

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARYThe meeting was called to order by Representative Bob Frey at  
Chairperson3:30 ~~am~~ p.m. on February 3, 1983 in room 526-S of the Capitol.

All members were present except:

## Committee staff present:

Mark Burghart, Legislative Research Department  
Mike Heim, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes Office  
Nedra Spingler, Secretary

Conferees appearing before the committee: None.

HB 2058 - An act relating to judgments and delinquent personal property taxes.

The Chairman asked for a report from the subcommittee regarding the bill. Representative Peterson said the subcommittee had concluded that provisions of the bill should apply equally to all counties, and the population distinction of 100,000 be eliminated. A time limit to collect taxes should be uniform at 10 years except if taxes have become a lien on real property they shall remain a lien. Amendments suggested by the subcommittee are attached (Attachment No.1). Representative Peterson said Representative Friedeman, sponsor, agreed with changes. Representative Patrick questioned what the ten-year amendment would do in regard to writing title opinions to correlate with abstracts in different parts of the county and believed it had the potential to affect land standards in the state. He suggested the bill and its amendments be given to the Title Standards Committee of the Kansas Bar Association for its review. The Chairman requested Representative Patrick to have the Bar committee review the amendments before Committee action is taken.

HB 2008 - An act relating to certain sex offenses.

Amendments suggested in previous meetings were distributed by Staff (Attachment No.2). To initiate discussion, Representative Duncan moved to report HB 2008 favorable for passage, seconded by Representative Wagon. Representative Whitaker said the major issue regarding the bill was spousal immunity. He made a substitute motion to remove all spousal immunity from the rape and sodomy statute, but his motion would not affect Sections 13 and 14 of the bill regarding sexual battery. Representative Cloud seconded the substitute motion. In discussion, members expressed their concerns regarding provisions of the bill and the possible effects of eliminating spousal immunity. Testimony from conferees was summarized and various options discussed. The vote was taken on the substitute motion, and it carried ten to nine.

(Attachment No.3)

Representative Solbach suggested definitions for spousal rape and sodomy, and made a conceptual motion to restore the original language of the bill but to establish two separate crimes and penalties. Representative Campbell seconded the motion.

Representative Miller made a substitute motion to recommend HB 2008, as amended, favorable for passage, seconded by Representative Wagon. A member said the motion was intended to limit debate, and a point of order was called. The Chairman ruled the motion was fair. The vote was taken on the substitute motion. It failed to carry. Representative Solbach then amended his motion to make the second statute a Class D felony rather than a Class B to which his second agreed. Representative Peterson made a substitute motion that the remaining amendments in Attachment No.2 be adopted, and, on line 171, the Class C misdemeanor penalty for patronizing a prostitute be changed to a Class B misdemeanor. Representative Matlack seconded the substitute motion. In discussion, it was noted the amendments in Attachment No.2 should be considered separately. Representative Peterson withdrew his motion. His second agreed.

Various substitute motions were made regarding prostitution and patronizing prostitutes and to report the bill without recommendation, but no action was taken.

Amendments (Attachment No.4) corresponding to Representative Solbach's original motion were distributed which he reviewed. The Chairman stated, under these amendments, there would be

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,

room 526-S, Statehouse, at 3:30 ~~XXX~~ p.m. on February 3, 1983

situations where a husband could rape his wife and not be charged which was in direct conflict with the prior motion eliminating immunity. He ruled Representative Solbach's motion out of order. Representative Solbach said he would include the same language already adopted but would provide for two different crimes of rape.

Representative Matlack made a motion to amend line 171 to make patronizing a prostitute a Class C misdemeanor, seconded by Representative Peterson. The motion failed. Representative Patrick voted against the motion. Representative Matlack then moved to make the penalty for patronizing the same as prostitution, a Class B misdemeanor. Representative Peterson seconded it. The motion failed on an eight to eleven vote.

Representative Patrick made a motion to add, in line 59, after "fear", "of physical or bodily harm", seconded by Representative Wunsch. Objection was raised because the motion would be a step backward. The motion failed to carry. The Chairman moved to amend lines 87 and 102 by inserting "Aggravated" before "indecent". Representative Miller seconded the motion, and it carried. The Chairman moved to adopt the amendment in Attachment No.2, Section 11, relating to incest and in line 90 regarding indecent liberties with a child, seconded by Representative Peterson. Motion carried.

Representative Barkis moved to strike Section 7 of the bill. This would repeal K.S.A. 21-3507 and eliminate penalties for adultery. The motion was seconded by Representative Miller. In discussion, the points were made that cases of adultery are not prosecuted, adultery was a separate issue and should not be included in HB 2008, and adultery would be covered by cohabitating provisions. The vote was taken, and the motion carried. Representatives Patrick, Douville, Knopp, and Ediger voted against the motion.

