

HOUSE BILL No. 2121

AN ACT concerning crimes, criminal procedure and punishment; amending K.S.A. 21-3836 and K.S.A. 2002 Supp. 22-4529, 22-4902, 22-4903, 22-4904 and 22-4905 and repealing the existing sections.

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

Section 1. K.S.A. 21-3836 is hereby amended to read as follows: 21-3836. (a) Any pretrial release of any criminal defendant, whether on bail or under another form of recognizance, shall be considered as a matter of law to include a condition that the defendant will not commit, cause to be committed or knowingly permit to be committed, on the defendant's behalf, any violation of this act. Willful violation of that condition is subject to the sanction provided by subsection (c) of K.S.A. 21-3835, *and amendments thereto*, whether or not the defendant was the subject of an order under K.S.A. 21-3834, *and amendments thereto*.

(b) Any receipt for any bail or bond given by any court, or by any surety or bondsman and any written promise to appear on one's own recognizance shall contain notice of the provisions of subsection (a) in a conspicuous location.

(c) *Any pretrial release of any criminal defendant whether on bail or under another form of recognizance who requests and is entitled to the assistance of counsel under the provisions of K.S.A. 22-4503, and amendments thereto, shall be considered as a matter of law to include a condition that the defendant shall pay the application fee prescribed by K.S.A. 2002 Supp. 22-4529, and amendments thereto, and the failure to pay such fee shall constitute a violation of this act. Willful violation of such condition is subject to the sanction provided by subsection (c) of K.S.A. 21-3835, and amendments thereto, whether or not the defendant was the subject of an order under K.S.A. 21-3834, and amendments thereto.*

Sec. 2. K.S.A. 2002 Supp. 22-4529 is hereby amended to read as follows: 22-4529. ~~The court may impose an administrative fee in the amount of \$35 against~~ Any defendant entitled to counsel pursuant to K.S.A. 22-4503, and amendments thereto *shall pay an application fee in the amount of \$50 for the period commencing on the effective date of this act and ending on June 30, 2004, and the amount of \$100 on or after July 1, 2004, to the clerk of the district court.* If it appears to the satisfaction of the court that payment of the ~~administrative application~~ fee will impose manifest hardship on the defendant, the court may waive payment of all or part of the ~~administrative application~~ fee. All moneys received pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the indigents' defense services fund. If the defendant is acquitted or the case is dismissed, any ~~administrative application~~ fee paid pursuant to this section shall be remitted to the defendant. ~~The provisions of this section shall take effect on and after July 1, 1997.~~

Sec. 3. On and after July 1, 2003, K.S.A. 2002 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in this act, unless the context otherwise requires:

- (a) "Offender" means: (1) A sex offender as defined in subsection (b);
- (2) a violent offender as defined in subsection (d);
- (3) a sexually violent predator as defined in subsection (f);
- (4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:
  - (A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;
  - (B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or
  - (C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;
- (5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:
  - (A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;
  - (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;
  - (C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;

(D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto; or

(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;

(6) any person ~~who is a resident of this state~~ who has been required to register under any federal, military or other state's law *or is otherwise required to be registered*;

(7) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4) or (5), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4) or (5); or

(8) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4) or (5).

Convictions 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. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).

(c) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;

(6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;

(7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;

(8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;

(9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;

(10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;

(11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or

(12) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;

(13) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or

(14) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "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) "Violent offender" includes any person who, after the effective date of this act, is convicted of any of the following crimes:

(1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;

(2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;

(3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;

(4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;

(5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto; or

(6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) “Law enforcement agency having jurisdiction” means the sheriff of the county in which the offender expects to reside upon the offender’s discharge, parole or release.

(f) “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.

(g) “Nonresident student or worker” includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) “Aggravated offenses” means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 2002 Supp. 21-3502, and amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(i) “*Institution of higher education*” means any post-secondary school under the supervision of the Kansas board of regents.

Sec. 4. On and after July 1, 2003, K.S.A. 2002 Supp. 22-4903 is hereby amended to read as follows: 22-4903. Any person who is required to register as provided in this act who violates any of the provisions of this act, *including all duties set out in K.S.A. 22-4904 through K.S.A. 22-4907, and amendments thereto*, is guilty of a severity level 10, nonperson felony.

