

Human Trafficking Relating Kansas Statutes Updated Through the 2019 Legislative Session

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21-5411. Criminal restraint.

- (a) Criminal restraint is knowingly and without legal authority restraining another person so as to interfere substantially with such person's liberty.
- (b) Criminal restraint is a class A person misdemeanor.
- (c) This section shall not apply to acts done in the performance of duty by any law enforcement officer of the state of Kansas or any political subdivision thereof.
- (d) Any merchant, or a merchant's agent or employee, who has probable cause to believe that a person has actual possession of and has wrongfully taken, or is about to wrongfully take merchandise from a mercantile establishment, may detain such person on the premises or in the immediate vicinity thereof, in a reasonable manner and for a reasonable period of time for the purpose of investigating the circumstances of such possession. Such reasonable detention shall not constitute an arrest nor criminal restraint.

History: L. 1969, ch. 180, § 21-3424; L. 1992, ch. 298, § 15; L. 1993, ch. 291, § 38; L. 2010, ch. 136, § 46; July 1, 2011.

21-5425. Unlawful administration of a substance.

- (a) Unlawful administration of a substance is the administration of a substance to another person without consent with the intent to impair such other person's physical or mental ability to appraise or control such person's conduct.
- (b) Unlawful administration of a substance is a class A person misdemeanor.
- (c) This section shall not prohibit administration of any substance described in subsection (d) for lawful medical or therapeutic treatment.
- (d) As used in this section, "administration of a substance" means any method of causing the ingestion by another person of a controlled substance, including gamma hydroxybutyric acid, or any controlled substance analog, as defined in K.S.A. 65-4101, and amendments thereto, of gamma hydroxybutyric acid, including gamma butyrolactone; butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with CAS No. 96-48-0; 1,4 butanediol; butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene 1,4-diol.

History: L. 1998, ch. 175, § 2; L. 2000, ch. 108, § 1; L. 2001, ch. 171, § 1; L. 2010, ch. 136, § 60; L. 2011, ch. 30, § 25, July 1.

21-5426. Human trafficking; aggravated human trafficking.

- (a) Human trafficking is:
 - (1) Except as provided in subsection (b)(4) and (5), the intentional recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjecting the person to involuntary servitude or forced labor;
 - (2) intentionally benefitting financially or by receiving anything of value

- from participation in a venture that the person has reason to know has engaged in acts set forth in subsection (a)(1);
- (3) knowingly coercing employment by obtaining or maintaining labor or services that are performed or provided by another person through any of the following:
 - (A) Causing or threatening to cause physical injury to any person;
 - (B) physically restraining or threatening to physically restrain another person;
 - (C) abusing or threatening to abuse the law or legal process;
 - (D) threatening to withhold food, lodging or clothing; or
 - (E) knowingly destroying, concealing, removing, confiscating or possessing any actual or purported government identification document of another person; or
 - (4) knowingly holding another person in a condition of peonage in satisfaction of a debt owed the person who is holding such other person.
- (b) Aggravated human trafficking is:
- (1) Human trafficking, as defined in subsection (a), involving the commission or attempted commission of kidnapping, as defined in K.S.A. 21-5408(a), and amendments thereto;
 - (2) human trafficking, as defined in subsection (a) committed in whole or in part for the purpose of the sexual gratification of the defendant or another;
 - (3) human trafficking, as defined in subsection (a) resulting in a death;
 - (4) recruiting, harboring, transporting, providing or obtaining, by any means, a child knowing that the child, with or without force, fraud, threat or coercion, will be used to engage in forced labor, involuntary servitude or sexual gratification of the defendant or another involving the exchange of anything of value; or
 - (5) hiring a child by giving, or offering or agreeing to give, anything of value to any person, to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act, and the offender recklessly disregards the age of the child..
- (c)
- (1) Human trafficking is a severity level 2, person felony.
 - (2) Aggravated human trafficking is a severity level 1, person felony, except as provided in subsection (3).
 - (3) Aggravated human trafficking or attempt, conspiracy or criminal solicitation to commit aggravated human trafficking is an off-grid person felony, when the offender is 18 years of age or older and the victim is less than 14 years of age.
 - (4) In addition to any other sentence imposed, a person convicted under subsection (c)(1) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (c)(2) or (c)(3) shall be fined not less than \$5,000. All fines

collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 2016 Supp. 75-758, and amendments thereto.

- (5) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child.
- (d) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:
 - (1) K.S.A. 21-5301(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated human trafficking pursuant to this section;
 - (2) K.S.A. 21-5302(c), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated human trafficking pursuant to this section; and
 - (3) K.S.A. 21-5303(d), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated human trafficking pursuant to this section.
- (e) It shall be an affirmative defense to any prosecution under subsection (b)(4) or (5) that the defendant: (1) Was under 18 years of age at the time of the violation; and (2) committed the violation because such defendant, at the time of the violation, was subjected to human trafficking or aggravated human trafficking, as defined by this section.
- (f) It shall not be a defense to a charge of aggravated human trafficking, as defined in subsection (b)(4) or (5), that: (1) The victim consented or willingly participated in the forced labor, involuntary servitude or sexual gratification of the defendant or another; or (2) the offender had no knowledge of the age of the victim.
- (g) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for commercial sexual exploitation of a child, as defined by K.S.A. 2016 Supp. 21-6422, and amendments thereto, or for any form of homicide.
- (h) The provisions of this section shall not apply to the use of the labor of any person incarcerated in a state or county correctional facility or city jail.
- (i) As used in this section:
 - (1) "Child" means a person under 18 years of age; and
 - (2) "peonage" means a condition of involuntary servitude in which the victim is forced to work for another person by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.

History: L. 2005, ch. 200, § 2; L. 2010, ch. 122, § 1; L. 2010, ch. 136, § 61; L. 2011, ch. 30, § 26, L. 2012, ch. 150, § 5; L. 2017, ch. 78, § 10; July 1.

K.S.A. Chapter 21 - Article 56

CRIMES AFFECTING FAMILY RELATIONSHIPS AND CHILDREN

21-5601. Endangering a child; aggravated endangering a child.

- (a) Endangering a child is knowingly and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health may be endangered.
- (b) Aggravated endangering a child is:
 - (1) Recklessly causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health is endangered;
 - (2) causing or permitting such child to be in an environment where the person knows or reasonably should know that any person is distributing, possessing with intent to distribute, manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto; or
 - (3) causing or permitting such child to be in an environment where the person knows or reasonably should know that drug paraphernalia or volatile, toxic or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto.
- (c)
 - (1) Endangering a child is a class A person misdemeanor.
 - (2) Aggravated endangering a child is a severity level 9, person felony. The sentence for a violation of aggravated endangering a child shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.
- (d) Nothing in subsection (a) shall be construed to mean a child is endangered for the sole reason the child's parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.
- (e) As used in this section:
 - (1) "Manufacture" means the same as in K.S.A. 2010 Supp. 21-5701, and amendments thereto; and
 - (2) "drug paraphernalia" means the same as in K.S.A. 2010 Supp. 21-5701, and amendments thereto.