Representative Solbach then made a conceptional motion to amend HB 2008 by creating two separate crimes involving rape and adding an extra new section 3 for a new crime of marital rape. Section 2 would be the same as the one in Attachment No.4. Rape without physical injury would be a Class D felony, with injuries would be a Class B felony. Representative Campbell seconded the motion. Representative Solbach said the purpose of his motion was to lower the penalty for rape without physical harm so that severe cases could be prosecuted and lessen the occurrence of hung juries. Prior action on eliminating spousal immunity would be retained. He then reviewed the amendments in Attachments Nos. 2 and 4, pointing out what would be retained and what would be changed. The Chairman said it was impossible to understand what he was attempting to do without its being in writing and ruled Representative Solbach's motion out of order. Representative Solbach appealed the ruling of the Chair and asked for a vote. The vote sustained the Chair nine to seven. Representative Solbach then moved to table HB 2008 until the next day. Motion failed for lack of a second. Representative Barkis made a motion to table HB 2008 to be brought up again at the call of the Chairman, seconded by Representative Wunsch. Representative Miller made a substitute motion to report the bill, as amended, favorable for passage, seconded by Representative Peterson. On a vote of nine to ten, the substitute motion failed to carry. Representative Peterson made a substitute motion to report HB 2008 without recommendation, seconded by Representative Buehler. Representative Solbach opposed the substitute motion, stating the bill was important, it should be recommended to the full House, and he would have his suggestions drafted for the Committee's review. The substitute motion failed to carry. The vote on the original motion to table the bill on the call of the Chairman was taken. Motion carried.

The meeting was adjourned at 6:20 p.m.

# HOUSE BILL No. 2058

By Representative Friedeman

1-20

0015 AN ACT relating to judgments rendered on delinquent personal  
 0016 property taxes; amending K.S.A. 1982 Supp. 79-2101 and re-  
 0017 pealing the existing ~~section~~ 79-2017 and sections

0018 *Be it enacted by the Legislature of the State of Kansas:*  
 0019 ~~Section 1.~~ K.S.A. 1982 Supp. 79-2101 is hereby amended to Insert section 1, attached  
 0020 read as follows: 79-2101. All the taxes on personal property that Sec. 2  
 0021 shall remain due and unpaid on the ~~sixteenth day~~ of February 16  
 0022 or the first day of July 1 shall be collected in the following  
 0023 manner:

0024 The county treasurer shall between the ~~twentieth and twenty-~~  
 0025 ~~fifth days of February 20 and February 25~~ send a notice by mail  
 0026 to the person, firm, unincorporated association, company or cor-  
 0027 poration to whom such taxes were assessed, and which remain  
 0028 unpaid on February ~~sixteenth~~ 16 of any year, to its post-office  
 0029 address as shown by the records in the office of the county clerk.  
 0030 The county treasurer shall between the ~~tenth and the fifteenth~~  
 0031 ~~days of July 10 and July 15~~ send a notice by mail to the person,  
 0032 firm, unincorporated association, company or corporation to  
 0033 whom such taxes were assessed, and which remain unpaid on  
 0034 July ~~first~~ 1 of any year, to its post-office address as shown by the  
 0035 records in the office of the county clerk. Failure to receive any  
 0036 such notice shall not relieve such person, firm, unincorporated  
 0037 association, company or corporation defaulting in payment of  
 0038 personal taxes from any interest and costs attached thereto. Such  
 0039 notice shall state the amount of personal tax charged against ~~said~~  
 0040 ~~the party~~, and notify ~~said the party~~ that ~~said the tax~~ may be paid by  
 0041 paying interest thereon from the date the same became due and  
 0042 payable to date of payment computed under the provisions of  
 0043 K.S.A. ~~1982 Supp.~~ 79-2004a, and amendments thereto.

0081 shall enter the total amount thereof in the judgment docket and  
 0082 note the same in a numerical index for the judgment docket, or  
 0083 shall enter the total amount thereof in another docket maintained  
 0084 for such purpose. No fee shall be charged for entering the same.  
 0085 ~~Said~~ *Such* total amount shall become a judgment in the same  
 0086 manner and to the same extent as any other judgment under the  
 0087 code of civil procedure and shall become a lien on real estate from  
 0088 and after the time of the filing thereof. A transcript of ~~said such~~  
 0089 judgment may be filed with the clerk of the district court in any  
 0090 other county and when it is entered in the manner provided above  
 0091 it shall become a lien upon real estate located in such county in  
 0092 the same manner as is provided in case of other judgments, except  
 0093 that no fee shall be charged for entering the same. Execution,  
 0094 garnishment or other proceedings in aid of execution may issue  
 0095 within the county or to any other county on ~~said the~~ judgment in  
 0096 like manner as on judgments under the code of civil procedure  
 0097 except that any real estate taken upon execution for the collection  
 0098 of such taxes shall be sold without appraisalment. None of the  
 0099 exemptions provided for in the code of civil procedure shall  
 0100 apply to any such judgment but no such judgment secured for  
 0101 taxes on personal property shall be levied against a homestead.

0102 At the time of filing the abstract of the taxes, interest, penalties  
 0103 and costs and the last tax warrant with the clerk of the district  
 0104 court, the county treasurer shall serve notice, in writing, on the  
 0105 county ~~attorney of such filing~~ and it shall be the duty of the  
 0106 county ~~attorney~~ to commence such proceedings as are necessary  
 0107 for the collection of such judgment. ~~If execution shall not be sued~~  
 0108 ~~out within five (5) years from the date of the entry of any such~~  
 0109 ~~judgment, or if five (5) years shall have intervened between the~~  
 0110 ~~date of the last execution issued on such judgment, and the time~~  
 0111 ~~of suing out another writ of execution thereon, such judgment~~  
 0112 ~~shall become dormant, and shall cease to operate as a lien on the~~  
 0113 ~~real estate of the delinquent taxpayer. Such dormant judgment~~  
 0114 ~~may be revived in like manner as dormant judgments under the~~  
 0115 ~~code of civil procedure. Any such judgment uncollected after 20~~  
 0116 ~~years may be allowed to become dormant if the county commis-~~  
 0117 ~~sioners determine, after consideration of all relevant facts, that it~~

of the filing

or district



0118 ~~is not reasonable to expect that such judgment will be collected.~~

0119 3 ~~Sec. 2~~ K.S.A. 1982 Supp. 79-2101 is hereby repealed.

