

## 2021 Kansas Statutes

- 21-5610. Unlawful possession of a visual depiction of a child.** (a) Unlawful possession of a visual depiction of a child is knowingly possessing a visual depiction of a child 12 years of age or older but less than 16 years of age in a state of nudity, if committed by a person less than 19 years of age, and the possessor of such visual depiction received such visual depiction directly and exclusively from the child who is the subject of such visual depiction.
- (b) Unlawful possession of a visual depiction of a child is a class B person misdemeanor.
- (c) It shall be an affirmative defense to any prosecution under this section that the recipient of a visual depiction of a child in a state of nudity:
- (1) Received such visual depiction without requesting, coercing or otherwise attempting to obtain such visual depiction;
  - (2) did not transmit, exhibit or disseminate such visual depiction; and
  - (3) made a good faith effort to erase, delete or otherwise destroy such visual depiction.
- (d) The provisions of this section shall not apply to possession of a visual depiction of a child in a state of nudity if the person possessing such visual depiction is the child who is the subject of such visual depiction.
- (e) 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. 2021 Supp. 21-6401(f)(1), and amendments thereto.
- (f) It shall not be unlawful for a person who is less than 19 years of age to possess a visual depiction of a child in a state of nudity who is 16 years of age or older.
- History:** L. 2016, ch. 96, § 2; July 1.