

HOUSE BILL No. 2347

By Committee on Corrections and Juvenile Justice

2-10

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sex offenses; creating rape during a treatment session; reducing
3 criminal penalties for attempt, conspiracy and solicitation of certain sex
4 offenses; removing the marriage defense to rape and sodomy;
5 modifying the elements of and decreasing the criminal penalty for
6 unlawful voluntary sexual relations; removing registration requirements
7 for unlawful voluntary sexual relations; amending K.S.A. 2020 Supp.
8 21-5301, 21-5302, 21-5303, 21-5503, 21-5504, 21-5506, 21-5507, 21-
9 5510, 21-5514, 21-6422, 21-6627 and 22-4902 and repealing the
10 existing sections.
11

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

13 Section 1. K.S.A. 2020 Supp. 21-5301 is hereby amended to read as
14 follows: 21-5301. (a) An attempt is any overt act toward the perpetration
15 of a crime done by a person who intends to commit such crime but fails in
16 the perpetration thereof or is prevented or intercepted in executing such
17 crime.

18 (b) It shall not be a defense to a charge of attempt that the
19 circumstances under which the act was performed or the means employed
20 or the act itself were such that the commission of the crime was not
21 possible.

22 (c) (1) An attempt to commit an off-grid felony shall be ranked at
23 nondrug severity level 1. An attempt to commit any other nondrug felony
24 shall be ranked on the nondrug scale at two severity levels below the
25 appropriate level for the underlying or completed crime. The lowest
26 severity level for an attempt to commit a nondrug felony shall be a severity
27 level 10.

28 (2) The provisions of this subsection shall not apply to a violation of
29 attempting to commit the crime of:

30 (A) Aggravated human trafficking, as defined in K.S.A. 2020 Supp.
31 21-5426(b), and amendments thereto, if the offender is 18 years of age or
32 older and the victim is less than 14 years of age;

33 (B) terrorism, as defined in K.S.A. 2020 Supp. 21-5421, and
34 amendments thereto;

35 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
36 2020 Supp. 21-5422, and amendments thereto; *or*

1 (D) ~~rape, as defined in K.S.A. 2020 Supp. 21-5503(a)(3), and~~
2 ~~amendments thereto, if the offender is 18 years of age or older;~~

3 (E) ~~aggravated indecent liberties with a child, as defined in K.S.A.~~
4 ~~2020 Supp. 21-5506(b)(3), and amendments thereto, if the offender is 18~~
5 ~~years of age or older;~~

6 (F) ~~aggravated criminal sodomy, as defined in K.S.A. 2020 Supp. 21-~~
7 ~~5504(b)(1) or (2), and amendments thereto, if the offender is 18 years of~~
8 ~~age or older;~~

9 (G) ~~commercial sexual exploitation of a child, as defined in K.S.A.~~
10 ~~2020 Supp. 21-6422, and amendments thereto, if the offender is 18 years~~
11 ~~of age or older and the victim is less than 14 years of age;~~

12 (H) ~~sexual exploitation of a child, as defined in K.S.A. 2020 Supp.~~
13 ~~21-5510(a)(1) or (4), and amendments thereto, if the offender is 18 years~~
14 ~~of age or older and the child is less than 14 years of age;~~

15 (I) ~~aggravated internet trading in child pornography, as defined in~~
16 ~~K.S.A. 2020 Supp. 21-5514(b), and amendments thereto, if the offender is~~
17 ~~18 years of age or older and the child is less than 14 years of age; or~~

18 (J) ~~capital murder, as defined in K.S.A. 2020 Supp. 21-5401, and~~
19 ~~amendments thereto.~~

20 (d) (1) An attempt to commit a felony which prescribes a sentence on
21 the drug grid shall reduce the prison term prescribed in the drug grid block
22 for an underlying or completed crime by six months.

23 (2) The provisions of this subsection shall not apply to a violation of
24 attempting to commit a violation of K.S.A. 2020 Supp. 21-5703, and
25 amendments thereto.

26 (e) An attempt to commit a class A person misdemeanor is a class B
27 person misdemeanor. An attempt to commit a class A nonperson
28 misdemeanor is a class B nonperson misdemeanor.

29 (f) An attempt to commit a class B or C misdemeanor is a class C
30 misdemeanor.

31 Sec. 2. K.S.A. 2020 Supp. 21-5302 is hereby amended to read as
32 follows: 21-5302. (a) A conspiracy is an agreement with another person to
33 commit a crime or to assist in committing a crime. No person may be
34 convicted of a conspiracy unless an overt act in furtherance of such
35 conspiracy is alleged and proved to have been committed by such person
36 or by a co-conspirator.

37 (b) It is immaterial to the criminal liability of a person charged with
38 conspiracy that any other person with whom the defendant conspired
39 lacked the actual intent to commit the underlying crime provided that the
40 defendant believed the other person did have the actual intent to commit
41 the underlying crime.

42 (c) It shall be a defense to a charge of conspiracy that the accused
43 voluntarily and in good faith withdrew from the conspiracy, and

1 communicated the fact of such withdrawal to one or more of the accused
2 person's co-conspirators, before any overt act in furtherance of the
3 conspiracy was committed by the accused or by a co-conspirator.

4 (d) (1) Conspiracy to commit an off-grid felony shall be ranked at
5 nondrug severity level 2. Conspiracy to commit any other nondrug felony
6 shall be ranked on the nondrug scale at two severity levels below the
7 appropriate level for the underlying or completed crime. The lowest
8 severity level for conspiracy to commit a nondrug felony shall be a
9 severity level 10.

