

**REPORT OF THE JUDICIAL COUNCIL ADVISORY COMMITTEE  
ON SEX OFFENSES AND REGISTRATION**

**December 11, 2020**

**COMMITTEE ASSIGNMENT**

The Judicial Council Advisory Committee on Sex Offenses and Registration (Committee) was formed in 2018 and asked to undertake a comprehensive review of the Kansas criminal code's sex offense structure and related registration requirements for both juveniles and adults. The Committee's assignment was later expanded to include a review of registration requirements for drug offenders and violent offenders, in addition to sex offenders.

The original study requests, which came from Reps. Russell Jennings and Blaine Finch, also asked that the Committee review three specific bills: 2018 H.B. 2738, H.B. 2739, and S.B. 265. The Committee made recommendations as to those three bills in a report to the Council in December 2019.

At the same time, the Committee made some preliminary recommendations that were approved by the Council and introduced as bills in the 2020 legislative session: 2020 H.B. 2473, amending the law relating to unlawful voluntary sexual relations between minors; 2020 H.B. 2474, reducing penalties for registration violations and creating a fee waiver mechanism; and 2020 H.B. 2475, reducing registration requirements for some drug crimes. All three bills were heard in the House Corrections and Juvenile Justice Committee but, because of the Covid-19 pandemic, the 2020 session came to an abrupt halt and the bills did not pass.

This report constitutes the Committee's final and complete set of recommendations relating to sex offenses and offender registration. It includes the same recommendations made last year as well as some new ones. The report will

identify which recommendations were the subject of legislation in 2020 and which are new.

### **COMMITTEE MEMBERSHIP**

The members of the Advisory Committee on Sex Offenses and Registration are:

**Hon. Ben Sexton**, Chair, Abilene; Dickinson County District Judge

**Natalie Chalmers**, Topeka; Assistant Solicitor General

**Sheriff Jeff Cope**, Emporia

**Jason Covington**, Olathe; Johnson County Assistant District Attorney – Sex Crimes Unit

**Jeff Cowger**, Topeka; Chief Legal Counsel, Kansas Department of Corrections

**Dr. Mitchell Flesher**, Lenexa; clinical psychologist and attorney

**Sen. Randall Hardy**, Salina; State Senator from the 24<sup>th</sup> District

**Rep. Susan Humphries**, Wichita; State Representative from the 99<sup>th</sup> District

**Rep. Russell Jennings**, Lakin; State Representative from the 122<sup>nd</sup> District

**Donna Longworth**, Wichita; Sedgwick County Assistant District Attorney – Juvenile Division

**Jennifer Roth**, Topeka; Appellate Defender

**Dionne Scherff**, Overland Park; criminal defense attorney

**Phil Stein**, Shawnee; criminal defense attorney

**Seth Wescott**, Lenexa; licensed master’s level psychologist and sex offender treatment provider

**Prof. Corey Rayburn Yung**, Lawrence; KU School of Law

The Committee appreciates the continuing assistance of Natalie Scott of the Revisor’s Office.

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- Attachment 1 – Study request letters from Reps. Jennings and Finch
- Attachment 2 – Sentencing journal entry addendum listing offenses that require registration and registration terms
- Attachment 3 – Exit mechanism bill draft
- Attachment 4 – Juvenile registration repeal bill draft
- Attachment 5 – H.B. 2474 (reducing penalties for KORA violations; fee waiver mechanism; single point registration)
- Attachment 6 – Bill draft containing miscellaneous KORA changes, and sex and violent offender changes
- Attachment 7 – H.B. 2475 (drug offender registration changes)
- Attachment 8 – Bill draft repealing lifetime registration for second time drug offenders
- Attachment 9 – H.B. 2473 (reducing penalties for unlawful voluntary sexual relations between minors), and penalty charts showing penalties under current law and under the bill
- Attachment 10 – Bill draft containing amendments to other substantive sex crimes, including rape and sodomy
- Attachment 11 – Bill draft re attempts to commit Jessica’s Law offenses
- Attachment 12 – Lifetime postrelease supervision bill draft
- Attachment 13 – Persistent sex offender clarification bill draft

## METHOD OF STUDY

The Committee began meeting in the fall of 2018. The Committee held 24 all-day meetings, and a separate drafting group also met on multiple occasions.

The Committee received input from many sources. Leslie Moore, Information Services Division Director for the KBI, and Brooklynn Graves, Offender Registration Manager for the KBI, were regular attendees who provided helpful information about the offender registry and answered questions from the

Committee. Rep. Boog Highberger attended several meetings and offered input on the Committee's proposed amendments to K.S.A. 21-5507 regarding unlawful voluntary sexual relations. Ed Klumpp, representing the Kansas Sheriffs Association, also attended several meetings and was asked to comment on law enforcement's perspective.

Scott Schultz, executive director of the Sentencing Commission, attended a meeting at the Committee's request to provide background on drug and violent offenders. Finally, the Committee heard from a registered sex offender and from several crime victims about their experiences and their opinions about the offender registry.

The Committee reviewed Kansas statutes and case law, the federal Adam Walsh Sex Offender Registration and Notification Act (SORNA), 42 U.S.C. § 16901 *et seq.*, and examples of registration provisions from other states. The Committee also considered the following secondary sources:

- Agan, *Sex Offender Registries: Fear without Function?* *Journal of Law and Economics* 54:1 (Feb. 2011)
- Ellman and Ellman, *"Frightening and High": The Supreme Court's Crucial Mistake about Sex Crime Statistics*, 30 *Const. Comment.* 495 (Fall 2015).
- Hanson, R.K., Harris, A., Letourneau, E., Helmus, L.M., and Thornton, D. *Reductions in Risk Based on Time Offense-Free in the Community: Once a Sexual Offender, Not Always a Sexual Offender.* *Psychology, Public Policy, and Law.* (2018, Vol. 24, No. 1, 48–63).
- Huffman, *Moral Panic and the Politics of Fear: The Dubious Logic Underlying Sex Offender Registration Statutes and Proposals for Restoring Measures of Judicial Discretion to Sex Offender Management*, 4 *Va. J. Crim. L.* 241 (2016)
- Logan, *Database Infamia: Exit from the Sex Offender Registries*, 2015 *Wis. L. Rev.* 219 (2015)

- Petersen and Chandler, *Sex Offender Registration and the Convention on the Rights of the Child: Legal and Policy Implications of Registering Juvenile Sex Offenders*, 3 Wm. & Mary Policy Rev. 1 (Fall 2011)
- Prescott and Rockoff, *Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?* Journal of Law and Economics 54:1 (Feb. 2011)
- Scurich and John, *The Dark Figure of Sexual Recidivism*, University of California Irvine, School of Law, Legal Studies Research Paper Series No. 2019-09 (Feb. 2019)
- Zgoba, Jennings and Salerno, *Megan’s Law 20 Years Later – An Empirical Analysis and Policy Review*, 45 Crim. Justice and Behavior, 1028 (July 2018)
- *The Registration & Community Notification of Children & Adolescents Adjudicated of a Sexual Crime: Recommendations for Evidence-Based Reform* (May 2020) – paper by the Association for the Treatment of Sexual Abusers
- *The Registration and Community Notification of Adults Convicted of a Sexual Crime: Recommendations for Evidence-Based Reform* (October 2020) – paper by the Association for the Treatment of Sexual Abusers

## **BACKGROUND ON THE KANSAS OFFENDER REGISTRATION ACT (KORA)**

### History

The first Kansas offender registry was created in 1993. It required an offender twice convicted of a sexually violent crime to register with the sheriff in the offender’s county of residence, and the information was available only to law enforcement. Over the next few years, the registry was expanded to include violent offenses, additional sex crimes, and to make the registration information available to the public.

In 2002, juvenile sex offenders were required to register. In 2006, offenders convicted of any person felony where a deadly weapon was used were added to the registry. Certain drug offenses were added to the registry in 2007.

More dramatic changes were enacted in 2011 in an effort to bring Kansas into compliance with the federal Adam Walsh Sex Offender Registration and Notification Act (SORNA), 42 U.S.C. § 16901 *et seq.* For example, all offenders were required to register four times per year in each county where they live, work, or attend school. These requirements were extended to sex, drug and violent offenders although SORNA only applies to sex offenders.

### Current KORA requirements

The attached sentencing journal entry addendum (Attachment 2) lists the sex, drug and violent offenses that require registration and the registration terms. For adult offenders, registration terms may be 15 years, 25 years, or life. A second conviction of a qualifying offense of any type requires lifetime registration. Any early relief from registration requirements is prohibited.

Juvenile offenders register only for sex offenses, and their registration terms depend on their age and the type of offense. In most cases, the courts have some discretion in whether to order registration and whether to make the information public or available only to law enforcement. However, juveniles who are 14 years of age or older and who are adjudicated of a sexually violent crime that is an off-grid or severity level 1 felony must register for life.

All offenders, whether adult or juvenile, must register four times per year in person in any county where they live, work or go to school. They must be photographed, fill out a detailed registration form, and pay a \$20 fee each time. Registered offenders must report in person within three days any change in residence, work status, or school attendance.

Any failure to comply with registration duties is a strict liability offense, and penalties are high: a first offense is a severity level 6 felony; a second offense is a severity level 5 felony; and a third or subsequent offense or aggravated offense is a severity level 3 felony. A KORA violation that consists merely of a failure to pay the fee is a class A misdemeanor or severity level 9 felony, depending on how many payments have been missed. KORA violations are classified as person or nonperson offenses depending upon the underlying registrable offense.

### Number of registrants

There are over 22,000 offenders currently required to register in Kansas. Of those, roughly half are sex offenders, one quarter are violent offenders, and one quarter are drug offenders. Around 1700 new offenders are being added to the registry each year, and when combined, new drug and violent offenders are significantly outpacing new sex offenders.

Over 900 offenders are registered because of a juvenile adjudication for a sexually violent crime. Fewer than half of those registrations are public; the majority are visible to law enforcement only.

As of 2019, there were 442 inmates in prison for KORA registration violations and, over the preceding five years, the number of convictions for registration violations had increased by almost 65 percent. In 2018 alone, 325 offenders were convicted of registration violations, and 116 of those were sent to prison.

### OVERARCHING COMMITTEE GOALS/CONCERNS

While all Committee members had concerns about some aspect of KORA, not all of those concerns were shared unanimously. The most commonly voiced concerns were:

- The rationale that an offender registry will enhance public safety and reduce recidivism is not supported by the data.
- The effectiveness of the registry is diluted by the large number of offenders who are required to register.
- Registration has an especially negative impact on juvenile offenders.
- Retroactive application of increased registration requirements is fundamentally unfair.
- A large number of offenders are being sent to prison for KORA violations, which can be merely technical.
- The registry uses a “one size fits all” approach that does not assess current individual risk or the potential for change.

From its first meeting, the Committee agreed that any recommendation it made should be data-driven and evidence-based. The Committee reviewed several studies and articles indicating that the common perceptions about recidivism rates among sex offenders are misplaced. For example, the article *“Frightening and High”: The Supreme Court’s Crucial Mistake about Sex Crime Statistics*, 30 Const. Comment. 495 (Fall 2015), points out the lack of any factual basis for the assertion that the recidivism rate of sex offenders is “frightening and high,” as stated by the US. Supreme Court in *Smith v. Doe*, 538 U.S. 84 (2003), and repeated by many other courts since.

Committee members Dr. Mitchell Flesher and Seth Wescott, both of whom are experts in the area of sex offender evaluation and treatment, drew the Committee’s attention to the most recent research on registration and recidivism. That research shows that an average sex offender’s risk of reoffending drops by half once the offender has returned to the community and lived offense-free for five years. After 10 years offense-free, an average sex offender’s risk of reoffending is not significantly greater than the general population. See *Reductions in Risk Based on Time Offense-Free in the Community: Once a Sexual Offender, Not Always a Sexual Offender* (Hanson, et al., 2018).

As the Committee's study progressed, it focused on several major reforms to KORA. These include:

- 1) Creating an exit mechanism to give offenders the ability to petition the district court to be relieved of registration after a period of time in substantial compliance.
- 2) Repealing registration entirely for juvenile offenders.
- 3) Lowering the penalties for violations of KORA.
- 4) Decreasing the term of registration for some offenses, especially certain drug and violent offenses.

#### Federal law – SORNA

The Committee reviewed the requirements of the federal Adam Walsh Sex Offender Registration and Notification Act (SORNA), 42 U.S.C. § 16901 *et seq.* Kansas is one of 18 states that the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) has deemed in compliance with SORNA.

The Committee made its recommendations based on what it believes to be good policy, but it acknowledges that several of its recommendations do not meet SORNA's requirements. For example, the Committee's proposed exit mechanism is broader than SORNA allows; SORNA requires registration for certain juvenile sex offenders; and SORNA requires a higher penalty for registration violations than the Committee is recommending.

If Kansas were deemed to be no longer in compliance with SORNA, the state could lose 10% of its Byrne grant funds. In 2019, 10% of Byrne grant funding would have amounted to roughly \$240,000. The Committee believes any potential loss of Byrne grant funding would be more than offset by the savings in prison bed space.

## SUMMARY OF RECOMMENDATIONS

### Recommendations Relating to Offender Registration:

Create an exit mechanism to give offenders the ability to petition the district court to be relieved of registration after a period of time in successful compliance. Victims would receive notice, and offenders currently registering for life would have a mandatory risk assessment. The burden would be on the offender to demonstrate rehabilitation.

Repeal registration requirements for juvenile sex offenders except those waived to adult court or serving an adult sentence under extended juvenile jurisdiction, or juveniles ordered to register in an out-of-state jurisdiction.

Reduce penalties for registration violations to a Class B misdemeanor for a first offense; a Class A misdemeanor for a second offense; and a severity level 8 felony for a third or subsequent or aggravated offense. All violations would be classified as nonperson. A violation based on a failure to pay the fee would be a Class C misdemeanor. Also lower penalty for aiding a KORA violator. (2020 H.B. 2474)

Redefine KORA violations so that a new offense is committed every 90 days an offender is out of compliance, and an aggravated violation is committed when offender is out of compliance for one year. (2020 H.B. 2474)

Create a fee waiver process, and impose no fee for a minor. (2020 H.B. 2474)

### Other miscellaneous KORA changes:

- Single point registration in county of residence only. (2020 H.B. 2474 as amended)
- Eliminate provisions that give courts unfettered discretion to impose registration for any offense not listed in KORA. Instead, allow parties to agree to registration for non-KORA offenses.
- Clarify that municipal court convictions are not registrable offenses under KORA.

## **Recommendations Relating to Offender Registration (cont.):**

### **Sex Offenses –**

- Repeal registration for some lower level offenses listed in K.S.A. 22-4902(b)(4), such as adultery and buying sexual relations.
- Change registration for lewd and lascivious behavior under K.S.A. 21-5513(a)(2) (public exposure) to require 15-year registration only when offense committed in presence of someone under 16 (felony violation).
- Require registration for internet trading in child pornography, K.S.A. 21-5514 (same terms as sexual exploitation of a child); and for breach of privacy under K.S.A. 21-6101(a)(6) and (a)(7) – 15 years.
- For sexually motivated offenses, amend the exception for “non-forcible sexual conduct when the victim was at least 14 years of age and the offender was not more than four years older than the victim” to make clear that victim must be a minor.

### **Drug Offenses –**

- Reduce registration for possession of drug precursors and distribution offenses to 5 years private registration. (2020 HB 2475)
- Repeal lifetime registration for second time drug offenders. Registration terms for multiple drug offenses would run concurrently.

### **Violent Offenses –**

- Repeal registration for criminal restraint, voluntary and involuntary manslaughter, and kidnapping and aggravated kidnapping of an adult.
- Increase registration to lifetime for capital murder and first degree murder.
- Change registration to 15 years for kidnapping of a minor.
- Change registration for person felony with deadly weapon finding to 5 years. Also, deadly weapon finding must be made on the record, “in open court and with particularity.”

### **Recommendations Relating to Substantive Sex Offenses:**

- Reduce penalties for unlawful voluntary sexual relations between minors. (2020 H.B. 2473)
- Amend rape and sodomy statutes to address charging problems.
- Repeal marriage defense to certain sex crimes involving victims under 14 years of age.

### **Recommendations Relating to Sentencing of Sex Offenders:**

- Remove attempts, solicitations, and conspiracies to commit sexually violent offenses from the application of Jessica's Law.
- Amend lifetime postrelease supervision so that it applies only to sexually violent crimes that are severity level 1 through 5 felonies, and create an exit mechanism where any offender sentenced to lifetime postrelease supervision can ask the prisoner review board for relief after 10 years.
- Clarify distinction between persistent sex offender and aggravated habitual sex offender.

## **EXIT MECHANISM**

As originally enacted, KORA contained an exit mechanism. See L. 1993, ch. 253, § 24. But, since 2001, KORA has prohibited offenders from obtaining court-ordered relief from registration requirements. See K.S.A. 22-4908. Most other states have some mechanism for an offender to seek relief from registration, though the parameters vary widely. See Logan, *Database Infamia: Exit from the Sex Offender Registries*, 2015 Wis. L. Rev. 219, 227 (2015).

The Committee believes that offering an exit mechanism to offenders is critically important for several reasons. First, the possibility of an early exit gives offenders an incentive to comply with registration requirements. Second, the hearing process allows the courts to make an individual determination based on an offender's behavior in the community over a period of years. And, finally, allowing an offender to petition for relief after a period of 5 or 10 years is evidence-based. It is consistent with the reduction in the recidivism rate that occurs after 5 and 10 years.

While the Committee unanimously agrees that KORA should include an exit mechanism, there is some disagreement about whether all offenders should have access to it. Several Committee members objected to allowing offenders convicted of the most egregious crimes to petition for relief. For example, some would favor excluding offgrid or severity level 1 registrable offenses. However, a majority of the Committee believes that all offenders should have the opportunity to petition for relief if they are sufficiently rehabilitated and no longer pose a risk to public safety.

