

As Amended by House Committee

Session of 2016

SENATE BILL No. 407

By Committee on Corrections and Juvenile Justice

2-4

1 AN ACT concerning civil commitment of sexually violent predators;
2 **relating to registration under the Kansas offender registration act;**
3 **involuntary commitment, transitional release, conditional release;**
4 **amending K.S.A. 2015 Supp. 22-4903, 22-4904 and 22-4905 and**
5 **repealing the existing sections; and reviving K.S.A. 59-29a18.**
6

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

8 **Section 1. K.S.A. 2015 Supp. 22-4903 is hereby amended to read**
9 **as follows: 22-4903. (a) Violation of the Kansas offender registration**
10 **act is the failure by an offender, as defined in K.S.A. 22-4902, and**
11 **amendments thereto, to comply with any and all provisions of such**
12 **act, including any and all duties set forth in K.S.A. 22-4905 through**
13 **22-4907, and amendments thereto. Any violation of the Kansas**
14 **offender registration act which continues for more than 30 consecutive**
15 **days shall, upon the 31st consecutive day, constitute a new and separate**
16 **offense, and shall continue to constitute a new and separate**
17 **offense every 30 days thereafter for as long as the violation continues.**

18 **(b) Aggravated violation of the Kansas offender registration act is**
19 **violation of the Kansas offender registration act which continues for**
20 **more than 180 consecutive days. Any aggravated violation of the**
21 **Kansas offender registration act which continues for more than 180**
22 **consecutive days shall, upon the 181st consecutive day, constitute a new**
23 **and separate offense, and shall continue to constitute a new and**
24 **separate violation of the Kansas offender registration act every 30**
25 **days thereafter, or a new and separate aggravated violation of the**
26 **Kansas offender registration act every 180 days thereafter, for as long**
27 **as the violation continues.**

28 **(c) (1) Except as provided in subsection (c)(3), violation of the**
29 **Kansas offender registration act is:**

30 **(A) Upon a first conviction, a severity level 6, person felony;**

31 **(B) upon a second conviction, a severity level 5, person felony;**
32 **and**

33 **(C) upon a third or subsequent conviction, a severity level 3,**
34 **person felony.**

35 **(2) Except as provided in subsection (c)(3), aggravated violation**
36 **of the Kansas offender registration act is a severity level 3, person**

1 felony.

2 (3) Violation of the Kansas offender registration act or
3 aggravated violation of the Kansas offender registration act consisting
4 only of failing to remit payment to the sheriff's office as required in
5 subsection ~~(k)~~ of K.S.A. 22-4905(l), and amendments thereto, is:

6 (A) Except as provided in subsection (c)(3)(B), a class A
7 misdemeanor if, within 15 days of registration, full payment is not
8 remitted to the sheriff's office;

9 (B) a severity level 9, person felony if, within 15 days of the most
10 recent registration, two or more full payments have not been remitted
11 to the sheriff's office.

12 (d) Prosecution of violations of this section may be held:

13 (1) In any county in which the offender resides;

14 (2) in any county in which the offender is required to be
15 registered under the Kansas offender registration act;

16 (3) in any county in which the offender is located during which
17 time the offender is not in compliance with the Kansas offender
18 registration act; or

19 (4) in the county in which any conviction or adjudication
20 occurred for which the offender is required to be registered under the
21 Kansas offender registration act.

22 Sec. 2. K.S.A. 2015 Supp. 22-4904 is hereby amended to read as
23 follows: 22-4904. (a) (1) At the time of conviction or adjudication for
24 an offense requiring registration as provided in K.S.A. 22-4902, and
25 amendments thereto, the court shall:

26 (A) Inform any offender, on the record, of the procedure to
27 register and the requirements of K.S.A. 22-4905, and amendments
28 thereto; and

29 (B) if the offender is released:

30 (i) Complete a notice of duty to register, which shall include title
31 and statute number of conviction or adjudication, date of conviction
32 or adjudication, case number, county of conviction or adjudication,
33 and the following offender information: Name, address, date of birth,
34 social security number, race, ethnicity and gender;

35 (ii) require the offender to read and sign the notice of duty to
36 register, which shall include a statement that the requirements
37 provided in this subsection have been explained to the offender;

38 (iii) order the offender to report within three business days to the
39 registering law enforcement agency in the county or tribal land of
40 conviction or adjudication and to the registering law enforcement
41 agency in any place where the offender resides, maintains employment
42 or attends school, to complete the registration form with all
43 information and any updated information required for registration as

1 provided in K.S.A. 22-4907, and amendments thereto; and

2 (iv) provide one copy of the notice of duty to register to the
3 offender and, within three business days, send a copy of the form to
4 the law enforcement agency having initial jurisdiction and to the
5 Kansas bureau of investigation.

