Where death caused without premeditation, by pocket knife, instruction hereunder necessary. State v. Cunningham, 120 K. 480, 243 P. 1006.
Automobile is not a weapon. State v. Bowser, 124 K. 556, 560, 261 P. 846.

21-420. Same; what other killings deemed manslaughter. Every other killing of a human being, by the act, procurement or culpable negligence of another, which would be manslaughter at the common law, and which is not excusable or justifiable, or is not declared in this article to be manslaughter in some other degree, shall be deemed manslaughter in the fourth degree. [G. S. 1868, ch. 31, § 27; Oct. 31; R. S. 1923, § 21-420.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 22; Terr. L. 1859, ch. 28, § 22.
No evidence to warrant instruction under this section. The State v. Sorter, 52 K. 531, 543, 34 P. 1036.
Testimony warranted instruction under this section. The State v. Young, 55 K. 849, 857, 40 P. 659.
Unnecessary to instruct in exact words of statute. The State v. Ireland, 72 K. 265, 271, 83 P. 1036.
Death from culpable negligence in driving automobile within statute. The State v. Bailey, 107 K. 637, 638, 193 P. 354.
Conviction because of culpable negligence in driving automobile approved. State v. Harrison, 121 K. 670, 672, 249 P. 623.
Wrongful act must arise under general law. State v. Bowser, 124 K. 556, 261 P. 846.
Driving automobile in excess of statutory limit is culpable negligence. Witt v. Spot Cash Insurance Co., 128 K. 155, 157, 276 P. 804.
Offense must have constituted manslaughter at common law; gross negligence required. State v. Custer, 129 K. 381, 282 P. 1071.
Words "culpable negligence" discussed in considering word "ordinary" used in § 19-242. State v. Rogers, 142 K. 841, 858, 52 P. 2d 1185.
Negligence in operation of automobile; evidence and instructions considered; conviction upheld. State v. Pendleton, 144 K. 410, 61 P. 2d 107.
Driving while drunk; instructions held free from error; conviction upheld. State v. Townsend, 146 K. 982, 73 P. 2d 1124.
Section 8-529 defining "negligent homicide" did not declare an offense included herein; failure to instruct on lesser offense held error. State v. Gloyd, 148 K. 706, 707, 708, 709, 710, 84 P. 2d 966.
Instructions and joinder of counts considered and conviction upheld. State v. Phelps, 153 K. 387, 388, 110 P. 2d 755.
Question whether killing three persons by culpable negligence constitutes three offenses discussed. State v. Carte, 157 K. 139, 140, 145, 146, 147, 148, 188 P. 2d 429.
Defense of former jeopardy held waived; identity of offenses. State v. Carte, 157 K. 678, 674, 682, 148 P. 2d 774.

21-421. Penalties for manslaughter in the first and in the second degrees. Persons convicted of manslaughter in the first and second degrees shall be punished as follows: *First*, if in the first degree, by confinement and hard labor for a term not less than five years nor more than twenty-one years; *second*, if in the second degree, by confinement and hard labor for a term not less than three nor more than five years. [G. S. 1868, ch. 31, § 28; Oct. 31; R. S. 1923, § 21-421.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 23; Terr. L. 1859, ch. 28, § 23.
Section cited in considering necessity of verdict responding to crime charged. State v. Keester, 121 K. 167, 169, 246 P. 685.

21-422. Penalty for manslaughter in the third degree. Every person convicted of manslaughter in the third degree shall be punished by confinement and hard labor for a term not exceeding three years, or by imprisonment in the county jail not less than six months. [G. S. 1868, ch. 31, § 29; Oct. 31; R. S. 1923, § 21-422.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 24; Terr. L. 1859, ch. 28, § 24.
Indeterminate sentence; law fixes minimum at one year. The State v. Gaunt, 98 K. 186, 192, 157 P. 447.

21-423. Penalty for manslaughter in the fourth degree. Every person convicted of manslaughter in the fourth degree shall be punished by confinement and hard labor for a term not exceeding two years, or by imprisonment in the county jail not less than six months. [G. S. 1868, ch. 31, § 30; L. 1877, ch. 139, § 1; March 15; R. S. 1923, § 21-423.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 25; Terr. L. 1859, ch. 28, § 25.
Punishment should not be included in instruction. State v. Bowser, 124 K. 556, 561, 261 P. 840.
Fourth-degree manslaughter is felony regardless of sentence imposed. State v. Bowser, 155 K. 723, 727, 129 P. 2d 268.
Court without power within term to modify sentence after defendant commences sentence. State v. Carte, 157 K. 139, 141, 188 P. 2d 429.

