

As Amended by House Committee

Session of 2015

HOUSE BILL No. 2002

By Representative Sloan

12-4

1 AN ACT concerning crimes and punishment; relating to sexual
2 exploitation of a child; amending K.S.A. 2014 Supp. 21-5510 and
3 repealing the existing section.

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

6 Section 1. K.S.A. 2014 Supp. 21-5510 is hereby amended to read as
7 follows: 21-5510. (a) Sexual exploitation of a child is **engaging in any of**
8 **the following acts with intent to arouse or satisfy the sexual desires or**
9 **appeal to the prurient interest of the offender or any other person:**

10 (1) Employing, using, persuading, inducing, enticing or coercing a
11 child under 18 years of age, or a person whom the offender believes to be a
12 child under 18 years of age, to engage in sexually explicit conduct with the
13 intent to promote any performance;

14 (2) possessing any visual depiction of a child under 18 years of age
15 shown or heard engaging in sexually explicit conduct ~~with intent to arouse~~
16 ~~or satisfy the sexual desires or appeal to the prurient interest of the~~
17 ~~offender or any other person;~~

18 (3) being a parent, guardian or other person having custody or control
19 of a child under 18 years of age and knowingly permitting such child to
20 engage in, or assist another to engage in, sexually explicit conduct for any
21 purpose described in subsection (a)(1) or (a)(2); or

22 (4) promoting any performance that includes sexually explicit
23 conduct by a child under 18 years of age, or a person whom the offender
24 believes to be a child under 18 years of age, knowing the character and
25 content of the performance.

26 (b) (1) Sexual exploitation of a child as defined in:

27 (A) Subsection (a)(2) or (a)(3) is a severity level 5, person felony;
28 and

29 (B) subsection (a)(1) or (a)(4) is a severity level 5, person felony,
30 except as provided in subsection (b)(2).

31 (2) Sexual exploitation of a child as defined in subsection (a)(1) or (a)
32 (4) or attempt, conspiracy or criminal solicitation to commit sexual
33 exploitation of a child as defined in subsection (a)(1) or (a)(4) is an off-
34 grid person felony, when the offender is 18 years of age or older and the
35 child is under 14 years of age.

36 (c) If the offender is 18 years of age or older and the child is under 14

1 years of age, the provisions of:

2 (1) ~~Subsection (e) of K.S.A. 2014 Supp. 21-5301(c)~~, and amendments
3 thereto, shall not apply to a violation of attempting to commit the crime of
4 sexual exploitation of a child as defined in subsection (a)(1) or (a)(4);

5 (2) ~~subsection (e) of K.S.A. 2014 Supp. 21-5302(c)~~, and amendments
6 thereto, shall not apply to a violation of conspiracy to commit the crime of
7 sexual exploitation of a child as defined in subsection (a)(1) or (a)(4); and

8 (3) ~~subsection (d) of K.S.A. 2014 Supp. 21-5303(d)~~, and amendments
9 thereto, shall not apply to a violation of criminal solicitation to commit the
10 crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)
11 (4).

12 (d) As used in this section:

13 (1) "Sexually explicit conduct" means actual or simulated: ~~Exhibition~~
14 **Exhibition in the nude**; *appearance in the nude, with or without the*
15 *knowledge of the* ~~victim~~ **child**; sexual intercourse or sodomy, including
16 genital-genital, oral-genital, anal-genital or oral-anal contact, whether
17 between persons of the same or opposite sex; masturbation; ~~sado-~~
18 ~~masochistic~~ **sadomasochistic** abuse with the intent of sexual stimulation;
19 or lewd exhibition of the genitals, female breasts or pubic area of any
20 person;

21 (2) "promoting" means procuring, transmitting, distributing,
22 circulating, presenting, producing, directing, manufacturing, issuing,
23 publishing, displaying, exhibiting or advertising:

24 ~~(A) For pecuniary profit; or~~

25 ~~(B) with intent to arouse or gratify the sexual desire or appeal to the~~
26 ~~prurient interest of the offender or any other person;~~

27 (3) "performance" means any film, photograph, negative, slide, book,
28 magazine or other printed or visual medium; any audio tape recording; or
29 any photocopy, video tape, video laser disk, computer hardware, software,
30 floppy disk or any other computer related equipment or computer
31 generated image that contains or incorporates in any manner any film,
32 photograph, negative, photocopy, video tape or video laser disk; or any
33 play or other live presentation;

34 (4) "nude" means any state of undress in which the human genitals,
35 pubic region, buttock or female breast, at a point below the top of the
36 areola, is less than completely and opaquely covered; and

37 (5) "visual depiction" means any photograph, film, video picture,
38 digital or computer-generated image or picture, whether made or produced
39 by electronic, mechanical or other means.

40 Sec. 2. K.S.A. 2014 Supp. 21-5510 is hereby repealed.

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