0120 4 ~~Sec. 3~~ This act shall take effect and be in force from and after

0121 its publication in the statute book.

79-2017 and

are

If execution is not sued out within 10 years after the date of entry of the judgment, execution shall not be issued on the judgment thereafter and the judgment shall be released, except that the judgment shall remain a lien on the real estate of the delinquent taxpayer and execution may be issued and levied on that real estate at any time

Section 1. K.S.A. 1982 Supp. 79-2017 is hereby amended to read as follows: 79-2017. In all counties having a population of more than ~~one-hundred-thousand-(100,000)~~ 100,000, all taxes on personal property that shall remain due and unpaid on ~~the sixteenth--day-of~~ February 16 or ~~the-first-day-of~~ July 1 shall be collected in the following manner:

The county treasurer shall, on or before ~~the--twenty-fifth day-of~~ March 25, shall send a notice by mail to the person, firm, unincorporated association, company or corporation to whom such taxes were assessed, and which remain unpaid on February ~~sixteenth~~ 16 of any year, to its post office address as shown by the current tax roll.

The county treasurer shall, on or before ~~the--twenty-seventh day--of~~ July 27, shall send a notice by mail to the person, firm, unincorporated association, company or corporation to whom such taxes were assessed, and which remain unpaid on July ~~first~~ 1 of any year, to its post office address as shown by the current tax roll.

Failure to receive any such tax notice shall not relieve such person, firm, unincorporated association, company or corporation defaulting in payment of personal taxes from any interest and costs attached thereto. Such notice shall state the amount of personal tax charged against ~~said~~ the party, and notify ~~said~~ the party that ~~said~~ the tax may be paid by paying the amount of the tax as assessed and interest the amount of which shall be computed in accordance with the provisions of K.S.A. 1982-Supp-79-2004a, and amendments thereto, on the delinquent tax.

The county treasurer is hereby authorized to accept payment of delinquent taxes in full without payment of the interest due upon such delinquent taxes if the amount of the interest due is less than ~~one-dollar-(\$1)~~ \$1 and is further authorized to accept as payment in full, any interest payment in an amount not less than ~~one-dollar-(\$1)~~ \$1 less than the full amount of the interest due.

~~Should-such~~ If taxes, due and unpaid on ~~the-sixteenth-day-of~~ February 16 remain unpaid for a period of ~~twenty-five-(25)~~ 25 days after the mailing of such notice, or taxes due and unpaid on the first day of July remain unpaid for a period of ~~fourteen-(14)~~ 14 days after the mailing of such notice, the county treasurer shall forthwith issue a warrant under ~~said~~ the treasurer's hand directed to the sheriff of the county, commanding ~~said~~ the sheriff to levy the amount of such unpaid taxes and the amount of the interest thereon, together with the sheriff's fees for collecting the same, upon any personal property, tangible or intangible, of the person, firm, unincorporated association, company or corporation to whom such taxes were assessed.

To allow the time necessary for preparation of such warrants, the county treasurer shall not receive any payment of delinquent personal property taxes or interest thereon, due and unpaid on ~~the--sixteenth--day--of~~ February 16, during a period beginning the ~~twenty-sixth~~ 26th day after mailing of notices and extending through the last regular business day of April in any year or taxes or interest due and unpaid on ~~the-first-day-of~~ July 1, during a period beginning the ~~fifteenth~~ 15th day after mailing of such notices and extending through the regular business day of ~~the-fifteenth-day-of~~ August 15 in any year. Such warrant shall be delivered to the sheriff by the county treasurer before the first regular business day in May and the ~~fifteenth~~ 15th regular business day in August in each year. Upon receipt of such tax warrant, the sheriff shall proceed to collect such taxes the same as upon execution, except that where such taxes were levied and assessed pursuant to K.S.A. 79-329 ~~to~~ through 79-334, ~~inclusive,~~ ~~and-any~~ and amendments thereto, ~~the-same~~ they shall be collected as follows:

The sheriff shall cause notice to be given by registered mail to the purchaser of the oil and gas from such lease of the amount of such delinquent taxes and the name of the person against whom ~~the-same~~ they were assessed and from and after the receipt of such notice such purchaser shall not pay to the person

owing the taxes any of the proceeds of the sale of any oil or gas from such lease, but shall pay the same to ~~said~~ the sheriff until the full amount of such taxes and costs are paid after which ~~said~~ the purchaser may resume the payments for such oil or gas to such person, but this exception shall not prevent the levy of an execution and sale of the physical personal property on any such lease for the payment of delinquent taxes owed by the owner thereof.

The sheriff, as soon as ~~said~~ the sheriff ~~shall--collect~~ collects the tax warrant, shall make a return thereof and shall make a return of all tax warrants delivered to ~~said~~ the sheriff on or before ~~the-first-day-of~~ October 1 of the year following the year in which ~~said~~ the tax was levied. If the warrant so returned ~~shall--show~~ shows that the tax has been collected, the sheriff shall pay ~~the-same~~ it to the county treasurer; but if such return ~~shall--show~~ shows that such tax has not been collected, ~~then~~ the county treasurer shall file with the clerk of the district court of ~~said~~ the treasurer's county an abstract of the total amount of unpaid taxes and interest due plus penalties and costs, accompanied by the last tax warrant. ~~Said~~ The clerk shall enter the total amount thereof in the judgment docket and note the same in a numerical index for the judgment docket, or shall enter the total amount thereof in another docket maintained for ~~such~~ that purpose. No fee shall be charged for either such entry. ~~Said~~ The total amount shall become a judgment in the same manner and to the same extent as any other judgment under the code of civil procedure and shall become a lien on real estate from and after the time of ~~the~~ its filing ~~thereof~~. A transcript of ~~said~~ the judgment may be filed with the clerk of the district court in any other county and when it is entered in the manner provided above it shall become a lien upon real estate located in such county in the same manner as is provided in case of other judgments. No fee shall be made for entering the ~~same~~ lien. Execution, garnishment or other proceedings in aid of execution may issue within the county or to any other county on ~~said~~ the judgment in ~~like~~ the



