

SENATE BILL No. 204

AN ACT concerning persons required to register pursuant to the Kansas offender registration act; relating to certain requirements; amending K.S.A. 2006 Supp. 22-4902, 22-4903, 22-4904, 22-4906 and 22-4907 and repealing the existing sections.

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

Section 1. K.S.A. 2006 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in this act, unless the context otherwise requires:

(a) "Offender" means: (1) A sex offender as defined in subsection (b); (2) a violent offender as defined in subsection (d); (3) a sexually violent predator as defined in subsection (f); (4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:

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

(B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or

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

(5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

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

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

(C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;

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

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

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

(6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;

(7) any person who, on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

(8) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4), (5) ~~or (7)~~, (7) *or (11)*, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4), (5) ~~or (7)~~, (7) *or (11)*; ~~or~~

(9) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4), (5) ~~or~~, (7) *or (10)*;

(10) *any person who has been convicted of aggravated trafficking as defined in K.S.A. 2006 Supp. 21-3447, and amendments thereto; or*

(11) *any person who has been convicted of: (A) Unlawful manufacture or attempting such of any controlled substance as defined by K.S.A. 65-4159, and amendments thereto, unless the court makes a finding on the record that the manufacturing or attempting to manufacture such controlled substance was for such person's personal use;*

(B) *possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined by K.S.A. 65-7006, and amendments thereto, unless the court makes a finding on the record that the possession of such product was intended to be used to manufacture a controlled substance for such person's personal use; or*

(C) *K.S.A. 65-4161, and amendments thereto.*

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) “Sex offender” includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).

(c) “Sexually violent crime” means:

- (1) Rape as defined in K.S.A. 21-3502 and amendments thereto;
- (2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;
- (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;
- (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;
- (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;
- (6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;
- (7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;
- (8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;
- (9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;
- (10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;
- (11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or
- (12) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;
- (13) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or
- (14) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, “sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant’s sexual gratification.

(d) “Violent offender” includes any person who, after the effective date of this act, is convicted of any of the following crimes:

- (1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;
- (2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;
- (3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;
- (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;
- (5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto; or
- (6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or
- (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) “Law enforcement agency having jurisdiction” means the sheriff of the county in which the offender expects to reside upon the offender’s discharge, parole or release.

(f) “Sexually violent predator” means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq. and amendments thereto.

(g) “Nonresident student or worker” includes any offender who crosses into the state or county for more than 14 days, or for an aggregate

period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

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

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

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

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

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

Sec. 2. K.S.A. 2006 Supp. 22-4903 is hereby amended to read as follows: 22-4903. (a) Any person who is required to register as provided in the Kansas offender registration act who violates any of the provisions of such act, including all duties set out in K.S.A. 22-4904 through 22-4907, and amendments thereto, is guilty of a severity level 5, person felony. Any violation of any provision of such act, including a violation of the duties set forth in K.S.A. 22-4904 through K.S.A. 22-4907, and amendments thereto, which continues for more than 30 consecutive days shall, upon the 31st consecutive day, constitute a new and separate offense and shall continue to constitute a new and separate offense upon completion of every 30 days thereafter for as long as the offense continues.

(b) *Prosecution of violations under subsection (a), shall be held: (1) In the county in which the offender resides; (2) if the offender is temporarily domiciled in a county and is required to be registered, in such county; or (3) in the county in which the offender is required to be registered under this act.*

Sec. 3. K.S.A. 2006 Supp. 22-4904 is hereby amended to read as follows: 22-4904. (a) (1) Except as provided in subsection (a)(2), within 10 days of the offender coming into any county in which the offender resides or is temporarily domiciled for more than 10 days, the offender shall register with the sheriff of the county.

(2) Within 10 days of the offender coming into any county in which the offender resides or temporarily resides for more than 10 days, any offender who has provided the information and completed and signed the registration form as required in K.S.A. 22-4905 and amendments thereto, shall verify with the sheriff of the county that the sheriff has received such offender’s information and registration form.

(3) Upon registration with a school or educational institution, a nonresident student attending such school or educational institution shall register with the sheriff within 10 days of the commencement of the school term.

(4) Upon commencement of employment, a nonresident worker shall register with the sheriff within 10 days of the commencement date of employment.

