

As Amended by House Committee

HOUSE BILL No. 2568

By Committee on Corrections and Juvenile Justice

1-27

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RS - JThompson - 03/15/12

1 AN ACT concerning the Kansas offender registration act; amending
2 K.S.A. 2011 Supp. 22-4902, 22-4903, 22-4904, 22-4905, 22-4906, 22-
3 4907, 22-4908 and 22-4909 and repealing the existing sections; also
4 repealing K.S.A. 2011 Supp. 22-4902a and 22-4906a.
5

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

7 Section 1. K.S.A. 2011 Supp. 22-4902 is hereby amended to read as
8 follows: 22-4902. As used in the Kansas offender registration act, unless
9 the context otherwise requires:

10 (a) "Offender" means:

11 (1) A sex offender; ~~as defined in subsection (b);~~

12 (2) a violent offender; ~~as defined in subsection (c);~~

13 (3) a drug offender; ~~as defined in subsection (f);~~

14 (4) any person who has been required to register under out of state
15 law or is otherwise required to be registered; and

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

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

19 (1) On or after April 14, 1994, is convicted of any sexually violent
20 crime ~~set forth in subsection (e);~~

21 (2) On or after April 14, 1994, is adjudicated as a juvenile offender
22 for an act which if committed by an adult would constitute the commission
23 of a sexually violent crime ~~set forth in subsection (e)~~, unless the court, on
24 the record, finds that the act involved non-forcible sexual conduct, the
25 victim was at least 14 years of age and the offender was not more than four
26 years older than the victim;

27 (3) has been determined to be a sexually violent predator; ~~as defined~~
28 ~~in subsection (d);~~

29 (4) on or after May 29, 1997, is convicted of any of the following
30 crimes when one of the parties involved is less than 18 years of age:

31 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
32 K.S.A. 2011 Supp. 21-5511, and amendments thereto;

33 (B) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
34 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2011
35 Supp. 21-5504, and amendments thereto;

36 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its

1 offender's birthday;

2 (2) when an offender is transient and is required to register every 30
3 days, or more frequently as ordered by the registering law enforcement
4 agency, except during the month of the offender's birthday and every third,
5 sixth and ninth month occurring before and after the month of the
6 offender's birthday; or

7 (3) if an offender has, prior to the required reporting and within the
8 last three years, been determined to be indigent by a court of law, and the
9 basis for that finding is recorded by the court;

10 (1) annually renew any driver's license pursuant to K.S.A. 8-247, and
11 amendments thereto, and annually renew any identification card pursuant
12 to K.S.A. 2011 Supp. 8-1325a, and amendments thereto;

13 (m) if maintaining primary residence in this state, surrender all
14 driver's licenses and identification cards from other states, territories and
15 the District of Columbia, except if the offender is presently serving and
16 maintaining active duty in any branch of the United States military or the
17 offender is an immediate family member of a person presently serving and
18 maintaining active duty in any branch of the United States military;

19 (n) read and sign the registration form noting whether the
20 requirements provided in this section have been explained to the offender;
21 and

22 (o) ~~notify report in person to the~~ registering law enforcement agency
23 in the jurisdiction of the offender's residence and *provide written notice to*
24 the Kansas bureau of investigation 21 days prior to any travel outside of
25 the United States, *and provide an itinerary including, but not limited to,*
26 *destination, means of transport and duration of travel, or if under*
27 *emergency circumstances, within three business days of making travel*
28 *arrangements.*

29 Sec. 5. K.S.A. 2011 Supp. 22-4906 is hereby amended to read as
30 follows: 22-4906(a) (1) Except as provided in subsection (c), if convicted
31 of any of the following offenses, an offender's duration of registration shall
32 be, if confined, 15 years after the date of parole, discharge or release,
33 whichever date is most recent, or, if not confined, 15 years from the date of
34 conviction:

35 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
36 or subsection (a) of K.S.A. 2011 Supp. 21-5505, and amendments thereto;
37 ~~when one of the parties involved is less than 18 years of age;~~

38 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
39 K.S.A. 2011 Supp. 21-5511, and amendments thereto, when one of the
40 parties involved is less than 18 years of age;

41 (C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
42 repeal, or K.S.A. 2011 Supp. 21-6421, and amendments thereto, when one
43 of the parties involved is less than 18 years of age;

or (m)

22

1 (D) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
2 to its repeal, or K.S.A. 2011 Supp. 21-5513, and amendments thereto,
3 when one of the parties involved is less than 18 years of age;

