

## **SENATE BILL No. 17**

By Committee on Judiciary

1-15

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1 AN ACT concerning crimes and punishment; relating to unlawful sexual  
2 relations; amending K.S.A. 2012 Supp. 21-5512 and repealing the  
3 existing section.  
4

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

6 Section 1. K.S.A. 2012 Supp. 21-5512 is hereby amended to read as  
7 follows: 21-5512.(a) Unlawful sexual relations is engaging in consensual  
8 sexual intercourse, lewd fondling or touching, or sodomy with a person  
9 who is not married to the offender if:

10 (1) The offender is an employee or volunteer of the department of  
11 corrections, or the employee or volunteer of a contractor who is under  
12 contract to provide services for a correctional institution, and the person  
13 with whom the offender is engaging in consensual sexual intercourse, lewd  
14 fondling or touching, or sodomy is a person 16 years of age or older who  
15 is an inmate;

16 (2) the offender is a parole officer, volunteer for the department of  
17 corrections or the employee or volunteer of a contractor who is under  
18 contract to provide supervision services for persons on parole, conditional  
19 release or postrelease supervision and the person with whom the offender  
20 is engaging in consensual sexual intercourse, lewd fondling or touching, or  
21 sodomy is a person 16 years of age or older who is an inmate who has  
22 been released on parole, conditional release or postrelease supervision and  
23 the offender has knowledge that the person with whom the offender is  
24 engaging in consensual sexual intercourse, lewd fondling or touching, or  
25 sodomy is an inmate who has been released and is currently on parole,  
26 conditional release or postrelease supervision;

27 (3) the offender is a law enforcement officer, an employee of a jail, or  
28 the employee of a contractor who is under contract to provide services in a  
29 jail and the person with whom the offender is engaging in consensual  
30 sexual intercourse, lewd fondling or touching, or sodomy is a person 16  
31 years of age or older who is confined to such jail;

32 (4) the offender is a law enforcement officer, an employee of a  
33 juvenile detention facility or sanctions house, or the employee of a  
34 contractor who is under contract to provide services in such facility or  
35 sanctions house and the person with whom the offender is engaging in  
36 consensual sexual intercourse, lewd fondling or touching, or sodomy is a

1 person 16 years of age or older who is confined to such facility or  
2 sanctions house;

3 (5) the offender is an employee of the juvenile justice authority or the  
4 employee of a contractor who is under contract to provide services in a  
5 juvenile correctional facility and the person with whom the offender is  
6 engaging in consensual sexual intercourse, lewd fondling or touching, or  
7 sodomy is a person 16 years of age or older who is confined to such  
8 facility;

9 (6) the offender is an employee of the juvenile justice authority or the  
10 employee of a contractor who is under contract to provide direct  
11 supervision and offender control services to the juvenile justice authority  
12 and:

13 (A) The person with whom the offender is engaging in consensual  
14 sexual intercourse, lewd fondling or touching, or sodomy is a person 16  
15 years of age or older who has been:

16 (i) Released on conditional release from a juvenile correctional  
17 facility under the supervision and control of the juvenile justice authority  
18 or juvenile community supervision agency; or

19 (ii) placed in the custody of the juvenile justice authority under the  
20 supervision and control of the juvenile justice authority or juvenile  
21 community supervision agency; and

22 (B) the offender has knowledge that the person with whom the  
23 offender is engaging in consensual sexual intercourse, lewd fondling or  
24 touching, or sodomy is currently under supervision;

25 (7) the offender is an employee of the department of social and  
26 rehabilitation services or the employee of a contractor who is under  
27 contract to provide services in a social and rehabilitation services  
28 institution or to the department of social and rehabilitation services and the  
29 person with whom the offender is engaging in consensual sexual  
30 intercourse, lewd fondling or touching, or sodomy is a person 16 years of  
31 age or older who is a patient in such institution or in the custody of the  
32 secretary of social and rehabilitation services;

33 (8) the offender is a worker, volunteer or other person in a position of  
34 authority in a family foster home licensed by the department of health and  
35 environment and the person with whom the offender is engaging in  
36 consensual sexual intercourse, lewd fondling or touching, or sodomy is a  
37 person 16 years of age or older who is a foster child placed in the care of  
38 such family foster home;

39 (9) the offender is a teacher or other person in a position of authority  
40 and the person with whom the offender is engaging in consensual sexual  
41 intercourse, lewd fondling or touching, or sodomy is a person 16 years of  
42 age or older who is a student enrolled at the school where the offender is  
43 employed. If the offender is the parent of the student, the provisions of

1 subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto,  
 2 shall apply, not this subsection;

3 (10) the offender is a court services officer or the employee of a  
 4 contractor who is under contract to provide supervision services for  
 5 persons under court services supervision and the person with whom the  
 6 offender is engaging in consensual sexual intercourse, lewd fondling or  
 7 touching, or sodomy is a person 16 years of age or older who has been  
 8 placed on probation under the supervision and control of court services  
 9 and the offender has knowledge that the person with whom the offender is  
 10 engaging in consensual sexual intercourse, lewd fondling or touching, or  
 11 sodomy is currently under the supervision of court services; ~~or~~