10 (2) The provisions of this subsection shall not apply to a violation of
11 conspiracy to commit the crime of:

12 (A) Aggravated human trafficking, as defined in K.S.A. 2020 Supp.
13 21-5426(b), and amendments thereto, if the offender is 18 years of age or
14 older and the victim is less than 14 years of age;

15 (B) terrorism, as defined in K.S.A. 2020 Supp. 21-5421, and
16 amendments thereto;

17 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
18 2020 Supp. 21-5422, and amendments thereto; *or*

19 ~~(D) rape, as defined in K.S.A. 2020 Supp. 21-5503(a)(3), and~~
20 ~~amendments thereto, if the offender is 18 years of age or older;~~

21 ~~(E) aggravated indecent liberties with a child, as defined in K.S.A.~~
22 ~~2020 Supp. 21-5506(b)(3), and amendments thereto, if the offender is 18~~
23 ~~years of age or older;~~

24 ~~(F) aggravated criminal sodomy, as defined in K.S.A. 2020 Supp. 21-~~
25 ~~5504(b)(1) or (2), and amendments thereto, if the offender is 18 years of~~
26 ~~age or older;~~

27 ~~(G) commercial sexual exploitation of a child, as defined in K.S.A.~~
28 ~~2020 Supp. 21-6422, and amendments thereto, if the offender is 18 years~~
29 ~~of age or older and the victim is less than 14 years of age;~~

30 ~~(H) sexual exploitation of a child, as defined in K.S.A. 2020 Supp.~~
31 ~~21-5510(a)(1) or (4), and amendments thereto, if the offender is 18 years~~
32 ~~of age or older and the child is less than 14 years of age;~~

33 ~~(I) aggravated internet trading in child pornography, as defined in~~
34 ~~K.S.A. 2020 Supp. 21-5514(b), and amendments thereto, if the offender is~~
35 ~~18 years of age or older and the child is less than 14 years of age; or~~

36 ~~(J) violations of the Kansas racketeer influenced and corrupt~~
37 ~~organization act, as described in K.S.A. 2020 Supp. 21-6329, and~~
38 ~~amendments thereto.~~

39 (e) Conspiracy to commit a felony which prescribes a sentence on the
40 drug grid shall reduce the prison term prescribed in the drug grid block for
41 an underlying or completed crime by six months.

42 (f) A conspiracy to commit a misdemeanor is a class C misdemeanor.

43 Sec. 3. K.S.A. 2020 Supp. 21-5303 is hereby amended to read as

1 follows: 21-5303. (a) Criminal solicitation is commanding, encouraging or
2 requesting another person to commit a felony, attempt to commit a felony
3 or aid and abet in the commission or attempted commission of a felony for
4 the purpose of promoting or facilitating the felony.

5 (b) It is immaterial under subsection (a) that the actor fails to
6 communicate with the person solicited to commit a felony if the person's
7 conduct was designed to effect a communication.

8 (c) It is an affirmative defense that the actor, after soliciting another
9 person to commit a felony, persuaded that person not to do so or otherwise
10 prevented the commission of the felony, under circumstances manifesting
11 a complete and voluntary renunciation of the actor's criminal purposes.

12 (d) (1) Criminal solicitation to commit an off-grid felony shall be
13 ranked at nondrug severity level 3. Criminal solicitation to commit any
14 other nondrug felony shall be ranked on the nondrug scale at three severity
15 levels below the appropriate level for the underlying or completed crime.
16 The lowest severity level for criminal solicitation to commit a nondrug
17 felony shall be a severity level 10.

18 (2) The provisions of this subsection shall not apply to a violation of
19 criminal solicitation to commit the crime of:

20 (A) Aggravated human trafficking, as defined in K.S.A. 2020 Supp.
21 21-5426(b), and amendments thereto, if the offender is 18 years of age or
22 older and the victim is less than 14 years of age;

23 (B) terrorism, as defined in K.S.A. 2020 Supp. 21-5421, and
24 amendments thereto; *or*

25 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
26 2020 Supp. 21-5422, and amendments thereto;

27 ~~(D) rape, as defined in K.S.A. 2020 Supp. 21-5503(a)(3), and~~
28 ~~amendments thereto, if the offender is 18 years of age or older;~~

29 ~~(E) aggravated indecent liberties with a child, as defined in K.S.A.~~
30 ~~2020 Supp. 21-5506(b)(3), and amendments thereto, if the offender is 18~~
31 ~~years of age or older;~~

32 ~~(F) aggravated criminal sodomy, as defined in K.S.A. 2020 Supp. 21-~~
33 ~~5504(b)(1) or (2), and amendments thereto, if the offender is 18 years of~~
34 ~~age or older;~~

35 ~~(G) commercial sexual exploitation of a child, as defined in K.S.A.~~
36 ~~2020 Supp. 21-6422, and amendments thereto, if the offender is 18 years~~
37 ~~of age or older and the victim is less than 14 years of age;~~

38 ~~(H) sexual exploitation of a child, as defined in K.S.A. 2020 Supp.~~
39 ~~21-5510(a)(1) or (4), and amendments thereto, if the offender is 18 years~~
40 ~~of age or older and the child is less than 14 years of age; or~~

41 ~~(I) aggravated internet trading in child pornography, as defined in~~
42 ~~K.S.A. 2020 Supp. 21-5514(b), and amendments thereto, if the offender is~~
43 ~~18 years of age or older and the child is less than 14 years of age.~~

1 (e) Criminal solicitation to commit a felony which prescribes a
 2 sentence on the drug grid shall reduce the prison term prescribed in the
 3 drug grid block for an underlying or completed crime by six months.

4 Sec. 4. K.S.A. 2020 Supp. 21-5503 is hereby amended to read as
 5 follows: 21-5503. (a) Rape is:

6 (1) Knowingly engaging in sexual intercourse with a victim who does
 7 not consent to the sexual intercourse under any of the following
 8 circumstances:

9 (A) When the victim is overcome by force or fear; or

10 (B) when the victim is unconscious or physically powerless;

11 (2) knowingly engaging in sexual intercourse with a victim when the
 12 victim is incapable of giving consent because of mental deficiency or
 13 disease, or when the victim is incapable of giving consent because of the
 14 effect of any alcoholic liquor, narcotic, drug or other substance, which
 15 condition was known by the offender or was reasonably apparent to the
 16 offender;

17 (3) sexual intercourse with a child who is under 14 years of age;

18 (4) sexual intercourse with a victim:

19 (A) When the victim's consent was obtained through a knowing
 20 misrepresentation made by the offender that the sexual intercourse was a
 21 medically or therapeutically necessary procedure; *or*

22 (B) *without the victim's consent during a treatment session,*
 23 *consultation, interview or examination by a healthcare provider,*
 24 *chiropractor, massage therapist or other person providing a medical or*
 25 *therapeutic procedure; or*

26 (5) sexual intercourse with a victim when the victim's consent was
 27 obtained through a knowing misrepresentation made by the offender that
 28 the sexual intercourse was a legally required procedure within the scope of
 29 the offender's authority.

