

HOUSE BILL No. 2048

AN ACT concerning regulated scrap metal; relating to the crimes of theft and criminal damage to property; sentencing; evidence at preliminary examination; regulation of scrap metal dealers; unlawful acts; penalties; creating the scrap metal theft reduction fee fund; amending K.S.A. 2014 Supp. 21-5804, 21-5813, 21-6604, 21-6804, 50-6,109, 50-6,110, 50-6,111, 50-6,112a, 50-6,112b and 50-6,112c and repealing the existing sections; also repealing K.S.A. 2014 Supp. 21-6604c and 50-6,112.

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

New Section 1. (a) The attorney general is hereby given jurisdiction and authority over all matters involving the implementation, administration and enforcement of the provisions of the scrap metal theft reduction act including to:

- (1) Employ or appoint agents as necessary to implement, administer and enforce the act;
- (2) contract;
- (3) expend funds;
- (4) license and discipline;
- (5) investigate;
- (6) issue subpoenas;
- (7) keep statistics; and
- (8) conduct education and outreach programs to promote compliance with the act.

(b) In accordance with the rules and regulations filing act, the attorney general is hereby authorized to adopt rules and regulations necessary to implement the provisions of the scrap metal theft reduction act.

(c) There is hereby established in the state treasury the scrap metal theft reduction fee fund to be administered by the attorney general. All moneys received by the attorney general from fees, charges or penalties collected under the provisions of the scrap metal theft reduction act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount thereof in the state treasury to the credit of the scrap metal theft reduction fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or the attorney general's designee. All moneys credited to the scrap metal theft reduction fee fund shall be expended for the administration of the duties, functions and operating expenses incurred under the provisions of the scrap metal theft reduction act.

(d) Before July 1, 2016, the attorney general shall establish and maintain a database which shall be a central repository for the information required to be provided under K.S.A. 2014 Supp. 50-6,110, and amendments thereto. The database shall be maintained for the purpose of providing information to law enforcement and for any other purpose deemed necessary by the attorney general to implement and enforce the provisions of the scrap metal theft reduction act.

(e) The information required by K.S.A. 2014 Supp. 50-6,110, and amendments thereto, maintained in such database by the attorney general, or by any entity contracting with the attorney general, submitted to, maintained or stored as part of the system shall:

- (1) Be confidential, shall only be used for investigatory, evidentiary or analysis purposes related to criminal violations of city, state or federal law and shall only be released to law enforcement in response to an official investigation or as permitted in subsection (d); and

- (2) not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2020, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto.

New Sec. 2. (a) If, by the attorney general's own inquiries or as a result of complaints, the attorney general has reason to believe that a person has engaged in, is engaging in or is about to engage in an act or practice that violates the scrap metal theft reduction act, the attorney general, or any deputy attorney general or assistant attorney general may administer oaths and affirmations, subpoena witnesses or matter and collect evidence.

(b) If the matter that the attorney general subpoenas is located outside this state, the person subpoenaed may either make it available to the attorney general at a convenient location within the state or pay the rea-

sonable and necessary expenses for the attorney general or the attorney general's designee to examine the matter at the place where it is located. The attorney general may designate representatives, including officials of the state in which the matter is located, to inspect the matter on the attorney general's behalf, and the attorney general may respond to similar requests from officials of other states.

(c) Service by the attorney general of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made by:

(1) The mailing thereof by certified mail to the last known place of business, residence or abode within or without this state; or

(2) in the manner provided in the code of civil procedure as if a petition had been filed.

(d) The attorney general may request that an individual who refuses to comply with a subpoena, on the ground that the testimony or matter may incriminate the individual, be ordered by the court to provide the testimony or matter. Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or matter after asserting a privilege against self-incrimination to which the individual is entitled by law, may not be subjected to a criminal proceeding or to a civil penalty to the transaction concerning which the individual is required to testify or produce relevant matter.

(e) If any person willfully fails or refuses to file any statement or report required by the scrap metal theft reduction act, or obey any subpoena issued by the attorney general, the attorney general may, after notice, apply to the district court and, after a hearing thereon, the district court may issue an order:

(1) Granting injunctive relief restraining the sale or advertisement of any services or merchandise by such persons;

(2) vacating, annulling or suspending the corporate charter of a corporation created by or under the laws of this state or revoking or suspending the certificate of authority to do business in this state of a foreign corporation or revoking or suspending any other licenses, permits or certificates issued pursuant to law to the person, which are used to further the allegedly unlawful practice; or

(3) granting such other relief as may be required, until the person files the statement or report, or obeys the subpoena.

New Sec. 3. (a) Any scrap metal dealer who violates any of the provisions of the scrap metal theft reduction act, in addition to any other penalty provided by law, may incur a civil penalty imposed pursuant to subsection (b) in an amount not less than \$100 nor more than \$5,000 for each violation.

(b) The attorney general, upon a finding that a scrap metal dealer or any employee or agent thereof or any person or entity required to be registered as a scrap metal dealer has violated any of the provisions of the scrap metal theft reduction act may impose a civil penalty as provided in this subsection upon such scrap metal dealer.

(c) A civil penalty shall not be imposed pursuant to this section except upon the written order of the attorney general to the scrap metal dealer who is responsible for the violation. Such order is a final order for purposes of judicial review and shall state the violation, the penalty to be imposed and the right of such dealer to appeal as provided in the Kansas judicial review act.

(d) This section shall take effect on and after January 1, 2016.

New Sec. 4. (a) The attorney general may bring a civil action to:

(1) Obtain a declaratory judgment that an act or practice violates the scrap metal theft reduction act;

(2) enjoin, or to obtain a restraining order against any person who has violated, is violating, or is otherwise likely to violate the scrap metal theft reduction act;

(3) recover reasonable expenses and investigation fees; or

(4) impose any civil penalty authorized by the scrap metal theft reduction act.

(b) In lieu of investigating or continuing an action or proceeding, the attorney general may accept a consent judgment with respect to any act or practice declared to be a violation of the scrap metal theft reduction act. Before any consent judgment entered into pursuant to this section

shall be effective, it must be approved by the district court and an entry made thereof in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of such consent judgment shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law.

