

Session of 2021

HOUSE BILL No. 2229

By Committee on Judiciary

2-3

property crimes;

increasing felony loss thresholds for certain property crimes;

, 21-5802, 21-5813, 21-5821, 21-5825,
21-5828, 21-5830, 21-5827, 21-6002, 21-6004,
21-6605 and 21-6205

sections

1 AN ACT concerning ~~crimes, punishment and criminal procedure; relating~~
2 ~~to theft~~; increasing criminal penalties for multiple thefts of mail;
3 amending K.S.A. 2020 Supp. 21-5801 and repealing the existing
4 ~~section.~~

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

7 Section 1. K.S.A. 2020 Supp. 21-5801 is hereby amended to read as
8 follows: 21-5801. (a) Theft is any of the following acts done with intent to
9 permanently deprive the owner of the possession, use or benefit of the
10 owner's property or services:

11 (1) Obtaining or exerting unauthorized control over property or
12 services;

13 (2) obtaining control over property or services, by deception;

14 (3) obtaining control over property or services, by threat;

15 (4) obtaining control over stolen property or services knowing the
16 property or services to have been stolen by another; or

17 (5) knowingly dispensing motor fuel into a storage container or the
18 fuel tank of a motor vehicle at an establishment in which motor fuel is
19 offered for retail sale and leaving the premises of the establishment
20 without making payment for the motor fuel.

21 (b) Theft of:

22 (1) Property or services of the value of \$100,000 or more is a severity
23 level 5, nonperson felony;

24 (2) property or services of the value of at least \$25,000 but less than
25 \$100,000 is a severity level 7, nonperson felony;

26 (3) property or services of the value of at least \$1,500 but less than
27 \$25,000 is a severity level 9, nonperson felony, except as provided in
28 subsection (b)(7);

29 (4) property or services of the value of less than \$1,500 is a class A
30 nonperson misdemeanor, except as provided in subsection (b)(5), (b)(6) or
31 (b)(7) or (b)(8);

32 (5) property of the value of less than \$1,500 from three separate
33 mercantile establishments within a period of 72 hours as part of the same
34 act or transaction or in two or more acts or transactions connected together
35 or constituting parts of a common scheme or course of conduct is a
36 severity level 9, nonperson felony;

1 (6) property of the value of at least \$50 but less than \$1,500 is a
2 severity level 9, nonperson felony if committed by a person who has,
3 within five years immediately preceding commission of the crime,
4 excluding any period of imprisonment, been convicted of theft two or
5 more times;~~and~~

6 (7) property ~~which~~ *that* is a firearm of the value of less than \$25,000
7 is a severity level 9, nonperson felony; *and*

8 (8) *property that is mail of the value of less than \$1,500 from three*
9 *separate locations within a period of 72 hours as part of the same act or*
10 *transaction or in two or more acts or transactions connected together or*
11 *constituting parts of a common scheme or course of conduct is a severity*
12 *level 9, nonperson felony.*

13 (c) As used in this section:

14 (1) "Conviction" or "convicted" includes being convicted of a
15 violation of K.S.A. 21-3701, prior to its repeal, this section or a municipal
16 ordinance which prohibits the acts that this section prohibits;

17 (2) *"mail" means a letter, postal card, package or bag sent through*
18 *the United States postal service or other delivery service, or any other*
19 *article or thing contained therein, or a sealed article or thing addressed to*
20 *a person;*

21 (3) "regulated scrap metal" means the same as in K.S.A. 2020 Supp.
22 50-6,109, and amendments thereto; and

23 ~~(3)~~(4) "value" means the value of the property or, if the property is
24 regulated scrap metal, the cost to restore the site of the theft of such
25 regulated scrap metal to its condition ~~at the time~~ immediately prior to the
26 theft of such regulated scrap metal, whichever is greater.

