

**REPORT OF THE JUDICIAL COUNCIL ADVISORY COMMITTEE  
ON SEX OFFENSES AND REGISTRATION**

**December 13, 2019**

**COMMITTEE ASSIGNMENT**

In March 2018, Representative Russell Jennings asked the Judicial Council to study two bills relating to sex offenses and offender registration: 2018 H.B. 2738, reducing the penalties for voluntary sexual conduct between minors; and 2018 H.B. 2739, increasing registration requirements for juvenile sex offenders to match registration requirements for adults. In May 2018, Representative Blaine Finch asked that the Council expand on Rep. Jennings' request by undertaking a comprehensive review of the Kansas criminal code's sex offense structure and related registration requirements for both juveniles and adults. Rep. Finch also requested review of a third bill, 2018 S.B. 265, clarifying what conduct is excluded from the crime of incest. The Judicial Council accepted both study requests and agreed to form a new advisory committee for the project.

In February 2019, shortly after the new committee began meeting, Rep. Jennings asked that the Judicial Council expand the committee's assignment to include a review of registration requirements for drug offenders and violent offenders, in addition to sex offenders. The Council agreed to the expansion of the study. Copies of all three study requests are included as Attachments 1 through 3 at the end of this report.

**COMMITTEE MEMBERSHIP**

The members of the Advisory Committee on Sex Offenses and Registration (Committee) are:

**Hon. Ben Sexton**, Chair, Abilene; Dickinson County District Judge  
**Natalie Chalmers**, Topeka; Assistant Solicitor General

**Sheriff Jeff Cope**, Emporia

**Jason Covington**, Olathe; Johnson County Assistant District Attorney – Sex Crimes Unit

**Jeff Cowger**, Topeka; Chief Legal Counsel, Kansas Department of Corrections

**Dr. Mitchell Flesher**, Lenexa; clinical psychologist and attorney

**Sen. Randall Hardy**, Salina; State Senator from the 24<sup>th</sup> District

**Rep. Susan Humphries**, Wichita; State Representative from the 99<sup>th</sup> District

**Rep. Russell Jennings**, Lakin; State Representative from the 122<sup>nd</sup> District

**Donna Longworth**, Wichita; Sedgwick County Assistant District Attorney – Juvenile Division

**Jennifer Roth**, Topeka; Appellate Defender

**Dionne Scherff**, Overland Park; criminal defense attorney

**Phil Stein**, Shawnee; criminal defense attorney

**Seth Wescott**, Lenexa; licensed master’s level psychologist and sex offender treatment provider

**Prof. Corey Rayburn Yung**, Lawrence; KU School of Law

The Committee appreciates the continuing assistance of Natalie Scott of the Revisor’s Office.

## **STATUS OF STUDY**

The Committee began meeting in the fall of 2018. So far, the Committee has held 13 all-day meetings and has more scheduled for 2020. While the Committee has not yet completed its comprehensive review of the substantive sex offense statutes and offender registration requirements, the Committee has reached a conclusion as to each of the three bills it was asked to review. The Committee has also agreed to recommend a change in drug offender registration requirements. The Committee’s recommendations on those topics are the subject of this report.

The Committee has also reached a tentative agreement to recommend a reduction in penalties for registration violations, a mechanism for an offender to seek an indigence determination, and a return to pre-2011 registration terms for

some drug and violent offenders. If the Committee finalizes its recommendations on these topics at its December 6 meeting, those recommendations will be submitted to the Judicial Council in a separate supplemental report.

## **ATTACHMENTS**

The following documents are attached at the end of this report:

- Attachment 1 – Study request from Rep. Jennings dated March 5, 2018
- Attachment 2 – Study request from Rep. Finch dated May 10, 2018
- Attachment 3 – Study request from Rep. Jennings dated February 5, 2019
- Attachment 4 – Committee’s proposed legislation to amend registration requirements for drug offenders
- Attachment 5 – Committee’s proposed legislation to amend K.S.A. 21-5507 relating to unlawful voluntary sexual relations, and related penalty charts
- Attachment 6 – 2018 H.B. 2738, reducing penalties for voluntary sexual conduct between minors
- Attachment 7 – 2018 H.B. 2739, increasing registration requirements for juvenile sex offenders
- Attachment 8 – 2018 S.B. 265, clarifying the definition of incest

## **DRUG OFFENDER REGISTRATION**

Since 2007, Kansas has required registration of offenders convicted of drug manufacturing, possession of precursors, and distribution or possession with intent to distribute certain drugs (not including marijuana). Kansas law also requires registration for similar drug offenses from other jurisdictions and for attempts, conspiracies and solicitations to commit these offenses. K.S.A. 22-4902(f). Drug offenders are required to register for 15 years; report in person four times per year to the registering law enforcement agency of any county where the offender lives,

works, or attends school; and pay a \$20 fee each time. K.S.A. 22-4906(a)(1); K.S.A. 22-4905(b)(2) and (l). (While the registering agency may, in its discretion, allow one of the four reports to be done by certified letter, the Committee is not aware of any agency using this option.)

There are more than 5,400 registered drug offenders in Kansas, representing roughly one quarter of all registered offenders. (There are more than 21,000 registered offenders; approximately half are sex offenders, one quarter are violent offenders, and one quarter are drug offenders.) Over the last five years, more than 450 new drug offenders were added to the registry each year.

Kansas is one of only a small handful of states that register drug offenders. Some of those states focus only on methamphetamine-related offenses, and some maintain a database or list of offenders but do not impose an ongoing duty on offenders to report to a registering agency.

Importantly, Kansas appears to be the only state that makes public the addresses of offenders convicted of possession and distribution offenses. For example, California's drug registration is available only to law enforcement, and Oklahoma makes the information available only to law enforcement and those who sell pseudoephedrine. In Illinois, Minnesota, and Tennessee, the public can search for a list of offender names by county, but specific addresses are not available. While Montana make addresses of some drug offenders public, Montana only registers drug offenders convicted of operating an unlawful clandestine drug lab.

Kansas also appears to be the only state to require drug offenders to register for 15 years. Most of the states mentioned above maintain an offender's information on their registry for ten years, and California requires registration for five years.

The Committee heard from Scott Schultz, Executive Director of the Sentencing Commission, who explained that the Sentencing Commission has introduced a bill to repeal registration requirements for all drug offenders. The

Commission is concerned about registered offenders being approached at their homes by persons seeking to buy drugs, although evidence of this happening is only anecdotal to date. The Commission is also concerned that requiring drug offenders to register publicly can put them at risk from former associates, and can negatively impact their reintegration by impeding their ability to find housing and employment.

The Committee shares the Sentencing Commission's concerns. Accordingly, the Committee recommends that registration requirements for drug offenders convicted of manufacturing offenses remain as under current law (15 years of public registration), but that requirements for drug offenders convicted of possession and distribution offenses be amended to five years of private registration, with the information being available only to law enforcement. A bill draft containing the Committee's recommendations may be found at Attachment 4.

### **2018 H.B. 2738 – REDUCING PENALTIES FOR VOLUNTARY CONDUCT BETWEEN MINORS**

House Bill 2738 (Attachment 6) was requested by Rep. Boog Highberger, and he attended several Committee meetings and provided some background on the bill. He explained that the impetus for the bill was a constituent whose 14-year-old child had faced the possibility of serious criminal consequences for a voluntary encounter with another child who was 13. The bill was intended to decrease penalties and, in some cases, decriminalize voluntary sexual conduct between minors who are close in age.

Under current law, K.S.A. 21-5507 (sometimes known as the "Romeo and Juliet" provision) reduces penalties for voluntary sexual conduct between an offender and a child when the child is 14 or 15 years old and the offender is less than 19 and less than four years older than the child. Offenses under K.S.A. 21-

5507 are classified as severity level 8, 9, or 10 person felonies depending on the conduct.

However, K.S.A. 21-5507 does not apply to voluntary conduct between an offender and a child under 14. Rather, voluntary conduct involving children under 14 falls under the rape, aggravated criminal sodomy, and aggravated indecent liberties statutes. See K.S.A. 21-5503(a)(3); 21-5504(b)(1); and 21-5506(b)(3). This is true even if the offender is also a child close in age. Under these statutes, offenses are classified as severity level 1 or 3 person felonies, or even offgrid felonies if the offender is 18 or older.

H.B. 2738 would have amended K.S.A. 21-5507 to apply to voluntary conduct between children as young as 10, and it would have decriminalized voluntary conduct between children within an age range of 11 to 14, based on the premise that sexual experimentation between children in that age range is better handled by parents, teachers and counselors than by the juvenile justice system.

H.B. 2738 also would have repealed the provision in K.S.A. 21-5507 allowing reduced penalties only when the offender and child are of the opposite sex. This provision was declared unconstitutional almost 15 years ago by the Kansas Supreme Court in *State v. Limon*, 280 Kan. 275, 122 P.3d 22 (2005).

The Committee generally agreed with the rationale behind the introduction of H.B. 2738 but had some concern about entirely decriminalizing sexual conduct between children within a certain age range. The Committee believes that the point of having criminal penalties for voluntary sexual conduct between minors is to allow the state to intervene and provide services for juveniles in need, not simply to impose punishment.

As an alternative to H.B. 2738, the Committee is recommending proposed amendments to K.S.A. 21-5507 that would change current law as follows:

- Lower the age of the child victim from a range of 14-15 to 10-15;
- Make voluntary intercourse and voluntary sodomy the same severity level, consistent with other statutes;
- Provide that, when an offender is under the age of 13, the offense of unlawful voluntary sexual relations is a class A misdemeanor;
- Reduce penalties for offenders between the ages of 13 to 18 so that they would range from a class A misdemeanor to a severity level 9 person felony, depending on the conduct involved and the difference in age between the offender and child;
- Determine the difference in age based on months rather than years;
- Delete the unconstitutional requirement that the offender and child be members of the opposite sex; and
- Make clear that no offender may be required to register for the offense of unlawful voluntary sexual relations.

The Committee is recommending calculating the age range between the offender and child in months rather than years based on input from Rep. Highberger. He pointed out that two minors who are, for example, 14 and 17 years old may actually be anywhere from 25 months to 47 months apart in age. He suggested that the Committee set the age gap in terms of months rather than years to avoid any misinterpretation, and the Committee agreed.

The Committee understands that prosecutorial discretion plays an important role in when minors are actually charged for voluntary sexual conduct. The Committee's proposed changes are not intended to encourage prosecutors to charge minors; rather, they are intended to be a more accurate reflection of the seriousness of the conduct involved.

A bill draft containing the Committee's recommended amendments, and penalty charts showing offense levels under the Committee's proposal and under current law may be found at Attachment 5. A copy of 2018 H.B. 2738 may be found at Attachment 6.

## **2018 H.B. 2739 – INCREASING REGISTRATION REQUIREMENTS FOR JUVENILE SEX OFFENDERS**

Current law gives the district court some discretion in ordering registration for most juvenile sex offenders. For example, for juvenile sex offenders under 14 who are adjudicated for a sexually violent crime under K.S.A. 22-4902(c), a court may require public registration until age 18 or five years from the date of adjudication or release from incarceration, whichever is longer; private registration only; or no registration at all. There are only a handful of serious sex offenses -- *e.g.* rape and aggravated criminal sodomy -- for which a juvenile offender age 14 or older must be ordered to register for life.