4 (E) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
5 or K.S.A. 2011 Supp. 21-5401, and amendments thereto;

6 (F) murder in the first degree, as defined in K.S.A. 21-3401, prior to
7 its repeal, or K.S.A. 2011 Supp. 21-5402, and amendments thereto;

8 (G) murder in the second degree, as defined in K.S.A. 21-3402, prior
9 to its repeal, or K.S.A. 2011 Supp. 21-5403, and amendments thereto;

10 (H) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
11 repeal, or K.S.A. 2011 Supp. 21-5404, and amendments thereto;

12 (I) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
13 its repeal, or K.S.A. 2011 Supp. 21-5405, and amendments thereto;

14 (J) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal,
15 or K.S.A. 2011 Supp. 21-5411, and amendments thereto, except by a
16 parent, and only when the victim is less than 18 years of age;

17 (K) any act which ~~at the time of sentencing for the offense~~ has been
18 determined beyond a reasonable doubt to have been sexually motivated,
19 unless the court, on the record, finds that the act involved non-forcible
20 sexual conduct, the victim was at least 14 years of age and the offender
21 was not more than four years older than the victim;

22 (L) conviction of any person required by court order to register for
23 an offense not otherwise required as provided in the Kansas offender
24 registration act;

25 (M) conviction of any person felony and the court makes a
26 finding on the record that a deadly weapon was used in the commission of
27 such person felony;

28 (N) unlawful manufacture or attempting such of any controlled
29 substance or controlled substance analog as defined in K.S.A. 65-4159,
30 prior to its repeal ~~or~~ K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
31 K.S.A. 2011 Supp. 21-5703, and amendments thereto;

32 (O) possession of ephedrine, pseudoephedrine, red phosphorus,
33 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
34 ammonia or phenylpropanolamine, or their salts, isomers or salts of
35 isomers with intent to use the product to manufacture a controlled
36 substance as defined by subsection (a) of K.S.A. 65-7006, prior to its
37 repeal ~~or~~, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its
38 transfer, or subsection (a) of K.S.A. 2011 Supp. 21-5709, and amendments
39 thereto;

40 (P) K.S.A. 65-4161, prior to its repeal, ~~or~~ subsection (a)(1) of
41 K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of
42 K.S.A. 2011 Supp. 21-5705, and amendments thereto; or

43 (Q) any attempt, conspiracy or criminal solicitation, as defined in

23

1 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011
2 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
3 offense defined in this subsection.

4 (2) Except as otherwise provided by the Kansas offender registration
5 act, the duration of registration terminates, if not confined, at the
6 expiration of 15 years from the date of conviction. Any period of time
7 during which any offender is incarcerated in any jail or correctional
8 facility or during which the offender does not comply with any and all
9 requirements of the Kansas offender registration act shall not count toward
10 the duration of registration.

11 (b) (1) Except as provided in subsection (c), if convicted of any of
12 the following offenses, an offender's duration of registration shall be, if
13 confined, 25 years after the date of parole, discharge or release, whichever
14 date is most recent, or, if not confined, 25 years from the date of
15 conviction:

16 (A) Criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
17 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2011
18 Supp. 21-5504, and amendments thereto, when one of the parties involved
19 is less than 18 years of age;

20 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
21 prior to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5508, and
22 amendments thereto;

23 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
24 repeal, or K.S.A. 2011 Supp. 21-5509, and amendments thereto;

25 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
26 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments
27 thereto;

28 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
29 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5506, and
30 amendments thereto;

31 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
32 its repeal, or K.S.A. 2011 Supp. 21-5512, and amendments thereto;

33 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
34 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto, if
35 the victim is 14 or more years of age but less than 18 years of age;

36 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
37 its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5505, and
38 amendments thereto;

39 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
40 repeal, or K.S.A. 2011 Supp. 21-6420, and amendments thereto, if the
41 prostitute is 14 or more years of age but less than 18 years of age; or

42 (J) any attempt, conspiracy or criminal solicitation, as defined in
43 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011

or (m)

1 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
2 offense defined in this subsection.

3 (2) Except as otherwise provided by the Kansas offender registration
4 act, the duration of registration terminates, if not confined, at the
5 expiration of 25 years from the date of conviction. Any period of time
6 during which any offender is incarcerated in any jail or correctional
7 facility or during which the offender does not comply with any and all
8 requirements of the Kansas offender registration act shall not count toward
9 the duration of registration.

10 (c) Upon a second or subsequent conviction of an offense requiring
11 registration, an offender's duration of registration shall be for such
12 offender's lifetime.