same manner as on judgments under the code of civil procedure except that any real estate taken upon execution for the collection of such taxes shall be sold without appraisalment. None of the exemptions provided for in the code of civil procedure shall apply to any such judgment but no such judgment secured for taxes on personal property shall be levied against a homestead.

At the time of filing the abstract of the taxes, interest, penalties and costs and the last tax warrant with the clerk of the district court, the county treasurer shall serve notice, in writing, on the county counselor of such filing and it shall be the duty of the county counselor to commence such proceedings as are necessary for the collection of such judgment. ~~if execution shall not be sued out within five (5) years from the date of the entry of any such judgment, or if five (5) years shall have intervened between the date of the last execution issued on such judgment and the time of suing out another writ of execution thereon, such judgment shall become dormant, and shall cease to operate as a lien on the real estate of the delinquent taxpayer. Such dormant judgment may be revived in like manner as dormant judgments under the code of civil procedure. Any such judgment uncollected after twenty (20) years may be allowed to become dormant if the county commissioners determine, after consideration of all relevant facts, that it is not reasonable to expect that such judgment will be collected~~ If execution is not sued out within 10 years after the date of entry of the judgment, execution shall not be issued on the judgment thereafter, and the judgment shall be released, except that the judgment shall remain a lien on the real estate of the delinquent taxpayer and execution may be issued and levied on that real estate at any time.

# House Bill No. 2008

By Special Committee on Judiciary

Re Proposal No. 10

12-20

0018 AN ACT concerning crimes, punishments and criminal proce-  
 0019 dure; relating to certain ~~sex~~ offenses and evidence admissible  
 0020 in prosecutions therefor; defining and classifying ~~the crime of~~  
 0021 ~~sexual battery~~; amending K.S.A. 21-3501 through 21-3508,  
 0022 21-3512, 21-3515, 21-3602, 21-3603 and 60-447a and repealing  
 0023 the existing sections.

certain crimes

0024 *Be it enacted by the Legislature of the State of Kansas:*

0025 Section 1. K.S.A. 21-3501 is hereby amended to read as fol-  
 0026 lows: 21-3501. The following definitions apply in this article  
 0027 unless a different meaning is plainly required:

0028 (1) "Sexual intercourse" means any penetration of the female  
 0029 sex organ by the male sex organ; or by any object. Any penetra-  
 0030 tion, however slight, is sufficient to constitute sexual inter-  
 0031 course. "Sexual intercourse" does not include penetration of the  
 0032 female sex organ by an object in the course of medical treatment  
 0033 or examination, performed in a manner and for purposes which  
 0034 are ~~medically~~ recognized as ethical and acceptable.

, or the causing of any penetration,

: (a)

, osteopathic or nursing

by the professions of medicine, osteopathy and nursing

0035 (2) "Sodomy" means oral or anal copulation; oral or anal  
 0036 copulation or sexual intercourse between a person and an an-  
 0037 imal; or any penetration of the anal opening by any object. Any  
 0038 penetration, however slight, is sufficient to constitute sodomy.

; or (b) a body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto

0039 "Sodomy" does not include penetration of the anal opening by  
 0040 an object in the course of medical treatment or examination,  
 0041 performed in a manner and for purposes which are ~~medically~~  
 0042 recognized as ethical and acceptable.

: (a)

, osteopathic or nursing

by the professions of medicine, osteopathy and nursing

0043 ~~(3) "Spouse" means a lawful husband or wife, unless the~~  
 0044 ~~couple is living apart in separate residences or either spouse has~~  
 0045 ~~filed an action for annulment, separate maintenance or divorce~~

; or (b) a body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto

0046 ~~or for relief under the protection from abuse act.~~

0047 (4) "Unlawful sexual act" means any rape, indecent liberties  
0048 with a child, ~~indecent liberties with a ward~~, criminal sodomy,  
0049 aggravated sodomy, or lewd and lascivious behavior or sexual  
0050 battery, as defined in this article code.

(3)

aggravated

0051 (3) "Woman" means any female human being.

1

or aggravated sexual battery

0052 Sec. 2. K.S.A. 21-3502 is hereby amended to read as follows:  
0053 21-3502. (1) Rape is the act of sexual intercourse committed by a  
0054 man with a woman not his wife, and without her consent when  
0055 committed sexual intercourse with a person ~~who is not one's~~  
0056 ~~spouse and who does not consent to the sexual intercourse~~, under  
0057 any of the following circumstances:

(to whom she is married)

0058 (a) When a woman's resistance the victim is overcome by  
0059 force or fear; or

0060 (b) when the woman victim is unconscious or physically  
0061 powerless to resist; or;

0062 (c) when the woman victim is incapable of giving her consent  
0063 because of mental deficiency or disease, which condition was  
0064 known by the man offender or was reasonably apparent to him  
0065 the offender; or

0066 (d) when the woman's resistance is prevented by victim is  
0067 incapable of giving consent because of the effect of any alcoholic  
0068 liquor, narcotic, drug or other substance administered to the  
0069 woman victim by the man offender, or by another for the purpose  
0070 of preventing the woman's resistance person with the offender's  
0071 knowledge, unless the woman victim voluntarily consumes or  
0072 allows the administration of the substance with knowledge of its  
0073 nature.