House Bill 2739 (Attachment 7) would have removed that discretion and required a court to order any juvenile offender convicted of any sexually violent crime to register for life. At a hearing in the House Corrections and Juvenile Justice Committee, that committee heard testimony from the family of a young woman and her daughter who were murdered by a juvenile sex offender. The family believed that if the offender had been required to register publicly, the victim might have had the opportunity to find out about the offender's past and would not have welcomed him into her home.

According to proponents, the bill was intended to change the registration requirements for juvenile sex offenders to match those of adult sex offenders. In fact, H.B. 2739 would have not only made juvenile sex offenders subject to the same registration requirements as adults, in many cases, it would have resulted in even longer registration terms for juvenile sex offenders than for adults convicted of the same offense. Adult sex offenders may be required to register for 15 years, 25 years, or life depending on the crime of conviction. But H.B. 2739 would have required juveniles to register for life for any act which, if committed by an adult, would have constituted a "sexually violent crime" under K.S.A. 22-4902(c). Many of the crimes listed in that statute as "sexually violent crimes" carry registration terms of only 15 or 25 years for adults.

As just one example, promoting the sale of sexual relations is a sexually violent crime under K.S.A. 22-4902(c), but an adult convicted of that crime is required to register for only 15 years. K.S.A. 22-4906(a)(1)(C). Under H.B. 2739, a juvenile offender adjudicated for the same offense would be required to register for life.

The Committee unanimously agreed with opponents of the bill that juvenile offenders should not be treated the same as (or more severely than) adults. Opponents argued that juveniles who commit sex offenses should be offered psychological help rather than publicly labeling them as sex offenders for life. Requiring public registration can increase the risk of juvenile offenders being victimized themselves. This bill is contrary to the legislature's efforts in recent years to reform the juvenile justice system, which treats juveniles differently for a reason – their brains are not done maturing. Furthermore, there is no evidence that registration requirements have any effect on recidivism rates or accurately identify those juveniles at highest risk of reoffending.

Accordingly, the Committee voted unanimously to disapprove 2018 H.B. 2739. As the Committee continues its comprehensive review of registration requirements for juveniles, it may ultimately make some recommendations for change in that area, but those recommendations will not include making registration even more onerous.

### **2018 S.B. 265 – AMENDING THE DEFINITION OF INCEST**

Senate Bill 265 (Attachment 8) was requested by the Attorney General and would have amended the definition of incest to clarify that the phrase, “otherwise lawful sexual intercourse or sodomy” does not include the offenses of rape and aggravated criminal sodomy, since those acts are not “otherwise lawful.”

The bill was intended to address a recent unpublished Court of Appeals decision, *State v. Toothman*, No. 114,944, 2017 WL 2494953 (Kan. App. 2017). In

*Toothman*, the Court of Appeals followed an older line of case law in holding that a defendant who had a familial relationship with the victim could only be convicted and sentenced for aggravated incest, because that is a more specific crime than aggravated sodomy or rape. The *Toothman* panel, however, failed to note that the cases it relied upon were outdated in that they were interpreting a pre-1993 version of the aggravated incest statute.

On petition for review, the Supreme Court reversed, cautioning the Court of Appeals that it should not have raised a new issue *sua sponte* without giving the parties a chance to brief the issue and point out the panel's error. The Supreme Court noted that the aggravated incest statute had been amended in 1993, and under the definition in effect since that time, it has been clear that aggravated incest is not a more specific crime than aggravated criminal sodomy or rape, because aggravated incest requires "otherwise lawful sexual intercourse or sodomy." *State v. Toothman*, No. 114,944, \_\_ Kan. \_\_, 448 P.3d 1039 (Sept. 6, 2019).

Given the Supreme Court's reversal of the Court of Appeals' erroneous ruling in *Toothman*, the Committee believes the clarification proposed by the Attorney General's office in 2018 S.B. 265 is no longer necessary. Natalie Chalmers, who represents the Attorney General's office on the Committee, concurs.

## **CONCLUSION**

The Committee recommends the attached proposed legislation amending registration requirements for drug offenders and decreasing penalties for voluntary sexual conduct between minors. The Committee recommends no action on the topics covered by 2018 H.B. 2738 and 2018 S.B. 265.

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HOUSE OF REPRESENTATIVES

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J. RUSSELL JENNINGS  
122ND DISTRICT

March 5, 2018

Nancy Strouse, Executive Director  
Kansas Judicial Council  
301 SW 10<sup>th</sup> Avenue  
Topeka, Kansas 66612

Dear Nancy:

I am writing to request Judicial Council study of two related topics that arose during the consideration of two bills by the House Committee on Corrections and Juvenile Justice during the 2018 Session. After considering these bills, I believe that a more in-depth consideration of the issues raised by the legislation would be appropriate and desirable before advancing the legislation.

**HB 2738 – Changing criminal penalties for sexual conduct between minors**

**HB 2739 – Changing the requirements for juvenile offenders required to register for sex offenses to match the requirement for adults**

HB 2738, as introduced by the House Committee on Corrections and Juvenile Justice, would amend the crime of unlawful voluntary sexual relations (the "Romeo and Juliet" statute) to replace current penalty provisions with a penalty grid that would provide for varying penalties based on the ages of and difference in ages between the offender and victim.

HB 2739, as introduced by the House Committee on Corrections and Juvenile Justice, would amend the Kansas Offender Registration Act to remove provisions that currently allow some discretion to the court in imposing registration requirements on juvenile offenders who commit an act defined as a sexually violent crime for adults. The bill would instead require the same lifetime registration for juveniles that is currently required for adults who commit such crimes.

I would appreciate the Judicial Council's study of this legislation and the underlying topics of offenses involving voluntary sexual acts between minors and the registration of juveniles who commit sex offenses, including any recommendations regarding passage or amendment of the above legislation.

Please let me know if I can provide any further information or answer any questions regarding this request.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Russell Jennings".

Representative J. Russell Jennings  
Chairman, House Committee on Corrections and Juvenile Justice

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HOUSE OF REPRESENTATIVES

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BLAINE FINCH  
59TH DISTRICT

May 10, 2018

Nancy Strouse, Executive Director  
Kansas Judicial Council  
301 SW 10<sup>th</sup> Avenue  
Topeka, Kansas 66612

Dear Nancy:

I understand my colleague, Rep. Jennings, has requested Judicial Council study of topics related to juvenile sex offenses raised by HB 2738 and HB 2739.

During this biennium, the House Committee on Judiciary has also been presented with several bills regarding sex offenses. The latest of these bills was

**SB 265 – Clarifying what conduct is excluded from the crime of incest**

SB 265 was introduced at the request of the Office of the Attorney General and would have amended the crime of incest to specify the phrase “otherwise lawful sexual intercourse or sodomy” does not include the crimes of rape or aggravated criminal sodomy, as defined in the Kansas Criminal Code. In testimony before the House and Senate Committees on Judiciary, a representative of the Attorney General’s Office explained the bill was intended to address the recent Kansas Court of Appeals decision in *State v. Toothman*.

The issues raised by SB 265, HB 2738, HB 2739, and other legislation introduced during this biennium suggest that a more comprehensive look at the Kansas Criminal Code’s sex offense structure and related registration requirements may be in order to ensure these statutes have been updated and otherwise amended to address recent caselaw and practical application issues such as those underlying the bills listed above. Thus, I am writing to request the Judicial Council consider undertaking a study that broadens Rep. Jennings’ request and considers amendments to Kansas’ sex offense statutes and related registration requirements, for both juveniles and adults, to address issues raised by recent caselaw, technological advancements and other practical application issues, and possible implementation of best practices undertaken in other states regarding sex offense policy.

Please let me know if I can provide any further information or answer any questions regarding this request.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Blaine Finch". The signature is written in a cursive style with a prominent initial "B" and "F".

**Representative Blaine Finch  
Chairman, House Committee on Judiciary**

STATE OF KANSAS  
HOUSE OF REPRESENTATIVES

Attachment #3

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J. RUSSELL JENNINGS  
122ND DISTRICT

February 5, 2019

Nancy Strouse, Executive Director  
Kansas Judicial Council  
301 SW 10<sup>th</sup> Avenue  
Topeka, Kansas 66612

Dear Nancy:

Last year, Representative Blaine Finch and I requested Judicial Council study of topics that arose during consideration of bills regarding juvenile sex offenses, registration requirements for juvenile sex offenses, and adult sex offenses. The Judicial Council accepted these requests and assigned the topics for study to an advisory committee whose work is ongoing.

As a member of the advisory committee and as chair of the House Committee on Corrections and Juvenile Justice, it has come to my attention that there are matters relating to registration of drug offenders and violent offenders that overlap with the previous topics assigned to the advisory committee and would benefit from the advisory committee's consideration. Study of such matters also would assist the Legislature's consideration of legislation such as HB 2051, introduced by the House Committee on Corrections and Juvenile Justice earlier this year, which would remove drug offenders from offender registration requirements.

Thus, I would appreciate the Judicial Council's expansion of the scope of study by the Sex Offenses and Registration Advisory Committee to include the topics of registration of drug offenders and violent offenders.

Please let me know if I can provide any further information or answer any questions regarding this request.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Russell Jennings".

Representative J. Russell Jennings  
Chairman, House Committee on Corrections and Juvenile Justice

cc: Hon. Ben Sexton, chair, Advisory Committee on Sex Offenders and Registration  
Christy Molzen, staff attorney, Kansas Judicial Council

2020

HOUSE BILL NO. \_\_\_\_\_

AN ACT concerning the Kansas offender registration act; amending K.S.A. 2019 Supp. 22-4906 and 22-4909 and repealing the existing sections.

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

Section 1. K.S.A. 2019 Supp. 22-4906 is hereby amended to read as follows: 22-4906.

(a) (1) Except as provided in subsection-(e) (d), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:

(A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2019 Supp. 21-5505(a), and amendments thereto;

(B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2019 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;

(C) promoting the sale of sexual relations, as defined in K.S.A. 2019 Supp. 21-6420, and amendments thereto;

(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2019 Supp. 21-6421, prior to its amendment by section 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, when one of the parties involved is less than 18 years of age;

(E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2019 Supp. 21-5513, and amendments thereto, when one of the parties involved is less than 18 years of age;

(F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2019 Supp. 21-5401, and amendments thereto;

(G) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2019 Supp. 21-5402, and amendments thereto;

(H) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2019 Supp. 21-5403, and amendments thereto;

(I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2019 Supp. 21-5404, and amendments thereto;

(J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2019 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto;

(K) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2019 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age;

(L) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;

(M) conviction of any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act;

(N) conviction of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

(O) unlawful manufacture or attempting such of any controlled substance or controlled substance analog, as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2019 Supp. 21-5703, and amendments thereto; or

(P) ~~possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium~~

~~metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2019 Supp. 21-5709(a), and amendments thereto;~~

~~(Q) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or K.S.A. 2019 Supp. 21-5705(a)(1), and amendments thereto; or~~

~~(R) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2019 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.~~

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 15 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(b) (1) Except as provided in subsection ~~(e)~~ (d), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the date of conviction:

(A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its repeal, or K.S.A. 2019 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto, when one of the parties involved is less than 18 years of age;

(B) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2019 Supp. 21-5508(a), and amendments thereto;

(C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, or K.S.A. 2019 Supp. 21-5509, and amendments thereto;

(D) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2019 Supp. 21-5604(b), and amendments thereto;

(E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2019 Supp. 21-5506(a), and amendments thereto;

(F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2019 Supp. 21-5512, and amendments thereto;

(G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2019 Supp. 21-5510, and amendments thereto, if the victim is 14 or more years of age but less than 18 years of age;

(H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2019 Supp. 21-5505(b), and amendments thereto;

(I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2019 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is 14 or more years of age but less than 18 years of age; or

(J) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2019 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 25 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or

correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(c)(1) Except as provided in subsection (d), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, five years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, five years from the date of conviction:

(A) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2019 Supp. 21-5709(a), and amendments thereto;

(B) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or K.S.A. 2019 Supp. 21-5705(a)(1), and amendments thereto; or

(C) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2019 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of five years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(d) Upon a second or subsequent conviction of an offense requiring registration, an offender's duration of registration shall be for such offender's lifetime.