27 Sec. 2. K.S.A. 2020 Supp. 21-5801 ~~is~~ hereby repealed.

28 Sec. 3. This act shall take effect and be in force from and after its
29 publication in the statute book.

Insert sections 1 through 11 of HB 2028 - see attached

21-5802, 21-5813, 21-5821, 21-5825, 21-5828, 21-5830,
21-5927, 21-6002, 21-6004, 21-6005 and 21-6205 are

Renumber sections

HOUSE BILL No. 2028

By Joint Committee on Corrections and Juvenile Justice Oversight

12-31

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to property crimes; loss values; amending K.S.A. 2020 Supp. 21-5802,
3 21-5813, 21-5821, 21-5825, 21-5828, 21-5830, 21-5927, 21-6002, 21-
4 6004, 21-6005 and 21-6205 and repealing the existing sections.

5

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

7 Section 1. K.S.A. 2020 Supp. 21-5802 is hereby amended to read as
8 follows: 21-5802. (a) Theft of property lost, mislaid or delivered by
9 mistake is obtaining control of property of another by a person who:

- 10 (1) Knows or learns the identity of the owner thereof;
11 (2) fails to take reasonable measures to restore to the owner lost
12 property, mislaid property or property delivered by a mistake; and
13 (3) intends to permanently deprive the owner of the possession, use
14 or benefit of the property.

15 (b) Theft of property lost, mislaid or delivered by mistake of the
16 value of:

- 17 (1) \$100,000 or more is a severity level 5, nonperson felony;
18 (2) at least \$25,000 but less than \$100,000 is a severity level 7,
19 nonperson felony;
20 (3) at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level 9,
21 nonperson felony; and
22 (4) less than ~~\$1,000~~ \$1,500 is a class A nonperson misdemeanor.

23 (c) As used in this section, "property delivered by mistake" includes,
24 but is not limited to, a mistake as to the:

- 25 (1) Nature or amount of the property; or
26 (2) identity of the recipient of the property.

27 Sec. 2. K.S.A. 2020 Supp. 21-5813 is hereby amended to read as
28 follows: 21-5813. (a) Criminal damage to property is by means other than
29 by fire or explosive:

- 30 (1) Knowingly damaging, destroying, defacing or substantially
31 impairing the use of any property in which another has an interest without
32 the consent of such other person; or
33 (2) damaging, destroying, defacing or substantially impairing the use
34 of any property with intent to injure or defraud an insurer or lienholder.

35 (b) Aggravated criminal damage to property is criminal damage to
36 property, as defined in subsection (a)(1), if the value or amount of damage

1 exceeds \$5,000, committed with the intent to obtain any regulated scrap
2 metal as defined in K.S.A. 2020 Supp. 50-6,109, and amendments thereto,
3 or any items listed in K.S.A. 2020 Supp. 50-6,111(d), and amendments
4 thereto, upon:

5 (1) Any building, structure, personal property or place used primarily
6 for worship or any religious purpose;

7 (2) any building, structure or place used as a school or as an
8 educational facility;

9 (3) any building, structure or place used by a non-profit or charitable
10 business, corporation, firm, service or association;

11 (4) any grave, cemetery, mortuary or personal property of the
12 cemetery or mortuary or other facility used for the purpose of burial or
13 memorializing the dead;

14 (5) any agricultural property or agricultural infrastructure;

15 (6) any construction, mining or recycling facility, structure or site;

16 (7) any utility, utility service, telecommunication, telecommunication
17 service, cable or video service facility, property, building, structure, site or
18 component thereof;

19 (8) any municipal, county or state building, structure, site or property;

20 (9) any residential, commercial, industrial or agricultural irrigation,
21 sprinkler or watering system or component thereof;

22 (10) the infrastructure of any residence, building or structure;

23 (11) any historical marker, plaque or work of art;

24 (12) any vehicle or transportation building, facility, structure, site or
25 property; or

26 (13) any other building, structure, residence, facility, site, place,
27 property, vehicle or any infrastructure thereof.