Accordingly, the Committee recommends that K.S.A. 22-4908 be amended to create an exit mechanism with the following elements:

- Allow offenders to petition the court for relief from registration requirements after a period of substantial compliance of 5, 10, or 25 years depending on the original registration term:

- Offenders required to register for 15 years could petition after 5 years.
- Offenders required to register for 25 years could petition after 10 years.
- Offenders required to register for life could petition after 25 years.
- Offenders who were required to register retroactively or whose registration term was increased retroactively as a result of changes to the law in 2011 could petition after 10 years.
- No relief for sexually violent predators or offenders who would still be required to register in another jurisdiction.
- Judicial Council to develop petition form.
- Victim notice.
- Mandatory risk assessment for offenders who have committed an offense requiring lifetime registration. Discretionary risk assessment for all others.
- Burden on offender to show by clear and convincing evidence that:
  - 1) Offender has not been convicted of a felony, other than a felony registration violation, within the past 5 years;
  - 2) Offender's circumstances, behavior and treatment history show that the offender is sufficiently rehabilitated to warrant relief; and
  - 3) Registration is no longer necessary to promote public safety.

### Retroactivity concerns

In the Committee's supplemental report to the Judicial Council in December 2019, a majority of the Committee recommended reversing the retroactive increases in registration terms that occurred in 2011. Those changes increased all 10-year registration terms to at least 15 years, and in many cases, to 25 years or life. The changes also required registration for some offenses that were not

registrable under prior law, *e.g.* kidnapping with no restriction on age of the victim. See L. 2011, ch. 95.

The Committee acknowledged our Kansas Supreme Court's ruling that KORA's registration requirements are not punishment, therefore retroactive increases in registration terms do not violate the constitution's ex post facto clause. See *State v. Petersen-Beard*, 304 Kan. 192, 196-97, 377 P.3d 1127 (2016) (a 4-3 decision). Despite this ruling, many Committee members felt that retroactively increasing an offender's registration term is fundamentally unfair.

A minority of the Committee argued that it would be more appropriate to give those offenders an avenue to seek relief under an exit mechanism so that a judge could decide on a case-by-case basis whether relieving them from registration is consistent with public safety. At its December 2019 meeting, the Judicial Council sided with the minority. The Council tabled that portion of the Committee's supplemental report recommending reversal of the retroactive term increases and, instead, asked the Committee to consider addressing the issue via an exit mechanism.

Under the Committee's proposed exit mechanism, any offender who was retroactively affected by the 2011 changes would be eligible to petition for relief after 10 years of substantial compliance with KORA. All other components of the exit mechanism would be the same as for other offenders.

A bill draft containing the Committee's proposed exit mechanism may be found at Attachment 3.

## **JUVENILE SEX OFFENDER REGISTRATION**

While KORA leaves little room for discretion in adult offender registration, it does give district courts some discretion in ordering registration for most juvenile sex offenders. For example, for juvenile sex offenders under 14 who are adjudicated for a sexually violent crime under K.S.A. 22-4902(c), a court may require public registration until age 18 or five years from the date of adjudication

or release from incarceration, whichever is longer; private registration only; or no registration at all if based on substantial and compelling reasons. K.S.A. 22-4906(f). The same rules apply to juveniles 14 or older who are adjudicated for sexually violent offenses that are not offgrid or severity level 1 felonies. K.S.A. 22-4906(g). However, juvenile sex offenders who are 14 or older and are adjudicated for offgrid or severity level 1 sexually violent offenses -- *e.g.* rape, aggravated criminal sodomy, aggravated human trafficking -- must register for life. K.S.A. 22-4906(h).

If a juvenile is required to register, all other provisions of KORA apply just as they would to an adult. Juveniles must register four times per year, in person, in any county where they live, work, or go to school, and must pay \$20 each time they register.

According to data provided by the KBI, there are over 900 registered offenders who were ordered to register because of a juvenile adjudication for a sexually violent crime. Over 600 are continuing to register *solely* because of a juvenile adjudication. Roughly a third of juvenile registrations are public, and two-thirds are private and available only to law enforcement. However, a county-by-county breakdown shows that there are disparities in public versus private registration, with at least two counties ordering public registration significantly more often.

The Kansas Court of Appeals recently held that KORA's requirement of lifetime registration for juvenile sex offenders is not punishment, and thus does not violate ex post facto clause or cruel and unusual punishment clause. *State v. N.R.*, 57 Kan. App. 2d 298, 451 P.3d 877 (2019). The Supreme Court granted a petition for review in *N.R.* on August 27, 2020.

The Committee reviewed a paper co-authored by Committee member Seth Wescott and other members of the Association for the Treatment of Sexual Abusers (ATSA), which recommends the elimination of registration for juvenile offenders. ATSA concluded that registration laws are not effective to deter either first-time sexual offending or reoffending by juveniles; they do not identify those juveniles most at risk of reoffending; and they do not promote public safety. Registration does, however, have long-term detrimental effects on the juveniles

who are required to register. Registration of youth often means registration of the youth's family. This can lead to disruption and, at times, family separation. The unintended negative consequences of registration exist regardless of whether the registration is public or private. The stigma attached to a youth on the registry is damaging. Youth required to register are four times more likely to attempt suicide, five times more likely to report having been approached by an adult for sex, and twice as likely to report having been sexually victimized in the past year. Essentially, registration of adolescents may actually increase sexual abuse rather than prevent it.

Registration laws were implemented based on a series of assumptions: that informing people where a sex offender lives will keep them safe, that people who commit sexual crimes will commit more, and that children who commit sexual crimes are just like adults who commit sexual crimes. None of these myths have been supported through research. It is clearly established that only 2.5% of youth who commit sexual crimes offend against a stranger. Additionally, research has demonstrated that sexual re-offense rates for youth who commit sexual crimes is less than 5%. Adolescents are more responsive to treatment and community intervention than adults and typically do not require lengthy supervision terms. Thus, registration laws which are meant to protect the "public" from "repeat offenders" are, in fact, inconsequential to public safety. Yet by their mere existence, these laws present youth with a multitude of societal, physical, and emotional barriers to success. It is now time to protect youth from the effects of these harmful policy decisions.

A majority of the Committee recommends that Kansas join the 16 other states that do not require juvenile offender registration and repeal registration for juvenile offenders entirely, except for those juveniles who have been waived to adult court or who are subject to an adult sentence under an extended juvenile jurisdiction prosecution. The repeal would apply retroactively to any offender on the registry solely because of a juvenile adjudication; however, it would not apply to juvenile offenders required to register by another jurisdiction. In other words, if a juvenile has an out-of-state adjudication, and the state where that adjudication

occurred would require registration, Kansas would continue to honor the other state's registration requirement.

A bill draft that would repeal juvenile registration as recommended by the Committee may be found at Attachment 4. The Committee understands this recommendation represents a significant change for Kansas. However, the committee believes this is a necessary step toward evidence-based practices.

In the event that a full repeal of juvenile offender registration is not something that the legislature is willing to consider, the Committee recommends as an alternative that the legislature create a separate registration act for juveniles with the following elements:

- No registration for juveniles under 14.
- No registration for first-time juvenile offenders.
- No lifetime registration for any juvenile offender.
- For second or subsequent juvenile adjudications, the prosecutor must file notice of intent to request registration at disposition.
- If requested, the court has discretion to order registration, but there is a presumption that registration should be private unless the court finds substantial and compelling reasons to make it public (*e.g.*, the youth offended against a stranger).
- If ordered, registration requirement ends when the juvenile is no longer under jurisdiction of the juvenile court.
- If ordered, registration is annual rather than quarterly, though any change in address etc., must be kept up to date. There should be no registration fee.

## **PENALTIES FOR REGISTRATION VIOLATIONS (2020 H.B. 2474)**

**[NOTE: This section of the report was previously submitted to the Judicial Council in December 2019. The Committee's recommendations regarding penalties for registration violations and a process for court waiver of the registration fee were introduced as 2020 H.B. 2474. A copy of the bill may be found at Attachment 5.]**

Under current law, a failure to comply with any provision of the Kansas Offender Registration Act (KORA), K.S.A. 22-4901 *et seq.*, is a strict liability offense, *i.e.*, no criminal intent is required. Any failure to comply that continues for more than 30 consecutive days becomes a new and separate offense. K.S.A. 22-4902(a). A violation of KORA is a severity level 6 felony for a first conviction, a severity level 5 felony for a second conviction, and a severity level 3 felony for a third or subsequent conviction. K.S.A. 22-4903(c)(1). An aggravated violation (failure to comply for more than 180 consecutive days) is also a severity level 3 felony. K.S.A. 22-4903(b) and (c)(2).

Violations are designated as person or nonperson felonies depending upon the underlying offense for which the offender is required to register. K.S.A. 22-4903(c)(1) and (c)(2). This means that, in general, sex offenders and violent offenders who fail to comply with registration requirements are charged with person felonies, while drug offenders are charged with nonperson felonies.

A violation of KORA that consists solely of the failure to pay the required \$20 registration fee to the sheriff's office is a class A misdemeanor if the full payment is not made within 15 days of registration. It is a severity level 9 felony if, within 15 days of the most recent registration, two or more full payments have not been made to the sheriff's office. Again, these violations are person or nonperson offenses depending upon the underlying registrable offense. K.S.A. 22-4903(c)(3).

Under the current scheme, an offender who is required to register for a misdemeanor offense such as sexual battery could be charged with a person felony for a registration violation. Once an offender has a person felony in his or her criminal history, it has a big impact on the sentence for any future offense.

The Committee learned that there are currently 442 inmates in prison for KORA registration violations and that, over the last five years, the number of convictions for registration violations has increased by almost 65 percent. In 2018 alone, 325 offenders were convicted of registration violations, and 116 of those were sent to prison.

Under K.S.A. 21-6804(m), the sentence for a KORA registration violation is presumptive imprisonment. However, only about a third of violators are sentenced to prison while two-thirds are placed on probation. It's not clear whether the statute is being ignored or overlooked or whether courts are ordering downward departures in most cases, but if the statute were being routinely applied, the numbers of offenders being sent to prison would be even higher.

This trend is not sustainable. The Committee believes that the penalties for registration violations have ratcheted up too much since registration was first required in the early 90s. From 1993 to 1999, failure to register was a class A nonperson misdemeanor, and from 1999 to 2006, it was a severity level 10 nonperson felony. The Committee believes it is appropriate to return to similar severity levels, and recommends the following penalties:

- For a first offense, a class B nonperson misdemeanor
- For a second offense, a class A nonperson misdemeanor
- For a third or subsequent or aggravated offense, a severity level 8 nonperson felony

Classifying first and second registration violations as misdemeanors will give district judges more flexibility in dealing with violators. For example, a judge would have the option of ordering a violator to spend weekends in jail, which might allow the person to keep his or her job. For offenders who are out of compliance and afraid to update their registration for fear of facing arrest on a felony registration violation charge, reducing the penalties should give them an incentive to come forward and become compliant rather than going completely off the radar.

The Committee recommends classifying all registration violations as nonperson offenses, which is appropriate for an offense that consists of a failure to provide information and does not involve harm to another person. This change will impact not only future convictions and sentences for registration violations, it will also affect how past convictions are scored for criminal history purposes. See *State v. Keel*, 302 Kan. 560, 590, 357 P.3d 251 (2015) (classification of prior conviction as person or nonperson offense for criminal history purposes is determined based on classification in effect at the time the current crime of conviction was committed).

Take, for example, an offender who has a single prior conviction for a registration violation that occurred in 2015. Assuming the offender is a sex or violent offender, that conviction would currently be classified as a person felony. So, if the offender were charged with a new crime today, the prior conviction of a registration violation would count as a person felony for criminal history purposes. But, if that same offender were charged with a new crime after July 1, 2021 (the effective date of the proposed legislation), under *Keel*, the prior conviction of a registration violation would count as a nonperson misdemeanor for criminal history purposes.

The Committee also recommends the following related changes:

- Amend the presumptive prison rule so that it applies only to severity level 8 offenses.
- Redefine a registration violation so that a new offense is committed every 90 days, rather than every 30 days, an offender is out of compliance. (This corresponds to the requirement that an offender register every three months.)
- Redefine an aggravated violation to consist of an offender being out of compliance for one year, rather than 180 days.
- Make an aggravated violation a class A nonperson misdemeanor if the underlying registrable offense is a misdemeanor.
- Do not require a registration fee for any offender under 18 years of age.

- Classify violations for failure to pay as class C nonperson misdemeanors.
- Amend K.S.A. 21-5913(b) to make the penalty for obstructing the apprehension or prosecution of a KORA violator the same as the penalty for obstructing the apprehension or prosecution of any other person. [NOTE: One further amendment that was not included in H.B. 2474 will be needed to repeal the presumptive prison rule for such offenses. The Revisor’s office is aware of this oversight and will include the necessary amendment to K.S.A. 21-6804(m).]

The Committee is aware that its recommendation to reduce penalties does not technically meet the requirements of the Sex Offender Registration and Notification Act (SORNA), 42 U.S.C. § 16901 *et seq.*, which requires that the penalty for a registration violation must provide for a maximum term of imprisonment greater than one year. The Committee has been informed by the SMART Office, which monitors SORNA compliance, that its proposal is likely to result in Kansas being determined to be no longer in substantial compliance with SORNA. If that were to occur, the state could lose 10% of its Byrne grant funds. In 2019, 10% of Byrne grant funding would have amounted to roughly \$240,000. However, the Committee believes any potential loss of Byrne grant funding would be more than offset by the savings in prison bed space.

#### Court Waiver of the Registration Fee

As part of its proposal to amend penalties for registration violations, the Committee also drafted a new mechanism for an offender to seek a court waiver of the registration fee based on a finding of manifest hardship. This is in response to a Court of Appeals decision, *State v. Owens*, 55 Kan. App. 2d 290, 411 P.3d 1247 (2018), which held that finding a sex offender criminally liable for failure to pay the \$20 registration fee violated the offender’s procedural due process rights as applied because the statutes did not provide any procedure for the offender to obtain a court determination of indigency.

Under current law, K.S.A. 22-4905(l)(3) waives the registration fee only “if an offender has, prior to the required reporting and within the last three years, been determined to be indigent by a court of law, and the basis for that finding is recorded by the court.” For an offender who has had a criminal case pending during that 3-year window, there is a recognized procedure for obtaining an indigency determination for purposes of determining whether to appoint counsel. But for an offender who no longer has a criminal case pending, there is no such procedure. See *Owens*, 55 Kan. App. 2d at 293-94.

The Committee is recommending a new statute to establish that procedure. Under the Committee’s proposal, an offender could ask the district court of the county where he or she resides to find that requiring the offender to pay the \$20 registration fee would impose a manifest hardship on the offender or the offender’s immediate family. The offender would be required to submit an affidavit in the form prescribed by the Judicial Council, and there would be no docket fee required. The court could rule on the basis of the affidavit alone, or could hold a hearing and require evidence to be presented. If the court finds that requiring payment of the fee would impose a manifest hardship, the court could order that the fee be waived or deferred and specify how long the court’s order will remain in effect, not to exceed three years.

The Committee recognized that there is a difference between finding that a defendant is indigent to the extent he or she is unable to pay for a defense attorney versus unable to pay a \$20 registration fee. A defendant who may have been unable to afford to pay a defense attorney might be able to pay \$20 four times a year. Thus, under the Committee’s proposal, any indigency finding from the original criminal case would remain in effect for three years (as under current law), but a finding of manifest hardship would only remain in effect for the period specified by the court in its order, not to exceed three years.

### Alternative method of funding law enforcement administration of registration

The Committee discussed possible alternative methods of funding the administration of offender registration requirements. For example, rather than imposing a \$20 fee each time an offender registers, one alternative might be to impose additional court costs on every criminal and traffic infraction case. Those costs could be paid into a specific fee fund and divided amongst the counties based on the number of registered offenders residing in each county. An approach like this might result in better funding for sheriffs' offices. The Committee believes this idea merits further study, but it has no specific recommendation at this time.

### **OTHER MISCELLANEOUS KORA CHANGES**

#### Single point registration (2020 H.B. 2474 as amended)

The House Committee on Corrections and Juvenile Justice amended 2020 H.B. 2474 to eliminate the requirement that offenders register in person with the sheriff in each county where they live, work, and attend school. Instead, offenders would be required to register only in the county where they live. In the form that offenders must complete each time they register, they are already required to report the name and address of any employer or school they attend. Under the bill, if an offender reports an employer or school in a county other than the county where they live, the KBI would be required to notify the sheriff of the county where the employer or school is located.

The Committee agrees that this change would ease the burden on both offenders and sheriffs while still providing the necessary information to keep the public informed. The Committee recommends that this amendment be retained, as reflected in the amended version of H.B. 2474 at Attachment 5.

#### Registration for non-KORA offenses

Under current law, courts have unfettered discretion to order an offender to register for any offense not otherwise covered by KORA. See K.S.A. 22-4902(a)(5); and, *e.g.*, *State v. Juarez*, \_\_ Kan. \_\_, 470 P.3d 1271 (2020) (defendant pled guilty

to aggravated battery for punching a prison guard; at sentencing, court ordered him to register under KORA). The registration term for such non-KORA offenses is set at 15 years, unless a diversion agreement, probation order, or juvenile sentencing order sets a different term. See K.S.A. 22-4906(a)(1)(M) and K.S.A. 22-4906(i).

The Committee believes that courts should not be able to sua sponte order registration for offenses not covered by KORA. However, there are situations where it may be appropriate for the parties to agree to such registration. For example, it is not uncommon for parties to enter a plea bargain in which the defendant pleads guilty to a non-registrable offense but agrees to register for the term of probation. Also, the parties may agree to registration as part of a diversion agreement.