(d)(e) The duration of registration for any offender who has been convicted of any of the following offenses shall be for such offender's lifetime:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2019 Supp. 21-5503, and amendments thereto;

(2) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2019 Supp. 21-5508(b), and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2019 Supp. 21-5506(b), and amendments thereto;

(4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2019 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2019 Supp. 21-5504(b), and amendments thereto;

(6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2019 Supp. 21-5426(b), and amendments thereto;

(7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2019 Supp. 21-5510, and amendments thereto, if the victim is less than 14 years of age;

(8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2019 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is less than 14 years of age;

(9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or K.S.A. 2019 Supp. 21-5408(a), and amendments thereto;

(10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or K.S.A. 2019 Supp. 21-5408(b), and amendments thereto;

(11) commercial sexual exploitation of a child, as defined in K.S.A. 2019 Supp. 21-6422, and amendments thereto; or

(12) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2019 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(~~e~~)(f) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

(~~f~~)(g) Notwithstanding any other provisions of this section, for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at

the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

~~(g)~~(h) Notwithstanding any other provisions of this section, for an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2019 Supp. 21-6804, and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such

court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

~~(h)~~(i) Notwithstanding any other provisions of this section, an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2019 Supp. 21-6804, and amendments thereto, shall be required to register for such offender's lifetime.

~~(i)~~(j) Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender registration act for an offense that would not otherwise require registration as provided in K.S.A. 22-4902(a)(5), and amendments thereto, then all provisions of the Kansas offender registration act shall apply, except that the duration of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

~~(j)~~(k) The duration of registration does not terminate if the convicted or adjudicated offender again becomes liable to register as provided by the Kansas offender registration act during the required period of registration.

~~(k)~~(l) For any person moving to Kansas who has been convicted or adjudicated in an out-of-state court, or who was required to register under an out-of-state law, the duration of registration shall be the length of time required by the out-of-state jurisdiction or by the Kansas offender registration act, whichever length of time is longer. The provisions of this subsection

shall apply to convictions or adjudications prior to June 1, 2006, and to persons who moved to Kansas prior to June 1, 2006, and to convictions or adjudications on or after June 1, 2006, and to persons who moved to Kansas on or after June 1, 2006.

(~~h~~)(m) For any person residing, maintaining employment or attending school in this state who has been convicted or adjudicated by an out-of-state court of an offense that is comparable to any crime requiring registration pursuant to the Kansas offender registration act, but who was not required to register in the jurisdiction of conviction or adjudication, the duration of registration shall be the duration required for the comparable offense pursuant to the Kansas offender registration act.

(n) Registration information for a person required to register for an offense described in subsection (c), shall be made available only to law enforcement and shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto.

Sec. 2. K.S.A. 2019 Supp. 22-4909 is hereby amended to read as follows: 22-4909. (a) Except as prohibited by subsections (c), (d), (e) ~~and~~, (f) ~~and~~ (g) of this section and subsections (f) ~~and~~ (g) of K.S.A. 22-4906(g), (h) and (n), and amendments thereto, the statements or any other information required by the Kansas offender registration act shall be open to inspection by the public at the registering law enforcement agency, at the headquarters of the Kansas bureau of investigation and on any internet website sponsored or created by a registering law enforcement agency or the Kansas bureau of investigation that contains such statements or information, and specifically are subject to the provisions of the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

(b) Any information posted on an internet website sponsored or created by a registering

law enforcement agency or the Kansas bureau of investigation shall identify, in a prominent manner, whether an offender is a sex offender, a violent offender or a drug offender. Such internet websites shall include the following information for each offender:

- (1) Name of the offender, including any aliases;
  - (2) address of each residence at which the offender resides or will reside and, if the offender does not have any present or expected residence address, other information about where the offender has their home or habitually lives. If current information of this type is not available because the offender is in violation of the requirement to register or cannot be located, the website must so note;
  - (3) temporary lodging information;
  - (4) address of any place where the offender is a student or will be a student;
  - (5) license plate number and a description of any vehicle owned or operated by the offender, including any aircraft or watercraft;
  - (6) physical description of the offender;
  - (7) the offense or offenses for which the offender is registered and any other offense for which the offender has been convicted or adjudicated;
  - (8) a current photograph of the offender; and
  - (9) all professional licenses, designations and certifications.
- (c) Notwithstanding subsection (a), information posted on an internet website sponsored or created by a registering law enforcement agency or the Kansas bureau of investigation shall not contain the address of any place where the offender is an employee or any other information about where the offender works. Such internet website shall contain a statement that employment information is publicly available and may be obtained by contacting

the appropriate registering law enforcement agency or by signing up for community notification through the official website of the Kansas bureau of investigation.

(d) Notwithstanding subsection (a), pursuant to a court finding petitioned by the prosecutor, any offender who is required to register pursuant to the Kansas offender registration act, but has been provided a new identity and relocated under the federal witness security program or who has worked as a confidential informant, or is otherwise a protected witness, shall be required to register pursuant to the Kansas offender registration act, but shall not be subject to public registration.

(e) Notwithstanding subsection (a), when a court orders expungement of a conviction or adjudication that requires an offender to register pursuant to the Kansas offender registration act, the registration requirement for such conviction or adjudication does not terminate. Such offender shall be required to continue registering pursuant to the Kansas offender registration act, but shall not be subject to public registration. If a court orders expungement of a conviction or adjudication that requires an offender to register pursuant to the Kansas offender registration act, and the offender has any other conviction or adjudication that requires registration, such offender shall be required to register pursuant to the Kansas offender registration act, and the registration for such other conviction or adjudication shall be open to inspection by the public and shall be subject to the provisions of subsection (a), unless such registration has been ordered restricted pursuant to subsection (f) or (g) of K.S.A. 22-4906(g) or (h), and amendments thereto.

(f) Notwithstanding subsection (a), the following information shall not be disclosed other than to law enforcement agencies:

(1) The name, address, telephone number or any other information which specifically and individually identifies the identity of any victim of a registerable offense;

- (2) the social security number of the offender;
- (3) the offender's criminal history arrests that did not result in convictions or adjudications;
- (4) travel and immigration document numbers of the offender; and
- (5) internet identifiers of the offender.

(g) Notwithstanding subsection (a), registration information for a person whose registration has been ordered restricted pursuant to K.S.A. 22-4906(g), (h) or (n), and amendments thereto, shall be made available only to law enforcement and shall not be open to inspection by the public or posted on any internet website pursuant to this section.

Sec. 3. K.S.A. 2019 Supp. 22-4906 and 22-4909 are hereby repealed.

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



**21-5507. Unlawful voluntary sexual relations.**

(a) Unlawful voluntary sexual relations is:

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

(A) Voluntary sexual intercourse or voluntary sodomy; or

~~(B) voluntary sodomy; or~~

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

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

(B) when the offender is 13 years of age or older but less than 19 years of age, and the offender and the child are less than 48 months apart in age; and

~~(3) when the offender is less than four years of age older than the child;~~

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

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

(b) Unlawful voluntary sexual relations as defined in:

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

(A) A class A person misdemeanor if the offender is less than 13 years of age;

(B) A class A person misdemeanor if the offender and the child are less than 24 months apart in age; and

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

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

(A) A class A person misdemeanor if the offender is less than 13 years of age;

(B) A class A person misdemeanor if the offender and the child are less than 24 months apart in age; and

(C) A severity level 10, person felony if the offender and the child are 24 or more months but less than 48 months apart in age, and the offender is 13 or more years of age.

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

**22-4902. Definitions.** As used in the Kansas offender registration act, unless the context otherwise requires:

(a) "Offender" means:

(1) A sex offender;

(2) a violent offender;

(3) a drug offender;

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

- (5) any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act.
- (b) "Sex offender" includes any person who:
- (1) On or after April 14, 1994, is convicted of any sexually violent crime;
  - (2) on or after July 1, 2002, is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;
  - (3) has been determined to be a sexually violent predator;
  - (4) on or after July 1, 1997, is convicted of any of the following crimes when one of the parties involved is less than 18 years of age:
    - (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2018 Supp. 21-5511, and amendments thereto;
    - (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its repeal, or K.S.A. 2018 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto;
    - (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2018 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;
    - (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2018 Supp. 21-6421, prior to its amendment by section 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or
    - (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2018 Supp. 21-5513, and amendments thereto;
  - (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto;
  - (6) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense defined in this subsection; or
  - (7) has been convicted of an offense that is comparable to any crime defined in this subsection, or any out-of-state conviction for an offense that under the laws of this state would be an offense defined in this subsection.
- (c) "Sexually violent crime" means:
- (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2018 Supp. 21-5503, and amendments thereto;
  - (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto;
  - (3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and amendments thereto;

- (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2018 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;
- (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto;
- (6) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments thereto;
- (7) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and amendments thereto;
- (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto;
- (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2018 Supp. 21-5505(b), and amendments thereto;
- (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto;
- (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, and K.S.A. 2018 Supp. 21-5509, and amendments thereto;
- (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2018 Supp. 21-5512, and amendments thereto;
- (13) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;
- (14) commercial sexual exploitation of a child, as defined in K.S.A. 2018 Supp. 21-6422, and amendments thereto;
- (15) promoting the sale of sexual relations, as defined in K.S.A. 2018 Supp. 21-6420, and amendments thereto;
- (16) any conviction or adjudication for an offense that is comparable to a sexually violent crime as defined in this subsection, or any out-of-state conviction or adjudication for an offense that under the laws of this state would be a sexually violent crime as defined in this subsection;
- (17) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this subsection; or
- (18) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim. As used in this paragraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

