

HOUSE BILL No. 2501

By Committee on Corrections and Juvenile Justice

1-21

1 AN ACT Concerning crimes, punishment and criminal procedure; relating
2 to **{blackmail; breach of privacy;}** jurisdiction and venue; crime
3 committed with an electronic device; amending K.S.A. 2015 Supp.
4 **{21-5428, 21-6101 and}** 22-2619 and repealing the existing ~~section~~
5 **{sections}**.
6

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

8 **{Section 1. K.S.A. 2015 Supp. 21-5428 is hereby amended to read**
9 **as follows: 21-5428. (a) Blackmail is intentionally gaining or**
10 **attempting to gain anything of value or compelling or attempting to**
11 **compel another to act against such person's will, by threatening to:**

12 **(1) Communicate accusations or statements about any person**
13 **that would subject such person or any other person to public ridicule,**
14 **contempt or degradation; or**

15 **(2) disseminate any videotape, photograph, film; or image**
16 **obtained in violation of subsection ~~(a)(6)~~ of K.S.A. 2015 Supp. 21-**
17 **6101(a)(6) or (a)(8), and amendments thereto.**

18 **(b) Blackmail as defined in:**

19 **(1) Subsection (a)(1) is a severity level 7, nonperson felony; and**

20 **(2) subsection (a)(2) is a severity level 4, person felony.**

21 **Sec. 2. K.S.A. 2015 Supp. 21-6101 is hereby amended to read as**
22 **follows: 21-6101. (a) Breach of privacy is knowingly and without**
23 **lawful authority:**

24 **(1) Intercepting, without the consent of the sender or receiver, a**
25 **message by telephone, telegraph, letter or other means of private**
26 **communication;**

27 **(2) divulging, without the consent of the sender or receiver, the**
28 **existence or contents of such message if such person knows that the**
29 **message was illegally intercepted, or if such person illegally learned of**
30 **the message in the course of employment with an agency in**
31 **transmitting it;**

32 **(3) entering with intent to listen surreptitiously to private**
33 **conversations in a private place or to observe the personal conduct of**
34 **any other person or persons entitled to privacy therein;**

1 (4) installing or using outside or inside a private place any device
2 for hearing, recording, amplifying or broadcasting sounds originating
3 in such place, which sounds would not ordinarily be audible or
4 comprehensible without the use of such device, without the consent of
5 the person or persons entitled to privacy therein;

6 (5) installing or using any device or equipment for the
7 interception of any telephone, telegraph or other wire or wireless
8 communication without the consent of the person in possession or
9 control of the facilities for such communication;

10 (6) installing or using a concealed camcorder, motion picture
11 camera or photographic camera of any type; to secretly videotape,
12 film, photograph or record, by electronic or other means, another
13 identifiable person under or through the clothing being worn by that
14 other person or another identifiable person who is nude or in a state
15 of undress, for the purpose of viewing the body of, or the
16 undergarments worn by, that other person, without the consent or
17 knowledge of that other person, with the intent to invade the privacy
18 of that other person, under circumstances in which ~~th~~*that* other
19 person has a reasonable expectation of privacy; ~~or~~

20 (7) disseminating or permitting the dissemination of any
21 videotape, photograph, film or image obtained in violation of
22 subsection (a)(6); *or*

23 (8) ~~disseminating or permitting the dissemination of~~ any videotape,
24 photograph, film or image of another identifiable person 18 years of age
25 or older who is nude or ~~in a state of undress~~ engaged in sexual activity
26 and under circumstances in which such identifiable person had a
27 reasonable expectation of privacy, with the intent to harass, threaten or
28 intimidate such identifiable person, and such identifiable person did not
29 consent to such dissemination.

30 **(b) Breach of privacy as defined in:**

31 (1) Subsection (a)(1) through (a)(5) is a class A nonperson
32 misdemeanor;

33 (2) subsection (a)(6) or (a)(8) is a:

34 (A) Severity level 8, person felony, except as provided in subsection
35 (b)(2)(B); and

36 (B) severity level 5, person felony upon a second or subsequent
37 conviction within the previous five years; and

38 (3) subsection (a)(7) is a severity level 5, person felony.

39 (c) Subsection (a)(1) shall not apply to messages overheard
40 through a regularly installed instrument on a telephone party line or
41 on an extension.

42 (d) The provisions of this section shall not apply to: (1) An
43 operator of a switchboard, or any officer, employee or agent of any

1 public utility providing telephone communications service, whose
2 facilities are used in the transmission of a communication, to intercept,
3 disclose or use that communication in the normal course of
4 employment while engaged in any activity which is incident to the
5 rendition of public utility service or to the protection of the rights of
6 property of such public utility; (2) a provider of an interactive computer
7 service, as defined in 47 U.S.C. § 230, for content provided by another
8 person; (3) a radio common carrier, as defined in K.S.A. 66-1,143, and
9 amendments thereto; and (4) a local exchange carrier or
10 telecommunications carrier as defined in K.S.A. 66-1,187, and
11 amendments thereto.

12 (e) The provisions of subsection (a)(8) shall not apply to a person
13 acting with a bona fide and lawful scientific, educational, governmental,
14 news or other similar public purpose.

15 (f) As used in this section, "private place" means a place where
16 one may reasonably expect to be safe from uninvited intrusion or
17 surveillance.}

18 ~~Section 1. {Sec. 3.}~~ K.S.A. 2015 Supp. 22-2619 is hereby amended to
19 read as follows: 22-2619. (a) "Crime committed with an electronic device"
20 means the commission of any crime that involves or is facilitated by the
21 use of any electronic device., including, but not limited to, all violations of
22 the following ~~are crimes committed with an electronic device~~: Criminal
23 use of a financial card, as defined in K.S.A. 2015 Supp. 21-5828, and
24 amendments thereto; unlawful acts concerning computers, as defined in
25 K.S.A. 2015 Supp. 21-5839, and amendments thereto; identity theft and
26 identity fraud, as defined in K.S.A. 2015 Supp. 21-6107, and amendments
27 thereto; and electronic solicitation, as defined in K.S.A. 2015 Supp. 21-
28 5509, and amendments thereto.

29 (b) In addition to the venue provided for under any other provision of
30 law, a prosecution for any crime committed with an electronic device may
31 be brought in the county in which:

- 32 (1) Any requisite act to the commission of the crime occurred;
- 33 (2) the victim resides;
- 34 (3) the victim was present at the time of the crime; or
- 35 (4) property affected by the crime was obtained or was attempted to
36 be obtained.

37 (c) This section shall be a part of and supplemental to the Kansas
38 code for criminal procedure.

39 ~~Sec. 2. {4.}~~ K.S.A. 2015 Supp. ~~{21-5428, 21-6101 and}~~ 22-2619 ~~is~~
40 ~~{are}~~ hereby repealed.

41 ~~Sec. 3. {5.}~~ This act shall take effect and be in force from and after its
42 publication in the statute book.