Sec. 5. On and after July 1, 2003, K.S.A. 2002 Supp. 22-4904 is hereby amended to read as follows: 22-4904. (a) (1) Except as provided in subsection (a)(2), within 10 days of the offender coming into any county in which the offender resides or is temporarily domiciled for more than 10 days, the offender shall register with the sheriff of the county.

(2) Within 10 days of the offender coming into any county in which the offender resides or temporarily resides for more than 10 days, any offender who has provided the information and completed and signed the registration form as required in K.S.A. 22-4905 and amendments thereto, shall verify with the sheriff of the county that the sheriff has received such offender’s information and registration form.

(3) Upon registration with a school or educational institution, a nonresident student attending such school or educational institution shall register with the sheriff within 10 days of the commencement of the school term.

(4) Upon commencement of employment, a nonresident worker shall register with the sheriff within 10 days of the commencement date of employment.

(5) For persons required to register as provided in subsections (a)(1), (a)(3) and (a)(4), the sheriff shall: (A) Explain the duty to register and the procedure for registration;

(B) obtain the information required for registration as provided in K.S.A. 22-4907 and amendments thereto;

(C) inform the offender that the offender must give written notice of any change of address within 10 days of a change in residence to the law enforcement agency where last registered and the Kansas bureau of investigation;

(D) inform the nonresident student offender that the offender must give written notice to the sheriff and the Kansas bureau of investigation of any change or termination of attendance at the school or educational institution the offender is attending, within 10 days of such change or termination;

(E) inform the nonresident worker offender that the offender must give written notice to the sheriff and the Kansas bureau of investigation of any termination of employment at the offender's place of employment, within 10 days of such termination;

(F) inform the offender that if the offender changes residence to another state, the offender must inform the law enforcement agency where last registered and the Kansas bureau of investigation of such change in residence and must register in the new state within 10 days of such change in residence;

(G) inform the offender that the offender must also register in any state or county where the offender is employed, carries on a vocation or is a student; ~~and~~

(H) *inform the offender that if the offender expects to or subsequently becomes enrolled in any institution of higher education in the state of Kansas on a full-time or part-time basis or have any full-time or part-time employment at an institution of higher education in the state of Kansas, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in one calendar year, the offender must provide written notice to the Kansas bureau of investigation within 10 days upon commencement of enrollment or employment;*

(I) *inform the offender that if there is any change or termination in attendance or employment at an institution of higher education, the offender must provide written notice to the Kansas bureau of investigation within 10 days of the change or termination; and*

(J) require the offender to read and sign the registration form which shall include a statement that the requirements provided in this subsection have been explained to the offender.

(6) Such sheriff, within three days of receipt of the initial registration shall forward this information to the Kansas bureau of investigation.

(7) 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 then all provisions of that act shall apply, except that the term of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

(b) (1) If any person required to register as provided in this act changes the address of the person's residence, the offender, within 10 days, shall inform in writing the Kansas bureau of investigation of the new address.

(2) After receipt of the change of address, the Kansas bureau of investigation shall forward this information to the law enforcement agency having jurisdiction of the new place of residence within 10 days of such receipt of the change of address.

(c) For any person required to register as provided in this act, every 90 days after the person's initial registration date during the period the person is required to register, the following applies:

(1) The Kansas bureau of investigation shall mail a nonforwardable verification form to the last reported address of the person.

(2) The person shall mail the verification form to the Kansas bureau of investigation within 10 days after receipt of the form.

(3) The verification form shall be signed by the person and shall provide the following information, as applicable, to the Kansas bureau of investigation: (A) Whether the person still resides at the address last reported; (B) whether the person still attends the school or educational institution last reported; (C) whether the person is still employed at the place of employment last reported; and (D) whether the person's vehicle registration information is the same as last reported.

(4) If the person fails to mail the verification form to the Kansas bureau of investigation within 10 days after receipt of the form, the person shall be in violation of the Kansas offender registration act.

(5) Nothing contained in this section shall be construed to alleviate any person required to register as provided in this act from meeting the requirements prescribed in subsections (a)(1), (a)(2) and (b)(1).

Sec. 6. On and after July 1, 2003, K.S.A. 2002 Supp. 22-4905 is hereby amended to read as follows: 22-4905. (a) (1) Any offender, who is discharged or paroled from a prison, hospital or other institution or facility involving a violation of any crime or confinement as provided in subsection (a), (b), (d) or (f) of K.S.A. 22-4902 and amendments thereto, prior to discharge, parole or release, shall be informed by the staff of the facility in which the offender was confined of the duty to register as provided in this act.