- (d) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.
- (e) "Violent offender" includes any person who:
- (1) On or after July 1, 1997, is convicted of any of the following crimes:
    - (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2018 Supp. 21-5401, and amendments thereto;
    - (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments thereto;
    - (C) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments thereto;
    - (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto;
    - (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2018 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto. The provisions of this paragraph shall not apply to violations of K.S.A. 2018 Supp. 21-5405(a)(3), and amendments thereto, which occurred on or after July 1, 2011, through July 1, 2013;
    - (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or K.S.A. 2018 Supp. 21-5408(a), and amendments thereto;
    - (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or K.S.A. 2018 Supp. 21-5408(b), and amendments thereto;
    - (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2018 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age; or
    - (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments thereto, if not committed in whole or in part for the purpose of the sexual gratification of the defendant or another;
  - (2) on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;
  - (3) has been convicted of an offense that is comparable to any crime defined in this subsection, any out-of-state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or
  - (4) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.
- (f) "Drug offender" includes any person who, on or after July 1, 2007:
- (1) Is convicted of any of the following crimes:

- (A) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog, as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2018 Supp. 21-5703, and amendments thereto;
- (B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2018 Supp. 21-5709(a), and amendments thereto;
- (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or K.S.A. 2018 Supp. 21-5705(a)(1), and amendments thereto. The provisions of this paragraph shall not apply to violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b) which occurred on or after July 1, 2009, through April 15, 2010;
- (2) has been convicted of an offense that is comparable to any crime defined in this subsection, any out-of-state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or
- (3) is or has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.
- (g) Convictions or adjudications which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction or adjudication. Any conviction or adjudication set aside pursuant to law is not a conviction or adjudication for purposes of this section. A conviction or adjudication from any out-of-state court shall constitute a conviction or adjudication for purposes of this section.
- (h) "School" means any public or private educational institution, including, but not limited to, postsecondary school, college, university, community college, secondary school, high school, junior high school, middle school, elementary school, trade school, vocational school or professional school providing training or education to an offender for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.
- (i) "Employment" means any full-time, part-time, transient, day-labor employment or volunteer work, with or without compensation, for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.
- (j) "Reside" means to stay, sleep or maintain with regularity or temporarily one's person and property in a particular place other than a location where the offender is incarcerated. It shall be presumed that an offender resides at any and all locations where the offender stays, sleeps or maintains the offender's person for three or more consecutive days or parts of days, or for ten or more nonconsecutive days in a period of 30 consecutive days.

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

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

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

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

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

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

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

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

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

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

(A) Convicted of unlawful transmission of a visual depiction of a child, as defined in K.S.A. 2018 Supp. 21-5611(a), and amendments thereto, aggravated unlawful transmission of a visual depiction of a child, as defined in K.S.A. 2018 Supp. 21-5611(b), and amendments thereto, or unlawful possession of a visual depiction of a child, as defined in K.S.A. 2018 Supp. 21-5610, and amendments thereto; or

(B) adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a crime defined in subsection (t)(1)(A); or  
(C) convicted of unlawful voluntary sexual relations, as defined in K.S.A. 21-5507, and amendments thereto, or adjudicated as a juvenile offender for an act which if committed by an adult would constitute a violation of K.S.A. 21-5507, and amendments thereto.

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

**Penalties for voluntary sexual contact under current law**

		Age of the person being charged										
		≤11	12	13	14	15	16	17	18	≥19		
Age of the child	≤11	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	og/og/og	og/og/og		
	12	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	og/og/og	og/og/og		
	13	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	og/og/og	og/og/og		
	14	8/9/10 ?	8/9/10 ?	8/9/10 ?	8/9/10	8/9/10	8/9/10	8/9/10	3/3/5	3/3/5		
	15	8/9/10 ?	8/9/10 ?	8/9/10 ?	8/9/10 ?	8/9/10	8/9/10	8/9/10	8/9/10	3/3/5		
	≥16											

sexual intercourse sodomy lewd fondling or touching	NA	KSA 21-5504(a)(1)	NA	NA	NA	NA	NA	NA	NA	NA
	KSA 21-5504(a)(1)	NA	NA	NA	NA	NA	NA	NA	NA	NA
	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
sexual intercourse sodomy lewd fondling or touching	KSA 21-5507(b)(1)	KSA 21-5507(b)(1)	KSA 21-5507(b)(2)	KSA 21-5507(b)(3)	8 person felony	9 person felony	10 person felony	8/9/10	8/9/10	3/3/5
	KSA 21-5507(b)(2)	KSA 21-5507(b)(3)	8 person felony	9 person felony	10 person felony	8/9/10	8/9/10	8/9/10	8/9/10	3/3/5
	KSA 21-5507(b)(3)	8 person felony	9 person felony	10 person felony	8/9/10	8/9/10	8/9/10	8/9/10	8/9/10	3/3/5
sexual intercourse sodomy lewd fondling or touching	KSA 21-5506(b)(1)	KSA 21-5506(b)(1)	KSA 21-5506(a)(3)	KSA 21-5506(a)(1)	3 person felony	3 person felony	5 person felony	8/9/10	8/9/10	3/3/5
	KSA 21-5506(b)(1)	KSA 21-5506(a)(3)	KSA 21-5506(a)(1)	3 person felony	3 person felony	5 person felony	8/9/10	8/9/10	8/9/10	3/3/5
	KSA 21-5506(a)(3)	KSA 21-5506(a)(1)	3 person felony	3 person felony	5 person felony	8/9/10	8/9/10	8/9/10	8/9/10	3/3/5
sexual intercourse sodomy lewd fondling or touching	KSA 21-5503(b)(2)	KSA 21-5503(b)(2)	KSA 21-5504(c)(3)	KSA 21-5506(c)(3)	off-grid felony	off-grid felony	off-grid felony	8/9/10	8/9/10	3/3/5
	KSA 21-5503(b)(2)	KSA 21-5504(c)(3)	KSA 21-5506(c)(3)	off-grid felony	off-grid felony	off-grid felony	8/9/10	8/9/10	8/9/10	3/3/5
	KSA 21-5504(c)(3)	KSA 21-5506(c)(3)	off-grid felony	off-grid felony	off-grid felony	8/9/10	8/9/10	8/9/10	8/9/10	3/3/5
sexual intercourse sodomy lewd fondling or touching	KSA 21-5503(b)(1)	KSA 21-5503(b)(1)	KSA 21-5504(b)(1)	KSA 21-5506(b)(3)	1 person felony	1 person felony	3 person felony	8/9/10	8/9/10	3/3/5
	KSA 21-5503(b)(1)	KSA 21-5504(b)(1)	KSA 21-5506(b)(3)	1 person felony	1 person felony	3 person felony	8/9/10	8/9/10	8/9/10	3/3/5
	KSA 21-5504(b)(1)	KSA 21-5506(b)(3)	1 person felony	1 person felony	3 person felony	8/9/10	8/9/10	8/9/10	8/9/10	3/3/5

? Boxes marked 8/9/10 ? – It is not entirely clear whether the Romeo and Juliet statute applies to offenses where the child charged is younger than the child “victim.” For the statute to apply, the offender must be “less than four years of age older than the child” and the child must be 14 or 15. By definition, a 12-year-old is less than four years of age older than a 14-year-old. If the Romeo and Juliet statute does not apply, the penalty for the boxes marked with a question mark would be SL 1/1/3.



Session of 2018

**HOUSE BILL No. 2738**

By Committee on Corrections and Juvenile Justice

2-9

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
 2 to sex crimes; unlawful voluntary sexual relations; penalties; amending  
 3 K.S.A. 2017 Supp. 21-5503, 21-5504, 21-5506, 21-5507, 21-5508, 21-  
 4 5509 and 22-4902 and repealing the existing sections.

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

7 Section 1. K.S.A. 2017 Supp. 21-5507 is hereby amended to read as  
 8 follows: 21-5507. (a) Unlawful voluntary sexual relations is:

9 (1) ~~engaging in any of the following acts with a child who is 14 10 or~~  
 10 ~~more years of age but less than 16 19 years of age when the child and the~~  
 11 ~~offender are the only parties involved:~~

12 ~~(A)(1) Voluntary sexual intercourse;~~

13 ~~(B)(2) voluntary sodomy; or~~

14 ~~(C)(3) voluntary lewd fondling or touching;~~

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

16 ~~(3) when the offender is less than four years of age older than the~~  
 17 ~~child;~~

18 ~~(4) when the child and the offender are the only parties involved; and~~

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

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

21 (1) Subsection (a)(1)(A) is a severity level 8, person felony carries  
 22 the following penalties based on the age of the offender and the age of the  
 23 child, with each grid block indicating the severity level of a person felony  
 24 or the class of a person misdemeanor;

		Age of child								
		≤10	11	12	13	14	15	16	17	18
Age of offender	≤10		1	1	1	1	1	1	1	offerid
	11	1					1	1	1	offerid
	12	1					8	8	3	offerid
	13	1					A	8	8	3
	14	1						A	A	8
	15	1	1	8	A				A	A
	16	1	1	8	8	A				
	17	1	1	3	8	A	A			
	18	offerid	offerid	offerid	3	8	A			

25 (2) subsection (a)(1)(B) is a severity level 9, person felony(2) carries

1 the following penalties based on the age of the offender and the age of the  
 2 child, with each grid block indicating the severity level of a person felony  
 3 or the class of a person misdemeanor; and

		Age of child									
		<10	11	12	13	14	15	16	17	18	
Age of offender	<10		1	1	1	1	1	1	1	1	offerid
	11	1					1	1	1	offerid	
	12	1					9	9	3	offerid	
	13	1					A	9	9	3	
	14	1						A	A	9	
	15	1	1	9	A				A	A	
	16	1	1	9	9	A					
	17	1	1	3	9	A	A				
	18	offerid	offerid	offerid	3	9	A				

4 (3) subsection (a)(1)(C) is a severity level 10, person felony(3)  
 5 carries the following penalties based on the age of the offender and the  
 6 age of the child, with each grid block indicating the severity level of a  
 7 person felony or the class of a person misdemeanor:

		Age of child									
		<10	11	12	13	14	15	16	17	18	
Age of offender	<10		3	3	3	3	3	3	3	3	offerid
	11	3					3	3	3	offerid	
	12	3					10	10	5	offerid	
	13	3					B	10	10	5	
	14	3						B	B	10	
	15	3	3	10	B				B	B	
	16	3	3	10	10	B					
	17	3	3	5	10	B	B				
	18	offerid	offerid	offerid	5	10	B				

8 Any grid block without a penalty indicates that the conduct described  
 9 between persons of those ages is lawful. When the child and the offender  
 10 differ in age by three years or less, there shall be no presumption made  
 11 that the older child involved in the described conduct is the offender.

12 Sec. 2. K.S.A. 2017 Supp. 21-5503 is hereby amended to read as  
 13 follows: 21-5503. (a) Except as provided in K.S.A. 2017 Supp. 21-5707;  
 14 and amendments thereto, rape is:

5507

15 (1) Knowingly engaging in sexual intercourse with a victim who does  
 16 not consent to the sexual intercourse under any of the following  
 17 circumstances:

- 18 (A) When the victim is overcome by force or fear; or
- 19 (B) when the victim is unconscious or physically powerless;
- 20 (2) Knowingly engaging in sexual intercourse with a victim when the

1 victim is incapable of giving consent because of mental deficiency or  
2 disease, or when the victim is incapable of giving consent because of the  
3 effect of any alcoholic liquor, narcotic, drug or other substance, which  
4 condition was known by the offender or was reasonably apparent to the  
5 offender;

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

7 (4) sexual intercourse with a victim when the victim's consent was  
8 obtained through a knowing misrepresentation made by the offender that  
9 the sexual intercourse was a medically or therapeutically necessary  
10 procedure; or

11 (5) sexual intercourse with a victim when the victim's consent was  
12 obtained through a knowing misrepresentation made by the offender that  
13 the sexual intercourse was a legally required procedure within the scope of  
14 the offender's authority.

