

HOUSE BILL No. 2439

By Committee on Federal and State Affairs

3-18

1 AN ACT concerning crimes, punishment and criminal procedure; creating
2 the crime of unauthorized disclosure of a child's sexual orientation or
3 gender identity.
4

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

6 Section 1. (a) Unauthorized disclosure of a child's sexual orientation
7 or gender identity is disclosing, with no requirement of a culpable mental
8 state, the sexual orientation or gender identity of a child under the age of
9 18 without the written or verbal consent of such child or such child's
10 parent or legal guardian by a person who is in a position of trust with
11 respect to such child.

12 (b) Aggravated unauthorized disclosure of a child's sexual orientation
13 or gender identity is disclosing the sexual orientation or gender identity of
14 a child under the age of 18 without the written or verbal consent of such
15 child or such child's parent or legal guardian by a person who is in a
16 position of trust with respect to such child with the intent to harass,
17 embarrass, intimidate, defame or otherwise inflict emotional,
18 psychological or physical harm on such child.

19 (c) (1) Unauthorized disclosure of a child's sexual orientation or
20 gender identity is a class A person misdemeanor.

21 (2) Aggravated unauthorized disclosure of a child's sexual orientation
22 or gender identity is a severity level 9, person felony.

23 (d) It shall not be violation of this section if the person who makes
24 the unauthorized disclosure is under the age of 18 or is an immediate
25 family member of the child.

26 (e) Any person working with a child who is in the custody of the
27 secretary of the Kansas department for children and families, including
28 any employee, agent or contractor of the department, and any person or
29 agency who is by law liable to maintain, care for or support the child shall
30 not be considered a legal guardian of such child for the purposes of
31 providing written or verbal consent to disclosure of such child's sexual
32 orientation or gender identity.

33 (f) As used in this section:

34 (1) "Custody" means the status, whether temporary, protective or
35 legal, created by a court order or statute that vests in a custodian, whether
36 an individual or agency, the right to physical possession of the child and

1 the right to determine placement of the child, subject to restrictions
2 imposed by the court;

3 (2) "gender identity" means the gender-related identity, appearance,
4 mannerisms or other gender-related characteristics of an individual that do
5 not correspond to such individual's designated sex at birth;

6 (3) "immediate family member" means the father, mother, stepparent,
7 child, stepchild, sibling or grandparent of the child;

8 (4) "person who is in a position of trust" means:

9 (A) Any individual described in K.S.A. 2020 Supp. 38-2223(a)(1),
10 and amendments thereto;

11 (B) any person who works with a child in the custody of the secretary
12 of the Kansas department for children and families, including any
13 employee, agent or contractor of the department, and any person or agency
14 who is by law liable to maintain, care for or support the child; and

15 (C) any other individual who is in a position of authority with respect
16 to the child; and

17 (5) "sexual orientation" means actual, or perceived, homosexuality or
18 bisexuality by inclination, practice or expression.

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

21 Sec. 2. This act shall take effect and be in force from and after its
22 publication in the statute book.