The Committee recommends amending KORA so that the parties can agree to registration for a non-KORA offense, but courts cannot order such registration sua sponte. The Committee's recommendation would have no effect on a court's ability to order registration for any offense that is found to be sexually motivated. Proposed amendments are contained in the bill draft at Attachment 6.

#### Clarify that municipal court convictions are not registrable offenses

In July 2020, the Kansas Court of Appeals held that a municipal court conviction for sexual battery is a registrable offense under KORA. See *City of Shawnee v. Adem*, \_\_\_ Kan. App. 2d \_\_\_, 472 P.3d 123 (2020), petition for review filed August 27, 2020.

Prior to the *Adem* opinion, most Committee members believed that KORA did not apply to municipal court convictions. For some Committee members, this belief was based on the action of the legislature, which considered and rejected a proposed amendment to explicitly bring municipal court convictions under KORA in 2012. See 2012 H.B. 2568.

The Committee recommends that municipal court convictions be explicitly excluded from KORA because municipal courts lack many of the protections that are available in district courts, *e.g.* municipal courts are not courts of record, jury

trials are not available, and appointed counsel is not available unless the defendant faces possible jail time. The Committee's proposed amendments are contained in the bill draft at Attachment 6.

## **SEX OFFENSES**

K.S.A. 22-4902 sets out which sex offenses require registration under KORA. Most of the offenses that trigger registration are listed as "sexually violent crimes" under K.S.A. 22-4902(c). However, subsection (b)(4) also requires registration for a list of lower level crimes such as adultery and patronizing a prostitute "when one of the parties involved is less than 18 years of age." Importantly, this subsection does not apply to juvenile offenders, who are only required to register for acts which would constitute sexually violent crimes if committed by an adult. See K.S.A. 22-4902(b)(2).

The Committee finds the language "when one of the parties involved is less than 18 years of age" to be unnecessarily confusing because it seems, on its face, to implicate juvenile offenders. While it would be much clearer and reflective of the true legislative intent to amend the statute so that it applies "when *the victim* is less than 18 years of age," not all of the criminal offenses listed in (b)(2) reference a "victim." Instead, the Committee recommends the statute be clarified by changing the phrase to "when one of the parties *other than the offender* is under 18."

The Committee also recommends repealing registration requirements for the following offenses listed in K.S.A. 22-4902(b)(4):

- Adultery
- Criminal sodomy under K.S.A. 21-5504(a)(1) (consensual sodomy between persons over 16). The Committee is also recommending this substantive provision be repealed.
- Patronizing a prostitute

- Lewd and lascivious behavior under K.S.A. 21-5513(a)(1) (public intercourse or sodomy)

The Committee does not believe these offenses pose a serious risk of future reoffending to justify requiring registration as a sex offender.

As to lewd and lascivious behavior under K.S.A. 21-5513(a)(2) (public exposure), the Committee would continue to require 15-year registration but only when the offense is committed in the presence of someone under 16, which is a felony violation under the statute.

The Committee identified several offenses that do not currently require registration but should. The Committee recommends that internet trading in child pornography under K.S.A. 21-5514 be added to the list of sexually violent offenses in K.S.A. 22-4902(c), and that registration be required for the same terms as for sexual exploitation of a child, *i.e.*, 25 years if the victim is 14 or older but less than 18, and lifetime if the victim is under 14. See K.S.A. 22-4906(b)(1)(G) and (d)(7).

The Committee also recommends that 15-year registration be required for certain breach of privacy offenses under K.S.A. 21-6101(a)(6) and (a)(7). Subsection (a)(6) prohibits installing or using a concealed camcorder or camera to secretly videotape, film, photograph or record another identifiable person under or through their clothing or who is nude or in a state of undress for the purpose of viewing the body or undergarments of that other person, with the intent to invade that other person's privacy, and under circumstances in which the other person has a reasonable expectation of privacy. Subsection (a)(7) prohibits disseminating or permitting dissemination of any videotape, photography, film or image obtained in violation of (a)(6).

The Committee agreed to make this recommendation after hearing from two women who spoke about their experiences as victims of the crime of breach of privacy. In one case, a man was using his cellphone to video young women under the doors of their dressing rooms. In another, a man was using his cellphone to video up women's skirts in a grocery store. The Committee believes these kinds of

offenses should require registration because they are sexually motivated and may represent compulsive behavior, which presents an increased risk of reoffending.

Senator Julia Lynn, who also spoke to the Committee about making breach of privacy a registrable offense, introduced a bill on this topic in 2020: S.B. 420. That bill contained more extensive amendments relating to breach of privacy and registration, and the Committee takes no position on those additional amendments.

Finally, the Committee recommends a change to the provision requiring registration for an offense that has been found beyond a reasonable doubt to have been sexually motivated. K.S.A. 22-4902(c)(18) lists such sexually motivated acts as sexually violent crimes “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.” K.S.A. 22-4906(a)(1)(L) contains similar language and sets the registration term at 15 years.

The Committee was concerned that this language might be interpreted to apply even when the victim and offender are older, such as between a 25- and 28-year-old. The Committee believes the legislature intended this exception to apply only when the victim was under 18 and recommends the language be amended to read, “unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was *a child* at least 14 years of age and the offender was not more than four years older than the victim.”

The proposed amendments described in this section are contained in the bill draft at Attachment 6.

## **DRUG OFFENSES (2020 H.B. 2475)**

**[NOTE: This section of the report was previously submitted to the Judicial Council in December 2019. The Committee's recommendations regarding drug offender registration were introduced as 2020 H.B. 2475. A copy of the bill may be found at Attachment 7.]**

Since 2007, Kansas has required registration of offenders convicted of drug manufacturing, possession of precursors, and distribution or possession with intent to distribute certain drugs (not including marijuana). Kansas law also requires registration for similar drug offenses from other jurisdictions and for attempts, conspiracies and solicitations to commit these offenses. K.S.A. 22-4902(f). Drug offenders are required to register for 15 years; report in person four times per year to the registering law enforcement agency of any county where the offender lives, works, or attends school; and pay a \$20 fee each time. K.S.A. 22-4906(a)(1); K.S.A. 22-4905(b)(2) and (l). (While the registering agency may, in its discretion, allow one of the four reports to be done by certified letter, the Committee is not aware of any agency using this option.)

There are more than 5,600 registered drug offenders in Kansas, representing roughly one quarter of all registered offenders. (There are more than 22,000 registered offenders; approximately half are sex offenders, one quarter are violent offenders, and one quarter are drug offenders.) Over the last few years, more than 500 new drug offenders were added to the registry each year.

Kansas is one of only a small handful of states that register drug offenders. Some of those states focus only on methamphetamine-related offenses, and some maintain a database or list of offenders but do not impose an ongoing duty on offenders to report to a registering agency.

Importantly, Kansas appears to be the only state that makes public the addresses of offenders convicted of possession and distribution offenses. For

example, California's drug registration is available only to law enforcement, and Oklahoma makes the information available only to law enforcement and those who sell pseudoephedrine. In Illinois, Minnesota, and Tennessee, the public can search for a list of offender names by county, but specific addresses are not available. While Montana makes the addresses of some drug offenders public, Montana only registers drug offenders convicted of operating an unlawful clandestine drug lab.

Kansas also appears to be the only state to require drug offenders to register for 15 years. Most of the states mentioned above maintain an offender's information on their registry for ten years, and California requires registration for five years.

The Committee heard from Scott Schultz, Executive Director of the Sentencing Commission, who explained that the Sentencing Commission had voted to recommend repealing registration requirements for all drug offenders. The Commission is concerned about registered offenders being approached at their homes by persons seeking to buy drugs, although evidence of this happening is only anecdotal to date. The Commission is also concerned that requiring drug offenders to register publicly can put them at risk from former associates, and can negatively impact their reintegration by impeding their ability to find housing and employment.

The Committee shares the Sentencing Commission's concerns. Accordingly, the Committee recommends that registration requirements for drug offenders convicted of manufacturing offenses remain as under current law (15 years of public registration), but that requirements for drug offenders convicted of possession of precursors and distribution offenses be amended to five years of private registration, with the information being available only to law enforcement.

The Committee's recommendation regarding drug offender registration was introduced as 2020 H.B. 2475. That bill was amended by the House Corrections and Juvenile Justice Committee to change the five year registration term from

private to public. However, the Committee stands by its original recommendation that registration for these offenses be private.

### Lifetime Registration for Second Time Drug Offenders

The Committee recommends one further change regarding drug offenders that was not included in 2020 H.B. 2475. That change is to eliminate lifetime registration for second time drug offenders.

Under K.S.A. 22-4906(c), an offender convicted of a second or subsequent registrable offense of any kind (sex, drug or violent) must register for life. According to data from the KBI, 975 offenders are currently being required to register for life because they have two or more drug convictions.

The Committee recommends that offenders with multiple drug convictions be required to register for the longest term currently in effect. In other words, registration terms for drug offenses would run concurrently, not consecutively. And, a drug offense should never be used to create a lifetime registration requirement, *i.e.* one drug offense and one sex or violent offense would no longer require lifetime registration. These changes would apply retroactively. Proposed amendments are contained in the bill draft at Attachment 8.

### VIOLENT OFFENSES

KORA requires registration for a wide array of violent offenses, ranging from criminal restraint of a minor, a misdemeanor, to capital murder. See K.S.A. 22-4902(e). Kidnapping and aggravated kidnapping require lifetime registration, but all murder and manslaughter convictions require 15-year registration. See K.S.A. 22-4906(a) and (d). KORA also requires 15-year registration for any person felony if the court finds that a deadly weapon was used. K.S.A. 22-4902(e)(2) and K.S.A. 22-4906(a)(1)(N).

There are more than 5,600 violent offenders currently registered in Kansas, and more than 500 new violent offenders are being added each year. A significant number of those are registering because of the deadly weapon finding.

As with registration of drug offenders, Kansas is in a minority of states that register violent offenders, and some of those states limit registration in ways Kansas does not. For example, some states only require registration for career violent offenders or for violent crimes against minors or law enforcement.

A majority of the Committee recommends the following changes to violent offender registration under KORA:

- Repeal registration for criminal restraint, voluntary and involuntary manslaughter, and kidnapping and aggravated kidnapping of an adult.
- Increase registration to lifetime for capital murder and first degree murder.
- Change registration to 15 years for kidnapping of a minor.
- Change registration for person felony with deadly weapon finding to 5 years.

The Committee also recommends amending the deadly weapon finding to require that it be made on the record “in open court and stated with particularity.” This amendment is intended to counter the holding of *State v. Marinelli*, 307 Kan. 768, 788-89, 415 P.3d 405 (2018), that merely checking a box on a sentencing journal entry is sufficient to establish a court finding “on the record.” The Committee’s recommended amendments relating to violent offenders are contained in the bill draft at Attachment 6.

The Committee also considered whether registration should be required for repeat domestic violence offenders. The Committee heard from a woman who was the victim of an aggravated battery at the hands of a former domestic partner. Only after the attack did the woman learn that her attacker had two prior convictions for aggravated battery.

Several Committee members believe it would be appropriate to require registration of repeat domestic violence offenders. However, such a requirement could dramatically increase the number of registered offenders. The Committee agreed that the idea merits a separate study involving all interested stakeholders.

**PENALTIES FOR UNLAWFUL VOLUNTARY SEXUAL RELATIONS BETWEEN MINORS**  
**(2020 H.B. 2473)**

**[NOTE: This section of the report was previously submitted to the Judicial Council in December 2019. The Committee’s recommendations regarding unlawful voluntary sexual conduct were introduced as 2020 H.B. 2473. A copy of the bill may be found at Attachment 9.]**

As part of the original study request, the Committee was asked to review House Bill 2738, which would have amended K.S.A. 21-5507 to reduce penalties and, in some cases, decriminalize voluntary sexual conduct between minors who are close in age. The Committee generally agreed with the rationale behind the introduction of H.B. 2738 but offered an alternative proposal, which was introduced as 2020 H.B. 2473.

Under current law, K.S.A. 21-5507 (sometimes known as the “Romeo and Juliet” provision) reduces penalties for voluntary sexual conduct between an offender and a child when the child is 14 or 15 years old and the offender is less than 19 and less than four years older than the child. Offenses under K.S.A. 21-5507 are classified as severity level 8, 9, or 10 person felonies depending on the conduct.

K.S.A. 21-5507 does not apply to voluntary conduct between an offender and a child under 14. Rather, voluntary conduct involving children under 14 falls under the rape, aggravated criminal sodomy, and aggravated indecent liberties statutes. See K.S.A. 21-5503(a)(3); 21-5504(b)(1); and 21-5506(b)(3). This is true even if the offender is also a child close in age. Under these statutes, offenses are classified as

severity level 1 or 3 person felonies, or even offgrid felonies if the offender is 18 or older.

Also, K.S.A. 21-5507 only provides for reduced penalties when the offender and child are of the opposite sex. This provision was declared unconstitutional almost 15 years ago by the Kansas Supreme Court in *State v. Limon*, 280 Kan. 275, 122 P.3d 22 (2005).

The Committee recommends expanding the age range of children to which K.S.A. 21-5507 applies and reducing the penalties that apply to voluntary sexual conduct. While the Committee believes that there should be some criminal penalty for voluntary sexual conduct between minors, the purpose of that penalty is to allow the state to intervene and provide services for juveniles in need, not simply to impose punishment.

The Committee's recommended amendments to K.S.A. 21-5507, as contained in 2020 H.B. 2473, would change current law as follows:

- Lower the age of the child victim from a range of 14-15 to 10-15;
- Make voluntary intercourse and voluntary sodomy the same severity level, consistent with other statutes;
- Provide that, when an offender is under the age of 13, the offense of unlawful voluntary sexual relations is a class A misdemeanor;
- Reduce penalties for offenders between the ages of 13 to 18 so that they would range from a class A misdemeanor to a severity level 9 person felony, depending on the conduct involved and the difference in age between the offender and child;
- Determine the difference in age based on months rather than years;
- Delete the unconstitutional requirement that the offender and child be members of the opposite sex; and
- Make clear that no offender may be required to register for the offense of unlawful voluntary sexual relations.

The Committee recommends calculating the age range between the offender and child in months rather than years for reasons of consistency and uniformity. For example, two minors who are 14 and 17 years old may actually be anywhere from 25 months to 47 months apart in age. Setting the age gap in terms of months rather than years should result in more consistent application of the law between cases.

The Committee understands that prosecutorial discretion plays an important role in when minors are actually charged for voluntary sexual conduct. As a practical matter, sexual experimentation between children close in age may often be better handled by parents, teachers and counselors than by the juvenile justice system. The Committee's proposed changes are not intended to encourage prosecutors to charge minors; rather, they are intended to be a more accurate reflection of the seriousness of the conduct involved.

A copy of 2020 H.B. 2473 and penalty charts showing offense levels under the Committee's proposal and under current law may be found at Attachment 9.

### **AMENDMENTS TO RAPE AND SODOMY STATUTES**

The Committee also recommends several substantive changes to the rape and criminal sodomy statutes, K.S.A. 21-5503 and 21-5504. The change to the rape statute would add an alternative means of committing the crime of rape in the factual scenario where a medical provider, chiropractor, or massage therapist engages in sexual intercourse with a client/victim without the victim's consent. The current rape statute is inadequate to cover this scenario.

The rape statute, K.S.A. 21-5503, currently prohibits engaging in sexual intercourse with a victim who does not consent under circumstances when the victim is overcome by force or fear or when the victim is unconscious or powerless. See K.S.A. 21-5503(a)(1). The statute also prohibits sexual intercourse where the victim's consent is obtained through a knowing misrepresentation by the offender

that the sexual intercourse was a medically or therapeutically necessary procedure. See K.S.A. 21-5503(a)(4). None of these provisions adequately covers the situation where a victim has consented to a massage or a medical exam but has not consented to sexual penetration that occurs unexpectedly and without warning during the encounter.

The Committee also recommends two changes to the criminal sodomy statute, K.S.A. 21-5504. The first change is to repeal the unconstitutional language at subsection (a)(1) prohibiting consensual sodomy between persons over 16 years of age. See *State v. Franco*, 49 Kan. App. 2d 924, 933, 319 P.3d 551 (2014), *rev. denied* April 29, 2015 (provision of K.S.A. 21-5504 criminalizing sodomy was unconstitutional, citing *Lawrence v. Texas*, 539 U.S. 558 [2003]).

The purpose of the second change is to address the charging problem identified in *State v. Fitzgerald*, 308 Kan. 659, 423 P.3d 497 (2018). In that case, the defendant was charged with criminal sodomy under K.S.A. 21-5504(b)(2), which prohibits “causing a child under 14 years of age to engage in sodomy with any person.” The evidence, however, was that the defendant himself engaged in sodomy with victim, not that he caused the victim to engage in sodomy with someone else. Thus, he should have been charged under K.S.A. 21-5504(b)(1), which prohibits “sodomy with a child under 14 years of age.” Because the evidence was insufficient to support the charge under subsection (b)(2), the defendant’s conviction was overturned.

The Committee recommends amending K.S.A. 21-5504(a)(4) and (b)(2) by adding the phrase “other than the offender.” This should ensure that the charging mistake in *Fitzgerald* will be avoided in future cases.

The Committee’s recommended changes to the rape and sodomy statutes are contained in the bill draft at Attachment 10.

## **MARRIAGE DEFENSE**

It is a defense to many sex crimes that the offender was married to the victim at the time of the offense. The Committee believes this is inappropriate at least as to victims under 14. In Kansas, the youngest age at which a child can legally marry, and then only with a judge's permission, is 15. See K.S.A. 23-2505(c). A common law marriage is valid only between adults. See K.S.A. 23-2502. While the legal age for marriage in other states may be lower, the Committee does not want Kansas to become a safe haven for child marriages that took place elsewhere.