History: L. 1969, ch. 180, § 21-3608; L. 1992, ch. 298, § 36; L. 1993, ch. 291, § 59; L. 2010, ch. 136, § 78; L. 2011, ch. 30, § 34, July 1.

21-5602. Abuse of a child.

- (a) Abuse of a child is knowingly:
 - (1) Torturing, or cruelly beating any child under the age of 18 years;
 - (2) shaking any child under the age of 18 years which results in great bodily

- harm to the child; or
- (3) inflicting cruel and inhuman corporal punishment upon any child under the age of 18 years.
- (b) Abuse of a child is a:
 - (1) Severity level 5, person felony, except as provided in subsection (b)(2); and
 - (2) severity level 4, person felony, if the victim is under the age of six years.
- (c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide.

History: L. 1969, ch. 180, § 21-3609; L. 1984, ch. 119, § 12; L. 1992, ch. 298, § 37; L. 1993, ch. 291, § 60; L. 1995, ch. 251, § 12; L. 2010, ch. 136, § 79; L. 2011, ch. 30, § 285, L. 2019, ch. 59, § 6; July 1.

21-5603. Contributing to a child's misconduct or deprivation.

- (a) Contributing to a child's misconduct or deprivation is:
 - (1) Knowingly causing or encouraging a child under 18 years of age to become or remain a child in need of care as defined by the revised Kansas code for care of children;
 - (2) knowingly causing or encouraging a child under 18 years of age to commit a traffic infraction or an act which, if committed by an adult, would be a misdemeanor or to violate the provisions of K.S.A. 41-727 or subsection (j) of K.S.A. 74-8810, and amendments thereto;
 - (3) failure to reveal, upon inquiry by a uniformed or properly identified law enforcement officer engaged in the performance of such officer's duty, any information one has regarding a runaway, with intent to aid the runaway in avoiding detection or apprehension;
 - (4) sheltering or concealing a runaway with intent to aid the runaway in avoiding detection or apprehension by law enforcement officers;
 - (5) knowingly causing or encouraging a child under 18 years of age to commit an act which, if committed by an adult, would be a felony; or
 - (6) knowingly causing or encouraging a child to violate the terms or conditions of the child's probation or conditional release pursuant to subsection (a)(1) of K.S.A. 2009 Supp. 38-2361, and amendments thereto.
- (b) Contributing to a child's misconduct or deprivation as defined in:
 - (1) Subsection (a)(5) is a severity level 7, person felony;
 - (2) subsection (a)(4) is a severity level 8, person felony;
 - (3) subsection (a)(1), (a)(2), (a)(3) or (a)(6) is a class A nonperson misdemeanor.
- (c) A person may be found guilty of contributing to a child's misconduct or deprivation even though no prosecution of the child whose misconduct or deprivation the defendant caused or encouraged has been commenced pursuant to the revised Kansas code for care of children, revised Kansas juvenile justice code or Kansas criminal code.
- (d) As used in this section, "runaway" means a child under 18 years of age who is voluntarily absent from:

- (1) The child's home without the consent of the child's parent or other custodian; or
- (2) a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee.

History: L. 1978, ch. 123, § 1; L. 1982, ch. 182, § 148; L. 1984, ch. 120, § 1; L. 1986, ch. 158, § 1; L. 1987, ch. 246, § 3; L. 1992, ch. 298, § 38; L. 1993, ch. 291, § 63; L. 1996, ch. 229, § 25; L. 1997, ch. 156, § 38; L. 2006, ch. 169, § 96; L. 2006, ch. 200, § 84; L. 2007, ch. 195, § 12; L. 2010, ch. 136, § 80; July 1, 2011.

21-5607. Furnishing alcoholic liquor or cereal malt beverage to a minor; furnishing alcoholic liquor or cereal malt beverage to a minor for illicit purposes.

- (a) Furnishing alcoholic liquor or cereal malt beverage to a minor is recklessly, directly or indirectly, buying for or distributing any alcoholic liquor or cereal malt beverage to any minor.
- (b) Furnishing alcoholic beverages to a minor for illicit purposes is, directly or indirectly, buying for or distributing alcoholic liquor or cereal malt beverage to a child under 18 years of age with the intent to commit against such child, or to encourage or induce such child to commit or participate in, any act defined as a crime in 21-5501 through 21-5513, and amendments thereto, or in 21-5604, and amendments thereto.
- (c)
 - (1) Furnishing alcoholic liquor or cereal malt beverage to a minor is a class B person misdemeanor, for which the minimum fine is \$200.
 - (2) Furnishing alcoholic beverages to a minor for illicit purposes is a severity level 9, person felony.
- (d) As used in this section, terms mean the same as in K.S.A. 41-102, 41-2601 and 41-2701, and amendments thereto.
- (e) This section shall not apply to wine intended for use and used by any church or religious organization for sacramental purposes.
- (f) It shall be a defense to a prosecution under subsection (a) if:
 - (1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit, or an employee thereof;
 - (2) the defendant sold the alcoholic liquor or cereal malt beverage to the minor with reasonable cause to believe that the minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage; and
 - (3) to purchase the alcoholic liquor or cereal malt beverage, the person exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document, that reasonably appears to contain a photograph of the minor and purporting to establish that such minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage.

- (g) Subsection (a) shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward when such furnishing is permitted and supervised by the child or ward's parent or legal guardian.

History: L. 1969, ch. 180, § 21-3610; L. 1988, ch. 165, § 7; L. 1989, ch. 91, § 1; L. 1993, ch. 173, § 1; L. 2001, ch. 189, § 1; L. 2002, ch. 26, § 1; L. 2004, ch. 94, § 1; L. 2008, ch. 126, § 10; L. 2010, ch. 136, § 84; July 1, 2011.

21-5608. Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage.

- (a) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is recklessly permitting a person's residence or any land, building, structure or room owned, occupied or procured by such person to be used by an invitee of such person or an invitee of such person's child or ward, in a manner that results in the unlawful possession or consumption therein of alcoholic liquor or cereal malt beverages by a minor.
- (b) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is a class A person misdemeanor, for which the minimum fine is \$1,000. If the court sentences the offender to perform community or public service work as a condition of probation, as described in subsection (b)(10) of section 247, and amendments thereto, the court shall consider ordering the offender to serve the community or public service at an alcohol treatment facility.
- (c) As used in this section, terms mean the same as in K.S.A. 41-102, and amendments thereto.
- (d) The provisions of this section shall not be deemed to create any civil liability for any lodging establishment, as defined in K.S.A. 36-501, and amendments thereto.