28 (c) Criminal damage to property if the property:

29 (1) Is damaged to the extent of \$25,000 or more is a severity level 7,
30 nonperson felony;

31 (2) is damaged to the extent of at least ~~\$1,000~~ \$1,500 but less than
32 \$25,000 is a severity level 9, nonperson felony; and

33 (3) damaged is of the value of less than ~~\$1,000~~ \$1,500 or is of the
34 value of ~~\$1,000~~ \$1,500 or more and is damaged to the extent of less than
35 ~~\$1,000~~ \$1,500 is a class B nonperson misdemeanor.

36 (d) Aggravated criminal damage to property is a severity level 6,
37 nonperson felony.

38 (e) (1) As used in subsection (b):

39 (A) "Infrastructure" includes any fixture to, attachment upon or part
40 of a residence, building or structure's framework, electrical wiring and
41 appurtenances, plumbing or heating and air systems; and

42 (B) "site" includes any area, place or location set aside for specific
43 use or uses, including, but not limited to, storage, staging, repair, sorting,

1 transportation, planning or organization.

2 (2) Any of the items or locations listed in subsection (b) shall include
3 the curtilage, adjoining land and any improvements thereupon.

4 (3) Nothing in subsection (b) shall be construed to require the:

5 (A) Construction or existence of any door, gate, fence, barrier or wall;
6 or

7 (B) existence of notice, postings or signs to potential trespassers.

8 (f) In determining the amount of damage to property, damages may
9 include the cost of repair or replacement of the property that was damaged,
10 the reasonable cost of the loss of production, crops and livestock,
11 reasonable labor costs of any kind, reasonable material costs of any kind
12 and any reasonable costs that are attributed to equipment that is used to
13 abate or repair the damage to the property.

14 Sec. 3. K.S.A. 2020 Supp. 21-5821 is hereby amended to read as
15 follows: 21-5821. (a) Giving a worthless check is the making, drawing,
16 issuing or delivering or causing or directing the making, drawing, issuing
17 or delivering of any check on any financial institution for the payment of
18 money or its equivalent with intent to defraud and knowing, at the time of
19 the making, drawing, issuing or delivering of such check that the maker or
20 drawer has no deposit in or credits with the financial institution or has not
21 sufficient funds in, or credits with, the financial institution for the payment
22 of such check in full upon its presentation.

23 (b) Giving a worthless check is a:

24 (1) Severity level 7, nonperson felony if:

25 (A) The check is drawn for \$25,000 or more; or

26 (B) more than one worthless check is given within a seven-day period
27 and the combined total of the checks is \$25,000 or more;

28 (2) severity level 9, nonperson felony if:

29 (A) The check is drawn for at least ~~\$1,000~~ \$1,500 but less than
30 \$25,000;

31 (B) more than one worthless check is given within a seven-day period
32 and the combined total of the checks is at least ~~\$1,000~~ \$1,500 but less than
33 \$25,000; or

34 (C) the person giving the worthless check has, within five years
35 immediately preceding commission of the crime, been convicted of giving
36 a worthless check two or more times; and

37 (3) class A nonperson misdemeanor if the check is drawn for less than
38 ~~\$1,000~~ \$1,500.

39 (c) As used in this section and K.S.A. 2020 Supp. 21-5822, and
40 amendments thereto:

41 (1) "Check" is any check, order or draft on a financial institution;

42 (2) "financial institution" means any bank, credit union, savings and
43 loan association or depository; and

1 (3) "notice" includes oral or written notice to the person entitled
2 thereto.

3 (d) In any prosecution against the maker or drawer of a check,
4 payment of which has been refused by the financial institution on account
5 of insufficient funds, the making, drawing, issuing or delivering of such
6 check shall be prima facie evidence of intent to defraud and of knowledge
7 of insufficient funds in, or on deposit with, the financial institution:

8 (1) Unless the maker or drawer pays the holder thereof the amount
9 due thereon and a service charge not exceeding \$30 for each check, within
10 seven days after notice has been given to the maker or drawer that such
11 check has not been paid by the financial institution. Written notice shall be
12 presumed to have been given when deposited as restricted matter in the
13 United States mail, addressed to the person to be given notice at such
14 person's address as it appears on such check; or

15 (2) if a postdated date is placed on the check without the knowledge
16 or consent of the payee.