(5) For persons required to register as provided in subsections (a)(1), (a)(3) and (a)(4), the sheriff shall: (A) Explain the duty to register and the procedure for registration;

(B) obtain the information required for registration as provided in K.S.A. 22-4907 and amendments thereto;

(C) inform the offender that the offender must give written notice of any change of address within 10 days of a change in residence to the law enforcement agency where last registered and the Kansas bureau of investigation;

(D) inform the nonresident student offender that the offender must give written notice to the sheriff and the Kansas bureau of investigation of any change or termination of attendance at the school or educational institution the offender is attending, within 10 days of such change or termination;

(E) inform the nonresident worker offender that the offender must give written notice to the sheriff and the Kansas bureau of investigation

of any termination of employment at the offender's place of employment, within 10 days of such termination;

(F) inform the offender that if the offender changes residence to another state, the offender must inform the law enforcement agency where last registered and the Kansas bureau of investigation of such change in residence and must register in the new state within 10 days of such change in residence;

(G) inform the offender that the offender must also register in any state or county where the offender is employed, carries on a vocation or is a student;

(H) inform the offender that if the offender expects to or subsequently becomes enrolled in any institution of higher education in the state of Kansas on a full-time or part-time basis or have any full-time or part-time employment at an institution of higher education in the state of Kansas, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in one calendar year, the offender must provide written notice to the Kansas bureau of investigation within 10 days upon commencement of enrollment or employment;

(I) inform the offender that if there is any change or termination in attendance or employment at an institution of higher education, the offender must provide written notice to the Kansas bureau of investigation within 10 days of the change or termination;

(J) inform the offender of the requirement of an annual driver's license renewal pursuant to K.S.A. 8-247, and amendments thereto, and an annual identification card renewal pursuant to K.S.A. 2006 Supp. 8-1325a, and amendments thereto; and

(K) require the offender to read and sign the registration form which shall include a statement that the requirements provided in this subsection have been explained to the offender.

(6) Such sheriff, within three days of receipt of the initial registration shall forward this information to the Kansas bureau of investigation.

(7) Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender registration act then all provisions of that act shall apply, except that the term of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

(b) If any person required to register as provided in this act changes the address of the person's residence, the offender, within 10 days, shall inform in writing the law enforcement agency where such offender last registered *and the Kansas bureau of investigation* of the new address.

~~(c) For any person required to register as provided in this act, every 90 days after the person's initial registration date during the period the person is required to register, the following applies:~~

~~—(1) The Kansas bureau of investigation shall mail a nonforwardable verification form to the last reported address of the person.~~

~~—(2) The person shall mail the verification form to the Kansas bureau of investigation within 10 days after receipt of the form.~~

~~—(3) The verification form shall be signed by the person and shall provide the following information, as applicable, to the Kansas bureau of investigation: (A) Whether the person still resides at the address last reported; (B) whether the person still attends the school or educational institution last reported; (C) whether the person is still employed at the place of employment last reported; and (D) whether the person's vehicle registration information is the same as last reported.~~

~~—(4) If the person fails to mail the verification form to the Kansas bureau of investigation within 10 days after receipt of the form, the person shall be in violation of the Kansas offender registration act.~~

~~—(5) Nothing contained in this section shall be construed to alleviate any person required to register as provided in this act from meeting the requirements prescribed in subsections (a)(1), (a)(2) and (b).~~

~~(d)~~ (c) Any person who is required to register under this act shall report in person *three times* each year ~~during the month of the person's birthday and during the sixth month following the person's birthday~~ to the sheriff's office in the county in which the person resides or is otherwise located. *The person shall be required to report once during the month of the person's birthday and every four months thereafter.* The sheriff's office may determine the appropriate times and days for reporting by the

person, consistent with this subsection. ~~If any information reported by the person has changed and has not otherwise been updated, the person shall report those changes. The person shall verify:~~

- (1) *Whether the person still resides at the address last reported;*
- (2) *whether the person still attends the school or educational institution last reported;*
- (3) *whether the person is still employed at the place of employment last reported; and*
- (4) *whether the person's vehicle registration information is the same as last reported.*

*Nothing contained in this subsection shall be construed to alleviate any person required to register as provided in this act from meeting the requirements prescribed in subsections (a)(1), (a)(2) and (b).*

*The sheriff's office shall forward any updated information and current photograph required under subsection (d), to the Kansas bureau of investigation.*

~~(d)~~ (d) Every person who is required to register under this act shall submit to the taking of an updated photograph by the sheriff's office on each occasion when the person reports to the sheriff's office in the county in which the person resides or is otherwise located.

~~(e)~~ (e) Every person who is required to register under this act shall remit payment to the sheriff in the amount of \$20 on each occasion when the person reports to the sheriff's office in the county in which the person resides or is otherwise located. *All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office which shall be used solely for law enforcement and criminal prosecution purposes and which shall not be used as a source of revenue to reduce the amount of funding otherwise made available to the sheriff's office.*

Sec. 4. K.S.A. 2006 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) Except as provided in subsection (d), any person required to register as provided in this act shall be required to register: (1) Upon the first conviction of a sexually violent crime as defined in subsection (c) of K.S.A. 22-4902, and amendments thereto, any offense as defined in subsection (a) of K.S.A. 22-4902, and amendments thereto, or any offense as defined in subsection (d) of K.S.A. 22-4902, and amendments thereto, if not confined, for a period of 10 years after conviction, or, if confined, for a period of 10 years after paroled, discharged or released, whichever date is most recent. The ten-year period shall not apply to any person while the person is incarcerated in any jail or correctional facility. The ten-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement; or (2) upon a second or subsequent conviction for such person's lifetime.