30 (b)(1) Rape as defined in:

31 (A) Subsection (a)(1) or (a)(2) is a severity level 1, person felony;

32 (B) subsection (a)(3) is a severity level 1, person felony, except as
 33 provided in subsection (b)(2); and

34 (C) subsection (a)(4) or (a)(5) is a severity level 2, person felony.

35 (2) Rape as defined in subsection (a)(3) ~~or attempt, conspiracy or~~
 36 ~~criminal solicitation to commit rape as defined in subsection (a)(3)~~ is an
 37 off-grid person felony, when the offender is 18 years of age or older.

38 (c) ~~If the offender is 18 years of age or older, the provisions of:~~

39 ~~(1) Subsection (e) of K.S.A. 2020 Supp. 21-5301, and amendments~~
 40 ~~thereto, shall not apply to a violation of attempting to commit the crime of~~
 41 ~~rape as defined in subsection (a)(3);~~

42 ~~(2) subsection (e) of K.S.A. 2020 Supp. 21-5302, and amendments~~
 43 ~~thereto, shall not apply to a violation of conspiracy to commit the crime of~~

1 rape as defined in subsection (a)(3); and
 2 ~~(3) subsection (d) of K.S.A. 2020 Supp. 21-5303, and amendments~~
 3 ~~thereto, shall not apply to a violation of criminal solicitation to commit the~~
 4 ~~crime of rape as defined in subsection (a)(3).~~

5 ~~(d) It shall be a defense to a prosecution of rape under subsection (a)~~
 6 ~~(3) that the child was married to the accused at the time of the offense.~~

7 (e) Except as provided in subsection (a)(2), it shall not be a defense
 8 that the offender did not know or have reason to know that the victim did
 9 not consent to the sexual intercourse, that the victim was overcome by
 10 force or fear, or that the victim was unconscious or physically powerless.

11 Sec. 5. K.S.A. 2020 Supp. 21-5504 is hereby amended to read as
 12 follows: 21-5504. (a) Criminal sodomy is:

13 ~~(1) Sodomy between persons who are 16 or more years of age and~~
 14 ~~members of the same sex;~~

15 ~~(2) Sodomy between a person and an animal;~~

16 ~~(3) (2) sodomy with a child who is 14 or more years of age but less~~
 17 ~~than 16 years of age; or~~

18 ~~(4) (3) causing a child 14 or more years of age but less than 16 years~~
 19 ~~of age to engage in sodomy with any person other than the offender or an~~
 20 ~~animal.~~

21 (b) Aggravated criminal sodomy is:

22 (1) Sodomy with a child who is under 14 years of age;

23 (2) causing a child under 14 years of age to engage in sodomy with
 24 any person *other than the offender* or an animal; or

25 (3) sodomy with a victim who does not consent to the sodomy or
 26 causing a victim, without the victim's consent, to engage in sodomy with
 27 any person or an animal under any of the following circumstances *when*
 28 *the victim is*:

29 (A) ~~When the victim is~~ Overcome by force or fear;

30 (B) ~~when the victim is~~ unconscious or physically powerless; or

31 (C) ~~when the victim is~~ incapable of giving consent because of mental
 32 deficiency or disease, or when the victim is incapable of giving consent
 33 because of the effect of any alcoholic liquor, narcotic, drug or other
 34 substance, which condition was known by, or was reasonably apparent to,
 35 the offender.

36 (c) (1) Criminal sodomy as defined in:

37 (A) Subsection (a)(1) ~~or (a)(2)~~ is a class B nonperson misdemeanor;
 38 and

39 (B) subsection (a)(2) ~~or (a)(3) or (a)(4)~~ is a severity level 3, person
 40 felony.

41 (2) Aggravated criminal sodomy as defined in:

42 (A) Subsection (b)(3) is a severity level 1, person felony; and

43 (B) subsection (b)(1) or (b)(2) is a severity level 1, person felony,

1 except as provided in subsection (c)(3).

2 (3) Aggravated criminal sodomy as defined in subsection (b)(1) or (b)
3 ~~(2) or attempt, conspiracy or criminal solicitation to commit aggravated~~
4 ~~criminal sodomy as defined in subsection (b)(1) or (b)(2)~~ is an off-grid
5 person felony, when the offender is 18 years of age or older.

6 ~~(d) If the offender is 18 years of age or older, the provisions of:~~

7 ~~(1) Subsection (e) of K.S.A. 2020 Supp. 21-5301, and amendments~~
8 ~~thereto, shall not apply to a violation of attempting to commit the crime of~~
9 ~~aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2);~~

10 ~~(2) subsection (e) of K.S.A. 2020 Supp. 21-5302, and amendments~~
11 ~~thereto, shall not apply to a violation of conspiracy to commit the crime of~~
12 ~~aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2); and~~

13 ~~(3) subsection (d) of K.S.A. 2020 Supp. 21-5303, and amendments~~
14 ~~thereto, shall not apply to a violation of criminal solicitation to commit the~~
15 ~~crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)~~
16 ~~(2).~~

17 ~~(e) It shall be a defense to a prosecution of criminal sodomy, as~~
18 ~~defined in subsection (a)(3), and aggravated criminal sodomy, as defined~~
19 ~~in subsection (b)(1); (a)(2) that the child was married to the accused at the~~
20 ~~time of the offense.~~

21 ~~(f)(e) Except as provided in subsection (b)(3)(C), it shall not be a~~
22 ~~defense that the offender did not know or have reason to know that the~~
23 ~~victim did not consent to the sodomy, that the victim was overcome by~~
24 ~~force or fear, or that the victim was unconscious or physically powerless.~~

25 Sec. 6. K.S.A. 2020 Supp. 21-5506 is hereby amended to read as
26 follows: 21-5506. (a) Indecent liberties with a child is engaging in any of
27 the following acts with a child who is 14 or more years of age but less than
28 16 years of age:

29 (1) Any lewd fondling or touching of the person of either the child or
30 the offender, done or submitted to with the intent to arouse or to satisfy the
31 sexual desires of either the child or the offender, or both; or

32 (2) soliciting the child to engage in any lewd fondling or touching of
33 the person of another with the intent to arouse or satisfy the sexual desires
34 of the child, the offender or another.

