

SENATE BILL No. 407

By Senator Fitzgerald

2-7

1 AN ACT concerning the Kansas offender registration act; relating to
2 violent offenders; duration of registration; amending K.S.A. 2017
3 Supp. 22-4906 and 22-4908 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 2017 Supp. 22-4906 is hereby amended to read as
7 follows: 22-4906. (a) (1) Except as provided in subsection (c) and K.S.A.
8 2017 Supp. 22-4908, and amendments thereto, if convicted of any of the
9 following offenses, an offender's duration of registration shall be, if
10 confined, 15 years after the date of parole, discharge or release, whichever
11 date is most recent, or, if not confined, 15 years from the date of
12 conviction:

13 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
14 or K.S.A. 2017 Supp. 21-5505(a), and amendments thereto;

15 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
16 K.S.A. 2017 Supp. 21-5511, and amendments thereto, when one of the
17 parties involved is less than 18 years of age;

18 (C) promoting the sale of sexual relations, as defined in K.S.A. 2017
19 Supp. 21-6420, and amendments thereto;

20 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
21 repeal, or K.S.A. 2017 Supp. 21-6421, prior to its amendment by section
22 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013,
23 when one of the parties involved is less than 18 years of age;

24 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
25 to its repeal, or K.S.A. 2017 Supp. 21-5513, and amendments thereto,
26 when one of the parties involved is less than 18 years of age;

27 (F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
28 or K.S.A. 2017 Supp. 21-5401, and amendments thereto;

29 (G) murder in the first degree, as defined in K.S.A. 21-3401, prior to
30 its repeal, or K.S.A. 2017 Supp. 21-5402, and amendments thereto;

31 (H) murder in the second degree, as defined in K.S.A. 21-3402, prior
32 to its repeal, or K.S.A. 2017 Supp. 21-5403, and amendments thereto;

33 (I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
34 repeal, or K.S.A. 2017 Supp. 21-5404, and amendments thereto;

35 (J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
36 its repeal, or K.S.A. 2017 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and

1 amendments thereto;

2 (K) criminal restraint, as defined in K.S.A. 21-3424, prior to its
3 repeal, or K.S.A. 2017 Supp. 21-5411, and amendments thereto, except by
4 a parent, and only when the victim is less than 18 years of age;

5 (L) any act which has been determined beyond a reasonable doubt to
6 have been sexually motivated, unless the court, on the record, finds that
7 the act involved non-forcible sexual conduct, the victim was at least 14
8 years of age and the offender was not more than four years older than the
9 victim;

10 (M) conviction of any person required by court order to register for
11 an offense not otherwise required as provided in the Kansas offender
12 registration act;

13 (N) conviction of any person felony and the court makes a finding on
14 the record that a deadly weapon was used in the commission of such
15 person felony;

16 (O) unlawful manufacture or attempting such of any controlled
17 substance or controlled substance analog, as defined in K.S.A. 65-4159,
18 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
19 K.S.A. 2017 Supp. 21-5703, and amendments thereto;

20 (P) possession of ephedrine, pseudoephedrine, red phosphorus,
21 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
22 ammonia or phenylpropanolamine, or their salts, isomers or salts of
23 isomers with intent to use the product to manufacture a controlled
24 substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A.
25 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2017 Supp. 21-
26 5709(a), and amendments thereto;

27 (Q) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
28 36a05(a)(1), prior to its transfer, or K.S.A. 2017 Supp. 21-5705(a)(1), and
29 amendments thereto; or

30 (R) any attempt, conspiracy or criminal solicitation, as defined in
31 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2017
32 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
33 offense defined in this subsection.

34 (2) Except as otherwise provided by the Kansas offender registration
35 act, the duration of registration terminates, if not confined, at the
36 expiration of 15 years from the date of conviction. Any period of time
37 during which any offender is incarcerated in any jail or correctional
38 facility or during which the offender does not comply with any and all
39 requirements of the Kansas offender registration act shall not count toward
40 the duration of registration.