(c) In any action brought by the attorney general, the court may, without requiring bond of the attorney general:

(1) Make such orders or judgments as may be necessary to prevent the use or employment by a person of any practice declared to be a violation of the scrap metal theft reduction act;

(2) issue a temporary restraining order or enjoin any person from violating the scrap metal theft reduction act;

(3) award reasonable expenses and investigation fees, civil penalties and costs; and

(4) grant other appropriate relief.

(d) The commission of any act or practice declared to be a violation of the scrap metal theft reduction act shall render the violator liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in a sum of not more than \$5,000 for each violation.

(e) Any person who willfully violates the terms of any court order issued pursuant to the scrap metal theft reduction act shall forfeit and pay a civil penalty of not more than \$10,000 per violation, in addition to other penalties that may be imposed by the court, as the court shall deem necessary and proper. For the purposes of this section, the district court issuing an order shall retain jurisdiction, and in such cases, the attorney general, acting in the name of the state may petition for recovery of civil penalties.

(f) Any act or practice declared to be a violation of the scrap metal theft reduction act which is continuing in nature shall be deemed a separate violation each day such act or practice exists.

(g) This section shall take effect on and after January 1, 2016.

New Sec. 5. (a) Any person, whether or not a resident or citizen of this state, who in person or through an agent or an instrumentality, engages in business as a scrap metal dealer as defined in the scrap metal theft reduction act, thereby submits the person to the jurisdiction of the courts of this state as to any cause of action arising from such business.

(b) Every administrative or civil action pursuant to the scrap metal theft reduction act shall be brought in the district court of Shawnee county or in any other district where venue is otherwise authorized by law.

New Sec. 6. (a) A municipality shall not enact or enforce any ordinance, resolution or regulation relating to the implementation, administration and enforcement of the provisions of the scrap metal theft reduction act.

(b) Any ordinance, resolution or regulation prohibited by subsection (a) that was adopted prior to July 1, 2015, shall be null and void.

(c) No action shall be commenced or prosecuted against any individual for a violation of any ordinance, resolution or regulation that is prohibited by subsection (a) and which was adopted prior to July 1, 2015, if such violation occurred on or after July 1, 2014.

(d) As used in this section, "municipality" has the same meaning as defined in K.S.A. 75-6102, and amendments thereto.

New Sec. 7. (a) At any preliminary examination pursuant to K.S.A. 22-2902, and amendments thereto, in which the details of each sale or transaction required to be maintained by scrap metal dealers pursuant to K.S.A. 2014 Supp. 50-6,110, and amendments thereto, are to be introduced as evidence, the business records of such sale or transaction shall be admissible in to evidence in the preliminary examination in the same manner and with the same force and effect as if the individuals who made the record, and the records custodian who keeps the record, had testified in person.

(b) This section shall be part of and supplemental to the Kansas code of criminal procedure.

Sec. 8. K.S.A. 2014 Supp. 21-5804 is hereby amended to read as follows: 21-5804. (a) In any prosecution under K.S.A. 2014 Supp. 21-5801 through 21-5839, and amendments thereto, the following shall be prima

facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:

(1) The giving of a false identification or fictitious name, address or place of employment at the time of ~~obtaining~~ *buying, selling, leasing, trading, gathering, collecting, soliciting, procuring, receiving, dealing or otherwise obtaining or exerting control over the property;*

(2) the failure of a person who leases or rents personal property to return the same within 10 days after the date set forth in the lease or rental agreement for the return of the property, if notice is given to the person renting or leasing the property to return the property within seven days after receipt of the notice, in which case the subsequent return of the property within the seven-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section;

(3) destroying, breaking or opening a lock, chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property;

(4) destruction of or substantially damaging or altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property;

(5) the failure of a person who leases or rents from a commercial renter a motor vehicle under a written agreement that provides for the return of the motor vehicle to a particular place at a particular time, if notice has been given to the person renting or leasing the motor vehicle to return such vehicle within three calendar days from the date of the receipt or refusal of the demand. In addition, if such vehicle has not been returned after demand, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;

(6) the failure of a person who is provided with a use of a vehicle by the owner of the vehicle to return it to the owner pursuant to a written instruction specifying: (A) The time and place to return the vehicle; and (B) that failure to comply may be prosecuted as theft, and such instructions are delivered to the person by the owner at the time the person is provided with possession of the vehicle. In addition, if such vehicle has not been returned pursuant to the specifications in such instructions, the owner may notify the local law enforcement agency of the failure of the person to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;

(7) removing a theft detection device, without authority, from merchandise or disabling such device prior to purchase; or

(8) under the provisions of ~~subsection (a)(5)~~ of K.S.A. 2014 Supp. 21-5801(a)(5), and amendments thereto, the failure to replace or reattach the nozzle and hose of the pump used for the dispensing of motor fuels or placing such nozzle and hose on the ground or pavement.

(b) In any prosecution for a misdemeanor under K.S.A. 2014 Supp. 21-5801, and amendments thereto, in which the object of the alleged theft is a book or other material borrowed from a library, it shall be prima facie evidence of intent to permanently deprive the owner of the possession, use or benefit thereof if the defendant failed to return such book or material within 30 days after receiving notice from the library requesting its return, in which case the subsequent return of the book or material within the 30-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section.

(c) In a prosecution for theft as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, and such theft is of services, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service, caused by tampering, shall be prima facie evidence of intent to commit theft of services by the person or persons using or receiving the direct benefits from the use of the electricity, natural gas, water, telephone service or cable television service passing through such connections or meters, or using the electricity, natural gas, water, telephone service or cable television service which has not been authorized or measured.