History: L. 2004, ch. 94, § 4; L. 2006, ch. 173, § 6; L. 2007, ch. 198, § 3; L. 2009, ch. 90, § 1, L. 2010, ch. 136, § 85; July 1, 2011.

21-5610. Unlawful possession of a visual depiction of a child.

- (a) Unlawful possession of a visual depiction of a child is knowingly possessing a visual depiction of a child 12 years of age or older but less than 16 years of age in a state of nudity, if committed by a person less than 19 years of age, and the possessor of such visual depiction received such visual depiction directly and exclusively from the child who is the subject of such visual depiction.
- (b) Unlawful possession of a visual depiction of a child is a class B person misdemeanor.
- (c) It shall be an affirmative defense to any prosecution under this section that the recipient of a visual depiction of a child in a state of nudity:
 - (1) Received such visual depiction without requesting, coercing or otherwise attempting to obtain such visual depiction;
 - (2) did not transmit, exhibit or disseminate such visual depiction; and
 - (3) made a good faith effort to erase, delete or otherwise destroy such visual

depiction.

- (d) The provisions of this section shall not apply to possession of a visual depiction of a child in a state of nudity if the person possessing such visual depiction is the child who is the subject of such visual depiction.
- (e) The provisions of this section shall not apply to a visual depiction of a child engaged in sexually explicit conduct or a visual depiction that constitutes obscenity as defined in K.S.A. 2015 Supp. 21-6401(f)(1), and amendments thereto.
- (f) It shall not be unlawful for a person who is less than 19 years of age to possess a visual depiction of a child in a state of nudity who is 16 years of age or older.

History: L. 2016, ch. 96, § 2; July 1.

21-5611. Unlawful transmission of a visual depiction of a child.

- (a) Unlawful transmission of a visual depiction of a child is knowingly transmitting a visual depiction of a child 12 or more years of age but less than 18 years of age in a state of nudity when the offender is less than 19 years of age.
- (b) Aggravated unlawful transmission of a visual depiction of a child is:
 - (1) Knowingly transmitting a visual depiction of a child 12 or more years of age but less than 18 years of age in a state of nudity:
 - (A) With the intent to harass, embarrass, intimidate, defame or otherwise inflict emotional, psychological or physical harm;
 - (B) for pecuniary or tangible gain; or
 - (C) with the intent to exhibit or transmit such visual depiction to more than one person; and
 - (2) when the offender is less than 19 years of age.
- (c) (1) Unlawful transmission of a visual depiction of a child is a:
 - (A) Class A person misdemeanor, except as provided in subsection (c)(1)(B); and
 - (B) severity level 10, person felony upon a second or subsequent conviction.
- (2) Aggravated unlawful transmission of a visual depiction of a child is a:
 - (A) Severity level 9, person felony, except as provided in subsection (c)(2)(B); and
 - (B) severity level 7, person felony upon a second or subsequent conviction.
- (d) It shall be a rebuttable presumption that an offender had the intent to harass, embarrass, intimidate, defame or otherwise inflict emotional, psychological or physical harm if the offender transmitted a visual depiction of a person other than such child in a state of nudity to more than one person.
- (e) The provisions of this section shall not apply to transmission of a visual depiction of a child in a state of nudity by the child who is the subject of such visual depiction.
- (f) The provisions of this section shall not apply to a visual depiction of a child engaged in sexually explicit conduct or a visual depiction that constitutes

obscenity as defined in K.S.A. 2015 Supp. 21-6401(f)(1), and amendments thereto.

- (g) As used in K.S.A. 21-5610 and 21-5611, and amendments thereto:
- (1) “Sexually explicit conduct” means actual or simulated: Sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex; masturbation and sado-masochistic abuse for the purpose of sexual stimulation;
 - (2) “state of nudity” means any state of undress in which the human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered;
 - (3) “transmission” means any form of communication, including, but not limited to, physical transmission of paper and electronic transmission that creates a record that may be retained and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process. Transmission also includes a request to receive a transmission of a visual depiction; and
 - (4) “visual depiction” means any photograph, film, video picture, digital or computer-generated image or picture made or produced by electronic, mechanical or other means.

History: L. 2016, ch. 96, § 1; July 1.

21-5612. Promoting travel for child exploitation.

- (a) Promoting travel for child exploitation is knowingly selling or offering to sell travel services that include or facilitate travel for the purpose of any person engaging in conduct that would constitute a violation of K.S.A. 2016 Supp. 21-5426(b)(4) or (5), 21-5510, section 3 [of 2017 SB 40] or 21-6422, and amendments thereto, if such conduct occurred in this state.
- (b) Promoting travel for child exploitation is a severity level 5, person felony.
- (c) As used in this section, “travel services” means transportation by air, sea or ground, hotel or any lodging accommodations, package tours, or vouchers or coupons to be redeemed for future travel or accommodations for a fee, commission or other valuable consideration.
- (d) This section shall be part of and supplemental to the Kansas criminal code.

History: L. 2017, ch. 78, § 2; July 1.

KSA Chapter 21 - Article 59

CRIMES AFFECTING GOVERNMENTAL FUNCTIONS

21-5904. Interference with law enforcement.

- (a) Interference with law enforcement is:
 - (1) Falsely reporting to a law enforcement officer, law enforcement agency or state investigative agency:
 - (A) That a particular person has committed a crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;

- (B) that a law enforcement officer has committed a crime or committed misconduct in the performance of such officer's duties, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;
 - (C) any information, knowing that such information is false and intending to influence, impede or obstruct such officer's or agency's duty; or
 - (D) any information concerning the death, disappearance or potential death or disappearance of a child under the age of 13, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;
- (2) concealing, destroying or materially altering evidence with the intent to prevent or hinder the apprehension or prosecution of any person; or
- (3) knowingly obstructing, resisting or opposing any person authorized by law to serve process in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty.
- (b) Interference with law enforcement as defined in:
 - (1) Subsection (a)(1)(A) and (a)(1)(B) is a:
 - (A) Class A nonperson misdemeanor, except as provided in subsection (b)(1)(B); and
 - (B) severity level 8, nonperson felony in the case of a felony;
 - (2) subsection(a)(1)(C) is a:
 - (A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and
 - (B) severity level 9, nonperson felony in the case of a felony;
 - (3) subsection (a)(1)(D) is a severity level 8, nonperson felony;
 - (4) subsection (a)(2) is a:
 - (A) Class A nonperson misdemeanor, except as provided in subsection (b)(4)(B); and
 - (B) severity level 8, nonperson felony in the case of a felony; and
 - (5) subsection (a)(3) is a:
 - (A) Severity level 9, nonperson felony in the case of a felony, or resulting from parole or any authorized disposition for a felony; and
 - (B) class A nonperson misdemeanor in the case of a misdemeanor, or resulting from any authorized disposition for a misdemeanor, or a civil case.