21-424. Rape; penalties. Every person who shall be convicted of rape by carnally and unlawfully knowing any female person under the age of eighteen years shall be punished by confinement and hard labor not less than one nor more than twenty-one years, and every person who shall be convicted of forcibly ravishing any female person shall be punished by confinement and hard labor not less than five years nor more than twenty-one years. [G. S. 1868, ch. 31, § 31; L. 1887, ch. 150, § 1; R. S. 1923, § 21-424; L. 1929, ch. 172, § 1; May 28.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 26; Terr. L. 1859, ch. 28, § 26.
Necessary elements to constitute rape. The State v. Ruth, 21 K. 583.
Information sufficient although word "rape" not used. The State v. Hart, 33 K. 218, 222, 6 P. 288.
Evidence insufficient to support conviction of rape. The State v. Crawford, 39 K. 257, 18 P. 184.
Sufficiency of information; act constitutional. The State v. White, 44 K. 514, 515, 25 P. 33.
Prosecutrix under eighteen years; not necessary to prove force. The State v. Eberline, 47 K. 155, 157, 27 P. 839; The State v. Woods, 49 K. 237, 243, 30 P. 520; The State v. Hansford 81 K. 800, 802, 106 P. 738.
Information charges rape; conviction of attempt proper. *In re* Lloyd, *Petitioner*, 51 K. 501, 502, 33 P. 307; The State v. Guthridge, 88 K. 840, 847, 129 P. 1143.
Where evidence shows completed crime instruction should be given. The State v. Frazier, 54 K. 719, 722, 39 P. 819.
Defendant may show general reputation of prosecutrix for chastity. The State v. Brown, 55 K. 766, 42 P. 368.
Testimony examined, sufficient to sustain conviction; female under eighteen years. The State v. Thomas, 58 K. 805, 51 P. 228.
Evidence of similar acts admissible to show relations existing. The State v. Borchert, 68 K. 360, 74 P. 1108.
Evidence of pregnancy admitted for purpose of showing penetration. The State v. Walke, 69 K. 183, 76 P. 408.
"Unlawfully" as used herein means without authority of law. The State v. Tinkler, 72 K. 262, 83 P. 880.
Rape and incest different crimes; may maintain prosecution for both. The State v. Learned, 78 K. 828, 832, 85 P. 293.
Subsequent acts may, under certain circumstances, evidence previous acts. The State v. Stone, 74 K. 189, 85 P. 808.
Proper to examine prosecutrix as to relations with other men. The State v. Gereke, 74 K. 196, 200, 86 P. 160, 87 P. 759.
Evidence held sufficient to show crime committed. The State v. McLemore, 99 K. 777, 164 P. 161. Reversed: 101 K. 259, 166 P. 497.
Guilty of attempt, although voluntarily abandoning effort to commit rape. The State v. Moore, 110 K. 782, 783, 205 P. 644.
Evidence, information, and verdict considered and held free from error. State v. Stitz, 111 K. 275, 206 P. 910.
Instruction as to how testimony of accomplice should be weighed approved. State v. Turner, 116 K. 661, 227 P. 376.
Conviction on three counts each charging statutory rape approved. State v. Saindon, 117 K. 122, 230 P. 301; State v. Miner, 120 K. 187, 243 P. 818.
Section cited in determining civil liability suffered because of abortion. Herman v. Julian, 117 K. 733, 232 P. 864.
Information sufficient to charge forcible rape under section. State v. Jones, 121 K. 1, 245 P. 101.
Simple assault is not lesser degree of offense of rape. State v. Kelley, 125 K. 805, 265 P. 1109.
Testimony as to indecent liberties with other girls admissible. State v. Jenks, 126 K. 493, 268 P. 850.
Instructions on attempt proper where completed offense not proved. State v. Cross, 144 K. 868, 59 P. 2d 86.
Various alleged trial errors considered and conviction upheld. State v. Zeilinger, 147 K. 707, 78 P. 2d 845.
Evidence and cross-examination considered and conviction upheld. State v. Wheaton, 149 K. 802, 89 P. 2d 871.
Information charging forcible rape not bad for duplicity; minor; evidence. State v. McCrady, 152 K. 566, 569, 106 P. 2d 696.
Evidence of other acts and instructions considered and conviction upheld. State v. Funk, 154 K. 800, 118 P. 2d 502.
Instructions given and refused and evidence considered and conviction upheld. State v. Rosenberry, 156 K. 508, 509, 134 P. 2d 414.
Admissibility of character evidence; separation of jury; conviction upheld. State v. Howland, 157 K. 11, 138 P. 2d 424.
Nature of offense discussed and distinguished from incest; identity of offenses. Wiebe v. Hudspeth, 163 K. 80, 82, 84, 180 P. 2d 315.
Statutory rape and incest properly charged in same information; statutes construed. Wiebe v. Hudspeth, 163 K. 80, 82, 84, 180 P. 2d 315.

Conviction of attempt may be had in prosecution for rape. State v. Allen, 163 K. 374, 375, 377, 183 P. 2d 458.
Information, instructions and verdict considered, conviction of attempt upheld. State v. Allen, 163 K. 374, 375, 377, 183 P. 2d 458.
Various alleged trial errors and evidence considered and conviction upheld. State v. Liebeno, 163 K. 421, 183 P. 2d 418.
Refusal to give instruction on theory of defense held error. State v. Barnes, 164 K. 424, 427, 190 P. 2d 193.
Form of statutory rape verdict considered and held sufficient. Goldsberry v. Hudspeth, 166 K. 241, 242, 243, 199 P. 2d 813.
Evidence considered and held sufficient to sustain conviction. State v. Thompson, 166 K. 466, 467, 201 P. 2d 630.
Forcible rape; instructions given and refused considered and conviction upheld. State v. Smiley, 167 K. 261, 266 P. 2d 115.