35 (b) Aggravated indecent liberties with a child is:

36 (1) Sexual intercourse with a child who is 14 or more years of age but
37 less than 16 years of age;

38 (2) engaging in any of the following acts with a child who is 14 or
39 more years of age but less than 16 years of age and who does not consent
40 thereto:

41 (A) Any lewd fondling or touching of the person of either the child or
42 the offender, done or submitted to with the intent to arouse or to satisfy the
43 sexual desires of either the child or the offender, or both; or

1 (B) causing the child to engage in any lewd fondling or touching of
 2 the person of another with the intent to arouse or satisfy the sexual desires
 3 of the child, the offender or another; or

4 (3) engaging in any of the following acts with a child who is under 14
 5 years of age:

6 (A) Any lewd fondling or touching of the person of either the child or
 7 the offender, done or submitted to with the intent to arouse or to satisfy the
 8 sexual desires of either the child or the offender, or both; or

9 (B) soliciting the child to engage in any lewd fondling or touching of
 10 the person of another with the intent to arouse or satisfy the sexual desires
 11 of the child, the offender or another.

12 (c) (1) Indecent liberties with a child is a severity level 5, person
 13 felony.

14 (2) Aggravated indecent liberties with a child as defined in:

15 (A) Subsection (b)(1) is a severity level 3, person felony;

16 (B) subsection (b)(2) is a severity level 4, person felony; and

17 (C) subsection (b)(3) is a severity level 3, person felony, except as
 18 provided in subsection (c)(3).

19 (3) Aggravated indecent liberties with a child as defined in subsection
 20 (b)(3) or attempt, conspiracy or criminal solicitation to commit aggravated
 21 indecent liberties with a child as defined in subsection (b)(3) is an off-grid
 22 person felony, when the offender is 18 years of age or older.

23 (d) ~~If the offender is 18 years of age or older, the provisions of:~~

24 (1) ~~Subsection (e) of K.S.A. 2020 Supp. 21-5301, and amendments~~
 25 ~~thereto, shall not apply to a violation of attempting to commit the crime of~~
 26 ~~aggravated indecent liberties with a child as defined in subsection (b)(3);~~

27 (2) ~~subsection (e) of K.S.A. 2020 Supp. 21-5302, and amendments~~
 28 ~~thereto, shall not apply to a violation of conspiracy to commit the crime of~~
 29 ~~aggravated indecent liberties with a child as defined in subsection (b)(3);~~

30 (3) ~~subsection (d) of K.S.A. 2020 Supp. 21-5303, and amendments~~
 31 ~~thereto, shall not apply to a violation of criminal solicitation to commit the~~
 32 ~~crime of aggravated indecent liberties with a child as defined in subsection~~
 33 ~~(b)(3).~~

34 (e) It shall be a defense to a prosecution of indecent liberties with a
 35 child, as defined in subsection (a)(1), and aggravated indecent liberties
 36 with a child, as defined in subsections (b)(1); *and* (b)(2)(A) *and* (b)(3)(A)
 37 that the child was married to the accused at the time of the offense.

38 Sec. 7. K.S.A. 2020 Supp. 21-5507 is hereby amended to read as
 39 follows: 21-5507. (a) Unlawful voluntary sexual relations is:

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

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

43 (B) ~~voluntary sodomy; or~~

- 1 ~~(C)~~ voluntary lewd fondling or touching;
- 2 (2) (A) when the offender is less than ~~19~~ 13 years of age; or
- 3 ~~(3)~~ (B) when the offender is ~~less than four years of age older than the~~
- 4 ~~child~~ 13 years of age or older but less than 19 years of age, and the
- 5 offender and the child are less than 48 months apart in age; and
- 6 ~~(4)~~(3) when the child and the offender are the only parties involved;
- 7 and
- 8 ~~(5) when the child and the offender are members of the opposite sex.~~
- 9 (b) Unlawful voluntary sexual relations as defined in:
- 10 (1) Subsection (a)(1)(A) is a ~~severity level 8, person felony;~~
- 11 (A) Class A person misdemeanor, except as provided in subsection (b)
- 12 (1)(B); and
- 13 (B) severity level 9, person felony if the offender and the child are 24
- 14 or more months but less than 48 months apart in age, and the offender is
- 15 13 or more years of age; and
- 16 (2) subsection (a)(1)(B) is a ~~severity level 9, person felony; and:~~
- 17 (A) Class A person misdemeanor, except as provided in subsection (b)
- 18 (2)(B); and
- 19 (B) severity level 10, person felony if the offender and the child are
- 20 24 or more months but less than 48 months apart in age, and the offender
- 21 is 13 or more years of age
- 22 ~~(3) subsection (a)(1)(C) is a severity level 10, person felony.~~
- 23 Sec. 8. K.S.A. 2020 Supp. 21-5510 is hereby amended to read as
- 24 follows: 21-5510. (a) Except as provided in K.S.A. 2020 Supp. 21-5610
- 25 and 21-5611, and amendments thereto, sexual exploitation of a child is:
- 26 (1) Employing, using, persuading, inducing, enticing or coercing a
- 27 child under 18 years of age, or a person whom the offender believes to be a
- 28 child under 18 years of age, to engage in sexually explicit conduct with the
- 29 intent to promote any performance;
- 30 (2) possessing any visual depiction of a child under 18 years of age
- 31 shown or heard engaging in sexually explicit conduct with intent to arouse
- 32 or satisfy the sexual desires or appeal to the prurient interest of the
- 33 offender or any other person;
- 34 (3) being a parent, guardian or other person having custody or control
- 35 of a child under 18 years of age and knowingly permitting such child to
- 36 engage in, or assist another to engage in, sexually explicit conduct for any
- 37 purpose described in subsection (a)(1) or (2); or
- 38 (4) promoting any performance that includes sexually explicit
- 39 conduct by a child under 18 years of age, or a person whom the offender
- 40 believes to be a child under 18 years of age, knowing the character and
- 41 content of the performance.
- 42 (b) (1) Sexual exploitation of a child as defined in:
- 43 (A) Subsection (a)(2) or (a)(3) is a severity level 5, person felony;

1 and

2 (B) subsection (a)(1) or (a)(4) is a severity level 3, person felony,
3 except as provided in subsection (b)(2).

