

REPORTS OF STANDING COMMITTEES

MADAM PRESIDENT:

The Committee on **Corrections and Juvenile Justice** recommends **SB 391** be amended on page 4, following line 33, by inserting:

"Sec. 4. K.S.A. 2015 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in the Kansas offender registration act, unless the context otherwise requires:

(a) "Offender" means:

(1) A sex offender;

(2) a violent offender;

(3) a drug offender;

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

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

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

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

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

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

(4) on or after July 1, 1997, is convicted of any of the following crimes when one of the

parties involved is less than 18 years of age:

(A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2015 Supp. 21-5511, and amendments thereto;

(B) criminal sodomy, as defined in ~~subsection (a)(1)~~ of K.S.A. 21-3505(a)(1), prior to its repeal, or ~~subsection (a)(1) or (a)(2)~~ of K.S.A. 2015 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto;

(C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2015 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2015 Supp. 21-6421, prior to its amendment by section 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

(E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2015 Supp. 21-5513, and amendments thereto;

(5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2015 Supp. 21-5505, and amendments thereto;

(6) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense defined in this subsection; or

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

(c) "Sexually violent crime" means:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2015 Supp. 21-5503, and

amendments thereto;

(2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or ~~subsection (a) of K.S.A. 2015 Supp. 21-5506(a)~~, and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5506(b)~~, and amendments thereto;

(4) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of K.S.A. 21-3505(a)(2) or (a)(3)~~, prior to its repeal, or ~~subsection (a)(3) or (a)(4) of K.S.A. 2015 Supp. 21-5504(a)(3) or (a)(4)~~, and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5504(b)~~, and amendments thereto;

(6) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or ~~subsection (a) of K.S.A. 2015 Supp. 21-5508(a)~~, and amendments thereto;

(7) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5508(b)~~, and amendments thereto;

(8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2015 Supp. 21-5510, and amendments thereto;

(9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5505(b)~~, and amendments thereto;

(10) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5604(b)~~, and amendments thereto;

(11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, and K.S.A. 2015 Supp. 21-5509, and amendments thereto;

(12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2015 Supp. 21-5512, and amendments thereto;

(13) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-5426**(b)**, and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(14) commercial sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-6422, and amendments thereto;

(15) any conviction or adjudication for an offense that is comparable to a sexually violent crime as defined in this subsection, or any out of state conviction or adjudication for an offense that under the laws of this state would be a sexually violent crime as defined in this subsection;

(16) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this subsection; or

(17) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim. As used in this paragraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

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

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

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

(A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2015 Supp. 21-5401, and amendments thereto;

(B) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2015 Supp. 21-5402, and amendments thereto;

(C) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2015 Supp. 21-5403, and amendments thereto;

(D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2015 Supp. 21-5404, and amendments thereto;

(E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or ~~subsections (a)(1), (a)(2) or (a)(4)~~ of K.S.A. 2015 Supp. 21-5405 (a)(1), (a)(2) or (a)(4), and amendments thereto. The provisions of this paragraph shall not apply to violations of ~~subsection (a)(3)~~ of K.S.A. 2015 Supp. 21-5405 (a)(3), and amendments thereto, which occurred on or after July 1, 2011, through July 1, 2013;

(F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or ~~subsection (a)~~ of K.S.A. 2015 Supp. 21-5408 (a), and amendments thereto;

(G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5408 (b), and amendments thereto;

(H) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2015 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age; or

(I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2015 Supp. 21-5426 (b), and amendments thereto, if not committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

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

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

(4) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-

3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

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

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

(A) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog, as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2015 Supp. 21-5703, and amendments thereto;

(B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance, as defined in ~~subsection (a) of~~ K.S.A. 65-7006(a), prior to its repeal, ~~subsection (a) of~~ K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or ~~subsection (a) of~~ K.S.A. 2015 Supp. 21-5709(a), and amendments thereto;

(C) K.S.A. 65-4161, prior to its repeal, ~~subsection (a)(1) of~~ K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or ~~subsection (a)(1) of~~ K.S.A. 2015 Supp. 21-5705(a)(1), and amendments thereto. The provisions of this paragraph shall not apply to violations of ~~subsections (a)(2) through (a)(6) or (b) of~~ K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b) which occurred on or after July 1, 2009, through April 15, 2010;

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

(3) is or has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

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

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

(i) "Employment" means any full-time, part-time, transient, day-labor employment or volunteer work, with or without compensation, for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.

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

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

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

(m) "Law enforcement agency having initial jurisdiction" means the registering law enforcement agency of the county or location of jurisdiction where the offender expects to most often

reside upon the offender's discharge, parole or release.

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

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

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

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

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

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

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

(A) Convicted of unlawful transmission of a visual depiction of a child, as defined in section 1(a), and amendments thereto, aggravated unlawful transmission of a visual depiction of a child, as defined in section 1(b), and amendments thereto, or unlawful possession of a visual depiction of a child, as defined in section 2, and amendments thereto; or

(B) adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a crime defined in subsection (t)(1)(A).

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

Also on page 4, in line 34, by striking "is" and inserting "and 22-4902 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after the semicolon, by inserting "prohibiting offender registration for such crimes; also"; in line 4, after "21-5510" by inserting "and 22-4902"; in line 5, by striking "section" and inserting "sections"; and the bill be passed as amended.

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Chairperson