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

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

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

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

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

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

24 (1) ~~Subsection (e) of K.S.A. 2017 Supp. 21-5301(c)~~, and amendments  
25 thereto, shall not apply to a violation of attempting to commit the crime of  
26 rape as defined in subsection (a)(3);

27 (2) ~~subsection (e) of K.S.A. 2017 Supp. 21-5302(c)~~, and amendments  
28 thereto, shall not apply to a violation of conspiracy to commit the crime of  
29 rape as defined in subsection (a)(3); and

30 (3) ~~subsection (d) of K.S.A. 2017 Supp. 21-5303(d)~~, and amendments  
31 thereto, shall not apply to a violation of criminal solicitation to commit the  
32 crime of rape as defined in subsection (a)(3).

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

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

39 Sec. 3. K.S.A. 2017 Supp. 21-5504 is hereby amended to read as  
40 follows: 21-5504. (a) *Except as provided in K.S.A. 2017 Supp. 21-5507,*  
41 *and amendments thereto*, criminal sodomy is:

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

- 1 (2) sodomy between a person and an animal;
- 2 (3) sodomy with a child who is 14 or more years of age but less than  
3 16 years of age; or
- 4 (4) causing a child 14 or more years of age but less than 16 years of  
5 age to engage in sodomy with any person or animal.
- 6 (b) *Except as provided in K.S.A. 2017 Supp. 21-5507, and*  
7 *amendments thereto*, aggravated criminal sodomy is:
- 8 (1) Sodomy with a child who is under 14 years of age;
- 9 (2) causing a child under 14 years of age to engage in sodomy with  
10 any person or an animal; or
- 11 (3) sodomy with a victim who does not consent to the sodomy or  
12 causing a victim, without the victim's consent, to engage in sodomy with  
13 any person or an animal under any of the following circumstances:
- 14 (A) When the victim is overcome by force or fear;
- 15 (B) when the victim is unconscious or physically powerless; or
- 16 (C) when the victim is incapable of giving consent because of mental  
17 deficiency or disease, or when the victim is incapable of giving consent  
18 because of the effect of any alcoholic liquor, narcotic, drug or other  
19 substance, which condition was known by, or was reasonably apparent to,  
20 the offender.
- 21 (c) (1) Criminal sodomy as defined in:
- 22 (A) Subsection (a)(1) or (a)(2) is a class B nonperson misdemeanor;  
23 and
- 24 (B) subsection (a)(3) or (a)(4) is a severity level 3, person felony.
- 25 (2) Aggravated criminal sodomy as defined in:
- 26 (A) Subsection (b)(3) is a severity level 1, person felony; and
- 27 (B) subsection (b)(1) or (b)(2) is a severity level 1, person felony,  
28 except as provided in subsection (c)(3).
- 29 (3) Aggravated criminal sodomy as defined in subsection (b)(1) or (b)  
30 (2) or attempt, conspiracy or criminal solicitation to commit aggravated  
31 criminal sodomy as defined in subsection (b)(1) or (b)(2) is an off-grid  
32 person felony, when the offender is 18 years of age or older.
- 33 (d) If the offender is 18 years of age or older, the provisions of:
- 34 (1) ~~Subsection (c) of K.S.A. 2017 Supp. 21-5301(c)~~, and amendments  
35 thereto, shall not apply to a violation of attempting to commit the crime of  
36 aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2);
- 37 (2) ~~subsection (c) of K.S.A. 2017 Supp. 21-5302(c)~~, and amendments  
38 thereto, shall not apply to a violation of conspiracy to commit the crime of  
39 aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2); and
- 40 (3) ~~subsection (d) of K.S.A. 2017 Supp. 21-5303(d)~~, and amendments  
41 thereto, shall not apply to a violation of criminal solicitation to commit the  
42 crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)  
43 (2).

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

5 (f) Except as provided in subsection (b)(3)(C), it shall not be a  
6 defense that the offender did not know or have reason to know that the  
7 victim did not consent to the sodomy, that the victim was overcome by  
8 force or fear, or that the victim was unconscious or physically powerless.

9 Sec. 4. K.S.A. 2017 Supp. 21-5506 is hereby amended to read as  
10 follows: 21-5506. (a) *Except as provided in K.S.A. 2017 Supp. 21-5507,*  
11 *and amendments thereto,* indecent liberties with a child is engaging in any  
12 of the following acts with a child who is 14 or more years of age but less  
13 than 16 years of age:

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

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

20 (b) *Except as provided in K.S.A. 2017 Supp. 21-5507, and*  
21 *amendments thereto,* aggravated indecent liberties with a child is:

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

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

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

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

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

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

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

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

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

- 1 (A) Subsection (b)(1) is a severity level 3, person felony;  
2 (B) subsection (b)(2) is a severity level 4, person felony; and  
3 (C) subsection (b)(3) is a severity level 3, person felony, except as  
4 provided in subsection (c)(3).

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

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

10 (1) ~~Subsection (e) of K.S.A. 2017 Supp. 21-5301(c)~~, and amendments  
11 thereto, shall not apply to a violation of attempting to commit the crime of  
12 aggravated indecent liberties with a child as defined in subsection (b)(3);

13 (2) ~~subsection (e) of K.S.A. 2017 Supp. 21-5302(c)~~, and amendments  
14 thereto, shall not apply to a violation of conspiracy to commit the crime of  
15 aggravated indecent liberties with a child as defined in subsection (b)(3);

16 (3) ~~subsection (d) of K.S.A. 2017 Supp. 21-5303(d)~~, and amendments  
17 thereto, shall not apply to a violation of criminal solicitation to commit the  
18 crime of aggravated indecent liberties with a child as defined in subsection  
19 (b)(3).

20 (e) It shall be a defense to a prosecution of indecent liberties with a  
21 child, as defined in subsection (a)(1), and aggravated indecent liberties  
22 with a child, as defined in subsections (b)(1), (b)(2)(A) and (b)(3)(A) that  
23 the child was married to the accused at the time of the offense.

24 Sec. 5. K.S.A. 2017 Supp. 21-5508 is hereby amended to read as  
25 follows: 21-5508. (a) *Except as provided in K.S.A. 2017 Supp. 21-5507,*  
26 *and amendments thereto*, indecent solicitation of a child is enticing,  
27 commanding, inviting, persuading or attempting to persuade a child 14 or  
28 more years of age but less than 16 years of age to:

29 (1) Commit or to submit to an unlawful sexual act; or

30 (2) enter any vehicle, building, room or secluded place with intent to  
31 commit an unlawful sexual act upon or with the child.

32 (b) *Except as provided in K.S.A. 2017 Supp. 21-5507, and*  
33 *amendments thereto*, aggravated indecent solicitation of a child is enticing,  
34 commanding, inviting, persuading or attempting to persuade a child under  
35 the age of 14 years to:

36 (1) Commit or submit to an unlawful sexual act; or

37 (2) enter any vehicle, building, room or secluded place with the intent  
38 to commit an unlawful sexual act upon or with the child.

39 (c) (1) Indecent solicitation of a child is a severity level 6, person  
40 felony.

41 (2) Aggravated indecent solicitation of a child is a severity level 5,  
42 person felony.

43 (d) It shall not be a defense that the offender did not know or have

1 reason to know that the sexual act was unlawful.

2 Sec. 6. K.S.A. 2017 Supp. 21-5509 is hereby amended to read as  
3 follows: 21-5509. (a) *Except as provided in K.S.A. 2017 Supp. 21-5507,*  
4 *and amendments thereto,* electronic solicitation is, by means of  
5 communication conducted through the telephone, internet or by other  
6 electronic means, enticing or soliciting a person, whom the offender  
7 believes to be a child, to commit or submit to an unlawful sexual act.

8 (b) Electronic solicitation is a:

9 (1) Severity level 3, person felony if the offender believes the person  
10 to be a child 14 or more years of age but less than 16 years of age; and

11 (2) severity level 1, person felony if the offender believes the person  
12 to be a child under 14 years of age.

13 (c) As used in this section, "communication conducted through the  
14 internet or by other electronic means" includes, but is not limited to, e-  
15 mail, chatroom chats and text messaging.

16 Sec. 7. K.S.A. 2017 Supp. 22-4902 is hereby amended to read as  
17 follows: 22-4902. As used in the Kansas offender registration act, unless  
18 the context otherwise requires:

19 (a) "Offender" means:

20 (1) A sex offender;

21 (2) a violent offender;

22 (3) a drug offender;

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

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

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

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

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

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

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

38 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or  
39 K.S.A. 2017 Supp. 21-5511, and amendments thereto;

40 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its  
41 repeal, or K.S.A. 2017 Supp. 21-5504(a)(1) or (a)(2), and amendments  
42 thereto;

43 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its

- 1 repeal, or K.S.A. 2017 Supp. 21-6420, prior to its amendment by section  
2 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;
- 3 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its  
4 repeal, or K.S.A. 2017 Supp. 21-6421, prior to its amendment by section  
5 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or
- 6 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior  
7 to its repeal, or K.S.A. 2017 Supp. 21-5513, and amendments thereto;
- 8 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior  
9 to its repeal, or K.S.A. 2017 Supp. 21-5505(a), and amendments thereto;
- 10 (6) is convicted of an attempt, conspiracy or criminal solicitation, as  
11 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or  
12 K.S.A. 2017 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,  
13 of an offense defined in this subsection; or
- 14 (7) has been convicted of an offense that is comparable to any crime  
15 defined in this subsection, or any out-of-state conviction for an offense that  
16 under the laws of this state would be an offense defined in this subsection.
- 17 (c) "Sexually violent crime" means:
- 18 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
19 2017 Supp. 21-5503, and amendments thereto;
- 20 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior  
21 to its repeal, or K.S.A. 2017 Supp. 21-5506(a), and amendments thereto;
- 22 (3) aggravated indecent liberties with a child, as defined in K.S.A.  
23 21-3504, prior to its repeal, or K.S.A. 2017 Supp. 21-5506(b), and  
24 amendments thereto;
- 25 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),  
26 prior to its repeal, or K.S.A. 2017 Supp. 21-5504(a)(3) or (a)(4), and  
27 amendments thereto;
- 28 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
29 to its repeal, or K.S.A. 2017 Supp. 21-5504(b), and amendments thereto;
- 30 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,  
31 prior to its repeal, or K.S.A. 2017 Supp. 21-5508(a), and amendments  
32 thereto;
- 33 (7) aggravated indecent solicitation of a child, as defined in K.S.A.  
34 21-3511, prior to its repeal, or K.S.A. 2017 Supp. 21-5508(b), and  
35 amendments thereto;
- 36 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
37 to its repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto;
- 38 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to  
39 its repeal, or K.S.A. 2017 Supp. 21-5505(b), and amendments thereto;
- 40 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
41 repeal, or K.S.A. 2017 Supp. 21-5604(b), and amendments thereto;
- 42 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its  
43 repeal, and K.S.A. 2017 Supp. 21-5509, and amendments thereto;