0074 (2) Rape is a class B felony.

0075 Sec. 3. K.S.A. 21-3503 is hereby amended to read as follows:  
0076 21-3503. (1) Indecent liberties with a child is engaging in either  
0077 of the following acts with a child under the age of sixteen (16)  
0078 years who is not the spouse of the offender who is not one's  
0079 spouse and who is under 16 years of age:

0080 (a) The act of Sexual intercourse; or  
0081 (b) any lewd fondling or touching of the person of either the  
0082 child or the offender, done or submitted to with the intent to

0083 arouse or to satisfy the sexual desires of either the child or the  
0084 offender or both.

0085 (2) Indecent liberties with a child is a class C felony.

0086 Sec. 4. K.S.A. 21-3504 is hereby amended to read as follows:

0087 21-3504. (1) ~~Indecent liberties with a ward is either of the~~  
0088 ~~following acts when committed with a child under the age of~~  
0089 ~~sixteen (16) years the commission of indecent liberties with a~~  
0090 ~~child, as defined in K.S.A. 21-3503 and amendments thereto, by~~  
0091 ~~any guardian, proprietor or employee of any foster home, or-~~  
0092 ~~phanage; or other public or private institution for the care and~~  
0093 ~~custody of minor children, to whose charge such the child has~~  
0094 ~~been committed or entrusted by any court, probation officer,~~  
0095 ~~department of social and rehabilitation services or other agency~~  
0096 ~~acting under color of law:~~

0097 (a) ~~The act of sexual intercourse;~~

0098 (b) ~~Any lewd fondling or touching of the person of either the~~  
0099 ~~child or the offender, done or submitted to with the intent to~~  
0100 ~~arouse or satisfy the sexual desires of either the child or the~~  
0101 ~~offender or both.~~

0102 (2) ~~Indecent liberties with a ward is a class B felony.~~

0103 Sec. 5. K.S.A. 21-3505 is hereby amended to read as follows:

0104 21-3505. (1) ~~Criminal sodomy is oral or anal copulation sodomy~~  
0105 ~~between persons who are not husband and wife or consenting~~  
0106 ~~adult members of the opposite same sex; or between a person~~  
0107 ~~and an animal; or coitus with an animal. Any penetration, how-~~  
0108 ~~ever slight, is sufficient to complete the crime of sodomy.~~

0109 (2) ~~Criminal sodomy is a class B misdemeanor.~~

0110 Sec. 6. K.S.A. 21-3506 is hereby amended to read as follows:

0111 21-3506. Aggravated sodomy is sodomy committed:

0112 (a) ~~With force or threat of force, or where bodily harm is~~  
0113 ~~inflicted on the victim during the commission of the crime; or~~

0114 (b) ~~With a child under the age of sixteen (16) years:~~

0115 (a) ~~Sodomy with a child who is not one's spouse and who is~~  
0116 ~~under 16 years of age;~~

0117 (b) ~~causing a child under 16 years of age to engage in sodomy~~  
0118 ~~with an animal;~~

0119 (c) ~~sodomy with a person who is not one's spouse and who~~

Aggravated

: (a) A parent, adoptive parent, stepparent or grandparent of the child;  
or (b)

Aggravated

any person or

or



0120 does not consent to the sodomy or causing a person, without the  
0121 person's consent, to engage in sodomy with an animal, under any  
0122 of the following circumstances:

0123 (i) When the victim is overcome by force or fear;

0124 (ii) when the victim is unconscious or physically powerless;

0125 (iii) when the victim is incapable of giving consent because  
0126 of mental deficiency or disease, which condition was known by  
0127 the offender or was reasonably apparent to the offender; or

0128 (iv) when the victim is incapable of giving consent because of  
0129 the effect of any alcoholic liquor, narcotic, drug or other sub-

0130 stance administered to the victim by the offender, or by another  
0131 person with the offender's knowledge, unless the victim volun-

0132 tarily consumes or allows the administration of the substance  
0133 with knowledge of its nature.

0134 (2) Aggravated sodomy is a class B felony.

0135 Sec. 7. K.S.A. 21-3507 is hereby amended to read as follows:

0136 21-3507. (1) Adultery is engaging in sexual intercourse by or  
0137 sodomy with a person with another who is not his the offender's  
0138 spouse if:

0139 (a) Such person The offender is married; or

0140 (b) Such person the offender is not married and knows that  
0141 the other person involved in such intercourse the act is married.

0142 (2) Adultery is a class C misdemeanor.

0143 Sec. 8. K.S.A. 21-3508 is hereby amended to read as follows:

0144 21-3508. (1) Lewd and lascivious behavior is:

0145 (a) The commission of an act of Engaging in sexual inter-  
0146 course or sodomy with any person or animal with knowledge or  
0147 reasonable anticipation that the participants are being viewed by  
0148 others; or

0149 (b) the exposure of a sex organ in the presence of a person  
0150 who is not the spouse of the offender or and who has not  
0151 consented thereto, with intent to arouse or gratify the sexual  
0152 desires of the offender or another.

0153 (2) Lewd and lascivious behavior is a class B misdemeanor.

