

Substitute for HOUSE BILL No. 2815

By Committee on Corrections and Juvenile Justice

2-25

9 AN ACT concerning crimes, punishment and criminal procedure; relat-
10 ing to aggravated indecent solicitation of a child; amending K.S.A. 21-
11 3511 and K.S.A. 2003 Supp. 22-3303 and repealing the existing
12 sections.
13

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

15 Section 1. K.S.A. 21-3511 is hereby amended to read as follows: 21-
16 3511. Aggravated indecent solicitation of a child is:

17 (a) Enticing or soliciting a child under the age of 14 years to commit
18 or to submit to an unlawful sexual act; or

19 (b) inviting, persuading or attempting to persuade a child under the
20 age of 14 years to enter any vehicle, building, room or secluded place
21 with intent to commit an unlawful sexual act upon or with the child.

22 Aggravated indecent solicitation of a child is a severity level 63, person
23 felony.

24 Sec. 2. K.S.A. 2003 Supp. 22-3303 is hereby amended to read as
25 follows: 22-3303. (1) A defendant who is charged with a felony and is
26 found to be incompetent to stand trial shall be committed for evaluation
27 and treatment to the state security hospital or any appropriate county or
28 private institution. A defendant who is charged with a misdemeanor and
29 is found to be incompetent to stand trial shall be committed for evaluation
30 and treatment to any appropriate state, county or private institution. Any
31 such commitment shall be for a period of not to exceed 90 days. Within
32 90 days after the defendant's commitment to such institution, the chief
33 medical officer of such institution shall certify to the court whether the
34 defendant has a substantial probability of attaining competency to stand
35 trial in the foreseeable future. If such probability does exist, the court
36 shall order the defendant to remain in an appropriate state, county or
37 private institution until the defendant attains competency to stand trial
38 or for a period of six months from the date of the original commitment,
39 whichever occurs first. If such probability does not exist, the court shall
40 order the secretary of social and rehabilitation services to commence in-
41 voluntary commitment proceedings pursuant to article 29 of chapter 59
42 of the Kansas Statutes Annotated, and any amendments thereto. When a
43 defendant is charged with any off-grid felony, any nondrug severity level

1 1 through 3 felony, or a violation of K.S.A. 21-3504, ~~21-3511~~, 21-3518,
2 21-3603 or 21-3719, and amendments thereto, and commitment pro-
3 ceedings have commenced, for such proceeding, “mentally ill person sub-
4 ject to involuntary commitment for care and treatment” means a mentally
5 ill person, as defined in subsection (e) of K.S.A. 2003 Supp. 59-2946, and
6 amendments thereto, who is likely to cause harm to self and others, as
7 defined in subsection (f)(3) of K.S.A. 2003 Supp. 59-2946, and amend-
8 ments thereto. The other provisions of subsection (f) of K.S.A. 2003 Supp.
9 59-2946, and amendments thereto, shall not apply.

10 (2) If a defendant who was found to have had a substantial probability
11 of attaining competency to stand trial, as provided in subsection (1), has
12 not attained competency to stand trial within six months from the date
13 of the original commitment, the court shall order the secretary of social
14 and rehabilitation services to commence involuntary commitment pro-
15 ceedings pursuant to article 29 of chapter 59 of the Kansas Statutes An-
16 notated, and any amendments thereto. When a defendant is charged with
17 any off-grid felony, any nondrug severity level 1 through 3 felony, or a
18 violation of K.S.A. 21-3504, ~~21-3511~~, 21-3518, 21-3603 or 21-3719, and
19 amendments thereto, and commitment proceedings have commenced,
20 for such proceeding, “mentally ill person subject to involuntary commit-
21 ment for care and treatment” means a mentally ill person, as defined in
22 subsection (e) of K.S.A. 2003 Supp. 59-2946, and amendments thereto,
23 who is likely to cause harm to self and others, as defined in subsection
24 (f)(3) of K.S.A. 2003 Supp. 59-2946, and amendments thereto. The other
25 provisions of subsection (f) of K.S.A. 2003 Supp. 59-2946, and amend-
26 ments thereto, shall not apply.

27 (3) When reasonable grounds exist to believe that a defendant who
28 has been adjudged incompetent to stand trial is competent, the court in
29 which the criminal case is pending shall conduct a hearing in accordance
30 with K.S.A. 22-3302 and amendments thereto to determine the person’s
31 present mental condition. Reasonable notice of such hearings shall be
32 given to the prosecuting attorney, the defendant and the defendant’s at-
33 torney of record, if any. If the court, following such hearing, finds the
34 defendant to be competent, the proceedings pending against the defend-
35 ant shall be resumed.

36 (4) A defendant committed to a public institution under the provi-
37 sions of this section who is thereafter sentenced for the crime charged at
38 the time of commitment may be credited with all or any part of the time
39 during which the defendant was committed and confined in such public
40 institution.

41 Sec. 3. K.S.A. 21-3511 and K.S.A. 2003 Supp. 22-3303 are hereby
42 repealed.

43

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