

HOUSE BILL No. 2473

By Committee on Corrections and Juvenile Justice

1-23

AN ACT concerning crimes, punishment and criminal procedure, relating to sex offenses; unlawful voluntary sexual relations; Kansas offender registration act; amending K.S.A. 2019 Supp. 21-5507 and 22-4902 and repealing the existing sections.

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

Section 1. K.S.A. 2019 Supp. 21-5507 is hereby amended to read as follows: 21-5507. (a) Unlawful voluntary sexual relations is:

(1) Engaging in any of the following acts with a child who is 14 10 or more years of age but less than 16 years of age:

(A) Voluntary sexual intercourse or voluntary sodomy; or

(B) Voluntary sodomy; or

(C) Voluntary lewd fondling or touching;

(D) when the offender is less than 19 13 years of age; or

(E) when the offender is less than four years of age older than the child 13 years of age or older but less than 19 years of age, and the offender and the child are less than 48 months apart in age; and

(F) when the child and the offender are the only parties involved;

and

(G) when the child and the offender are members of the opposite sex.

(1) Unlawful voluntary sexual relations as defined in:

(a) Subsection (a)(1)(A) is a severity-level 8, person-felony;

(b) Class A person misdemeanor, except as provided in subsection (b)

(1)(B); and

(B) severity level 9, person felony if the offender and the child are 24

or more months but less than 48 months apart in age, and the offender is

13 or more years of age; and

(2) subsection (a)(1)(B) is a severity-level 9, person-felony; and:

(A) Class A person misdemeanor, except as provided in subsection (b)

(2)(B); and

(B) severity level 10, person felony if the offender and the child are

24 or more months but less than 48 months apart in age, and the offender

is 13 or more years of age

(3) subsection (b)(1)(C) is a severity-level 10, person-felony.

Sec. 2. K.S.A. 2019 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in the Kansas offender registration act, unless

the context otherwise requires:

(a) "Offender" means:

(1) A sex offender;

(2) a violent offender;

(3) a drug offender;

(4) any person who has been required to register under out-of-state law or is otherwise required to be registered; and

(5) any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act.

(b) "Sex offender" includes any person who:

(1) On or after April 14, 1994, is convicted of any sexually violent crime;

(2) on or after July 1, 2002, is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;

(3) has been determined to be a sexually violent predator;

(4) on or after July 1, 1997, is convicted of any of the following crimes when one of the parties involved is less than 18 years of age:

(A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2019 Supp. 21-5511, and amendments thereto;

(B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its repeal, or K.S.A. 2019 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto;

(C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2019 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2019 Supp. 21-6421, prior to its amendment by section 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

(E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2019 Supp. 21-5513, and amendments thereto;

(F) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2019 Supp. 21-5505(a), and amendments thereto;

(G) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2019 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense defined in this subsection; or

(H) has been convicted of an offense that is comparable to any crime defined in this subsection, or any out-of-state conviction for an offense that under the laws of this state would be an offense defined in this subsection.

(c) "Sexually violent crime" means:

- 1 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
- 2 2019 Supp. 21-5503, and amendments thereto;
- 3 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
- 4 to its repeal, or K.S.A. 2019 Supp. 21-5506(a), and amendments thereto;
- 5 (3) aggravated indecent liberties with a child, as defined in K.S.A.
- 6 21-3504, prior to its repeal, or K.S.A. 2019 Supp. 21-5506(b), and
- 7 amendments thereto;
- 8 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
- 9 prior to its repeal, or K.S.A. 2019 Supp. 21-5504(a)(3) or (a)(4), and
- 10 amendments thereto;
- 11 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
- 12 to its repeal, or K.S.A. 2019 Supp. 21-5504(b), and amendments thereto;
- 13 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
- 14 prior to its repeal, or K.S.A. 2019 Supp. 21-5508(a), and amendments
- 15 thereto;
- 16 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
- 17 21-3511, prior to its repeal, or K.S.A. 2019 Supp. 21-5508(b), and
- 18 amendments thereto;
- 19 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
- 20 to its repeal, or K.S.A. 2019 Supp. 21-5510, and amendments thereto;
- 21 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
- 22 its repeal, or K.S.A. 2019 Supp. 21-5505(b), and amendments thereto;
- 23 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
- 24 repeal, or K.S.A. 2019 Supp. 21-5604(b), and amendments thereto;
- 25 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
- 26 repeal, and K.S.A. 2019 Supp. 21-5509, and amendments thereto;
- 27 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
- 28 its repeal, or K.S.A. 2019 Supp. 21-5512, and amendments thereto;
- 29 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
- 30 prior to its repeal, or K.S.A. 2019 Supp. 21-5426(b), and amendments
- 31 thereto, if committed in whole or in part for the purpose of the sexual
- 32 gratification of the defendant or another;
- 33 (14) commercial sexual exploitation of a child, as defined in K.S.A.
- 34 2019 Supp. 21-6422, and amendments thereto;
- 35 (15) promoting the sale of sexual relations, as defined in K.S.A. 2019
- 36 Supp. 21-6420, and amendments thereto;
- 37 (16) any conviction or adjudication for an offense that is comparable
- 38 to a sexually violent crime as defined in this subsection, or any out-of-state
- 39 conviction or adjudication for an offense that under the laws of this state
- 40 would be a sexually violent crime as defined in this subsection;
- 41 (17) an attempt, conspiracy or criminal solicitation, as defined in
- 42 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2019
- 43 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually

