

**21-5911. Escape from custody; aggravated escape from custody.** (a) Escape from custody is escaping while held in custody on a:

- (1) Charge, conviction of or arrest for a misdemeanor;
  - (2) charge, adjudication or arrest as a juvenile offender where the act, if committed by an adult, would constitute a misdemeanor; or
  - (3) commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto, based on a finding that the person committed an act constituting a misdemeanor or by a person 18 years of age or over who is being held in custody on an adjudication of a misdemeanor.
- (b) Aggravated escape from custody is:
- (1) Escaping while held in custody:
    - (A) Upon a charge, conviction of or arrest for a felony;
    - (B) upon a charge, adjudication or arrest as a juvenile offender where the act, if committed by an adult, would constitute a felony;
    - (C) prior to or upon a finding of probable cause for evaluation as a sexually violent predator as provided in K.S.A. 59-29a05, and amendments thereto;
    - (D) upon commitment to a treatment facility as a sexually violent predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;
    - (E) upon a commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto, based on a finding that the person committed an act constituting a felony;
    - (F) by a person 18 years of age or over who is being held on an adjudication of a felony; or
    - (G) upon incarceration at a state correctional institution while in the custody of the secretary of corrections.
  - (2) Escaping effected or facilitated by the use of violence or the threat of violence against any person while held in custody:
    - (A) On a charge or conviction of any crime;
    - (B) on a charge or adjudication as a juvenile offender where the act, if committed by an adult, would constitute a felony;
    - (C) prior to or upon a finding of probable cause for evaluation as a sexually violent predator as provided in K.S.A. 59-29a05, and amendments thereto;
    - (D) upon commitment to a treatment facility as a sexually violent predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;
    - (E) upon a commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto, based on a finding that the person committed an act constituting any crime;
    - (F) by a person 18 years of age or over who is being held on a charge or adjudication of a misdemeanor or felony; or
    - (G) upon incarceration at a state correctional institution while in the custody of the secretary of corrections.
- (c) (1) Escape from custody is a class A nonperson misdemeanor.
- (2) Aggravated escape from custody as defined in:
- (A) Subsection (b)(1)(A), (b)(1)(C), (b)(1)(D), (b)(1)(E) or (b)(1)(F) is a severity level 8, nonperson felony;
  - (B) subsection (b)(1)(B) or (b)(1)(G) is a severity level 5, nonperson felony;
  - (C) subsection (b)(2)(A), (b)(2)(C), (b)(2)(D), (b)(2)(E) or (b)(2)(F) is a severity level 6, person felony; and
  - (D) subsection (b)(2)(B) or (b)(2)(G) is a severity level 5, person felony.
- (d) As used in this section and K.S.A. 2016 Supp. 21-5912, and amendments thereto:
- (1) "Custody" means arrest; detention in a facility for holding persons charged with or convicted of crimes or charged or adjudicated as a juvenile offender; detention for extradition or deportation; detention in a hospital or other facility pursuant to court order, imposed as a specific condition of probation or parole or imposed as a specific condition of assignment to a community correctional services program; commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto; or any other detention for law enforcement purposes. "Custody" does not include general supervision of a person on probation or parole or constraint incidental to release on bail;
  - (2) "escape" means departure from custody without lawful authority or failure to return to custody following temporary leave lawfully granted pursuant to express authorization of law or order of a court;
  - (3) "juvenile offender" means the same as in K.S.A. 2016 Supp. 38-2302, and amendments thereto; and
  - (4) "state correctional institution" means the same as in K.S.A. 75-5202, and amendments thereto.
- (e) As used in this section, the term "charge" shall not require that the offender was held on a written charge contained in a complaint, information or indictment, if such offender was arrested prior to such offender's escape from custody.

**History:** L. 2010, ch. 136, § 136; L. 2011, ch. 30, § 39; L. 2012, ch. 150, § 22; July 1.