13 (d) The duration of registration for any offender who has been
14 convicted of any of the following offenses shall be for such offender's
15 lifetime:

16 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
17 2011 Supp. 21-5503, and amendments thereto;

18 (2) Aggravated indecent solicitation of a child, as defined in K.S.A.
19 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-
20 5508, and amendments thereto;

21 (3) Aggravated indecent liberties with a child, as defined in K.S.A.
22 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-
23 5506, and amendments thereto;

24 (4) Criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
25 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
26 2011 Supp. 21-5504, and amendments thereto;

27 (5) Aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
28 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5504, and
29 amendments thereto;

30 (6) Aggravated human trafficking, as defined in K.S.A. 21-3447, prior
31 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5426, and
32 amendments thereto; ~~if the victim is less than 18 years of age;~~

33 (7) Sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
34 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto, if
35 the victim is less than 14 years of age;

36 (8) Promoting prostitution, as defined in K.S.A. 21-3513, prior to its
37 repeal, or K.S.A. 2011 Supp. 21-6420, and amendments thereto, if the
38 prostitute is less than 14 years of age;

39 (9) Kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
40 subsection (a) of K.S.A. 2011 Supp. 21-5408, and amendments thereto;

41 (10) Aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
42 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5408, and amendments
43 thereto; or

Except as provided in subsection (m),

Except as provided in subsection (m),

1 (1) any attempt, conspiracy or criminal solicitation, as defined in
2 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011
3 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
4 offense defined in this subsection.

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

8 (f) Notwithstanding any other provisions of this section, for an
9 offender less than 14 years of age who is adjudicated as a juvenile offender
10 for an act which if committed by an adult would constitute a sexually
11 violent crime set forth in subsection (c) of K.S.A. 22-4902, and
12 amendments thereto, the court shall:

13 (1) Require registration until such offender reaches 18 years of age, at
14 the expiration of five years from the date of adjudication or, if confined,
15 from release from confinement, whichever date occurs later. Any period of
16 time during which the offender is incarcerated in any jail, juvenile facility
17 or correctional facility or during which the offender does not comply with
18 any and all requirements of the Kansas offender registration act shall not
19 count toward the duration of registration;

20 (2) not require registration if the court, on the record, finds substantial
21 and compelling reasons therefor; or

22 (3) require registration, but such registration information shall not be
23 open to inspection by the public or posted on any internet website, as
24 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
25 registration but such registration is not open to the public, such offender
26 shall provide a copy of such court order to the registering law enforcement
27 agency at the time of registration. The registering law enforcement agency
28 shall forward a copy of such court order to the Kansas bureau of
29 investigation.

30 If such offender violates a condition of release during the term of the
31 conditional release, the court may require such offender to register
32 pursuant to paragraph (1).

33 (g) Notwithstanding any other provisions of this section, for an
34 offender 14 years of age or more who is adjudicated as a juvenile offender
35 for an act which if committed by an adult would constitute a sexually
36 violent crime set forth in subsection (c) of K.S.A. 22-4902, and
37 amendments thereto, and such crime is not an off-grid felony or a felony
38 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
39 4704, prior to its repeal, or K.S.A. 2011 Supp. 21-6804, and amendments
40 thereto, the court shall:

41 (1) Require registration until such offender reaches 18 years of age, at
42 the expiration of five years from the date of adjudication or, if confined,
43 from release from confinement, whichever date occurs later. Any period of

1 time during which the offender is incarcerated in any jail, juvenile facility
2 or correctional facility or during which the offender does not comply with
3 any and all requirements of the Kansas offender registration act shall not
4 count toward the duration of registration;

5 (2) not require registration if the court, on the record, finds substantial
6 and compelling reasons therefor; or

7 (3) require registration, but such registration information shall not be
8 open to inspection by the public or posted on any internet website, as
9 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
10 registration but such registration is not open to the public, such offender
11 shall provide a copy of such court order to the registering law enforcement
12 agency at the time of registration. The registering law enforcement agency
13 shall forward a copy of such court order to the Kansas bureau of
14 investigation.

15 If such offender violates a condition of release during the term of the
16 conditional release, the court may require such offender to register
17 pursuant to paragraph (1).

18 (h) Notwithstanding any other provisions of this section, an offender
19 14 years of age or more who is adjudicated as a juvenile offender for an
20 act which if committed by an adult would constitute a sexually violent
21 crime set forth in subsection (c) of K.S.A. 22-4902, and amendments
22 thereto, and such crime is an off-grid felony or a felony ranked in severity
23 level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its
24 repeal, or K.S.A. 2011 Supp. 21-6804, and amendments thereto, shall be
25 required to register for such offender's lifetime.