17 (e) It shall not be a defense to a prosecution under this section that the
18 check upon which such prosecution is based was:

19 (1) Postdated, unless such check was presented for payment prior to
20 the postdated date; or

21 (2) given to a payee who had knowledge or had been informed, when
22 the payee accepted such check that the maker did not have sufficient funds
23 in the hands of the financial institution to pay such check upon
24 presentation, unless such check was presented for payment prior to the
25 date the maker informed the payee there would be sufficient funds.

26 (f) In addition to all other costs and fees allowed by law, each
27 prosecutor who takes any action under the provisions of this section may
28 collect from the issuer in such action an administrative handling cost,
29 except in cases filed in a court of appropriate jurisdiction. The cost shall
30 not exceed \$10 for each check. If the issuer of the check is convicted in a
31 district court, the administrative handling costs may be assessed as part of
32 the court costs in the matter. The moneys collected pursuant to this
33 subsection shall be deposited into a trust fund which shall be administered
34 by the board of county commissioners. The funds shall be expended only
35 with the approval of the board of county commissioners, but may be used
36 to help fund the normal operating expenses of the county or district
37 attorney's office.

38 Sec. 4. K.S.A. 2020 Supp. 21-5825 is hereby amended to read as
39 follows: 21-5825. (a) Counterfeiting is manufacturing, using, displaying,
40 advertising, distributing or possessing with intent to distribute any item or
41 services knowing such item or services bear or are identified by a
42 counterfeit mark.

43 (b) Counterfeiting is a:

- 1 (1) Severity level 7, nonperson felony if:
2 (A) The retail value of such item or service is \$25,000 or more;
3 (B) such counterfeiting involves 1,000 or more items bearing a
4 counterfeit mark; or
5 (C) a third or subsequent violation of this section;
6 (2) severity level 9, nonperson felony if:
7 (A) The retail value of such item or service is at least ~~\$1,000~~ *\$1,500*
8 but less than \$25,000;
9 (B) such counterfeiting involves more than 100 but less than 1,000
10 items bearing a counterfeit mark; or
11 (C) a second violation of this section; and
12 (3) class A nonperson misdemeanor, if the retail value of such item or
13 service is less than ~~\$1,000~~ *\$1,500*.
14 (c) A person having possession, custody or control of more than 25
15 items bearing a counterfeit mark shall be presumed to possess such items
16 with intent to distribute.
17 (d) Any state or federal certificate of registration of any intellectual
18 property shall be prima facie evidence of the facts stated therein.
19 (e) As used in this section:
20 (1) "Counterfeit mark" means:
21 (A) Any unauthorized reproduction or copy of intellectual property;
22 or
23 (B) intellectual property affixed to any item knowingly sold, offered
24 for sale, manufactured or distributed, or identifying services offered or
25 rendered, without the authority of the owner of the intellectual property;
26 (2) "intellectual property" means any trademark, service mark or
27 trade name as such terms are defined in K.S.A. 81-202, and amendments
28 thereto; and
29 (3) "retail value" means the counterfeiter's regular selling price for the
30 item or service bearing or identified by the counterfeit mark. In the case of
31 items bearing a counterfeit mark which are components of a finished
32 product, the retail value shall be the counterfeiter's regular selling price of
33 the finished product on or in which the component would be utilized.
34 (f) The quantity or retail value of items or services shall include the
35 aggregate quantity or retail value of all items bearing, or services
36 identified by, every counterfeit mark the defendant manufactures, uses,
37 displays, advertises, distributes or possesses.
38 Sec. 5. K.S.A. 2020 Supp. 21-5828 is hereby amended to read as
39 follows: 21-5828. (a) Criminal use of a financial card is any of the
40 following acts done with intent to defraud and to obtain money, goods,
41 property or services:
42 (1) Using a financial card without the consent of the cardholder;
43 (2) using a financial card, or the number or description thereof, which