0154 Sec. 9. K.S.A. 21-3512 is hereby amended to read as follows:

0155 21-3512. (1) Prostitution is performing for hire, or offering or  
0156 agreeing to perform for hire where there is an exchange of value,

any person or

in a public place or

0157 any of the following acts:

0158 (a) Sexual intercourse; or

0159 (b) ~~oral or anal copulation sodomy~~; or

0160 (c) manual or other bodily contact stimulation of the genitals  
0161 of any person with the intent to arouse or gratify the sexual  
0162 desires of the offender or another.

0163 (2) Prostitution is a class B misdemeanor.

0164 Sec. 10. K.S.A. 21-3515 is hereby amended to read as fol-  
0165 lows: 21-3515. (1) Patronizing a prostitute is either:

0166 (a) Knowingly entering or remaining in a house of prostitu-  
0167 tion with intent to engage in sexual intercourse, *sodomy* or any  
0168 unlawful sexual act with a prostitute; or

0169 (b) knowingly hiring a prostitute to engage in sexual inter-  
0170 course, *sodomy* or any unlawful sexual act.

0171 (2) Patronizing a prostitute is a class C misdemeanor.

0172 Sec. 11. K.S.A. 21-3602 is hereby amended to read as fol-  
0173 lows: 21-3602. Incest is marriage to or engaging in sexual inter-  
0174 course or *sodomy* with a person known to the defendant offender  
0175 to be related to him the offender as brother or, sister of the  
0176 one-half as well as the whole blood, half-brother, half-sister,  
0177 uncle, aunt, nephew or niece.

0178 Incest is a class E felony.

0179 Sec. 12. K.S.A. 21-3603 is hereby amended to read as fol-  
0180 lows: 21-3603. (1) Aggravated incest is *engaging in* sexual inter-  
0181 course, *sodomy* or any unlawful sexual act by a parent with a  
0182 person he ~~that the offender knows is his the offender's child.~~

0183 ~~(2) As used in this section, "parent" for the purposes of this~~  
0184 ~~section means a natural father or mother, an adoptive father or~~  
0185 ~~mother, a stepfather or stepmother or a grandfather or grand-~~  
0186 ~~mother parent, adoptive parent, stepparent or grandparent of~~  
0187 ~~any degree.~~

0188 ~~(3) As used in this section, "child" for the purposes of this~~  
0189 ~~section means a son, daughter, grandson or granddaughter natu-~~  
0190 ~~ral child or grandchild, regardless of legitimacy or age; and also~~  
0191 ~~means a stepson or stepdaughter or adopted son or adopted~~  
0192 ~~daughter, or a stepchild or adopted child under the age of~~  
0193 ~~eighteen (18) 19.~~

who is 16 or more years of age and who is

who is 16 or more years of age and who is known to the offender to be related to the offender as natural parent, or child, or as natural grandparent or grandchild of any degree, regardless of legitimacy

0194 ~~(4)~~ Aggravated incest is a class D felony.

(2)

0195 New Sec. 13. (1) Sexual battery is the unlawful, intentional  
0196 touching of the person of another who is not the spouse of the  
0197 offender and who does not consent thereto, with the intent to  
0198 arouse or satisfy the sexual desires of the offender or another.

0199 (2) Sexual battery is a class A misdemeanor.

0200 (3) This section shall be part of and supplemental to the  
0201 Kansas criminal code.

0202 New Sec. 14. (1) Aggravated sexual battery is:

0203 (a) The unlawful, intentional application of force to the per-  
0204 son of another who is not the spouse of the offender and who  
0205 does not consent thereto, with the intent to arouse or satisfy the  
0206 sexual desires of the offender or another; ~~or~~

; (c) sexual battery committed in another's dwelling by one who entered into or remained in the dwelling without authority;  
(d) sexual battery of a person who is unconscious or physically powerless; or  
(e) sexual battery of a person who is incapable of giving consent because of mental deficiency or disease, which condition was known by, or was reasonably apparent to, the offender

0207 (b) sexual battery against a person under 16 years of age

0208 (2) Aggravated sexual battery is a class D felony.

0209 (3) This section shall be part of and supplemental to the  
0210 Kansas criminal code.

0211 Sec. 15: K.S.A. 60-447a is hereby amended to read as fol-

0212 lows: 60-447a. (1) ~~Except as otherwise provided in subsection~~

0213 ~~(2); in any~~ *The provisions of this section shall apply only in a*

0214 prosecution for the crime of: (a) Rape, as defined by K.S.A.

0215 21-3502; ~~or for aggravated assault with intent to commit rape, as~~

0216 ~~provided in K.S.A. 21-3410, or for an attempt to commit rape, as~~

0217 ~~provided in K.S.A. 21-3301, or for conspiracy to commit rape, as~~

0218 ~~provided in K.S.A. 21-3302 and amendments thereto; (b) inde-~~

0219 ~~cent liberties with a child, as defined in K.S.A. 21-3503 and~~

aggravated

0220 ~~amendments thereto; (c) ~~indecent liberties with a ward, as de-~~~~

0221 ~~ined in K.S.A. 21-3504 and amendments thereto; (d) aggravated~~

0222 ~~sodomy as defined by K.S.A. 21-3506 and amendments thereto;~~

0223 ~~(e) enticement of a child, as defined in K.S.A. 21-3509 and~~

0224 ~~amendments thereto; (f) aggravated indecent solicitation of a~~

0225 ~~child, as defined in K.S.A. 21-3511 and amendments thereto; (g)~~

aggravated sexual battery, as defined in section 14 or amendments thereto; (i)

0226 ~~sexual exploitation of a child as defined in K.S.A. 21-3516 and~~

0227 ~~amendments thereto; (h) ~~incest, as defined in K.S.A. 21-3602 and~~~~

(j)