21-425. Rape by administering substance, liquid or drug. Every person who shall have carnal knowledge of any woman of eighteen years or upwards, without her consent, by administering to her any substance, liquid, or any potion, by inhalation or otherwise, which shall produce such stupor or imbecility of mind or weakness of body as to prevent effectual resistance, shall upon conviction be adjudged guilty of rape, and be punished as in the last section provided. [G. S. 1868, ch. 31, § 32; L. 1887, ch. 150, § 2; June 20; R. S. 1923, § 21-425.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 27; Terr. L. 1859, ch. 28, § 27.

Sufficiency of information; proper instructions; evidence sufficient to sustain verdict. The State v. Curtis, 108 K. 587, 589, 196 P. 445.

21-426. Compelling woman to marry, or to be defiled; penalty. Every person who shall take any woman unlawfully, against her will, and by force, menace, or duress, compel her to marry him, or to marry any other person, or to be defiled, upon conviction thereof, shall be punished by confinement and hard labor for a term of not less than five years nor more than twenty-one years. [G. S. 1868, ch. 31, § 33; Oct. 31; R. S. 1923, § 21-426.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 28; Terr. L. 1859, ch. 28, § 28.

21-427. Taking woman for marriage or defilement; penalty. Every person who shall take any woman unlawfully, against her will, with intent to compel her by force, menace, or duress, to marry him, or to marry any other person, or to be defiled, upon conviction thereof shall be punished by confinement and hard labor not less than two years nor more than twenty-one years. [G. S. 1868, ch. 31, § 34; Oct. 31; R. S. 1923, § 21-427.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 29; Terr. L. 1859, ch. 28, § 29.

Violation of statute involves moral turpitude constituting grounds for ouster of officer. State, *ex rel.*, v. Barker, 119 K. 858, 859, 241 P. 253.

21-428. Taking away female under 18; penalty. Every person who shall take away any female, under the age of eighteen years, from her father, mother, guardian, or other person having legal charge of her person, without their consent, either for the purpose of prostitution or concubinage, shall upon conviction thereof be punished by confinement and hard labor for a term not exceeding five years. [G. S. 1868, ch. 31, § 35; Oct. 31; R. S. 1923, § 21-428.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 30; Terr. L. 1859, ch. 28, § 30.

Cross references: Prostitution or immoral practices, see § 38-705. Venue, see § 62-406.

Prostitution and concubinage; joinder in one count; bad for duplicity. The State v. Goodwin, 33 K. 538, 541, 6 P. 899.
Information good; evidence sustains verdict. The State v. Overstreet, 43 K. 299, 303, 23 P. 572.
Taking away need not be physical; inducements sufficient. The State v. Bussey, 58 K. 679, 681, 688, 50 P. 891.
Gist of crime is purpose; duration of concubinage immaterial. The State v. Tucker, 72 K. 481, 482, 84 P. 126.
Evidence insufficient to warrant conviction; taking female for purpose of prostitution. The State v. William, 106 K. 778, 189 P. 906.
Evidence sufficient to show taking for purpose of concubinage. State v. Dusin, 125 K. 400, 402, 264 P. 1043.
Section cited in considering information under "white-slave" statute. State v. Clark, 126 K. 791, 703, 260 P. 67.

21-429. Illicit connection under promise of marriage; penalty; proof. If any male person shall obtain illicit connection under promise of marriage, with any female of good repute under twenty-one years of age, he shall upon conviction thereof be punished by confinement and hard labor in the penitentiary for a term not exceeding five years: *Provided*, That the testimony of the woman alone shall not be sufficient evidence of a promise of marriage. [G. S. 1868, ch. 31, § 36; L. 1887, ch. 122, § 1; Feb. 5; R. S. 1923, § 21-429.]

Source or prior law: Terr. L. 1859, ch. 28, § 271.

Sufficiency of information; evidence as to chastity. The State v. Bryan, 34 K. 63, 67, 8 P. 260.
Promise need not necessarily be sole inducement. The State v. Atterberry, 59 K. 287, 289, 52 P. 451.
Subsequent marriage not a bar to prosecution. *In re* Lewis, 67 K. 567, 569, 73 P. 77.
Corroborating evidence may be circumstantial. The State v. Wagoman, 75 K. 253, 254, 255, 88 P. 1074.

21-430. Mayhem or wounding; penalty. Every person who shall, on purpose and of malice aforethought, cut or bite the ear, or cut or disable the tongue, put out an eye, or slit, cut or bite the nose or lip, or shall cut off or disable any limb or member of any person, with intent to kill, maim or disfigure such person, shall, upon conviction be punished by confinement and hard labor for a term not less than five nor exceeding ten years. [G. S. 1868, ch. 31, § 37; Oct. 31; R. S. 1923, § 21-430.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 33; Terr. L. 1859, ch. 28, § 31.

