

SENATE BILL No. 205

By Committee on Judiciary

2-5

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to crimes involving violations of personal rights; increasing the
3 criminal penalty for certain violations of breach of privacy when the
4 victim is a child; amending K.S.A. 2024 Supp. 21-6101 and repealing
5 the existing section.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2024 Supp. 21-6101 is hereby amended to read as
9 follows: 21-6101. (a) Breach of privacy is knowingly and without lawful
10 authority:

11 (1) Intercepting, without the consent of the sender or receiver, a
12 message by telephone, telegraph, letter or other means of private
13 communication;

14 (2) divulging, without the consent of the sender or receiver, the
15 existence or contents of such message if such person knows that the
16 message was illegally intercepted, or if such person illegally learned of the
17 message in the course of employment with an agency in transmitting such
18 message;

19 (3) entering with intent to listen surreptitiously to private
20 conversations in a private place or to observe the personal conduct of any
21 other person or persons entitled to privacy therein;

22 (4) installing or using outside or inside a private place any device for
23 hearing, recording, amplifying or broadcasting sounds originating in such
24 place, which sounds would not ordinarily be audible or comprehensible
25 without the use of such device, without the consent of the person or
26 persons entitled to privacy therein;

27 (5) installing or using any device or equipment for the interception of
28 any telephone, telegraph or other wire or wireless communication without
29 the consent of the person in possession or control of the facilities for such
30 communication;

31 (6) installing or using a camcorder, motion picture camera or
32 photographic camera of any type to videotape, film, photograph or record,
33 by electronic or other means, another identifiable person under or through
34 the clothing being worn by that other person or another identifiable person
35 who is nude or in a state of undress, for the purpose of viewing the body
36 of, or the undergarments worn by, that other person, without the consent or

1 knowledge of that other person, with the intent to invade the privacy of
 2 that other person, under circumstances in which that other person has a
 3 reasonable expectation of privacy;

4 (7) disseminating or permitting the dissemination of any videotape,
 5 photograph, film or image obtained in violation of subsection (a)(6); or

6 (8) disseminating any videotape, photograph, film or image of
 7 another identifiable person 18 years of age or older who is nude or
 8 engaged in sexual activity and under circumstances in which such
 9 identifiable person had a reasonable expectation of privacy, with the intent
 10 to harass, threaten or intimidate such identifiable person, and such
 11 identifiable person did not consent to such dissemination.

12 (b) Breach of privacy as defined in:

13 (1) Subsection (a)(1) through (a)(5) is a class A nonperson
 14 misdemeanor;

15 (2) *subsection (a)(6) is:*

16 (A) *A severity level 8, person felony, except as provided in subsection*
 17 *(b)(2)(B), (b)(2)(C) and (b)(2)(D);*

18 (B) *a severity level 5, person felony upon a second or subsequent*
 19 *conviction within the previous five years, except as provided in subsection*
 20 *(b)(2)(D);*

21 (C) *a severity level 5, person felony when the victim is under 18 years*
 22 *of age, except as provided in subsection (b)(2)(D); and*

23 (D) *an off-grid person felony when the offender is 18 years of age or*
 24 *older and the victim is under 14 years of age;*

25 (3) ~~subsection (a)(6) or~~ (a)(8) is a:

26 (A) Severity level 8, person felony, except as provided in subsection
 27 ~~(b)(2)(B)~~ (b)(3)(B); and

28 (B) severity level 5, person felony upon a second or subsequent
 29 conviction within the previous five years; and

30 ~~(3)(4)~~ subsection (a)(7) is:

31 (A) A severity level 5, person felony, *except as provided in subsection*
 32 *(b)(4)(B) and (b)(4)(C);*

33 (B) *a severity level 4, person felony when the victim is under 18 years*
 34 *of age, except as provided in subsection (b)(4)(C); and*

35 (C) *an off-grid person felony when the offender is 18 years of age or*
 36 *older and the victim is under 14 years of age.*

37 (c) Subsection (a)(1) shall not apply to messages overheard through a
 38 regularly installed instrument on a telephone party line or on an extension.

39 (d) The provisions of this section shall not apply to:

40 (1) An operator of a switchboard, or any officer, employee or agent of
 41 any public utility providing telephone communications service, whose
 42 facilities are used in the transmission of a communication, to intercept,
 43 disclose or use that communication in the normal course of employment

1 while engaged in any activity which is incident to the rendition of public
2 utility service or to the protection of the rights of property of such public
3 utility;

4 (2) a provider of an interactive computer service, as defined in 47
5 U.S.C. § 230, for content provided by another person;

6 (3) a radio common carrier, as defined in K.S.A. 66-1,143, and
7 amendments thereto; and

8 (4) a local exchange carrier or telecommunications carrier as defined
9 in K.S.A. 66-1,187, and amendments thereto.

10 (e) The provisions of subsection (a)(8) shall not apply to a person
11 acting with a bona fide and lawful scientific, educational, governmental,
12 news or other similar public purpose.

13 (f) As used in this section, "private place" means a place where one
14 may reasonably expect to be safe from uninvited intrusion or surveillance.

15 Sec. 2. K.S.A. 2024 Supp. 21-6101 is hereby repealed.

16 Sec. 3. This act shall take effect and be in force from and after its
17 publication in the statute book.