(d) *In a prosecution for theft as defined in K.S.A. 2014 Supp. 21-*

5801, and amendments thereto, and such theft is of regulated scrap metal as defined in K.S.A. 2014 Supp. 50-6,109, and amendments thereto, either in whole or in part, the failure to give information or the giving of false information to a scrap metal dealer pursuant to the requirements of the scrap metal theft reduction act, the transportation of regulated scrap metal outside the county from where it was obtained, the transportation of regulated scrap metal across state lines or the alteration of any regulated scrap metal prior to any transaction with a scrap metal dealer shall be prima facie evidence of intent to permanently deprive the owner of the regulated scrap metal of the possession, use or benefit thereof.

~~(d)~~(e) As used in this section:

(1) “Notice” means notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library material at the address as it appears in the information supplied by such person at the time of such leasing, renting or borrowing, or to such person’s last known address; and

(2) “tampering” includes, but is not limited to:

(A) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;

(B) defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service;

(C) preventing any such meters from properly measuring or registering;

(D) knowingly taking, receiving, using or converting to such person’s own use, or the use of another, any electricity, water or natural gas which has not been measured; or any telephone or cable television service which has not been authorized; or

(E) causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts.

Sec. 9. K.S.A. 2014 Supp. 21-5813 is hereby amended to read as follows: 21-5813. (a) Criminal damage to property is by means other than by fire or explosive:

(1) Knowingly damaging, destroying, defacing or substantially impairing the use of any property in which another has an interest without the consent of such other person; or

(2) damaging, destroying, defacing or substantially impairing the use of any property with intent to injure or defraud an insurer or lienholder.

(b) *Aggravated criminal damage to property is criminal damage to property, as defined in subsection (a)(1), if the value or amount of damage exceeds \$5,000, committed with the intent to obtain any regulated scrap metal as defined in K.S.A. 2014 Supp. 50-6,109, and amendments thereto, or any items listed in K.S.A. 2014 Supp. 50-6,111(d), and amendments thereto, upon:*

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

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

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

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

(5) *any agricultural property or agricultural infrastructure;*

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

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

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

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

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

- (11) *any historical marker, plaque or work of art;*
 - (12) *any vehicle or transportation building, facility, structure, site or property; or*
 - (13) *any other building, structure, residence, facility, site, place, property, vehicle or any infrastructure thereof.*
- ~~(b)~~(c) Criminal damage to property if the property:
- (1) Is damaged to the extent of \$25,000 or more is a severity level 7, nonperson felony;
 - (2) is damaged to the extent of at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony; and
 - (3) damaged is of the value of less than \$1,000 or is of the value of \$1,000 or more and is damaged to the extent of less than \$1,000 is a class B nonperson misdemeanor.
- (d) *Aggravated criminal damage to property is a severity level 6, nonperson felony.*
- (e) (1) *As used in subsection (b):*
- (A) *“Infrastructure” includes any fixture to, attachment upon or part of a residence, building or structure’s framework, electrical wiring and appurtenances, plumbing or heating and air systems; and*
 - (B) *“site” includes any area, place or location set aside for specific use or uses, including, but not limited to, storage, staging, repair, sorting, transportation, planning or organization.*
- (2) *Any of the items or locations listed in subsection (b) shall include the curtilage, adjoining land and any improvements thereupon.*
- (3) *Nothing in subsection (b) shall be construed to require the:*
- (A) *Construction or existence of any door, gate, fence, barrier or wall;*
- or*
- (B) *existence of notice, postings or signs to potential trespassers.*
- (f) *In determining the amount of damage to property, damages may include the cost of repair or replacement of the property that was damaged, the reasonable cost of the loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property.*

Sec. 10. K.S.A. 2014 Supp. 21-6604 is hereby amended to read as follows: 21-6604. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

- (1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;
- (2) impose the fine applicable to the offense and may impose the provisions of subsection (q);
- (3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2014 Supp. 8-1025, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence;
- (4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;
- (5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;
- (6) assign the defendant to a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto;
- (7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by ~~subsection (e) of K.S.A. 2014 Supp. 21-6602(c)~~, and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape from custody or aggravated escape from custody, as defined in K.S.A. 2014 Supp. 21-5911, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson or aggravated arson as defined in K.S.A. 2014 Supp. 21-5812, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

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

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

(11) if the defendant is convicted of a misdemeanor or convicted of a felony specified in ~~subsection (i)~~ of K.S.A. 2014 Supp. 21-6804(i), and amendments thereto, assign the defendant to work release program, other than a program at a correctional institution under the control of the secretary of corrections as defined in K.S.A. 75-5202, and amendments thereto, provided such work release program requires such defendant to return to confinement at the end of each day in the work release program. On a second or subsequent conviction of K.S.A. 8-1567, and amendments thereto, an offender placed into a work release program shall serve the total number of hours of confinement mandated by that section;

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

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

(14) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 2014 Supp. 21-6107, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. *In regard to a violation of K.S.A. 2014 Supp. 21-5801, 21-5807 or 21-5813, and amendments thereto, such damage or loss shall include the cost of repair or replacement of the property that was damaged, the reasonable cost of any loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property.* If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the

attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The chief judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by ~~subsection (d) of K.S.A. 2014 Supp. 21-6602(d)~~, and amendments thereto.

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

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

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony, a new sentence shall be imposed consecutively pursuant to the provisions of K.S.A. 2014 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed during a period of time during which the defendant would have been on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony had the defendant not been granted release by the court pursuant to ~~subsection (d) of K.S.A. 2014 Supp. 21-6608(d)~~, and amendments thereto, or the prisoner review board pursuant to K.S.A. 22-3717, and amendments thereto, the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(3) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2014 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(4) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed consecutively pursuant to the provisions of K.S.A. 2014 Supp. 21-6606,

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

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2014 Supp. 21-6824, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2014 Supp. 21-6824, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendments thereto, or a community intermediate sanction center. Pursuant to this subsection the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or community intermediate sanction center and the defendant meets all of the conservation camp's or community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or community intermediate sanction center.

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

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

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend

or cancel a license, remove a person from office or impose any other civil penalty as a result of conviction of crime.

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

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

(1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, or for an offense which is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and such offense does not meet the requirements of K.S.A. 2014 Supp. 21-6824, and amendments thereto; and

(2) otherwise meets admission criteria of the camp.

