

HOUSE BILL No. 2699

By Committee on Corrections and Juvenile Justice

2-14

1 AN ACT concerning crimes, criminal procedure and punishment; relating
2 to corporal punishment; battery; domestic battery; endangering a child;
3 abuse of a child; amending K.S.A. 2013 Supp. 21-5111, 21-5413, 21-
4 5414, 21-5601 and 21-5602 and repealing the existing sections.
5

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

7 Section 1. K.S.A. 2013 Supp. 21-5111 is hereby amended to read as
8 follows: 21-5111. The following definitions shall apply when the words
9 and phrases defined are used in this code, except when a particular context
10 clearly requires a different meaning.

11 (a) "Act" includes a failure or omission to take action.

12 (b) "Another" means a person or persons as defined in this code other
13 than the person whose act is claimed to be criminal.

14 (c) "Conduct" means an act or a series of acts, and the accompanying
15 mental state.

16 (d) "Conviction" includes a judgment of guilt entered upon a plea of
17 guilty.

18 (e) *"Corporal punishment" means up to ten forceful applications in*
19 *succession of a bare, open-hand palm against the clothed buttocks of a*
20 *child and any such reasonable physical force on the child as may be*
21 *necessary to hold, restrain or control the child in the course of*
22 *maintaining authority over the child, acknowledging that redness or*
23 *bruising may occur on the tender skin of a child as a result. As used in this*
24 *subsection "child" includes a person over the age of 18 who is enrolled in*
25 *high school.*

26 (f) "Deception" means knowingly creating or reinforcing a false
27 impression, including false impressions as to law, value, intention or other
28 state of mind. Deception as to a person's intention to perform a promise
29 shall not be inferred from the fact alone that such person did not
30 subsequently perform the promise. Falsity as to matters having no
31 pecuniary significance, or puffing by statements unlikely to deceive
32 reasonable persons, is not deception.

33 (g) "Deprive permanently" means to:

34 (1) Take from the owner the possession, use or benefit of property,
35 without an intent to restore the same;

36 (2) retain property without intent to restore the same or with intent to

1 restore it to the owner only if the owner purchases or leases it back, or
2 pays a reward or other compensation for its return; or

3 (3) sell, give, pledge or otherwise dispose of any interest in property
4 or subject it to the claim of a person other than the owner.

5 ~~(g)~~(h) "Distribute" means the actual or constructive transfer from one
6 person to another of some item whether or not there is an agency
7 relationship. "Distribute" includes, but is not limited to, sale, offer for sale,
8 furnishing, buying for, delivering, giving, or any act that causes or is
9 intended to cause some item to be transferred from one person to another.
10 "Distribute" does not include acts of administering, dispensing or
11 prescribing a controlled substance as authorized by the pharmacy act of the
12 state of Kansas, the uniform controlled substances act, or otherwise
13 authorized by law.

14 ~~(h)~~(i) "DNA" means deoxyribonucleic acid.

15 ~~(i)~~(j) "Domestic violence" means an act or threatened act of violence
16 against a person with whom the offender is involved or has been involved
17 in a dating relationship, or an act or threatened act of violence against a
18 family or household member by a family or household member. Domestic
19 violence also includes any other crime committed against a person or
20 against property, or any municipal ordinance violation against a person or
21 against property, when directed against a person with whom the offender is
22 involved or has been involved in a dating relationship or when directed
23 against a family or household member by a family or household member.
24 For the purposes of this definition:

25 (1) "Dating relationship" means a social relationship of a romantic
26 nature. In addition to any other factors the court deems relevant, the trier
27 of fact may consider the following when making a determination of
28 whether a relationship exists or existed: Nature of the relationship, length
29 of time the relationship existed, frequency of interaction between the
30 parties and time since termination of the relationship, if applicable.

31 (2) "Family or household member" means persons 18 years of age or
32 older who are spouses, former spouses, parents or stepparents and children
33 or stepchildren, and persons who are presently residing together or have
34 resided together in the past, and persons who have a child in common
35 regardless of whether they have been married or have lived together at any
36 time. Family or household member also includes a man and woman if the
37 woman is pregnant and the man is alleged to be the father, regardless of
38 whether they have been married or have lived together at any time.

39 ~~(j)~~(k) "Domestic violence offense" means any crime committed
40 whereby the underlying factual basis includes an act of domestic violence.

41 ~~(k)~~(l) "Dwelling" means a building or portion thereof, a tent, a
42 vehicle or other enclosed space which is used or intended for use as a
43 human habitation, home or residence.

