

As Amended by House Committee

Session of 2018

SENATE BILL No. 310

By Committee on Judiciary

1-23

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to escape and aggravated escape from custody; definition of escape;
3 amending K.S.A. 2017 Supp. 21-5911 and repealing the existing
4 section.

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

7 Section 1. K.S.A. 2017 Supp. 21-5911 is hereby amended to read as
8 follows: 21-5911. (a) Escape from custody is escaping while held in
9 custody on a:

10 (1) Charge, conviction of or arrest for a misdemeanor;

11 (2) charge, adjudication or arrest as a juvenile offender where the act,
12 if committed by an adult, would constitute a misdemeanor; or

13 (3) commitment to the state security hospital as provided in K.S.A.
14 22-3428, and amendments thereto, based on a finding that the person
15 committed an act constituting a misdemeanor or by a person 18 years of
16 age or over who is being held in custody on an adjudication of a
17 misdemeanor.

18 (b) Aggravated escape from custody is:

19 (1) Escaping while held in custody:

20 (A) Upon a charge, conviction of or arrest for a felony;

21 (B) upon a charge, adjudication or arrest as a juvenile offender where
22 the act, if committed by an adult, would constitute a felony;

23 (C) prior to or upon a finding of probable cause for evaluation as a
24 sexually violent predator as provided in K.S.A. 59-29a05, and
25 amendments thereto;

26 (D) upon commitment to a treatment facility as a sexually violent
27 predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;

28 (E) upon a commitment to the state security hospital as provided in
29 K.S.A. 22-3428, and amendments thereto, based on a finding that the
30 person committed an act constituting a felony;

31 (F) by a person 18 years of age or over who is being held on an
32 adjudication of a felony; or

33 (G) upon incarceration at a state correctional institution while in the
34 custody of the secretary of corrections.

35 (2) Escaping effected or facilitated by the use of violence or the threat
36 of violence against any person while held in custody:

- 1 (A) On a charge or conviction of any crime;
- 2 (B) on a charge or adjudication as a juvenile offender where the act, if
3 committed by an adult, would constitute a felony;
- 4 (C) prior to or upon a finding of probable cause for evaluation as a
5 sexually violent predator as provided in K.S.A. 59-29a05, and
6 amendments thereto;
- 7 (D) upon commitment to a treatment facility as a sexually violent
8 predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;
- 9 (E) upon a commitment to the state security hospital as provided in
10 K.S.A. 22-3428, and amendments thereto, based on a finding that the
11 person committed an act constituting any crime;
- 12 (F) by a person 18 years of age or over who is being held on a charge
13 or adjudication of a misdemeanor or felony; or
- 14 (G) upon incarceration at a state correctional institution while in the
15 custody of the secretary of corrections.
- 16 (c) (1) Escape from custody is a class A nonperson misdemeanor.
- 17 (2) Aggravated escape from custody as defined in:
- 18 (A) Subsection (b)(1)(A), (b)(1)(C), (b)(1)(D), (b)(1)(E) or (b)(1)(F)
19 is a severity level 8, nonperson felony;
- 20 (B) subsection (b)(1)(B) or (b)(1)(G) is a severity level 5, nonperson
21 felony;
- 22 (C) subsection (b)(2)(A), (b)(2)(C), (b)(2)(D), (b)(2)(E) or (b)(2)(F)
23 is a severity level 6, person felony; and
- 24 (D) subsection (b)(2)(B) or (b)(2)(G) is a severity level 5, person
25 felony.
- 26 (d) As used in this section and K.S.A. 2017 Supp. 21-5912, and
27 amendments thereto:
- 28 (1) "Custody" means arrest; detention in a facility for holding persons
29 charged with or convicted of crimes or charged or adjudicated as a juvenile
30 offender; detention for extradition or deportation; detention in a hospital or
31 other facility pursuant to court order, imposed as a specific condition of
32 probation or parole or imposed as a specific condition of assignment to a
33 community correctional services program; commitment to the state
34 security hospital as provided in K.S.A. 22-3428, and amendments thereto;
35 or any other detention for law enforcement purposes. "Custody" does not
36 include general supervision of a person on probation or parole or
37 constraint incidental to release on bail;
- 38 (2) "escape" means ~~departure from custody without lawful authority~~
39 ~~or failure to return to custody following temporary leave lawfully granted~~
40 ~~pursuant to express authorization of law or, order of a court or by a~~
41 ~~custodial official authorized to grant such leave:~~
- 42 (A) **Departure from custody without lawful authority; or**
- 43 (B) **failure to return to custody following temporary leave**

1 **lawfully granted by:**

2 **(i) Express authorization of law;**

3 **(ii) order of a court; or**

4 **(iii) a custodial official authorized to grant such leave;**

5 (3) "juvenile offender" means the same as in K.S.A. 2017 Supp. 38-
6 2302, and amendments thereto; and

7 (4) "state correctional institution" means the same as in K.S.A. 75-
8 5202, and amendments thereto.

9 (e) As used in this section, the term "charge" shall not require that the
10 offender was held on a written charge contained in a complaint,
11 information or indictment, if such offender was arrested prior to such
12 offender's escape from custody.

13 Sec. 2. K.S.A. 2017 Supp. 21-5911 is hereby repealed.

14 Sec. 3. This act shall take effect and be in force from and after its
15 publication in the statute book.