

SENATE BILL No. 195

By Senator Haley

2-9

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to criminal discharge of a firearm; increasing the penalty for violations
3 when a person was present in the dwelling, building, structure or motor
4 vehicle at which the offender discharged a firearm and when a person
5 less than 14 years of age was present in the dwelling, building,
6 structure or motor vehicle at which the offender discharged a firearm;
7 amending K.S.A. 2020 Supp. 21-6308 and 21-6804 and repealing the
8 existing sections.
9

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

11 Section 1. K.S.A. 2020 Supp. 21-6308 is hereby amended to read as
12 follows: 21-6308. (a) Criminal discharge of a firearm is the:

13 (1) Reckless and unauthorized discharge of any firearm *at*:

14 (A) ~~At~~ a dwelling, building or structure in which there is a human
15 being, *regardless of* whether the person discharging the firearm knows or
16 has reason to know that there is a human being present;

17 (B) ~~at~~ a motor vehicle; *in which there is a human being, regardless of*
18 *whether the person discharging the firearm knows or has reason to know*
19 *that there is a human being present; or*

20 (C) *an* aircraft, watercraft, train, locomotive, railroad car, caboose,
21 rail-mounted work equipment or rolling stock or other means of
22 conveyance of persons, *other than a motor vehicle*, or property in which
23 there is a human being, *regardless of* whether the person discharging the
24 firearm knows or has reason to know that there is a human being present;

25 (2) reckless and unauthorized discharge of any firearm at a dwelling
26 in which there is no human being; or

27 (3) discharge of any firearm:

28 (A) Upon any land or nonnavigable body of water of another, without
29 having obtained permission of the owner or person in possession of such
30 land; or

31 (B) upon or from any public road, public road right-of-way or
32 railroad right-of-way except as otherwise authorized by law.

33 (b) Criminal discharge of a firearm as defined in:

34 (1) Subsection (a)(1) is a:

35 (A) Severity level 7, person felony except as provided in subsection
36 (b)(1)(B) or (b)(1)(C);

1 (B) *severity level 5, person felony if such criminal discharge results*
2 *in bodily harm to a person during the commission thereof; and*

3 (C) *severity level 3, person felony if such criminal discharge results*
4 *in great bodily harm to a person during the commission thereof; or*

5 ~~(C) *severity level 5, person felony if such criminal discharge results*~~
6 ~~*in bodily harm to a person during the commission thereof;*~~

7 (2) subsection (a)(2) is a severity level 8, person felony; and

8 (3) subsection (a)(3) is a class C misdemeanor.

9 (c) Subsection (a)(1) shall not apply if the act is a violation of K.S.A.
10 2020 Supp. 21-5412(d), and amendments thereto.

11 (d) Subsection (a)(3) shall not apply to any of the following:

12 (1) Law enforcement officers, or any person summoned by any such
13 officers to assist in making arrests or preserving the peace while actually
14 engaged in assisting such officer;

15 (2) wardens, superintendents, directors, security personnel and
16 keepers of prisons, penitentiaries, jails and other institutions for the
17 detention of persons accused or convicted of crime, while acting within the
18 scope of their authority;

19 (3) members of the armed services or reserve forces of the United
20 States or the national guard while in the performance of their official duty;

21 (4) watchmen, while actually engaged in the performance of the
22 duties of their employment;

23 (5) private detectives licensed by the state to carry the firearm
24 involved, while actually engaged in the duties of their employment;

25 (6) detectives or special agents regularly employed by railroad
26 companies or other corporations to perform full-time security or
27 investigative service, while actually engaged in the duties of their
28 employment;

29 (7) the state fire marshal, the state fire marshal's deputies or any
30 member of a fire department authorized to carry a firearm pursuant to
31 K.S.A. 31-157, and amendments thereto, while engaged in an investigation
32 in which such fire marshal, deputy or member is authorized to carry a
33 firearm pursuant to K.S.A. 31-157, and amendments thereto; or

34 (8) the United States attorney for the district of Kansas, the attorney
35 general, or any district attorney or county attorney, while actually engaged
36 in the duties of their employment or any activities incidental to such
37 duties; any assistant United States attorney if authorized by the United
38 States attorney for the district of Kansas and while actually engaged in the
39 duties of their employment or any activities incidental to such duties; any
40 assistant attorney general if authorized by the attorney general and while
41 actually engaged in the duties of their employment or any activities
42 incidental to such duties; or any assistant district attorney or assistant
43 county attorney if authorized by the district attorney or county attorney by

1 whom such assistant is employed and while actually engaged in the duties
2 of their employment or any activities incidental to such duties.