21-431. Assault with felonious intent; penalty. Every person who shall, on purpose and of malice aforethought, shoot at or stab another, or assault or beat another, or assault or beat another with a deadly weapon or by any other means or force likely to produce death or great bodily harm, with intent to kill, maim, ravish or rob such person, or in the attempt to commit any burglary or other felony, or in resisting the execution of legal process, shall be punished by confinement and hard labor for a term not exceeding ten years. [G. S. 1868, ch. 31, § 38; Oct. 31; R. S. 1923, § 21-431.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 34; Terr. L. 1859, ch. 28, § 32.

Verdict does not show facts sufficient to constitute offense. The State v. Fisher, 8 K. 208.
Instruction on self-defense held erroneous; correct rule stated. The State v. Howard, 14 K. 178.
Information need not use exact words of statute. The State v. White, 14 K. 538, 539.
Self-defense; evidence of prior acts and animosity of person assaulted improperly excluded. The State v. Scott, 24 K. 68.
Information need not state mode in which pistol was used. The State v. Miller, 25 K. 699.
Charge under this section includes offense under § 21-436. The State v. Burwell, 34 K. 312, 315, 8 P. 470; The State v. Smith, 57 K. 673, 47 P. 541; The State v. Countryman, 57 K. 815, 827, 48 P. 187; The State v. Ryno, 68 K. 348, 351, 74 P. 1114; The State v. Schroeder, 103 K. 770, 773, 176 P. 659; The State v. Wright, 112 K. 1, 4, 208 P. 630.
Indictment held to sufficiently charge offense under this section. The State v. Knadler, 40 K. 359, 360, 19 P. 923.
Specific intent should be averred in indictment. The State v. Child, 42 K. 611, 613, 22 P. 721.
Under facts developed, error for court to instruct on manslaughter. The State v. Moran, 46 K. 318, 321, 26 P. 754. Questioned; State v. Murray, 88 K. 148, 163, 110 P. 1032.
State not required to elect between this section and 21-435. The State v. Douglas, 53 K. 669, 670, 37 P. 172.
Conviction or acquittal under one information bars other. The State v. Chinault, 55 K. 826, 828, 40 P. 602.
Charge hereunder; jury's verdict fails to show degree; defective. The State v. Heth, 60 K. 560, 57 P. 108.
May repel force by such force as appears reasonably necessary. The State v. Petteys, 65 K. 625, 70 P. 588.

Information stating facts in general terms sufficient. The State v. Finley, 6 K. 366, 369; The State v. Beverlin, 80 K. 611, 613, 2 P. 630.
Instruction required on each degree which evidence tends to prove. The State v. Mize, 36 K. 187, 13 P. 1.
Use of force in taking possession of real estate. The State v. Bradbury, 67 K. 808, 74 P. 231.
Court without power to inflict punishment of fine and imprisonment. *In re* McNeil, 68 K. 806, 807, 74 P. 1110.
Instruction defining assault and battery considered and upheld. State v. Siewert, 142 K. 463, 50 P. 2d 932.
Evidence considered and held not to justify instruction under this section. State v. Thyer, 143 K. 238, 243, 53 P. 2d 907.
Woman convicted hereunder held properly sentenced to industrial farm. Lee v. Prather, 146 K. 513, 514, 71 P. 2d 868.
Evidence and instructions considered and conviction of assault upheld. State v. Linville, 150 K. 617, 619, 620, 95 P. 2d 382.
Shooting man at short range cannot be assault or assault and battery. State v. Barnett, 150 K. 746, 753, 137 P. 2d 188.
Prosecution for assault; information and instructions proper; evidence sufficient; no error. State v. Hazen, 160 K. 733, 737, 738, 740, 165 P. 2d 284.

21-437. Procuring abortion or miscarriage; penalty. Every physician or other person who shall willfully administer to any pregnant woman any medicine, drug, or substance whatsoever, or shall use or employ any instrument or means whatsoever, with intent thereby to procure abortion or the miscarriage of any such woman, unless the same shall have been necessary to preserve the life of such woman, or shall have been advised by a physician to be necessary for that purpose, shall upon conviction be adjudged guilty of a misdemeanor, and punished by imprisonment in the county jail not exceeding one year, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment. [G. S. 1868, ch. 31, §44; Oct. 31; R. S. 1923, § 21-437.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 89; Terr. L. 1859, ch. 28, § 37.