(2) (A) The staff of the facility shall: (i) Explain the duty to register and the procedure for registration;

(ii) obtain the information required for registration as provided in K.S.A. 22-4907 and amendments thereto;

(iii) inform the offender that the offender must give written notice of any change of address within 10 days of a change in residence to the law enforcement agency where last registered and the Kansas bureau of investigation;

(iv) inform the offender that if the offender changes residence to another state, the offender must inform the law enforcement agency where last registered and the Kansas bureau of investigation of such change in residence and must register in the new state within 10 days of such change in residence;

(v) inform the offender that the offender must also register in any state or county where the offender is employed, carries on a vocation or is a student; ~~and~~

(vi) *inform the offender that if the offender expects to or subsequently becomes enrolled in any institution of higher education in the state of Kansas on a full-time or part-time basis or have any full-time or part-time employment at an institution of higher education in the state of Kansas, with or without compensation, for more than 14 days or an aggregate period exceeding 30 days in one calendar year, the offender must provide written notice to the Kansas bureau of investigation within 10 days upon commencement of enrollment or employment;*

(vii) *inform the offender that if there is any change or termination in attendance or employment, at an institution of higher education, the offender must provide written notice to the Kansas bureau of investigation within 10 days of the change or termination; and*

(viii) require the offender to read and sign the registration form which shall include a statement that the requirements provided in this subsection have been explained to the offender.

(B) The staff of the facility shall give one copy of the form to the person, within three days, and shall send two copies of the form provided by subsection (2)(A)(v) to the Kansas bureau of investigation, which shall then forward one copy to the law enforcement agency having jurisdiction where the person expects to reside upon discharge, parole or release. The Kansas bureau of investigation must immediately ensure that such information is entered in the state law enforcement record system. The Kansas bureau of investigation shall transmit such conviction data and fingerprints to the federal bureau of investigation.

(b) (1) Any offender who is released on probation, receives a suspended sentence, sentenced to community corrections or released on postrelease supervision because of the commission of any crime as provided in subsection (a), (b) or (d) of K.S.A. 22-4902 and amendments thereto, prior to release, shall be informed of the offenders duty to register as provided in this act by the court in which the offender is convicted.

(2) (A) The court shall: (i) Explain the duty to register and the procedure for registration;

(ii) obtain the information required for registration as provided in K.S.A. 22-4907 and amendments thereto;

(iii) inform the offender that the offender must give written notice of any change of address within 10 days of a change in residence to the

law enforcement agency where last registered and the Kansas bureau of investigation;

(iv) inform the offender that if the offender changes residence to another state, the offender must inform the law enforcement agency where last registered and the Kansas bureau of investigation of such change in residence and must register in the new state within 10 days of such change in residence;

(v) inform the offender that the offender must also register in any state or county where the offender is employed, carries on a vocation or is a student; ~~and~~

(vi) *inform the offender that if the offender expects to or subsequently becomes enrolled in any institution of higher education in the state of Kansas on a full-time or part-time basis or have any full-time or part-time employment at an institution of higher education in the state of Kansas, with or without compensation, for more than 14 days or for an aggregate period exceeding 30 days in one calendar year, the offender must provide written notice to the Kansas bureau of investigation within 10 days upon commencement of enrollment or employment;*

(vii) *inform the offender that if there is any change or termination in attendance or employment at an institution of higher education, the offender must provide written notice to the Kansas bureau of investigation within 10 days of the change or termination; and*

(viii) require the offender to read and sign the registration form which shall include a statement that the requirements provided in this subsection have been explained to the offender.

(B) The court shall give one copy of the form to the person and, within three days, shall send two copies of the form provided by subsection (2)(A)(v) to the Kansas bureau of investigation which shall then forward one copy to the law enforcement agency having jurisdiction where the person expects to reside upon release. The Kansas bureau of investigation must immediately ensure that such information is entered in the state law enforcement record system. The Kansas bureau of investigation shall transmit such conviction data and fingerprints to the federal bureau of investigation.

Sec. 7. On and after July 1, 2003, K.S.A. 2002 Supp. 22-4902, 22-4903, 22-4904 and 22-4905 are hereby repealed.

Sec. 8. K.S.A. 21-3836 and K.S.A. 2002 Supp. 22-4529 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

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HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*