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

9 ~~(c) If the offender is 18 years of age or older and the child is under 14~~
10 ~~years of age, the provisions of:~~

11 ~~(1) K.S.A. 2020 Supp. 21-5301(c), and amendments thereto, shall not~~
12 ~~apply to a violation of attempting to commit the crime of sexual~~
13 ~~exploitation of a child as defined in subsection (a)(1) or (a)(4);~~

14 ~~(2) K.S.A. 2020 Supp. 21-5302(d), and amendments thereto, shall not~~
15 ~~apply to a violation of conspiracy to commit the crime of sexual~~
16 ~~exploitation of a child as defined in subsection (a)(1) or (a)(4); and~~

17 ~~(3) K.S.A. 2020 Supp. 21-5303(d), and amendments thereto, shall not~~
18 ~~apply to a violation of criminal solicitation to commit the crime of sexual~~
19 ~~exploitation of a child as defined in subsection (a)(1) or (a)(4).~~

20 ~~(d)~~ As used in this section:

21 (1) "Sexually explicit conduct" means actual or simulated: Exhibition
22 in the nude; sexual intercourse or sodomy, including genital-genital, oral-
23 genital, anal-genital or oral-anal contact, whether between persons of the
24 same or opposite sex; masturbation; sado-masochistic abuse with the intent
25 of sexual stimulation; or lewd exhibition of the genitals, female breasts or
26 pubic area of any person;

27 (2) "promoting" means procuring, transmitting, distributing,
28 circulating, presenting, producing, directing, manufacturing, issuing,
29 publishing, displaying, exhibiting or advertising:

30 (A) For pecuniary profit; or

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

33 (3) "performance" means any film, photograph, negative, slide, book,
34 magazine or other printed or visual medium, any audio tape recording or
35 any photocopy, video tape, video laser disk, computer hardware, software,
36 floppy disk or any other computer related equipment or computer
37 generated image that contains or incorporates in any manner any film,
38 photograph, negative, photocopy, video tape or video laser disk or any
39 play or other live presentation;

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

43 (5) "visual depiction" means any photograph, film, video picture,

1 digital or computer-generated image or picture, whether made or produced
2 by electronic, mechanical or other means.

3 ~~(e)(d)~~ The provisions of this section shall not apply to possession of a
4 visual depiction of a child in a state of nudity if the person possessing such
5 visual depiction is the child who is the subject of such visual depiction.

6 Sec. 9. K.S.A. 2020 Supp. 21-5514 is hereby amended to read as
7 follows: 21-5514. (a) Except as provided in K.S.A. 2020 Supp. 21-5610
8 and 21-5611, and amendments thereto, internet trading in child
9 pornography is sexual exploitation of a child, as defined in K.S.A. 2020
10 Supp. 21-5510(a)(2), and amendments thereto, when the offender is 18
11 years of age or older, and the offender knowingly causes or permits the
12 visual depiction to be viewed, by use of any electronic device connected to
13 the internet, by any person other than the offender or a person depicted in
14 the visual depiction.

15 (b) Except as provided in K.S.A. 2020 Supp. 21-5610 and 21-5611,
16 and amendments thereto, aggravated internet trading in child pornography
17 is sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-
18 5510(a)(1) or (4), and amendments thereto, when the offender is 18 years
19 of age or older and the offender knowingly causes or permits the
20 performance to be viewed, by use of any electronic device connected to
21 the internet, by any person other than the offender or a person depicted in
22 the performance.

23 (c) (1) Internet trading in child pornography is a severity level 5,
24 person felony.

25 (2) Aggravated internet trading in child pornography is a severity
26 level 3, person felony, except as provided in subsection (c)(3).

27 (3) ~~Aggravated internet trading in child pornography or attempt,~~
28 ~~conspiracy or criminal solicitation to commit aggravated internet trading in~~
29 ~~child pornography~~ is an off-grid person felony when the child is under 14
30 years of age.

31 ~~(d) If the child is under 14 years of age, the provisions of:~~

32 ~~(1) K.S.A. 2020 Supp. 21-5301(e), and amendments thereto, shall not~~
33 ~~apply to a violation of attempting to commit the crime of aggravated~~
34 ~~internet trading in child pornography pursuant to this section;~~

35 ~~(2) K.S.A. 2020 Supp. 21-5302(d), and amendments thereto, shall not~~
36 ~~apply to a violation of conspiracy to commit the crime of aggravated~~
37 ~~internet trading in child pornography pursuant to this section; and~~

38 ~~(3) K.S.A. 2020 Supp. 21-5303(d), and amendments thereto, shall not~~
39 ~~apply to a violation of criminal solicitation to commit the crime of~~
40 ~~aggravated internet trading in child pornography pursuant to this section.~~

41 (e) In addition to the venue provided for under any other provision of
42 law, a prosecution for internet trading in child pornography or aggravated
43 internet trading in child pornography may be brought in the county where

1 the visual depiction or performance may be viewed by any person other
 2 than the offender using any electronic device connected to the internet and
 3 is viewed by a law enforcement officer using an electronic device
 4 connected to the internet while engaged in such officer's official duties.

5 (f) As used in this section, "the internet" has the meaning as provided
 6 in K.S.A. 66-2011, and amendments thereto.

7 (g) This section shall be a part of and supplemental to the Kansas
 8 criminal code.