6 (2) At the time of sentencing or disposition for an offense
7 requiring registration as provided in K.S.A. 22-4902, and amendments
8 thereto, the court shall ensure the age of the victim is documented in
9 the journal entry of conviction or adjudication.

10 (3) *Upon commitment for control, care and treatment by the Kansas*
11 *department for aging and disability services pursuant to K.S.A. 59-29a07,*
12 *and amendments thereto, the court shall notify the registering law*
13 *enforcement agency of the county where the offender resides during*
14 *commitment of such offender's commitment. Such notice shall be prepared*
15 *by the office of the attorney general for transmittal by the court by*
16 *electronic means, including by fax or e-mail.*

17 (b) The staff of any correctional facility or the registering law
18 enforcement agency's designee shall:

19 (1) At the time of initial custody, register any offender within
20 three business days:

21 (A) Inform the offender of the procedure for registration and of
22 the offender's registration requirements as provided in K.S.A. 22-
23 4905, and amendments thereto;

24 (B) complete the registration form with all information and
25 updated information required for registration as provided in K.S.A.
26 22-4907, and amendments thereto;

27 (C) require the offender to read and sign the registration form,
28 which shall include a statement that the requirements provided in this
29 subsection have been explained to the offender;

30 (D) provide one copy of the form to the offender and, within three
31 business days, send a copy of the form to the Kansas bureau of
32 investigation; and

33 (E) enter all offender information required by the national crime
34 information center into the national sex offender registry system
35 within three business days of completing the registration or
36 electronically submit all information and updated information
37 required for registration as provided in K.S.A. 22-4907, and
38 amendments thereto, within three business days to the Kansas bureau
39 of investigation;

40 (2) notify the Kansas bureau of investigation of the incarceration
41 of any offender and of the location or any change in location of the
42 offender while in custody;

43 (3) prior to any offender being discharged, paroled, furloughed or

1 released on work or school release that does not require the daily
2 return to a correctional facility:

3 (A) Inform the offender of the procedure for registration and of
4 the offender's registration requirements as provided in K.S.A. 22-
5 4905, and amendments thereto;

6 (B) complete the registration form with all information and
7 updated information required for registration as provided in K.S.A.
8 22-4907, and amendments thereto;

9 (C) require the offender to read and sign the registration form,
10 which shall include a statement that the requirements provided in this
11 subsection have been explained to the offender;

12 (D) photograph the offender's face and any identifying marks;

13 (E) obtain fingerprint and palm prints of the offender; and

14 (F) provide one copy of the form to the offender and, within three
15 business days, send a copy of the form and of the photograph or
16 photographs to the law enforcement agency having initial jurisdiction
17 and to the Kansas bureau of investigation; and

18 (4) notify the law enforcement agency having initial jurisdiction
19 and the Kansas bureau of investigation seven business days prior to
20 any offender being discharged, paroled, furloughed or released on
21 work or school release.

22 (c) The staff of any treatment facility shall:

23 (1) Within three business days of an offender's arrival for
24 inpatient treatment, inform the registering law enforcement agency of
25 the county or location of jurisdiction in which the treatment facility is
26 located of the offender's presence at the treatment facility and the
27 expected duration of the treatment, and immediately notify the
28 registering law enforcement agency of an unauthorized or unexpected
29 absence of the offender during the offender's treatment;

30 (2) inform the registering law enforcement agency of the county
31 or location of jurisdiction in which the treatment facility is located
32 within three business days of an offender's discharge or release; and

33 (3) provide information upon request to any registering law
34 enforcement agency having jurisdiction relevant to determining the
35 presence of an offender within the treatment facility.