26 (i) Notwithstanding any other provision of law, if a diversionary
27 agreement or probation order, either adult or juvenile, or a juvenile
28 offender sentencing order, requires registration under the Kansas offender
29 registration act for an offense that would not otherwise require registration
30 as provided in subsection (a)(5) of K.S.A. 22-4902, and amendments
31 thereto, then all provisions of the Kansas offender registration act shall
32 apply, except that the duration of registration shall be controlled by such
33 diversionary agreement, probation order or juvenile offender sentencing
34 order.

35 (j) The duration of registration does not terminate if the convicted or
36 adjudicated offender becomes liable to register as provided by the
37 Kansas offender registration act during the required period of registration.

38 (k) For any person moving to Kansas who has been convicted or
39 adjudicated in an out of state court, ~~and or ~~whichever is longer~~, or~~ who was
40 required to register under an out of state law, the duration of registration
41 shall be the length of time required by the out of state jurisdiction or by the
42 Kansas offender registration act, whichever length of time is longer. The
43 provisions of this subsection shall apply to convictions *or adjudications*

1 prior to June 1, 2006, and to persons who moved to Kansas prior to June 1,
2 2006, and to convictions *or adjudications* on or after June 1, 2006, and to
3 persons who moved to Kansas on or after June 1, 2006.

4 (1) For any person residing, maintaining employment or attending
5 school in this state who has been convicted or adjudicated by an out of
6 state court ~~or municipal court~~ of an offense that is comparable to any
7 crime requiring registration pursuant to the Kansas offender registration
8 act, but who was not required to register in the jurisdiction of conviction
9 *or adjudication*, the duration of registration shall be the duration required
10 for the comparable offense pursuant to the Kansas offender registration
11 act. The duration of registration shall begin upon establishing residency,
12 beginning employment or beginning school.

13 Sec. 6. K.S.A. 2011 Supp. 22-4907 is hereby amended to read as
14 follows: 22-4907. (a) Registration as required by the Kansas offender
15 registration act shall consist of a form approved by the Kansas bureau of
16 investigation, which shall include a statement that the requirements
17 provided in this section have been reviewed and explained to the offender,
18 and shall be signed by the offender and, except when such reporting is
19 conducted by certified letter as provided in subsection (b) of K.S.A. 22-
20 4905, and amendments thereto, witnessed by the person registering the
21 offender. Such registration form shall include the following offender
22 information:

- 23 (1) Name and all alias names;
- 24 (2) date and city, state and country of birth, and any alias dates or
- 25 places of birth;
- 26 (3) title and statute number of each offense or offenses committed,
- 27 date of each conviction or adjudication and court case numbers for each
- 28 conviction or adjudication;
- 29 (4) city, county, state or country of conviction or adjudication;
- 30 (5) sex and date of birth or purported age of each victim of all
- 31 offenses requiring registration;

32 (6) current residential address, any anticipated future residence and
33 any temporary lodging information including, but not limited to, address,
34 telephone number and dates of travel for any place in which the offender is
35 staying for seven or more days; and, if transient, the locations where the
36 offender has stayed and frequented since last reporting for registration;

37 (7) all telephone numbers at which the offender may be contacted
38 including, but not limited to, all mobile telephone numbers;

39 (8) social security number, and all alias social security numbers;

40 (9) identifying characteristics such as race, ethnicity, skin tone, sex,
41 age, height, weight, hair and eye color, scars, tattoos and blood type;

42 (10) occupation and name, address or addresses and telephone
43 number of employer or employers, and name of any anticipated employer

(m) (1) After 10 years of registration, an offender may file a motion in the district court in the county in which the conviction or adjudication occurred for which the offender is required to be registered under the Kansas offender registration act requesting that the registration requirement be terminated. A motion filed by an offender who is not eligible to file such a motion shall be denied without a hearing.

(2) The court may grant a motion requesting termination of registration if it determines, after a hearing, that registration is no longer necessary to protect the public. At such a hearing, the court may consider any evidence relevant to whether the offender is a danger to the public. Except as provided in subsection (m)(3), the offender has the burden to prove by clear and convincing evidence that registration is no longer necessary to protect the public.

(3) If a motion requesting termination of registration is denied after a hearing, the offender may not file a subsequent motion requesting termination of registration until at least five years have elapsed since the motion was denied.

28