9 Sec. 10. K.S.A. 2020 Supp. 21-6422 is hereby amended to read as
 10 follows: 21-6422. (a) Commercial sexual exploitation of a child is
 11 knowingly:

12 (1) Hiring a person younger than 18 years of age by giving, or
 13 offering or agreeing to give, anything of value to any person, to engage in
 14 a manual or other bodily contact stimulation of the genitals of any person
 15 with the intent to arouse or gratify the sexual desires of the offender or
 16 another, sexual intercourse, sodomy or any unlawful sexual act;

17 (2) establishing, owning, maintaining or managing any property,
 18 whether real or personal, where sexual relations are being sold or offered
 19 for sale by a person younger than 18 years of age, or participating in the
 20 establishment, ownership, maintenance or management thereof; or

21 (3) permitting any property, whether real or personal, partially or
 22 wholly owned or controlled by the defendant to be used as a place where
 23 sexual relations are being sold or offered for sale by a person who is
 24 younger than 18 years of age.

25 (b)(1) Commercial sexual exploitation of a child is a:

26 (A) Severity level 4, person felony, except as provided in subsections
 27 (b)(1)(B) and (b)(2); and

28 (B) severity level 2, person felony when committed by a person who
 29 has, prior to the commission of the crime, been convicted of a violation of
 30 this section, except as provided in subsection (b)(2).

31 (2) Commercial sexual exploitation of a child ~~or attempt, conspiracy~~
 32 ~~or criminal solicitation to commit commercial sexual exploitation of a~~
 33 ~~child~~ is an off-grid person felony when the offender is 18 years of age or
 34 older and the victim is less than 14 years of age.

35 (3) In addition to any other sentence imposed, a person convicted
 36 under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more
 37 than \$5,000. In addition to any other sentence imposed, a person convicted
 38 under subsection (b)(1)(B) or (b)(2) shall be fined not less than \$5,000. All
 39 fines collected pursuant to this section shall be remitted to the human
 40 trafficking victim assistance fund created by K.S.A. 75-758, and
 41 amendments thereto.

42 (4) In addition to any other sentence imposed, for any conviction
 43 under this section, the court may order the person convicted to enter into

1 and complete a suitable educational or treatment program regarding
2 commercial sexual exploitation of a child.

3 ~~(e) If the offender is 18 years of age or older and the victim is less
4 than 14 years of age, the provisions of:~~

5 ~~(1) K.S.A. 2020 Supp. 21-5301(e), and amendments thereto, shall not
6 apply to a violation of attempting to commit the crime of commercial
7 sexual exploitation of a child pursuant to this section;~~

8 ~~(2) K.S.A. 2020 Supp. 21-5302(d), and amendments thereto, shall not
9 apply to a violation of conspiracy to commit the crime of commercial
10 sexual exploitation of a child pursuant to this section; and~~

11 ~~(3) K.S.A. 2020 Supp. 21-5303(d), and amendments thereto, shall not
12 apply to a violation of criminal solicitation to commit the crime of
13 commercial sexual exploitation of a child pursuant to this section.~~

14 Sec. 11. K.S.A. 2020 Supp. 21-6627 is hereby amended to read as
15 follows: 21-6627. (a) (1) Except as provided in subsection (b) or (d), a
16 defendant who is 18 years of age or older and is convicted of the following
17 crimes committed on or after July 1, 2006, shall be sentenced to a term of
18 imprisonment for life with a mandatory minimum term of imprisonment of
19 not less than 25 years unless the court determines that the defendant
20 should be sentenced as determined in subsection (a)(2):

21 (A) Aggravated human trafficking, as defined in K.S.A. 2020 Supp.
22 21-5426(b), and amendments thereto, if the victim is less than 14 years of
23 age;

24 (B) rape, as defined in K.S.A. 2020 Supp. 21-5503(a)(3), and
25 amendments thereto;

26 (C) aggravated indecent liberties with a child, as defined in K.S.A.
27 2020 Supp. 21-5506(b)(3), and amendments thereto;

28 (D) aggravated criminal sodomy, as defined in K.S.A. 2020 Supp. 21-
29 5504(b)(1) or (b)(2), and amendments thereto;

30 (E) commercial sexual exploitation of a child, as defined in K.S.A.
31 2020 Supp. 21-6422, and amendments thereto, if the victim is less than 14
32 years of age;

33 (F) sexual exploitation of a child, as defined in K.S.A. 2020 Supp.
34 21-5510(a)(1) or (a)(4), and amendments thereto, if the child is less than
35 14 years of age;

36 (G) aggravated internet trading in child pornography, as defined in
37 K.S.A. 2020 Supp. 21-5514(b), and amendments thereto, if the child is less
38 than 14 years of ~~ages~~ age; and

39 (H) an attempt, conspiracy or criminal solicitation, as defined in
40 K.S.A. 2020 Supp. 21-5301, 21-5302 or 21-5303, and amendments
41 thereto, of an offense defined in ~~subsections~~ subsection (a)(1)(A) through
42 ~~(a)(1)(G)~~.

43 (2) The provision of subsection (a)(1) requiring a mandatory

1 minimum term of imprisonment of not less than 25 years shall not apply if
2 the court finds:

3 (A) The defendant is an aggravated habitual sex offender and
4 sentenced pursuant to K.S.A. 2020 Supp. 21-6626, and amendments
5 thereto; or

6 (B) the defendant, because of the defendant's criminal history
7 classification, would be subject to presumptive imprisonment pursuant to
8 the sentencing guidelines grid for nondrug crimes and the sentencing range
9 would exceed 300 months if the sentence established for a severity level 1
10 crime was imposed. In such case, the defendant is required to serve a
11 mandatory minimum term equal to the sentence established for a severity
12 level 1 crime pursuant to the sentencing range.

13 (b) (1) On and after July 1, 2006, if a defendant who is 18 years of
14 age or older is convicted of a crime listed in subsection (a)(1) and such
15 defendant has previously been convicted of a crime listed in subsection (a)
16 (1), a crime in effect at any time prior to July 1, 2011, which is
17 substantially the same as a crime listed in subsection (a)(1) or a crime
18 under a law of another jurisdiction which is substantially the same as a
19 crime listed in subsection (a)(1), the court shall sentence the defendant to a
20 term of imprisonment for life with a mandatory minimum term of
21 imprisonment of not less than 40 years. The provisions of this paragraph
22 shall not apply to a crime committed under K.S.A. 2020 Supp. 21-5507,
23 and amendments thereto, or a crime under a law of another jurisdiction
24 which is substantially the same as K.S.A. 2020 Supp. 21-5507, and
25 amendments thereto.