Offense prescribed by section 21-410 includes offense under this section. The State v. Watson, 80 K. 281, 283, 1 P. 770.
Prosecution hereunder confined to county where prohibited acts are perpetrated. The State v. Wheaton, 79 K. 521, 522, 99 P. 1132.
Information examined; charge sufficient under statute. The State v. Miller, 90 K. 230, 232, 133 P. 878.
Accused has burden of proving exculpating exceptions. State v. Nossaman, 120 K. 177, 248 P. 826.
One charged under § 21-410 cannot be convicted under this section. State v. Keester, 121 K. 167, 169, 246 P. 685.
Place of abortion not an ingredient of offense. State v. Keester, 134 K. 64, 4 P. 2d 679.
Cited in holding election fraud statute (§ 21-818) constitutional; vagueness; uncertainty. State v. Carr, 151 K. 36, 40, 98 P. 2d 398.

21-438. [G. S. 1868, ch. 31, § 45; R. S. 1923, § 21-438; Repealed, L. 1935, ch. 156, § 5; March 18.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 40; Terr. L. 1859, ch. 28, § 38.

21-439. [G. S. 1868, ch. 31, § 46; R. S. 1923, § 21-439; Repealed, L. 1935, ch. 156, § 5; March 18.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 42; Terr. L. 1859, ch. 28, § 40.

Note: New act, see §§ 21-449, 21-450.

21-440. [G. S. 1868, ch. 31, § 47; R. S. 1923, § 21-440; Repealed, L. 1935, ch. 156, § 5; March 18.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 48; Terr. L. 1859, ch. 28, § 41.

Note: New act, see § 21-451.

Assisting wife with infant child in leaving husband; no offense. The State v. Angel, 42 K. 216, 222, 21 P. 1075.
Parentage of child not an absolute defense. *In re* Peck, 66 K. 698, 72 P. 265.
Kidnaping from lawful custodian of minor constitutes the crime. The State v. Tillotson, 86 K. 577, 579, 117 P. 1080.
Child taken regardless of divorce decree awarding custody to another. State v. Taylor, 125 K. 594, 264 P. 1069.

21-441. Exposing child with intent to abandon; penalty. If any father or mother of any child, or any person to whom such child shall have been confided, shall expose such child in a street, field, or other place, with intent wholly to abandon it, he or she shall upon conviction be punished by confinement and hard labor not exceeding five years, or in the county jail not less than six months. [G. S. 1868, ch. 31, §48; Oct. 31; R. S. 1923, § 21-441.]

Source or prior law: Terr. Stat. 1855, ch. 48, § 44; Terr. L. 1859, ch. 28, § 42.

Cross reference: Crimes affecting children, see ch. 38, art. 7.

21-442. Desertion and nonsupport of wife or of children by either parent; penalty. That any husband who shall, without just cause, desert or neglect or refuse to provide for the support and maintenance of his wife in destitute or necessitous circumstances; or any parent who shall, without lawful excuse, desert or neglect or refuse to provide for the support and maintenance of his or her child or children under the age of sixteen years in destitute or necessitous circumstances, shall be guilty of a crime and, on conviction thereof, shall be punished by imprisonment in the reformatory or penitentiary, at hard labor not exceeding two years. [L. 1911, ch. 163, § 1; March 29; R. S. 1923, § 21-442.]

Note: Uniform Laws Annotated, see 10 U. L. A. § 1.

Statute is not unconstitutional because the punishment is unusual. The State v. Gillmore, 88 K. 835, 836, 129 P. 1123.
Nonresident parent; resident destitute child; desertion act applies. *In re* Fowles, 89 K. 430, 432, 131 P. 598; The State v. Wellman, 102 K. 503, 509, 170 P. 1052.
Purpose remedial; liberally interpreted; "in destitute or necessitous circumstances" defined. The State v. Waller, 90 K. 829, 830, 136 P. 215.
Child cared for by others; no defense of parent. The State v. Wellman, 102 K. 503, 509, 170 P. 1052.
Support awarded in divorce action no bar to criminal prosecution. The State v. Miller, 111 K. 231, 237, 238, 206 P. 744.
Section cited in determining what constitutes penalty or fine. Court of Industrial Relations v. Packing Co., 114 K. 487, 491, 227 P. 249, 250. Reversed: Wolff Packing Co. v. Indus. Court, 267 U. S. 552, 45 S. Ct. 441, 69 L. Ed. 785.
Previous action for alimony and contempt not bar to prosecution. State v. Wohlfort, 128 K. 62, 65, 254 P. 817.
Separation caused by wife as defense to section, considered. State v. Chace, 124 K. 529, 532, 261 P. 559.
No criminal intent where husband left state immediately following payment of alimony then due. Schein v. Galliyan, 321 Mo. 268, 10 S. W. 2d 521.
Cited; father of illegitimate child has nonstatutory obligation to support it. Myers v. Anderson, 145 K. 775, 777, 67 P. 2d 542.
Evidence that public authority supported children held prejudicial and inadmissible. State v. McCall, 158 K. 652, 655, 149 P. 2d 580.

21-443. Same; who may make complaint. Proceedings under this act may be instituted upon complaint made under oath or affirmation by the wife or child or children, or by any other person, against any person guilty of either of the above-named offenses. [L. 1911, ch. 163, § 2; March 29; R. S. 1923, § 21-443.]

Note: Uniform Laws Annotated, see 10 U. L. A. § 2.

