b)(4) or (c)(1)(B), and amendments thereto.

(v) The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively.

Sec. 4. K.S.A. 2020 Supp. 21-5818, 21-6328 and 21-6604 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

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

\_\_\_\_\_

SENATE concurred in  
HOUSE amendments \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*