26 (2) The provision of subsection (b)(1) requiring a mandatory
27 minimum term of imprisonment of not less than 40 years shall not apply if
28 the court finds:

29 (A) The defendant is an aggravated habitual sex offender and
30 sentenced pursuant to K.S.A. 2020 Supp. 21-6626, and amendments
31 thereto; or

32 (B) the defendant, because of the defendant's criminal history
33 classification, would be subject to presumptive imprisonment pursuant to
34 the sentencing guidelines grid for nondrug crimes and the sentencing range
35 would exceed 480 months if the sentence established for a severity level 1
36 crime was imposed. In such case, the defendant is required to serve a
37 mandatory minimum term equal to the sentence established for a severity
38 level 1 crime pursuant to the sentencing range.

39 (c) When a person is sentenced pursuant to subsection (a) or (b), such
40 person shall be sentenced to a mandatory minimum term of imprisonment
41 of not less than 25 years, 40 years or be sentenced as determined in
42 subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall
43 not be eligible for probation or suspension, modification or reduction of

1 sentence. In addition, a person sentenced pursuant to this section shall not
2 be eligible for parole prior to serving such mandatory term of
3 imprisonment, and such imprisonment shall not be reduced by the
4 application of good time credits. Except as provided in subsection (d), no
5 other sentence shall be permitted.

6 (d) (1) On or after July 1, 2006, for a first time conviction of an
7 offense listed in subsection (a)(1), the sentencing judge shall impose the
8 mandatory minimum term of imprisonment provided by subsection (a),
9 unless the judge finds substantial and compelling reasons, following a
10 review of mitigating circumstances, to impose a departure. If the
11 sentencing judge departs from such mandatory minimum term of
12 imprisonment, the judge shall state on the record at the time of sentencing
13 the substantial and compelling reasons for the departure. The departure
14 sentence shall be the sentence pursuant to the revised Kansas sentencing
15 guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated,
16 and amendments thereto, and, subject to the provisions of K.S.A. 2020
17 Supp. 21-6818, and amendments thereto, no sentence of a mandatory
18 minimum term of imprisonment shall be imposed hereunder.

19 (2) As used in this subsection, "mitigating circumstances" shall
20 include, but are not limited to, the following:

21 (A) The defendant has no significant history of prior criminal
22 activity;

23 (B) the crime was committed while the defendant was under the
24 influence of extreme mental or emotional disturbances;

25 (C) the victim was an accomplice in the crime committed by another
26 person, and the defendant's participation was relatively minor;

27 (D) the defendant acted under extreme distress or under the
28 substantial domination of another person;

29 (E) the capacity of the defendant to appreciate the criminality of the
30 defendant's conduct or to conform the defendant's conduct to the
31 requirements of law was substantially impaired; and

32 (F) the age of the defendant at the time of the crime.

33 ~~(e) The provisions of K.S.A. 21-3301, 21-3302 or 21-3303, prior to~~
34 ~~their repeal, or K.S.A. 2020 Supp. 21-5301, 21-5302 or 21-5303, and~~
35 ~~amendments thereto, shall not apply to any defendant sentenced pursuant~~
36 ~~to this section.~~

37 Sec. 12. K.S.A. 2020 Supp. 22-4902 is hereby amended to read as
38 follows: 22-4902. As used in the Kansas offender registration act, unless
39 the context otherwise requires:

40 (a) "Offender" means:

41 (1) A sex offender;

42 (2) a violent offender;

43 (3) a drug offender;

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

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

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

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

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

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

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

16 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
17 K.S.A. 2020 Supp. 21-5511, and amendments thereto;

18 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
19 repeal, or K.S.A. 2020 Supp. 21-5504(a)(1) or (a)(2), and amendments
20 thereto;

21 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
22 repeal, or K.S.A. 2020 Supp. 21-6420, prior to its amendment by section
23 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

24 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
25 repeal, or K.S.A. 2020 Supp. 21-6421, prior to its amendment by section
26 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

27 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
28 to its repeal, or K.S.A. 2020 Supp. 21-5513, and amendments thereto;

29 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
30 to its repeal, or K.S.A. 2020 Supp. 21-5505(a), and amendments thereto;

31 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
32 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
33 K.S.A. 2020 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
34 of an offense defined in this subsection; or

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

38 (c) "Sexually violent crime" means:

39 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
40 2020 Supp. 21-5503, and amendments thereto;

41 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
42 to its repeal, or K.S.A. 2020 Supp. 21-5506(a), and amendments thereto;

43 (3) aggravated indecent liberties with a child, as defined in K.S.A.

- 1 21-3504, prior to its repeal, or K.S.A. 2020 Supp. 21-5506(b), and
2 amendments thereto;
- 3 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
4 prior to its repeal, or K.S.A. 2020 Supp. 21-5504(a)(3) or (a)(4), and
5 amendments thereto;
- 6 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
7 to its repeal, or K.S.A. 2020 Supp. 21-5504(b), and amendments thereto;
- 8 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
9 prior to its repeal, or K.S.A. 2020 Supp. 21-5508(a), and amendments
10 thereto;
- 11 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
12 21-3511, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(b), and
13 amendments thereto;
- 14 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
15 to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto;
- 16 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
17 its repeal, or K.S.A. 2020 Supp. 21-5505(b), and amendments thereto;
- 18 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
19 repeal, or K.S.A. 2020 Supp. 21-5604(b), and amendments thereto;
- 20 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
21 repeal, and K.S.A. 2020 Supp. 21-5509, and amendments thereto;
- 22 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
23 its repeal, or K.S.A. 2020 Supp. 21-5512, and amendments thereto;
- 24 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
25 prior to its repeal, or K.S.A. 2020 Supp. 21-5426(b), and amendments
26 thereto, if committed in whole or in part for the purpose of the sexual
27 gratification of the defendant or another;
- 28 (14) commercial sexual exploitation of a child, as defined in K.S.A.
29 2020 Supp. 21-6422, and amendments thereto;
- 30 (15) promoting the sale of sexual relations, as defined in K.S.A. 2020
31 Supp. 21-6420, and amendments thereto;
- 32 (16) any conviction or adjudication for an offense that is comparable
33 to a sexually violent crime as defined in this subsection, or any out-of-state
34 conviction or adjudication for an offense that under the laws of this state
35 would be a sexually violent crime as defined in this subsection;
- 36 (17) an attempt, conspiracy or criminal solicitation, as defined in
37 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020
38 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
39 violent crime, as defined in this subsection; or
- 40 (18) any act which has been determined beyond a reasonable doubt to
41 have been sexually motivated, unless the court, on the record, finds that
42 the act involved non-forcible sexual conduct, the victim was at least 14
43 years of age and the offender was not more than four years older than the

1 victim. As used in this paragraph, "sexually motivated" means that one of
2 the purposes for which the defendant committed the crime was for the
3 purpose of the defendant's sexual gratification.