The Committee recommends repealing the marriage defense for the offenses of statutory rape under K.S.A. 21-5503(a)(3) (sexual intercourse with a child under 14), aggravated criminal sodomy under K.S.A. 21-5504(b)(1) (sodomy with a child under 14), and aggravated indecent liberties with a child under K.S.A. 21-5506(b)(3)(A) (lewd fondling or touching of a child under 14). Marriage would remain a defense for consensual offenses where the victim is 14 or 15. The Committee's recommended amendments are contained in the bill draft at Attachment 10.

## **CLASSIFICATION OF ATTEMPTS TO COMMIT JESSICA'S LAW OFFENSES**

Adopted in 2006, Jessica's Law provides that certain sex crimes against victims under the age of 14 are offgrid offenses when committed by an offender who is 18 or older and carry a penalty of life in prison with parole eligibility after 25 years (or 40 years for a second time offender). See K.S.A. 21-6627. Under the law, attempts, conspiracies and solicitations of these offgrid offenses are also treated as offgrid offenses. K.S.A. 21-6627(a)(1)(H). The usual rule that an attempt, conspiracy or solicitation drops the severity level of the offense by one to three severity levels does not apply. See K.S.A. 21-5301, 21-5302, and 21-5303.

The Committee is concerned that Jessica's Law has cast too broad a net and believes it is time to narrow its scope by repealing the provisions that make anticipatory offenses the same severity level as the underlying offense. Making this

change would allow for greater flexibility in plea bargaining and restore proportionality to the law. Proposed amendments to accomplish this change are contained in the bill draft at Attachment 11. The Committee's recommendation would apply to all Jessica's Law offenses except for aggravated human trafficking.

### **LIFETIME POSTRELEASE SUPERVISION**

Under K.S.A. 22-3717(d)(1)(G) and (u), offenders convicted of a wide range of sex crimes are subject to lifetime postrelease supervision or parole upon their release from prison. Because the list of sexually violent crimes in K.S.A. 22-3717(d)(5) includes attempts, solicitations and conspiracies to commit those crimes, lifetime postrelease supervision or parole applies to offenses that range from offgrid crimes down to severity level 9 felonies.

The Committee believes the current lifetime postrelease supervision provisions are over-inclusive, lead to plea withdrawals, and set offenders up for failure based on technical violations. In addition, lifetime supervision is expensive, especially when electronic monitoring is required. The Committee recommends reducing the number of offenses subject to lifetime postrelease supervision by limiting application of the statute to sexually violent crimes that are severity level 1 through 5 felonies.

The Committee also recommends the creation of an exit mechanism where any offender sentenced to lifetime postrelease supervision can ask the prisoner review board for relief after 10 years and completion of any court-ordered programs. Under the exit mechanism, an offender would be required to serve notice of the petition requesting early discharge on the county or district attorney in the county where the offender was sentenced. The county or district attorney would provide victim notification. At a hearing before the prisoner review board, the offender would have the burden to prove by clear and convincing evidence that supervision is no longer necessary to protect the public. If unsuccessful, an offender could not petition again for five years.

There are already two exit mechanisms that allow the prisoner review board to provide for early discharge from postrelease supervision, but neither currently applies to offenders being supervised for life. See K.S.A. 22-3717(d)(1)(D)(vi) and (d)(2).

The Committee's proposed amendments are contained in the bill draft at Attachment 12.

### **PERSISTENT VS. AGGRAVATED HABITUAL SEX OFFENDER CLARIFICATION**

The Kansas appellate courts have identified an overlap between two statutes that prescribe increased punishment for repeat sex offenders: K.S.A. 21-6804(j), which governs "persistent" sex offenders, and K.S.A. 21-6626(c) which governs "aggravated habitual" sex offenders. See *State v. Turner*, 293 Kan. 1085, Syl. ¶ 4, 272 P.3d 19 (2012); *State v. Greene*, 299 Kan. 1087, 1098-99, 329 P.3d 450 (2014); and *State v. Jones*, 465 P.3d 204, unpublished Court of Appeals opinion filed June 26, 2020. These cases applied the rule of lenity in holding that a defendant who falls under both the definition of persistent sex offender (someone who has "at least one conviction for a sexually violent crime") and the definition of aggravated habitual sex offender (someone who "has been convicted of two or more sexually violent crimes") must be sentenced under the more lenient statute.

The Committee believes that the overlap between the two statutes can be easily cured simply by striking the words "at least" in two places in K.S.A. 21-6804(j) governing persistent sex offenders. This should result in the outcome the legislature most likely intended, *i.e.*, that offenders with only one prior conviction for a sexually violent crime be sentenced as persistent sex offenders, and that offenders with more than one prior conviction for a sexually violent crime be sentenced as aggravated habitual sex offenders. Proposed amendments are contained in the bill draft at Attachment 13.

## **ISSUES DESERVING FURTHER STUDY**

The Committee discussed several issues where it did not reach consensus on a solution but agreed that the issue deserves further study, possibly by the Judicial Council's standing Criminal Law Advisory Committee. In addition to issues mentioned previously in this report, those issues include:

- Prohibition against defense that defendant did not know the victim did not consent
- Prohibition against mistake of age defense
- Discrepancy in penalties for in-person indecent solicitation and electronic solicitation.

## **CONCLUSION**

The Committee requests that the Judicial Council introduce legislation to enact all of the recommendations in this report. The Committee leaves to the Council the decision of how to group its recommendations into individual bills.

STATE OF KANSAS  
HOUSE OF REPRESENTATIVES

STATE CAPITOL  
300 S.W. TENTH AVENUE  
TOPEKA, KS 66612  
(785) 296-7447  
Russ.Jennings@house.ks.gov



DISTRICT OFFICE  
P.O. BOX 295  
LAKIN, KANSAS 67860  
(620) 290-1545  
jrussj@gmail.com

J. RUSSELL JENNINGS  
122ND DISTRICT

March 5, 2018

Nancy Strouse, Executive Director  
Kansas Judicial Council  
301 SW 10<sup>th</sup> Avenue  
Topeka, Kansas 66612

Dear Nancy:

I am writing to request Judicial Council study of two related topics that arose during the consideration of two bills by the House Committee on Corrections and Juvenile Justice during the 2018 Session. After considering these bills, I believe that a more in-depth consideration of the issues raised by the legislation would be appropriate and desirable before advancing the legislation.

**HB 2738 – Changing criminal penalties for sexual conduct between minors**

**HB 2739 – Changing the requirements for juvenile offenders required to register for sex offenses to match the requirement for adults**

HB 2738, as introduced by the House Committee on Corrections and Juvenile Justice, would amend the crime of unlawful voluntary sexual relations (the "Romeo and Juliet" statute) to replace current penalty provisions with a penalty grid that would provide for varying penalties based on the ages of and difference in ages between the offender and victim.

HB 2739, as introduced by the House Committee on Corrections and Juvenile Justice, would amend the Kansas Offender Registration Act to remove provisions that currently allow some discretion to the court in imposing registration requirements on juvenile offenders who commit an act defined as a sexually violent crime for adults. The bill would instead require the same lifetime registration for juveniles that is currently required for adults who commit such crimes.

I would appreciate the Judicial Council's study of this legislation and the underlying topics of offenses involving voluntary sexual acts between minors and the registration of juveniles who commit sex offenses, including any recommendations regarding passage or amendment of the above legislation.

Please let me know if I can provide any further information or answer any questions regarding this request.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Russell Jennings", is written over a printed name and title.

Representative J. Russell Jennings  
Chairman, House Committee on Corrections and Juvenile Justice

STATE OF KANSAS  
HOUSE OF REPRESENTATIVES



DISTRICT ADDRESS  
101 W. SECOND ST.  
OTTAWA, KANSAS 66067

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COMMITTEE ASSIGNMENTS  
CHAIRMAN: JUDICIARY  
RULES & JOURNAL  
MEMBER: CORRECTIONS & JUVENILE JUSTICE  
ENERGY, UTILITIES &  
TELECOMMUNICATIONS

BLAINE FINCH  
59TH DISTRICT

May 10, 2018

Nancy Strouse, Executive Director  
Kansas Judicial Council  
301 SW 10<sup>th</sup> Avenue  
Topeka, Kansas 66612

Dear Nancy:

I understand my colleague, Rep. Jennings, has requested Judicial Council study of topics related to juvenile sex offenses raised by HB 2738 and HB 2739.

During this biennium, the House Committee on Judiciary has also been presented with several bills regarding sex offenses. The latest of these bills was

**SB 265 – Clarifying what conduct is excluded from the crime of incest**

SB 265 was introduced at the request of the Office of the Attorney General and would have amended the crime of incest to specify the phrase "otherwise lawful sexual intercourse or sodomy" does not include the crimes of rape or aggravated criminal sodomy, as defined in the Kansas Criminal Code. In testimony before the House and Senate Committees on Judiciary, a representative of the Attorney General's Office explained the bill was intended to address the recent Kansas Court of Appeals decision in *State v. Toothman*.

The issues raised by SB 265, HB 2738, HB 2739, and other legislation introduced during this biennium suggest that a more comprehensive look at the Kansas Criminal Code's sex offense structure and related registration requirements may be in order to ensure these statutes have been updated and otherwise amended to address recent caselaw and practical application issues such as those underlying the bills listed above. Thus, I am writing to request the Judicial Council consider undertaking a study that broadens Rep. Jennings's request and considers amendments to Kansas' sex offense statutes and related registration requirements, for both juveniles and adults, to address issues raised by recent caselaw, technological advancements and other practical application issues, and possible implementation of best practices undertaken in other states regarding sex offense policy.

Please let me know if I can provide any further information or answer any questions regarding this request.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Blaine Finch', written in dark ink.

Representative Blaine Finch  
Chairman, House Committee on Judiciary

STATE OF KANSAS  
HOUSE OF REPRESENTATIVES

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J. RUSSELL JENNINGS  
122ND DISTRICT

February 5, 2019

Nancy Strouse, Executive Director  
Kansas Judicial Council  
301 SW 10<sup>th</sup> Avenue  
Topeka, Kansas 66612

Dear Nancy:

Last year, Representative Blaine Finch and I requested Judicial Council study of topics that arose during consideration of bills regarding juvenile sex offenses, registration requirements for juvenile sex offenses, and adult sex offenses. The Judicial Council accepted these requests and assigned the topics for study to an advisory committee whose work is ongoing.

As a member of the advisory committee and as chair of the House Committee on Corrections and Juvenile Justice, it has come to my attention that there are matters relating to registration of drug offenders and violent offenders that overlap with the previous topics assigned to the advisory committee and would benefit from the advisory committee's consideration. Study of such matters also would assist the Legislature's consideration of legislation such as HB 2051, introduced by the House Committee on Corrections and Juvenile Justice earlier this year, which would remove drug offenders from offender registration requirements.

Thus, I would appreciate the Judicial Council's expansion of the scope of study by the Sex Offenses and Registration Advisory Committee to include the topics of registration of drug offenders and violent offenders.

Please let me know if I can provide any further information or answer any questions regarding this request.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Russell Jennings".

Representative J. Russell Jennings  
Chairman, House Committee on Corrections and Juvenile Justice

cc: Hon. Ben Sexton, chair, Advisory Committee on Sex Offenders and Registration  
Christy Molzen, staff attorney, Kansas Judicial Council

Case No. \_\_\_\_\_

**OFFENDER REGISTRATION SUPPLEMENT – K.S.A. 22-4901 et seq.**  
 (If applicable, complete both pages and attach to the Journal Entry.)

(PAGE 1 of 2)

**SECTION A. REGISTRATION REQUIREMENT - Check appropriate boxes to indicate the REASON for registration.**  
 See K.S.A. 22-4902(a)

 Offender required by court order to register for an offense not otherwise required as provided by the Kansas Offender Registration Act

\_\_\_\_\_ Enter age of victim (K.S.A. 22-4904(a)(2))

 Offender required to register due to **SEX OFFENDER** status as indicated by any of the following:

**Conviction of any of the following crimes:**

- Sexual Battery – K.S.A. 21-5505(a)  
 Any conviction for any comparable offense  
 Any attempt, conspiracy or criminal solicitation of a comparable crime

**Conviction of any of the following crimes when one of the parties involved is under 18 years of age:**

- |   |   |
|---|---|
| <input type="checkbox"/> Adultery – K.S.A. 21-5511  | <input type="checkbox"/> Criminal Sodomy - K.S.A. 21-5504(a)      |
| <input type="checkbox"/> Promoting Prostitution – K.S.A. 21-6420  | <input type="checkbox"/> Buying Sexual Relations – K.S.A. 21-6421 |
| <input type="checkbox"/> Lewd and Lascivious Behavior – K.S.A. 21-5513  | <input type="checkbox"/> Conviction for any comparable offense    |
| <input type="checkbox"/> Any attempt, conspiracy or criminal solicitation of an offense defined in this section |   |

**Conviction of any of the following sexually violent crimes or adjudication as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime, UNLESS the court finds on the record that the act involved non-forcible sexual conduct, the victim was at least 14 and the offender not more than 4 years older than victim:**

- |  |   |
|--|---|
| <input type="checkbox"/> Indecent Liberties With a Child – K.S.A. 21-5506(a)   | <input type="checkbox"/> Criminal Sodomy – K.S.A. 21-5504(a)(3),(a)(4)              |
| <input type="checkbox"/> Rape – K.S.A. 21-5503   | <input type="checkbox"/> Indecent Solicitation of a Child – K.S.A. 21-5508          |
| <input type="checkbox"/> Agg. Indecent Liberties With a Child – K.S.A. 21-5506(b)  | <input type="checkbox"/> Sexual Exploitation of a Child – K.S.A. 21-5510            |
| <input type="checkbox"/> Agg. Criminal Sodomy – K.S.A. 21-5504(b)  | <input type="checkbox"/> Commercial Sexual Exploitation of a Child – K.S.A. 21-6422 |
| <input type="checkbox"/> Agg. Indecent Solicitation of a Child – K.S.A. 21-5508(b)   | <input type="checkbox"/> Agg. Incest – K.S.A. 21-5604(b)(1)                         |
| <input type="checkbox"/> Agg. Sexual Battery – K.S.A. 21-5505(b)   | <input type="checkbox"/> Unlawful Sexual Relations - K.S.A. 21-5512                 |
| <input type="checkbox"/> Electronic Solicitation – K.S.A. 21-5509  | <input type="checkbox"/> Promoting the Sale of Sexual Relations - K.S.A. 21-6420    |
| <input type="checkbox"/> Agg. Human Trafficking, if committed in whole or in part for the purpose of sexual gratification of the defendant or another - K.S.A. 21-5426(b)  |   |
| <input type="checkbox"/> Any conviction for any comparable offense   |   |
| <input type="checkbox"/> Any attempt, conspiracy or criminal solicitation of a sexually violent crime  |   |
| <input type="checkbox"/> Any act determined beyond a reasonable doubt to have been sexually motivated AND the act did <u>not</u> involve non-forcible sexual conduct between a victim at least 14 and offender no more than 4 years older than victim – K.S.A. 22-4902 (c)(15) |   |

 Offender required to register due to **VIOLENT OFFENDER** status (Indicated by conviction of any of the following crimes):

- |   |   |
|---|---|
| <input type="checkbox"/> Capital Murder – K.S.A. 21-5401  | <input type="checkbox"/> Murder in the First Degree – K.S.A. 21-5402  |
| <input type="checkbox"/> Murder in the Second Degree - K.S.A. 21-5403   | <input type="checkbox"/> Voluntary Manslaughter - K.S.A. 21-5404      |
| <input type="checkbox"/> Involuntary Manslaughter - K.S.A. 21-5405(a)(1), (a)(2) or (a)(4)  | <input type="checkbox"/> Kidnapping - K.S.A. 21-5408(a)               |
| <input type="checkbox"/> Agg. Kidnapping - K.S.A. 21-5408(b)  | <input type="checkbox"/> Criminal Restraint - K.S.A. 21-5411          |
| <input type="checkbox"/> Agg. Human Trafficking, if not committed in whole or in part for the purpose of sexual gratification of the defendant or another – K.S.A. 21-5426(b) | (except by parent, and only when victim is less than 18 years of age) |
| <input type="checkbox"/> Any conviction for any comparable offense  |   |
| <input type="checkbox"/> Any out of state conviction for an offense that under the laws of Kansas would be an offense listed in this section                                  |   |
| <input type="checkbox"/> Any attempt, conspiracy or criminal solicitation of an offense defined in this section   |   |
| <input type="checkbox"/> Any person felony with court finding on the record that such felony was committed with a <b>DEADLY WEAPON</b> (On or after July 1, 2006)             |   |
| <input type="checkbox"/> Any conviction for any comparable person felony, committed with a <b>DEADLY WEAPON</b>   |   |
| <input type="checkbox"/> Any attempt, conspiracy or criminal solicitation of a person felony committed with a <b>DEADLY WEAPON</b>  |   |

 Offender required to register due to **DRUG OFFENDER** status (Indicated by conviction of any of the following crimes):

- Manufacture** or attempted manufacture of any controlled substance – K.S.A. 21-5703  
 **Possession of precursors** with intent to manufacture any controlled substance – K.S.A. 21-5709(a)  
 **Cultivation, Distribution, Possession** with intent to distribute opiates, opium or narcotic drugs or any stimulant in K.S.A. 65-4107(d)(1), (d)(3), or (f)(1) – K.S.A. 21-5705(a)(1), **ONLY**  
 Any conviction for any comparable offense  
 Any attempt, conspiracy or criminal solicitation of an offense defined in this section