1 ~~(h)~~(m) "Expungement" means the sealing of records such that the
2 records are unavailable except to the petitioner and criminal justice
3 agencies as provided by K.S.A. 22-4701 et seq., and amendments thereto,
4 and except as provided in this act.

5 ~~(i)~~(n) "Firearm" means any weapon designed or having the capacity
6 to propel a projectile by force of an explosion or combustion.

7 ~~(j)~~(o) "Forcible felony" includes any treason, murder, voluntary
8 manslaughter, rape, robbery, burglary, arson, kidnapping, aggravated
9 battery, aggravated sodomy and any other felony which involves the use or
10 threat of physical force or violence against any person.

11 ~~(k)~~(p) "Intent to defraud" means an intention to deceive another
12 person, and to induce such other person, in reliance upon such deception,
13 to assume, create, transfer, alter or terminate a right, obligation or power
14 with reference to property.

15 ~~(l)~~(q) "Law enforcement officer" means:

16 (1) Any person who by virtue of such person's office or public
17 employment is vested by law with a duty to maintain public order or to
18 make arrests for crimes, whether that duty extends to all crimes or is
19 limited to specific crimes;

20 (2) any officer of the Kansas department of corrections or, for the
21 purposes of K.S.A. 2013 Supp. 21-5412 and subsection (d) of K.S.A. 2013
22 Supp. 21-5413, and amendments thereto, any employee of the Kansas
23 department of corrections; or

24 (3) any university police officer or campus police officer, as defined
25 in K.S.A. 22-2401a, and amendments thereto.

26 ~~(m)~~(r) "Obtain" means to bring about a transfer of interest in or
27 possession of property, whether to the offender or to another.

28 ~~(n)~~(s) "Obtains or exerts control" over property includes, but is not
29 limited to, the taking, carrying away, sale, conveyance, transfer of title to,
30 interest in, or possession of property.

31 ~~(o)~~(t) "Owner" means a person who has any interest in property.

32 ~~(p)~~(u) "Person" means an individual, public or private corporation,
33 government, partnership, or unincorporated association.

34 ~~(q)~~(v) "Personal property" means goods, chattels, effects, evidences
35 of rights in action and all written instruments by which any pecuniary
36 obligation, or any right or title to property real or personal, shall be
37 created, acknowledged, assigned, transferred, increased, defeated,
38 discharged, or dismissed.

39 ~~(r)~~(w) "Possession" means having joint or exclusive control over an
40 item with knowledge of or intent to have such control or knowingly
41 keeping some item in a place where the person has some measure of
42 access and right of control.

43 ~~(s)~~(x) "Property" means anything of value, tangible or intangible,

1 real or personal.

2 ~~(x)~~(y) "Prosecution" means all legal proceedings by which a person's
3 liability for a crime is determined.

4 ~~(y)~~(z) "Prosecutor" means the same as prosecuting attorney in K.S.A.
5 22-2202, and amendments thereto.

6 ~~(z)~~(aa) "Public employee" is a person employed by or acting for the
7 state or by or for a county, municipality or other subdivision or
8 governmental instrumentality of the state for the purpose of exercising
9 their respective powers and performing their respective duties, and who is
10 not a "public officer."

11 ~~(aa)~~(bb) "Public officer" includes the following, whether elected or
12 appointed:

13 (1) An executive or administrative officer of the state, or a county,
14 municipality or other subdivision or governmental instrumentality of or
15 within the state;

16 (2) a member of the legislature or of a governing board of a county,
17 municipality, or other subdivision of or within the state;

18 (3) a judicial officer, which shall include a judge of the district court,
19 juror, master or any other person appointed by a judge or court to hear or
20 determine a cause or controversy;

21 (4) a hearing officer, which shall include any person authorized by
22 law or private agreement, to hear or determine a cause or controversy and
23 who is not a judicial officer;

24 (5) a law enforcement officer; and

25 (6) any other person exercising the functions of a public officer under
26 color of right.

27 ~~(bb)~~(cc) "Real property" or "real estate" means every estate, interest,
28 and right in lands, tenements and hereditaments.

29 ~~(ee)~~(dd) "Solicit" or "solicitation" means to command, authorize,
30 urge, incite, request or advise another to commit a crime.