0228 ~~amendments thereto; ~~(i) aggravated incest, as defined in K.S.A.~~~~

(k)

0229 ~~21-3603 and amendments thereto; ~~(j) aggravated assault, as~~~~

0230 ~~defined in K.S.A. 21-3410 and amendments thereto, with intent~~

(1)

0231 to commit any crime specified above; ~~(k) indecent solicitation of~~  
 0232 a child, as defined in K.S.A. 21-3510 and amendments thereto; ~~or~~  
 0233 ~~(l) attempt, as defined in K.S.A. 21-3301 and amendments~~  
 0234 ~~thereto, or conspiracy, as defined in K.S.A. 21-3302 and amend-~~  
 0235 ~~ments thereto, to commit any crime specified above.~~

(m) sexual battery, as defined in section 13 or amendments thereto; or (n)

0236 (2) Except as provided in subsection (3), in any prosecution  
 0237 to which this section applies, evidence of the complaining wit-  
 0238 ness' previous sexual conduct with any person including the  
 0239 defendant shall not be admissible, nor shall any and no reference  
 0240 shall be made thereto in the presence of the jury, except under  
 0241 the following conditions: The defendant shall make a written  
 0242 motion by the defendant shall be made at least seven days before  
 0243 the commencement of the trial to the court to admit evidence or  
 0244 testimony concerning the previous sexual conduct of the com-  
 0245 plaining witness. The seven-day notice required herein may be  
 0246 The motion must be made at least seven days before the com-  
 0247 mencement of the trial unless that requirement is waived by the  
 0248 court. The motion shall state the nature of such evidence or  
 0249 testimony and the its relevancy thereof, and shall be accompa-  
 0250 nied by an affidavit in which an offer of proof of such the  
 0251 previous sexual conduct of the complaining witness is stated.  
 0252 The court shall conduct a hearing on the motion in camera. At the  
 0253 conclusion of the hearing, if the court finds that evidence pro-  
 0254 posed to be offered by the defendant regarding the previous  
 0255 sexual conduct of the complaining witness is relevant and is not  
 0256 otherwise inadmissible as evidence, the court may make an  
 0257 order stating what evidence may be introduced by the defendant  
 0258 and the nature of the questions to be permitted. The defendant  
 0259 may then offer evidence and question witnesses in accordance  
 0260 with the order of the court.

0261 (2) (3) In any prosecution for a crime designated in subsec-  
 0262 tion (1), the prosecuting attorney may introduce evidence con-  
 0263 cerning any previous sexual conduct of the complaining witness,  
 0264 and the complaining witness may testify as to any such previous  
 0265 sexual conduct. If such evidence or testimony is introduced, the  
 0266 defendant may cross-examine the witness who gives such testi-  
 0267 mony and offer relevant evidence limited specifically to the



0268 rebuttal of such evidence or testimony introduced by the prose-  
0269 cutor or given by the complaining witness.

0270 (3) (4) As used in this section, "complaining witness" means  
0271 the alleged victim of any crime designated in subsection (1), the  
0272 prosecution of which is subject to this section.

0273 Sec. 16. K.S.A. 21-3501 through 21-3508, 21-3512, 21-3515,  
0274 21-3602, 21-3603 and 60-447a are hereby repealed.

0275 Sec. 17. This act shall take effect and be in force from and  
0276 after its publication in the statute book.

21-3502(b) Spousal Rape

Spousal Rape is sexual intercourse with one's spouse without the victim's consent and when the victim is overcome by force or fear.  
Spousal Rape is a Class D felony.

21-3506(b) Spousal Sodomy

Spousal Sodomy is sodomy committed upon one's spouse without the victim's consent and when the victim is overcome by force or fear.  
Spousal Sodomy is a Class D felony.

0046 or for relief under the protection from abuse act.

0047 (4) "Unlawful sexual act" means any rape, indecent liberties  
0048 with a child, *indecent liberties with a ward, criminal sodomy,*  
0049 aggravated sodomy, or lewd and lascivious behavior or sexual  
0050 battery, as defined in this article code.

0051 (3) "Woman" means any female human being.

0052 Sec. 2. K.S.A. 21-3502 is hereby amended to read as follows:

0053 21-3502. (1) Rape is the act of sexual intercourse committed by a  
0054 man with a woman not his wife, and without her consent when  
0055 committed sexual intercourse with a person who is not one's  
0056 spouse and who does not consent to the sexual intercourse, under  
0057 any of the following circumstances:

0058 (a) When a woman's resistance the victim is overcome by  
0059 force or fear; or

0060 (b) when the woman victim is unconscious or physically  
0061 powerless to resist; or;

0062 (c) when the woman victim is incapable of giving her consent  
0063 because of mental deficiency or disease, which condition was  
0064 known by the man offender or was reasonably apparent to him  
0065 the offender; or

0066 (d) when the woman's resistance is prevented by victim is  
0067 incapable of giving consent because of the effect of any alcoholic  
0068 liquor, narcotic, drug or other substance administered to the  
0069 woman victim by the man offender, or by another for the purpose  
0070 of preventing the woman's resistance person with the offender's  
0071 knowledge, unless the woman victim voluntarily consumes or  
0072 allows the administration of the substance with knowledge of its  
0073 nature.

0074 (2) Rape is a class B felony.

