

SENATE BILL No. 265

By Committee on Judiciary

1-10

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to crimes affecting family relationships and children; incest; amending
3 K.S.A. 2017 Supp. 21-5604 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2017 Supp. 21-5604 is hereby amended to read as
7 follows: 21-5604. (a) Incest is marriage to or engaging in otherwise lawful
8 sexual intercourse or sodomy, ~~as defined in K.S.A. 2017 Supp. 21-5501,~~
9 ~~and amendments thereto,~~ with a person who is 18 or more years of age and
10 who is known to the offender to be related to the offender as any of the
11 following biological relatives: Parent, child, grandparent of any degree,
12 grandchild of any degree, brother, sister, half-brother, half-sister, uncle,
13 aunt, nephew or niece.

14 (b) Aggravated incest is:

15 (1) Marriage to a person who is under 18 years of age and who is
16 known to the offender to be related to the offender as any of the following
17 biological, step or adoptive relatives: Child, grandchild of any degree,
18 brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece; or

19 (2) engaging in the following acts with a person who is 16 or more
20 years of age but under 18 years of age and who is known to the offender to
21 be related to the offender as any of the following biological, step or
22 adoptive relatives: Child, grandchild of any degree, brother, sister, half-
23 brother, half-sister, uncle, aunt, nephew or niece:

24 (A) Otherwise lawful sexual intercourse or sodomy ~~as defined by~~
25 ~~K.S.A. 2017 Supp. 21-5501, and amendments thereto;~~ or

26 (B) any lewd fondling, as described in ~~subsection (a)(1) of~~ K.S.A.
27 2017 Supp. 21-5506(a)(1), and amendments thereto.

28 (c) (1) Incest is a severity level 10, person felony.

29 (2) Aggravated incest as defined in:

30 (A) Subsection (b)(2)(A) is a:

31 (i) Severity level 5, person felony, except as provided in subsection
32 (c)(2)(A)(ii); and

33 (ii) severity level 3, person felony if the victim is the offender's
34 biological, step or adoptive child; and

35 (B) subsection (b)(1) or (b)(2)(B) is a severity level 7, person felony.

36 (d) *As used in this section:*

1 (1) *"Sexual intercourse" and "sodomy" mean the same as in K.S.A.*
2 *2017 Supp. 21-5501; and*

3 (2) *"otherwise lawful sexual intercourse or sodomy" does not include*
4 *rape, as defined in K.S.A. 2017 Supp. 21-5503, and amendments thereto,*
5 *or aggravated criminal sodomy, as defined in K.S.A. 2017 Supp. 21-*
6 *5504(b)(3), and amendments thereto.*

7 Sec. 2. K.S.A. 2017 Supp. 21-5604 is hereby repealed.

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