

**SENATE BILL No. 122**

By Committee on Judiciary

2-1

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to criminal discharge of a firearm; sentencing; amending K.S.A. 2016  
3 Supp. 21-6308 and 21-6804 and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2016 Supp. 21-6308 is hereby amended to read as  
7 follows: 21-6308. (a) Criminal discharge of a firearm is the:

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

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

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

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

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

22 (3) discharge of any firearm:

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

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

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

29 (1) Subsection (a)(1) is a:

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

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

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

36 ~~(C) severity level 5, person felony if such criminal discharge results~~

1 ~~in bodily harm to a person during the commission thereof;~~

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

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

4 (c) Subsection (a)(1) shall not apply if the act is a violation of K.S.A.  
5 2016 Supp. 21-5412(d), and amendments thereto.

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

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

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

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

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

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

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

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

29 (8) the United States attorney for the district of Kansas, the attorney  
30 general, or any district attorney or county attorney, while actually engaged  
31 in the duties of their employment or any activities incidental to such  
32 duties; any assistant United States attorney if authorized by the United  
33 States attorney for the district of Kansas and while actually engaged in the  
34 duties of their employment or any activities incidental to such duties; any  
35 assistant attorney general if authorized by the attorney general and while  
36 actually engaged in the duties of their employment or any activities  
37 incidental to such duties; or any assistant district attorney or assistant  
38 county attorney if authorized by the district attorney or county attorney by  
39 whom such assistant is employed and while actually engaged in the duties  
40 of their employment or any activities incidental to such duties.

41 Sec. 2. K.S.A. 2016 Supp. 21-6804 is hereby amended to read as  
42 follows: 21-6804. (a) The provisions of this section shall be applicable to  
43 the sentencing guidelines grid for nondrug crimes. The following

- 1 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 31
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	7 6 5

LEGEND
Presumptive Probation
30, 60, 90
Presumptive Imprisonment

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. 2016 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

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

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

6 (i) (1) The sentence for the violation of the felony provision of K.S.A.  
7 2016 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, K.S.A. 2016 Supp.  
8 21-5414(b)(3), K.S.A. 2016 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2016  
9 Supp. 21-6412 and K.S.A. 2016 Supp. 21-6416, and amendments thereto,  
10 shall be as provided by the specific mandatory sentencing requirements of  
11 that section and shall not be subject to the provisions of this section or  
12 K.S.A. 2016 Supp. 21-6807, and amendments thereto.

13 (2) If because of the offender's criminal history classification the  
14 offender is subject to presumptive imprisonment or if the judge departs  
15 from a presumptive probation sentence and the offender is subject to  
16 imprisonment, the provisions of this section and K.S.A. 2016 Supp. 21-  
17 6807, and amendments thereto, shall apply and the offender shall not be  
18 subject to the mandatory sentence as provided in K.S.A. 2016 Supp. 21-  
19 5823, and amendments thereto.

20 (3) Notwithstanding the provisions of any other section, the term of  
21 imprisonment imposed for the violation of the felony provision of K.S.A.  
22 2016 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, K.S.A. 2016 Supp.  
23 21-5414(b)(3), K.S.A. 2016 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2016  
24 Supp. 21-6412 and K.S.A. 2016 Supp. 21-6416, and amendments thereto,  
25 shall not be served in a state facility in the custody of the secretary of  
26 corrections, except that the term of imprisonment for felony violations of  
27 K.S.A. 2016 Supp. 8-1025 or K.S.A. 8-2,144 or K.S.A. 8-1567, and  
28 amendments thereto, may be served in a state correctional facility  
29 designated by the secretary of corrections if the secretary determines that  
30 substance abuse treatment resources and facility capacity is available. The  
31 secretary's determination regarding the availability of treatment resources  
32 and facility capacity shall not be subject to review. Prior to imposing any  
33 sentence pursuant to this subsection, the court may consider assigning the  
34 defendant to a house arrest program pursuant to K.S.A. 2016 Supp. 21-  
35 6609, and amendments thereto.

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

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

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

3 (ii) at the time of the conviction under subsection (j)(2)(A)(i) has at  
4 least one conviction for a sexually violent crime, as defined in K.S.A. 22-  
5 3717, and amendments thereto, in this state or comparable felony under  
6 the laws of another state, the federal government or a foreign government;  
7 or

8 (B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,  
9 prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and amendments  
10 thereto; and

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

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

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

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

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

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

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

34 (D) its members, individually or collectively, engage in or have  
35 engaged in the commission, attempted commission, conspiracy to commit  
36 or solicitation of two or more person felonies or felony violations of article  
37 57 of chapter 21 of the Kansas Statutes Annotated, and amendments  
38 thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their  
39 transfer, any felony violation of any provision of the uniform controlled  
40 substances act prior to July 1, 2009, or any substantially similar offense  
41 from another jurisdiction.