History: L. 1969, ch. 180, § 21-3818; L. 1992, ch. 239, § 152; L. 1992, ch. 298, § 55; L. 1993, ch. 142, § 2; L. 1993, ch. 291, §§ 101, 111; L. 1994, ch. 291, § 36; L. 2010, ch. 136, § 129, L. 2012, ch. 119, § 2; L. 2012, ch. 150, § 20; L. 2013, ch. 133, § 6; L. 2014, ch. 95, § 2; July 1.

21-5908. Witness or victim intimidation; definitions.

As used in sections 21-5909 and 21-5910, and amendments thereto:

- (a) "Civil injury or loss" means any injury or loss for which a civil remedy is

- provided under the laws of this state, any other state or the United States;
- (b) "victim" means any individual:
 - (1) Against whom any crime under the laws of this state, any other state or the United States is being, has been or is attempted to be committed; or
 - (2) who suffers a civil injury or loss; and
 - (c) "witness" means any individual:
 - (1) Who has knowledge of the existence or nonexistence of facts relating to any civil or criminal trial, proceeding or inquiry authorized by law;
 - (2) whose declaration under oath is received or has been received as evidence for any purpose;
 - (3) who has reported any crime or any civil injury or loss to any law enforcement officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer or judicial officer;
 - (4) who has been served with a subpoena issued under the authority of a municipal court or any court or agency of this state, any other state or the United States; or
 - (5) who is believed by the offender to be an individual described in this subsection.

History: L. 1983, ch. 108, § 1; L. 1986, ch. 123, § 2; L. 2010, ch. 136, § 133, July 1, 2011.

21-5909. Intimidation of a witness or victim.

- (a) Intimidation of a witness or victim is preventing or dissuading, or attempting to prevent or dissuade, with an intent to vex, annoy, harm or injure in any way another person or an intent to thwart or interfere in any manner with the orderly administration of justice:
 - (1) Any witness or victim from attending or giving testimony at any civil or criminal trial, proceeding or inquiry authorized by law; or
 - (2) any witness, victim or person acting on behalf of a victim from:
 - (A) Making any report of the victimization of a victim to any law enforcement officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer or judicial officer the secretary of the department of social and rehabilitation services or any agent or representative of the secretary, or any person required to make a report pursuant to K.S.A. 2011 Supp. 38-2223, and amendments thereto;
 - (B) causing a complaint, indictment or information to be sought and prosecuted, or causing a violation of probation, parole or assignment a community correctional services program to be reported and prosecuted, and assisting in its prosecution;
 - (C) causing a civil action to be filed and prosecuted and assisting in its prosecution; or
 - (D) arresting or causing or seeking the arrest of any person in connection

with the victimization of a victim.

- (b) Aggravated intimidation of a witness or victim is intimidation of a witness or victim, as defined in subsection (a), when the:
 - (1) Act is accompanied by an expressed or implied threat of force or violence against a witness, victim or other person or the property of any witness, victim or other person;
 - (2) act is in furtherance of a conspiracy;
 - (3) the act is committed by a person who has been previously convicted of corruptly influencing a witness or has been convicted of a violation of this section or any federal or other state's statute which, if the act prosecuted was committed in this state, would be a violation of this section;
 - (4) witness or victim is under 18 years of age; or
 - (5) act is committed for pecuniary gain or for any other consideration by a person acting upon the request of another person.
- (c)
 - (1) Intimidation of a witness or victim is a class B person misdemeanor.
 - (2) Aggravated intimidation of a witness or victim is a severity level 6, person felony.

History: L. 1983, ch. 108, §§ 2; 3; L. 1986, ch. 123, § 3; L. 1992, ch. 239, §§ 173, 174; L. 1993, ch. 291, §§ 122, 123; L. 2010, ch. 136, § 134, L. 2012, ch. 157, § 3; July 1.

21-5924. Violation of a protective order.

- (a) Violation of a protective order is knowingly violating:
 - (1) A protection from abuse order issued pursuant to K.S.A. 60-3105, 60-3106 or 60-3107, and amendments thereto;
 - (2) a protective order issued by a court or tribunal of any state or Indian tribe that is consistent with the provisions of 18 U.S.C. § 2265, and amendments thereto;
 - (3) a restraining order issued pursuant to K.S.A. 2011 Supp. 23-2707, 38-2243, 38-2244 or 38-2255, and amendments thereto, or K.S.A. 60-1607, prior to its transfer;
 - (4) an order issued in this or any other state as a condition of pretrial release, diversion, probation, suspended sentence, postrelease supervision or at any other time during the criminal case that orders the person to refrain from having any direct or indirect contact with another person;
 - (5) an order issued in this or any other state as a condition of release after conviction or as a condition of a supersedeas bond pending disposition of an appeal, that orders the person to refrain from having any direct or indirect contact with another person; or
 - (6) a protection from stalking, sexual assault or human trafficking order issued pursuant to K.S.A. 60-31a05 or 60-31a06, and amendments thereto.
- (b)
 - (1) Violation of a protective order is a class A person misdemeanor, except as provided in subsection (b)(2).

- (2) Violation of an extended protective order as described in K.S.A. 60-3107(e)(2), and amendments thereto, and K.S.A. 60-31a06(d), and amendments thereto, is a severity level 6, person felony.
- (c) No protective order, as set forth in this section, shall be construed to prohibit an attorney, or any person acting on such attorney's behalf, who is representing the defendant in any civil or criminal proceeding, from contacting the protected party for a legitimate purpose within the scope of the civil or criminal proceeding. The attorney, or person acting on such attorney's behalf, shall be identified in any such contact.
- (d) As used in this section, "order" includes any order issued by a municipal or district court.

History: L. 1996, ch. 208, § 2; L. 2002, ch. 141, § 12; L. 2005, ch. 146, § 11; L. 2006, ch. 36, § 1; L. 2006, ch. 200, § 86; L. 2008, ch. 137, § 4; L. 2010, ch. 136, § 149, L. 2012, ch. 138, § 2; L. 2012, ch. 162, § 34; L. 2013, ch. 133, § 7; L. 2017, ch. 66, § 1; L. 2018, ch. 110, § 1; July 1.

K.S.A. Chapter 21 - Article 64
CRIMES AGAINST THE PUBLIC MORALS
21-6419. Selling sexual relations.

- (a) Selling sexual relations is performing for hire, or offering or agreeing to perform for hire where there is an exchange of value, any of the following acts:
 - (1) Sexual intercourse;
 - (2) sodomy; or
 - (3) manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another.
- (b) Selling sexual relations is a class B nonperson misdemeanor.
- (c) It shall be an affirmative defense to any prosecution under this section that the defendant committed the violation of this section because such defendant was subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2013 Supp. 21-6422, and amendments thereto.

History: L. 1969, ch. 180, § 21-3512; L. 1980, ch. 98, § 1; L. 1983, ch. 109, § 9; L. 1992, ch. 239, § 80; L. 1993, ch. 291, § 49; L. 2010, ch. 136, § 229, L. 2013, ch. 120, § 16; July 1.