If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 2014 Supp. 21-6608, and amendments thereto.

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

(n) (1) Except as provided by ~~subsection (f)~~ of K.S.A. 2014 Supp. 21-6630 and 21-6805(f), and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 2014 Supp. 21-5706, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 2014 Supp. 21-6824, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 2014 Supp. 75-52,144, and amendments thereto, including, but not limited to, an approved after-care plan. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(2) If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the defendant's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to sanction or revocation pursuant to the provisions of K.S.A. 22-3716, and amendments thereto. If the defendant's probation is revoked, the defendant shall serve the underlying prison sentence as established in K.S.A. 2014 Supp. 21-6805, and amendments thereto.

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

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

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful

possession of a controlled substance or controlled substance analog in violation of K.S.A. 2014 Supp. 21-5706, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

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

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

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

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

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

(p) In addition to any of the above, for any criminal offense that includes the domestic violence designation pursuant to K.S.A. 2014 Supp. 22-4616, and amendments thereto, the court shall require the defendant to: (1) Undergo a domestic violence offender assessment conducted by a certified batterer intervention program; and (2) follow all recommendations made by such program, unless otherwise ordered by the court or the department of corrections. The court may order a domestic violence offender assessment and any other evaluation prior to sentencing if the assessment or evaluation would assist the court in determining an appropriate sentence. The entity completing the assessment or evaluation shall

provide the assessment or evaluation and recommendations to the court and the court shall provide the domestic violence offender assessment to any entity responsible for supervising such defendant. A defendant ordered to undergo a domestic violence offender assessment shall be required to pay for the assessment and, unless otherwise ordered by the court or the department of corrections, for completion of all recommendations.

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

(r) In addition to any other penalty or disposition imposed by law, for any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2014 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the court shall order that the defendant be electronically monitored upon release from imprisonment for the duration of the defendant's natural life and that the defendant shall reimburse the state for all or part of the cost of such monitoring as determined by the prisoner review board.

(s) Whenever the court has released the defendant on probation pursuant to subsection (a)(3), the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose the violation sanctions as provided in ~~subsection (c)(1)(B) of K.S.A. 22-3716(c)(1)(B)~~, and amendments thereto, without further order of the court, unless:

(1) The court has specifically withheld this authority in its sentencing order; or

(2) the defendant, after being apprised of the right to a revocation hearing before the court pursuant to ~~subsection (b) of K.S.A. 22-3716(b)~~, and amendments thereto, refuses to waive such right.

(t) Whenever the court has assigned the defendant to a community correctional services program pursuant to subsection (a)(4), the defendant's community corrections officer, with the concurrence of the community corrections director, may impose the violation sanctions as provided in ~~subsection (c)(1)(B) of K.S.A. 22-3716(c)(1)(B)~~, and amendments thereto, without further order of the court unless:

(1) The court has specifically withheld this authority in its sentencing order; or

(2) the defendant, after being apprised of the right to a revocation hearing before the court pursuant to ~~subsection (b) of K.S.A. 22-3716(b)~~, and amendments thereto, refuses to waive such right.

Sec. 11. K.S.A. 2014 Supp. 21-6804 is hereby amended to read as follows: 21-6804. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. The following sentencing guidelines grid shall be applicable to nondrug felony crimes:

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 30
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	6 5 4

LEGEND

Presumptive Probation

Presumptive Imprisonment

- (b) Sentences expressed in the sentencing guidelines grid for non-drug crimes represent months of imprisonment.
- (c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.
- (d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to the sentencing court's discretion to enter a departure sentence. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.
- (e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.
- (2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:
 - (A) Prison sentence;

(B) maximum potential reduction to such sentence as a result of good time; and

(C) period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the:

(A) Prison sentence; and

(B) duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence as provided in subsection (q).

(g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or a violation of ~~subsection (d)~~ of K.S.A. 2014 Supp. 21-5412(d), and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(i) (1) The sentence for the violation of the felony provision of K.S.A. 2014 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, ~~subsection (b)(3)~~ of K.S.A. 2014 Supp. 21-5414(b)(3), ~~subsections (b)(3) and (b)(4)~~ of K.S.A. 2014 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2014 Supp. 21-6412 and K.S.A. 2014 Supp. 21-6416, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 2014 Supp. 21-6807, and amendments thereto.

(2) If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 2014 Supp. 21-6807, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 2014 Supp. 21-5823, and amendments thereto.

(3) Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 2014 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, ~~subsection (b)(3)~~ of K.S.A. 2014 Supp. 21-5414(b)(3), ~~subsections (b)(3) and (b)(4)~~ of K.S.A. 2014 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2014 Supp. 21-6412 and K.S.A. 2014 Supp. 21-6416, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 2014 Supp. 8-1025 or K.S.A. 8-2,144 or K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review. Prior to imposing any sentence pursuant to this subsection, the court may consider assigning the defendant to a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who:

(A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(A)(i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, in this state or comparable felony under the laws of another state, the federal government or a foreign government; or

(B) (i) has been convicted of rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2014 Supp. 21-5503, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(B)(i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in subsection (j)(2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) (1) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(2) As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities:

(A) The commission of one or more person felonies; or

(B) the commission of felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; and

(C) its members have a common name or common identifying sign or symbol; and

(D) its members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of ~~subsection (a)(1) of K.S.A. 2014 Supp. 21-5807(a)(1), and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2014 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715(a) or (b), prior to its repeal, 21-3716, prior to its repeal, subsection (a)(1) or (a)(2) of K.S.A. 2014 Supp. 21-5807(a)(1) or (a)(2), or subsection (b) of K.S.A. 2014 Supp. 21-5807(b), and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment.~~

(m) The sentence for a violation of K.S.A. 22-4903 ~~or subsection (a)(2) of K.S.A. 2014 Supp. 21-5913(a)(2), and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence as provided in subsection (q).~~