Case No. \_\_\_\_\_

**OFFENDER REGISTRATION SUPPLEMENT CONT. – K.S.A. 22-4901 et seq.**

**(PAGE 2 of 2)**

**SECTION B. REGISTRATION TERMS - check appropriate boxes indicating REQUIRED TERM of registration  
See K.S.A. 22-4906**

**Offender must register for 15 YEARS after the date of parole, discharge or release, whichever date is most recent, or, if offender is not confined, 15 YEARS from the date of conviction due to conviction of any of the following crimes:**

- Capital Murder - K.S.A. 21-5401
- Murder in the Second Degree – K.S.A. 21-5403
- Involuntary Manslaughter – K.S.A. 21-5405(a)(1), (a)(2) or (a)(4)
- Promoting the Sale of Sexual Relations - K.S.A. 21-6420
- Criminal Restraint – K.S.A. 21-5411 (except by parent, and only when victim is less than 18 years of age)
- Any act determined beyond a reasonable doubt to have been sexually motivated AND the act did not involve non-forcible sexual conduct between a victim at least 14 and offender no more than 4 years older than victim – K.S.A. 22-4902(a)(15)
- Any conviction of a person felony w/ court finding on the record that such felony was committed with a **DEADLY WEAPON-** K.S.A. 22-4902(e)(2)
- An offense not otherwise required, as provided by the Kansas Offender Registration Act, K.S.A. 22-4902(a)(5)
- Manufacture** or attempted manufacture of any controlled substance – K.S.A. 21-5703
- Possession of precursors** with intent to manufacture any controlled substance – K.S.A. 21-5709(a)
- Cultivation, Distribution, Possession** with intent to distribute opiates, opium or narcotic drugs or any stimulant in K.S.A. 65-4107(d)(1), (d)(3), or (f)(1) K.S.A. 21-5705(a)(1) **ONLY**
- Any of the following crimes when one of the parties is less than 18 years of age:
  - Adultery - K.S.A. 21-5511
  - Lewd and Lascivious Behavior – K.S.A. 21-5513
  - Buying Sexual Relations – K.S.A. 21-6421
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section

**Offender must register for 25 YEARS after the date of parole, discharge or release, whichever date is most recent, or, if offender is not confined, 25 YEARS from the date of conviction due to conviction of any of the following crimes:**

- Indecent Solicitation of a Child – K.S.A. 21-5508
- Agg. Incest – K.S.A. 21-5604(b)(1)
- Unlawful Sexual Relations – K.S.A. 21-5512
- Sexual Exploitation of a Child – K.S.A. 21-5510, if the victim is at least 14 years of age but less than 18 years of age
- Promoting Prostitution – K.S.A. 21-6420, if the victim is at least 14 years of age but less than 18 years of age
- Criminal Sodomy - K.S.A. 21-5504(a) when one of the parties involved is less than 18 years of age
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section

**Offender is subject to LIFETIME registration due to any of the following:**

- 2<sup>nd</sup> or Subsequent conviction of an offense requiring registration
- Conviction of any of the following crimes:
  - Rape – K.S.A. 21-5503
  - Agg. Kidnapping – K.S.A. 21-5408(b)
  - Kidnapping – K.S.A. 21-5408(a)
  - Agg. Criminal Sodomy – K.S.A. 21-5504(b)
  - Criminal Sodomy – K.S.A. 21-5504(a)(3) or (a)(4)
  - Agg. Indecent Liberties With a Child – K.S.A. 21-5506(b)
  - Agg. Indecent Solicitation of a Child – K.S.A. 21-5508(b)
  - Agg. Human Trafficking – K.S.A. 21-5426(b)
  - Sexual Exploitation of a Child – K.S.A. 21-5510, if the victim is less than 14 years of age
  - Commercial Sexual Exploitation of a Child – K.S.A. 21-6422
  - Promoting Prostitution – K.S.A. 21-6420, if the victim is less than 14 years of age
  - Any attempt, conspiracy or criminal solicitation of an offense defined in this section

Duration determined by diversionary agreement, probation order or juvenile sentencing order: \_\_\_\_\_ years \_\_\_\_\_ months (K.S.A. 22-4906(i))

HOUSE BILL NO. \_\_\_\_

AN ACT concerning the Kansas offender registration act; relating to relief from registration requirements; amending K.S.A. 74-7335 and K.S.A. 2019 Supp. 21-6614 and 22-4908 and repealing the existing sections.

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

Section 1. K.S.A. 2019 Supp. 21-6614 is hereby amended to read as follows: 21-6614.

(a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, any nongrid felony or felony ranked in severity levels 6 through 10 of the nondrug grid, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity level 5 of the drug grid may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b), (c), (d), (e) and (f), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Any person convicted of prostitution, as defined in K.S.A. 21-3512, prior to its repeal, convicted of a violation of K.S.A. 2019 Supp. 21-6419, and amendments thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may

petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

(1) One or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; and

(2) such person can prove they were acting under coercion caused by the act of another. For purposes of this subsection, "coercion" means: Threats of harm or physical restraint against any person; a scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in bodily harm or physical restraint against any person; or the abuse or threatened abuse of the legal process.

(c) Except as provided in subsections (e) and (f), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any felony ranked in severity levels 1 through 5 of the nondrug grid, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity levels 1 through 4 of the drug grid, or:

(1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its repeal, or K.S.A.

2019 Supp. 21-5406, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(4) violating the provisions of K.S.A. 8-142 *Fifth*, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(5) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(6) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1603, prior to its repeal, or K.S.A. 8-1602 or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes;

(7) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(8) a violation of K.S.A. 21-3405b, prior to its repeal.

(d) (1) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was

discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a first violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation.

(2) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a second or subsequent violation of K.S.A. 8-1567, and amendments thereto.

(3) Except as provided further, the provisions of this subsection shall apply to all violations committed on or after July 1, 2006. The provisions of subsection (d)(2) shall not apply to violations committed on or after July 1, 2014, but prior to July 1, 2015.

(e) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2019 Supp. 21-5503, and amendments thereto;

(2) indecent liberties with a child or aggravated indecent liberties with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal, or K.S.A. 2019 Supp. 21-5506, and amendments thereto;

(3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2019 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;

(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2019 Supp. 21-5504, and amendments thereto;

(5) indecent solicitation of a child or aggravated indecent solicitation of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2019 Supp. 21-5508, and amendments thereto;

(6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2019 Supp. 21-5510, and amendments thereto;

(7) internet trading in child pornography or aggravated internet trading in child pornography, as defined in K.S.A. 2019 Supp. 21-5514, and amendments thereto;

(8) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2019 Supp. 21-5604, and amendments thereto;

(9) endangering a child or aggravated endangering a child, as defined in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2019 Supp. 21-5601, and amendments thereto;

(10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 2019 Supp. 21-5602, and amendments thereto;

(11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2019 Supp. 21-5401, and amendments thereto;

(12) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2019 Supp. 21-5402, and amendments thereto;

(13) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2019 Supp. 21-5403, and amendments thereto;

(14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2019 Supp. 21-5404, and amendments thereto;

(15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or

K.S.A. 2019 Supp. 21-5405, and amendments thereto;

(16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2019 Supp. 21-5505, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2019 Supp. 21-5505, and amendments thereto;

(18) a violation of K.S.A. 8-2,144, and amendments thereto, including any diversion for such violation; or

(19) any conviction for any offense in effect at any time prior to July 1, 2011, that is comparable to any offense as provided in this subsection.

(f) ~~Notwithstanding any other law to the contrary, Except as provided in K.S.A. 22-4908, and amendments thereto,~~ for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(g) (1) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecutor and the arresting law enforcement agency. The petition shall state the:

(A) Defendant's full name;

(B) full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

(C) defendant's sex, race and date of birth;

- (D) crime for which the defendant was arrested, convicted or diverted;
- (E) date of the defendant's arrest, conviction or diversion; and
- (F) identity of the convicting court, arresting law enforcement authority or diverting authority.

(2) Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$176. On and after July 1, 2019, through June 30, 2025, the supreme court may impose a charge, not to exceed \$19 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

(3) All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the prisoner review board.

(h) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

(i) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. If the case was appealed from municipal court, the clerk of the district court shall send a certified copy of the order of expungement to the municipal court. The municipal court shall order the case expunged once the certified copy of the order of expungement is received. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing and gaming commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

(F) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(G) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(H) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(I) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-12a102, and amendments thereto;

(J) in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;

(K) to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto; or

(L) to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09 and K.S.A. 2019 Supp. 50-6,141, and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(j) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

(k) (1) Subject to the disclosures required pursuant to subsection (i), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute

may state that such person has never been arrested, convicted or diverted of such crime.

(2) Notwithstanding the provisions of subsection (k)(1), and except as provided in K.S.A. 2019 Supp. 21-6304(a)(3)(A), and amendments thereto, the expungement of a prior felony conviction does not relieve the individual of complying with any state or federal law relating to the use, shipment, transportation, receipt or possession of firearms by persons previously convicted of a felony.

(1) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecutor, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective

managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the Kansas sentencing commission;

(12) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(13) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(14) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto;

(16) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to:

(A) Carry a concealed weapon pursuant to the personal and family protection act; or

(B) act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09 and K.S.A. 2019 Supp. 50-6,141, and amendments thereto; or

(17) the Kansas bureau of investigation for the purposes of:

(A) Completing a person's criminal history record information within the central repository, in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(m) The provisions of subsection (l)(17) shall apply to records created prior to, on and after July 1, 2011.

Sec. 2. K.S.A. 2019 Supp. 22-4908 is hereby amended to read as follows: 22-4908. ~~No person required to register as an offender pursuant to the Kansas offender registration act shall be granted an order relieving the offender of further registration under this act. This section shall include any person with any out-of-state conviction or adjudication for an offense that would require registration under the laws of this state~~ (a) Except as provided in subsections (b), (c) and (d), any offender who is required to register under the Kansas offender registration act, K.S.A. 55-4901 et seq., and amendments thereto, may file a verified petition for relief from registration requirements if:

(1) For an offender who is required to register for 15 years, the offender has registered for a period of at least five years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, five years from the date of conviction;

(2) for an offender who is required to register for 25 years, the offender has registered

for a period of at least 10 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 10 years from the date of conviction; or

(3) for an offender who is required to register for life, the offender has registered for a period of at least 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the date of conviction.

(b) Any of the following offenders required to register under the Kansas offender registration act, may file a verified petition for relief from registration requirements if the offender has registered for a period of at least 10 years after the date of parole, discharge or release, which date is most recent, or, if not confined, 10 years from the date of conviction:

(1) An offender who was convicted of an offense prior to July 1, 2011, that, at the time of conviction, did not require such offender to register under the Kansas offender registration act, but is now required to register because of the retroactive application of section 6 of chapter 95 of the 2011 Session Laws of Kansas; and

(2) an offender who was originally required to register under the Kansas offender registration act for 10 years for an offense committed prior to July 1, 2011, but is now required to register for a longer period because of the retroactive application of section 6 of chapter 95 of the 2011 Session Laws of Kansas.

(c) An offender who is required to register pursuant to K.S.A. 22-4906(k), and amendments thereto, because of an out-of-state conviction may not petition for relief from registration requirements in this state if the offender would be required to register under the law of the state or jurisdiction where the conviction occurred. If the offender would no longer be required to register under the law of the state or jurisdiction where the conviction occurred, such

offender may filed a verified petition pursuant to subsection (a) or (b).

(d) An offender who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall not petition for relief from registration requirements under the Kansas offender registration act, and amendments thereto, pursuant to this section.

(e) Any period of time during which an offender is incarcerated in any jail or correctional facility or during which the offender does not substantially comply with the requirements of the Kansas offender registration act, and amendments thereto, shall not count toward the duration of registration required in subsection (a) or (b).

(f) (1) A verified petition for relief from registration requirements shall be filed in the district court in the county where the offender was convicted of the offense requiring registration. If the offender was not convicted of the offense requiring registration in this state, such petition shall be filed in the district court of any county where the offender is currently required to register. The docket fee shall be as provided in K.S.A. 60-2001, and amendments thereto.

(2) The petition shall include:

(A) The offender's full name;

(B) the offender's full name at the time of conviction for the offense or offenses requiring registration, if different than the offender's current name;

(C) the offender's sex, race and date of birth;

(D) the offense or offenses requiring registration;

(E) the date of conviction for the offense or offenses requiring registration;

(F) the court in which the offender was convicted of the offense or offenses requiring

registration;

(G) whether the offender has been arrested, convicted or entered into a diversion agreement for any crime during the period the offender is required to register; and

(H) the names of all treatment providers and agencies that have treated the offender for mental health, substance abuse and offense related behavior since the date of the offense or offenses requiring registration.

(3) The judicial council shall develop a petition form for use under this section.

(4) When a petition is filed, the court shall set a date for a hearing on such petition and cause notice of the hearing to be given to the county or district attorney in the county where the petition is filed. Any person who may have relevant information about the offender may testify at the hearing.

(5) The county or district attorney shall notify any victim of the offense requiring registration who is alive and whose address is known or, if the victim is deceased, the victim's family if the family's address is known. The victim or victim's family shall not be compelled to testify or provide any discovery to the offender.

(6) The county or district attorney shall have access to all applicable records, including records that are otherwise confidential or privileged.

(g) (1) The court shall order any petitioning offender is who required to register for life, except for an offender required to register for life solely because of a second offense requiring registration pursuant to K.S.A. 22-4906(c), and amendments thereto to undergo a risk assessment. The court may require any other offender who is petitioning for relief under this section to undergo a risk assessment.

(2) Any risk assessment ordered under this subsection shall be performed by a professional agreed upon by the parties or a professional approved by the court. Such risk assessment shall be performed at the offender's expense.

(h) The court shall order relief from registration requirements if the offender shows by clear and convincing evidence that:

(1) The offender has not been convicted of a felony, other than a felony violation or aggravated felony violation of K.S.A. 22-4903, and amendments thereto, within the five years immediately preceding the filing of the petition, and no proceedings involving any such felony are presently pending or being instituted against the offender;

(2) the offender's circumstances, behavior and treatment history demonstrate that the offender is sufficiently rehabilitated to warrant relief; and

(3) registration of the offender is no longer necessary to promote public safety.

(i) If the court denies an offender's petition for relief, the offender shall not file another petition for relief until three years have elapsed unless a shorter time period is ordered by the court.

(j) If the court grants relief from registration requirements, it shall order that the offender be removed from the offender registry and that the offender is no longer required to comply with registration requirements. The court shall notify the Kansas bureau of investigation and any local law enforcement agency that registers the offender within 14 days of any order that grants an offender relief from registration requirements. The Kansas bureau of investigation shall remove such offender from any internet website maintained pursuant to K.S.A. 22-4909, and amendments thereto.

(k) An offender may combine a petition for relief under this section with a petition for expungement under K.S.A. 2019 Supp. 21-6614, and amendments thereto, if the offense requiring registration is otherwise eligible for expungement.

Sec. 3. K.S.A. 74-7335 is hereby amended to read as follows: 74-7335. (a) The victim of a crime or the victim's family shall be notified of the right to be present at any public hearing or any juvenile offender proceeding concerning the accused or the convicted person or the respondent or the juvenile offender.

(b) The victim of a crime or the victim's family shall be notified of the right to be present at any proceeding or hearing where probation or parole is considered or granted by a judge whether or not a public hearing is conducted or required.

(c) As used in this section: (1) "Public hearing" means any court proceeding or administrative hearing which is open to the public and shall include but not be limited to the:

- (A) Preliminary hearing;
- (B) trial;
- (C) sentencing;
- (D) sentencing modification;
- (E) public comment sessions, pursuant to K.S.A. 22-3717, and amendments thereto;
- (F) expungement hearing; ~~and~~
- (G) granting of probation or parole by a judge; and
- (H) determination regarding registration under the Kansas offender registration act.

K.S.A. 22-4901 et seq., and amendments thereto.

(2) "Victim's family" means a spouse, surviving spouse, children, parents, legal

guardian, siblings, stepparent or grandparents.

(3) "Juvenile offender proceedings" means any hearing concerning a juvenile pursuant to the revised Kansas juvenile justice code.

(d) The city, county or district attorney or municipal court clerk shall notify any victim of the crime who is alive and whose address is known to the city, county or district attorney or municipal court clerk or, if the victim is deceased, to the victim's family if the family's address is known to such attorney or clerk.

(e) Costs of transportation for the victim to appear shall be borne by the victim unless the appearance is required pursuant to a subpoena or other order of the court.

Sec. 4. K.S.A. 74-7335 and K.S.A. 2019 Supp. 21-6614 and 22-4908 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

## Juvenile registration repeal bill draft

HOUSE BILL NO. \_\_\_\_

AN ACT concerning the Kansas offender registration act; relating to juvenile registration; prohibiting juvenile offenders from being required to register; amending K.S.A. 2019 Supp. 22-4902, 22-4903, 22-4904, 22-4906, 22-4907, 22-4908 and 22-4909 and repealing the existing sections.

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

Section 1. K.S.A. 2019 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. 2019 Supp. 21-5511, and amendments thereto;

(B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its repeal, or K.S.A. 2019 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. 2019 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. 2019 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. 2019 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 K.S.A. 2019 Supp. 21-5505(a), 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. 2019 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. 2019 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 K.S.A. 2019 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 K.S.A. 2019 Supp. 21-5506(b), and amendments thereto;
- (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2019 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 K.S.A. 2019 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 K.S.A. 2019 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 K.S.A. 2019 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. 2019 Supp. 21-5510, and amendments thereto;
- (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2019 Supp. 21-5505(b), and amendments thereto;
- (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2019 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. 2019 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. 2019 Supp. 21-5512, and amendments thereto;

(13) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2019 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. 2019 Supp. 21-6422, and amendments thereto;

(15) promoting the sale of sexual relations, as defined in K.S.A. 2019 Supp. 21-6420, and amendments thereto;

(16) 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;

(17) any out-of-state juvenile adjudication for an offense that requires registration under the laws of that state;

~~(17)~~(18) 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. 2019 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this subsection; or

~~(18)~~(19) 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. 2019 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. 2019 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. 2019 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. 2019 Supp. 21-5404, and amendments thereto;

(E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2019 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto. The provisions of this paragraph shall not apply to violations of K.S.A. 2019 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 K.S.A. 2019 Supp. 21-5408(a), and amendments thereto;

(G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or K.S.A.