- 1 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to  
2 its repeal, or K.S.A. 2017 Supp. 21-5512, and amendments thereto;
- 3 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,  
4 prior to its repeal, or K.S.A. 2017 Supp. 21-5426(b), and amendments  
5 thereto, if committed in whole or in part for the purpose of the sexual  
6 gratification of the defendant or another;
- 7 (14) commercial sexual exploitation of a child, as defined in K.S.A.  
8 2017 Supp. 21-6422, and amendments thereto;
- 9 (15) promoting the sale of sexual relations, as defined in K.S.A. 2017  
10 Supp. 21-6420, and amendments thereto;
- 11 (16) any conviction or adjudication for an offense that is comparable  
12 to a sexually violent crime as defined in this subsection, or any out-of-state  
13 conviction or adjudication for an offense that under the laws of this state  
14 would be a sexually violent crime as defined in this subsection;
- 15 (17) an attempt, conspiracy or criminal solicitation, as defined in  
16 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2017  
17 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually  
18 violent crime, as defined in this subsection; or
- 19 (18) any act which has been determined beyond a reasonable doubt to  
20 have been sexually motivated, unless the court, on the record, finds that  
21 the act involved non-forcible sexual conduct, the victim was at least 14  
22 years of age and the offender was not more than four years older than the  
23 victim. As used in this paragraph, "sexually motivated" means that one of  
24 the purposes for which the defendant committed the crime was for the  
25 purpose of the defendant's sexual gratification.
- 26 (d) "Sexually violent predator" means any person who, on or after  
27 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.  
28 59-29a01 et seq., and amendments thereto.
- 29 (e) "Violent offender" includes any person who:
- 30 (1) On or after July 1, 1997, is convicted of any of the following  
31 crimes:
- 32 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
33 or K.S.A. 2017 Supp. 21-5401, and amendments thereto;
- 34 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to  
35 its repeal, or K.S.A. 2017 Supp. 21-5402, and amendments thereto;
- 36 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior  
37 to its repeal, or K.S.A. 2017 Supp. 21-5403, and amendments thereto;
- 38 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its  
39 repeal, or K.S.A. 2017 Supp. 21-5404, and amendments thereto;
- 40 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to  
41 its repeal, or K.S.A. 2017 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and  
42 amendments thereto. The provisions of this paragraph shall not apply to  
43 violations of K.S.A. 2017 Supp. 21-5405(a)(3), and amendments thereto,

- 1 which occurred on or after July 1, 2011, through July 1, 2013;
- 2 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or  
3 K.S.A. 2017 Supp. 21-5408(a), and amendments thereto;
- 4 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its  
5 repeal, or K.S.A. 2017 Supp. 21-5408(b), and amendments thereto;
- 6 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its  
7 repeal, or K.S.A. 2017 Supp. 21-5411, and amendments thereto, except by  
8 a parent, and only when the victim is less than 18 years of age; or
- 9 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior  
10 to its repeal, or K.S.A. 2017 Supp. 21-5426(b), and amendments thereto, if  
11 not committed in whole or in part for the purpose of the sexual  
12 gratification of the defendant or another;
- 13 (2) on or after July 1, 2006, is convicted of any person felony and the  
14 court makes a finding on the record that a deadly weapon was used in the  
15 commission of such person felony;
- 16 (3) has been convicted of an offense that is comparable to any crime  
17 defined in this subsection, any out-of-state conviction for an offense that  
18 under the laws of this state would be an offense defined in this subsection;  
19 or
- 20 (4) is convicted of an attempt, conspiracy or criminal solicitation, as  
21 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or  
22 K.S.A. 2017 Supp. 21-5301, 21-5302 and 21-5303, and amendments  
23 thereto, of an offense defined in this subsection.
- 24 (f) "Drug offender" includes any person who, on or after July 1, 2007:
- 25 (1) Is convicted of any of the following crimes:
- 26 (A) Unlawful manufacture or attempting such of any controlled  
27 substance or controlled substance analog, as defined in K.S.A. 65-4159,  
28 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or  
29 K.S.A. 2017 Supp. 21-5703, and amendments thereto;
- 30 (B) possession of ephedrine, pseudoephedrine, red phosphorus,  
31 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized  
32 ammonia or phenylpropanolamine, or their salts, isomers or salts of  
33 isomers with intent to use the product to manufacture a controlled  
34 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010  
35 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2017 Supp. 21-5709(a),  
36 and amendments thereto;
- 37 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-  
38 36a05(a)(1), prior to its transfer, or K.S.A. 2017 Supp. 21-5705(a)(1), and  
39 amendments thereto. The provisions of this paragraph shall not apply to  
40 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)  
41 which occurred on or after July 1, 2009, through April 15, 2010;
- 42 (2) has been convicted of an offense that is comparable to any crime  
43 defined in this subsection, any out-of-state conviction for an offense that

1 under the laws of this state would be an offense defined in this subsection;  
2 or

3 (3) is or has been convicted of an attempt, conspiracy or criminal  
4 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to  
5 their repeal, or K.S.A. 2017 Supp. 21-5301, 21-5302 and 21-5303, and  
6 amendments thereto, of an offense defined in this subsection.

7 (g) Convictions or adjudications which result from or are connected  
8 with the same act, or result from crimes committed at the same time, shall  
9 be counted for the purpose of this section as one conviction or  
10 adjudication. Any conviction or adjudication set aside pursuant to law is  
11 not a conviction or adjudication for purposes of this section. A conviction  
12 or adjudication from any out-of-state court shall constitute a conviction or  
13 adjudication for purposes of this section.

14 (h) "School" means any public or private educational institution,  
15 including, but not limited to, postsecondary school, college, university,  
16 community college, secondary school, high school, junior high school,  
17 middle school, elementary school, trade school, vocational school or  
18 professional school providing training or education to an offender for three  
19 or more consecutive days or parts of days, or for 10 or more  
20 nonconsecutive days in a period of 30 consecutive days.

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

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

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

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

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

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

43 (o) "Registering entity" means any person, agency or other

1 governmental unit, correctional facility or registering law enforcement  
2 agency responsible for obtaining the required information from, and  
3 explaining the required registration procedures to, any person required to  
4 register pursuant to the Kansas offender registration act. "Registering  
5 entity" shall include, but not be limited to, sheriff's offices, tribal police  
6 departments and correctional facilities.

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

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

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

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

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

21 (A) Convicted of unlawful transmission of a visual depiction of a  
22 child, as defined in K.S.A. 2017 Supp. 21-5611(a), and amendments  
23 thereto, aggravated unlawful transmission of a visual depiction of a child,  
24 as defined in K.S.A. 2017 Supp. 21-5611(b), and amendments thereto, or  
25 unlawful possession of a visual depiction of a child, as defined in K.S.A.  
26 2017 Supp. 21-5610, and amendments thereto; ~~or~~

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

30 (C) *adjudicated as a juvenile offender for an act described in K.S.A.*  
31 *2017 Supp. 21-5507, and amendments 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. 8. K.S.A. 2017 Supp. 21-5503, 21-5504, 21-5506, 21-5507, 21-  
36 5508, 21-5509 and 22-4902 are hereby repealed.

37 Sec. 9. This act shall take effect and be in force from and after its  
38 publication in the statute book.

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Session of 2018

## HOUSE BILL No. 2739

By Committee on Corrections and Juvenile Justice

2-9

1 AN ACT concerning the Kansas offender registration act; relating to the  
2 sex offender registry; adjudicated juveniles; amending K.S.A. 2017  
3 Supp. 22-4902 and 22-4906 and repealing the existing sections.  
4

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

6 Section 1. K.S.A. 2017 Supp. 22-4902 is hereby amended to read as  
7 follows: 22-4902. As used in the Kansas offender registration act, unless  
8 the context otherwise requires:

- 9 (a) "Offender" means:  
10 (1) A sex offender;  
11 (2) a violent offender;  
12 (3) a drug offender;  
13 (4) any person who has been required to register under out-of-state  
14 law or is otherwise required to be registered; and  
15 (5) any person required by court order to register for an offense not  
16 otherwise required as provided in the Kansas offender registration act.  
17 (b) "Sex offender" includes any person who:  
18 (1) On or after April 14, 1994, is convicted of any sexually violent  
19 crime;  
20 (2) on or after July 1, 2002, is adjudicated as a juvenile offender for  
21 an act which if committed by an adult would constitute the commission of  
22 a sexually violent crime, ~~unless the court, on the record, finds that the act~~  
23 ~~involved non-forcible sexual conduct, the victim was at least 14 years of~~  
24 ~~age and the offender was not more than four years older than the victim;~~  
25 (3) has been determined to be a sexually violent predator;  
26 (4) on or after July 1, 1997, is convicted of any of the following  
27 crimes when one of the parties involved is less than 18 years of age:  
28 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or  
29 K.S.A. 2017 Supp. 21-5511, and amendments thereto;  
30 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its  
31 repeal, or K.S.A. 2017 Supp. 21-5504(a)(1) or (a)(2), and amendments  
32 thereto;  
33 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its  
34 repeal, or K.S.A. 2017 Supp. 21-6420, prior to its amendment by section  
35 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;  
36 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its

1 repeal, or K.S.A. 2017 Supp. 21-6421, prior to its amendment by section  
2 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or  
3 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior  
4 to its repeal, or K.S.A. 2017 Supp. 21-5513, and amendments thereto;  
5 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior  
6 to its repeal, or K.S.A. 2017 Supp. 21-5505(a), and amendments thereto;  
7 (6) is convicted of an attempt, conspiracy or criminal solicitation, as  
8 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or  
9 K.S.A. 2017 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,  
10 of an offense defined in this subsection; or  
11 (7) has been convicted of an offense that is comparable to any crime  
12 defined in this subsection, or any out-of-state conviction for an offense that  
13 under the laws of this state would be an offense defined in this subsection.  
14 (c) "Sexually violent crime" means:  
15 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
16 2017 Supp. 21-5503, and amendments thereto;  
17 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior  
18 to its repeal, or K.S.A. 2017 Supp. 21-5506(a), and amendments thereto;  
19 (3) aggravated indecent liberties with a child, as defined in K.S.A.  
20 21-3504, prior to its repeal, or K.S.A. 2017 Supp. 21-5506(b), and  
21 amendments thereto;  
22 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),  
23 prior to its repeal, or K.S.A. 2017 Supp. 21-5504(a)(3) or (a)(4), and  
24 amendments thereto;  
25 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
26 to its repeal, or K.S.A. 2017 Supp. 21-5504(b), and amendments thereto;  
27 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,  
28 prior to its repeal, or K.S.A. 2017 Supp. 21-5508(a), and amendments  
29 thereto;  
30 (7) aggravated indecent solicitation of a child, as defined in K.S.A.  
31 21-3511, prior to its repeal, or K.S.A. 2017 Supp. 21-5508(b), and  
32 amendments thereto;  
33 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
34 to its repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto;  
35 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to  
36 its repeal, or K.S.A. 2017 Supp. 21-5505(b), and amendments thereto;  
37 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
38 repeal, or K.S.A. 2017 Supp. 21-5604(b), and amendments thereto;  
39 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its  
40 repeal, and K.S.A. 2017 Supp. 21-5509, and amendments thereto;  
41 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to  
42 its repeal, or K.S.A. 2017 Supp. 21-5512, and amendments thereto;  
43 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,

1 prior to its repeal, or K.S.A. 2017 Supp. 21-5426(b), and amendments  
2 thereto, if committed in whole or in part for the purpose of the sexual  
3 gratification of the defendant or another;

4 (14) commercial sexual exploitation of a child, as defined in K.S.A.  
5 2017 Supp. 21-6422, and amendments thereto;

6 (15) promoting the sale of sexual relations, as defined in K.S.A. 2017  
7 Supp. 21-6420, and amendments thereto;

8 (16) any conviction or adjudication for an offense that is comparable  
9 to a sexually violent crime as defined in this subsection, or any out-of-state  
10 conviction or adjudication for an offense that under the laws of this state  
11 would be a sexually violent crime as defined in this subsection;

12 (17) an attempt, conspiracy or criminal solicitation, as defined in  
13 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2017  
14 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually  
15 violent crime, as defined in this subsection; or

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

23 (d) "Sexually violent predator" means any person who, on or after  
24 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.  
25 59-29a01 et seq., and amendments thereto.