12 (11) the offender is a community correctional services officer or the  
 13 employee of a contractor who is under contract to provide supervision  
 14 services for persons under community corrections supervision and the  
 15 person with whom the offender is engaging in consensual sexual  
 16 intercourse, lewd fondling or touching, or sodomy is a person 16 years of  
 17 age or older who has been assigned to a community correctional services  
 18 program under the supervision and control of community corrections and  
 19 the offender has knowledge that the person with whom the offender is  
 20 engaging in consensual sexual intercourse, lewd fondling or touching, or  
 21 sodomy is currently under the supervision of community corrections; *or*

22 (12) *the offender is an employee of an adult care home or the*  
 23 *employee or volunteer of a contractor who is under contract to provide*  
 24 *services for an adult care home and the person with whom the offender is*  
 25 *engaging in consensual sexual intercourse, lewd fondling or touching, or*  
 26 *sodomy is a person 16 years of age or older who is a resident in such*  
 27 *adult care home.*

28 (b) Unlawful sexual relations as defined in:

29 (1) Subsection (a)(5) is a severity level 4, person felony; and

30 (2) subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9),  
 31 (a)(10) ~~or~~, (a)(11) *or (a)(12)* is a severity level 5, person felony.

32 (c) (1) If an offender violates the provisions of this section by  
 33 engaging in consensual sexual intercourse which would constitute a  
 34 violation of K.S.A. 2012 Supp. 21-5503, and amendments thereto, the  
 35 provisions of K.S.A. 2012 Supp. 21-5503, and amendments thereto, shall  
 36 apply, not this section.

37 (2) If an offender violates the provisions of this section by engaging  
 38 in consensual sexual intercourse which would constitute a violation of  
 39 subsection (b)(1) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,  
 40 the provisions of subsection (b)(1) of K.S.A. 2012 Supp. 21-5506, and  
 41 amendments thereto, shall apply, not this section.

42 (3) If an offender violates the provisions of this section by engaging  
 43 in sodomy which would constitute a violation of subsection (a)(3), (a)(4)

1 or (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, the  
2 provisions of subsection (a)(3), (a)(4) or (b) of K.S.A. 2012 Supp. 21-  
3 5504, and amendments thereto, shall apply, not this section.

4 (4) If an offender violates the provisions of this section by engaging  
5 in lewd fondling or touching which would constitute a violation of  
6 subsection (b)(2) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,  
7 the provisions of subsection (b)(2) of K.S.A. 2012 Supp. 21-5506, and  
8 amendments thereto, shall apply, not this section.

9 (d) As used in this section:

10 (1) "Correctional institution" means the same as in K.S.A. 75-5202,  
11 and amendments thereto;

12 (2) "inmate" means the same as in K.S.A. 75-5202, and amendments  
13 thereto;

14 (3) "parole officer" means the same as in K.S.A. 75-5202, and  
15 amendments thereto;

16 (4) "postrelease supervision" means the same as in K.S.A. 2012 Supp.  
17 21-6803, and amendments thereto;

18 (5) "juvenile detention facility" means the same as in K.S.A. 2012  
19 Supp. 38-2302, and amendments thereto;

20 (6) "juvenile correctional facility" means the same as in K.S.A. 2012  
21 Supp. 38-2302, and amendments thereto;

22 (7) "sanctions house" means the same as in K.S.A. 2012 Supp. 38-  
23 2302, and amendments thereto;

24 (8) "institution" means the same as in K.S.A. 76-12a01, and  
25 amendments thereto;

26 (9) "teacher" means and includes teachers, coaches, supervisors,  
27 principals, superintendents and any other professional employee in any  
28 public or private school offering any of grades kindergarten through 12;

29 (10) "community corrections" means the entity responsible for  
30 supervising adults and juvenile offenders for confinement, detention, care  
31 or treatment, subject to conditions imposed by the court pursuant to the  
32 community corrections act, K.S.A. 75-5290, and amendments thereto, and  
33 the revised Kansas juvenile justice code, K.S.A. 2012 Supp. 38-2301 et  
34 seq., and amendments thereto;

35 (11) "court services" means the entity appointed by the district court  
36 that is responsible for supervising adults and juveniles placed on probation  
37 and misdemeanants placed on parole by district courts of this state; ~~and~~

38 (12) "juvenile community supervision agency" means an entity that  
39 receives grants for the purpose of providing direct supervision to juveniles  
40 in the custody of the juvenile justice authority; *and*

41 (13) *"adult care home" means the same as in K.S.A. 39-923, and*  
42 *amendments thereto.*

43 Sec. 2. K.S.A. 2012 Supp. 21-5512 is hereby repealed.

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