- 1 violent crime, as defined in this subsection; or
- 2 (18) any act which has been determined beyond a reasonable doubt to
- 3 have been sexually motivated, unless the court, on the record, finds that
- 4 the act involved non-forcible sexual conduct, the victim was at least 14
- 5 years of age and the offender was not more than four years older than the
- 6 victim. As used in this paragraph, "sexually motivated" means that one of
- 7 the purposes for which the defendant committed the crime was for the
- 8 purpose of the defendant's sexual gratification.
- 9 (d) "Sexually violent predator" means any person who, on or after
- 10 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
- 11 59-29a01 et seq., and amendments thereto.
- 12 (e) "Violent offender" includes any person who:
- 13 (1) On or after July 1, 1997, is convicted of any of the following
- 14 crimes:
- 15 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
- 16 or K.S.A. 2019 Supp. 21-5401, and amendments thereto;
- 17 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to
- 18 its repeal, or K.S.A. 2019 Supp. 21-5402, and amendments thereto;
- 19 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior
- 20 to its repeal, or K.S.A. 2019 Supp. 21-5403, and amendments thereto;
- 21 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
- 22 repeal, or K.S.A. 2019 Supp. 21-5404, and amendments thereto;
- 23 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
- 24 its repeal, or K.S.A. 2019 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
- 25 amendments thereto. The provisions of this paragraph shall not apply to
- 26 violations of K.S.A. 2019 Supp. 21-5405(a)(3), and amendments thereto,
- 27 which occurred on or after July 1, 2011, through July 1, 2013;
- 28 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
- 29 K.S.A. 2019 Supp. 21-5408(a), and amendments thereto;
- 30 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
- 31 repeal, or K.S.A. 2019 Supp. 21-5408(b), and amendments thereto;
- 32 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its
- 33 repeal, or K.S.A. 2019 Supp. 21-5411, and amendments thereto, except by
- 34 a parent, and only when the victim is less than 18 years of age; or
- 35 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
- 36 to its repeal, or K.S.A. 2019 Supp. 21-5426(b), and amendments thereto, if
- 37 not committed in whole or in part for the purpose of the sexual
- 38 gratification of the defendant or another;
- 39 (2) on or after July 1, 2006, is convicted of any person felony, and the
- 40 court makes a finding on the record that a deadly weapon was used in the
- 41 commission of such person felony;
- 42 (3) has been convicted of an offense that is comparable to any crime
- 43 defined in this subsection, any out-of-state conviction for an offense that

1 under the laws of this state would be an offense defined in this subsection;
 2 or
 3 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
 4 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
 5 K.S.A. 2019 Supp. 21-5301, 21-5302 and 21-5303, and amendments
 6 thereto, of an offense defined in this subsection.
 7 (f) "Drug offender" includes any person who, on or after July 1, 2007:
 8 (1) Is convicted of any of the following crimes:
 9 (A) Unlawful manufacture or attempting such of any controlled
 10 substance or controlled substance analog, as defined in K.S.A. 65-4159,
 11 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
 12 K.S.A. 2019 Supp. 21-5703, and amendments thereto;
 13 (B) possession of phedrine, pseudoephedrine, red phosphorus,
 14 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
 15 ammonia or phenylpropanolamine, or their salts, isomers or salts of
 16 isomers with intent to use the product to manufacture a controlled
 17 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
 18 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2019 Supp. 21-5709(a),
 19 and amendments thereto;
 20 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
 21 36a05(a)(1), prior to its transfer, or K.S.A. 2019 Supp. 21-5705(a)(1), and
 22 amendments thereto. The provisions of this paragraph shall not apply to
 23 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)
 24 which occurred on or after July 1, 2009, through April 15, 2010;
 25 (2) has been convicted of an offense that is comparable to any crime
 26 defined in this subsection, any out-of-state conviction for an offense that
 27 under the laws of this state would be an offense defined in this subsection;
 28 or
 29 (3) is or has been convicted of an attempt, conspiracy or criminal
 30 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
 31 their repeal, or K.S.A. 2019 Supp. 21-5301, 21-5302 and 21-5303, and
 32 amendments thereto, of an offense defined in this subsection.
 33 (g) Convictions or adjudications which result from or are connected
 34 with the same act, or result from crimes committed at the same time, shall
 35 be counted for the purpose of this section as one conviction or
 36 adjudication. Any conviction or adjudication set aside pursuant to law is
 37 not a conviction or adjudication for purposes of this section. A conviction
 38 or adjudication from any out-of-state court shall constitute a conviction or
 39 adjudication for purposes of this section.
 40 (h) "School" means any public or private educational institution,
 41 including, but not limited to, postsecondary school, college, university,
 42 community college, secondary school, high school, junior high school,
 43 middle school, elementary school, trade school, vocational school or