31 ~~(dd)~~(ee) "State" or "this state" means the state of Kansas and all land
32 and water in respect to which the state of Kansas has either exclusive or
33 concurrent jurisdiction, and the air space above such land and water.
34 "Other state" means any state or territory of the United States, the District
35 of Columbia and the Commonwealth of Puerto Rico.

36 ~~(ee)~~(ff) "Stolen property" means property over which control has been
37 obtained by theft.

38 ~~(ff)~~(gg) "Threat" means a communicated intent to inflict physical or
39 other harm on any person or on property.

40 ~~(gg)~~(hh) "Written instrument" means any paper, document or other
41 instrument containing written or printed matter or the equivalent thereof,
42 used for purposes of reciting, embodying, conveying or recording
43 information, and any money, token, stamp, seal, badge, trademark, or other

1 evidence or symbol of value, right, privilege or identification, which is
2 capable of being used to the advantage or disadvantage of some person.

3 Sec. 2. K.S.A. 2013 Supp. 21-5413 is hereby amended to read as
4 follows: 21-5413. (a) Battery is:

5 (1) Knowingly or recklessly causing bodily harm to another person;
6 or

7 (2) knowingly causing physical contact with another person when
8 done in a rude, insulting or angry manner;

9 (b) Aggravated battery is:

10 (1) (A) Knowingly causing great bodily harm to another person or
11 disfigurement of another person;

12 (B) knowingly causing bodily harm to another person with a deadly
13 weapon, or in any manner whereby great bodily harm, disfigurement or
14 death can be inflicted; or

15 (C) knowingly causing physical contact with another person when
16 done in a rude, insulting or angry manner with a deadly weapon, or in any
17 manner whereby great bodily harm, disfigurement or death can be
18 inflicted;

19 (2) (A) recklessly causing great bodily harm to another person or
20 disfigurement of another person; or

21 (B) recklessly causing bodily harm to another person with a deadly
22 weapon, or in any manner whereby great bodily harm, disfigurement or
23 death can be inflicted; or

24 (3) (A) committing an act described in K.S.A. 8-1567, and
25 amendments thereto, when great bodily harm to another person or
26 disfigurement of another person results from such act; or

27 (B) committing an act described in K.S.A. 8-1567, and amendments
28 thereto, when bodily harm to another person results from such act under
29 circumstances whereby great bodily harm, disfigurement or death can
30 result from such act.

31 (c) Battery against a law enforcement officer is:

32 (1) Battery, as defined in subsection (a)(2), committed against a:

33 (A) Uniformed or properly identified university or campus police
34 officer while such officer is engaged in the performance of such officer's
35 duty; or

36 (B) uniformed or properly identified state, county or city law
37 enforcement officer, other than a state correctional officer or employee, a
38 city or county correctional officer or employee, a juvenile correctional
39 facility officer or employee or a juvenile detention facility officer, or
40 employee, while such officer is engaged in the performance of such
41 officer's duty; or

42 (2) battery, as defined in subsection (a)(1), committed against a:

43 (A) Uniformed or properly identified university or campus police

1 officer while such officer is engaged in the performance of such officer's
2 duty; or

3 (B) uniformed or properly identified state, county or city law
4 enforcement officer, other than a state correctional officer or employee, a
5 city or county correctional officer or employee, a juvenile correctional
6 facility officer or employee or a juvenile detention facility officer, or
7 employee, while such officer is engaged in the performance of such
8 officer's duty; or

9 (3) battery, as defined in subsection (a) committed against a:

10 (A) State correctional officer or employee by a person in custody of
11 the secretary of corrections, while such officer or employee is engaged in
12 the performance of such officer's or employee's duty;

13 (B) juvenile correctional facility officer or employee by a person
14 confined in such juvenile correctional facility, while such officer or
15 employee is engaged in the performance of such officer's or employee's
16 duty;

17 (C) juvenile detention facility officer or employee by a person
18 confined in such juvenile detention facility, while such officer or employee
19 is engaged in the performance of such officer's or employee's duty; or

20 (D) city or county correctional officer or employee by a person
21 confined in a city holding facility or county jail facility, while such officer
22 or employee is engaged in the performance of such officer's or employee's
23 duty.

