

HOUSE BILL No. 2186

By Committee on Corrections and Juvenile Justice

1-26

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sex offenses; unlawful voluntary sexual relations; modifying the
3 criminal penalties; removing registration requirements for offense;
4 Kansas offender registration act; amending K.S.A. 2022 Supp. 21-5507
5 and 22-4902 and repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2022 Supp. 21-5507 is hereby amended to read as
9 follows: 21-5507. (a) Unlawful voluntary sexual relations is:

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

12 (A) Voluntary sexual intercourse *or voluntary sodomy*; *or*

13 ~~(B) voluntary sodomy~~; *or*

14 ~~(C)(B)~~ voluntary lewd fondling or touching;

15 (2) (A) when the offender is less than ~~19~~ 13 years of age; *or*

16 ~~(3)(B)~~ when the offender is ~~less than four years of age older than the~~
17 ~~child~~ 13 or more years of age but less than 19 years of age, and the
18 offender and the child are less than 48 months apart in age; and

19 ~~(4)(3)~~ when the child and the offender are the only parties involved;
20 and

21 ~~(5) when the child and the offender are members of the opposite sex.~~

22 (b) Unlawful voluntary sexual relations as defined in:

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

24 (A) Class A person misdemeanor, except as provided in
25 subparagraph (B); and

26 (B) severity level 9, person felony if the offender and the child are 24
27 or more months but less than 48 months apart in age, and the offender is
28 13 or more years of age; and

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

30 (A) Class A person misdemeanor, except as provided in
31 subparagraph (B); and

32 (B) severity level 9, person felony if the offender and the child are 24
33 or more months apart but less than 48 months apart in age, and the
34 offender is 13 or more years of age

35 ~~(3) subsection (a)(1)(C) is a severity level 10, person felony.~~

36 Sec. 2. K.S.A. 2022 Supp. 22-4902 is hereby amended to read as

- 1 follows: 22-4902. As used in the Kansas offender registration act, unless
 2 the context otherwise requires:
- 3 (a) "Offender" means:
- 4 (1) A sex offender;
- 5 (2) a violent offender;
- 6 (3) a drug offender;
- 7 (4) any person who has been required to register under out-of-state
 8 law or is otherwise required to be registered; and
- 9 (5) any person required by court order to register for an offense not
 10 otherwise required as provided in the Kansas offender registration act.
- 11 (b) "Sex offender" includes any person who:
- 12 (1) On or after April 14, 1994, is convicted of any sexually violent
 13 crime;
- 14 (2) on or after July 1, 2002, is adjudicated as a juvenile offender for
 15 an act which, if committed by an adult, would constitute the commission
 16 of a sexually violent crime, unless the court, on the record, finds that the
 17 act involved non-forcible sexual conduct, the victim was at least 14 years
 18 of age and the offender was not more than four years older than the victim;
- 19 (3) has been determined to be a sexually violent predator;
- 20 (4) on or after July 1, 1997, is convicted of any of the following
 21 crimes when one of the parties involved is less than 18 years of age:
- 22 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
 23 K.S.A. 2022 Supp. 21-5511, and amendments thereto;
- 24 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
 25 repeal, or K.S.A. 2022 Supp. 21-5504(a)(1) or (a)(2), and amendments
 26 thereto;
- 27 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
 28 repeal, or K.S.A. 2022 Supp. 21-6420, prior to its amendment by section
 29 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;
- 30 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
 31 repeal, or K.S.A. 2022 Supp. 21-6421, prior to its amendment by section
 32 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or
- 33 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
 34 to its repeal, or K.S.A. 2022 Supp. 21-5513, and amendments thereto;
- 35 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
 36 to its repeal, or K.S.A. 2022 Supp. 21-5505(a), and amendments thereto;
- 37 (6) is convicted of sexual extortion, as defined in K.S.A. 2022 Supp.
 38 21-5515, and amendments thereto;
- 39 (7) is convicted of breach of privacy, as defined in K.S.A. 2022 Supp.
 40 21-6101(a)(6), (a)(7) or (a)(8), and amendments thereto;
- 41 (8) is convicted of an attempt, conspiracy or criminal solicitation, as
 42 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
 43 K.S.A. 2022 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,

