

## SENATE BILL No. 556

By Committee on Federal and State Affairs

2-14

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9 AN ACT concerning sexual conduct; relating to intent; amending K.S.A.  
10 21-3503, 21-3504, 21-3517, 21-3518 and 60-3102 and K.S.A. 2005  
11 Supp. 21-3516 and repealing the existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 21-3503 is hereby amended to read as follows: 21-  
15 3503. (a) Indecent liberties with a child is engaging in any of the following  
16 acts with a child who is 14 or more years of age but less than 16 years of  
17 age:

18 (1) Any lewd fondling or touching of the person of either the child  
19 or the offender, done or submitted to with the intent to *humiliate, harass*  
20 *or degrade the child or to* arouse or satisfy the sexual desires of either the  
21 child or the offender, or both; or

22 (2) soliciting the child to engage in any lewd fondling or touching of  
23 the person of another with the intent to arouse or satisfy the sexual desires  
24 of the child, the offender or another.

25 (b) It shall be a defense to a prosecution of indecent liberties with a  
26 child as described in subsection (a)(1) that the child was married to the  
27 accused at the time of the offense.

28 (c) Indecent liberties with a child is a severity level 5, person felony.

29 Sec. 2. K.S.A. 21-3504 is hereby amended to read as follows: 21-  
30 3504. (a) Aggravated indecent liberties with a child is:

31 (1) Sexual intercourse with a child who is 14 or more years of age but  
32 less than 16 years of age;

33 (2) engaging in any of the following acts with a child who is 14 or  
34 more years of age but less than 16 years of age and who does not consent  
35 thereto:

36 (A) Any lewd fondling or touching of the person of either the child  
37 or the offender, done or submitted to with the intent to *humiliate, harass*  
38 *or degrade the child or to* arouse or satisfy the sexual desires of either the  
39 child or the offender, or both; or

40 (B) causing the child to engage in any lewd fondling or touching of  
41 the person of another with the intent to arouse or satisfy the sexual desires  
42 of the child, the offender or another; or

43 (3) engaging in any of the following acts with a child who is under 14

1 years of age:

2 (A) Any lewd fondling or touching of the person of either the child  
3 or the offender, done or submitted to with the intent to *humiliate, harass*  
4 *or degrade the child or to* arouse or ~~to~~ satisfy the sexual desires of either  
5 the child or the offender, or both; or

6 (B) soliciting the child to engage in any lewd fondling or touching of  
7 the person of another with the intent to arouse or satisfy the sexual desires  
8 of the child, the offender or another.

9 (b) It shall be a defense to a prosecution of aggravated indecent lib-  
10 erities with a child as provided in subsection (a)(1), (a)(2)(A) and (a)(3)(A)  
11 that the child was married to the accused at the time of the offense.

12 (c) Aggravated indecent liberties with a child as described in subsec-  
13 tions (a)(1) and (a)(3) is a severity level 3, person felony. Aggravated  
14 indecent liberties with a child as described in subsection (a)(2) is a severity  
15 level 4, person felony.

16 Sec. 3. K.S.A. 2005 Supp. 21-3516 is hereby amended to read as  
17 follows: 21-3516. (a) Sexual exploitation of a child is:

18 (1) Employing, using, persuading, inducing, enticing or coercing a  
19 child under 18 years of age to engage in sexually explicit conduct for the  
20 purpose of promoting any performance;

21 (2) possessing any visual depiction, including any photograph, film,  
22 video picture, digital or computer generated image or picture, whether  
23 made or produced by electronic, mechanical or other means, where such  
24 visual depiction of a child under 18 years of age is shown or heard en-  
25 gaging in sexually explicit conduct with intent to *humiliate, harass or*  
26 *degrade the child or to* arouse or satisfy the sexual desires or appeal to  
27 the prurient interest of the offender, the child or another;

28 (3) being a parent, guardian or other person having custody or control  
29 of a child under 18 years of age and knowingly permitting such child to  
30 engage in, or assist another to engage in, sexually explicit conduct for any  
31 purpose described in subsection (a)(1) or (2); or

32 (4) promoting any performance that includes sexually explicit conduct  
33 by a child under 18 years of age, knowing the character and content of  
34 the performance.

35 (b) As used in this section:

36 (1) "Sexually explicit conduct" means actual or simulated: Exhibition  
37 in the nude; sexual intercourse or sodomy, including genital-genital, oral-  
38 genital, anal-genital or oral-anal contact, whether between persons of the  
39 same or opposite sex; masturbation; sado-masochistic abuse for the pur-  
40 pose of sexual stimulation; or lewd exhibition of the genitals, female  
41 breasts or pubic area of any person.