(n) The sentence for a violation of criminal deprivation of property, as defined in K.S.A. 2014 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, and when such person being sentenced has any combination of two or more prior convictions of ~~subsection (b) of K.S.A. 21-3705(b), prior to its repeal, or of criminal deprivation of property, as defined in K.S.A. 2014 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.~~

(o) The sentence for a felony violation of theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, or burglary as defined in ~~subsection (a) of K.S.A. 2014 Supp. 21-5807(a), and amend-~~

ments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, or burglary as defined in ~~subsection (a) of K.S.A. 2014 Supp. 21-5807(a)~~, and amendments thereto; or the sentence for a felony violation of theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2014 Supp. 21-5807, and amendments thereto; or the sentence for a felony violation of burglary as defined in ~~subsection (a) of K.S.A. 2014 Supp. 21-5807(a)~~, and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2014 Supp. 21-5807, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved after-care plan, if the court makes the following findings on the record:

- (1) Substance abuse was an underlying factor in the commission of the crime;
- (2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
- (3) participation in an intensive substance abuse treatment program will serve community safety interests.

A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of ~~subsection (f)(1) of K.S.A. 2014 Supp. 21-6824(f)(1)~~, and amendments thereto, shall apply to a defendant sentenced under this subsection. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(p) The sentence for a felony violation of theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2014 Supp. 21-5807, and amendments thereto; or the sentence for a violation of burglary as defined in ~~subsection (a) of K.S.A. 2014 Supp. 21-5807(a)~~, and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2014 Supp. 21-5807, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

- (1) Substance abuse was an underlying factor in the commission of the crime;
- (2) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
- (3) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's

term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(q) As used in this section, an “optional nonprison sentence” is a sentence which the court may impose, in lieu of the presumptive sentence, upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(r) The sentence for a violation of ~~subsection (c)(2) of~~ K.S.A. 2014 Supp. 21-5413(c)(2), and amendments thereto, shall be presumptive imprisonment and 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.

(s) The sentence for a violation of K.S.A. 2014 Supp. 21-5512, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(t) (1) If the trier of fact makes a finding that an offender wore or used ballistic resistant material in the commission of, or attempt to commit, or flight from any felony, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 30 months’ imprisonment.

(2) The sentence imposed pursuant to subsection (t)(1) shall be presumptive imprisonment and 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.

(3) As used in this subsection, “ballistic resistant material” means: (A) Any commercially produced material designed with the purpose of providing ballistic and trauma protection, including, but not limited to, bulletproof vests and kevlar vests; and (B) any homemade or fabricated substance or item designed with the purpose of providing ballistic and trauma protection.

(u) The sentence for a violation of K.S.A. 2014 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2014 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2014 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(v) The sentence for a third or subsequent violation of K.S.A. 8-1568, and amendments thereto, shall be presumptive imprisonment and 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.

(w) *The sentence for aggravated criminal damage to property as defined in K.S.A. 2014 Supp. 21-5813(b), and amendments thereto, when such person being sentenced has a prior conviction for any nonperson felony shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.*

Sec. 12. K.S.A. 2014 Supp. 50-6,109 is hereby amended to read as follows: 50-6,109. (a) ~~As used in K.S.A. 2014 Supp. 50-6,112a through 50-6,112c, and amendments thereto, and K.S.A. 2014 Supp. 50-6,109 through 50-6,112 50-6,112c, section 1, section 2, section 3, section 4, section 5 and section 6, and amendments thereto, shall be known and may be cited as the scrap metal theft reduction act.~~

(b) *As used in the scrap metal theft reduction act:*

~~(a)(1)~~ (1) “Scrap metal dealer” means any ~~person~~ individual, firm, com-

pany, partnership, association or corporation that operates a business out of a fixed location, and that is also either:

~~(1) Engaged in the business of buying and dealing in regulated scrap metal;~~

~~(2) purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or~~

~~(3) operating, carrying on, conducting or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer that is engaged in the business of buying, trading or dealing in regulated scrap metal for the purpose of sale for recycling.~~

~~(b) “Regulated scrap metal yard” means any yard, plot, space, enclosure, building or any other place where regulated scrap metal is collected, gathered together and stored or kept for shipment, sale or transfer.~~

~~(e)(2) “Regulated scrap metal” shall mean wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors made from aluminum, catalytic converters containing platinum, palladium or rhodium; and copper, titanium, tungsten, stainless steel and nickel in any form, for which the purchase price described in K.S.A. 2014 Supp. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item composed in whole or in part of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling. Aluminum shall not include food or beverage containers means any item, in any form, for which the purchase price described in K.S.A. 2014 Supp. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content of:~~

~~(A) Aluminum, except that aluminum shall not include food or beverage containers;~~

~~(B) copper;~~

~~(C) brass;~~

~~(D) bronze;~~

~~(E) stainless steel;~~

~~(F) zinc;~~

~~(G) titanium;~~

~~(H) tungsten;~~

~~(I) nickel;~~

~~(J) platinum;~~

~~(K) palladium;~~

~~(L) rhodium;~~

~~(M) magnesium;~~

~~(N) lead;~~

~~(O) any other nonferrous metal; or~~

~~(P) any combination of nonferrous metals listed in subsections (b)(2)(A) through (b)(2)(P).~~

~~(d)(3) “Bales of regulated metal” means regulated scrap metal property processed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.~~

~~(e) “Ferrous metal” means a metal that contains iron or steel.~~

~~(f)(4) “Junk vehicle” means a vehicle as defined in K.S.A. 8-126, and amendments thereto, not requiring a title as provided in chapter 8 of the Kansas Statutes Annotated, and amendments thereto, an aircraft; or a boat, farming implement, industrial equipment, trailer or any other conveyance used on the highways and roadways, which has no use or resale value except as scrap which is being sold for scrap value.~~

~~(g)(5) “Nonferrous metal” means a metal that does not contain iron or steel, including but not limited to: Copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.~~

~~(h) “Tin” means a metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.~~

~~(i)(6) “Vehicle part” means the front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit; or the rear clip consisting of those body parts behind the rear edge of the back doors, including both rear quarter panels, the rear window,~~

trunk lid, trunk floor panel and rear bumper, assembled as one unit, ~~or any other vehicle part.~~

(7) “Person” means any individual, scrap metal dealer, manager or employee, owner, operator, corporation, partnership or association.