- 1 of an offense defined in this subsection; or
- 2 (9) has been convicted of an offense that is comparable to any crime
- 3 defined in this subsection, or any out-of-state conviction for an offense that
- 4 under the laws of this state would be an offense defined in this subsection.
- 5 (c) "Sexually violent crime" means:
- 6 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
- 7 2022 Supp. 21-5503, and amendments thereto;
- 8 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
- 9 to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;
- 10 (3) aggravated indecent liberties with a child, as defined in K.S.A.
- 11 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and
- 12 amendments thereto;
- 13 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
- 14 prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and
- 15 amendments thereto;
- 16 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
- 17 to its repeal, or K.S.A. 2022 Supp. 21-5504(b), and amendments thereto;
- 18 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
- 19 prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and amendments
- 20 thereto;
- 21 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
- 22 21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and
- 23 amendments thereto;
- 24 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
- 25 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;
- 26 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
- 27 its repeal, or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto;
- 28 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
- 29 repeal, or K.S.A. 2022 Supp. 21-5604(b), and amendments thereto;
- 30 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
- 31 repeal, and K.S.A. 2022 Supp. 21-5509, and amendments thereto;
- 32 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
- 33 its repeal, or K.S.A. 2022 Supp. 21-5512, and amendments thereto;
- 34 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
- 35 prior to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments
- 36 thereto, if committed in whole or in part for the purpose of the sexual
- 37 gratification of the defendant or another;
- 38 (14) commercial sexual exploitation of a child, as defined in K.S.A.
- 39 2022 Supp. 21-6422, and amendments thereto;
- 40 (15) promoting the sale of sexual relations, as defined in K.S.A. 2022
- 41 Supp. 21-6420, and amendments thereto;
- 42 (16) internet trading in child pornography or aggravated internet
- 43 trading in child pornography, as defined in K.S.A. 2022 Supp. 21-5514,

1 and amendments thereto;

2 (17) any conviction or adjudication for an offense that is comparable
3 to a sexually violent crime as defined in this subsection, or any out-of-state
4 conviction or adjudication for an offense that under the laws of this state
5 would be a sexually violent crime as defined in this subsection;

6 (18) an attempt, conspiracy or criminal solicitation, as defined in
7 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2022
8 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
9 violent crime, as defined in this subsection; or

10 (19) any act that has been determined beyond a reasonable doubt to
11 have been sexually motivated, unless the court, on the record, finds that
12 the act involved non-forcible sexual conduct, the victim was at least 14
13 years of age and the offender was not more than four years older than the
14 victim. As used in this paragraph, "sexually motivated" means that one of
15 the purposes for which the defendant committed the crime was for the
16 purpose of the defendant's sexual gratification.

17 (d) "Sexually violent predator" means any person who, on or after
18 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
19 59-29a01 et seq., and amendments thereto.

20 (e) "Violent offender" includes any person who:

21 (1) On or after July 1, 1997, is convicted of any of the following
22 crimes:

23 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
24 or K.S.A. 2022 Supp. 21-5401, and amendments thereto;

25 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to
26 its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments thereto;

27 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior
28 to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments thereto;

29 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
30 repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;

31 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
32 its repeal, or K.S.A. 2022 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
33 amendments thereto. The provisions of this paragraph shall not apply to
34 violations of K.S.A. 2022 Supp. 21-5405(a)(3), and amendments thereto,
35 that occurred on or after July 1, 2011, through July 1, 2013;

36 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
37 K.S.A. 2022 Supp. 21-5408(a), and amendments thereto;

38 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
39 repeal, or K.S.A. 2022 Supp. 21-5408(b), and amendments thereto;

40 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its
41 repeal, or K.S.A. 2022 Supp. 21-5411, and amendments thereto, except by
42 a parent, and only when the victim is less than 18 years of age; or

43 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior

1 to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, if
 2 not committed in whole or in part for the purpose of the sexual
 3 gratification of the defendant or another;

4 (2) on or after July 1, 2006, is convicted of any person felony and the
 5 court makes a finding on the record that a deadly weapon was used in the
 6 commission of such person felony;

7 (3) has been convicted of an offense that is comparable to any crime
 8 defined in this subsection, any out-of-state conviction for an offense that
 9 under the laws of this state would be an offense defined in this subsection;
 10 or

11 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
 12 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
 13 K.S.A. 2022 Supp. 21-5301, 21-5302 and 21-5303, and amendments
 14 thereto, of an offense defined in this subsection.

15 (f) "Drug offender" includes any person who, on or after July 1, 2007:

16 (1) Is convicted of any of the following crimes:

17 (A) Unlawful manufacture or attempting such of any controlled
 18 substance or controlled substance analog, as defined in K.S.A. 65-4159,
 19 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
 20 K.S.A. 2022 Supp. 21-5703, and amendments thereto;

21 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
 22 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
 23 ammonia or phenylpropanolamine, or their salts, isomers or salts of
 24 isomers with intent to use the product to manufacture a controlled
 25 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
 26 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2022 Supp. 21-5709(a),
 27 and amendments thereto;

28 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
 29 36a05(a)(1), prior to its transfer, or K.S.A. 2022 Supp. 21-5705(a)(1), and
 30 amendments thereto. The provisions of this paragraph shall not apply to
 31 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b) that
 32 occurred on or after July 1, 2009, through April 15, 2010;

33 (2) has been convicted of an offense that is comparable to any crime
 34 defined in this subsection, any out-of-state conviction for an offense that
 35 under the laws of this state would be an offense defined in this subsection;
 36 or

37 (3) is or has been convicted of an attempt, conspiracy or criminal
 38 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
 39 their repeal, or K.S.A. 2022 Supp. 21-5301, 21-5302 and 21-5303, and
 40 amendments thereto, of an offense defined in this subsection.