36 (d) The registering law enforcement agency, upon the reporting
37 of any offender, shall:

38 (1) Inform the offender of the duty to register as provided by the
39 Kansas offender registration act;

40 (2) (A) explain the procedure for registration and the offender's
41 registration requirements as provided in K.S.A. 22-4905, and
42 amendments thereto;

43 (B) obtain the information required for registration as provided

1 in K.S.A. 22-4907, and amendments thereto; and

2 (C) require the offender to read and sign the registration form,
3 which shall include a statement that the requirements provided in this
4 subsection have been explained to the offender;

5 (3) complete the registration form with all information and
6 updated information required for registration, as provided in K.S.A.
7 22-4907, and amendments thereto, each time the offender reports to
8 the registering law enforcement agency. All information and updated
9 information reported by an offender shall be forwarded to the Kansas
10 bureau of investigation within three business days;

11 (4) maintain the original signed registration form, provide one
12 copy of the completed registration form to the offender and, within
13 three business days, send one copy of the completed form to the
14 Kansas bureau of investigation;

15 (5) forward a copy of any certified letter used for reporting
16 pursuant to K.S.A. 22-4905, and amendments thereto, when utilized,
17 within three business days to the Kansas bureau of investigation;

18 (6) obtain registration information from every offender required
19 to register regardless of whether or not the offender remits payment;

20 (7) upon every required reporting, update the photograph or
21 photographs of the offender's face and any new identifying marks and
22 immediately forward copies or electronic files of the photographs to
23 the Kansas bureau of investigation;

24 (8) enter all offender information required by the national crime
25 information center into the national sex offender registry system
26 within three business days of completing the registration or
27 electronically submit all information and updated information
28 required for registration as provided in K.S.A. 22-4907, and
29 amendments thereto, within three business days to the Kansas bureau
30 of investigation;

31 (9) maintain a special fund for the deposit and maintenance of
32 fees paid by offenders. All funds retained by the registering law
33 enforcement agency pursuant to the provisions of this section shall be
34 credited to a special fund of the registering law enforcement agency
35 which shall be used solely for law enforcement and criminal
36 prosecution purposes and which shall not be used as a source of
37 revenue to reduce the amount of funding otherwise made available to
38 the registering law enforcement agency; and

39 (10) forward any initial registration and updated registration
40 information within three business days to any out of state jurisdiction
41 where the offender is expected to reside, maintain employment or
42 attend school.

43 (e) (1) The Kansas bureau of investigation shall:

1 (A) Forward all additions or changes in information to any
2 registering law enforcement agency, other than the agency that
3 submitted the form, where the offender expects to reside, maintain
4 employment or attend school;

5 (B) ensure that offender information is immediately entered in
6 the state registered offender database and the Kansas registered
7 offender website, as provided in K.S.A. 22-4909, and amendments
8 thereto;

9 (C) transmit offender conviction or adjudication data,
10 fingerprints and palm prints to the federal bureau of investigation;
11 and

12 (D) ensure all offender information required by the national
13 crime information center is transmitted into the national sex offender
14 registry system within three business days of such information being
15 electronically submitted to the Kansas bureau of investigation.

16 (2) The director of the Kansas bureau of investigation may adopt
17 rules and regulations necessary to implement the provisions of the
18 Kansas offender registration act.

19 (f) The attorney general shall, within 10 business days of an
20 offender being declared a sexually violent predator, forward to the
21 Kansas bureau of investigation all relevant court documentation
22 declaring an offender a sexually violent predator.

23 (g) The state department of education shall annually notify any
24 school of the Kansas bureau of investigation internet website, and any
25 internet website containing information on the Kansas offender
26 registration act sponsored or created by the registering law
27 enforcement agency of the county or location of jurisdiction in which
28 the school is located, for the purpose of locating offenders who reside
29 near such school. Such notification shall include information that the
30 registering law enforcement agency of the county or location of
31 jurisdiction where such school is located is available to the school to
32 assist in using the registry and providing additional information on
33 registered offenders.

34 (h) The secretary of health and environment shall annually notify
35 any licensed child care facility of the Kansas bureau of investigation
36 internet website, and any internet website containing information on
37 the Kansas offender registration sponsored or created by the
38 registering law enforcement agency of the county in which the facility
39 is located, for the purpose of locating offenders who reside near such
40 facility. Such notification shall include information that the registering
41 law enforcement agency of the county or location of jurisdiction where
42 such child care facility is located is available to the child care facilities
43 to assist in using the registry and providing additional information on

1 registered offenders.

2 (i) Upon request, the clerk of any court of record shall provide
3 the Kansas bureau of investigation copies of complaints, indictments,
4 information, journal entries, commitment orders or any other
5 documents necessary to the performance of the duties of the Kansas
6 bureau of investigation under the Kansas offender registration act. No
7 fees or charges for providing such documents may be assessed.

