

## HOUSE BILL No. 2088

By Committee on Judiciary

1-17

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9 AN ACT concerning criminal trespass against children by sex offenders;  
10 penalties therefor; notification; immunity from liability.

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

13 Section 1. As used in this act:

14 (a) "Covered entity" means any public facility or private facility whose  
15 primary purpose, at any time, is to provide for the education, care or  
16 recreation of a child or children, including, but not limited to, a licensed  
17 child care facility, a registered family day care home, community and  
18 recreational centers, public libraries, playgrounds, schools, swimming  
19 pools and state or municipal parks.

20 (b) "Child" means a person under the age of eighteen.

21 (c) "Public facility" means a facility operated by a unit of the state or  
22 a municipality, or by a nonprofit organization.

23 (d) "Schools" means the real property of any school upon which is  
24 located a structure used by a unified school district or an accredited non-  
25 public school for student instruction or attendance or extracurricular ac-  
26 tivities of pupils enrolled in kindergarten or any grades one through 12.

27 (e) "Sex offender" means a person who is eighteen years of age or  
28 older, who has been convicted of one or more of the following offenses:

29 (1) Rape as described in subsection (a)(2) of K.S.A. 21-3502, and  
30 amendments thereto;

31 (2) indecent liberties with a child, K.S.A. 21-3503, and amendments  
32 thereto;

33 (3) aggravated indecent liberties with a child, K.S.A. 21-3504, and  
34 amendments thereto;

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

37 (5) aggravated criminal sodomy as described in subsection (a)(1) or  
38 (a)(2) of K.S.A. 21-3506, and amendments thereto;

39 (6) lewd and lascivious behavior as described in subsection (b)(2) of  
40 K.S.A. 21-3508, and amendments thereto;

41 (7) indecent solicitation of a child, K.S.A. 21-3510, and amendments  
42 thereto;

43 (8) aggravated indecent solicitation of a child, K.S.A. 21-3511, and

1 amendments thereto;

2 (9) promoting prostitution as described in subsection (b)(3) or (b)(4)  
3 of K.S.A. 21-3513, and amendments thereto;

4 (10) patronizing a prostitute, when the prostitute is under 18 years  
5 of age, K.S.A. 21-3515, and amendments thereto;

6 (11) sexual exploitation of a child, K.S.A. 21-3516, and amendments  
7 thereto;

8 (12) sexual battery, when the victim is 16 or 17 years of age, K.S.A.  
9 21-3517, and amendments thereto;

10 (13) aggravated sexual battery, when the victim is 16 or 17 years of  
11 age, K.S.A. 21-3518, and amendments thereto;

12 (14) aggravated incest, K.S.A. 21-3603, and amendments thereto;

13 (15) electronic solicitation, K.S.A. 2006 Supp. 21-3523, and amend-  
14 ments thereto;

15 (16) any offense in effect at any time prior to the effective date of  
16 this act that is comparable to an offense defined in this subsection or any  
17 federal or other state conviction for an offense that under the laws of this  
18 state would be an offense as defined in this subsection;

19 (17) an attempt, conspiracy or criminal solicitation, as defined in  
20 K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an of-  
21 fense as defined in this subsection; or

22 (18) any act which at the time of sentencing for the offense has been  
23 determined beyond a reasonable doubt to have been sexually motivated  
24 and the victim of the offense was less than 16 years of age at the time of  
25 the offense. As used in this subparagraph, "sexually motivated" means  
26 that one of the purposes for which the defendant committed the crime  
27 was for the purpose of the defendant's sexual gratification.

28 (f) "State" means the state of Kansas and any department or branch  
29 of state government, or any agency, authority, institution or other instru-  
30 mentality thereof.

31 (g) "Municipality" means any county, township, city, school district  
32 or other political or taxing subdivision of the state, or any agency, au-  
33 thority, institution or other instrumentality thereof.

34 Sec. 2. (a) An owner, employee or agent of a covered entity may  
35 order a sex offender from the legal premises of a covered entity as pro-  
36 vided under this section. To do this, the owner, employee or agent of a  
37 covered entity must first personally serve on the sex offender a written  
38 notice that informs the sex offender that:

39 (1) The sex offender must leave the legal premises of the covered  
40 entity and may not return without the written permission of the covered  
41 entity; and

42 (2) if the sex offender refuses to leave the legal boundaries of the  
43 covered entity, or thereafter returns and enters within the legal bound-

1 aries of the covered entity, the offender may be charged and prosecuted  
2 for a felony offense as provided in section 3, and amendments thereto.

3 (b) An owner, employee or agent of a covered entity shall be immune  
4 from civil liability for damages arising from ejecting a sex offender from  
5 a covered entity or from failing to eject a sex offender from a covered  
6 entity.

7 Sec. 3. (a) Criminal trespass against children is remaining upon or  
8 reentering the legal boundaries of a covered entity without the written  
9 permission of the covered entity if a person is a sex offender and has  
10 received written notice that complies with the requirements of section 2,  
11 and amendments thereto, that such sex offender is not permitted to re-  
12 main upon or reenter the legal boundaries of the covered entity.

13 (b) Criminal trespass against children is a severity level 5, nonperson  
14 felony.

15 (c) This section shall be a part of and supplemental to the Kansas  
16 criminal code.

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