24 (d) Aggravated battery against a law enforcement officer is:

25 (1) An aggravated battery, as defined in subsection (b)(1)(A)
26 committed against a:

27 (A) Uniformed or properly identified state, county or city law
28 enforcement officer while the officer is engaged in the performance of the
29 officer's duty; or

30 (B) uniformed or properly identified university or campus police
31 officer while such officer is engaged in the performance of such officer's
32 duty;

33 (2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)(1)
34 (C), committed against a:

35 (A) Uniformed or properly identified state, county or city law
36 enforcement officer while the officer is engaged in the performance of the
37 officer's duty; or

38 (B) uniformed or properly identified university or campus police
39 officer while such officer is engaged in the performance of such officer's
40 duty; or

41 (3) knowingly causing, with a motor vehicle, bodily harm to a:

42 (A) Uniformed or properly identified state, county or city law
43 enforcement officer while the officer is engaged in the performance of the

1 officer's duty; or

2 (B) uniformed or properly identified university or campus police
3 officer while such officer is engaged in the performance of such officer's
4 duty.

5 (e) Battery against a school employee is a battery, as defined in
6 subsection (a), committed against a school employee in or on any school
7 property or grounds upon which is located a building or structure used by a
8 unified school district or an accredited nonpublic school for student
9 instruction or attendance or extracurricular activities of pupils enrolled in
10 kindergarten or any of the grades one through 12 or at any regularly
11 scheduled school sponsored activity or event, while such employee is
12 engaged in the performance of such employee's duty.

13 (f) Battery against a mental health employee is a battery, as defined in
14 subsection (a), committed against a mental health employee by a person in
15 the custody of the secretary of social and rehabilitation services, while
16 such employee is engaged in the performance of such employee's duty.

17 (g) (1) Battery is a class B person misdemeanor.

18 (2) Aggravated battery as defined in:

19 (A) Subsection (b)(1)(A) is a severity level 4, person felony;

20 (B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person
21 felony;

22 (C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person
23 felony; and

24 (D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person
25 felony.

26 (3) Battery against a law enforcement officer as defined in:

27 (A) Subsection (c)(1) is a class A person misdemeanor;

28 (B) subsection (c)(2) is a severity level 7, person felony; and

29 (C) subsection (c)(3) is a severity level 5, person felony.

30 (4) Aggravated battery against a law enforcement officer as defined
31 in:

32 (A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony;
33 and

34 (B) subsection (d)(2) is a severity level 4, person felony.

35 (5) Battery against a school employee is a class A person
36 misdemeanor.

37 (6) Battery against a mental health employee is a severity level 7,
38 person felony.

39 (h) As used in this section:

40 (1) "Correctional institution" means any institution or facility under
41 the supervision and control of the secretary of corrections;

42 (2) "state correctional officer or employee" means any officer or
43 employee of the Kansas department of corrections or any independent

1 contractor, or any employee of such contractor, working at a correctional
2 institution;

3 (3) "juvenile correctional facility officer or employee" means any
4 officer or employee of the juvenile justice authority or any independent
5 contractor, or any employee of such contractor, working at a juvenile
6 correctional facility, as defined in K.S.A. 2013 Supp. 38-2302, and
7 amendments thereto;

8 (4) "juvenile detention facility officer or employee" means any officer
9 or employee of a juvenile detention facility as defined in K.S.A. 2013
10 Supp. 38-2302, and amendments thereto;

11 (5) "city or county correctional officer or employee" means any
12 correctional officer or employee of the city or county or any independent
13 contractor, or any employee of such contractor, working at a city holding
14 facility or county jail facility;

15 (6) "school employee" means any employee of a unified school
16 district or an accredited nonpublic school for student instruction or
17 attendance or extracurricular activities of pupils enrolled in kindergarten or
18 any of the grades one through 12; and

19 (7) "mental health employee" means an employee of the department
20 of social and rehabilitation services working at Larned state hospital,
21 Osawatomie state hospital and Rainbow mental health facility, Kansas
22 neurological institute and Parsons state hospital and training center and the
23 treatment staff as defined in K.S.A. 59-29a02, and amendments thereto.

24 (i) *The provisions of this section shall not apply to:*

25 (1) *A parent, step-parent, legal guardian or custodian using corporal*
26 *punishment to maintain parental authority and to discipline a child or a*
27 *person over the age of 18 who is enrolled in high school; or*

28 (2) *a person who has written authority from a parent to use corporal*
29 *punishment, including, but not limited to, a person acting as a parent or*
30 *school personnel, using corporal punishment to maintain authority and to*
31 *discipline a child or a person over the age of 18 who is enrolled in high*
32 *school.*

33 Sec. 3. K.S.A. 2013 Supp. 21-5414 is hereby amended to read as
34 follows: 21-5414. (a) Domestic battery is:

35 (1) Knowingly or recklessly causing bodily harm by a family or
36 household member against a family or household member; or

37 (2) knowingly causing physical contact with a family or household
38 member by a family or household member when done in a rude, insulting
39 or angry manner.

