

## **Kansas Offender Registration Act**

**House Sub. for SB 37** makes several changes to the Kansas Offender Registration Act (the Act) to bring Kansas into compliance with the federal Adam Walsh Sex Offender Registration and Notification Act (SORNA). First, the bill amends KSA 22-4902(a) by limiting the definition of “offender” to sex offenders, violent offenders, and drug offenders, all of which are defined in the bill, in addition to persons required to register in other states or by a Kansas court for a crime that is not otherwise an offense requiring registration. The definitions of sex offenders, violent offenders, and drug offenders incorporate the crimes removed from the current definition of “offender.” The bill also defines other key terms.

In KSA 22-4903, a first conviction of failure to comply with the provisions of the Act becomes a severity level 5, person felony, (formerly a level 6, person felony); a second conviction remains a level 5, person felony; and a third or subsequent conviction becomes a level 3, person felony. Additionally, failure to comply with the Act for more than 180 consecutive days is considered an aggravated violation, a level 3, person felony.

KSA 22-4904 consolidates the duties of several entities into a single statute and incorporates those things SORNA requires of each. Each entity’s responsibilities are outlined in its own subsection as follows:

- (a) Courts (at the time of sentencing or disposition for an offense requiring registration);
- (b) Staff of a correctional facility;
- (c) Staff of a treatment facility;
- (d) Registering law enforcement agencies;
- (e) Kansas Bureau of Investigation (KBI);
- (f) Attorney General;
- (g) Kansas Department of Education;
- (h) Secretary of Health and Environment; and
- (l) The clerk of any court of record.

KSA 22-4905 outlines offender registration requirements. An offender must register in person with the registering law enforcement agency within three business days of coming into any county or location of jurisdiction in which the offender resides or intends to reside, maintains employment or intends to maintain employment, or attends school or intends to attend school. Exceptions exist for anyone physically unable of registering in person at the discretion of the registering law enforcement agency.

Further, sex offenders must report in person four times a year to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment, or is attending school. Violent offenders and drug offenders, at the discretion of the registering law enforcement agency, are required to report in person three times each year and by certified letter one time each year. If incapacitated, the registering law enforcement agency may allow violent offenders and drug offenders to report by certified letter four times a year. An offender must register during the month of the offender's birth, and every third, sixth, and ninth month occurring before and after the offender's birthday. Each time, the offender must pay a \$20 fee, with some exceptions.

Offenders also must register in person within three business days of commencement, change, or termination of residence, employment status, school attendance, or other information required on the registration form with the registering law enforcement agency where last registered and provide written notice to the KBI. Similarly, an offender must register within three business days of any name change. Finally, the offender must submit to the taking of an updated photograph when registering or to document any changes in identifying characteristics; renew any driver's license or identification card annually; surrender any drivers' licenses or identification cards from other jurisdictions when Kansas is the offender's primary residence (an exception exists for active duty members of the military and their immediate family); and read and sign registration forms indicating whether the requirements of this section have been explained.

The bill provides special conditions for registration in certain circumstances. If in the custody of a correctional facility or in the care or custody of a treatment facility, the bill requires offenders to register with that facility within three business days of arrival, but does not require them to update their registration until they are allowed to leave. If receiving inpatient treatment at any treatment facility, the offender must inform the registering law enforcement agency of the offender's presence at the facility and the expected duration of the treatment. If an offender is transient, the bill requires the offender to report in person to the registering law enforcement agency of the county or location of jurisdiction within three business days of arrival, and every 30 days thereafter, or more often at the discretion of the registering law enforcement agency. If traveling outside the U.S., the offender must notify the registering law enforcement agency and the KBI 21 days prior to travel, and within three days of making travel arrangements.

Offenders are required to register for 15 or 25 years, or for life, depending on the offense as outlined in KSA 22-4906. Those crimes requiring registration for 15 years are capital

murder; murder in the first degree; murder in the second degree; voluntary manslaughter; involuntary manslaughter; criminal restraint when the victim is less than 18; a sexually motivated crime; a person felony where a deadly weapon was used; manufacture or attempted manufacture of a controlled substance; possession of certain drug precursors; when one of the parties is less than 18, sexual battery, adultery, patronizing a prostitute, or lewd and lascivious behavior; or attempt, conspiracy, or criminal solicitation of any of these crimes.

Those crimes requiring registration for 25 years are criminal sodomy when one of the parties is less than 18; indecent solicitation of a child; electronic solicitation; aggravated incest; indecent liberties with a child; unlawful sexual relations; sexual exploitation of a child; aggravated sexual battery; promoting prostitution; or any attempt, conspiracy, or criminal solicitation of any of these crimes.

Those crimes requiring registration for life are second or subsequent convictions of an offense requiring registration; rape; aggravated indecent solicitation of a child; aggravated indecent liberties with a child; criminal sodomy; aggravated criminal sodomy; aggravated human trafficking; sexual exploitation of a child; promoting prostitution; kidnapping; aggravated kidnapping; or any attempt, conspiracy, or criminal solicitation of any of these crimes. Additionally, any person declared a sexually violent predator is required to register for life. Offenders 14 years of age or older who are adjudicated as a juvenile offender for an act that would be considered a sexually violent crime when committed by an adult, and that is a severity level 1 non-drug felony or an off-grid felony, also must register for life.

For offenders 14 years of age or older who are adjudicated as a juvenile offender for an act that would be considered a sexually violent crime when committed by an adult and that is not a severity level 1 non-drug felony or an off-grid felony, a court may:

- Require registration until the offender reaches 18, 5 years after adjudication or, if confined, 5 years after released from confinement, whichever occurs later;
- Not require registration if it finds on the record substantial and compelling reasons therefor; or
- Require registration, but with the information not open to the public or posted on the internet (the offender would be required to provide a copy of such an order to the registering law enforcement agency at the time of registration, which in turn, would forward the order to the KBI).

KSA 22-4907, concerning the form used for registration, is amended to require KBI approval of the form, rather than preparation; information in addition to that already required; and that the signature of the offender be witnessed by the registering officer.

The bill also amends the provisions in this section governing the mandatory collection of DNA samples.

In KSA 22-4909, concerning the availability of statements and other information collected pursuant to the Act, the bill clarifies what information is required to be posted on a website sponsored or created by a registering law enforcement agency or the KBI.

Finally, the bill amends KSA 38-2312, which governs the expungement of juvenile records, and 2010 Session Laws Ch. 136, Sec. 254, which governs expungement of adult records, to provide that an offender required to register pursuant to the Act cannot expunge any conviction or part of the offender's criminal record while the offender is required to register. (2010 Session Laws Ch. 136 recodifies the Kansas Criminal Code and will go into effect July 1, 2011.)