- 1 has been revoked or canceled; or
- 2 (3) using a falsified, mutilated, altered or nonexistent financial card or
- 3 a number or description thereof.
- 4 (b) Criminal use of a financial card is a:
- 5 (1) Severity level 7, nonperson felony if the money, goods, property
- 6 or services obtained within any seven-day period are of the value of
- 7 \$25,000 or more;
- 8 (2) severity level 9, nonperson felony if the money, goods, property
- 9 or services obtained within any seven-day period are of the value of at
- 10 least ~~\$1,000~~ \$1,500 but less than \$25,000; and
- 11 (3) class A nonperson misdemeanor if the money, goods, property or
- 12 services obtained within a seven-day period are of the value of less than
- 13 ~~\$1,000~~ \$1,500.
- 14 (c) As used in this section:
- 15 (1) "Financial card" means an identification card, plate, instrument,
- 16 device or number issued by a business organization authorizing the
- 17 cardholder to purchase, lease or otherwise obtain money, goods, property
- 18 or services or to conduct other financial transactions; and
- 19 (2) "cardholder" means the person or entity to whom or for whose
- 20 benefit a financial card is issued.
- 21 (d) For the purposes of subsection (a)(2), a financial card shall be
- 22 deemed canceled or revoked when notice in writing thereof has been
- 23 received by the named holder thereof as shown on such financial card or
- 24 by the records of the company.
- 25 Sec. 6. K.S.A. 2020 Supp. 21-5830 is hereby amended to read as
- 26 follows: 21-5830. (a) Impairing a security interest is, with intent to defraud
- 27 the secured party:
- 28 (1) Damaging, destroying or concealing any personal property subject
- 29 to a security interest;
- 30 (2) selling, exchanging or otherwise disposing of any personal
- 31 property subject to a security interest without the written consent of the
- 32 secured party, where such sale, exchange or other disposition is not
- 33 authorized by the secured party under the terms of the security agreement;
- 34 or
- 35 (3) failing to account to the secured party for the proceeds of the sale,
- 36 exchange or other disposition of any personal property subject to a security
- 37 interest, where such sale, exchange or other disposition is authorized and
- 38 such accounting for proceeds is required by the secured party under the
- 39 terms of the security agreement or otherwise.
- 40 (b) Impairing a security interest, when the personal property subject
- 41 to the security interest is of the value of:
- 42 (1) \$25,000 or more and is subject to a security interest of \$25,000 or
- 43 more is a severity level 7, nonperson felony;

1 (2) at least ~~\$1,000~~ *\$1,500* and is subject to a security interest of at
2 least ~~\$1,000~~ *\$1,500* and either the value of the property or the security
3 interest is less than \$25,000 is a severity level 9, nonperson felony; and

4 (3) less than ~~\$1,000~~ *\$1,500*, or of the value of ~~\$1,000~~ *\$1,500* or more
5 but subject to a security interest of less than ~~\$1,000~~ *\$1,500* is a class A
6 nonperson misdemeanor.

7 Sec. 7. K.S.A. 2020 Supp. 21-5927 is hereby amended to read as
8 follows: 21-5927. (a) Medicaid fraud is:

9 (1) With intent to defraud, making, presenting, submitting, offering or
10 causing to be made, presented, submitted or offered:

11 (A) Any false or fraudulent claim for payment for any goods, service,
12 item, facility *or* accommodation for which payment may be made, in
13 whole or in part, under the medicaid program, whether or not the claim is
14 allowed or allowable;

15 (B) any false or fraudulent statement or representation for use in
16 determining payments which may be made, in whole or in part, under the
17 medicaid program, whether or not the claim is allowed or allowable;