21-6420. Promoting the sale of sexual relations.

- (a) Promoting the sale of sexual relations is knowingly:
 - (1) Establishing, owning, maintaining or managing any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older, or participating in the establishment, ownership, maintenance or management thereof;

- (2) permitting any property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a place where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;
 - (3) procuring a person selling sexual relations who is 18 years of age or older for a place where sexual relations are being sold or offered for sale;
 - (4) inducing another who is 18 years of age or older to become a person who sells sexual relations;
 - (5) soliciting a patron for a person 18 years of age or older who is selling sexual relations or for a place where sexual relations are being sold or offered for sale;
 - (6) procuring a person 18 years of age or older who is selling sexual relations for a patron;
 - (7) procuring transportation for, paying for the transportation of, or transporting a person 18 years of age or older within this state with the intention of assisting or promoting that person's engaging in the sale of sexual relations; or
 - (8) being employed to perform any act which is prohibited by this section.
- (b) (1) Promoting the sale of sexual relations is a:
- (A) Severity level 9, person felony, except as provided in subsection (b)(1)(B); and
 - (B) severity level 7, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, or any prior version of this section;
- (2) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 2013 Supp. 75-758, and amendments thereto.

History: L. 1969, ch. 180, § 21-3513; L. 1986, ch. 120, § 1; L. 1992, ch. 298, § 28; L. 1993, ch. 291, § 50; L. 1994, ch. 291, § 25; L. 2006, ch. 212, § 12; L. 2010, ch. 109, § 10, L. 2010, ch. 136, § 230, L. 2011, ch. 30, § 60, L. 2013, ch. 120, § 17; July 1.

21-6421. Buying sexual relations.

(a) Buying sexual relations is knowingly:

- (1) Entering or remaining in a place where sexual relations are being sold or offered for sale with intent to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act with a person selling sexual relations who is 18 years of age or older; or
- (2) hiring a person selling sexual relations who is 18 years of age or older to

engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act.

- (b) (1) Buying sexual relations is a:
 - (A) Class A person misdemeanor, except as provided in subsection (b)(1)(B); and
 - (B) severity level 9, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, or any prior version of this section.
- (2) In addition to any other sentence imposed, a person convicted under this section shall be fined not less than \$1,200 nor more than \$5,000. One-half of all fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 2016 Supp. 75-758, and amendments thereto, and the remainder shall be remitted as otherwise provided by law.
- (3) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation.
- (c) For the purpose of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section:
 - (1) Convictions for a violation of this section, or any prior version of this section, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account; and
 - (2) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance which prohibits the acts of this section only once during the person's lifetime.
- (d) (1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.
- (2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

History: L. 1969, ch. 180, § 21-3515; L. 1983, ch. 109, § 10; L. 2010, ch. 136, § 231, L. 2013, ch. 120, § 18; L. 2014, ch. 28, § 3; L. 2017, ch. 78, § 13; July 1.

21-6422. Commercial sexual exploitation of a child.

- (a) Commercial sexual exploitation of a child is knowingly:
 - (1) Hiring a person younger than 18 years of age by giving, or offering or agreeing to give, anything of value to any person, to engage in a manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act;
 - (2) establishing, owning, maintaining or managing any property, whether real or personal, where sexual relations are being sold or offered for sale by a person younger than 18 years of age, or participating in the establishment, ownership, maintenance or management thereof; or
 - (3) permitting any property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a place where sexual relations are being sold or offered for sale by a person who is younger than 18 years of age;
- (b)
 - (1) Commercial sexual exploitation of a child is a:
 - (A) Severity level 4, person felony, except as provided in subsections (b)(1)(B) and (b)(2); and
 - (B) severity level 2, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, except as provided in subsection (b)(2).
 - (2) Commercial sexual exploitation of a child or attempt, conspiracy or criminal solicitation to commit commercial sexual exploitation of a child is an off-grid person felony when the offender is 18 years of age or older and the victim is less than 14 years of age.
 - (3) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) or (b)(2) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 2016 Supp. 75-758, and amendments thereto.
 - (4) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child.
- (c) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:
 - (1) K.S.A. 2016 Supp. 21-5301(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of commercial sexual exploitation of a child pursuant to this section;
 - (2) K.S.A. 2016 Supp. 21-5302(d), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of commercial sexual exploitation of a child pursuant to this section; and
 - (3) K.S.A. 2016 Supp. 21-5303(d), and amendments thereto, shall not apply

to a violation of criminal solicitation to commit the crime of commercial sexual exploitation of a child pursuant to this section.

History: L. 2013, ch. 120, § 4; L. 2014, ch. 28, § 4; L. 2017, ch. 78, § 14; July 1.

21-6424. Use of a communication facility for human trafficking, or buying sexual relations.

- (a) It shall be unlawful for any person to knowingly or intentionally use any communication facility:
 - (1) In committing, causing, or facilitating the commission of any felony under K.S.A. 2016 Supp. 21-5426, 21-6422 or 21-6420, and amendments thereto;
 - (2) in any attempt to commit, any conspiracy to commit, or any criminal solicitation of any felony under K.S.A. 2016 Supp. 21-5426, 21-6422 or 21-6420, and amendments thereto; or
 - (3) in committing, causing, or facilitating the commission of any felony or misdemeanor under K.S.A. 2016 Supp. 21-6421, and amendments thereto, or in any attempt to commit, any conspiracy to commit, or any criminal solicitation of any felony or misdemeanor under K.S.A. 2016 Supp. 21-6421, and amendments thereto. Each separate use of a communication facility may be charged as a separate offense under this subsection.
 - (b)
 - (1) Violation of subsection (a)(1) or (a)(2) is a severity level 7, person felony.
 - (2) Violation of subsection (a)(3) is a class A person misdemeanor.
 - (c) As used in this section, “communication facility” means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures or sounds of all kinds and includes telephone, wire, radio, computer, computer networks, beepers, pagers and all other means of communication.
 - (d) It shall be an affirmative defense to any prosecution under this section that the defendant committed the violation of this section because such defendant was subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2016 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2016 Supp. 21-6422, and amendments thereto.
 - (e) This section shall be part of and supplemental to the Kansas criminal code.
- History: L. 2017, ch. 78, § 1; July 1.*

**KSA Chapter 38, Article 22
Code for Care of Children**

38-2202. Selected Definition.