2019 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. 2019 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 K.S.A. 2019 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. 2019 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. 2019 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 K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2019 Supp. 21-5709(a), and amendments thereto;

(C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or K.S.A. 2019 Supp. 21-5705(a)(1), and amendments thereto. The provisions of this paragraph shall not apply to violations 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. 2019 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 K.S.A. 2019 Supp. 21-5611(a), and amendments thereto, aggravated unlawful transmission of a visual depiction of a child, as defined in K.S.A. 2019 Supp. 21-5611(b), and amendments thereto, or unlawful possession of a visual depiction of a child, as defined in K.S.A. 2019 Supp. 21-5610, 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).

Sec. 2. K.S.A. 2019 Supp. 22-4903 is hereby amended to read as follows: 22-4903. (a) Violation of the Kansas offender registration act is the failure by an offender, as defined in K.S.A. 22-4902, and amendments thereto, to comply with any and all provisions of such act, including any and all duties set forth in K.S.A. 22-4905 through 22-4907, and amendments thereto. Any violation of the Kansas offender registration act which continues for more than 30 consecutive days shall, upon the 31<sup>st</sup> consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate offense every 30 days thereafter for as long as the violation continues.

(b) Aggravated violation of the Kansas offender registration act is violation of the Kansas offender registration act which continues for more than 180 consecutive days. Any aggravated violation of the Kansas offender registration act which continues for more than 180 consecutive days shall, upon the 181<sup>st</sup> consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate violation of the Kansas offender registration act every 30 days thereafter, or a new and separate aggravated violation of the Kansas offender registration act every 180 days thereafter, for as long as the violation continues.

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

- (A) Upon a first conviction, a severity level 6 felony;
- (B) upon a second conviction, a severity level 5 felony; and
- (C) upon a third or subsequent conviction, a severity level 3 felony.

Such violation shall be designated as a person or nonperson crime in accordance with the designation assigned to the underlying crime for which the offender is required to be registered

under the Kansas offender registration act. If the offender is required to be registered under both a person and nonperson underlying crime, the violation shall be designated as a person crime.

(2) Except as provided in subsection (c)(3), aggravated violation of the Kansas offender registration act is a severity level 3 felony.

Such violation shall be designated as a person or nonperson crime in accordance with the designation assigned to the underlying crime for which the offender is required to be registered under the Kansas offender registration act. If the offender is required to be registered under both a person and nonperson underlying crime, the violation shall be designated as a person crime.

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

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

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

Such violation shall be designated as a person or nonperson crime in accordance with the designation assigned to the underlying crime for which the offender is required to be registered under the Kansas offender registration act. If the offender is required to be registered under both a person and nonperson underlying crime, the violation shall be designated as a person crime.

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

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

(2) in any county in which the offender is required to be registered under the Kansas

offender registration act;

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

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

Sec. 3. K.S.A. 2019 Supp. 22-4904 is hereby amended to read as follows: 22-4904. (a)

(1) At the time of conviction~~—or adjudication~~ for an offense requiring registration as provided in K.S.A. 22-4902, and amendments thereto, the court shall:

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

(B) if the offender is released:

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

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

(iii) order the offender to report within three business days to the registering law enforcement agency in the county or tribal land of conviction~~—or adjudication~~ and to the registering law enforcement agency in any place where the offender resides, maintains employment or attends school, to complete the registration form with all information and any

updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto; and

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

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

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

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

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

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

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

(C) require the offender to read and sign the registration form, which shall include a

statement that the requirements provided in this subsection have been explained to the offender;

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

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

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

(3) prior to any offender being discharged, paroled, furloughed or released on work or school release that does not require the daily return to a correctional facility:

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

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

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

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

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

(F) provide one copy of the form to the offender and, within three business days, send a copy of the form and of the photograph or photographs to the law enforcement agency having

initial jurisdiction and to the Kansas bureau of investigation; and

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

(c) The staff of any treatment facility shall:

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

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

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

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

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

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

(B) obtain the information required for registration as provided in K.S.A. 22-4907, and amendments thereto; and

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

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

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

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

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

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

(8) enter all offender information required by the national crime information center into the national sex offender registry system within three business days of completing the registration or electronically submit all information and updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto, within three business days

to the Kansas bureau of investigation;

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

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

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

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

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

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

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

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

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

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

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

(i) Upon request, the clerk of any court of record shall provide the Kansas bureau of

investigation copies of complaints, indictments, information, journal entries, commitment orders or any other documents necessary to the performance of the duties of the Kansas bureau of investigation under the Kansas offender registration act. No fees or charges for providing such documents may be assessed.

Sec. 4. K.S.A. 2019 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a)

(1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:

(A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2019 Supp. 21-5505(a), and amendments thereto;

(B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2019 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;

(C) promoting the sale of sexual relations, as defined in K.S.A. 2019 Supp. 21-6420, and amendments thereto;

(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2019 Supp. 21-6421, prior to its amendment by section 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, when one of the parties involved is less than 18 years of age;

(E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2019 Supp. 21-5513, and amendments thereto, when one of the parties involved is less than 18 years of age;

(F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2019

Supp. 21-5401, and amendments thereto;

(G) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2019 Supp. 21-5402, and amendments thereto;

(H) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2019 Supp. 21-5403, and amendments thereto;

(I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2019 Supp. 21-5404, and amendments thereto;

(J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2019 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto;

(K) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2019 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age;

(L) 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;

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

(N) conviction 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;

(O) 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. 2019 Supp. 21-5703, and amendments thereto;

(P) 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 by K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2019 Supp. 21-5709(a), and amendments thereto;

(Q) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or K.S.A. 2019 Supp. 21-5705(a)(1), and amendments thereto; or

(R) any 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. 2019 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

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

(b) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the date of conviction:

(A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its repeal, or K.S.A. 2019 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto, when one of the parties involved is

less than 18 years of age;

(B) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2019 Supp. 21-5508(a), and amendments thereto;

(C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, or K.S.A. 2019 Supp. 21-5509, and amendments thereto;

(D) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2019 Supp. 21-5604(b), and amendments thereto;

(E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2019 Supp. 21-5506(a), and amendments thereto;

(F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2019 Supp. 21-5512, and amendments thereto;

(G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2019 Supp. 21-5510, and amendments thereto, if the victim is 14 or more years of age but less than 18 years of age;

(H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2019 Supp. 21-5505(b), and amendments thereto;

(I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2019 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is 14 or more years of age but less than 18 years of age; or

(J) any 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. 2019 Supp. 21-5301, 21-5302 and 21-5303, and

amendments thereto, of an offense defined in this subsection.

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

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

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

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2019 Supp. 21-5503, and amendments thereto;

(2) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2019 Supp. 21-5508(b), and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2019 Supp. 21-5506(b), and amendments thereto;

(4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2019 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 K.S.A. 2019 Supp. 21-5504(b), and amendments thereto;

(6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2019 Supp. 21-5426(b), and amendments thereto;

(7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2019 Supp. 21-5510, and amendments thereto, if the victim is less than 14 years of age;

(8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2019 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is less than 14 years of age;

(9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or K.S.A. 2019 Supp. 21-5408(a), and amendments thereto;

(10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or K.S.A. 2019 Supp. 21-5408(b), and amendments thereto;

(11) commercial sexual exploitation of a child, as defined in K.S.A. 2019 Supp. 21-6422, and amendments thereto; or

(12) any 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. 2019 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(e) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

~~(f) Notwithstanding any other provisions of this section, for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, the court shall:~~

~~(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement,~~

~~whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;~~

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

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

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

~~(g) Notwithstanding any other provisions of this section, for an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(e), and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2019 Supp. 21-6804, and amendments thereto, the court shall:~~

~~(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement,~~

~~whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;~~

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

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

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

~~(h) Notwithstanding any other provisions of this section, an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(e), and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2019 Supp. 21-6804, and amendments thereto, shall be required to register for such offender's lifetime.~~

~~(i) Notwithstanding any other provision of law, if a an adult diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires~~

registration under the Kansas offender registration act for an offense that would not otherwise require registration as provided in K.S.A. 22-4902(a)(5), and amendments thereto, then all provisions of the Kansas offender registration act shall apply, except that the duration of registration shall be controlled by such diversionary agreement, or probation order ~~or juvenile offender sentencing order~~.

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

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

(i) For any person moving to Kansas who has been adjudicated as a juvenile in an out-of-state court and who was required to register under an out-of-state law, the duration of registration shall be the length of time required by the out-of-state jurisdiction.

~~(H)~~(j) For any person residing, maintaining employment or attending school in this state who has been convicted ~~or adjudicated~~ by an out-of-state court of an offense that is comparable to any crime requiring registration pursuant to the Kansas offender registration act, but who was not required to register in the jurisdiction of conviction ~~or adjudication~~, the duration of

registration shall be the duration required for the comparable offense pursuant to the Kansas offender registration act.

Sec. 5. K.S.A. 2019 Supp. 22-4907 is hereby amended to read as follows: 22-4907. (a) Registration as required by the Kansas offender registration act shall consist of a form approved by the Kansas bureau of investigation, which shall include a statement that the requirements provided in this section have been reviewed and explained to the offender, and shall be signed by the offender and, except when such reporting is conducted by certified letter as provided in ~~subsection (b) of~~ K.S.A. 22-4905(b), and amendments thereto, witnessed by the person registering the offender. Such registration form shall include the following offender information:

- (1) Name and all alias names;
- (2) date and city, state and country of birth, and any alias dates or places of birth;
- (3) title and statute number of each offense or offenses committed, date of each conviction ~~or adjudication~~ and court case numbers for each conviction ~~or adjudication~~;
- (4) city, county, state or country of conviction ~~or adjudication~~;
- (5) sex and date of birth or purported age of each victim of all offenses requiring registration;
- (6) current residential address, any anticipated future residence and any temporary lodging information including, but not limited to, address, telephone number and dates of travel for any place in which the offender is staying for seven or more days; and, if transient, the locations where the offender has stayed and frequented since last reporting for registration;
- (7) all telephone numbers at which the offender may be contacted including, but not limited to, all mobile telephone numbers;

(8) social security number, and all alias social security numbers;

(9) identifying characteristics such as race, ethnicity, skin tone, sex, age, height, weight, hair and eye color, scars, tattoos and blood type;

(10) occupation and name, address or addresses and telephone number of employer or employers, and name of any anticipated employer and place of employment;

(11) all current driver's licenses or identification cards, including a photocopy of all such driver's licenses or identification cards and their numbers, states of issuance and expiration dates;

(12) all vehicle information, including the license plate number, registration number and any other identifier and description of any vehicle owned or operated by the offender, or any vehicle the offender regularly drives, either for personal use or in the course of employment, and information concerning the location or locations such vehicle or vehicles are habitually parked or otherwise kept;

(13) license plate number, registration number or other identifier and description of any aircraft or watercraft owned or operated by the offender, and information concerning the location or locations such aircraft or watercraft are habitually parked, docked or otherwise kept;

(14) all professional licenses, designations and certifications;

(15) documentation of any treatment received for a mental abnormality or personality disorder of the offender; for purposes of documenting the treatment received, registering law enforcement agencies, correctional facility officials, treatment facility officials and courts may rely on information that is readily available to them from existing records and the offender;

(16) a photograph or photographs;

(17) fingerprints and palm prints;

(18) any and all schools and satellite schools attended or expected to be attended and the locations of attendance and telephone number;

(19) any and all: E-mail addresses; online identities used by the offender on the internet; information relating to membership in any and all personal web pages or online social networks; and internet screen names;

(20) all travel and immigration documents; and

(21) name and telephone number of the offender's probation, parole or community corrections officer.

(b) The offender shall provide biological samples for DNA analysis to the registering law enforcement agency as required by K.S.A. 21-2511, and amendments thereto. The biological samples shall be in the form using a DNA databank kit authorized by the Kansas bureau of investigation. The registering law enforcement agency shall forward such biological samples to the Kansas bureau of investigation. Prior to taking such sample, the registering law enforcement agency shall search the Kansas criminal justice information system to determine if such person's DNA profile is currently on file. If such person's DNA profile is on file with the Kansas bureau of investigation, the registering law enforcement agency is not required to take biological samples.

Sec. 6. K.S.A. 2019 Supp. 22-4908 is hereby amended to read as follows: 22-4908. No person required to register as an offender pursuant to the Kansas offender registration act shall be granted an order relieving the offender of further registration under this act. This section shall include any person with any out-of-state conviction ~~or adjudication~~ for an offense that would

require registration under the laws of this state.

Sec. 7. K.S.A. 2019 Supp. 22-4909 is hereby amended to read as follows: 22-4909. (a) Except as prohibited by subsections (c), (d), (e) and (f) of this section and subsections (f) and (g) of K.S.A. 22-4906, and amendments thereto, the statements or any other information required by the Kansas offender registration act shall be open to inspection by the public at the registering law enforcement agency, at the headquarters of the Kansas bureau of investigation and on any internet website sponsored or created by a registering law enforcement agency or the Kansas bureau of investigation that contains such statements or information, and specifically are subject to the provisions of the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

(b) Any information posted on an internet website sponsored or created by a registering law enforcement agency or the Kansas bureau of investigation shall identify, in a prominent manner, whether an offender is a sex offender, a violent offender or a drug offender. Such internet websites shall include the following information for each offender:

(1) Name of the offender, including any aliases;

(2) address of each residence at which the offender resides or will reside and, if the offender does not have any present or expected residence address, other information about where the offender has their home or habitually lives. If current information of this type is not available because the offender is in violation of the requirement to register or cannot be located, the website must so note;

(3) temporary lodging information;

(4) address of any place where the offender is a student or will be a student;

(5) license plate number and a description of any vehicle owned or operated by the

offender, including any aircraft or watercraft;

(6) physical description of the offender;

(7) the offense or offenses for which the offender is registered and any other offense for which the offender has been convicted ~~or adjudicated~~;

(8) a current photograph of the offender; and

(9) all professional licenses, designations and certifications.

(c) Notwithstanding subsection (a), information posted on an internet website sponsored or created by a registering law enforcement agency or the Kansas bureau of investigation shall not contain the address of any place where the offender is an employee or any other information about where the offender works. Such internet website shall contain a statement that employment information is publicly available and may be obtained by contacting the appropriate registering law enforcement agency or by signing up for community notification through the official website of the Kansas bureau of investigation.

(d) Notwithstanding subsection (a), pursuant to a court finding petitioned by the prosecutor, any offender who is required to register pursuant to the Kansas offender registration act, but has been provided a new identity and relocated under the federal witness security program or who has worked as a confidential informant, or is otherwise a protected witness, shall be required to register pursuant to the Kansas offender registration act, but shall not be subject to public registration.

(e) Notwithstanding subsection (a), when a court orders expungement of a conviction ~~or adjudication~~ that requires an offender to register pursuant to the Kansas offender registration act, the registration requirement for such conviction ~~or adjudication~~ does not terminate. Such

offender shall be required to continue registering pursuant to the Kansas offender registration act, but shall not be subject to public registration. If a court orders expungement of a conviction ~~or adjudication~~ that requires an offender to register pursuant to the Kansas offender registration act, and the offender has any other conviction ~~or adjudication~~ that requires registration, such offender shall be required to register pursuant to the Kansas offender registration act, and the registration for such other conviction ~~or adjudication~~ shall be open to inspection by the public and shall be subject to the provisions of subsection (a), ~~unless such registration has been ordered restricted pursuant to subsection (f) or (g) of K.S.A. 22-4906, and amendments thereto.~~

(f) Notwithstanding subsection (a), the following information shall not be disclosed other than to law enforcement agencies:

(1) The name, address, telephone number or any other information which specifically and individually identifies the identity of any victim of a registerable offense;

(2) the social security number of the offender;

(3) the offender's criminal history arrests that did not result in convictions or adjudications;

(4) travel and immigration document numbers of the offender; and

(5) internet identifiers of the offender.

Sec. 8. K.S.A. 2019 Supp. 22-4902, 22-4903, 22-4904, 22-4906, 22-4907, 22-4908 and 22-4909 are hereby repealed.

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



## As Amended by House Committee

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*Session of 2020*

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**HOUSE BILL No. 2474**

By Committee on Corrections and Juvenile Justice

1-23

1 AN ACT concerning the Kansas offender registration act; relating to  
2 violation of act; penalties; waiver of fees by the court; obstructing  
3 apprehension or prosecution; **registration locations; information**  
4 **required to register**; amending K.S.A. 2019 Supp. 21-5913, 21-6804,  
5 22-4903 ~~and~~, 22-4905 **and 22-4907** and repealing the existing sections.  
6

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

8 New Section 1. (a) A person required to register as an offender  
9 pursuant to the Kansas offender registration act may petition the district  
10 court in the county where the offender resides to waive payment of the  
11 registration fee required by K.S.A. 22-4905, and amendments thereto.  
12 Such offender shall submit an affidavit to the court in the form prescribed  
13 by the judicial council. There shall be no docket fee required.

14 (b) The court may:

15 (1) Question the offender under oath concerning the contents of the  
16 affidavit; and

17 (2) require the offender to produce evidence on the issue of the  
18 offender's financial inability to make the payment required by K.S.A. 22-  
19 4905, and amendments thereto.