40 (b) Domestic battery is:

41 (1) Except as provided in subsection (b)(2) or (b)(3), a class B person
42 misdemeanor and the offender shall be sentenced to not less than 48
43 consecutive hours nor more than six months' imprisonment and fined not

1 less than \$200, nor more than \$500 or in the court's discretion the court
2 may enter an order which requires the offender to undergo a domestic
3 violence offender assessment conducted by a certified batterer intervention
4 program and follow all recommendations made by such program;

5 (2) except as provided in subsection (b)(3), a class A person
6 misdemeanor, if, within five years immediately preceding commission of
7 the crime, an offender is convicted of domestic battery a second time and
8 the offender shall be sentenced to not less than 90 days nor more than one
9 year's imprisonment and fined not less than \$500 nor more than \$1,000.

10 The five days imprisonment mandated by this paragraph may be served in
11 a work release program only after such offender has served 48 consecutive
12 hours imprisonment, provided such work release program requires such
13 offender to return to confinement at the end of each day in the work
14 release program. The offender shall serve at least five consecutive days
15 imprisonment before the offender is granted probation, suspension or
16 reduction of sentence or parole or is otherwise released. As a condition of
17 any grant of probation, suspension of sentence or parole or of any other
18 release, the offender shall be required to undergo a domestic violence
19 offender assessment conducted by a certified batterer intervention program
20 and follow all recommendations made by such program, unless otherwise
21 ordered by the court or department of corrections; and

22 (3) a person felony, if, within five years immediately preceding
23 commission of the crime, an offender is convicted of domestic battery a
24 third or subsequent time, and the offender shall be sentenced to not less
25 than 90 days nor more than one year's imprisonment and fined not less
26 than \$1,000 nor more than \$7,500. The offender convicted shall not be
27 eligible for release on probation, suspension or reduction of sentence or
28 parole until the offender has served at least 90 days imprisonment. As a
29 condition of any grant of probation, suspension of sentence or parole or of
30 any other release, the offender shall be required to undergo a domestic
31 violence offender assessment conducted by a certified batterer intervention
32 program and follow all recommendations made by such program, unless
33 otherwise ordered by the court or department of corrections. If the offender
34 does not undergo a domestic violence offender assessment conducted by a
35 certified batterer intervention program and follow all recommendations
36 made by such program, the offender shall serve not less than 180 days nor
37 more than one year's imprisonment. The 90 days imprisonment mandated
38 by this paragraph may be served in a work release program only after such
39 offender has served 48 consecutive hours imprisonment, provided such
40 work release program requires such offender to return to confinement at
41 the end of each day in the work release program.

42 (c) As used in this section:

43 (1) "Family or household member" means persons 18 years of age or

1 older who are spouses, former spouses, parents or stepparents and children
2 or stepchildren, and persons who are presently residing together or who
3 have resided together in the past, and persons who have a child in common
4 regardless of whether they have been married or who have lived together
5 at any time. "Family or household member" also includes a man and
6 woman if the woman is pregnant and the man is alleged to be the father,
7 regardless of whether they have been married or have lived together at any
8 time; and

9 (2) for the purpose of determining whether a conviction is a first,
10 second, third or subsequent conviction in sentencing under this section:

11 (A) "Conviction" includes being convicted of a violation of K.S.A.
12 21-3412a, prior to its repeal, this section or entering into a diversion or
13 deferred judgment agreement in lieu of further criminal proceedings on a
14 complaint alleging a violation of this section;

15 (B) "conviction" includes being convicted of a violation of a law of
16 another state, or an ordinance of any city, or resolution of any county,
17 which prohibits the acts that this section prohibits or entering into a
18 diversion or deferred judgment agreement in lieu of further criminal
19 proceedings in a case alleging a violation of such law, ordinance or
20 resolution;

21 (C) only convictions occurring in the immediately preceding five
22 years including prior to July 1, 2001, shall be taken into account, but the
23 court may consider other prior convictions in determining the sentence to
24 be imposed within the limits provided for a first, second, third or
25 subsequent offender, whichever is applicable; and

26 (D) it is irrelevant whether an offense occurred before or after
27 conviction for a previous offense.