As used in the revised Kansas code for care of children, unless the context otherwise indicates:

- (c) "Aggravated circumstances" means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

- (d) "Child in need of care" means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 2007 Supp. 38-2242, and amendments thereto, who:
 - (1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;
 - (2) is without the care or control necessary for the child's physical, mental or emotional health;
 - (3) has been physically, mentally or emotionally abused or neglected or sexually abused;
 - (5) has been abandoned or does not have a known living parent;
 - (6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;
- (l) "Harm" means physical or psychological injury or damage.
- (n) "Jail" means:
 - (1) An adult jail or lockup; or
 - (2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is:
 - (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities;
 - (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and
 - (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.
- (o) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders that must not be a jail.
- (p) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.
- (r) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.
- (t) "Neglect" means acts or omissions by a parent, guardian or person responsible

for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:

- (1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;
 - (2) failure to provide adequate supervision of a child or to remove a child from a situation that requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or
 - (3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to K.S.A. 2014 Supp. 38-2217(a)(2), and amendments thereto.
- (y) "Physical, mental or emotional abuse" means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.
- (dd) "Runaway" means a child who is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian.
- (gg) "Sexual abuse" means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include, but is not limited to, allowing, permitting or encouraging a child to:
- (1) Be photographed, filmed or depicted in pornographic material.
 - (2) be subjected to aggravated human trafficking, as defined in K.S.A. 2015 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the offender or another or be subjected to an act that would constitute conduct proscribed by article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2015 Supp. 21-6419 or 21-6422, and amendments thereto.
- (ii) "Staff secure facility" means a facility described in K.S.A. 2015 Supp. 65-535 and amendments thereto:
- (1) That does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein;

- (2) that may establish reasonable rules restricting entrance to and egress from the facility; and
- (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision. No staff secure facility shall be in a city or county jail.

History: L. 2006, ch. 200, § 2; L. 2008, ch. 169, § 1; L. 2009, ch. 99, § 1; L. 2010, ch. 75, § 5; L. 2011, ch. 30, § 155, L. 2012, ch. 162, § 60, L. 2013, ch. 120, § 31; L. 2015, ch. 94, § 12; L. 2016, ch. 46, § 23; L. 2016, ch. 102, § 9; L. 2018, ch. 107, § 8; July 1; L. 2018, ch. 107, § 9; L. 2019, ch. 43, § 3; May 2.

38-2231. Child under 18, when law enforcement officers or court services officers may take into custody; sheltering a runaway.

- (a) A law enforcement officer or court services officer shall take a child under 18 years of age into custody when:
 - (1) The law enforcement officer or court services officer has a court order commanding that the child be taken into custody as a child in need of care; or
 - (2) the law enforcement officer or court services officer has probable cause to believe that a court order commanding that the child be taken into custody as a child in need of care has been issued in this state or in another jurisdiction.
- (b) A law enforcement officer shall take a child under 18 years of age into custody when the officer:
 - (1) Reasonably believes the child will be harmed if not immediately removed from the place or residence where the child has been found;
 - (2) has probable cause to believe that the child is a runaway or a missing person or a verified missing person entry for the child can be found in the national crime information center missing person system;
 - (3) reasonably believes the child is a victim of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child; or
 - (4) reasonably believes the child is experiencing a mental health crisis and is likely to cause harm to self or others.
- (c)
 - (1) If a person provides shelter to a child whom the person knows is a runaway, such person shall promptly report the child's location either to a law enforcement agency or to the child's parent or other custodian.
 - (2) If a person reports a runaway's location to a law enforcement agency pursuant to this section and a law enforcement officer of the agency has reasonable grounds to believe that it is in the child's best interests, the child may be allowed to remain in the place where shelter is being provided, subject to subsection (b), in the absence of a court order to the contrary. If the child is allowed to so remain, the law enforcement agency shall promptly notify the secretary of the child's location and circumstances.

- (d) Except as provided in subsections (a) and (b), a law enforcement officer may temporarily detain and assume temporary custody of any child subject to compulsory school attendance, pursuant to K.S.A. 72-1111, and amendments thereto, during the hours school is actually in session and shall deliver the child pursuant to K.S.A. 2015 Supp. 38-2232(g), and amendments thereto.

History: L. 2006, ch. 200, § 26; L. 2013, ch. 120, § 32; L. 2016, ch. 102, § 12; L. 2018, ch. 107, § 2; July 1.

38-2232. Child under 18 taken into custody; duties of officers; referral of cases for proceedings under this code and interstate compact on juveniles; placed in shelter facility or with other person; application of law enforcement officer; release of child.

- (a) (1) To the extent possible, when any law enforcement officer takes into custody a child under the age of 18 years without a court order, the child shall promptly be delivered to the custody of the child's parent or other custodian unless there are reasonable grounds to believe that such action would not be in the best interests of the child.
- (2) Except as provided in subsection (b), if the child is not delivered to the custody of the child's parent or other custodian, the child shall promptly be delivered to a:
- (A) (i) Shelter facility designated by the court;
- (ii) court services officer;
- (iii) juvenile intake and assessment worker;
- (iv) licensed attendant care center;
- (v) juvenile crisis intervention center after written authorization by a community mental health center; or
- (vi) other person;
- (B) if the child is 15 years of age or younger, to a facility or person designated by the secretary; or
- (C) if the child is or 16 or 17 years of age and the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to a facility or person designated by the secretary.
- (3) If, after delivery of the child to a shelter facility, the person in charge of the shelter facility at that time and the law enforcement officer determine that the child will not remain in the shelter facility and if the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to K.S.A. 2017 Supp. 38-2202(d)(9) or (d)(10), and amendments thereto, the law enforcement officer shall deliver the child to a secure facility, designated by the court, where the child shall be detained for not more than 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible.
- (4) No child taken into custody pursuant to this code shall be placed in a

secure facility, except as authorized by this section and by K.S.A. 2015 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto.

- (5) It shall be the duty of the law enforcement officer to furnish to the county or district attorney, without unnecessary delay, all the information in the possession of the officer pertaining to the child, the child's parents or other persons interested in or likely to be interested in the child and all other facts and circumstances which caused the child to be taken into custody.
- (b)
 - (1) When any law enforcement officer takes into custody any child as provided in K.S.A. 2017 Supp. 38-2231(b)(2), and amendments thereto, proceedings shall be initiated in accordance with the provisions of the interstate compact on juveniles, K.S.A. 38-1001 et seq., and amendments thereto, or K.S.A. 2017 Supp. 38-1008, and amendments thereto, when effective. Any child taken into custody pursuant to the interstate compact on juveniles may be detained in a juvenile detention facility or other secure facility.
 - (2) When any law enforcement officer takes into custody any child as provided in K.S.A. 2017 Supp. 38-2231(b)(3), and amendments thereto, the law enforcement officer shall place the child in protective custody and may deliver the child to a staff secure facility. The law enforcement officer shall contact the department for children and families to begin an assessment to determine safety, placement and treatment needs for the child. Such child shall not be placed in a secure facility, except as authorized by this section and by K.S.A. 2012 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto.
 - (3) When any law enforcement officer takes into custody any child as provided in K.S.A. 2017 Supp. 38-2231(b)(4), and amendments thereto, the law enforcement officer shall place the child in protective custody and may deliver the child to a juvenile crisis intervention center after written authorization by a community mental health center. Such child shall not be placed in a juvenile detention facility or other secure facility.
- (c) Whenever a child under the age of 18 years is taken into custody by a law enforcement officer without a court order and is thereafter placed as authorized by subsection (a), the facility or person shall, upon written application of the law enforcement officer, have physical custody and provide care and supervision for the child. The application shall state:
 - (1) The name and address of the child, if known;
 - (2) the names and addresses of the child's parents or nearest relatives and persons with whom the child has been residing, if known; and
 - (3) the officer's belief that the child is a child in need of care and that there are reasonable grounds to believe that the circumstances or condition of the child is such that the child would be harmed unless placed in the immediate custody of the shelter facility or other person.
- (d) A copy of the application shall be furnished by the facility or person receiving the child to the county or district attorney without unnecessary delay.