0075 Sec. 3. K.S.A. 21-3503 is hereby amended to read as follows:

0076 21-3503. (1) Indecent liberties with a child is engaging in either  
0077 of the following acts with a child under the age of sixteen (16)  
0078 years who is not the spouse of the offender who is not one's  
0079 spouse and who is under 16 years of age:

0080 (a) The act of Sexual intercourse; or

0081 (b) any lewd fondling or touching of the person of either the  
0082 child or the offender, done or submitted to with the intent to

is not the spouse of the offender and

; or (e) when the victim is overcome by force or fear and the offender:  
(i) Inflicts great bodily harm upon the victim;  
(ii) causes any disfigurement or dismemberment to the victim;  
(iii) during the commission of the act, displays a deadly weapon in a  
threatening manner or uses or threatens to use force which may inflict  
great bodily harm, disfigurement, dismemberment or death; or  
(iv) is aided and abetted by one or more persons

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0083 arouse or to satisfy the sexual desires of either the child or the  
0084 offender or both.

0085 (2) Indecent liberties with a child is a class C felony.

0086 Sec. 4. K.S.A. 21-3504 is hereby amended to read as follows:  
0087 21-3504. (1) Indecent liberties with a ward is either of the  
0088 following acts when committed with a child under the age of  
0089 sixteen (16) years the commission of indecent liberties with a  
0090 child, as defined in K.S.A. 21-3503 and amendments thereto, by  
0091 any guardian, proprietor or employee of any foster home, or-  
0092 phanage; or other public or private institution for the care and  
0093 custody of minor children, to whose charge such the child has  
0094 been committed or entrusted by any court, probation officer,  
0095 department of social and rehabilitation services or other agency  
0096 acting under color of law;

0097 (a) The act of sexual intercourse;

0098 (b) Any lewd fondling or touching of the person of either the  
0099 child or the offender, done or submitted to with the intent to  
0100 arouse or satisfy the sexual desires of either the child or the  
0101 offender or both.

0102 (2) Indecent liberties with a ward is a class B felony.

0103 Sec. 5. K.S.A. 21-3505 is hereby amended to read as follows:  
0104 21-3505. (1) Criminal sodomy is oral or anal copulation sodomy  
0105 between persons who are not husband and wife or consenting  
0106 adult members of the opposite same sex; or between a person  
0107 and an animal; or coitus with an animal. Any penetration, how-  
0108 ever slight, is sufficient to complete the crime of sodomy.

0109 (2) Criminal sodomy is a class B misdemeanor.

0110 Sec. 6. K.S.A. 21-3506 is hereby amended to read as follows:  
0111 21-3506. Aggravated sodomy is sodomy committed:

0112 (a) With force or threat of force, or where bodily harm is  
0113 inflicted on the victim during the commission of the crime; or

0114 (b) With a child under the age of sixteen (16) years;

0115 (a) Sodomy with a child who is not one's spouse and who is  
0116 under 16 years of age;

0117 (b) causing a child under 16 years of age to engage in sodomy  
0118 with an animal;

0119 (c) sodomy with a person who is not one's spouse and who



0120 does not consent to the sodomy or causing a person, without the  
0121 person's consent, to engage in sodomy with an animal, under any  
0122 of the following circumstances:

- 0123 (i) When the victim is overcome by force or fear;  
0124 (ii) when the victim is unconscious or physically powerless;  
0125 (iii) when the victim is incapable of giving consent because  
0126 of mental deficiency or disease, which condition was known by  
0127 the offender or was reasonably apparent to the offender; or  
0128 (iv) when the victim is incapable of giving consent because of  
0129 the effect of any alcoholic liquor, narcotic, drug or other sub-  
0130 stance administered to the victim by the offender, or by another  
0131 person with the offender's knowledge, unless the victim volun-  
0132 tarily consumes or allows the administration of the substance  
0133 with knowledge of its nature.

0134 (2) Aggravated sodomy is a class B felony.

0135 Sec. 7. K.S.A. 21-3507 is hereby amended to read as follows:  
0136 21-3507. (1) Adultery is engaging in sexual intercourse by or  
0137 sodomy with a person with another who is not his the offender's  
0138 spouse if:

- 0139 (a) ~~Such person~~ The offender is married; or  
0140 (b) ~~Such person~~ the offender is not married and knows that  
0141 the other person involved in ~~such intercourse~~ the act is married.

0142 (2) Adultery is a class C misdemeanor.

0143 Sec. 8. K.S.A. 21-3508 is hereby amended to read as follows:

0144 21-3508. (1) Lewd and lascivious behavior is:

- 0145 (a) ~~The commission of an act of~~ Engaging in sexual inter-  
0146 course or sodomy with any person or animal with knowledge or  
0147 reasonable anticipation that the participants are being viewed by  
0148 others; or

- 0149 (b) the exposure of a sex organ in the presence of a person  
0150 who is not the spouse of the offender ~~or~~ and who has not  
0151 consented thereto, with intent to arouse or gratify the sexual  
0152 desires of the offender or another.

0153 (2) Lewd and lascivious behavior is a class B misdemeanor.

0154 Sec. 9. K.S.A. 21-3512 is hereby amended to read as follows:

0155 21-3512. (1) Prostitution is performing for hire, or offering or  
0156 agreeing to perform for hire where there is an exchange of value,

; or (d) sodomy with a person who does not consent to the sodomy, when the victim is overcome by force or fear and the offender:

- (i) Inflicts great bodily harm upon the victim;  
(ii) causes any disfigurement or dismemberment to the victim;  
(iii) during the commission of the act, displays a deadly weapon in a threatening manner or uses or threatens to use force which may inflict great bodily harm, disfigurement, dismemberment or death; or  
(iv) is aided and abetted by one or more persons