1 professional school providing training or education to an offender for three
 2 or more consecutive days or parts of days, or for 10 or more
 3 nonconsecutive days in a period of 30 consecutive days.
 4 (i) "Employment" means any full-time, part-time, transient, day-labor
 5 employment or volunteer work, with or without compensation, for three or
 6 more consecutive days or parts of days, or for 10 or more nonconsecutive
 7 days in a period of 30 consecutive days.
 8 (j) "Reside" means to stay, sleep or maintain with regularity or
 9 temporarily one's person and property in a particular place other than a
 10 location where the offender is incarcerated. It shall be presumed that an
 11 offender resides at any and all locations where the offender stays, sleeps or
 12 maintains the offender's person for three or more consecutive days or parts
 13 of days, or for ten or more nonconsecutive days in a period of 30
 14 consecutive days.
 15 (k) "Residence" means a particular and definable place where an
 16 individual resides. Nothing in the Kansas offender registration act shall be
 17 construed to state that an offender may only have one residence for the
 18 purpose of such act.
 19 (l) "Transient" means having no fixed or identifiable residence.
 20 (m) "Law enforcement agency having initial jurisdiction" means the
 21 registering law enforcement agency of the county or location of
 22 jurisdiction where the offender expects to most often reside upon the
 23 offender's discharge, parole or release.
 24 (n) "Registering law enforcement agency" means the sheriff's office
 25 or tribal police department responsible for registering an offender.
 26 (o) "Registering entity" means any person, agency or other
 27 governmental unit, correctional facility or registering law enforcement
 28 agency responsible for obtaining the required information from, and
 29 explaining the required registration procedures to, any person required to
 30 register pursuant to the Kansas offender registration act. "Registering
 31 entity" shall include, but not be limited to, sheriff's offices, tribal police
 32 departments and correctional facilities.
 33 (p) "Treatment facility" means any public or private facility or
 34 institution providing inpatient mental health, drug or alcohol treatment or
 35 counseling, but does not include a hospital, as defined in K.S.A. 65-425,
 36 and amendments thereto.
 37 (q) "Correctional facility" means any public or private correctional
 38 facility, juvenile detention facility, prison or jail.
 39 (r) "Out-of-state" means: the District of Columbia; any federal,
 40 military or tribal jurisdiction, including those within this state; any foreign
 41 jurisdiction; or any state or territory within the United States, other than
 42 this state.
 43 (s) "Duration of registration" means the length of time during which

1 an offender is required to register for a specified offense or violation.
2 (1) Notwithstanding any other provision of this section, "offender"
3 shall not include any person who is:
4 (A) Convicted of unlawful transmission of a visual depiction of a
5 child, as defined in K.S.A. 2019 Supp. 21-5611(a), and amendments
6 thereto, aggravated unlawful transmission of a visual depiction of a child,
7 as defined in K.S.A. 2019 Supp. 21-5611(b), and amendments thereto, or
8 unlawful possession of a visual depiction of a child, as defined in K.S.A.
9 2019 Supp. 21-5610, and amendments thereto; or
10 (B) adjudicated as a juvenile offender for an act which if committed
11 by an adult would constitute the commission of a crime defined in
12 subsection (1)(A); or
13 (C) *convicted of unlawful voluntary sexual relations, as defined in*
14 *K.S.A. 2019 Supp. 21-5507, and amendments thereto, or adjudicated as a*
15 *juvenile offender for an act which, if committed by an adult, would*
16 *constitute a violation of K.S.A. 2019 Supp. 21-5507, and amendments*
17 *thereto.*
18 (2) Notwithstanding any other provision of law, a court shall not
19 order any person to register under the Kansas offender registration act for
20 the offenses described in subsection (1).
21 Sec. 3. K.S.A. 2019 Supp. 21-5507 and 22-4902 are hereby repealed.
22 Sec. 4. This act shall take effect and be in force from and after its
23 publication in the statute book.