- (e) The shelter facility or other person designated by the court who has custody of the child pursuant to this section shall discharge the child not later than 72 hours following admission, excluding Saturdays, Sundays, legal holidays and days on which the office of the clerk of the court is not accessible, unless a court has entered an order pertaining to temporary custody or release.
- (f) In absence of a court order to the contrary, the county or district attorney or the placing law enforcement agency shall have the authority to direct the release of the child at any time.
- (g) When any law enforcement officer takes into custody any child as provided in K.S.A. 2017 Supp. 38-2231(d), and amendments thereto, the child shall promptly be delivered to the school in which the child is enrolled, any location designated by the school in which the child is enrolled or the child's parent or other custodian.

History: L. 2006, ch. 200, § 27; L. 2009, ch. 99, § 3, L. 2010, ch. 11, § 4; L. 2013, ch. 120, § 33; L. 2016, ch. 46, § 24; L. 2018, ch. 107, § 3; L. 2019, ch. 65 § 3 July 1.

K.S.A. Chapter 60 Article 31a

PROTECTION FROM STALKING, SEXUAL ASSAULT AND HUMAN TRAFFICKING ACT

60-31a01. Citation and Construction of Act

- (a) K.S.A. 60-31a01 through 60-31a09, and amendments thereto, shall be known and may be cited as the protection from stalking, sexual assault or human trafficking act.
- (b) This act shall be liberally construed to protect victims of stalking , sexual assault and human trafficking and to facilitate access to judicial protection for victims of stalking and, sexual assault victims and human trafficking, whether represented by counsel or proceedings proceeding pro se.

History: L. 2002, ch. 141, New Section One; L. 2017, ch. 66, § 3; L. 2018, ch. 110, § 4; July 1.

60-31a02. Definitions

As used in the protection from stalking, sexual assault or human trafficking act:

- (a) "Human trafficking" means any act that would constitute human trafficking or aggravated human trafficking, as defined by K.S.A. 2017 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2017 Supp. 21-6422, and amendments thereto, or an act that, if committed by an adult, would constitute selling sexual relations, as defined by K.S.A. 2017 Supp. 21-6419, and amendments thereto.
- (b) "Human trafficking victim" means a person who has been subjected to an act that would constitute human trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 21-6422, and amendments thereto,

or has committed an act that, if committed by an adult, would constitute selling sexual relations, as defined by K.S.A. 21-6419, and amendments thereto.

(c) "Sexual assault" means:

- (1) A nonconsensual sexual act; or
- (2) an attempted sexual act against another by force, threat of force, duress or when the person is incapable of giving consent.

(d) "Stalking" means an intentional harassment of another person that places the other person in reasonable fear for that person's safety.

- (1) "Harassment" means a knowing and intentional course of conduct directed at a specific person that seriously alarms, annoys, torments or terrorizes the person, and that serves no legitimate purpose.

"Harassment" shall include any course of conduct carried out through the use of an unmanned aerial system over or near any dwelling, occupied vehicle or other place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

- (2) "Course of conduct" means conduct consisting of two or more separate acts over a period of time, however short, evidencing a continuity of purpose which would cause a reasonable person to suffer substantial emotional distress. Constitutionally protected activity is not included within the meaning of "course of conduct."

(e) "Unmanned aerial system" means a powered, aerial vehicle that:

- (1) Does not carry a human operator;
- (2) uses aerodynamic forces to provide vehicle lift;
- (3) may fly autonomously or be piloted remotely;
- (4) may be expendable or recoverable; and
- (5) may carry a lethal or nonlethal payload.

History: L. 2002, ch. 141, L. 2016, ch. 58, § 3; L. 2017, ch. 66, § 4; L. 2018, ch. 110, § 5; July 1.

60-31a03. Jurisdiction

The district courts shall have jurisdiction over all proceedings under the protection from stalking, sexual assault or human trafficking act.

History: L. 2002, ch. 141, New Section Three; L. 2017, ch. 66, § 5; L. 2018, ch. 110, § 6; July 1.

60-31a04. Commencement of Proceedings; Persons Seeking Relief on Behalf of Minor; Forms; No Docket Fee; Confidentiality Exceptions

(a) A person may seek relief under the protection from stalking, sexual assault or human trafficking act by filing a verified petition with any judge of the district court or clerk of the court. A verified petition must allege facts sufficient to show the following:

- (1) The name of the stalking victim, sexual assault victim or human trafficking victim;

- (2) the name of the defendant;
 - (3) the dates on which the alleged stalking, sexual assault or human trafficking behavior occurred; and
 - (4) the acts committed by the defendant that are alleged to constitute stalking, sexual assault or human trafficking.
- (b) The following persons may seek relief under the protection from stalking, sexual assault or human trafficking act on behalf of a minor child by filing a verified petition with the judge of the district court or with the clerk of the court in the county where the stalking, sexual assault or human trafficking occurred:
 - (1) A parent of the minor child;
 - (2) an adult residing with the minor child; or
 - (3) the child's court-appointed legal custodian or court-appointed legal guardian.
- (c) The following persons may seek relief for a minor child who is alleged to be a human trafficking victim under the protection from stalking, sexual assault or human trafficking act on behalf of the minor child by filing a verified petition with any district judge or with the clerk of the court alleging acts committed by an individual that are alleged to constitute human trafficking:
 - (1) A parent of the minor child;
 - (2) an adult residing with the minor child;
 - (3) the child's court-appointed legal custodian or court-appointed legal guardian;
 - (4) a county or district attorney; or
 - (5) the attorney general.
- (d) The clerk of the court shall supply the forms for the petition and orders, which shall be prescribed by the judicial council.
- (e) Service of process served under this section shall be by personal service. No docket fee shall be required for proceedings under the protection from stalking, sexual assault or human trafficking act.
- (f) The victim's address and telephone number shall not be disclosed to the defendant or to the public, but only to authorized court or law enforcement personnel and to the commission on judicial performance in the discharge of the commission's duties pursuant to article 32 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto.