3 Sec. 2. K.S.A. 2020 Supp. 21-6804 is hereby amended to read as
4 follows: 21-6804. (a) The provisions of this section shall be applicable to
5 the sentencing guidelines grid for nondrug crimes. The following
6 sentencing guidelines grid shall be applicable to nondrug felony crimes:

1
2

1 (b) Sentences expressed in the sentencing guidelines grid for nondrug
2 crimes represent months of imprisonment.

3 (c) The sentencing guidelines grid is a two-dimensional crime
4 severity and criminal history classification tool. The grid's vertical axis is
5 the crime severity scale which classifies current crimes of conviction. The
6 grid's horizontal axis is the criminal history scale which classifies criminal
7 histories.

8 (d) The sentencing guidelines grid for nondrug crimes as provided in
9 this section defines presumptive punishments for felony convictions,
10 subject to the sentencing court's discretion to enter a departure sentence.
11 The appropriate punishment for a felony conviction should depend on the
12 severity of the crime of conviction when compared to all other crimes and
13 the offender's criminal history.

14 (e) (1) The sentencing court has discretion to sentence at any place
15 within the sentencing range. In the usual case it is recommended that the
16 sentencing judge select the center of the range and reserve the upper and
17 lower limits for aggravating and mitigating factors insufficient to warrant a
18 departure.

19 (2) In presumptive imprisonment cases, the sentencing court shall
20 pronounce the complete sentence which shall include the:

21 (A) Prison sentence;

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

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

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

29 (A) Prison sentence; and

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

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

39 (g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal,
40 aggravated battery against a law enforcement officer committed prior to
41 July 1, 2006, or a violation of K.S.A. 2020 Supp. 21-5412(d), and
42 amendments thereto, aggravated assault against a law enforcement officer,
43 which places the defendant's sentence in grid block 6-H or 6-I shall be
44 presumed imprisonment. The court may impose an optional nonprison
45 sentence as provided in subsection (q).

46 (h) When a firearm is used to commit any person felony, the

1 offender's sentence shall be presumed imprisonment. The court may
2 impose an optional nonprison sentence as provided in subsection (q).

3 (i) (1) The sentence for the violation of the felony provision of K.S.A.
4 8-2,144 and 8-1567 and K.S.A. 2020 Supp. 21-5414(b)(3), 21-5823(b)(3)
5 and (b)(4), 21-6412 and 21-6416, and amendments thereto, shall be as
6 provided by the specific mandatory sentencing requirements of that section
7 and shall not be subject to the provisions of this section or K.S.A. 2020
8 Supp. 21-6807, and amendments thereto.

9 (2) If because of the offender's criminal history classification the
10 offender is subject to presumptive imprisonment or if the judge departs
11 from a presumptive probation sentence and the offender is subject to
12 imprisonment, the provisions of this section and K.S.A. 2020 Supp. 21-
13 6807, and amendments thereto, shall apply and the offender shall not be
14 subject to the mandatory sentence as provided in K.S.A. 2020 Supp. 21-
15 5823, and amendments thereto.

16 (3) Notwithstanding the provisions of any other section, the term of
17 imprisonment imposed for the violation of the felony provision of K.S.A.
18 8-2,144, and 8-1567 and K.S.A. 2020 Supp. 21-5414(b)(3), 21-5823(b)(3)
19 and (b)(4), 21-6412 and 21-6416, and amendments thereto, shall not be
20 served in a state facility in the custody of the secretary of corrections,
21 except that the term of imprisonment for felony violations of K.S.A. 8-
22 2,144 or 8-1567, and amendments thereto, may be served in a state
23 correctional facility designated by the secretary of corrections if the
24 secretary determines that substance abuse treatment resources and facility
25 capacity is available. The secretary's determination regarding the
26 availability of treatment resources and facility capacity shall not be subject
27 to review. Prior to imposing any sentence pursuant to this subsection, the
28 court may consider assigning the defendant to a house arrest program
29 pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto.