(8) “Attorney general” means the attorney general of the state of Kansas or the attorney general’s designee.

Sec. 13. K.S.A. 2014 Supp. 50-6,110 is hereby amended to read as follows: 50-6,110. (a) ~~Except as provided in subsection (d),~~ It shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer, or employee or agent of a dealer, in this state unless such person *meets the requirements of this subsection.*

(1) ~~Such person shall presents present~~ to such scrap metal dealer, or employee or agent of such dealer, at or before the time of sale, the following information: The seller’s name, address, sex, date of birth and ~~the identifying number from the seller’s driver’s license, military identification card, passport or personal identification license. The identifying number from~~ An official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.

(2) *Such person shall complete and sign the statement provided for in subsection (b)(10).*

(b) Every scrap metal dealer shall keep a register in which the dealer, or employee or agent of the dealer, shall at the time of purchase or receipt of any item for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:

- (1) The time, date and place of transaction;
- (2) the seller’s name, address, sex, date of birth and the identifying number from the seller’s driver’s license, military identification card, passport or personal identification license; the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller;
- (3) a copy of the identification card or document containing such identifying number;
- (4) the license number, color and style or make of any motor vehicle in which the junk vehicle or other regulated scrap metal property is delivered in a purchase transaction;
- (5) a general description, made in accordance with the custom of the trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;
- (6) the weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;
- (7) if a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number and serial number if applicable;
- (8) ~~the amount of consideration given in a purchase price paid for, traded for or dealt for in a transaction for the junk vehicle or other regulated scrap metal property; and~~
- (9) the full name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase; *and*
- (10) *a signed statement from the seller indicating from where the property was obtained and that: (A) Each item is the seller’s own personal property, is free of encumbrances and is not stolen; or (B) the seller is acting for the owner and has permission to sell each item. If the seller is not the owner, such statement shall include the name and address of the owner of the property.*

(c) *Every scrap metal dealer shall photograph both the seller and the item or lot of items being sold at the time of purchase or receipt of any item for which such information is required to be presented. Such photographs shall be kept with the record of the transaction and the scrap metal dealer’s register of information required by subsection (b).*

~~(e)(d)~~ The scrap metal dealer’s register of information required by subsection (b), including copies of identification cards *and signed statements by sellers, and photographs required by subsection (c)* may be kept in electronic format.

(e) *Every scrap metal dealer shall forward the information required*

by this section to the database described in section 1, and amendments thereto.

~~(d) Notwithstanding the foregoing, this section shall not apply to:~~

~~(1) Transactions involving regulated scrap metal, except for catalytic converters, for which the total sale price for all regulated scrap metal is \$50.00 or less;~~

~~(2) transactions involving only catalytic converters for which the total sale price is \$30.00 or less;~~

~~(3) transactions in which the seller is also a scrap metal dealer; or~~

~~(4) transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.~~

~~(e) The exceptions contained in subsections (d)(1) and (d)(2) shall not apply to any purchase from any seller of the following materials:~~

~~(1) Catalytic converters purchased separate from a vehicle;~~

~~(2) coated or insulated wire or stripped wire or burnt wire;~~

~~(3) refrigeration condensing units or air conditioning coils of any type;~~

~~or~~

~~(4) copper tubing, bars, plate, buss bar and sheet copper.~~

~~(f) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to pay for any of the items described in subsections (e)(1) through (4) by any means other than:~~

~~(1) A prenumbered check drawn on a regular bank account in the name of the scrap metal dealer and with such check made payable to the person documented as the seller in accordance with subsection (b); or~~

~~(2) a system for automated cash or electronic payment distribution which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with subsection (b).~~

~~(f) Notwithstanding any other provision to the contrary, this section shall not apply to transactions in which the seller is a:~~

~~(1) Registered scrap metal dealer;~~

~~(2) vehicle dealer licensed under chapter 8 of the Kansas Statutes Annotated, and amendments thereto; or~~

~~(3) scrap metal dealer or vehicle dealer registered or licensed in another state.~~

~~(g) (1) Except as provided in subsection (g)(2), this section shall not apply to transactions in which the seller is known to the purchasing scrap metal dealer to be a licensed business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.~~

~~(2) The attorney general may determine, by rules and regulations, which of the requirements of this section shall apply to transactions described in subsection (g)(1).~~

Sec. 14. K.S.A. 2014 Supp. 50-6,111 is hereby amended to read as follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2014 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in K.S.A. 2014 Supp. 50-6,110, and amendments thereto. All records kept in accordance with the provisions of ~~this~~ *the scrap metal theft reduction act* shall be open at all times to ~~peace or~~ law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to ~~peace or~~ law enforcement officers upon request.

~~(b) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2014 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without obtaining from the seller a signed statement that: (1) Each item is the seller's own personal property, is free of encumbrances and is not stolen; or (2) that the seller is acting for the owner and has permission to sell each item.~~

~~(e)~~(b) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which K.S.A. 2014 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without:

(1) Inspecting the vehicle offered for sale and recording the vehicle identification number; and

(2) obtaining an appropriate ~~vehicle title or~~ bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.

~~(d)~~(c) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase or receive any regulated scrap metal from a minor unless such minor is accompanied by a parent or guardian or such minor is a licensed scrap metal dealer.