History: L. 2002, ch. 141, L. 2008, ch. 145, § 12; L. 2012, ch. 138, § 6; L. 2017, ch. 66, § 6; L. 2018, ch. 110, § 7; July 1.

60-31a05. Hearing; Temporary Orders Pending Hearing

- (a) Within 21 days of the filing of a petition under the protection from stalking, sexual assault or human trafficking act a hearing shall be held at which the plaintiff must prove the allegation of stalking, sexual assault or human trafficking by a preponderance of the evidence and the defendant shall have an opportunity to present evidence on the defendant's behalf. Upon the filing of

the petition, the court shall set the case for hearing. At the hearing, the court shall advise the parties of the right to be represented by counsel.

- (b) Prior to the hearing on the petition and upon a finding of good cause shown, the court on motion of a party may enter such temporary relief orders in accordance with K.S.A. 60-31a06, and amendments thereto, or any combination thereof, as it deems necessary to protect the victim from being stalked, sexually assaulted or trafficked. Temporary orders may be granted ex parte on presentation of a verified petition by the victim supporting a prima facie case of stalking or, sexual assault or human trafficking.
- (c) If a hearing under subsection (a) is continued, the court may make or extend such temporary orders under subsection (b) as it deems necessary.

History: L. 2002, ch. 141, New Section Five; L. 2017, ch. 66, § 7; L. 2018, ch. 110, § 8; July 1.

60-31a06. Orders; Time Periods; Amendments; Costs

- (a) The court may issue a protection from stalking, sexual assault or human trafficking order granting any one or more of the following orders:
 - (1) Restraining the defendant from following, harassing, telephoning, contacting or otherwise communicating with the victim. The order shall contain a statement that, if the order is violated the violation may constitute stalking as defined in K.S.A. 2017 Supp. 21-5427, and amendments thereto, and violation of a protective order as defined in K.S.A. 2017 Supp. 21-5924, and amendments thereto.
 - (2) Restraining the defendant from abusing, molesting or interfering with the privacy rights of the victim. The order shall contain a statement that, if the order is violated, the violation may constitute stalking as defined in K.S.A. 2017 Supp. 21-5427, and amendments thereto, assault as defined in K.S.A. 2017 Supp. 21-5412(a), and amendments thereto, battery as defined in K.S.A. 2017 Supp. 21-5413(a), and amendments thereto, and violation of a protective order as defined in K.S.A. 2017 Supp. 21-5924, and amendments thereto.
 - (3) Restraining the defendant from entering upon or in the victim's residence or the immediate vicinity thereof. The order shall contain a statement that, if the order is violated, the violation shall constitute criminal trespass as defined in K.S.A. 2017 Supp. 21-5808(a)(1)(C), and amendments thereto, and violation of a protective order as defined in K.S.A. 2017 Supp. 21-5924, and amendments thereto.
 - (4) Restraining the defendant from committing or attempting to commit a sexual assault upon the victim. The order shall contain a statement that, if the order is violated, the violation shall constitute violation of a protective order, as defined in K.S.A. 2017 Supp. 21-5924, and amendments thereto. The order shall also contain a statement that, if the order is violated, the violation may constitute a sex offense under article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments

thereto, and the accused may be prosecuted, convicted of and punished for such sex offense.

- (5) Restraining the defendant from following, harassing, telephoning, contacting, recruiting, harboring, transporting, or committing or attempting to commit human trafficking upon the human trafficking victim, or otherwise communicating with the human trafficking victim. The order shall contain a statement that, if the order is violated, the violation shall constitute violation of a protective order as defined in K.S.A. 2017 Supp. 21-5924, and amendments thereto. The order shall also contain a statement that, if the order is violated, the violation may constitute an offense under chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and the accused may be prosecuted, convicted of and punished for such offense.
- (6) Any other order deemed necessary by the court to carry out the provisions of this act.
- (b) A protection from stalking, sexual abuse or human trafficking order shall remain in effect until modified or dismissed by the court and shall be for a fixed period of time not to exceed one year except as provided in subsections (c) and (d).
- (c) Upon motion of the plaintiff the court may extend the order for an additional year.
- (d) Upon verified motion of the plaintiff and after the defendant has been personally served with a copy of the motion and has had an opportunity to present evidence and cross-examine witnesses at a hearing on the motion, the court shall extend a protective order for not less than two additional years and up to a period of time not to exceed the lifetime of the defendant, if the court determines by a preponderance of the evidence that the defendant has:
 - (1) Violated a valid protection order;
 - (2) previously violated a valid protection order; or
 - (3) been convicted of a person felony or any conspiracy, criminal solicitation or attempt thereof, under the laws of Kansas or the laws of any other jurisdiction which are substantially similar to such person felony, committed against the plaintiff or any member of the plaintiff's house-hold.

No service fee shall be required for a motion filed pursuant to this subsection.

- (e) The court may amend its order at any time upon motion filed by either party.
- (f) The court shall assess costs against the defendant and may award attorney fees to the victim in any case in which the court issues a protection from stalking, sexual assault or human trafficking order pursuant to this act. The court may award attorney fees to the defendant in any case where the court finds that the petition to seek relief pursuant to this act is without merit.
- (g) A no contact or restraining provision in a protective order issued pursuant to this section shall not be construed to prevent:
 - (1) Contact between the attorneys representing the parties;
 - (2) a party from appearing at a scheduled court or administrative hearing; or

- (3) a defendant or defendant's attorney from sending the plaintiff copies of any legal pleadings filed in court relating to civil or criminal matters presently relevant to the plaintiff.

History: L. 2002, ch. 141, L. 2008, ch. 137, § 5; L. 2012, ch. 138, § 7; L. 2017, ch. 66, § 8; L. 2018, ch. 110, § 9; July 1.

60-31a07. Notice of Protection Orders

A copy of any order under the protection from stalking, sexual assault or human trafficking act shall be issued to the victim, the defendant and the police department of the city where the victim resides. If the victim does not reside in a city or resides in a city with no police department, a copy of the order shall be issued to the sheriff of the county where the order is issued.

History: L. 2002, ch. 141, New Section Seven; L. 2017, ch. 66, § 9; L. 2018, ch. 110, § 10; July 1.

60-31a08. Procedure

Except as otherwise provided in the protection from stalking, sexual assault or human trafficking act, any proceedings under this act shall be in accordance with chapter 60 of the Kansas Statutes Annotated, and amendments thereto, and shall be in addition to any other available civil or criminal remedies.

History: L. 2002, ch. 141, New Section Eight; L. 2017, ch. 66, § 10; L. 2018, ch. 110, § 11; July 1.

60-31a09. Contempt.

If, upon hearing, the court finds a violation of any order under the protection from stalking, sexual assault or human trafficking act, the court may find the defendant in contempt pursuant to K.S.A. 20-1204a, and amendments thereto.

History: L. 2002, ch. 141, New Section Nine; L. 2017, ch. 66, § 11; L. 2018, ch. 110, § 12; July 1.