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

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

29 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
30 or K.S.A. 2017 Supp. 21-5401, and amendments thereto;

31 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to  
32 its repeal, or K.S.A. 2017 Supp. 21-5402, and amendments thereto;

33 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior  
34 to its repeal, or K.S.A. 2017 Supp. 21-5403, and amendments thereto;

35 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its  
36 repeal, or K.S.A. 2017 Supp. 21-5404, and amendments thereto;

37 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to  
38 its repeal, or K.S.A. 2017 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and  
39 amendments thereto. The provisions of this paragraph shall not apply to  
40 violations of K.S.A. 2017 Supp. 21-5405(a)(3), and amendments thereto,  
41 which occurred on or after July 1, 2011, through July 1, 2013;

42 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or  
43 K.S.A. 2017 Supp. 21-5408(a), and amendments thereto;

- 1 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its  
2 repeal, or K.S.A. 2017 Supp. 21-5408(b), and amendments thereto;
- 3 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its  
4 repeal, or K.S.A. 2017 Supp. 21-5411, and amendments thereto, except by  
5 a parent, and only when the victim is less than 18 years of age; or
- 6 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior  
7 to its repeal, or K.S.A. 2017 Supp. 21-5426(b), and amendments thereto, if  
8 not committed in whole or in part for the purpose of the sexual  
9 gratification of the defendant or another;
- 10 (2) on or after July 1, 2006, is convicted of any person felony and the  
11 court makes a finding on the record that a deadly weapon was used in the  
12 commission of such person felony;
- 13 (3) has been convicted of an offense that is comparable to any crime  
14 defined in this subsection, any out-of-state conviction for an offense that  
15 under the laws of this state would be an offense defined in this subsection;  
16 or
- 17 (4) is convicted of an attempt, conspiracy or criminal solicitation, as  
18 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or  
19 K.S.A. 2017 Supp. 21-5301, 21-5302 and 21-5303, and amendments  
20 thereto, of an offense defined in this subsection.
- 21 (f) "Drug offender" includes any person who, on or after July 1, 2007:
- 22 (1) Is convicted of any of the following crimes:
- 23 (A) Unlawful manufacture or attempting such of any controlled  
24 substance or controlled substance analog, as defined in K.S.A. 65-4159,  
25 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or  
26 K.S.A. 2017 Supp. 21-5703, and amendments thereto;
- 27 (B) possession of ephedrine, pseudoephedrine, red phosphorus,  
28 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized  
29 ammonia or phenylpropanolamine, or their salts, isomers or salts of  
30 isomers with intent to use the product to manufacture a controlled  
31 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010  
32 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2017 Supp. 21-5709(a),  
33 and amendments thereto;
- 34 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-  
35 36a05(a)(1), prior to its transfer, or K.S.A. 2017 Supp. 21-5705(a)(1), and  
36 amendments thereto. The provisions of this paragraph shall not apply to  
37 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)  
38 which occurred on or after July 1, 2009, through April 15, 2010;
- 39 (2) has been convicted of an offense that is comparable to any crime  
40 defined in this subsection, any out-of-state conviction for an offense that  
41 under the laws of this state would be an offense defined in this subsection;  
42 or
- 43 (3) is or has been convicted of an attempt, conspiracy or criminal

1 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to  
2 their repeal, or K.S.A. 2017 Supp. 21-5301, 21-5302 and 21-5303, and  
3 amendments thereto, of an offense defined in this subsection.

4 (g) Convictions or adjudications which result from or are connected  
5 with the same act, or result from crimes committed at the same time, shall  
6 be counted for the purpose of this section as one conviction or  
7 adjudication. Any conviction or adjudication set aside pursuant to law is  
8 not a conviction or adjudication for purposes of this section. A conviction  
9 or adjudication from any out-of-state court shall constitute a conviction or  
10 adjudication for purposes of this section.

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

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

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

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

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

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

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

40 (o) "Registering entity" means any person, agency or other  
41 governmental unit, correctional facility or registering law enforcement  
42 agency responsible for obtaining the required information from, and  
43 explaining the required registration procedures to, any person required to

1 register pursuant to the Kansas offender registration act. "Registering  
2 entity" shall include, but not be limited to, sheriff's offices, tribal police  
3 departments and correctional facilities.

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

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

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

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

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

18 (A) Convicted of unlawful transmission of a visual depiction of a  
19 child, as defined in K.S.A. 2017 Supp. 21-5611(a), and amendments  
20 thereto, aggravated unlawful transmission of a visual depiction of a child,  
21 as defined in K.S.A. 2017 Supp. 21-5611(b), and amendments thereto, or  
22 unlawful possession of a visual depiction of a child, as defined in K.S.A.  
23 2017 Supp. 21-5610, and amendments thereto; or

24 (B) adjudicated as a juvenile offender for an act which if committed  
25 by an adult would constitute the commission of a crime defined in  
26 subsection (t)(1)(A).

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

30 Sec. 2. K.S.A. 2017 Supp. 22-4906 is hereby amended to read as  
31 follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted  
32 of any of the following offenses, an offender's duration of registration shall  
33 be, if confined, 15 years after the date of parole, discharge or release,  
34 whichever date is most recent, or, if not confined, 15 years from the date of  
35 conviction:

36 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,  
37 or K.S.A. 2017 Supp. 21-5505(a), and amendments thereto;

38 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or  
39 K.S.A. 2017 Supp. 21-5511, and amendments thereto, when one of the  
40 parties involved is less than 18 years of age;

41 (C) promoting the sale of sexual relations, as defined in K.S.A. 2017  
42 Supp. 21-6420, and amendments thereto;

43 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its

- 1 repeal, or K.S.A. 2017 Supp. 21-6421, prior to its amendment by section  
2 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013,  
3 when one of the parties involved is less than 18 years of age;
- 4 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior  
5 to its repeal, or K.S.A. 2017 Supp. 21-5513, and amendments thereto,  
6 when one of the parties involved is less than 18 years of age;
- 7 (F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
8 or K.S.A. 2017 Supp. 21-5401, and amendments thereto;
- 9 (G) murder in the first degree, as defined in K.S.A. 21-3401, prior to  
10 its repeal, or K.S.A. 2017 Supp. 21-5402, and amendments thereto;
- 11 (H) murder in the second degree, as defined in K.S.A. 21-3402, prior  
12 to its repeal, or K.S.A. 2017 Supp. 21-5403, and amendments thereto;
- 13 (I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its  
14 repeal, or K.S.A. 2017 Supp. 21-5404, and amendments thereto;
- 15 (J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to  
16 its repeal, or K.S.A. 2017 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and  
17 amendments thereto;
- 18 (K) criminal restraint, as defined in K.S.A. 21-3424, prior to its  
19 repeal, or K.S.A. 2017 Supp. 21-5411, and amendments thereto, except by  
20 a parent, and only when the victim is less than 18 years of age;
- 21 (L) any act which has been determined beyond a reasonable doubt to  
22 have been sexually motivated, ~~unless the court, on the record, finds that~~  
23 ~~the act involved non-foreible sexual conduct, the victim was at least 14~~  
24 ~~years of age and the offender was not more than four years older than the~~  
25 ~~victim;~~
- 26 (M) conviction of any person required by court order to register for  
27 an offense not otherwise required as provided in the Kansas offender  
28 registration act;
- 29 (N) conviction of any person felony and the court makes a finding on  
30 the record that a deadly weapon was used in the commission of such  
31 person felony;
- 32 (O) unlawful manufacture or attempting such of any controlled  
33 substance or controlled substance analog, as defined in K.S.A. 65-4159,  
34 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or  
35 K.S.A. 2017 Supp. 21-5703, and amendments thereto;
- 36 (P) possession of ephedrine, pseudoephedrine, red phosphorus,  
37 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized  
38 ammonia or phenylpropanolamine, or their salts, isomers or salts of  
39 isomers with intent to use the product to manufacture a controlled  
40 substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A.  
41 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2017 Supp. 21-  
42 5709(a), and amendments thereto;
- 43 (Q) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-

1 36a05(a)(1), prior to its transfer, or K.S.A. 2017 Supp. 21-5705(a)(1), and  
2 amendments thereto; or

3 (R) any attempt, conspiracy or criminal solicitation, as defined in  
4 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2017  
5 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an  
6 offense defined in this subsection.

7 (2) Except as otherwise provided by the Kansas offender registration  
8 act, the duration of registration terminates, if not confined, at the  
9 expiration of 15 years from the date of conviction. Any period of time  
10 during which any offender is incarcerated in any jail or correctional  
11 facility or during which the offender does not comply with any and all  
12 requirements of the Kansas offender registration act shall not count toward  
13 the duration of registration.

14 (b) (1) Except as provided in subsection (c), if convicted of any of the  
15 following offenses, an offender's duration of registration shall be, if  
16 confined, 25 years after the date of parole, discharge or release, whichever  
17 date is most recent, or, if not confined, 25 years from the date of  
18 conviction:

19 (A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its  
20 repeal, or K.S.A. 2017 Supp. 21-5504(a)(1) or (a)(2), and amendments  
21 thereto, when one of the parties involved is less than 18 years of age;

22 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,  
23 prior to its repeal, or K.S.A. 2017 Supp. 21-5508(a), and amendments  
24 thereto;

25 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its  
26 repeal, or K.S.A. 2017 Supp. 21-5509, and amendments thereto;

27 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
28 repeal, or K.S.A. 2017 Supp. 21-5604(b), and amendments thereto;

29 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior  
30 to its repeal, or K.S.A. 2017 Supp. 21-5506(a), and amendments thereto;

31 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to  
32 its repeal, or K.S.A. 2017 Supp. 21-5512, and amendments thereto;

33 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
34 to its repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto, if  
35 the victim is 14 or more years of age but less than 18 years of age;

36 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to  
37 its repeal, or K.S.A. 2017 Supp. 21-5505(b), and amendments thereto;

38 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its  
39 repeal, or K.S.A. 2017 Supp. 21-6420, prior to its amendment by section  
40 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if  
41 the person selling sexual relations is 14 or more years of age but less than  
42 18 years of age; or

43 (J) any attempt, conspiracy or criminal solicitation, as defined in

1 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2017  
2 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an  
3 offense defined in this subsection.