41 (g) Convictions or adjudications that result from or are connected
 42 with the same act, or result from crimes committed at the same time, shall
 43 be counted for the purpose of this section as one conviction or

1 adjudication. Any conviction or adjudication set aside pursuant to law is
2 not a conviction or adjudication for purposes of this section. A conviction
3 or adjudication from any out-of-state court shall constitute a conviction or
4 adjudication for purposes of this section.

5 (h) "School" means any public or private educational institution,
6 including, but not limited to, postsecondary school, college, university,
7 community college, secondary school, high school, junior high school,
8 middle school, elementary school, trade school, vocational school or
9 professional school providing training or education to an offender for three
10 or more consecutive days or parts of days, or for 10 or more
11 nonconsecutive days in a period of 30 consecutive days.

12 (i) "Employment" means any full-time, part-time, transient, day-labor
13 employment or volunteer work, with or without compensation, for three or
14 more consecutive days or parts of days, or for 10 or more nonconsecutive
15 days in a period of 30 consecutive days.

16 (j) "Reside" means to stay, sleep or maintain with regularity or
17 temporarily one's person and property in a particular place other than a
18 location where the offender is incarcerated. It shall be presumed that an
19 offender resides at any and all locations where the offender stays, sleeps or
20 maintains the offender's person for three or more consecutive days or parts
21 of days, or for ten or more nonconsecutive days in a period of 30
22 consecutive days.

23 (k) "Residence" means a particular and definable place where an
24 individual resides. Nothing in the Kansas offender registration act shall be
25 construed to state that an offender may only have one residence for the
26 purpose of such act.

27 (l) "Transient" means having no fixed or identifiable residence.

28 (m) "Law enforcement agency having initial jurisdiction" means the
29 registering law enforcement agency of the county or location of
30 jurisdiction where the offender expects to most often reside upon the
31 offender's discharge, parole or release.

32 (n) "Registering law enforcement agency" means the sheriff's office
33 or tribal police department responsible for registering an offender.

34 (o) "Registering entity" means any person, agency or other
35 governmental unit, correctional facility or registering law enforcement
36 agency responsible for obtaining the required information from, and
37 explaining the required registration procedures to, any person required to
38 register pursuant to the Kansas offender registration act. "Registering
39 entity" includes, but is not limited to, sheriff's offices, tribal police
40 departments and correctional facilities.

41 (p) "Treatment facility" means any public or private facility or
42 institution providing inpatient mental health, drug or alcohol treatment or
43 counseling, but does not include a hospital, as defined in K.S.A. 65-425,

1 and amendments thereto.

2 (q) "Correctional facility" means any public or private correctional
3 facility, juvenile detention facility, prison or jail.

4 (r) "Out-of-state" means: the District of Columbia; any federal,
5 military or tribal jurisdiction, including those within this state; any foreign
6 jurisdiction; or any state or territory within the United States, other than
7 this state.

8 (s) "Duration of registration" means the length of time during which
9 an offender is required to register for a specified offense or violation.

10 (t) (1) Notwithstanding any other provision of this section, "offender"
11 shall not include any person who is:

12 (A) Convicted of unlawful transmission of a visual depiction of a
13 child, as defined in K.S.A. 2022 Supp. 21-5611(a), and amendments
14 thereto, aggravated unlawful transmission of a visual depiction of a child,
15 as defined in K.S.A. 2022 Supp. 21-5611(b), and amendments thereto, or
16 unlawful possession of a visual depiction of a child, as defined in K.S.A.
17 2022 Supp. 21-5610, and amendments thereto;

18 (B) adjudicated as a juvenile offender for an act which, if committed
19 by an adult, would constitute the commission of a crime defined in
20 subsection (t)(1)(A);

21 (C) adjudicated as a juvenile offender for an act which, if committed
22 by an adult, would constitute the commission of sexual extortion, as
23 defined in K.S.A. 2022 Supp. 21-5515, and amendments thereto; ~~or~~

24 (D) adjudicated as a juvenile offender for an act which, if committed
25 by an adult, would constitute a violation of K.S.A. 2022 Supp. 21-6101(a)
26 (6), (a)(7) or (a)(8), and amendments thereto; *or*

27 (E) *convicted of unlawful voluntary sexual relations, as defined in*
28 *K.S.A. 2022 Supp. 21-5507, and amendments thereto, or adjudicated as a*
29 *juvenile offender for an act which, if committed by an adult, would*
30 *constitute a violation of K.S.A. 2022 Supp. 21-5507, and amendments*
31 *thereto.*

32 (2) Notwithstanding any other provision of law, a court shall not
33 order any person to register under the Kansas offender registration act for
34 the offenses described in subsection (t)(1).

35 Sec. 3. K.S.A. 2022 Supp. 21-5507 and 22-4902 are hereby repealed.

36 Sec. 4. This act shall take effect and be in force from and after its
37 publication in the statute book.