42 (l) Except as provided in subsection (o), the sentence for a violation  
43 of K.S.A. 2016 Supp. 21-5807(a)(1), and amendments thereto, or any

1 attempt or conspiracy, as defined in K.S.A. 2016 Supp. 21-5301 and 21-  
2 5302, and amendments thereto, to commit such offense, when such person  
3 being sentenced has a prior conviction for a violation of K.S.A. 21-3715(a)  
4 or (b), prior to its repeal, 21-3716, prior to its repeal, K.S.A. 2016 Supp.  
5 21-5807(a)(1) or (a)(2), or K.S.A. 2016 Supp. 21-5807(b), and  
6 amendments thereto, or any attempt or conspiracy to commit such offense,  
7 shall be presumptive imprisonment.

8 (m) The sentence for a violation of K.S.A. 22-4903 or K.S.A. 2016  
9 Supp. 21-5913(a)(2), and amendments thereto, shall be presumptive  
10 imprisonment. If an offense under such sections is classified in grid blocks  
11 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison  
12 sentence as provided in subsection (q).

13 (n) The sentence for a violation of criminal deprivation of property, as  
14 defined in K.S.A. 2016 Supp. 21-5803, and amendments thereto, when  
15 such property is a motor vehicle, and when such person being sentenced  
16 has any combination of two or more prior convictions of K.S.A. 21-  
17 3705(b), prior to its repeal, or of criminal deprivation of property, as  
18 defined in K.S.A. 2016 Supp. 21-5803, and amendments thereto, when  
19 such property is a motor vehicle, shall be presumptive imprisonment. Such  
20 sentence shall not be considered a departure and shall not be subject to  
21 appeal.

22 (o) The sentence for a felony violation of theft of property as defined  
23 in K.S.A. 2016 Supp. 21-5801, and amendments thereto, or burglary as  
24 defined in K.S.A. 2016 Supp. 21-5807(a), and amendments thereto, when  
25 such person being sentenced has no prior convictions for a violation of  
26 K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as  
27 defined in K.S.A. 2016 Supp. 21-5801, and amendments thereto, or  
28 burglary as defined in K.S.A. 2016 Supp. 21-5807(a), and amendments  
29 thereto; or the sentence for a felony violation of theft of property as  
30 defined in K.S.A. 2016 Supp. 21-5801, and amendments thereto, when  
31 such person being sentenced has one or two prior felony convictions for a  
32 violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or  
33 theft of property as defined in K.S.A. 2016 Supp. 21-5801, and  
34 amendments thereto, or burglary or aggravated burglary as defined in  
35 K.S.A. 2016 Supp. 21-5807, and amendments thereto; or the sentence for a  
36 felony violation of burglary as defined in K.S.A. 2016 Supp. 21-5807(a),  
37 and amendments thereto, when such person being sentenced has one prior  
38 felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716,  
39 prior to their repeal, or theft of property as defined in K.S.A. 2016 Supp.  
40 21-5801, and amendments thereto, or burglary or aggravated burglary as  
41 defined in K.S.A. 2016 Supp. 21-5807, and amendments thereto, shall be  
42 the sentence as provided by this section, except that the court may order an  
43 optional nonprison sentence for a defendant to participate in a drug

1 treatment program, including, but not limited to, an approved after-care  
2 plan, if the court makes the following findings on the record:

3 (1) Substance abuse was an underlying factor in the commission of  
4 the crime;

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

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

10 A defendant sentenced to an optional nonprison sentence under this  
11 subsection shall be supervised by community correctional services. The  
12 provisions of K.S.A. 2016 Supp. 21-6824(f)(1), and amendments thereto,  
13 shall apply to a defendant sentenced under this subsection. The sentence  
14 under this subsection shall not be considered a departure and shall not be  
15 subject to appeal.

16 (p) The sentence for a felony violation of theft of property as defined  
17 in K.S.A. 2016 Supp. 21-5801, and amendments thereto, when such  
18 person being sentenced has any combination of three or more prior felony  
19 convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to  
20 their repeal, or theft of property as defined in K.S.A. 2016 Supp. 21-5801,  
21 and amendments thereto, or burglary or aggravated burglary as defined in  
22 K.S.A. 2016 Supp. 21-5807, and amendments thereto; or the sentence for a  
23 violation of burglary as defined in K.S.A. 2016 Supp. 21-5807(a), and  
24 amendments thereto, when such person being sentenced has any  
25 combination of two or more prior convictions for violations of K.S.A. 21-  
26 3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as  
27 defined in K.S.A. 2016 Supp. 21-5801, and amendments thereto, or  
28 burglary or aggravated burglary as defined in K.S.A. 2016 Supp. 21-5807,  
29 and amendments thereto, shall be presumed imprisonment and the  
30 defendant shall be sentenced to prison as provided by this section, except  
31 that the court may recommend that an offender be placed in the custody of  
32 the secretary of corrections, in a facility designated by the secretary to  
33 participate in an intensive substance abuse treatment program, upon  
34 making the following findings on the record:

35 (1) Substance abuse was an underlying factor in the commission of  
36 the crime;

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

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

43 The intensive substance abuse treatment program shall be determined

1 by the secretary of corrections, but shall be for a period of at least four  
2 months. Upon the successful completion of such intensive treatment  
3 program, the offender shall be returned to the court and the court may  
4 modify the sentence by directing that a less severe penalty be imposed in  
5 lieu of that originally adjudged within statutory limits. If the offender's  
6 term of imprisonment expires, the offender shall be placed under the  
7 applicable period of postrelease supervision. The sentence under this  
8 subsection shall not be considered a departure and shall not be subject to  
9 appeal.

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

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

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

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

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

23 (r) The sentence for a violation of K.S.A. 2016 Supp. 21-5413(c)(2),  
24 and amendments thereto, shall be presumptive imprisonment and shall be  
25 served consecutively to any other term or terms of imprisonment imposed.  
26 Such sentence shall not be considered a departure and shall not be subject  
27 to appeal.

28 (s) The sentence for a violation of K.S.A. 2016 Supp. 21-5512, and  
29 amendments thereto, shall be presumptive imprisonment. Such sentence  
30 shall not be considered a departure and shall not be subject to appeal.

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

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

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

1 substance or item designed with the purpose of providing ballistic and  
2 trauma protection.

3 (u) The sentence for a violation of K.S.A. 2016 Supp. 21-6107, and  
4 amendments thereto, or any attempt or conspiracy, as defined in K.S.A.  
5 2016 Supp. 21-5301 and 21-5302, and amendments thereto, to commit  
6 such offense, when such person being sentenced has a prior conviction for  
7 a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2016 Supp. 21-  
8 6107, and amendments thereto, or any attempt or conspiracy to commit  
9 such offense, shall be presumptive imprisonment. Such sentence shall not  
10 be considered a departure and shall not be subject to appeal.

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

16 (w) The sentence for aggravated criminal damage to property as  
17 defined in K.S.A. 2016 Supp. 21-5813(b), and amendments thereto, when  
18 such person being sentenced has a prior conviction for any nonperson  
19 felony shall be presumptive imprisonment. Such sentence shall not be  
20 considered a departure and shall not be subject to appeal.

21 (x) The sentence for a violation of K.S.A. 2016 Supp. 21-5807(a)(1),  
22 and amendments thereto, shall be presumptive imprisonment if the offense  
23 under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such  
24 sentence shall not be considered a departure and shall not be subject to  
25 appeal.

26 (y) (1) *Except as provided in subsection (y)(2), the sentence for a*  
27 *violation of K.S.A. 2016 Supp. 21-6308(a)(1)(A) or (B), and amendments*  
28 *thereto, if the trier of fact makes a finding that the offender discharged a*  
29 *firearm and that the offender knew or reasonably should have known that*  
30 *a person was present in the dwelling, building, structure or motor vehicle*  
31 *at which the offender discharged a firearm, shall be presumptive*  
32 *imprisonment and, in addition to the sentence imposed pursuant to the*  
33 *Kansas sentencing guidelines act, the offender shall be sentenced to an*  
34 *additional 60 months' imprisonment. Such sentence shall be served*  
35 *consecutively to any other term or terms of imprisonment imposed. Such*  
36 *sentence shall not be considered a departure and shall not be subject to*  
37 *appeal.*

38 (2) *The sentence for a violation of K.S.A. 2016 Supp. 21-6308(a)(1)*  
39 *(A) or (B), and amendments thereto, if the trier of fact makes a finding that*  
40 *the offender discharged a firearm and that the offender knew or*  
41 *reasonably should have known that a person less than 14 years of age was*  
42 *present in the dwelling, building, structure or motor vehicle at which the*  
43 *offender discharged a firearm, shall be presumptive imprisonment and, in*

1 *addition to the sentence imposed pursuant to the Kansas sentencing*  
2 *guidelines act, the offender shall be sentenced to an additional 120*  
3 *months' imprisonment. Such sentence shall be served consecutively to any*  
4 *other term or terms of imprisonment imposed. Such sentence shall not be*  
5 *considered a departure and shall not be subject to appeal.*

6 Sec. 3. K.S.A. 2016 Supp. 21-6308 and 21-6804 are hereby repealed.

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