AN ACT concerning crimes, punishment and criminal procedure; relating to sex offenses; unlawful sexual relations; law enforcement; lewd and lascivious behavior penalties; amending K.S.A. 2017 Supp. 21-5512 and 21-5513 and repealing the existing sections.

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

Section 1. K.S.A. 2017 Supp. 21-5512 is hereby amended to read as follows: 21-5512. (a) Unlawful sexual relations is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is not married to the offender if:

(1) The offender is an employee or volunteer of the department of corrections, or the employee or volunteer of a contractor who is under contract to provide services for a correctional institution, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate;

(2) the offender is a parole officer, volunteer for the department of corrections or the employee or volunteer of a contractor who is under contract to provide services for persons on parole, conditional release or postrelease supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate who has been released on parole, conditional release or postrelease supervision and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is an inmate who has been released and is currently on parole, conditional release or postrelease supervision;

(3) the offender is a law enforcement officer, an employee of a jail, or the employee of a contractor who is under contract to provide services in a jail and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such jail;

(4) the offender is a law enforcement officer, an employee of a juvenile detention facility or sanctions house, or the employee of a contractor who is under contract to provide services in such facility or sanctions house and the person with whom the offender is engaging in
consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such facility or sanctions house;

(5) the offender is an employee of the department of corrections or the employee of a contractor who is under contract to provide services in a juvenile correctional facility and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such facility;

(6) the offender is an employee of the department of corrections or the employee of a contractor who is under contract to provide direct supervision and offender control services to the department of corrections and:

(A) The person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been:

(i) Released on conditional release from a juvenile correctional facility under the supervision and control of the department of corrections or juvenile community supervision agency; or

(ii) placed in the custody of the department of corrections under the supervision and control of the department of corrections or juvenile community supervision agency; and

(B) the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is currently under supervision;

(7) the offender is an employee of the Kansas department for aging and disability services or the Kansas department for children and families or the employee of a contractor who is under contract to provide services in an aging and disability or children and families institution or to the Kansas department for aging and disability services or the Kansas department for children and families and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a patient in such institution or in the custody of the secretary for aging and disability services or the secretary for children and families;

(8) the offender is a worker, volunteer or other person in a position of authority in a family foster home licensed by the department of health and environment and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a foster child placed in the care of such family foster home;

(9) the offender is a teacher or other person in a position of authority and the person with whom the offender is engaging in consensual sexual
intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a student enrolled at the school where the offender is employed. If the offender is the parent of the student, the provisions of subsection (b) of K.S.A. 2017 Supp. 21-5604(b), and amendments thereto, shall apply, not this subsection;

(10) the offender is a court services officer or the employee of a contractor who is under contract to provide supervision services for persons under court services supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been placed on probation under the supervision and control of court services and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of court services;

(11) the offender is a community correctional services officer or the employee of a contractor who is under contract to provide supervision services for persons under community corrections supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been assigned to a community correctional services program under the supervision and control of community corrections and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of community corrections; or

(12) the offender is a surety or an employee of a surety and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is the subject of a surety or bail bond agreement with such surety and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is the subject of a surety or bail bond agreement with such surety; or

(13) the offender is a law enforcement officer and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is interacting with such law enforcement officer during the course of a traffic stop, a custodial interrogation, an interview in connection with an investigation, or while the law enforcement officer has such person detained.

(b) Unlawful sexual relations as defined in:

(1) Subsection (a)(5) is a severity level 4, person felony; and

(2) subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), (a)(10), (a)(11) or (a)(12) or (a)(13) is a severity level 5, person felony.
(c) (1) If an offender violates the provisions of this section by engaging in consensual sexual intercourse which would constitute a violation of K.S.A. 2017 Supp. 21-5503, and amendments thereto, the provisions of K.S.A. 2017 Supp. 21-5503, and amendments thereto, shall apply, not this section.