4 (2) Except as otherwise provided by the Kansas offender registration  
5 act, the duration of registration terminates, if not confined, at the  
6 expiration of 25 years from the date of conviction. Any period of time  
7 during which any offender is incarcerated in any jail or correctional  
8 facility or during which the offender does not comply with any and all  
9 requirements of the Kansas offender registration act shall not count toward  
10 the duration of registration.

11 (c) Upon a second or subsequent conviction of an offense requiring  
12 registration, an offender's duration of registration shall be for such  
13 offender's lifetime.

14 (d) The duration of registration for any offender who has been  
15 convicted of any of the following offenses shall be for such offender's  
16 lifetime:

17 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
18 2017 Supp. 21-5503, and amendments thereto;

19 (2) aggravated indecent solicitation of a child, as defined in K.S.A.  
20 21-3511, prior to its repeal, or K.S.A. 2017 Supp. 21-5508(b), and  
21 amendments thereto;

22 (3) aggravated indecent liberties with a child, as defined in K.S.A.  
23 21-3504, prior to its repeal, or K.S.A. 2017 Supp. 21-5506(b), and  
24 amendments thereto;

25 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),  
26 prior to its repeal, or K.S.A. 2017 Supp. 21-5504(a)(3) or (a)(4), and  
27 amendments thereto;

28 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
29 to its repeal, or K.S.A. 2017 Supp. 21-5504(b), and amendments thereto;

30 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior  
31 to its repeal, or K.S.A. 2017 Supp. 21-5426(b), and amendments thereto;

32 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
33 to its repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto, if  
34 the victim is less than 14 years of age;

35 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its  
36 repeal, or K.S.A. 2017 Supp. 21-6420, prior to its amendment by section  
37 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if  
38 the person selling sexual relations is less than 14 years of age;

39 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or  
40 K.S.A. 2017 Supp. 21-5408(a), and amendments thereto;

41 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its  
42 repeal, or K.S.A. 2017 Supp. 21-5408(b), and amendments thereto;

43 (11) commercial sexual exploitation of a child, as defined in K.S.A.

1 2017 Supp. 21-6422, and amendments thereto; or  
2 (12) any attempt, conspiracy or criminal solicitation, as defined in  
3 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2017  
4 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an  
5 offense defined in this subsection.

6 (e) Any person who has been declared a sexually violent predator  
7 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall  
8 register for such person's lifetime.

9 (f) Notwithstanding any other provisions of this section, for an  
10 offender ~~less than 14 years of age~~ who is adjudicated as a juvenile offender  
11 for an act which if committed by an adult would constitute a sexually  
12 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, the  
13 court shall:

14 ~~(1) Require registration until such offender reaches 18 years of age, at~~  
15 ~~the expiration of five years from the date of adjudication or, if confined,~~  
16 ~~from release from confinement, whichever date occurs later. Any period of~~  
17 ~~time during which the offender is incarcerated in any jail, juvenile facility~~  
18 ~~or correctional facility or during which the offender does not comply with~~  
19 ~~any and all requirements of the Kansas offender registration act shall not~~  
20 ~~count toward the duration of registration;~~

21 ~~(2) not require registration if the court, on the record, finds substantial~~  
22 ~~and compelling reasons therefor; or~~

23 ~~(3) require registration, but such registration information shall not be~~  
24 ~~open to inspection by the public or posted on any internet website, as~~  
25 ~~provided in K.S.A. 22-4909, and amendments thereto. If the court requires~~  
26 ~~registration but such registration is not open to the public, such offender~~  
27 ~~shall provide a copy of such court order to the registering law enforcement~~  
28 ~~agency at the time of registration. The registering law enforcement agency~~  
29 ~~shall forward a copy of such court order to the Kansas bureau of~~  
30 ~~investigation.~~

31 ~~If such offender violates a condition of release during the term of the~~  
32 ~~conditional release, the court may require such offender to register~~  
33 ~~pursuant to paragraph (1).~~

34 ~~(g) Notwithstanding any other provisions of this section, for an~~  
35 ~~offender 14 years of age or more who is adjudicated as a juvenile offender~~  
36 ~~for an act which if committed by an adult would constitute a sexually~~  
37 ~~violent crime set forth in K.S.A. 22-4902(e), and amendments thereto, and~~  
38 ~~such crime is not an off-grid felony or a felony ranked in severity level 1~~  
39 ~~of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or~~  
40 ~~K.S.A. 2017 Supp. 21-6804, and amendments thereto, the court shall:~~

41 ~~(1) Require registration until such offender reaches 18 years of age, at~~  
42 ~~the expiration of five years from the date of adjudication or, if confined,~~  
43 ~~from release from confinement, whichever date occurs later. Any period of~~

1 time during which the offender is incarcerated in any jail, juvenile facility  
2 or correctional facility or during which the offender does not comply with  
3 any and all requirements of the Kansas offender registration act shall not  
4 count toward the duration of registration;

5 (2) ~~not require registration if the court, on the record, finds substantial  
6 and compelling reasons therefor; or~~

7 (3) ~~require registration, but such registration information shall not be  
8 open to inspection by the public or posted on any internet website, as  
9 provided in K.S.A. 22-4909, and amendments thereto. If the court requires  
10 registration but such registration is not open to the public, such offender  
11 shall provide a copy of such court order to the registering law enforcement  
12 agency at the time of registration. The registering law enforcement agency  
13 shall forward a copy of such court order to the Kansas bureau of  
14 investigation.~~

15 ~~If such offender violates a condition of release during the term of the  
16 conditional release, the court may require such offender to register  
17 pursuant to paragraph (1).~~

18 (h) ~~Notwithstanding any other provisions of this section, an offender  
19 14 years of age or more who is adjudicated as a juvenile offender for an  
20 act which if committed by an adult would constitute a sexually violent  
21 crime set forth in K.S.A. 22-4902(e), and amendments thereto, and such  
22 crime is an off-grid felony or a felony ranked in severity level 1 of the  
23 nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A.  
24 2017 Supp. 21-6804, and amendments thereto, shall be required *require*  
25 *the offender* to register for such offender's lifetime.~~

26 (i) Notwithstanding any other provision of law, if a diversionary  
27 agreement or probation order, either adult or juvenile, or a juvenile  
28 offender sentencing order, requires registration under the Kansas offender  
29 registration act for an offense that would not otherwise require registration  
30 as provided in K.S.A. 22-4902(a)(5), and amendments thereto, then all  
31 provisions of the Kansas offender registration act shall apply, except that  
32 the duration of registration shall be controlled by such diversionary  
33 agreement, probation order or juvenile offender sentencing order.

34 (j) The duration of registration does not terminate if the convicted or  
35 adjudicated offender again becomes liable to register as provided by the  
36 Kansas offender registration act during the required period of registration.

37 (k) For any person moving to Kansas who has been convicted or  
38 adjudicated in an out-of-state court, or who was required to register under  
39 an out-of-state law, the duration of registration shall be the length of time  
40 required by the out-of-state jurisdiction or by the Kansas offender  
41 registration act, whichever length of time is longer. The provisions of this  
42 subsection shall apply to convictions or adjudications prior to June 1,  
43 2006, and to persons who moved to Kansas prior to June 1, 2006, and to

1 convictions or adjudications on or after June 1, 2006, and to persons who  
2 moved to Kansas on or after June 1, 2006.

3 (l) For any person residing, maintaining employment or attending  
4 school in this state who has been convicted or adjudicated by an out-of-  
5 state court of an offense that is comparable to any crime requiring  
6 registration pursuant to the Kansas offender registration act, but who was  
7 not required to register in the jurisdiction of conviction or adjudication, the  
8 duration of registration shall be the duration required for the comparable  
9 offense pursuant to the Kansas offender registration act.

10 Sec. 3. K.S.A. 2017 Supp. 22-4902 and 22-4906 are hereby repealed.

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

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Session of 2018

## SENATE BILL No. 265

By Committee on Judiciary

1-10

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1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to crimes affecting family relationships and children; incest; amending  
3 K.S.A. 2017 Supp. 21-5604 and repealing the existing section.  
4

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

6 Section 1. K.S.A. 2017 Supp. 21-5604 is hereby amended to read as  
7 follows: 21-5604. (a) Incest is marriage to or engaging in otherwise lawful  
8 sexual intercourse or sodomy, ~~as defined in K.S.A. 2017 Supp. 21-5501,~~  
9 ~~and amendments thereto,~~ with a person who is 18 or more years of age and  
10 who is known to the offender to be related to the offender as any of the  
11 following biological relatives: Parent, child, grandparent of any degree,  
12 grandchild of any degree, brother, sister, half-brother, half-sister, uncle,  
13 aunt, nephew or niece.

14 (b) Aggravated incest is:

15 (1) Marriage to a person who is under 18 years of age and who is  
16 known to the offender to be related to the offender as any of the following  
17 biological, step or adoptive relatives: Child, grandchild of any degree,  
18 brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece; or

19 (2) engaging in the following acts with a person who is 16 or more  
20 years of age but under 18 years of age and who is known to the offender to  
21 be related to the offender as any of the following biological, step or  
22 adoptive relatives: Child, grandchild of any degree, brother, sister, half-  
23 brother, half-sister, uncle, aunt, nephew or niece:

24 (A) Otherwise lawful sexual intercourse or sodomy ~~as defined by~~  
25 ~~K.S.A. 2017 Supp. 21-5501, and amendments thereto;~~ or

26 (B) any lewd fondling, as described in subsection ~~(a)(1)~~ of K.S.A.  
27 2017 Supp. 21-5506(a)(1), and amendments thereto.

28 (c) (1) Incest is a severity level 10, person felony.

29 (2) Aggravated incest as defined in:

30 (A) Subsection (b)(2)(A) is a:

31 (i) Severity level 5, person felony, except as provided in subsection  
32 (c)(2)(A)(ii); and

33 (ii) severity level 3, person felony if the victim is the offender's  
34 biological, step or adoptive child; and

35 (B) subsection (b)(1) or (b)(2)(B) is a severity level 7, person felony.

36 (d) *As used in this section:*

- 1       (1) *"Sexual intercourse" and "sodomy" mean the same as in K.S.A.*  
2 *2017 Supp. 21-5501; and*  
3       (2) *"otherwise lawful sexual intercourse or sodomy" does not include*  
4 *rape, as defined in K.S.A. 2017 Supp. 21-5503, and amendments thereto,*  
5 *or aggravated criminal sodomy, as defined in K.S.A. 2017 Supp. 21-*  
6 *5504(b)(3), and amendments thereto.*  
7       Sec. 2. K.S.A. 2017 Supp. 21-5604 is hereby repealed.  
8       Sec. 3. This act shall take effect and be in force from and after its  
9 publication in the statute book.