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

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

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

40 (ii) at the time of the conviction under subsection (j)(2)(A)(i) has at
41 least one conviction for a sexually violent crime, as defined in K.S.A. 22-
42 3717, and amendments thereto, in this state or comparable felony under
43 the laws of another state, the federal government or a foreign government;

1 or

2 (B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,
3 prior to its repeal, or K.S.A. 2020 Supp. 21-5503, and amendments
4 thereto; and

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

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

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

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

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

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

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

28 (D) its members, individually or collectively, engage in or have
29 engaged in the commission, attempted commission, conspiracy to commit
30 or solicitation of two or more person felonies or felony violations of article
31 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
32 thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their
33 transfer, any felony violation of any provision of the uniform controlled
34 substances act prior to July 1, 2009, or any substantially similar offense
35 from another jurisdiction.

36 (l) Except as provided in subsection (o), the sentence for a violation
37 of K.S.A. 2020 Supp. 21-5807(a)(1), and amendments thereto, or any
38 attempt or conspiracy, as defined in K.S.A. 2020 Supp. 21-5301 and 21-
39 5302, and amendments thereto, to commit such offense, when such person
40 being sentenced has a prior conviction for a violation of K.S.A. 21-3715(a)
41 or (b), prior to its repeal, 21-3716, prior to its repeal, K.S.A. 2020 Supp.
42 21-5807(a)(1) or (a)(2) or 21-5807(b), and amendments thereto, or any
43 attempt or conspiracy to commit such offense, shall be presumptive

1 imprisonment.

2 (m) The sentence for a violation of K.S.A. 22-4903 or K.S.A. 2020
3 Supp. 21-5913(a)(2), and amendments thereto, shall be presumptive
4 imprisonment. If an offense under such sections is classified in grid blocks
5 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison
6 sentence as provided in subsection (q).

7 (n) The sentence for a violation of criminal deprivation of property, as
8 defined in K.S.A. 2020 Supp. 21-5803, and amendments thereto, when
9 such property is a motor vehicle, and when such person being sentenced
10 has any combination of two or more prior convictions of K.S.A. 21-
11 3705(b), prior to its repeal, or of criminal deprivation of property, as
12 defined in K.S.A. 2020 Supp. 21-5803, and amendments thereto, when
13 such property is a motor vehicle, shall be presumptive imprisonment. Such
14 sentence shall not be considered a departure and shall not be subject to
15 appeal.

16 (o) The sentence for a felony violation of theft of property as defined
17 in K.S.A. 2020 Supp. 21-5801, and amendments thereto, or burglary as
18 defined in K.S.A. 2020 Supp. 21-5807(a), and amendments thereto, when
19 such person being sentenced has no prior convictions for a violation of
20 K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as
21 defined in K.S.A. 2020 Supp. 21-5801, and amendments thereto, or
22 burglary as defined in K.S.A. 2020 Supp. 21-5807(a), and amendments
23 thereto; or the sentence for a felony violation of theft of property as
24 defined in K.S.A. 2020 Supp. 21-5801, and amendments thereto, when
25 such person being sentenced has one or two prior felony convictions for a
26 violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or
27 theft of property as defined in K.S.A. 2020 Supp. 21-5801, and
28 amendments thereto, or burglary or aggravated burglary as defined in
29 K.S.A. 2020 Supp. 21-5807, and amendments thereto; or the sentence for a
30 felony violation of burglary as defined in K.S.A. 2020 Supp. 21-5807(a),
31 and amendments thereto, when such person being sentenced has one prior
32 felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716,
33 prior to their repeal, or theft of property as defined in K.S.A. 2020 Supp.
34 21-5801, and amendments thereto, or burglary or aggravated burglary as
35 defined in K.S.A. 2020 Supp. 21-5807, and amendments thereto, shall be
36 the sentence as provided by this section, except that the court may order an
37 optional nonprison sentence for a defendant to participate in a drug
38 treatment program, including, but not limited to, an approved after-care
39 plan, if the court makes the following findings on the record:

40 (1) Substance abuse was an underlying factor in the commission of
41 the crime;

42 (2) substance abuse treatment in the community is likely to be more
43 effective than a prison term in reducing the risk of offender recidivism;

1 and

2 (3) participation in an intensive substance abuse treatment program
3 will serve community safety interests.