18 (C) any false or fraudulent report or filing which is or may be used in
19 computing or determining a rate of payment for any goods, service, item,
20 facility or accommodation, for which payment may be made, in whole or
21 in part, under the medicaid program, whether or not the claim is allowed or
22 allowable;

23 (D) any false or fraudulent statement or representation made in
24 connection with any report or filing which is or may be used in computing
25 or determining a rate of payment for any goods, service, item, facility or
26 accommodation for which payment may be made, in whole or in part,
27 under the medicaid program, whether or not the claim is allowed or
28 allowable;

29 (E) any statement or representation for use by another in obtaining
30 any goods, service, item, facility or accommodation for which payment
31 may be made, in whole or in part, under the medicaid program, knowing
32 the statement or representation to be false, in whole or in part, by
33 commission or omission, whether or not the claim is allowed or allowable;

34 (F) any claim for payment, for any goods, service, item, facility, or
35 accommodation, which is not medically necessary in accordance with
36 professionally recognized parameters or as otherwise required by law, for
37 which payment may be made, in whole or in part, under the medicaid
38 program, whether or not the claim is allowed or allowable;

39 (G) any wholly or partially false or fraudulent book, record,
40 document, data or instrument, which is required to be kept or which is kept
41 as documentation for any goods, service, item, facility or accommodation
42 or of any cost or expense claimed for reimbursement for any goods,
43 service, item, facility or accommodation for which payment is, has been,

1 or can be sought, in whole or in part, under the medicaid program, whether
2 or not the claim is allowed or allowable;

3 (H) any wholly or partially false or fraudulent book, record,
4 document, data or instrument to any properly identified law enforcement
5 officer, any properly identified employee or authorized representative of
6 the attorney general, or to any properly identified employee or agent of the
7 Kansas department for aging and disability services, Kansas department of
8 health and environment, or its fiscal agent, in connection with any audit or
9 investigation involving any claim for payment or rate of payment for any
10 goods, service, item, facility or accommodation payable, in whole or in
11 part, under the medicaid program; or

12 (I) any false or fraudulent statement or representation made, with the
13 intent to influence any acts or decision of any official, employee or agent
14 of a state or federal agency having regulatory or administrative authority
15 over the medicaid program; or

16 (2) intentionally executing or attempting to execute a scheme or
17 artifice to defraud the medicaid program or any contractor or subcontractor
18 thereof.

19 (b) (1) Except as provided in subsection (b)(2), for each individual
20 count of medicaid fraud as defined in subsection (a)(1)(A), (a)(1)(B), (a)
21 (1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F), (a)(1)(G) or (a)(2), where the
22 aggregate amount of payments illegally claimed is:

23 (A) \$250,000 or more, medicaid fraud is a severity level 3, nonperson
24 felony;

25 (B) at least \$100,000 but less than \$250,000, medicaid fraud is a
26 severity level 5, nonperson felony;

27 (C) at least \$25,000 but less than \$100,000, medicaid fraud is a
28 severity level 7, nonperson felony;

29 (D) at least ~~\$1,000~~ \$1,500 but less than \$25,000, medicaid fraud is a
30 severity level 9, nonperson felony; and

31 (E) less than ~~\$1,000~~ \$1,500, medicaid fraud is a class A nonperson
32 misdemeanor.

33 (2) For each individual count of medicaid fraud as defined in
34 subsection (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F),
35 (a)(1)(G) or (a)(2):

36 (A) When great bodily harm results from such act, regardless of the
37 aggregate amount of payments illegally claimed, medicaid fraud is a
38 severity level 4, person felony, except as provided in subsection (b)(2)(B);
39 and

40 (B) when death results from such act, regardless of the aggregate
41 amount of payments illegally claimed, medicaid fraud is a severity level 1,
42 person felony.

43 (3) Medicaid fraud as defined in subsection (a)(1)(H) or (a)(1)(I) is a

1 severity level 9, nonperson felony.