~~(e)~~(d) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any of the following items ~~of regulated scrap metal property~~ without obtaining proof that the seller is an employee, agent or person who is authorized to sell the item ~~of regulated scrap metal property~~ on behalf of the governmental entity;; utility provider;; railroad;; cemetery;; civic organization; *manufacturing, industrial or other commercial vendor that generates or sells such items in the regular course of business*; or scrap metal dealer:

- (1) Utility access cover;
- (2) street light poles or fixtures;
- (3) road or bridge guard rails;
- (4) highway or street sign;
- (5) water meter cover;
- (6) traffic directional or traffic control signs;
- (7) traffic light signals;
- (8) any metal marked with any form of the name or initials of a governmental entity;
- (9) property owned and marked by a telephone, cable, electric, water or other utility provider;
- (10) property owned and marked by a railroad;
- (11) funeral markers or vases;
- (12) historical markers;
- (13) bales of regulated metal;
- (14) beer kegs;
- (15) manhole covers;
- (16) fire hydrants or fire hydrant caps;
- (17) junk vehicles with missing or altered vehicle identification numbers;
- (18) real estate signs;
- (19) bleachers or risers, in whole or in part; ~~and~~
- (20) twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge; *and*
- (21) *burnt wire*.

~~(f)~~(e) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to sell, trade, melt or crush, or in any way dispose of, alter or destroy any regulated scrap metal, junk vehicle or vehicle part upon notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe an item has been stolen. A scrap metal dealer shall hold any of the items that are designated by or on behalf of the law enforcement agency for 30 days, exclusive of weekends and holidays.

Sec. 15. K.S.A. 2014 Supp. 50-6,112a is hereby amended to read as follows: 50-6,112a. (a) ~~No business shall~~ A *scrap metal dealer* shall not purchase any regulated scrap metal without having first registered each place of business *with the attorney general* as herein provided. ~~In case such place of business is located within the corporate limits of a city, the registration shall be made to the governing body of such city. In all other cases, the registration shall be made to the board of county commissioners in the county in which such place of business is to be located.~~

~~(b) A board of county commissioners shall provide the clerk of the township with written notice of the filing of a registration by a scrap metal dealer within 10 days of registration or renewal.~~

~~(c) The governing body of any city and the board of county commissioners shall provide the sheriff, chief of police or director of all law~~

~~enforcement agencies in the county written notice of the filing of registration by a scrap metal dealer within 10 days of registration or renewal.~~

(b) *The attorney general shall establish a system for the public to confirm scrap metal dealer registration certificates. Such system shall include a listing of valid registration certificates and such other information collected pursuant to the scrap metal theft reduction act, as the attorney general may determine is appropriate. Disclosure of any information through use of the system established by the attorney general shall not be deemed to be an endorsement of any scrap metal dealer or determination of any facts, qualifications, information or reputation of any scrap metal dealer by the attorney general, the state, or any of their respective agents, officers, employees or assigns.*

~~(d)~~(c) A registration for a scrap metal dealer shall be verified and upon a form approved by the attorney general and contain:

(1) (A) The name and residence of the applicant, *including all previous names and aliases; or*

(B) *if the applicant is a: Corporation, the name and address of each manager, officer or director thereof, and each stockholder owning in the aggregate more than 25% of the stock of such corporation; or partnership or limited liability company, the name and address of each partner or member;*

(2) the length of time that the applicant has resided within the state of Kansas and a list of all residences outside the state of Kansas during the previous 10 years;

(3) the particular place of business for which a registration is desired, *the name of the business, the address where the business is to be conducted, the hours of operation and the days of the week during which the applicant proposes to engage in business;*

(4) the name of the owner of the premises upon which the place of business is located; and

(5) the applicant shall disclose any prior convictions within 10 years immediately preceding the date of making the registration for: ~~Theft, as defined in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2014 Supp. 21-5801, and amendments thereto, theft of property lost, mislaid or delivered by mistake, as defined in K.S.A. 21-3703, prior to its repeal, or K.S.A. 2014 Supp. 21-5802, and amendments thereto, theft of services, as defined in K.S.A. 21-3704, prior to its repeal, criminal deprivation of property, as defined in K.S.A. 21-3705, prior to its repeal, or K.S.A. 2014 Supp. 21-5803, and amendments thereto, or any other crime involving possession of stolen property~~ *A violation of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2014 Supp. 21-5801 through 21-5839 or K.S.A. 2014 Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2014 Supp. 21-5903, and amendments thereto; compounding a crime, K.S.A. 21-3807, prior to its repeal; obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal; interference with law enforcement, K.S.A. 2014 Supp. 21-5904, and amendments thereto; interference with judicial process, K.S.A. 2014 Supp. 21-5905, and amendments thereto; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.*

~~(e)~~(d) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of not less than ~~\$100 nor more than \$400, as prescribed by the board of county commissioners or the governing body of the city, as the case may be~~ *\$500 nor more than \$1,500, as prescribed by the attorney general for each particular place of business for which a registration is desired.*

~~(f)~~(e) ~~The board of county commissioners or the governing body of a city~~ *attorney general shall accept a registration for a scrap metal dealer as otherwise provided for herein, from any scrap metal dealer engaged in business in such county or city and qualified to file such registration, to purchase regulated scrap metals. Such registration shall be issued for a period of 10 years* *one year.*

~~(g)~~(f) If an original registration is accepted, ~~the governing body of the city or the board of county commissioners~~ *attorney general shall grant and issue renewals thereof upon application of the registration holder, if the registration holder is qualified to receive the same and the registration has not been revoked as provided by law. The registration fee for such*

~~renewal shall be not less than \$25 nor more than \$50 renewal fee shall be not more than \$1,500, as prescribed by the attorney general.~~

~~(h)-(g) No~~ Any registration issued under ~~this~~ the scrap metal theft reduction act shall not be transferable.

~~(i) Violation of subsection (a) is a class A nonperson misdemeanor.~~

~~(j)-(h)~~ This section shall not apply to a business licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such business buys or recycles regulated scrap metal that are not motor vehicle components.

Sec. 16. On and after January 1, 2016, K.S.A. 2014 Supp. 50-6,112b is hereby amended to read as follows: 50-6,112b. (a) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meets the statutory requirements for such registration, ~~the governing body of the city or the board of county commissioners~~ attorney general shall accept such filing and the scrap metal dealer shall be deemed to be properly registered.

(b) No scrap metal registration shall be accepted for:

(1) A person who is not a citizen or legal permanent resident of the United States.

