

## HOUSE BILL No. 2201

By Representatives Long and Ward

1-27

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9 AN ACT concerning offender registration; relating to retroactivity;  
10 amending K.S.A. 2004 Supp. 22-4902 and 22-4912 and repealing the  
11 existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2004 Supp. 22-4902 is hereby amended to read as  
15 follows: 22-4902. As used in this act, unless the context otherwise  
16 requires:

17 (a) "Offender" means *Any person who has been convicted of any of*  
18 *the following acts, no matter the date of occurrence of the crime or the*  
19 *date of conviction:* (1) A sex offender as defined in subsection (b);

20 (2) a violent offender as defined in subsection (d);

21 (3) a sexually violent predator as defined in subsection (f);

22 (4) any person who, on and after the effective date of this act, is  
23 convicted of any of the following crimes when the victim is less than 18  
24 years of age:

25 (A) Kidnapping as defined in K.S.A. 21-3420 and amendments  
26 thereto, except by a parent;

27 (B) aggravated kidnapping as defined in K.S.A. 21-3421 and amend-  
28 ments thereto; or

29 (C) criminal restraint as defined in K.S.A. 21-3424 and amendments  
30 thereto, except by a parent;

31 (5) any person convicted of any of the following criminal sexual con-  
32 duct if one of the parties involved is less than 18 years of age:

33 (A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;

34 (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-  
35 3505, and amendments thereto;

36 (C) promoting prostitution as defined by K.S.A. 21-3513, and amend-  
37 ments thereto;

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

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

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

- 1 (6) any person who has been required to register under any federal,  
2 military or other state's law or is otherwise required to be registered;
- 3 (7) any person who has been convicted of an offense in effect at any  
4 time prior to the effective date of this act, that is comparable to any crime  
5 defined in subsection (4) or (5), or any federal, military or other state  
6 conviction for an offense that under the laws of this state would be an  
7 offense defined in subsection (4) or (5); or
- 8 (8) any person who has been convicted of an attempt, conspiracy or  
9 criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303  
10 and amendments thereto, of an offense defined in subsection (4) or (5).
- 11 Convictions which result from or are connected with the same act, or  
12 result from crimes committed at the same time, shall be counted for the  
13 purpose of this section as one conviction. Any conviction set aside pur-  
14 suant to law is not a conviction for purposes of this section. A conviction  
15 from another state shall constitute a conviction for purposes of this  
16 section.
- 17 (b) "Sex offender" includes any person who, after the effective date  
18 of this act, is convicted of any sexually violent crime set forth in subsection  
19 (c) or is adjudicated as a juvenile offender for an act which if committed  
20 by an adult would constitute the commission of a sexually violent crime  
21 set forth in subsection (c).
- 22 (c) "Sexually violent crime" means:
- 23 (1) Rape as defined in K.S.A. 21-3502 and amendments thereto;
- 24 (2) indecent liberties with a child as defined in K.S.A. 21-3503 and  
25 amendments thereto;
- 26 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-  
27 3504 and amendments thereto;
- 28 (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of  
29 K.S.A. 21-3505 and amendments thereto;
- 30 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and  
31 amendments thereto;
- 32 (6) indecent solicitation of a child as defined by K.S.A. 21-3510 and  
33 amendments thereto;
- 34 (7) aggravated indecent solicitation of a child as defined by K.S.A.  
35 21-3511 and amendments thereto;
- 36 (8) sexual exploitation of a child as defined by K.S.A. 21-3516 and  
37 amendments thereto;
- 38 (9) sexual battery as defined by K.S.A. 21-3517 and amendments  
39 thereto;
- 40 (10) aggravated sexual battery as defined by K.S.A. 21-3518 and  
41 amendments thereto;
- 42 (11) aggravated incest as defined by K.S.A. 21-3603 and amendments  
43 thereto; or