21-444. Same; order for support *pendente lite*. At any time before the trial, upon petition of the complainant and upon notice to the defendant, the court or a judge thereof in vacation, may enter such temporary order as may seem just, providing for support of the deserted wife or children or both, *pedente lite*, and may punish for violation of such order as for contempt. [L. 1911, ch. 163, § 3; March 29; R. S. 1923, § 21-444.]

Note: Uniform Laws Annotated, see 10 U. L. A. § 3.

21-445. Same; order before or at trial; release on probation; recognizance. Before the trial, with the consent of the defendant, or at the trial, on entry of a plea of guilty, or after conviction, instead of imposing the penalty hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances, and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by the court from time to time, as circumstances may require, directing the de-

Fourth. Where such former marriage shall have been declared void by competent authority.

Fifth. Where such former marriage was contracted by such persons while under the age of legal consent. The age of legal consent, as intended by this act, shall be, of males, fifteen, and of females, twelve years.

Sixth. Where the husband or wife by such former marriage shall have been sentenced to confinement and hard labor for life. [G. S. 1868, ch. 31, § 226; Oct. 31; R. S. 1923, § 21-902.]

Source or prior law: Terr. Stat. 1855, ch. 53, § 2; Terr. L. 1859, ch. 28, § 217.

21-903. Same; marrying without and cohabiting within state; penalty. Every person having a husband or wife living, who shall marry another person without this state, in any case where such marriage would be punishable if contracted or solemnized within this state, and shall afterwards cohabit with such other person within this state, shall be adjudged guilty of bigamy, and punished in the same manner as if such second or subsequent marriage had taken place within this state. [G. S. 1868, ch. 31, § 227; Oct. 31; R. S. 1923, § 21-903.]

Source or prior law: Terr. Stat. 1855, ch. 53, § 3; Terr. L. 1859, ch. 28, § 218.

21-904. Same; where indictment may be found and trial had. An indictment for bigamy as defined in the preceding sections may be found, and proceedings, trial, conviction, judgment and execution thereon had, in the county in which such second or subsequent marriage or the cohabitation shall have taken place, or in the county in which the offender may be apprehended. [G. S. 1868, ch. 31, § 228; Oct. 31; R. S. 1923, § 21-904.]

Source or prior law: Terr. Stat. 1855, ch. 53, § 4; Terr. L. 1859, ch. 28, § 219.

21-905. Unmarried person marrying husband or wife of another; penalty. If any unmarried person shall knowingly marry the husband or wife of another, in any case where such husband or wife would be punished according to the foregoing provisions, such person shall upon conviction be punished by confinement and hard labor not exceeding five years, or in the county jail not exceeding six months, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment. [G. S. 1868, ch. 31, § 229; Oct. 31; R. S. 1923, § 21-905.]

Source or prior law: Terr. Stat. 1855, ch. 53, § 5; Terr. L. 1859, ch. 28, § 220.

21-906. Incest; penalty. Persons within the degrees of consanguinity within which marriages are by law declared to be incestuous and void, who shall intermarry with each other, or who shall commit adultery or fornication with each other, or who shall lewdly and lasciviously cohabit with each other, shall upon conviction be punished by confinement and hard labor not exceeding seven years. [G. S. 1868, ch. 31, § 230; Oct. 31; R. S. 1923, § 21-906.]

Source or prior law: Terr. Stat. 1855, ch. 53, § 6; Terr. L. 1859, ch. 28, § 221.

Cross reference: Incestuous marriages, see §§ 23-102 to 23-103.

Detailed description of relationship in warrant not necessary. The State v. Reedy, 44 K. 190, 24 P. 66.

Marriage between man and daughter of his half brother prohibited. The State v. Reedy, 44 K. 190, 24 P. 66.

Lascivious cohabitation between man and daughter of half brother, incest. The State v. Reedy, 44 K. 190, 24 P. 66.

Incest and rape are distinct offenses. The State v. Learned, 73 K. 328, 332, 85 P. 293.

Discharge of one joint defendant will not avail the other. The State v. Learned, 73 K. 328, 332, 85 P. 293.

Sufficiency of information considered. The State v. Learned, 73 K. 328, 332, 85 P. 293.

Incest can only be committed by concurrent consent. State v. Odle, 121 K. 284, 246 P. 1008.

Female under 18 years of age may be guilty of incest. Wiebe v. Hudspeth, 168 K. 80, 83, 180 P. 2d 315.

Nature of offense discussed and distinguished from statutory rape. Wiebe v. Hudspeth, 168 K. 80, 83, 180 P. 2d 315.

Statutory rape and incest properly charged in same information; statutes construed. Wiebe v. Hudspeth, 168 K. 80, 83, 180 P. 2d 315.

21-907. Crime against nature; penalty. Every person who shall be convicted of the detestable and abominable crime against nature, committed with mankind or with beast, shall be punished by confinement and hard labor not exceeding ten years. [G. S. 1868, ch. 31, § 231; Oct. 31; R. S. 1923, § 21-907.]