41 (b) (1) Except as provided in subsection (c), if convicted of any of the
42 following offenses, an offender's duration of registration shall be, if
43 confined, 25 years after the date of parole, discharge or release, whichever

1 date is most recent, or, if not confined, 25 years from the date of
2 conviction:

3 (A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
4 repeal, or K.S.A. 2017 Supp. 21-5504(a)(1) or (a)(2), and amendments
5 thereto, when one of the parties involved is less than 18 years of age;

6 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
7 prior to its repeal, or K.S.A. 2017 Supp. 21-5508(a), and amendments
8 thereto;

9 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
10 repeal, or K.S.A. 2017 Supp. 21-5509, and amendments thereto;

11 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
12 repeal, or K.S.A. 2017 Supp. 21-5604(b), and amendments thereto;

13 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
14 to its repeal, or K.S.A. 2017 Supp. 21-5506(a), and amendments thereto;

15 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
16 its repeal, or K.S.A. 2017 Supp. 21-5512, and amendments thereto;

17 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
18 to its repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto, if
19 the victim is 14 or more years of age but less than 18 years of age;

20 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
21 its repeal, or K.S.A. 2017 Supp. 21-5505(b), and amendments thereto;

22 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
23 repeal, or K.S.A. 2017 Supp. 21-6420, prior to its amendment by section
24 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if
25 the person selling sexual relations is 14 or more years of age but less than
26 18 years of age; or

27 (J) any attempt, conspiracy or criminal solicitation, as defined in
28 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2017
29 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
30 offense defined in this subsection.

31 (2) Except as otherwise provided by the Kansas offender registration
32 act, the duration of registration terminates, if not confined, at the
33 expiration of 25 years from the date of conviction. Any period of time
34 during which any offender is incarcerated in any jail or correctional
35 facility or during which the offender does not comply with any and all
36 requirements of the Kansas offender registration act shall not count toward
37 the duration of registration.

38 (c) Upon a second or subsequent conviction of an offense requiring
39 registration, an offender's duration of registration shall be for such
40 offender's lifetime.

41 (d) The duration of registration for any offender who has been
42 convicted of any of the following offenses shall be for such offender's
43 lifetime:

- 1 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
2 2017 Supp. 21-5503, and amendments thereto;
- 3 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
4 21-3511, prior to its repeal, or K.S.A. 2017 Supp. 21-5508(b), and
5 amendments thereto;
- 6 (3) aggravated indecent liberties with a child, as defined in K.S.A.
7 21-3504, prior to its repeal, or K.S.A. 2017 Supp. 21-5506(b), and
8 amendments thereto;
- 9 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
10 prior to its repeal, or K.S.A. 2017 Supp. 21-5504(a)(3) or (a)(4), and
11 amendments thereto;
- 12 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
13 to its repeal, or K.S.A. 2017 Supp. 21-5504(b), and amendments thereto;
- 14 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
15 to its repeal, or K.S.A. 2017 Supp. 21-5426(b), and amendments thereto;
- 16 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
17 to its repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto, if
18 the victim is less than 14 years of age;
- 19 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
20 repeal, or K.S.A. 2017 Supp. 21-6420, prior to its amendment by section
21 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if
22 the person selling sexual relations is less than 14 years of age;
- 23 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
24 K.S.A. 2017 Supp. 21-5408(a), and amendments thereto;
- 25 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
26 repeal, or K.S.A. 2017 Supp. 21-5408(b), and amendments thereto;
- 27 (11) commercial sexual exploitation of a child, as defined in K.S.A.
28 2017 Supp. 21-6422, and amendments thereto; or
- 29 (12) any attempt, conspiracy or criminal solicitation, as defined in
30 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2017
31 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
32 offense defined in this subsection.
- 33 (e) Any person who has been declared a sexually violent predator
34 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall
35 register for such person's lifetime.
- 36 (f) Notwithstanding any other provisions of this section, for an
37 offender less than 14 years of age who is adjudicated as a juvenile offender
38 for an act which if committed by an adult would constitute a sexually
39 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, the
40 court shall:
- 41 (1) Require registration until such offender reaches 18 years of age, at
42 the expiration of five years from the date of adjudication or, if confined,
43 from release from confinement, whichever date occurs later. Any period of

