

Senate Substitute for HOUSE BILL No. 2164

By Committee on Judiciary

3-18

1 AN ACT concerning the Kansas offender registration act; making it
2 unlawful for adult sex offenders to enter onto certain school property or
3 attend certain school activities and creating criminal penalties for
4 violation thereof; amending K.S.A. 22-4901 and 22-4902 and repealing
5 the existing sections.
6

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

8 New Section 1. (a) It shall be unlawful for any sex offender who is 18
9 years of age or older and whose underlying crime for which the offender is
10 required to register under the Kansas offender registration act was a crime
11 against a victim who was less than 18 years of age to enter onto school
12 property or attend a school activity.

13 (b) Violation of this section is:

14 (1) Upon a first conviction, a severity level 6, person felony;
15 (2) upon a second conviction, a severity level 5, person felony; and
16 (3) upon a third or subsequent conviction, a severity level 3, person
17 felony.

18 (c) This section shall be a part of and supplemental to the Kansas
19 offender registration act.

20 Sec. 2. K.S.A. 22-4901 is hereby amended to read as follows: 22-
21 4901. ~~K.S.A. 22-4901 through 22-4911 and 22-4913~~ *Article 49 of chapter*
22 *22 of the Kansas Statutes Annotated*, and amendments thereto, shall be
23 known and may be cited as the Kansas offender registration act.

24 Sec. 3. K.S.A. 22-4902 is hereby amended to read as follows: 22-
25 4902. As used in the Kansas offender registration act, unless the context
26 otherwise requires:

27 (a) "Offender" means:

28 (1) A sex offender;
29 (2) a violent offender;
30 (3) a drug offender;
31 (4) any person who has been required to register under out-of-state
32 law or is otherwise required to be registered; and

33 (5) any person required by court order to register for an offense not
34 otherwise required as provided in the Kansas offender registration act.

35 (b) "Sex offender" includes any person who:

36 (1) On or after April 14, 1994, is convicted of any sexually violent

1 crime;

2 (2) on or after July 1, 2002, is adjudicated as a juvenile offender for
3 an act which, if committed by an adult, would constitute the commission
4 of a sexually violent crime, unless the court, on the record, finds that the
5 act involved non-forcible sexual conduct, the victim was at least 14 years
6 of age and the offender was not more than four years older than the victim;

7 (3) has been determined to be a sexually violent predator;

8 (4) on or after July 1, 1997, is convicted of any of the following
9 crimes when one of the parties involved is less than 18 years of age:

10 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
11 K.S.A. 21-5511, and amendments thereto;

12 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
13 repeal, or K.S.A. 21-5504(a)(1) or (a)(2), and amendments thereto;

14 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
15 repeal, or K.S.A. 21-6420, prior to its amendment by section 17 of chapter
16 120 of the 2013 Session Laws of Kansas on July 1, 2013;

17 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
18 repeal, or K.S.A. 21-6421, prior to its amendment by section 18 of chapter
19 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

20 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
21 to its repeal, or K.S.A. 21-5513, and amendments thereto;

22 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
23 to its repeal, or K.S.A. 21-5505(a), and amendments thereto;

24 (6) is convicted of sexual extortion, as defined in K.S.A. 21-5515,
25 and amendments thereto;

26 (7) is convicted of breach of privacy, as defined in K.S.A. 21-6101(a)
27 (6), (a)(7) or (a)(8), and amendments thereto;

28 (8) is convicted of an attempt, conspiracy or criminal solicitation, as
29 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
30 K.S.A. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense
31 defined in this subsection; or

32 (9) has been convicted of an offense that is comparable to any crime
33 defined in this subsection, or any out-of-state conviction for an offense that
34 under the laws of this state would be an offense defined in this subsection.

35 (c) "Sexually violent crime" means:

36 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
37 21-5503, and amendments thereto;

38 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
39 to its repeal, or K.S.A. 21-5506(a), and amendments thereto;

40 (3) aggravated indecent liberties with a child, as defined in K.S.A.
41 21-3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments
42 thereto;