Source or prior law: Terr. Stat. 1855, ch. 53, § 7; Terr. L. 1859, ch. 28, § 222.

Proof of actual lecherous penetration *per os* sufficient. State v. Hurlbert, 118 K. 362, 234 P. 945.

Preliminary and trial proceedings reviewed and held free from error. State v. Badders, 141 K. 683, 684, 42 P. 2d 943.

Cited in holding proper sentence imposed under § 21-107a. Leach v. Hudspeth, 165 K. 610, 615, 198 P. 2d 275.

21-908. Adultery; indecency; lewd cohabitation; penalty. Every person who shall be guilty of adultery, and every man and woman (one or both of whom are married, and not to each other) who shall lewdly and lasciviously abide and cohabit with each other, and every person married or unmarried who shall be guilty of open, gross lewdness, or lascivious behavior, or of any open and notorious act of public indecency, grossly scandalous, shall on conviction be adjudged guilty of a misdemeanor, and punished by imprisonment in a county jail not exceeding six months, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment. [G. S. 1868, ch. 31, § 232; L. 1869, ch. 42, § 1; Feb. 27; R. S. 1923, § 21-908.]

Source or prior law: Terr. Stat. 1855, ch. 53, § 8; Terr. L. 1859, ch. 28, § 223.

Cross reference: Unlawful cohabitation, see, also, § 23-118.

Defects in information waived by recognizance and continuance. The State v. Hook, 4 K. A. 451, 46 P. 44.

Lewd cohabitation is joint offense; both parties must be guilty. The State v. Hook, 4 K. A. 451, 46 P. 44.

Both parties must be joined in information for lewd cohabitation. The State v. Hook, 4 K. A. 451, 46 P. 44.

Single or occasional action insufficient to constitute lewd cohabitation. The State v. Cassida, 67 K. 171, 72 P. 522.

Effect of relationship of master and servant. The State v. Cassida, 67 K. 171, 72 P. 522.

Adultery may be committed by a married man with single woman. Bashford v. Wells, 78 K. 296, 301, 96 P. 668.

Adultery cannot be committed by an unmarried person. The State v. Chafin, 80 K. 653, 654, 103 P. 148.

One party to adultery may be separately charged and tried. The State v. Ling, 91 K. 647, 138 P. 582.

Not necessary to allege that paramour was a married person. The State v. Ling, 91 K. 647, 138 P. 582.

Offense by single person is fornication. The State v. Ling, 91 K. 647, 648, 138 P. 582.

Marriage may be proved by any competent evidence. The State v. Ling, 91 K. 647, 138 P. 582.

Photograph or copy thereof is admissible in evidence. The State v. Ling, 91 K. 647, 138 P. 582.

Prior reputation of parties admissible in evidence. The State v. Ling, 91 K. 647, 138 P. 582.

Mentioned in affirming judgment in bastardy proceedings. State *ex rel.* v. Wright, 140 K. 679, 684, 38 P. 2d 185.

21-909. Guardian carnally knowing ward under 18 years of age; penalty. If any guardian of any female under the age of eighteen years, or any other person to whose care or protection any such female shall have been confided, shall defile her by carnally knowing her, he shall, in cases not in this act otherwise provided for, be punished by confinement and hard labor not less than two years nor more than twenty-one years, or by imprisonment in a county jail not less than six months, and a fine not exceeding one thousand dollars. [G. S. 1868, ch. 31, § 233; Oct. 31; R. S. 1923, § 21-909.]

Source or prior law: Terr. Stat. 1855, ch. 53, § 9; Terr. L. 1859, ch. 28, § 224.

Information need not allege knowledge of age, or parental guardianship. The State v. Jones, 16 K. 608.

ed in the name of the state as plaintiff, on the re- any citizen as prosecutor; and in all cases when- court or jury shall find that the prosecution was sly brought or without probable cause, and the t ischarged, the prosecuting witness shall o pay all costs and expenses of the prose- n default of payment, or giving good bond ayment in thirty days, shall be committed to ty jail until the same shall be paid. [L. 1895, 5; April 12; R. S. 1923, § 21-929.]

rence: Other gambling provisions, see §§ 21-943 to 21-

30. Confidence game; penalty. Whoever shall ate deal, play or practice, or be in any manner to the dealing, playing or practicing of the con- ame or swindle known as three-card monte, such game, play or practice, shall be deemed a felony, and upon conviction thereof shall be by a fine not to exceed five thousand dollars, nfinement in the penitentiary not less than two than five years. [L. 1876, ch. 81, § 1; March 9; 3, § 21-930.]

d poker is not punishable as felony hereunder. State , 141 K. 922, 924, 925, 44 P. 2d 258.

31. Same; on railway train; misdemeanor. shall in this state on any railroad car, coach or ctice any confidence game not mentioned in the section, or shall sell any prize packages or other ll be deemed guilty of a misdemeanor. [L. 1876, ; March 9; R. S. 1923, § 21-931.]

rence: General penalty for misdemeanor, see § 21-112.