(2) A person who is under 18 years of age and whose parents or legal guardians have been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that such parents or legal guardians held a registration under ~~this~~ the scrap metal theft reduction act.

~~(2)-(3)~~ (3) A person who, within ~~five~~ 10 years immediately preceding the date of filing, has pled guilty to, *entered into a diversion agreement for*, been convicted of, released from incarceration for or released from probation or parole for committing, attempting to commit, or conspiring to commit a violation of: Article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2014 Supp. 21-5801 through 21-5839 ~~and subsection (a)(6) of~~ or K.S.A. 2014 Supp. 21-6412; ~~(a)(6), and amendments thereto;~~ perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2014 Supp. 21-5903, *and amendments thereto;* compounding a crime, K.S.A. 21-3807, prior to its repeal; obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal; interference with law enforcement, K.S.A. 2014 Supp. 21-5904, *and amendments thereto;* interference with judicial process, K.S.A. 2014 Supp. 21-5905, *and amendments thereto;* or any crime involving ~~moral turpitude~~ dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.

~~(3)~~ A person who, within the five years immediately preceding the date of registration, has pled guilty to, been found guilty of, or entered a diversion agreement for violating the provisions of K.S.A. 2014 Supp. 50-6,112a, and amendments thereto, K.S.A. 50-6,100 et seq., and amendments thereto, the laws of another state comparable to such provisions or laws of any county or city regulating the sale or purchase of regulated scrap metal three or more times.

(4) A person who within the ~~three~~ 10 years immediately preceding the date of registration held a scrap metal dealer registration which was revoked, or managed a facility for a scrap metal dealer whose registration was revoked, or was an employee whose conduct led to or contributed to the revocation of such registration.

(5) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last ~~three~~ 10 years.

(6) A partnership or limited liability company, unless all *partners* or members of the partnership or limited liability company are otherwise qualified to file a registration.

(7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason.

(8) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration.

(9) A person whose spouse has been convicted of a felony or other

crime which would disqualify a person from registration under this section and such crime was committed during the time that the spouse held a registration under ~~this~~ the scrap metal theft reduction act.

(10) A person who does not own the premises upon which the place of business is located for which a license is sought, unless the person has a written lease for at least $\frac{3}{4}$ of the period for which the license is to be issued.

(c) Any person filing a scrap metal dealer registration may be subject to a criminal history records check and may be given a written notice that a criminal history records check is required. The attorney general may require such applicant to be fingerprinted and submit to a state and national criminal history record check. If required, such fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or another jurisdiction. The attorney general shall submit any fingerprints provided to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the attorney general in the taking and processing of fingerprints of applicants. The attorney general may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the applicant and in the official determination of whether the scrap metal dealer registration shall be accepted. If the criminal history record information is used to disqualify an applicant, the applicant shall be informed in writing of that decision.

Sec. 17. On and after January 1, 2016, K.S.A. 2014 Supp. 50-6,112c is hereby amended to read as follows: 50-6,112c. (a) ~~The board of county commissioners or the governing body of any city~~ attorney general, upon five days notice to the persons holding a registration, may suspend the scrap metal dealer's registration for up to 30 days for any one of the following reasons:

(1) The registrant has been ~~convicted of violating~~ found to have violated any of the provisions of ~~K.S.A. 50-6,109 et seq., and amendments thereto~~ the scrap metal theft reduction act, or any similar ordinance, resolution or rules or regulations made by the board or the city, as the case may be;

(2) the employment or continuation in employment of a person if the registered scrap metal dealer knows such person has, within the 24 months prior to the notice of suspension or revocation action, been ~~convicted of violating~~ found to have violated any of the provisions of ~~K.S.A. 50-6,109 et seq., and amendments thereto~~ the scrap metal theft reduction act, or the laws of another state comparable to such provisions, or any city or county ordinance or resolution, or regulation controlling scrap metal sale or purchase in Kansas or any other state; or

(3) permitting any criminal activity under the Kansas criminal code, or similar ordinance, resolution or rules or regulations made by the board or city, as the case may be, in or upon the registrant's place of business.

~~(b)~~(c) ~~The board of county commissioners or the governing body of any city~~ attorney general may revoke the registration of a scrap metal dealer who has had its registration suspended three or more times within a 24-month period.

~~(c)~~(d) ~~The board of county commissioners or the governing body of any city~~ attorney general, upon five days' notice to the person holding the registration, shall revoke or suspend the registration for any one of the following reasons:

(1) The registrant has fraudulently registered by knowingly giving materially false information on the registration form;

(2) the registrant has become ineligible to obtain a registration under ~~this~~ the scrap metal theft reduction act;

(3) the nonpayment of any registration fees after receiving written notice that such registration fees are more than 30 days past due; or

(4) ~~within 20 days after the order of the board denying, revoking or suspending any registration, the registrant may appeal to the district court and the district court shall proceed to hear such appeal as though the court had original jurisdiction of the matter. Upon request by the registrant, the district court may enjoin the revocation or suspension of a registration until final disposition of any action brought under this act~~ the

nonpayment of any civil penalty after receiving written notice that such penalty is more than 30 days past due.

~~(d)~~(e) Any action brought under ~~subsections (a), (b) or (c)~~ this section shall be brought individually against a single registrant's ~~site~~ *place of business* and not against any other ~~scrap metal sites or locations~~ *place of business* registered by the same individual, company or business entity.

(f) *Any person aggrieved by the decision of the attorney general to suspend or revoke a registration under this section may appeal such decision in accordance with rules and regulations promulgated by the attorney general to implement the scrap metal theft reduction act.*

Sec. 18. K.S.A. 2014 Supp. 21-5804, 21-5813, 21-6604, 21-6604c, 21-6804, 50-6,109, 50-6,110, 50-6,111, 50-6,112 and 50-6,112a are hereby repealed.

Sec. 19. On and after January 1, 2016, K.S.A. 2014 Supp. 50-6,112b and 50-6,112c are hereby repealed.

Sec. 20. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.