43 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),

- 1 prior to its repeal, or K.S.A. 21-5504(a)(3) or (a)(4), and amendments
2 thereto;
- 3 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
4 to its repeal, or K.S.A. 21-5504(b), and amendments thereto;
- 5 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
6 prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto;
- 7 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
8 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments
9 thereto;
- 10 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
11 to its repeal, or K.S.A. 21-5510, and amendments thereto;
- 12 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
13 its repeal, or K.S.A. 21-5505(b), and amendments thereto;
- 14 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
15 repeal, or K.S.A. 21-5604(b), and amendments thereto;
- 16 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
17 repeal, and K.S.A. 21-5509, and amendments thereto;
- 18 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
19 its repeal, or K.S.A. 21-5512, and amendments thereto;
- 20 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
21 prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto, if
22 committed in whole or in part for the purpose of the sexual gratification of
23 the defendant or another;
- 24 (14) commercial sexual exploitation of a child, as defined in K.S.A.
25 21-6422, and amendments thereto;
- 26 (15) promoting the sale of sexual relations, as defined in K.S.A. 21-
27 6420, and amendments thereto;
- 28 (16) internet trading in child pornography or aggravated internet
29 trading in child pornography, as defined in K.S.A. 21-5514, and
30 amendments thereto;
- 31 (17) any conviction or adjudication for an offense that is comparable
32 to a sexually violent crime as defined in this subsection, or any out-of-state
33 conviction or adjudication for an offense that under the laws of this state
34 would be a sexually violent crime as defined in this subsection;
- 35 (18) an attempt, conspiracy or criminal solicitation, as defined in
36 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-
37 5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent
38 crime, as defined in this subsection; or
- 39 (19) any act that has been determined beyond a reasonable doubt to
40 have been sexually motivated, unless the court, on the record, finds that
41 the act involved non-forcible sexual conduct, the victim was at least 14
42 years of age and the offender was not more than four years older than the
43 victim. As used in this paragraph, "sexually motivated" means that one of

1 the purposes for which the defendant committed the crime was for the
2 purpose of the defendant's sexual gratification.

3 (d) "Sexually violent predator" means any person who, on or after
4 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
5 59-29a01 et seq., and amendments thereto.

6 (e) "Violent offender" includes any person who:

7 (1) On or after July 1, 1997, is convicted of any of the following
8 crimes:

9 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
10 or K.S.A. 21-5401, and amendments thereto;

11 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to
12 its repeal, or K.S.A. 21-5402, and amendments thereto;

13 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior
14 to its repeal, or K.S.A. 21-5403, and amendments thereto;

15 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
16 repeal, or K.S.A. 21-5404, and amendments thereto;

17 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
18 its repeal, or K.S.A. 21-5405(a)(1), (a)(2) or (a)(4), and amendments
19 thereto. The provisions of this paragraph shall not apply to violations of
20 K.S.A. 21-5405(a)(3), and amendments thereto, that occurred on or after
21 July 1, 2011, through July 1, 2013;

22 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
23 K.S.A. 21-5408(a), and amendments thereto;

24 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
25 repeal, or K.S.A. 21-5408(b), and amendments thereto;

26 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its
27 repeal, or K.S.A. 21-5411, and amendments thereto, except by a parent,
28 and only when the victim is less than 18 years of age; or

29 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
30 to its repeal, or K.S.A. 21-5426(b), and amendments thereto, if not
31 committed in whole or in part for the purpose of the sexual gratification of
32 the defendant or another;

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

36 (3) has been convicted of an offense that is comparable to any crime
37 defined in this subsection, any out-of-state conviction for an offense that
38 under the laws of this state would be an offense defined in this subsection;
39 or

40 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
41 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
42 K.S.A. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
43 offense defined in this subsection.

1 (f) "Drug offender" includes any person who, on or after July 1, 2007:

2 (1) Is convicted of any of the following crimes:

3 (A) Unlawful manufacture or attempting such of any controlled
4 substance or controlled substance analog, as defined in K.S.A. 65-4159,
5 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
6 K.S.A. 21-5703, and amendments thereto;

7 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
8 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
9 ammonia or phenylpropanolamine, or their salts, isomers or salts of
10 isomers with intent to use the product to manufacture a controlled
11 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
12 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 21-5709(a), and
13 amendments thereto;

14 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
15 36a05(a)(1), prior to its transfer, or K.S.A. 21-5705(a)(1), and
16 amendments thereto. The provisions of this paragraph shall not apply to
17 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b) that
18 occurred on or after July 1, 2009, through April 15, 2010;

19 (2) has been convicted of an offense that is comparable to any crime
20 defined in this subsection, any out-of-state conviction for an offense that
21 under the laws of this state would be an offense defined in this subsection;
22 or

23 (3) is or has been convicted of an attempt, conspiracy or criminal
24 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
25 their repeal, or K.S.A. 21-5301, 21-5302 and 21-5303, and amendments
26 thereto, of an offense defined in this subsection.

27 (g) Convictions or adjudications that result from or are connected
28 with the same act, or result from crimes committed at the same time, shall
29 be counted for the purpose of this section as one conviction or
30 adjudication. Any conviction or adjudication set aside pursuant to law is
31 not a conviction or adjudication for purposes of this section. A conviction
32 or adjudication from any out-of-state court shall constitute a conviction or
33 adjudication for purposes of this section.

34 (h) "School" means any public or private educational institution,
35 including, but not limited to, postsecondary school, college, university,
36 community college, secondary school, high school, junior high school,
37 middle school, elementary school, trade school, vocational school or
38 professional school providing training or education to an offender for three
39 or more consecutive days or parts of days, or for 10 or more
40 nonconsecutive days in a period of 30 consecutive days.