32. Same; arrests by railway employees; It is hereby made the duty of railroad con- rakemen on railroad trains, to immediately ar- person so offending, without warrant or other and to call upon all bystanders or others for the same may be necessary to enable such arrest. And when such offense is d o.. any railroad car, coach or train, the venue and the person be tried in any county through h railroad may run, not outside of the judicial which the offense was committed, any law to ary notwithstanding. [L. 1876, ch. 81, § 3; R. S. 1923, § 21-932.]

33. Common gaming house, bawdyhouse, or penalty. Every person who shall set up or ommon gaming house, or a bawdyhouse or all on conviction be adjudged guilty of a mis- , and be punished by fine not exceeding one dollars. [G. S. 1868, ch. 31, § 242; Oct. 31; R. S. 933.]

prior law: Terr. Stat. 1855, ch. 53, § 18; Terr. L. . 28, § 233.

d instruction considered. The State v. Harmon, 70 K. P. 805.

may be abated by injunction. The State v. Coler, 4, 89 P. 693.

nnection with action for injunction against public nui- State v. Barron, 136 K. 324, 327, 15 P. 2d 456.

34. Same; leasing or letting building; pen- ry person who shall knowingly lease or let to y house or other building, for the purpose of or keeping therein any of the gaming tables, devices prohibited by the preceding provision, purpose of being used or kept as a gaming thel or bawdyhouse, shall on conviction be ad- ilty of a misdemeanor, and punished by im- t in a county jail not exceeding three months, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment. [G. S. 1868, ch. 31, § 243; Oct. 31; R. S. 1923, § 21-934.]

Source or prior law: Terr. Stat. 1855, ch. 53, § 19; Terr. L. 1859, ch. 28, § 234.

Cross reference: Similar section, see § 21-917.

21-935. Who deemed keeper of prohibited places. Every person appearing or acting as master or mistress, or having the care, use or management for the time of any prohibited gaming table, bank or device, shall be deemed the keeper thereof; and every person who shall appear or act as master or mistress, or having the care or management of any house or building in which any gaming table, bank or device is set up or kept, or of any gaming house, brothel or bawdyhouse, shall be deemed the keeper thereof. [G. S. 1868, ch. 31, § 244; Oct. 31; R. S. 1923, § 21-935.]

Source or prior law: Terr. Stat. 1855, ch. 53, § 20; Terr. L. 1859, ch. 28, § 235.

Discussed; section 21-915 held to include slot machines for purposes of injunctive relief under § 21-918. State, ex rel., v. Myers, 152 K. 52, 58, 102 P. 2d 1028.

21-936. Lease void upon conviction of lessee. Whenever any lessee of any house or building shall be convicted of suffering any prohibited gaming table, bank or device to be set up or kept or used therein for the purpose of gaming, or of keeping in the same a bawdyhouse, brothel or common gaming house, the lease or the agreement for letting such house or building shall become void, and the lessor may enter on the premises so let, and shall have the same remedies for the recovery thereof as in case of a tenant holding over his term. [G. S. 1868, ch. 31, § 245; Oct. 31; R. S. 1923, § 21-936.]

Source or prior law: Terr. Stat. 1855, ch. 53, § 21; Terr. L. 1859, ch. 28, § 236.

21-937. Prostitution, fornication or concubinage; penalty. Any person who shall knowingly persuade, induce, entice or procure, or assist in persuading, inducing, enticing or procuring any female person, for the purpose of prostitution, fornication or concubinage to enter or remain in any house of prostitution, or any place where prostitution, fornication, or concubinage is practiced, permitted or allowed, or who shall, by any means whatever, detain any female person, for the purpose of prostitution, fornication or concubinage in any such house or place, or who shall persuade, induce, entice or procure, or assist in persuading, inducing, enticing or procuring any female person for the purpose of prostitution, fornication or concubinage, to leave the state or to go from one place to another within this state, for the purpose of prostitution, fornication or concubinage shall be deemed guilty of a felony, and on conviction thereof shall be punished by confinement in the state penitentiary at hard labor for not less than one year, nor more than five years: *Provided*, No conviction shall be had on the uncorroborated testimony of the woman. [L. 1913, ch. 179, § 1; March 3; R. S. 1923, § 21-937.]

Cross references: Children, see § 38-705.
Venue, see § 62-406.

Sufficiency of information considered. The State v. Thom, 92 K. 436, 140 P. 866; The State v. Fleeman, 102 K. 670, 171 P. 618.
The statute was regularly enacted. The State v. Fleeman, 102 K. 670, 171 P. 618.
Formal amendment of information may be made at trial. The State v. Fleeman, 102 K. 670, 171 P. 618.
General reputation of place may be shown. The State v. Fleeman, 102 K. 670, 171 P. 618.
Section defines three felonies. City of Great Bend v. Shepler, 109 K. 568, 578, 201 P. 78.
Taking from place to place in same city within statute. The State v. White, 111 K. 196, 206 P. 903.
Testimony of woman may be corroborated by facts and circumstances. The State v. White, 111 K. 196, 206 P. 903.