

HOUSE BILL No. 2661

By Committee on Federal and State Affairs
(By request)

1-19

10 AN ACT concerning crimes and punishment; relating to unlawful sexual
11 relations; amending K.S.A. 2005 Supp. 21-3520 and repealing the ex-
12 isting section.
13

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

15 Section 1. K.S.A. 2005 Supp. 21-3520 is hereby amended to read as
16 follows: 21-3520. (a) Unlawful sexual relations is engaging in consensual
17 sexual intercourse, lewd fondling or touching, or sodomy with a person
18 who is not married to the offender if:

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

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

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

37 (4) the offender is a law enforcement officer, an employee of a ju-
38 venile detention facility or sanctions house, or the employee of a con-
39 tractor who is under contract to provide services in such facility or sanc-
40 tions house and the person with whom the offender is engaging in
41 consensual sexual intercourse, lewd fondling or touching, or sodomy is a
42 person 16 years of age or older who is confined by lawful custody to such
43 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 supervision and control of the juvenile justice authority
14 or juvenile community supervision agency or (B) placed in the custody of
15 the juvenile justice authority under the supervision and control of the
16 juvenile justice authority or juvenile community supervision agency and
17 the offender has knowledge that the person with whom the offender is
18 engaging in consensual sexual intercourse, lewd fondling or touching, or
19 sodomy is currently under supervision;
- 20 (7) the offender is an employee of the department of social and re-
21 habilitation services or the employee of a contractor who is under contract
22 to provide services in a social and rehabilitation services institution and
23 the person with whom the offender is engaging in consensual sexual in-
24 tercourse, not otherwise subject to subsection (a)(1)(C) of K.S.A. 21-3502,
25 and amendments thereto, lewd fondling or touching, or sodomy, not oth-
26 erwise subject to subsection (a)(3)(C) of K.S.A. 21-3506, and amendments
27 thereto, is a person 16 years of age or older who is a patient in such
28 institution;
- 29 (8) the offender is a teacher or a person in a position of authority and
30 the person with whom the offender is engaging in consensual sexual in-
31 tercourse, lewd fondling or touching or sodomy is 16 or 17 years of age
32 and a student enrolled at the school where the offender is employed. If
33 the offender is the parent of the student, the provisions of K.S.A. 21-
34 3603, and amendments thereto, shall apply, not this subsection;
- 35 (9) the offender is a court services officer or the employee of a con-
36 tractor who is under contract to provide supervision services for persons
37 under court services supervision and the person with whom the offender
38 is engaging in consensual sexual intercourse, lewd fondling or touching,
39 or sodomy is a person 16 years of age or older who has been placed on
40 probation under the supervision and control of court services and the
41 offender has knowledge that the person with whom the offender is en-
42 gaging in consensual sexual intercourse, lewd fondling or touching, or
43 sodomy is currently under the supervision of court services; or

- 1 (10) the offender is a community correctional services officer or the
2 employee of a contractor who is under contract to provide supervision
3 services for persons under community corrections supervision and the
4 person with whom the offender is engaging in consensual sexual inter-
5 course, lewd fondling or touching, or sodomy is a person 16 years of age
6 or older who has been assigned to a community correctional services
7 program under the supervision and control of community corrections and
8 the offender has knowledge that the person with whom the offender is
9 engaging in consensual sexual intercourse, lewd fondling or touching, or
10 sodomy is currently under supervision of community corrections; *or*
- 11 (11) *the offender is a member of the clergy and the person with whom*
12 *the offender is engaging in consensual sexual intercourse, lewd fondling*
13 *or touching is acting as a member of the clergy carrying out the clergy*
14 *member's pastoral duties.*
- 15 (b) For purposes of this act:
- 16 (1) "Correctional institution" means the same as prescribed by K.S.A.
17 75-5202, and amendments thereto;
- 18 (2) "inmate" means the same as prescribed by K.S.A. 75-5202, and
19 amendments thereto;
- 20 (3) "parole officer" means the same as prescribed by K.S.A. 75-5202,
21 and amendments thereto;
- 22 (4) "postrelease supervision" means the same as prescribed in the
23 Kansas sentencing guidelines act in K.S.A. 21-4703, and amendments
24 thereto;
- 25 (5) "juvenile detention facility" means the same as prescribed by
26 K.S.A. 38-1602, and amendments thereto;
- 27 (6) "juvenile correctional facility" means the same as prescribed by
28 K.S.A. 38-1602, and amendments thereto;
- 29 (7) "sanctions house" means the same as prescribed by K.S.A. 38-
30 1602, and amendments thereto;
- 31 (8) "institution" means the same as prescribed by K.S.A. 76-12a01,
32 and amendments thereto; and
- 33 (9) "teacher" means and includes teachers, supervisors, principals,
34 superintendents and any other professional employee in any public or
35 private school;
- 36 (10) "community corrections" means the entity responsible for su-
37 pervising adults and juvenile offenders for confinement, detention, care
38 or treatment, subject to conditions imposed by the court pursuant to the
39 community corrections act, K.S.A. 75-5290, and amendments thereto,
40 and the Kansas juvenile justice code, K.S.A. 38-1601 et seq., and amend-
41 ments thereto;
- 42 (11) "court services" means the entity appointed by the district court
43 that is responsible for supervising adults and juveniles placed on probation

- 1 and misdemeanants placed on parole by district courts of this state;
2 (12) “law enforcement officer” means the same as prescribed by
3 K.S.A. 21-3110, and amendments thereto; ~~and~~
4 (13) “juvenile community supervision agency” means an entity that
5 receives grants for the purpose of providing direct supervision to juveniles
6 in the custody of the juvenile justice authority; *and*
7 (14) “clergy” means a currently ordained member of the clergy or
8 religious authority of any religious denomination or society.
9 (c) Unlawful sexual relations is a severity level 10, person felony.
10 Sec. 2. K.S.A. 2005 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.