2 (c) In determining what is medically necessary pursuant to subsection
3 (a)(1)(F), the attorney general may contract with or consult with qualified
4 health care providers and other qualified individuals to identify
5 professionally recognized parameters for the diagnosis or treatment of the
6 recipient's condition, illness or injury.

7 (d) In sentencing for medicaid fraud, ~~subsection (e)(3) of K.S.A.~~
8 2020 Supp. 21-6815(c)(3), and amendments thereto, shall not apply and an
9 act or omission by the defendant that resulted in any medicaid recipient
10 receiving any service that was of lesser quality or amount than the service
11 to which such recipient was entitled may be considered an aggravating
12 factor in determining whether substantial and compelling reasons for
13 departure exist pursuant to K.S.A. 2020 Supp. 21-6801 through 21-6824,
14 and amendments thereto.

15 (e) A person who violates the provisions of this section may also be
16 prosecuted for, convicted of, and punished for any form of battery or
17 homicide.

18 Sec. 8. K.S.A. 2020 Supp. 21-6002 is hereby amended to read as
19 follows: 21-6002. (a) Official misconduct is any of the following acts
20 committed by a public officer or employee in the officer or employee's
21 public capacity or under color of the officer or employee's office or
22 employment:

23 (1) Knowingly using or authorizing the use of any aircraft, as defined
24 by K.S.A. 3-201, and amendments thereto, vehicle, as defined by K.S.A.
25 8-1485, and amendments thereto, or vessel, as defined by K.S.A. 32-1102,
26 and amendments thereto, under the officer's or employee's control or
27 direction, or in the officer's or employee's custody, exclusively for the
28 private benefit or gain of the officer or employee or another;

29 (2) knowingly failing to serve civil process when required by law;

30 (3) using confidential information acquired in the course of and
31 related to the officer's or employee's office or employment for the private
32 benefit or gain of the officer or employee or another or to intentionally
33 cause harm to another;

34 (4) except as authorized by law, with the intent to reduce or eliminate
35 competition among bidders or prospective bidders on any contract or
36 proposed contract:

37 (A) Disclosing confidential information regarding proposals or
38 communications from bidders or prospective bidders on any contract or
39 proposed contract;

40 (B) accepting any bid or proposal on a contract or proposed contract
41 after the deadline for acceptance of such bid or proposal; or

42 (C) altering any bid or proposal submitted by a bidder on a contract
43 or proposed contract;

- 1 (5) except as authorized by law, knowingly destroying, tampering
2 with or concealing evidence of a crime; or
- 3 (6) knowingly submitting to a governmental entity a claim for
4 expenses ~~which that~~ is false or duplicates expenses for which a claim is
5 submitted to such governmental entity, another governmental or private
6 entity.
- 7 (b) (1) Official misconduct as defined in:
- 8 (A) Subsections (a)(1) through (a)(4) is a class A nonperson
9 misdemeanor;
- 10 (B) subsection (a)(5) is a:
- 11 (i) Severity level 8, nonperson felony if the evidence is evidence of a
12 crime ~~which that~~ is a felony; and
- 13 (ii) class A nonperson misdemeanor if the evidence is evidence of a
14 crime ~~which that~~ is a misdemeanor; and
- 15 (C) subsection (a)(6) if the claim is:
- 16 (i) \$25,000 or more is a severity level 7, nonperson felony;
- 17 (ii) at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level 9,
18 nonperson felony; and
- 19 (iii) less than ~~\$1,000~~ \$1,500 is a class A nonperson misdemeanor.
- 20 (2) Upon conviction of official misconduct a public officer or
21 employee shall forfeit such officer or employee's office or employment.
- 22 (c) The provisions of subsection (a)(1) shall not apply to any use of
23 persons or property ~~which that~~:
- 24 (1) At the time of the use, is authorized by law or by formal written
25 policy of the governmental entity; or
- 26 (2) constitutes misuse of public funds, as defined in K.S.A. 2020
27 Supp. 21-6005, and amendments thereto.
- 28 (d) As used in this section, "confidential" means any information that
29 is not subject to mandatory disclosure pursuant to K.S.A. 45-221, and
30 amendments thereto.
- 31 Sec. 9. K.S.A. 2020 Supp. 21-6004 is hereby amended to read as
32 follows: 21-6004. (a) Presenting a false claim is, with the intent to defraud,
33 presenting a claim or demand ~~which that~~ is false in whole or in part, to a
34 public officer or body authorized to audit, allow or pay such claim.
- 35 (b) Permitting a false claim is the auditing, allowing or paying of any
36 claim or demand made upon the state or any subdivision thereof or other
37 governmental instrumentality within the state by a public officer or public
38 employee who knows such claim or demand is false or fraudulent in whole
39 or in part.
- 40 (c) (1) Presenting a false claim or permitting a false claim for:
- 41 (A) \$25,000 or more is a severity level 7, nonperson felony;
- 42 (B) at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level 9,
43 nonperson felony; and