8 Sec. 3. K.S.A. 2015 Supp. 22-4905 is hereby amended to read as
9 follows: 22-4905. Any offender required to register as provided in the
10 Kansas offender registration act shall:

11 (a) Except as otherwise provided in this subsection, register in
12 person with the registering law enforcement agency within three
13 business days of coming into any county or location of jurisdiction in
14 which the offender resides or intends to reside, maintains employment
15 or intends to maintain employment, or attends school or intends to
16 attend school. Any such offender who cannot physically register in
17 person with the registering law enforcement agency for such reasons
18 including, but not limited to, incapacitation or hospitalization, as
19 determined by a person licensed to practice medicine or surgery, or
20 involuntarily committed pursuant to the Kansas sexually violent predator
21 act, shall be subject to verification requirements other than in-person
22 registration, as determined by the registering law enforcement agency
23 having jurisdiction;

24 (b) except as provided further, for any: (1) Sex offender, including
25 a violent offender or drug offender who is also a sex offender, report in
26 person four times each year to the registering law enforcement agency
27 in the county or location of jurisdiction in which the offender resides,
28 maintains employment or is attending a school; and (2) violent
29 offender or drug offender, report in person four times each year to the
30 registering law enforcement agency in the county or location of
31 jurisdiction in which the offender resides, maintains employment or is
32 attending a school, except that, at the discretion of the registering law
33 enforcement agency, one of the four required reports may be
34 conducted by certified letter. When utilized, the certified letter for
35 reporting shall be sent by the registering law enforcement agency to
36 the reported residence of the offender. The offender shall indicate any
37 changes in information as required for reporting in person. The
38 offender shall respond by returning the certified letter to the
39 registering law enforcement agency within 10 business days by
40 certified mail. The offender shall be required to report to the
41 registering law enforcement agency once during the month of the
42 offender's birthday and every third, sixth and ninth month occurring
43 before and after the month of the offender's birthday. The registering

1 law enforcement agency may determine the appropriate times and
2 days for reporting by the offender, consistent with this subsection.
3 Nothing contained in this subsection shall be construed to alleviate
4 any offender from meeting the requirements prescribed in the Kansas
5 offender registration act;

6 (c) provide the information required for registration as provided
7 in K.S.A. 22-4907, and amendments thereto, and verify all information
8 previously provided is accurate;

9 (d) if in the custody of a correctional facility, register with the
10 correctional facility within three business days of initial custody and
11 shall not be required to update such registration until discharged,
12 paroled, furloughed or released on work or school release from a
13 correctional facility. A copy of the registration form and any updated
14 registrations for an offender released on work or school release shall
15 be sent, within three business days, to the registering law enforcement
16 agency where the offender is incarcerated, maintains employment or
17 attends school, and to the Kansas bureau of investigation;

18 (e) *if involuntarily committed pursuant to the Kansas sexually violent*
19 *predator act, register within three business days of arrival in the county*
20 *where the offender resides during commitment. The offender shall not be*
21 *required to update such registration until placed in a reintegration facility,*
22 *on transitional release or on conditional release. Upon placement in a*
23 *reintegration facility, on transitional release or on conditional release, the*
24 *offender shall be personally responsible for complying with the provisions*
25 *of the Kansas offender registration act;*

26 (f) notwithstanding subsections (a) and (b), if the offender is
27 transient, report in person to the registering law enforcement agency
28 of such county or location of jurisdiction in which the offender is
29 physically present within three business days of arrival in the county
30 or location of jurisdiction. Such offender shall be required to register
31 in person with the registering law enforcement agency every 30 days,
32 or more often at the discretion of the registering law enforcement
33 agency. Such offender shall comply with the provisions of the Kansas
34 offender registration act and, in addition, shall:

35 (1) Provide a list of places where the offender has slept and
36 otherwise frequented during the period of time since the last date of
37 registration; and

38 (2) provide a list of places where the offender may be contacted
39 and where the offender intends to sleep and otherwise frequent during
40 the period of time prior to the next required date of registration;

41 (⊕) (g) if required by out of state law, register in any out of state
42 jurisdiction, where the offender resides, maintains employment or
43 attends school;

1 ~~(g)~~ (h) register in person upon any commencement, change or
2 termination of residence location, employment status, school
3 attendance or other information as provided in K.S.A. 22-4907, and
4 amendments thereto, within three business days of such
5 commencement, change or termination, to the registering law
6 enforcement agency or agencies where last registered and provide
7 written notice to the Kansas bureau of investigation;

8 ~~(h)~~ (i) report in person to the registering law enforcement agency
9 or agencies within three business days of any change in name;