4 A defendant sentenced to an optional nonprison sentence under this
5 subsection shall be supervised by community correctional services. The
6 provisions of K.S.A. 2020 Supp. 21-6824(f)(1), and amendments thereto,
7 shall apply to a defendant sentenced under this subsection. The sentence
8 under this subsection shall not be considered a departure and shall not be
9 subject to appeal.

10 (p) The sentence for a felony violation of theft of property as defined
11 in K.S.A. 2020 Supp. 21-5801, and amendments thereto, when such
12 person being sentenced has any combination of three or more prior felony
13 convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to
14 their repeal, or theft of property as defined in K.S.A. 2020 Supp. 21-5801,
15 and amendments thereto, or burglary or aggravated burglary as defined in
16 K.S.A. 2020 Supp. 21-5807, and amendments thereto; or the sentence for a
17 violation of burglary as defined in K.S.A. 2020 Supp. 21-5807(a), and
18 amendments thereto, when such person being sentenced has any
19 combination of two or more prior convictions for violations of K.S.A. 21-
20 3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as
21 defined in K.S.A. 2020 Supp. 21-5801, and amendments thereto, or
22 burglary or aggravated burglary as defined in K.S.A. 2020 Supp. 21-5807,
23 and amendments thereto, shall be presumed imprisonment and the
24 defendant shall be sentenced to prison as provided by this section, except
25 that the court may recommend that an offender be placed in the custody of
26 the secretary of corrections, in a facility designated by the secretary to
27 participate in an intensive substance abuse treatment program, upon
28 making the following findings on the record:

29 (1) Substance abuse was an underlying factor in the commission of
30 the crime;

31 (2) substance abuse treatment with a possibility of an early release
32 from imprisonment is likely to be more effective than a prison term in
33 reducing the risk of offender recidivism; and

34 (3) participation in an intensive substance abuse treatment program
35 with the possibility of an early release from imprisonment will serve
36 community safety interests by promoting offender reformation.

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

1 applicable period of postrelease supervision. The sentence under this
2 subsection shall not be considered a departure and shall not be subject to
3 appeal.

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

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

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

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

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

17 (r) The sentence for a violation of K.S.A. 2020 Supp. 21-5413(c)(2),
18 and amendments thereto, shall be presumptive imprisonment and shall be
19 served consecutively to any other term or terms of imprisonment imposed.
20 Such sentence shall not be considered a departure and shall not be subject
21 to appeal.

22 (s) The sentence for a violation of K.S.A. 2020 Supp. 21-5512, and
23 amendments thereto, shall be presumptive imprisonment. Such sentence
24 shall not be considered a departure and shall not be subject to appeal.

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

30 (2) The sentence imposed pursuant to subsection (t)(1) shall be
31 presumptive imprisonment and shall be served consecutively to any other
32 term or terms of imprisonment imposed. Such sentence shall not be
33 considered a departure and shall not be subject to appeal.

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

40 (u) The sentence for a violation of K.S.A. 2020 Supp. 21-6107, and
41 amendments thereto, or any attempt or conspiracy, as defined in K.S.A.
42 2020 Supp. 21-5301 and 21-5302, and amendments thereto, to commit
43 such offense, when such person being sentenced has a prior conviction for

1 a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2020 Supp. 21-
2 6107, and amendments thereto, or any attempt or conspiracy to commit
3 such offense, shall be presumptive imprisonment. Such sentence shall not
4 be considered a departure and shall not be subject to appeal.

5 (v) The sentence for a third or subsequent violation of K.S.A. 8-1568,
6 and amendments thereto, shall be presumptive imprisonment and shall be
7 served consecutively to any other term or terms of imprisonment imposed.
8 Such sentence shall not be considered a departure and shall not be subject
9 to appeal.