42 (2) "Promoting" means procuring, selling, providing, lending, mail-  
43 ing, delivering, transferring, transmitting, distributing, circulating, dis-

- 1 seminating, presenting, producing, directing, manufacturing, issuing,  
2 publishing, displaying, exhibiting or advertising:
- 3 (A) For pecuniary profit; or  
4 (B) with intent to *humiliate, harass or degrade the child or to* arouse  
5 or gratify the sexual desire or appeal to the prurient interest of the of-  
6 fender, the child or another.
- 7 (3) "Performance" means any film, photograph, negative, slide, book,  
8 magazine or other printed or visual medium, any audio tape recording or  
9 any photocopy, video tape, video laser disk, computer hardware, software,  
10 floppy disk or any other computer related equipment or computer gen-  
11 erated image that contains or incorporates in any manner any film, pho-  
12 tograph, negative, photocopy, video tape or video laser disk or any play  
13 or other live presentation.
- 14 (4) "Nude" means any state of undress in which the human genitals,  
15 pubic region, buttock or female breast, at a point below the top of the  
16 areola, is less than completely and opaquely covered.
- 17 (c) Sexual exploitation of a child is a severity level 5, person felony.  
18 (d) This section shall be part of and supplemental to the Kansas crim-  
19 inal code.
- 20 Sec. 4. K.S.A. 21-3517 is hereby amended to read as follows: 21-  
21 3517. (a) Sexual battery is the intentional touching of the person of an-  
22 other who is 16 or more years of age, who is not the spouse of the offender  
23 and who does not consent thereto, with the intent to *humiliate, harass or*  
24 *degrade another or to* arouse or satisfy the sexual desires of the offender  
25 or another.
- 26 (b) Sexual battery is a class A person misdemeanor.  
27 (c) This section shall be part of and supplemental to the Kansas crim-  
28 inal code.
- 29 Sec. 5. K.S.A. 21-3518 is hereby amended to read as follows: 21-  
30 3518. (a) Aggravated sexual battery is the intentional touching of the per-  
31 son of another who is 16 or more years of age and who does not consent  
32 thereto, with the intent to *humiliate, harass or degrade another or to*  
33 arouse or satisfy the sexual desires of the offender or another under any  
34 of the following circumstances:
- 35 (1) When the victim is overcome by force or fear;  
36 (2) when the victim is unconscious or physically powerless;  
37 (3) when the victim is incapable of giving consent because of mental  
38 deficiency or disease, or when the victim is incapable of giving consent  
39 because of the effect of any alcoholic liquor, narcotic, drug or other sub-  
40 stance, which condition was known by, or was reasonably apparent to, the  
41 offender.
- 42 (b) Aggravated sexual battery is a severity level 5, person felony.  
43 (c) This section shall be part of and supplemental to the Kansas crim-

1 inal code.

2 Sec. 6. K.S.A. 60-3102 is hereby amended to read as follows: 60-  
3 3102. As used in the protection from abuse act:

4 (a) "Abuse" means the occurrence of one or more of the following  
5 acts between intimate partners or household members:

6 (1) Intentionally attempting to cause bodily injury, or intentionally or  
7 recklessly causing bodily injury.

8 (2) Intentionally placing, by physical threat, another in fear of im-  
9 minent bodily injury.

10 (3) Engaging in any of the following acts with a minor under 16 years  
11 of age who is not the spouse of the offender:

12 (A) The act of sexual intercourse; or

13 (B) any lewd fondling or touching of the person of either the minor  
14 or the offender, done or submitted to with the intent to *humiliate, harass*  
15 *or degrade the minor or to* arouse or satisfy the sexual desires of either  
16 the minor or the offender, or both.

17 (b) "Intimate partners or household members" means persons who  
18 are or have been in a dating relationship, persons who reside together or  
19 who have formerly resided together or persons who have had a child in  
20 common.

21 (c) "Dating relationship" means a social relationship of a romantic  
22 nature. A dating relationship shall be presumed if a plaintiff verifies, pur-  
23 suant to K.S.A. 53-601, and amendments thereto, that such relationship  
24 exists. In addition to any other factors the court deems relevant, the court  
25 shall consider the following factors in making a determination of whether  
26 a relationship exists or existed include:

27 (1) Nature of the relationship;

28 (2) length of time the relationship existed;

29 (3) frequency of interaction between the parties; and

30 (4) time since termination of the relationship, if applicable.

31 Sec. 7. K.S.A. 21-3503, 21-3504, 21-3517, 21-3518 and 60-3102 and  
32 K.S.A. 2005 Supp. 21-3516 are hereby repealed.

33 Sec. 8. This act shall take effect and be in force from and after its  
34 publication in the statute book.