- 1 (12) any conviction for an offense in effect at any time prior to the  
2 effective date of this act, that is comparable to a sexually violent crime as  
3 defined in subparagraphs (1) through (11), or any federal, military or  
4 other state conviction for an offense that under the laws of this state would  
5 be a sexually violent crime as defined in this section;
- 6 (13) an attempt, conspiracy or criminal solicitation, as defined in  
7 K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sex-  
8 ually violent crime, as defined in this section; or
- 9 (14) any act which at the time of sentencing for the offense has been  
10 determined beyond a reasonable doubt to have been sexually motivated.  
11 As used in this subparagraph, “sexually motivated” means that one of the  
12 purposes for which the defendant committed the crime was for the pur-  
13 pose of the defendant’s sexual gratification.
- 14 (d) “Violent offender” includes any person who, after the effective  
15 date of this act, is convicted of any of the following crimes:
- 16 (1) Capital murder as defined by K.S.A. 21-3439 and amendments  
17 thereto;
- 18 (2) murder in the first degree as defined by K.S.A. 21-3401 and  
19 amendments thereto;
- 20 (3) murder in the second degree as defined by K.S.A. 21-3402 and  
21 amendments thereto;
- 22 (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amend-  
23 ments thereto;
- 24 (5) involuntary manslaughter as defined by K.S.A. 21-3404 and  
25 amendments thereto; or
- 26 (6) any conviction for an offense in effect at any time prior to the  
27 effective date of this act, that is comparable to any crime defined in this  
28 subsection, or any federal, military or other state conviction for an offense  
29 that under the laws of this state would be an offense defined in this  
30 subsection; or
- 31 (7) an attempt, conspiracy or criminal solicitation, as defined in  
32 K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an of-  
33 fense defined in this subsection.
- 34 (e) “Law enforcement agency having jurisdiction” means the sheriff  
35 of the county in which the offender expects to reside upon the offender’s  
36 discharge, parole or release.
- 37 (f) “Sexually violent predator” means any person who, on or after July  
38 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-  
39 29a01 *et seq.* and amendments thereto.
- 40 (g) “Nonresident student or worker” includes any offender who  
41 crosses into the state or county for more than 14 days, or for an aggregate  
42 period exceeding 30 days in a calendar year, for the purposes of employ-  
43 ment, with or without compensation, or to attend school as a student.

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

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

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

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

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

14 Sec. 2. K.S.A. 2004 Supp. 22-4912 is hereby amended to read as  
15 follows: 22-4912. (a) Any offender who was required to be registered  
16 pursuant to the Kansas offender registration act K.S.A. 22-4901 *et seq.*  
17 and amendments thereto, prior to July 1, 1999, and who would not have  
18 been required to be registered pursuant to the Kansas offender registra-  
19 tion act on and after July 1, 1999, as a result of *the* enactment of ~~this act~~  
20 *K.S.A. 2004 Supp. 21-3520, and amendments thereto*, shall be entitled to  
21 be relieved of the requirement to be registered. Such offender may apply  
22 to the sentencing court for an order relieving the offender of the duty of  
23 registration. The court shall hold a hearing on the application at which  
24 the applicant shall present evidence verifying that such applicant no  
25 longer satisfies the definition of offender pursuant to K.S.A. 22-4902 and  
26 amendments thereto. If the court finds that the person no longer satisfies  
27 the definition of offender pursuant to K.S.A. 22-4902 and amendments  
28 thereto, the court shall grant an order relieving the offender’s duty to  
29 register if the offender no longer fulfills the definition of offender pur-  
30 suant to K.S.A. 22-4902 and amendments thereto. Such court granting  
31 such an order shall forward a copy of such order to the sheriff of the  
32 county in which such person has registered and to the Kansas bureau of  
33 investigation. Upon receipt of such copy of the order, such sheriff and  
34 the Kansas bureau of investigation shall remove such person’s name from  
35 the registry.

36 (b) This section shall be part of ~~an~~ *and* supplemental to the Kansas  
37 offender registration act.

38 Sec. 3. K.S.A. 2004 Supp. 22-4902 and 22-4912 are hereby repealed.

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