41 (i) "Employment" means any full-time, part-time, transient, day-labor
42 employment or volunteer work, with or without compensation, for three or
43 more consecutive days or parts of days, or for 10 or more nonconsecutive

1 days in a period of 30 consecutive days.

2 (j) "Reside" means to stay, sleep or maintain with regularity or
3 temporarily one's person and property in a particular place other than a
4 location where the offender is incarcerated. It shall be presumed that an
5 offender resides at any and all locations where the offender stays, sleeps or
6 maintains the offender's person for three or more consecutive days or parts
7 of days, or for ten or more nonconsecutive days in a period of 30
8 consecutive days.

9 (k) "Residence" means a particular and definable place where an
10 individual resides. Nothing in the Kansas offender registration act shall be
11 construed to state that an offender may only have one residence for the
12 purpose of such act.

13 (l) "Transient" means having no fixed or identifiable residence.

14 (m) "Law enforcement agency having initial jurisdiction" means the
15 registering law enforcement agency of the county or location of
16 jurisdiction where the offender expects to most often reside upon the
17 offender's discharge, parole or release.

18 (n) "Registering law enforcement agency" means the sheriff's office
19 or tribal police department responsible for registering an offender.

20 (o) "Registering entity" means any person, agency or other
21 governmental unit, correctional facility or registering law enforcement
22 agency responsible for obtaining the required information from, and
23 explaining the required registration procedures to, any person required to
24 register pursuant to the Kansas offender registration act. "Registering
25 entity" includes, but is not limited to, sheriff's offices, tribal police
26 departments and correctional facilities.

27 (p) "Treatment facility" means any public or private facility or
28 institution providing inpatient mental health, drug or alcohol treatment or
29 counseling, but does not include a hospital, as defined in K.S.A. 65-425,
30 and amendments thereto.

31 (q) "Correctional facility" means any public or private correctional
32 facility, juvenile detention facility, prison or jail.

33 (r) "Out-of-state" means: the District of Columbia; any federal,
34 military or tribal jurisdiction, including those within this state; any foreign
35 jurisdiction; or any state or territory within the United States, other than
36 this state.

37 (s) "Duration of registration" means the length of time during which
38 an offender is required to register for a specified offense or violation.

39 (t) *"School activity" means an activity sponsored by a unified school*
40 *district or a nonpublic school at which students in kindergarten or any of*
41 *the grades one through 12 or children under the age of eligibility to attend*
42 *kindergarten who attend a preschool program are the primary intended*
43 *participants or the primary intended audience, including, but not limited*

1 to, school instructional time, after school care, after school tutoring,
2 athletic events, school dances and social events, field trips, school plays or
3 assemblies.

4 (u) "School property" means property upon which is located a
5 structure used by a unified school district or a nonpublic school for
6 instruction, attendance or extracurricular activities for students enrolled
7 in kindergarten or any of the grades one through 12 or for children under
8 the age of eligibility to attend kindergarten who attend a preschool
9 program.

10 (v) "Nonpublic school" means a private, nonprofit or parochial
11 school that offers regular instruction for students at least four days per
12 week during a school term and does not include a homeschool,
13 microscool, homeschool cooperative association or any nonaccredited
14 private school that has a total enrollment of nine students or fewer.

15 (w) (1) Notwithstanding any other provision of this section,
16 "offender" shall not include any person who is:

17 (A) Convicted of unlawful transmission of a visual depiction of a
18 child, as defined in K.S.A. 21-5611(a), and amendments thereto,
19 aggravated unlawful transmission of a visual depiction of a child, as
20 defined in K.S.A. 21-5611(b), and amendments thereto, or unlawful
21 possession of a visual depiction of a child, as defined in K.S.A. 21-5610,
22 and amendments thereto;

23 (B) adjudicated as a juvenile offender for an act which, if committed
24 by an adult, would constitute the commission of a crime defined in
25 subsection ~~(t)(1)(A)~~ (w)(1)(A);

26 (C) adjudicated as a juvenile offender for an act which, if committed
27 by an adult, would constitute the commission of sexual extortion as
28 defined in K.S.A. 21-5515, and amendments thereto; or

29 (D) adjudicated as a juvenile offender for an act which, if committed
30 by an adult, would constitute a violation of K.S.A. 21-6101(a)(6), (a)(7) or
31 (a)(8), and amendments thereto.

32 (2) Notwithstanding any other provision of law, a court shall not
33 order any person to register under the Kansas offender registration act for
34 the offenses described in subsection ~~(t)(1)~~ (w)(1).

35 Sec. 4. K.S.A. 22-4901 and 22-4902 are hereby repealed.

36 Sec. 5. This act shall take effect and be in force from and after its
37 publication in the statute book.