(b) Upon the first conviction, liability for registration terminates, if not confined, at the expiration of 10 years from the date of conviction, or, if confined, at the expiration of 10 years from the date of parole, discharge or release, whichever date is most recent. The ten-year period shall not apply to any person while the person is incarcerated in any jail or correctional facility. The ten-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement. Liability for registration does not terminate if the convicted offender again becomes liable to register as provided by this act during that period.

(c) Any person who has been convicted of an aggravated offense shall be required to register for such person's lifetime.

(d) Any person who has been convicted of any of the following offenses shall be required to register for such person's lifetime:

- (1) Aggravated trafficking, as defined in K.S.A. 2006 Supp. 21-3447, and amendments thereto, if the victim is less than 14 years of age;
- (2) rape, as defined in subsection (a)(2) of K.S.A. 2006 Supp. 21-3502, and amendments thereto;
- (3) aggravated indecent liberties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto;
- (4) aggravated criminal sodomy, as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto;

(5) promoting prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if the prostitute is less than 14 years of age; or

(6) sexual exploitation of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments thereto.

(e) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

(f) Any nonresident worker shall register for the duration of such person's employment. The provisions of this subsection are in addition to subsections (a) and (b).

(g) Any nonresident student shall register for the duration of such person's attendance at a school or educational institution as provided in this act. The provisions of this subsection are in addition to subsections (a) and (b).

(h) (1) Notwithstanding any other provisions of this section, a person who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, and amendments thereto, shall be required to register until such person reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. The five-year period shall not apply to any person while that person is incarcerated in any jail, juvenile facility or correctional facility. The five-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement.

(2) (A) A person who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, and amendments thereto, may, by the court:

(i) Be required to register pursuant to the provisions of paragraph (1);

(ii) not be required to register if the judge, on the record, finds substantial and compelling reasons therefor; or

(iii) be required to register with the sheriff pursuant to K.S.A. 22-4904, and amendments thereto, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires the juvenile to register but such registration is not open to the public, the juvenile shall provide a copy of such court order to the sheriff at the time of registration. The sheriff shall forward a copy of such court order to the Kansas bureau of investigation.

(B) If such juvenile offender violates a condition of release during the term of the conditional release, the judge may require the juvenile offender to register pursuant to paragraph (1).

(3) Liability for registration does not terminate if the adjudicated offender again becomes liable to register as provided by this act during the required period.

(4) *The provisions of paragraph (2)(A)(ii) shall apply to adjudications on and after the effective date of this act and retroactively to adjudications prior to July 1, 2007.*

(i) Any person moving to the state of Kansas who has been convicted in another state, and who was required to register under that state's laws, shall register for the same length of time required by that state or Kansas, whichever length of time is longer. *The provisions of this subsection shall apply to convictions prior to June 1, 2006 and to persons who moved to Kansas prior to June 1, 2006.*

Sec. 5. K.S.A. 2006 Supp. 22-4907 is hereby amended to read as follows: 22-4907. (a) Registration as required by this act shall consist of a form prepared by the Kansas bureau of investigation, which shall include a statement that the requirements provided in this section have been explained to the person, and shall be signed by the person. Such registration form shall include the following:

- (1) Name;
- (2) date and place of birth;
- (3) offense or offenses committed, date of conviction or convictions obtained;
- (4) city or county of conviction or convictions obtained;
- (5) sex and age of victim;
- (6) current address;
- (7) social security number;
- (8) identifying characteristics such as race, skin tone, sex, age, hair and eye color, scars, tattoos and blood type;
- (9) occupation, name of employer and place of employment;
- (10) drivers license and vehicle information, *including the registration number of each license plate assigned to any motor vehicle normally operated by the offender*;
- (11) documentation of any treatment received for a mental abnormality or personality disorder of the offender; for purposes of documenting the treatment received, sheriffs, prison officials and courts may rely on information that is readily available to them from existing records and the offender.
- (12) anticipated future residence;
- (13) a photograph;
- (14) fingerprints; ~~and~~
- (15) school; *and*
- (16) *any and all e-mail addresses and online identities used by the offender on the internet.*

(b) (1) The offender shall also provide to the registering law enforcement agency DNA exemplars, unless already on file.

(2) If the exemplars to be taken require the withdrawal of blood, such withdrawal may be performed only by: (A) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person;

(B) a registered nurse or a licensed practical nurse;

(C) any qualified medical technician; or

(D) a licensed phlebotomist.

(c) Unless the person has provided the information and completed and signed the registration form as provided in K.S.A. 22-4905 and amendments thereto within three days, the registering law enforcement agency shall forward the registration form to the Kansas bureau of investigation.

(d) The Kansas bureau of investigation may participate in the federal bureau of investigation's NCIC 2000.

Sec. 6. K.S.A. 2006 Supp. 22-4902, 22-4903, 22-4904, 22-4906 and 22-4907 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*