4 (d) "Sexually violent predator" means any person who, on or after
5 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
6 59-29a01 et seq., and amendments thereto.

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

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

10 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
11 or K.S.A. 2020 Supp. 21-5401, and amendments thereto;

12 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to
13 its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto;

14 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior
15 to its repeal, or K.S.A. 2020 Supp. 21-5403, and amendments thereto;

16 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
17 repeal, or K.S.A. 2020 Supp. 21-5404, and amendments thereto;

18 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
19 its repeal, or K.S.A. 2020 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
20 amendments thereto. The provisions of this paragraph shall not apply to
21 violations of K.S.A. 2020 Supp. 21-5405(a)(3), and amendments thereto,
22 which occurred on or after July 1, 2011, through July 1, 2013;

23 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
24 K.S.A. 2020 Supp. 21-5408(a), and amendments thereto;

25 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
26 repeal, or K.S.A. 2020 Supp. 21-5408(b), and amendments thereto;

27 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its
28 repeal, or K.S.A. 2020 Supp. 21-5411, and amendments thereto, except by
29 a parent, and only when the victim is less than 18 years of age; or

30 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
31 to its repeal, or K.S.A. 2020 Supp. 21-5426(b), and amendments thereto, if
32 not committed in whole or in part for the purpose of the sexual
33 gratification of the defendant or another;

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

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

41 (4) 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. 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments

1 thereto, of an offense defined in this subsection.

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

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

4 (A) Unlawful manufacture or attempting such of any controlled
5 substance or controlled substance analog, as defined in K.S.A. 65-4159,
6 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
7 K.S.A. 2020 Supp. 21-5703, and amendments thereto;

8 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
9 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
10 ammonia or phenylpropanolamine, or their salts, isomers or salts of
11 isomers with intent to use the product to manufacture a controlled
12 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
13 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2020 Supp. 21-5709(a),
14 and amendments thereto;

15 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
16 36a05(a)(1), prior to its transfer, or K.S.A. 2020 Supp. 21-5705(a)(1), and
17 amendments thereto. The provisions of this paragraph shall not apply to
18 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)
19 which occurred on or after July 1, 2009, through April 15, 2010;

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

24 (3) is or has been convicted of an attempt, conspiracy or criminal
25 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
26 their repeal, or K.S.A. 2020 Supp. 21-5301, 21-5302 and 21-5303, and
27 amendments thereto, of an offense defined in this subsection.

28 (g) Convictions or adjudications which result from or are connected
29 with the same act, or result from crimes committed at the same time, shall
30 be counted for the purpose of this section as one conviction or
31 adjudication. Any conviction or adjudication set aside pursuant to law is
32 not a conviction or adjudication for purposes of this section. A conviction
33 or adjudication from any out-of-state court shall constitute a conviction or
34 adjudication for purposes of this section.

35 (h) "School" means any public or private educational institution,
36 including, but not limited to, postsecondary school, college, university,
37 community college, secondary school, high school, junior high school,
38 middle school, elementary school, trade school, vocational school or
39 professional school providing training or education to an offender for three
40 or more consecutive days or parts of days, or for 10 or more
41 nonconsecutive days in a period of 30 consecutive days.

42 (i) "Employment" means any full-time, part-time, transient, day-labor
43 employment or volunteer work, with or without compensation, for three or

1 more consecutive days or parts of days, or for 10 or more nonconsecutive
2 days in a period of 30 consecutive days.

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

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

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

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

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

21 (o) "Registering entity" means any person, agency or other
22 governmental unit, correctional facility or registering law enforcement
23 agency responsible for obtaining the required information from, and
24 explaining the required registration procedures to, any person required to
25 register pursuant to the Kansas offender registration act. "Registering
26 entity" shall include, but not be limited to, sheriff's offices, tribal police
27 departments and correctional facilities.

28 (p) "Treatment facility" means any public or private facility or
29 institution providing inpatient mental health, drug or alcohol treatment or
30 counseling, but does not include a hospital, as defined in K.S.A. 65-425,
31 and amendments thereto.

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

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

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

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

42 (A) Convicted of unlawful transmission of a visual depiction of a
43 child, as defined in K.S.A. 2020 Supp. 21-5611(a), and amendments

1 thereto, aggravated unlawful transmission of a visual depiction of a child,
2 as defined in K.S.A. 2020 Supp. 21-5611(b), and amendments thereto, or
3 unlawful possession of a visual depiction of a child, as defined in K.S.A.
4 2020 Supp. 21-5610, and amendments thereto;~~or~~

5 (B) adjudicated as a juvenile offender for an act which if committed
6 by an adult would constitute the commission of a crime defined in
7 subsection (t)(1)(A); *or*

8 (C) *convicted of unlawful voluntary sexual relations, as defined in*
9 *K.S.A. 2020 Supp. 21-5507, and amendments thereto, or adjudicated as a*
10 *juvenile offender for an act which, if committed by an adult, would*
11 *constitute a violation of K.S.A. 2020 Supp. 21-5507, and amendments*
12 *thereto.*

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

16 Sec. 13. K.S.A. 2020 Supp. 21-5301, 21-5302, 21-5303, 21-5503, 21-
17 5504, 21-5506, 21-5507, 21-5510, 21-5514, 21-6422, 21-6627 and 22-
18 4902 are hereby repealed.

19 Sec. 14. This act shall take effect and be in force from and after its
20 publication in the statute book.