28 (d) A person may enter into a diversion agreement in lieu of further
29 criminal proceedings for a violation of this section or an ordinance of any
30 city or resolution of any county which prohibits the acts that this section
31 prohibits only twice during any five-year period.

32 (e) *The provisions of this section shall not apply to:*

33 (1) *A parent, step-parent, legal guardian or custodian using corporal*
34 *punishment to maintain parental authority and to discipline a child or a*
35 *person over the age of 18 who is enrolled in high school; or*

36 (2) *a person who has written authority from a parent to use corporal*
37 *punishment, including, but not limited to, a person acting as a parent or*
38 *school personnel, using corporal punishment to maintain authority and to*
39 *discipline a child or a person over the age of 18 who is enrolled in high*
40 *school.*

41 Sec. 4. K.S.A. 2013 Supp. 21-5601 is hereby amended to read as
42 follows: 21-5601. (a) Endangering a child is knowingly and unreasonably
43 causing or permitting a child under the age of 18 years to be placed in a

1 situation in which the child's life, body or health may be endangered.

2 (b) Aggravated endangering a child is:

3 (1) Recklessly causing or permitting a child under the age of 18 years
4 to be placed in a situation in which the child's life, body or health is
5 endangered;

6 (2) causing or permitting such child to be in an environment where
7 the person knows or reasonably should know that any person is
8 distributing, possessing with intent to distribute, manufacturing or
9 attempting to manufacture any methamphetamine, or analog thereof, as
10 defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments
11 thereto; or

12 (3) causing or permitting such child to be in an environment where
13 the person knows or reasonably should know that drug paraphernalia or
14 volatile, toxic or flammable chemicals are stored for the purpose of
15 manufacturing or attempting to manufacture any methamphetamine, or
16 analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107,
17 and amendments thereto.

18 (c) (1) Endangering a child is a class A person misdemeanor.

19 (2) Aggravated endangering a child is a severity level 9, person
20 felony. The sentence for a violation of aggravated endangering a child
21 shall be served consecutively to any other term or terms of imprisonment
22 imposed. Such sentence shall not be considered a departure and shall not
23 be subject to appeal.

24 (d) Nothing in subsection (a) shall be construed to mean a child is
25 endangered for the sole reason the child's parent or guardian, in good faith,
26 selects and depends upon spiritual means alone through prayer, in
27 accordance with the tenets and practice of a recognized church or religious
28 denomination, for the treatment or cure of disease or remedial care of such
29 child.

30 (e) As used in this section:

31 (1) "Manufacture" means the same as in K.S.A. 2013 Supp. 21-5701,
32 and amendments thereto; and

33 (2) "drug paraphernalia" means the same as in K.S.A. 2013 Supp. 21-
34 5701, and amendments thereto.

35 (f) *The provisions of this section shall not apply to:*

36 (1) *A parent, step-parent, legal guardian or custodian using corporal*
37 *punishment to maintain parental authority and to discipline a child; or*

38 (2) *a person who has written authority from a parent to use corporal*
39 *punishment, including, but not limited to, a person acting as a parent or*
40 *school personnel, using corporal punishment to maintain authority and to*
41 *discipline a child.*

42 Sec. 5. K.S.A. 2013 Supp. 21-5602 is hereby amended to read as
43 follows: 21-5602. (a) Abuse of a child is knowingly:

- 1 (1) Torturing or cruelly beating any child under the age of 18 years;
- 2 (2) shaking any child under the age of 18 years which results in great
- 3 bodily harm to the child; or
- 4 (3) inflicting cruel and inhuman corporal punishment upon any child
- 5 under the age of 18 years.
- 6 (b) Abuse of a child is a severity level 5, person felony.
- 7 (c) A person who violates the provisions of this section may also be
- 8 prosecuted for, convicted of, and punished for any form of battery or
- 9 homicide.

10 (d) *The provisions of this section shall not apply to:*

- 11 (1) *A parent, step-parent, legal guardian or custodian using corporal*
- 12 *punishment to maintain parental authority and to discipline a child; or*
- 13 (2) *a person who has written authority from a parent to use corporal*
- 14 *punishment, including, but not limited to, a person acting as a parent or*
- 15 *school personnel, using corporal punishment to maintain authority and to*
- 16 *discipline a child.*

17 Sec. 6. K.S.A. 2013 Supp. 21-5111, 21-5413, 21-5414, 21-5601 and

18 21-5602 are hereby repealed.

19 Sec. 7. This act shall take effect and be in force from and after its

20 publication in the statute book.