AN ACT concerning crimes and punishments; relating to official misconduct; amending K.S.A. 2012 Supp. 21-6002 and repealing the existing section.

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

Section 1. K.S.A. 2012 Supp. 21-6002 is hereby amended to read as follows: 21-6002. (a) Official misconduct is any of the following acts committed by a public officer or employee in the officer or employee's public capacity or under color of the officer or employee's office or employment:

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

2. Knowingly failing to serve civil process when required by law;

3. Using confidential information acquired in the course of and related to the officer's or employee's office or employment for the private benefit or gain of the officer or employee or another or to intentionally cause harm to another;

4. Except as authorized by law, with the intent to reduce or eliminate competition among bidders or prospective bidders on any contract or proposed contract:

   A. Disclosing confidential information regarding proposals or communications from bidders or prospective bidders on any contract or proposed contract;

   B. Accepting any bid or proposal on a contract or proposed contract after the deadline for acceptance of such bid or proposal; or

   C. Altering any bid or proposal submitted by a bidder on a contract or proposed contract;

5. Except as authorized by law, knowingly destroying, tampering with or concealing evidence of a crime;

6. Knowingly submitting to a governmental entity a claim for
expenses which is false or duplicates expenses for which a claim is submitted to such governmental entity, another governmental or private entity; or

(7) as part of a determination of whether to grant another person access to a publicly accessible venue or form of transportation, intentionally and without probable cause:

(A) Touches the genitals, buttocks, anus or female breasts of such person, including touching through clothing;
(B) removes a child younger than 18 years of age from the physical custody or control of such child's parent or legal guardian, or a person standing in the stead of such child's parent or legal guardian;
(C) commits a violation of subsection (a) or (b) of K.S.A. 2012 Supp. 21-5412, and amendments thereto; or

(D) harasses, delays, coerces, threatens, intimidates, or denies or conditions such person's accessibility because of such person's refusal to consent to subsections (a)(7)(A), (a)(7)(B) or (a)(7)(C).

(b) (1) Official misconduct as defined in:

(A) Subsections (a)(1) through (a)(4) is a class A nonperson misdemeanor;
(B) subsection (a)(5) is a:
(i) Severity level 8, nonperson felony if the evidence is evidence of a crime which is a felony; and
(ii) class A nonperson misdemeanor if the evidence is evidence of a crime which is a misdemeanor; and
(C) subsection (a)(6) if the claim is:
(i) $25,000 or more is a severity level 7, nonperson felony;
(ii) at least $1,000 but less than $25,000 is a severity level 9, nonperson felony; and
(iii) less than $1,000 is a class A nonperson misdemeanor;
(D) subsection (a)(7) is a class A person misdemeanor.

(2) Upon conviction of official misconduct a public officer or employee shall forfeit such officer or employee's office or employment.

(c) The provisions of subsection (a)(1) shall not apply to any use of persons or property which:

(1) At the time of the use, is authorized by law or by formal written policy of the governmental entity; or

(2) constitutes misuse of public funds, as defined in K.S.A. 2012 Supp. 21-6005, and amendments thereto.

(d) As used in subsection (a)(7), "public officer or employee" includes, but is not limited to:

(1) An officer, employee or agent of:
(A) a federal branch, department or agency; or
(B) any person acting under a contract with a federal branch,
(2) any person acting under color of federal law means an officer, employee or agent of the federal transportation security administration, or any successor entity, or any person acting under a contract with the federal transportation security administration, or any successor entity.

(4) (e) As used in this section, "confidential" means any information that is not subject to mandatory disclosure pursuant to K.S.A. 45-221, and amendments thereto.

New Sec. 2. The attorney general, with the consent of the proper county or district attorney, shall take any actions necessary on behalf of the state of Kansas to defend the validity of K.S.A. 2012 Supp. 21-6002, and amendments thereto, if such section is challenged on grounds of unconstitutionality, preemption or sovereign immunity. The attorney general may make any legal arguments the attorney general considers appropriate, including, but not limited to, a valid exercise of the state's police powers, liberty interests secured by the constitution of the United States, powers reserved to the states by the tenth amendment of the constitution of the United States or any rights and protections secured by the constitution of the state of Kansas.

Sec. 3. K.S.A. 2012 Supp. 21-6002 is hereby repealed.

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