

2020 Kansas Statutes

- 21-5611. Unlawful transmission of a visual depiction of a child.** (a) Unlawful transmission of a visual depiction of a child is knowingly transmitting a visual depiction of a child 12 or more years of age but less than 18 years of age in a state of nudity when the offender is less than 19 years of age.
- (b) Aggravated unlawful transmission of a visual depiction of a child is:
- (1) Knowingly transmitting a visual depiction of a child 12 or more years of age but less than 18 years of age in a state of nudity:
- (A) With the intent to harass, embarrass, intimidate, defame or otherwise inflict emotional, psychological or physical harm;
- (B) for pecuniary or tangible gain; or
- (C) with the intent to exhibit or transmit such visual depiction to more than one person; and
- (2) when the offender is less than 19 years of age.
- (c) (1) Unlawful transmission of a visual depiction of a child is a:
- (A) Class A person misdemeanor, except as provided in subsection (c)(1)(B); and
- (B) severity level 10, person felony upon a second or subsequent conviction.
- (2) Aggravated unlawful transmission of a visual depiction of a child is a:
- (A) Severity level 9, person felony, except as provided in subsection (c)(2)(B); and
- (B) severity level 7, person felony upon a second or subsequent conviction.
- (d) It shall be a rebuttable presumption that an offender had the intent to harass, embarrass, intimidate, defame or otherwise inflict emotional, psychological or physical harm if the offender transmitted a visual depiction of a person other than such child in a state of nudity to more than one person.
- (e) The provisions of this section shall not apply to transmission of a visual depiction of a child in a state of nudity by the child who is the subject of such visual depiction.
- (f) The provisions of this section shall not apply to a visual depiction of a child engaged in sexually explicit conduct or a visual depiction that constitutes obscenity as defined in K.S.A. 2020 Supp. 21-6401(f)(1), and amendments thereto.
- (g) As used in this section and K.S.A. 2020 Supp. 21-5610, and amendments thereto:
- (1) "Sexually explicit conduct" means actual or simulated: Sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex; masturbation and sado-masochistic abuse for the purpose of sexual stimulation;
- (2) "state of nudity" means any state of undress in which the human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered;
- (3) "transmission" means any form of communication, including, but not limited to, physical transmission of paper and electronic transmission that creates a record that may be retained and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process. Transmission also includes a request to receive a transmission of a visual depiction; and
- (4) "visual depiction" means any photograph, film, video picture, digital or computer-generated image or picture made or produced by electronic, mechanical or other means.

History: L. 2016, ch. 96, § 1; July 1.