(2) If an offender violates the provisions of this section by engaging in consensual sexual intercourse which would constitute a violation of subsection (b)(1) of K.S.A. 2017 Supp. 21-5506(b)(1), and amendments thereto, the provisions of subsection (b)(1) of K.S.A. 2017 Supp. 21-5506(b)(1), and amendments thereto, shall apply, not this section.

(3) If an offender violates the provisions of this section by engaging in sodomy which would constitute a violation of subsection (a)(3), (a)(4) or (b) of K.S.A. 2017 Supp. 21-5504(a)(3), (a)(4) or (b), and amendments thereto, the provisions of subsection (a)(3), (a)(4) or (b) of K.S.A. 2017 Supp. 21-5504(a)(3), (a)(4) or (b), and amendments thereto, shall apply, not this section.

(4) If an offender violates the provisions of this section by engaging in lewd fondling or touching which would constitute a violation of subsection (b)(2) of K.S.A. 2017 Supp. 21-5506(b)(2), and amendments thereto, the provisions of subsection (b)(2) of K.S.A. 2017 Supp. 21-5506(b)(2), and amendments thereto, shall apply, not this section.

d) As used in this section:

(1) "Correctional institution" means the same as in K.S.A. 75-5202, and amendments thereto;

(2) "inmate" means the same as in K.S.A. 75-5202, and amendments thereto;

(3) "parole officer" means the same as in K.S.A. 75-5202, and amendments thereto;

(4) "postrelease supervision" means the same as in K.S.A. 2017 Supp. 21-6803, and amendments thereto;

(5) "juvenile detention facility" means the same as in K.S.A. 2017 Supp. 38-2302, and amendments thereto;

(6) "juvenile correctional facility" means the same as in K.S.A. 2017 Supp. 38-2302, and amendments thereto;

(7) "sanctions house" means the same as in K.S.A. 2017 Supp. 38-2302, and amendments thereto;

(8) "institution" means the same as in K.S.A. 76-12a01, and amendments thereto;

(9) "teacher" means and includes teachers, coaches, supervisors, principals, superintendents and any other professional employee in any public or private school offering any of grades kindergarten through 12;

(10) "community corrections" means the entity responsible for supervising adults and juvenile offenders for confinement, detention, care
or treatment, subject to conditions imposed by the court pursuant to the
community corrections act, K.S.A. 75-5290, and amendments thereto, and
the revised Kansas juvenile justice code, K.S.A. 2017 Supp. 38-2301 et
seq., and amendments thereto;
(11) "court services" means the entity appointed by the district court
that is responsible for supervising adults and juveniles placed on probation
and misdemeanants placed on parole by district courts of this state;
(12) "juvenile community supervision agency" means an entity that
receives grants for the purpose of providing direct supervision to juveniles
in the custody of the department of corrections; and
(13) "surety" means the same as in K.S.A. 22-2809a, and
amendments thereto.

Sec. 2. K.S.A. 2017 Supp. 21-5513 is hereby amended to read as
follows: 21-5513. (a) Lewd and lascivious behavior is:
(1) Publicly engaging in otherwise lawful sexual intercourse or
sodomy with knowledge or reasonable anticipation that the participants are
being viewed by others; or
(2) publicly exposing a sex organ or exposing a sex organ in the
presence of a person who is not the spouse of the offender and who has not
consented thereto, with intent to arouse or gratify the sexual desires of the
offender or another.
(b) Lewd and lascivious behavior is a as defined in:
(1) Class B nonperson misdemeanor, subsection (a)(1), if committed
in the presence of a person 16 or more years of age, is a class B nonperson
misdemeanor; and
(2) subsection (a)(2), if committed in the presence of a person 16 or
more years of age, is a severity level 10, person felony; and
(3) severity level 9, person felony, subsection (a)(1) or (a)(2), if
committed in the presence of a person under 16 years of age, is a severity
level 9, person felony.

Sec. 3. K.S.A. 2017 Supp. 21-5512 and 21-5513 are hereby repealed.
Sec. 4. This act shall take effect and be in force from and after its
publication in the statute book.