1 (C) less than ~~\$1,000~~ \$1,500 is a class A nonperson misdemeanor.

2 (2) Upon conviction of permitting a false claim, a public officer or
3 public employee shall forfeit the officer or employee's office or
4 employment.

5 Sec. 10. K.S.A. 2020 Supp. 21-6005 is hereby amended to read as
6 follows: 21-6005. (a) Misuse of public funds is knowingly using, lending
7 or permitting another to use public money in a manner not authorized by
8 law, by a custodian or other person having control of public money by
9 virtue of such person's official position.

10 (b) (1) Misuse of public funds where the aggregate amount of money
11 paid or claimed in violation of this section is:

12 (A) \$100,000 or more is a severity level 5, nonperson felony;

13 (B) at least \$25,000 but less than \$100,000 is a severity level 7,
14 nonperson felony;

15 (C) at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level 9,
16 nonperson felony; and

17 (D) less than ~~\$1,000~~ \$1,500 is a class A nonperson misdemeanor.

18 (2) Upon conviction of misuse of public funds, the convicted person
19 shall forfeit the person's official position.

20 (c) As used in this section, "public money" means any money or
21 negotiable instrument ~~which~~ *that* belongs to the state of Kansas or any
22 political subdivision thereof.

23 Sec. 11. K.S.A. 2020 Supp. 21-6205 is hereby amended to read as
24 follows: 21-6205. (a) Criminal desecration is:

25 (1) Knowingly obtaining or attempting to obtain unauthorized control
26 of a dead body or remains of any human being or the coffin, urn or other
27 article containing a dead body or remains of any human being; or

28 (2) recklessly, by means other than by fire or explosive:

29 (A) Damaging, defacing or destroying the flag, ensign or other
30 symbol of the United States or this state in which another has a property
31 interest without the consent of such other person;

32 (B) damaging, defacing or destroying any public monument or
33 structure;

34 (C) damaging, defacing or destroying any tomb, monument,
35 memorial, marker, grave, vault, crypt gate, tree, shrub, plant or any other
36 property in a cemetery; or

37 (D) damaging, defacing or destroying any place of worship.

38 (b) Criminal desecration as defined in:

39 (1) ~~Subsections~~ *Subsection* (a)(2)(B), (a)(2)(C) or (a)(2)(D) if the
40 property is damaged to the extent of:

41 (A) \$25,000 or more is a severity level 7, nonperson felony;

42 (B) at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level 9,
43 nonperson felony; and

1 (C) less than ~~\$1,000~~ \$1,500 is a class A nonperson misdemeanor; and

2 (2) ~~subsections~~ subsection (a)(1) or (a)(2)(A) is a class A nonperson
3 misdemeanor.

4 Sec. 12. K.S.A. 2020 Supp. 21-5802, 21-5813, 21-5821, 21-5825, 21-
5 5828, 21-5830, 21-5927, 21-6002, 21-6004, 21-6005 and 21-6205 are
6 hereby repealed.

7 Sec. 13. This act shall take effect and be in force from and after its
8 publication in the statute book.