

SENATE BILL No. 434

By Committee on Judiciary

1-24

AN ACT concerning crimes and punishment; relating to unlawful sexual relations; adding certain contracted employees to the definition of offender; amending K.S.A. 2001 Supp. 21-3520 and repealing the existing section.

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

Section 1. K.S.A. 2001 Supp. 21-3520 is hereby amended to read as follows: 21-3520. (a) Unlawful sexual relations is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is not married to the offender if:

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

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

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

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

1 (5) the offender is an employee of the juvenile justice authority or
2 the employee of a contractor who is under contract to provide services in
3 a juvenile correctional facility and the person with whom the offender is
4 engaging in consensual sexual intercourse, lewd fondling or touching, or
5 sodomy is a person 16 years of age or older who is confined by lawful
6 custody to such facility; or

7 (6) the offender is an employee of the juvenile justice authority or
8 the employee of a contractor who is under contract to provide direct
9 supervision and offender control services to the juvenile justice authority
10 and the person with whom the offender is engaging in consensual sexual
11 intercourse, lewd fondling or touching, or sodomy is 16 years of age or
12 older and (A) released on conditional release from a juvenile correctional
13 facility under the direct supervision and control of the offender or (B)
14 placed in the custody of the juvenile justice authority under the direct
15 supervision and control of the offender;

16 (7) the offender is an employee of the department of social and re-
17 habilitation services or the employee of a contractor who is under contract
18 to provide services in a social and rehabilitation services institution and
19 the person with whom the offender is engaging in consensual sexual in-
20 tercourse, not otherwise subject to subsection (a)(1)(C) of K.S.A. 21-3502,
21 and amendments thereto, lewd fondling or touching, or sodomy, not oth-
22 erwise subject to subsection (a)(3)(C) of K.S.A. 21-3506, and amendments
23 thereto, is a person 16 years of age or older who is a patient in such
24 institution; or

25 (8) the offender is a teacher or a person in a position of authority and
26 the person with whom the offender is engaging in consensual sexual in-
27 tercourse, lewd fondling or touching or sodomy is 16 or 17 years of age
28 and a student enrolled at the school where the offender is employed. If
29 the offender is the parent of the student, the provisions of K.S.A. 21-
30 3603, and amendments thereto, shall apply, not this subsection.

31 (b) For purposes of this act:

32 (1) "Correctional institution" means the same as prescribed by K.S.A.
33 75-5202, and amendments thereto;

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

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

38 (4) "postrelease supervision" means the same as prescribed in the
39 Kansas sentencing guidelines act in K.S.A. 21-4703, and amendments
40 thereto;

41 (5) "juvenile detention facility" means the same as prescribed by
42 K.S.A. 38-1602, and amendments thereto;

43 (6) "juvenile correctional facility" means the same as prescribed by

1 K.S.A. 38-1602, and amendments thereto;
2 (7) “sanctions house” means the same as prescribed by K.S.A. 38-
3 1602, and amendments thereto;
4 (8) “institution” means the same as prescribed by K.S.A. 76-12a01,
5 and amendments thereto; and
6 (9) “teacher” means and includes teachers, supervisors, principals,
7 superintendents and any other professional employee in any public or
8 private school.
9 (c) Unlawful sexual relations is a severity level 10, person felony.
10 Sec. 2. K.S.A. 2001 Supp. 21-3520 is hereby repealed.
11 Sec. 3. This act shall take effect and be in force from and after its
12 publication in the statute book.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43