10 ~~(i)~~ (j) if receiving inpatient treatment at any treatment facility,
11 inform the treatment facility of the offender's status as an offender
12 and inform the registering law enforcement agency of the county or
13 location of jurisdiction in which the treatment facility is located of the
14 offender's presence at the treatment facility and the expected duration
15 of the treatment;

16 ~~(j)~~ (k) submit to the taking of an updated photograph by the
17 registering law enforcement agency on each occasion when the
18 offender registers with or reports to the registering law enforcement
19 agency in the county or location of jurisdiction in which the offender
20 resides, maintains employment or attends school. In addition, such
21 offender shall submit to the taking of a photograph to document any
22 changes in identifying characteristics, including, but not limited to,
23 scars, marks and tattoos;

24 ~~(k)~~ (l) remit payment to the sheriff's office in the amount of \$20 as
25 part of the reporting process required pursuant to subsection (b) in
26 each county in which the offender resides, maintains employment or is
27 attending school. Registration will be completed regardless of whether
28 or not the offender remits payment. Failure of the offender to remit
29 full payment within 15 days of registration is a violation of the Kansas
30 offender registration act and is subject to prosecution pursuant to
31 K.S.A. 22-4903, and amendments thereto. Notwithstanding other
32 provisions herein, payment of this fee is not required:

33 (1) When an offender provides updates or changes in information
34 or during an initial registration unless such updates, changes or initial
35 registration is during the month of such offender's birthday and every
36 third, sixth and ninth month occurring before and after the month of
37 the offender's birthday;

38 (2) when an offender is transient and is required to register every
39 30 days, or more frequently as ordered by the registering law
40 enforcement agency, except during the month of the offender's
41 birthday and every third, sixth and ninth month occurring before and
42 after the month of the offender's birthday; or

43 (3) if an offender has, prior to the required reporting and within

1 the last three years, been determined to be indigent by a court of law,
2 and the basis for that finding is recorded by the court;

3 ~~(j)~~ (m) annually renew any driver's license pursuant to K.S.A. 8-
4 247, and amendments thereto, and annually renew any identification
5 card pursuant to K.S.A. 2015 Supp. 8-1325a, and amendments
6 thereto;

7 ~~(k)~~ (n) if maintaining primary residence in this state, surrender
8 all driver's licenses and identification cards from other states,
9 territories and the District of Columbia, except if the offender is
10 presently serving and maintaining active duty in any branch of the
11 United States military or the offender is an immediate family member
12 of a person presently serving and maintaining active duty in any
13 branch of the United States military;

14 ~~(l)~~ (o) read and sign the registration form noting whether the
15 requirements provided in this section have been explained to the
16 offender; and

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

24 ~~Section 1.~~ Sec. 4. K.S.A. 59-29a18 is hereby revived to read as
25 follows: 59-29a18. (a) During any period the person is in transitional
26 release, the person committed under this act at least annually, and at any
27 other time deemed appropriate by the treatment staff, shall be examined by
28 the treatment staff to determine if the person's mental abnormality or
29 personality disorder has so changed so as to warrant such person being
30 considered for conditional release. The treatment staff shall forward a
31 report of its examination to the court. The court shall review the same. If
32 the court determines that probable cause exists to believe that the person's
33 mental abnormality or personality disorder has so changed that the person
34 is safe to be placed in conditional release, the court shall then set a hearing
35 on the issue. The attorney general shall have the burden of proof to show
36 beyond a reasonable doubt that the person's mental abnormality or
37 personality disorder remains such that the person is not safe to be at large
38 and that if placed on conditional release is likely to engage in repeat acts
39 of sexual violence. The person shall have the same rights as enumerated in
40 K.S.A. 59-29a06 and amendments thereto. Subsequent to either a court
41 review or a hearing, the court shall issue an appropriate order with findings
42 of fact. The order of the court shall be provided to the attorney general, the
43 person and the secretary.

1 (b) If, after the hearing, the court is convinced beyond a reasonable
2 doubt that the person is not appropriate for conditional release, the court
3 shall order that the person remain either in secure commitment or in
4 transitional release. Otherwise, the court shall order that the person be
5 placed on conditional release.

6 **Sec. 5. K.S.A. 2015 Supp. 22-4903, 22-4904 and 22-4905 are**
7 **hereby repealed.**

8 ~~Sec. 2.~~ **6.** This act shall take effect and be in force from and after its
9 publication in the statute book.