1 time during which the offender is incarcerated in any jail, juvenile facility
2 or correctional facility or during which the offender does not comply with
3 any and all requirements of the Kansas offender registration act shall not
4 count toward the duration of registration;

5 (2) not require registration if the court, on the record, finds substantial
6 and compelling reasons therefor; or

7 (3) require registration, but such registration information shall not be
8 open to inspection by the public or posted on any internet website, as
9 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
10 registration but such registration is not open to the public, such offender
11 shall provide a copy of such court order to the registering law enforcement
12 agency at the time of registration. The registering law enforcement agency
13 shall forward a copy of such court order to the Kansas bureau of
14 investigation.

15 If such offender violates a condition of release during the term of the
16 conditional release, the court may require such offender to register
17 pursuant to paragraph (1).

18 (g) Notwithstanding any other provisions of this section, for an
19 offender 14 years of age or more who is adjudicated as a juvenile offender
20 for an act which if committed by an adult would constitute a sexually
21 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and
22 such crime is not an off-grid felony or a felony ranked in severity level 1
23 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or
24 K.S.A. 2017 Supp. 21-6804, and amendments thereto, the court shall:

25 (1) Require registration until such offender reaches 18 years of age, at
26 the expiration of five years from the date of adjudication or, if confined,
27 from release from confinement, whichever date occurs later. Any period of
28 time during which the offender is incarcerated in any jail, juvenile facility
29 or correctional facility or during which the offender does not comply with
30 any and all requirements of the Kansas offender registration act shall not
31 count toward the duration of registration;

32 (2) not require registration if the court, on the record, finds substantial
33 and compelling reasons therefor; or

34 (3) require registration, but such registration information shall not be
35 open to inspection by the public or posted on any internet website, as
36 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
37 registration but such registration is not open to the public, such offender
38 shall provide a copy of such court order to the registering law enforcement
39 agency at the time of registration. The registering law enforcement agency
40 shall forward a copy of such court order to the Kansas bureau of
41 investigation.

42 If such offender violates a condition of release during the term of the
43 conditional release, the court may require such offender to register

1 pursuant to paragraph (1).

2 (h) Notwithstanding any other provisions of this section, an offender
3 14 years of age or more who is adjudicated as a juvenile offender for an
4 act which if committed by an adult would constitute a sexually violent
5 crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such
6 crime is an off-grid felony or a felony ranked in severity level 1 of the
7 nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A.
8 2017 Supp. 21-6804, and amendments thereto, shall be required to register
9 for such offender's lifetime.

10 (i) Notwithstanding any other provision of law, if a diversionary
11 agreement or probation order, either adult or juvenile, or a juvenile
12 offender sentencing order, requires registration under the Kansas offender
13 registration act for an offense that would not otherwise require registration
14 as provided in K.S.A. 22-4902(a)(5), and amendments thereto, then all
15 provisions of the Kansas offender registration act shall apply, except that
16 the duration of registration shall be controlled by such diversionary
17 agreement, probation order or juvenile offender sentencing order.

18 (j) The duration of registration does not terminate if the convicted or
19 adjudicated offender again becomes liable to register as provided by the
20 Kansas offender registration act during the required period of registration.

21 (k) For any person moving to Kansas who has been convicted or
22 adjudicated in an out-of-state court, or who was required to register under
23 an out-of-state law, the duration of registration shall be the length of time
24 required by the out-of-state jurisdiction or by the Kansas offender
25 registration act, whichever length of time is longer. The provisions of this
26 subsection shall apply to convictions or adjudications prior to June 1,
27 2006, and to persons who moved to Kansas prior to June 1, 2006, and to
28 convictions or adjudications on or after June 1, 2006, and to persons who
29 moved to Kansas on or after June 1, 2006.

30 (l) For any person residing, maintaining employment or attending
31 school in this state who has been convicted or adjudicated by an out-of-
32 state court of an offense that is comparable to any crime requiring
33 registration pursuant to the Kansas offender registration act, but who was
34 not required to register in the jurisdiction of conviction or adjudication, the
35 duration of registration shall be the duration required for the comparable
36 offense pursuant to the Kansas offender registration act.