20 (c) If it appears to the satisfaction of the court that requiring the  
21 payment will impose manifest hardship on the offender or the offender's  
22 immediate family, the court may:

23 (1) Waive the current payment owed by the offender;

24 (2) extend the time in which the offender has to make the payment; or

25 (3) waive the payment for a specified period of time, not to exceed  
26 three years.

27 (d) If the court issues an order modifying an offender's obligation to  
28 pay the registration fee required by K.S.A. 22-4905, and amendments  
29 thereto, the court shall provide the offender with a copy of the order. Such  
30 order shall be effective to modify the offender's obligation to pay the  
31 registration fee in any county where the offender is required to register.

32 Sec. 2. K.S.A. 2019 Supp. 21-5913 is hereby amended to read as  
33 follows: 21-5913. (a) Obstructing apprehension or prosecution is  
34 knowingly harboring, concealing or aiding any person who:

35 (1) Has committed or who has been charged with committing a  
36 felony or misdemeanor under the laws of this state, other than a violation

1 of K.S.A. 22-4903, and amendments thereto, or another state or the United  
2 States with intent that such person shall avoid or escape from arrest, trial,  
3 conviction or punishment for such felony or misdemeanor; or  
4 (2) is required to register under the Kansas offender registration act,  
5 K.S.A. 22-4901 et seq., and amendments thereto, and who is not in  
6 compliance with the requirements of such act with intent that such person  
7 shall avoid or escape from registration, arrest, trial, conviction, punishment  
8 or any criminal charges arising from the person's failure to comply with  
9 the requirements of such act.

10 (b) Obstructing apprehension or prosecution ~~as defined in:~~  
11 ~~(1) Subsection (a)(1) is a:~~  
12 ~~(A)(1) Severity level 8, nonperson felony if the person who is~~  
13 ~~harbored, concealed or aided has committed or has been charged with~~  
14 ~~committing a felony; and~~  
15 ~~(B)(2) class C misdemeanor if the person who is aided has committed~~  
16 ~~or has been charged with committing a misdemeanor; and~~  
17 ~~(2) subsection (a)(2) is a severity level 5, person felony.~~

18 Sec. 3. K.S.A. 2019 Supp. 21-6804 is hereby amended to read as  
19 follows: 21-6804. (a) The provisions of this section shall be applicable to  
20 the sentencing guidelines grid for nondrug crimes. The following  
21 sentencing guidelines grid shall be applicable to nondrug felony crimes:

1  
2

SENTENCING RANGE - NONDRUG OFFENSES

Category +	A	B	C	D	E	F	G	H	I
Severity Level	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 35 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

LEGEND
Presumptive Probation
Public Access
Presumptive Imprisonment

1 (b) Sentences expressed in the sentencing guidelines grid for nondrug  
2 crimes represent months of imprisonment.

3 (c) The sentencing guidelines grid is a two-dimensional crime  
4 severity and criminal history classification tool. The grid's vertical axis is  
5 the crime severity scale which classifies current crimes of conviction. The  
6 grid's horizontal axis is the criminal history scale which classifies criminal  
7 histories.

8 (d) The sentencing guidelines grid for nondrug crimes as provided in  
9 this section defines presumptive punishments for felony convictions,  
10 subject to the sentencing court's discretion to enter a departure sentence.  
11 The appropriate punishment for a felony conviction should depend on the  
12 severity of the crime of conviction when compared to all other crimes and  
13 the offender's criminal history.

14 (e) (1) The sentencing court has discretion to sentence at any place  
15 within the sentencing range. In the usual case it is recommended that the  
16 sentencing judge select the center of the range and reserve the upper and  
17 lower limits for aggravating and mitigating factors insufficient to warrant a  
18 departure.

19 (2) In presumptive imprisonment cases, the sentencing court shall  
20 pronounce the complete sentence which shall include the:

21 (A) Prison sentence;

22 (B) maximum potential reduction to such sentence as a result of good  
23 time; and

24 (C) period of postrelease supervision at the sentencing hearing.  
25 Failure to pronounce the period of postrelease supervision shall not negate  
26 the existence of such period of postrelease supervision.

27 (3) In presumptive nonprison cases, the sentencing court shall  
28 pronounce the:

29 (A) Prison sentence; and

30 (B) duration of the nonprison sanction at the sentencing hearing.

31 (f) Each grid block states the presumptive sentencing range for an  
32 offender whose crime of conviction and criminal history place such  
33 offender in that grid block. If an offense is classified in a grid block below  
34 the dispositional line, the presumptive disposition shall be  
35 nonimprisonment. If an offense is classified in a grid block above the  
36 dispositional line, the presumptive disposition shall be imprisonment. If an  
37 offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose  
38 an optional nonprison sentence as provided in subsection (q).

39 (g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal,  
40 aggravated battery against a law enforcement officer committed prior to  
41 July 1, 2006, or a violation of K.S.A. 2019 Supp. 21-5412(d), and  
42 amendments thereto, aggravated assault against a law enforcement officer,  
43 which places the defendant's sentence in grid block 6-H or 6-I shall be

1 presumed imprisonment. The court may impose an optional nonprison  
2 sentence as provided in subsection (q).

3 (h) When a firearm is used to commit any person felony, the  
4 offender's sentence shall be presumed imprisonment. The court may  
5 impose an optional nonprison sentence as provided in subsection (q).

6 (i) (1) The sentence for the violation of the felony provision of K.S.A.  
7 8-2,144 and 8-1567 and K.S.A. 2019 Supp. 21-5414(b)(3), 21-5823(b)(3)  
8 and (b)(4), 21-6412 and 21-6416, and amendments thereto, shall be as  
9 provided by the specific mandatory sentencing requirements of that section  
10 and shall not be subject to the provisions of this section or K.S.A. 2019  
11 Supp. 21-6807, and amendments thereto.

12 (2) If because of the offender's criminal history classification the  
13 offender is subject to presumptive imprisonment or if the judge departs  
14 from a presumptive probation sentence and the offender is subject to  
15 imprisonment, the provisions of this section and K.S.A. 2019 Supp. 21-  
16 6807, and amendments thereto, shall apply and the offender shall not be  
17 subject to the mandatory sentence as provided in K.S.A. 2019 Supp. 21-  
18 5823, and amendments thereto.

19 (3) Notwithstanding the provisions of any other section, the term of  
20 imprisonment imposed for the violation of the felony provision of K.S.A.  
21 8-2,144, and 8-1567 and K.S.A. 2019 Supp. 21-5414(b)(3), 21-5823(b)(3)  
22 and (b)(4), 21-6412 and 21-6416, and amendments thereto, shall not be  
23 served in a state facility in the custody of the secretary of corrections,  
24 except that the term of imprisonment for felony violations of K.S.A. 8-  
25 2,144 or 8-1567, and amendments thereto, may be served in a state  
26 correctional facility designated by the secretary of corrections if the  
27 secretary determines that substance abuse treatment resources and facility  
28 capacity is available. The secretary's determination regarding the  
29 availability of treatment resources and facility capacity shall not be subject  
30 to review. Prior to imposing any sentence pursuant to this subsection, the  
31 court may consider assigning the defendant to a house arrest program  
32 pursuant to K.S.A. 2019 Supp. 21-6609, and amendments thereto.

33 (j) (1) The sentence for any persistent sex offender whose current  
34 convicted crime carries a presumptive term of imprisonment shall be  
35 double the maximum duration of the presumptive imprisonment term. The  
36 sentence for any persistent sex offender whose current conviction carries a  
37 presumptive nonprison term shall be presumed imprisonment and shall be  
38 double the maximum duration of the presumptive imprisonment term.

39 (2) Except as otherwise provided in this subsection, as used in this  
40 subsection, "persistent sex offender" means a person who:

41 (A) (i) Has been convicted in this state of a sexually violent crime, as  
42 defined in K.S.A. 22-3717, and amendments thereto; and

43 (ii) at the time of the conviction under subsection (j)(2)(A)(i) has at

- 1 least one conviction for a sexually violent crime, as defined in K.S.A. 22-  
2 3717, and amendments thereto, in this state or comparable felony under  
3 the laws of another state, the federal government or a foreign government;  
4 or
- 5 (B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,  
6 prior to its repeal, or K.S.A. 2019 Supp. 21-5503, and amendments  
7 thereto; and
- 8 (ii) at the time of the conviction under subsection (j)(2)(B)(i) has at  
9 least one conviction for rape in this state or comparable felony under the  
10 laws of another state, the federal government or a foreign government.
- 11 (3) Except as provided in subsection (j)(2)(B), the provisions of this  
12 subsection shall not apply to any person whose current convicted crime is  
13 a severity level 1 or 2 felony.
- 14 (k) (1) If it is shown at sentencing that the offender committed any  
15 felony violation for the benefit of, at the direction of, or in association with  
16 any criminal street gang, with the specific intent to promote, further or  
17 assist in any criminal conduct by gang members, the offender's sentence  
18 shall be presumed imprisonment. The court may impose an optional  
19 nonprison sentence as provided in subsection (q).
- 20 (2) As used in this subsection, "criminal street gang" means any  
21 organization, association or group of three or more persons, whether  
22 formal or informal, having as one of its primary activities:
- 23 (A) The commission of one or more person felonies; or  
24 (B) the commission of felony violations of article 57 of chapter 21 of  
25 the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010  
26 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony  
27 violation of any provision of the uniform controlled substances act prior to  
28 July 1, 2009; and
- 29 (C) its members have a common name or common identifying sign or  
30 symbol; and
- 31 (D) its members, individually or collectively, engage in or have  
32 engaged in the commission, attempted commission, conspiracy to commit  
33 or solicitation of two or more person felonies or felony violations of article  
34 57 of chapter 21 of the Kansas Statutes Annotated, and amendments  
35 thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their  
36 transfer, any felony violation of any provision of the uniform controlled  
37 substances act prior to July 1, 2009, or any substantially similar offense  
38 from another jurisdiction.
- 39 (l) Except as provided in subsection (o), the sentence for a violation  
40 of K.S.A. 2019 Supp. 21-5807(a)(1), and amendments thereto, or any  
41 attempt or conspiracy, as defined in K.S.A. 2019 Supp. 21-5301 and 21-  
42 5302, and amendments thereto, to commit such offense, when such person  
43 being sentenced has a prior conviction for a violation of K.S.A. 21-3715(a)

1 or (b), prior to its repeal, 21-3716, prior to its repeal, K.S.A. 2019 Supp.  
2 21-5807(a)(1) or (a)(2) or 21-5807(b), and amendments thereto, or any  
3 attempt or conspiracy to commit such offense, shall be presumptive  
4 imprisonment.

5 (m) The sentence for a violation of ~~K.S.A. 22-4903~~ or K.S.A. 2019  
6 Supp. 21-5913(a)(2), and amendments thereto, shall be presumptive  
7 imprisonment. If an offense under such sections is classified in grid blocks  
8 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison  
9 sentence as provided in subsection (q).

10 (n) The sentence for a violation of criminal deprivation of property, as  
11 defined in K.S.A. 2019 Supp. 21-5803, and amendments thereto, when  
12 such property is a motor vehicle, and when such person being sentenced  
13 has any combination of two or more prior convictions of K.S.A. 21-  
14 3705(b), prior to its repeal, or of criminal deprivation of property, as  
15 defined in K.S.A. 2019 Supp. 21-5803, and amendments thereto, when  
16 such property is a motor vehicle, shall be presumptive imprisonment. Such  
17 sentence shall not be considered a departure and shall not be subject to  
18 appeal.

19 (o) The sentence for a felony violation of theft of property as defined  
20 in K.S.A. 2019 Supp. 21-5801, and amendments thereto, or burglary as  
21 defined in K.S.A. 2019 Supp. 21-5807(a), and amendments thereto, when  
22 such person being sentenced has no prior convictions for a violation of  
23 K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as  
24 defined in K.S.A. 2019 Supp. 21-5801, and amendments thereto, or  
25 burglary as defined in K.S.A. 2019 Supp. 21-5807(a), and amendments  
26 thereto; or the sentence for a felony violation of theft of property as  
27 defined in K.S.A. 2019 Supp. 21-5801, and amendments thereto, when  
28 such person being sentenced has one or two prior felony convictions for a  
29 violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or  
30 theft of property as defined in K.S.A. 2019 Supp. 21-5801, and  
31 amendments thereto, or burglary or aggravated burglary as defined in  
32 K.S.A. 2019 Supp. 21-5807, and amendments thereto; or the sentence for a  
33 felony violation of burglary as defined in K.S.A. 2019 Supp. 21-5807(a),  
34 and amendments thereto, when such person being sentenced has one prior  
35 felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716,  
36 prior to their repeal, or theft of property as defined in K.S.A. 2019 Supp.  
37 21-5801, and amendments thereto, or burglary or aggravated burglary as  
38 defined in K.S.A. 2019 Supp. 21-5807, and amendments thereto, shall be  
39 the sentence as provided by this section, except that the court may order an  
40 optional nonprison sentence for a defendant to participate in a drug  
41 treatment program, including, but not limited to, an approved after-care  
42 plan, if the court makes the following findings on the record:

43 (1) Substance abuse was an underlying factor in the commission of

1 the crime;

2 (2) substance abuse treatment in the community is likely to be more  
3 effective than a prison term in reducing the risk of offender recidivism;  
4 and

5 (3) participation in an intensive substance abuse treatment program  
6 will serve community safety interests.

7 A defendant sentenced to an optional nonprison sentence under this  
8 subsection shall be supervised by community correctional services. The  
9 provisions of K.S.A. 2019 Supp. 21-6824(f)(1), and amendments thereto,  
10 shall apply to a defendant sentenced under this subsection. The sentence  
11 under this subsection shall not be considered a departure and shall not be  
12 subject to appeal.

13 (p) The sentence for a felony violation of theft of property as defined  
14 in K.S.A. 2019 Supp. 21-5801, and amendments thereto, when such  
15 person being sentenced has any combination of three or more prior felony  
16 convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to  
17 their repeal, or theft of property as defined in K.S.A. 2019 Supp. 21-5801,  
18 and amendments thereto, or burglary or aggravated burglary as defined in  
19 K.S.A. 2019 Supp. 21-5807, and amendments thereto; or the sentence for a  
20 violation of burglary as defined in K.S.A. 2019 Supp. 21-5807(a), and  
21 amendments thereto, when such person being sentenced has any  
22 combination of two or more prior convictions for violations of K.S.A. 21-  
23 3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as  
24 defined in K.S.A. 2019 Supp. 21-5801, and amendments thereto, or  
25 burglary or aggravated burglary as defined in K.S.A. 2019 Supp. 21-5807,  
26 and amendments thereto, shall be presumed imprisonment and the  
27 defendant shall be sentenced to prison as provided by this section, except  
28 that the court may recommend that an offender be placed in the custody of  
29 the secretary of corrections, in a facility designated by the secretary to  
30 participate in an intensive substance abuse treatment program, upon  
31 making the following findings on the record:

32 (1) Substance abuse was an underlying factor in the commission of  
33 the crime;

34 (2) substance abuse treatment with a possibility of an early release  
35 from imprisonment is likely to be more effective than a prison term in  
36 reducing the risk of offender recidivism; and

37 (3) participation in an intensive substance abuse treatment program  
38 with the possibility of an early release from imprisonment will serve  
39 community safety interests by promoting offender reformation.

40 The intensive substance abuse treatment program shall be determined  
41 by the secretary of corrections, but shall be for a period of at least four  
42 months. Upon the successful completion of such intensive treatment  
43 program, the offender shall be returned to the court and the court may

1 modify the sentence by directing that a less severe penalty be imposed in  
2 lieu of that originally adjudged within statutory limits. If the offender's  
3 term of imprisonment expires, the offender shall be placed under the  
4 applicable period of postrelease supervision. The sentence under this  
5 subsection shall not be considered a departure and shall not be subject to  
6 appeal.

7 (q) As used in this section, an "optional nonprison sentence" is a  
8 sentence which the court may impose, in lieu of the presumptive sentence,  
9 upon making the following findings on the record:

10 (1) An appropriate treatment program exists which is likely to be  
11 more effective than the presumptive prison term in reducing the risk of  
12 offender recidivism; and

13 (2) the recommended treatment program is available and the offender  
14 can be admitted to such program within a reasonable period of time; or

15 (3) the nonprison sanction will serve community safety interests by  
16 promoting offender reformation.

17 Any decision made by the court regarding the imposition of an optional  
18 nonprison sentence shall not be considered a departure and shall not be  
19 subject to appeal.

20 (r) The sentence for a violation of K.S.A. 2019 Supp. 21-5413(c)(2),  
21 and amendments thereto, shall be presumptive imprisonment and shall be  
22 served consecutively to any other term or terms of imprisonment imposed.  
23 Such sentence shall not be considered a departure and shall not be subject  
24 to appeal.

25 (s) The sentence for a violation of K.S.A. 2019 Supp. 21-5512, and  
26 amendments thereto, shall be presumptive imprisonment. Such sentence  
27 shall not be considered a departure and shall not be subject to appeal.

28 (t) (1) If the trier of fact makes a finding beyond a reasonable doubt  
29 that an offender wore or used ballistic resistant material in the commission  
30 of, or attempt to commit, or flight from any felony, in addition to the  
31 sentence imposed pursuant to the Kansas sentencing guidelines act, the  
32 offender shall be sentenced to an additional 30 months' imprisonment.

33 (2) The sentence imposed pursuant to subsection (t)(1) shall be  
34 presumptive imprisonment and shall be served consecutively to any other  
35 term or terms of imprisonment imposed. Such sentence shall not be  
36 considered a departure and shall not be subject to appeal.

37 (3) As used in this subsection, "ballistic resistant material" means:  
38 (A) Any commercially produced material designed with the purpose of  
39 providing ballistic and trauma protection, including, but not limited to,  
40 bulletproof vests and kevlar vests; and (B) any homemade or fabricated  
41 substance or item designed with the purpose of providing ballistic and  
42 trauma protection.