10 (w) The sentence for aggravated criminal damage to property as
11 defined in K.S.A. 2020 Supp. 21-5813(b), and amendments thereto, when
12 such person being sentenced has a prior conviction for any nonperson
13 felony shall be presumptive imprisonment. Such sentence shall not be
14 considered a departure and shall not be subject to appeal.

15 (x) The sentence for a violation of K.S.A. 2020 Supp. 21-5807(a)(1),
16 and amendments thereto, shall be presumptive imprisonment if the offense
17 under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such
18 sentence shall not be considered a departure and shall not be subject to
19 appeal.

20 (y) (1) Except as provided in subsection (y)(3), if the trier of fact
21 makes a finding beyond a reasonable doubt that an offender committed a
22 nondrug felony offense, or any attempt or conspiracy, as defined in K.S.A.
23 2020 Supp. 21-5301 and 21-5302, and amendments thereto, to commit a
24 nondrug felony offense, against a law enforcement officer, as defined in
25 K.S.A. 2020 Supp. 21-5111(p)(1) and (3), and amendments thereto, while
26 such officer was engaged in the performance of such officer's duty, or in
27 whole or in any part because of such officer's status as a law enforcement
28 officer, the sentence for such offense shall be:

29 (A) If such offense is classified in severity level 2 through 10, one
30 severity level above the appropriate level for such offense; and

31 (B) (i) if such offense is classified in severity level 1, except as
32 otherwise provided in subsection (y)(1)(B)(ii), imprisonment for life, and
33 such offender shall not be eligible for probation or suspension,
34 modification or reduction of sentence. In addition, such offender shall not
35 be eligible for parole prior to serving 25 years' imprisonment, and such 25
36 years' imprisonment shall not be reduced by the application of good time
37 credits. No other sentence shall be permitted.

38 (ii) The provisions of subsection (y)(1)(B)(i) requiring the court to
39 impose a mandatory minimum term of imprisonment of 25 years shall not
40 apply if the court finds the offender, because of the offender's criminal
41 history classification, is subject to presumptive imprisonment and the
42 sentencing range exceeds 300 months. In such case, the offender is
43 required to serve a mandatory minimum term equal to the sentence

1 established pursuant to the sentencing range.

2 (2) The sentence imposed pursuant to subsection (y)(1) shall not be
3 considered a departure and shall not be subject to appeal.

4 (3) The provisions of this subsection shall not apply to an offense
5 described in subsection (y)(1) if the factual aspect concerning a law
6 enforcement officer is a statutory element of such offense.

7 (z) (1) *Except as provided in subsection (z)(2), the sentence for a*
8 *violation of K.S.A. 2020 Supp. 21-6308(a)(1)(A) or (B), and amendments*
9 *thereto, if the trier of fact makes a finding beyond a reasonable doubt that*
10 *the offender discharged a firearm and that the offender knew or*
11 *reasonably should have known that a person was present in the dwelling,*
12 *building, structure or motor vehicle at which the offender discharged a*
13 *firearm, shall be presumptive imprisonment and, in addition to the*
14 *sentence imposed pursuant to the Kansas sentencing guidelines act, the*
15 *offender shall be sentenced to an additional 60 months' imprisonment.*

16 (2) *The sentence for a violation of K.S.A. 2020 Supp. 21-6308(a)(1)*
17 *(A) or (B), and amendments thereto, if the trier of fact makes a finding*
18 *beyond a reasonable doubt that the offender discharged a firearm and that*
19 *the offender knew or reasonably should have known that a person less*
20 *than 14 years of age was present in the dwelling, building, structure or*
21 *motor vehicle at which the offender discharged a firearm, shall be*
22 *presumptive imprisonment and, in addition to the sentence imposed*
23 *pursuant to the Kansas sentencing guidelines act, the offender shall be*
24 *sentenced to an additional 120 months' imprisonment.*

25 (3) *The sentence imposed pursuant to subsection (z)(1) or (2) shall be*
26 *served consecutively to any other term or terms of imprisonment imposed.*
27 *Such sentence shall not be considered a departure and shall not be subject*
28 *to appeal.*

29 Sec. 3. K.S.A. 2020 Supp. 21-6308 and 21-6804 are hereby repealed.

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