37 Sec. 2. K.S.A. 2017 Supp. 22-4908 is hereby amended to read as
38 follows: 22-4908. (a) *Except as provided in subsection (b)*, no person
39 required to register as an offender pursuant to the Kansas offender
40 registration act shall be granted an order relieving the offender of further
41 registration under this act. This section shall include any person with any
42 out-of-state conviction or adjudication for an offense that would require
43 registration under the laws of this state.

1 **(b)** *A violent offender who is required to register for 15 years*
2 *pursuant to K.S.A. 22-4906(a)(1), and amendments thereto, may petition*
3 *the court in the county in which the conviction or adjudication occurred*
4 *for which the offender is required to be registered for an order relieving*
5 *the offender of further registration under this act after five or more years*
6 *of registration. Any period of time during which the offender is*
7 *incarcerated in any jail or correctional facility or during which the*
8 *offender does not comply with all requirements of the Kansas offender*
9 *registration act shall not count toward the five years of registration*
10 *required before a petition is permitted.*

11 **(1)** *The petition shall state the:*

12 **(A)** *Offender's full name;*

13 **(B)** *identity of the court and the original action that resulted in the*
14 *conviction or adjudication for which the offender is required to be*
15 *registered;*

16 **(C)** *conviction or adjudication for which the offender is required to*
17 *be registered; and*

18 **(D)** *date that the registration period began.*

19 **(2)** **(A)** *When a petition is filed, the court shall set a date for a*
20 *hearing of such petition and shall cause notice of such hearing to be given*
21 *to the prosecutor and any victim of the offender's crime who is alive and*
22 *whose address is known to the court or, if the victim is deceased, to the*
23 *victim's family, if the family's address is known to the court. The petition*
24 *shall be docketed in the original action that resulted in the conviction or*
25 *adjudication for which the offender is required to be registered. Any*
26 *person who may have relevant information about the offender may testify*
27 *at the hearing, including, but not limited to, the prosecutor, the victim and*
28 *the victim's family.*

29 **(B)** *The court shall inquire into the background of the offender and*
30 *shall have access to any reports or records relating to the offender that are*
31 *on file with the secretary of corrections or the prisoner review board. The*
32 *offender shall provide a written waiver and authorization to the secretary*
33 *of corrections and the prisoner review board to allow the release of any*
34 *clinical, treatment or program information, including, but not limited to,*
35 *assessments related to mental health and risk and needs assessments. The*
36 *offender shall be responsible for obtaining and providing the court with*
37 *such records by contacting the secretary of corrections and the prisoner*
38 *review board for such information.*

39 **(3)** *At the hearing on the petition, the court shall grant an order*
40 *relieving the offender of further registration under this act only if the court*
41 *finds that the:*

42 **(A)** *Offender has been subject to registration for five or more years,*
43 *and during such time the offender has not been incarcerated in any jail or*

1 *correctional facility and has complied with all requirements of the Kansas*
2 *offender registration act;*

3 *(B) offender did not have any prior convictions or adjudications*
4 *before or after the conviction or adjudication for which the offender is*
5 *required to be registered;*

6 *(C) offender has not violated any protection order issued against*
7 *such offender in the immediately preceding five years;*

8 *(D) circumstances and behavior of the offender warrant the order;*
9 *and*

10 *(E) order is consistent with the public welfare.*

11 *(4) If the court grants an order relieving the offender of further*
12 *registration under this act, the order shall state the information required*
13 *to be contained in the petition. The clerk of the court shall send a certified*
14 *copy of the order to the Kansas bureau of investigation which shall notify*
15 *the federal bureau of investigation, the secretary of corrections and any*
16 *other criminal justice agency that may have a record of the registration*
17 *required under this act. After the order is entered, the offender shall be*
18 *relieved of all registration requirements under this act.*

19 Sec. 3. K.S.A. 2017 Supp. 22-4906 and 22-4908 are hereby repealed.

20 Sec. 4. This act shall take effect and be in force from and after its
21 publication in the statute book.