43 (u) The sentence for a violation of K.S.A. 2019 Supp. 21-6107, and

1 amendments thereto, or any attempt or conspiracy, as defined in K.S.A.  
2 2019 Supp. 21-5301 and 21-5302, and amendments thereto, to commit  
3 such offense, when such person being sentenced has a prior conviction for  
4 a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2019 Supp. 21-  
5 6107, and amendments thereto, or any attempt or conspiracy to commit  
6 such offense, shall be presumptive imprisonment. Such sentence shall not  
7 be considered a departure and shall not be subject to appeal.

8 (v) The sentence for a third or subsequent violation of K.S.A. 8-1568,  
9 and amendments thereto, shall be presumptive imprisonment and shall be  
10 served consecutively to any other term or terms of imprisonment imposed.  
11 Such sentence shall not be considered a departure and shall not be subject  
12 to appeal.

13 (w) The sentence for aggravated criminal damage to property as  
14 defined in K.S.A. 2019 Supp. 21-5813(b), and amendments thereto, when  
15 such person being sentenced has a prior conviction for any nonperson  
16 felony shall be presumptive imprisonment. Such sentence shall not be  
17 considered a departure and shall not be subject to appeal.

18 (x) The sentence for a violation of K.S.A. 2019 Supp. 21-5807(a)(1),  
19 and amendments thereto, shall be presumptive imprisonment if the offense  
20 under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such  
21 sentence shall not be considered a departure and shall not be subject to  
22 appeal.

23 (y) (1) Except as provided in subsection (y)(3), if the trier of fact  
24 makes a finding beyond a reasonable doubt that an offender committed a  
25 nondrug felony offense, or any attempt or conspiracy, as defined in K.S.A.  
26 2019 Supp. 21-5301 and 21-5302, and amendments thereto, to commit a  
27 nondrug felony offense, against a law enforcement officer, as defined in  
28 K.S.A. 2019 Supp. 21-5111(p)(1) and (3), and amendments thereto, while  
29 such officer was engaged in the performance of such officer's duty, or in  
30 whole or in any part because of such officer's status as a law enforcement  
31 officer, the sentence for such offense shall be:

32 (A) If such offense is classified in severity level 2 through 10, one  
33 severity level above the appropriate level for such offense; and

34 (B) (i) if such offense is classified in severity level 1, except as  
35 otherwise provided in subsection (y)(1)(B)(ii), imprisonment for life, and  
36 such offender shall not be eligible for probation or suspension,  
37 modification or reduction of sentence. In addition, such offender shall not  
38 be eligible for parole prior to serving 25 years' imprisonment, and such 25  
39 years' imprisonment shall not be reduced by the application of good time  
40 credits. No other sentence shall be permitted.

41 (ii) The provisions of subsection (y)(1)(B)(i) requiring the court to  
42 impose a mandatory minimum term of imprisonment of 25 years shall not  
43 apply if the court finds the offender, because of the offender's criminal

1 history classification, is subject to presumptive imprisonment and the  
2 sentencing range exceeds 300 months. In such case, the offender is  
3 required to serve a mandatory minimum term equal to the sentence  
4 established pursuant to the sentencing range.

5 (2) The sentence imposed pursuant to subsection (y)(1) shall not be  
6 considered a departure and shall not be subject to appeal.

7 (3) The provisions of this subsection shall not apply to an offense  
8 described in subsection (y)(1) if the factual aspect concerning a law  
9 enforcement officer is a statutory element of such offense.

10 (z) *The sentence for a violation of K.S.A. 22-4903(b), and*  
11 *amendments thereto, shall be presumptive imprisonment.*

12 Sec. 4. K.S.A. 2019 Supp. 22-4903 is hereby amended to read as  
13 follows: 22-4903. (a) Violation of the Kansas offender registration act is  
14 the failure by an offender, as defined in K.S.A. 22-4902, and amendments  
15 thereto, to comply with any and all provisions of such act, including any  
16 and all duties set forth in K.S.A. 22-4905 through 22-4907, and  
17 amendments thereto. Any violation of the Kansas offender registration act  
18 which continues for more than ~~30~~ 90 consecutive days shall, upon the ~~31<sup>st</sup>~~  
19 ~~91<sup>st</sup>~~ consecutive day, constitute a new and separate offense, and shall  
20 continue to constitute a new and separate offense every 30 days thereafter  
21 for as long as the violation continues.

22 (b) Aggravated violation of the Kansas offender registration act is  
23 violation of the Kansas offender registration act ~~which continues for more~~  
24 ~~than 180 consecutive days. Any aggravated violation of the Kansas~~  
25 ~~offender registration act which continues for more than 180 consecutive~~  
26 ~~days shall, upon the 181<sup>st</sup> consecutive day, constitute a new and separate~~  
27 ~~offense, and shall continue to constitute a new and separate violation of the~~  
28 ~~Kansas offender registration act every 30 days thereafter, or a new and~~  
29 ~~separate aggravated violation of the Kansas offender registration act every~~  
30 ~~180 days thereafter, for as long as the violation continues:~~

31 (1) *That continues for one year or more; or*

32 (2) *committed by a person with two or more prior convictions of*  
33 *violations of this section.*

34 (c) (1) Except as provided in ~~subsection~~ *subsections (c)(3) and (c)(4),*  
35 violation of the Kansas offender registration act is:

36 (A) Upon a first conviction, a ~~severity level 6 felony class B~~  
37 ~~nonperson misdemeanor; and~~

38 (B) upon a second conviction, a ~~severity level 5 felony; and class A~~  
39 ~~nonperson misdemeanor~~

40 (C) ~~upon a third or subsequent conviction, a severity level 3 felony.~~

41 ~~Such violation shall be designated as a person or nonperson crime in~~  
42 ~~accordance with the designation assigned to the underlying crime for~~  
43 ~~which the offender is required to be registered under the Kansas offender~~

1 ~~registration act. If the offender is required to be registered under both a~~  
2 ~~person and nonperson underlying crime, the violation shall be designated~~  
3 ~~as a person crime.~~

4 (2) ~~Except as provided in subsections (c)(3) and (c)(4),~~  
5 ~~aggravated violation of the Kansas offender registration act is a severity~~  
6 ~~level 3 8, nonperson felony.~~

7 ~~Such violation shall be designated as a person or nonperson crime in~~  
8 ~~accordance with the designation assigned to the underlying crime for~~  
9 ~~which the offender is required to be registered under the Kansas offender~~  
10 ~~registration act. If the offender is required to be registered under both a~~  
11 ~~person and nonperson underlying crime, the violation shall be designated~~  
12 ~~as a person crime.~~

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

17 ~~(A) Except as provided in subsection (e)(3)(B), a class A C~~  
18 ~~nonperson misdemeanor if, within 15 days of registration, full payment is~~  
19 ~~not remitted to the sheriff's office;~~

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

23 ~~Such violation shall be designated as a person or nonperson crime in~~  
24 ~~accordance with the designation assigned to the underlying crime for~~  
25 ~~which the offender is required to be registered under the Kansas offender~~  
26 ~~registration act. If the offender is required to be registered under both a~~  
27 ~~person and nonperson underlying crime, the violation shall be designated~~  
28 ~~as a person crime.~~

29 (4) *Aggravated violation of the Kansas offender registration act is a*  
30 *class A nonperson misdemeanor when the underlying crime for which the*  
31 *offender is required to be registered under the Kansas offender*  
32 *registration act is a misdemeanor.*

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

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

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

37 (3) in any county in which the offender is located during which time  
38 the offender is not in compliance with the Kansas offender registration act;  
39 or

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

43 Sec. 5. K.S.A. 2019 Supp. 22-4905 is hereby amended to read as

1 follows: 22-4905. Any offender required to register as provided in the  
2 Kansas offender registration act shall:

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

15 (b) except as provided further, for any: (1) Sex offender, including a  
16 violent offender or drug offender who is also a sex offender, report in  
17 person four times each year to the registering law enforcement agency in  
18 the county or location of jurisdiction in which the offender resides,  
19 ~~maintains employment or is attending a school~~; and (2) violent offender or  
20 drug offender, report in person four times each year to the registering law  
21 enforcement agency in the county or location of jurisdiction in which the  
22 offender resides, ~~maintains employment or is attending a school~~, except  
23 that, at the discretion of the registering law enforcement agency, one of the  
24 four required reports may be conducted by certified letter. When utilized,  
25 the certified letter for reporting shall be sent by the registering law  
26 enforcement agency to the reported residence of the offender. The offender  
27 shall indicate any changes in information as required for reporting in  
28 person. The offender shall respond by returning the certified letter to the  
29 registering law enforcement agency within 10 business days by certified  
30 mail. The offender shall be required to report to the registering law  
31 enforcement agency once during the month of the offender's birthday and  
32 every third, sixth and ninth month occurring before and after the month of  
33 the offender's birthday. The registering law enforcement agency may  
34 determine the appropriate times and days for reporting by the offender,  
35 consistent with this subsection. Nothing contained in this subsection shall  
36 be construed to alleviate any offender from meeting the requirements  
37 prescribed in the Kansas offender registration act;

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

41 (d) if in the custody of a correctional facility, register with the  
42 correctional facility within three business days of initial custody and shall  
43 not be required to update such registration until discharged, paroled,

1 furloughed or released on work or school release from a correctional  
2 facility. A copy of the registration form and any updated registrations for  
3 an offender released on work or school release shall be sent, within three  
4 business days, to the registering law enforcement agency where the  
5 offender is incarcerated, maintains employment or attends school, and to  
6 the Kansas bureau of investigation;

7 (e) if involuntarily committed pursuant to the Kansas sexually violent  
8 predator act, register within three business days of arrival in the county  
9 where the offender resides during commitment. The offender shall not be  
10 required to update such registration until placed in a reintegration facility,  
11 on transitional release or on conditional release. Upon placement in a  
12 reintegration facility, on transitional release or on conditional release, the  
13 offender shall be personally responsible for complying with the provisions  
14 of the Kansas offender registration act;

15 (f) notwithstanding subsections (a) and (b), if the offender is  
16 transient, report in person to the registering law enforcement agency of  
17 such county or location of jurisdiction in which the offender is physically  
18 present within three business days of arrival in the county or location of  
19 jurisdiction. Such offender shall be required to register in person with the  
20 registering law enforcement agency every 30 days, or more often at the  
21 discretion of the registering law enforcement agency. Such offender shall  
22 comply with the provisions of the Kansas offender registration act and, in  
23 addition, shall:

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

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

29 (g) if required by out-of-state law, register in any out-of-state  
30 jurisdiction, where the offender resides, maintains employment or attends  
31 school;

32 (h) register in person upon any commencement, change or  
33 termination of residence location, employment status, school attendance or  
34 other information as provided in K.S.A. 22-4907, and amendments thereto,  
35 within three business days of such commencement, change or termination,  
36 to the registering law enforcement agency or agencies where last  
37 registered and provide written notice to the Kansas bureau of  
38 investigation;

39 (i) report in person to the registering law enforcement agency or  
40 agencies within three business days of any change in name;

41 (j) if receiving inpatient treatment at any treatment facility, inform the  
42 treatment facility of the offender's status as an offender and inform the  
43 registering law enforcement agency of the county or location of

1 jurisdiction in which the treatment facility is located of the offender's  
2 presence at the treatment facility and the expected duration of the  
3 treatment;

4 (k) submit to the taking of an updated photograph by the registering  
5 law enforcement agency on each occasion when the offender registers with  
6 or reports to the registering law enforcement agency in the county or  
7 location of jurisdiction in which the offender resides, ~~maintains~~  
8 ~~employment or attends school~~. In addition, such offender shall submit to  
9 the taking of a photograph to document any changes in identifying  
10 characteristics, including, but not limited to, scars, marks and tattoos;

11 (l) remit payment to the sheriff's office in the amount of \$20 as part of  
12 the reporting process required pursuant to subsection (b) in each county in  
13 which the offender resides, ~~maintains employment or is attending school~~.  
14 Registration will be completed regardless of whether or not the offender  
15 remits payment. Failure of the offender to remit full payment within 15  
16 days of registration is a violation of the Kansas offender registration act  
17 and is subject to prosecution pursuant to K.S.A. 22-4903, and amendments  
18 thereto. Notwithstanding other provisions ~~herein~~ *of this section*, payment  
19 of this fee is not required:

20 (1) *When the offender is under 18 years of age;*

21 (2) when an offender provides updates or changes in information or  
22 during an initial registration unless such updates, changes or initial  
23 registration is during the month of such offender's birthday and every  
24 third, sixth and ninth month occurring before and after the month of the  
25 offender's birthday;

26 ~~(2)~~(3) when an offender is transient and is required to register every  
27 30 days, or more frequently as ordered by the registering law enforcement  
28 agency, except during the month of the offender's birthday and every third,  
29 sixth and ninth month occurring before and after the month of the  
30 offender's birthday; ~~or~~

31 ~~(3)~~(4) if an offender has, prior to the required reporting and within the  
32 last three years, ~~been~~ determined to be indigent by a court of law *in the*  
33 *criminal case for which the offender is required to register*, and the basis  
34 for that finding is recorded by the court; *or*

35 (5) *if the court has determined that requiring payment of the fee*  
36 *would impose manifest hardship on the offender or the offender's*  
37 *immediate family pursuant to section 1, and amendments thereto.*

38 (m) annually renew any driver's license pursuant to K.S.A. 8-247, and  
39 amendments thereto, and annually renew any identification card pursuant  
40 to K.S.A. 2019 Supp. 8-1325a, and amendments thereto;

41 (n) if maintaining primary residence in this state, surrender all driver's  
42 licenses and identification cards from other states, territories and the  
43 District of Columbia, except if the offender is presently serving and

1 maintaining active duty in any branch of the United States military or the  
2 offender is an immediate family member of a person presently serving and  
3 maintaining active duty in any branch of the United States military;

4 (o) read and sign the registration form noting whether the  
5 requirements provided in this section have been explained to the offender;  
6 and

7 (p) report in person to the registering law enforcement agency in the  
8 jurisdiction of the offender's residence and provide written notice to the  
9 Kansas bureau of investigation 21 days prior to any travel outside of the  
10 United States, and provide an itinerary including, but not limited to,  
11 destination, means of transport and duration of travel, or if under  
12 emergency circumstances, within three business days of making travel  
13 arrangements.

14 **Sec. 6. K.S.A. 2019 Supp. 22-4907 is hereby amended to read as**  
15 **follows: 22-4907. (a) Registration as required by the Kansas offender**  
16 **registration act shall consist of a form approved by the Kansas bureau**  
17 **of investigation, which shall include a statement that the requirements**  
18 **provided in this section have been reviewed and explained to the**  
19 **offender, and shall be signed by the offender and, except when such**  
20 **reporting is conducted by certified letter as provided in ~~subsection (b)~~**  
21 **of K.S.A. 22-4905(b), and amendments thereto, witnessed by the**  
22 **person registering the offender. Such registration form shall include**  
23 **the following offender information:**

24 (1) Name and all alias names;

25 (2) date and city, state and country of birth, and any alias dates  
26 or places of birth;

27 (3) title and statute number of each offense or offenses  
28 committed, date of each conviction or adjudication and court case  
29 numbers for each conviction or adjudication;

30 (4) city, county, state or country of conviction or adjudication;

31 (5) sex and date of birth or purported age of each victim of all  
32 offenses requiring registration;

33 (6) current residential address, any anticipated future residence  
34 and any temporary lodging information including, but not limited to,  
35 address, telephone number and dates of travel for any place in which  
36 the offender is staying for seven or more days; and, if transient, the  
37 locations where the offender has stayed and frequented since last  
38 reporting for registration;

39 (7) all telephone numbers at which the offender may be contacted  
40 including, but not limited to, all mobile telephone numbers;

41 (8) social security number, and all alias social security numbers;

42 (9) identifying characteristics such as race, ethnicity, skin tone,  
43 sex, age, height, weight, hair and eye color, scars, tattoos and blood

- 1 type;
- 2 (10) occupation and name, address or addresses and telephone  
3 number of employer or employers, and name of any anticipated  
4 employer and place of employment;
- 5 (11) all current driver's licenses or identification cards, including  
6 a photocopy of all such driver's licenses or identification cards and  
7 their numbers, states of issuance and expiration dates;
- 8 (12) all vehicle information, including the license plate number,  
9 registration number and any other identifier and description of any  
10 vehicle owned or operated by the offender, or any vehicle the offender  
11 regularly drives, either for personal use or in the course of  
12 employment, and information concerning the location or locations  
13 such vehicle or vehicles are habitually parked or otherwise kept;
- 14 (13) license plate number, registration number or other identifier  
15 and description of any aircraft or watercraft owned or operated by the  
16 offender, and information concerning the location or locations such  
17 aircraft or watercraft are habitually parked, docked or otherwise  
18 kept;
- 19 (14) all professional licenses, designations and certifications;
- 20 (15) documentation of any treatment received for a mental  
21 abnormality or personality disorder of the offender; for purposes of  
22 documenting the treatment received, registering law enforcement  
23 agencies, correctional facility officials, treatment facility officials and  
24 courts may rely on information that is readily available to them from  
25 existing records and the offender;
- 26 (16) a photograph or photographs;
- 27 (17) fingerprints and palm prints;
- 28 (18) any and all schools and satellite schools attended or expected  
29 to be attended and the locations of attendance and telephone number;
- 30 (19) any and all: E-mail addresses; online identities used by the  
31 offender on the internet; information relating to membership in any  
32 and all personal web pages or online social networks; and internet  
33 screen names;
- 34 (20) all travel and immigration documents; and
- 35 (21) name and telephone number of the offender's probation,  
36 parole or community corrections officer.
- 37 (b) The offender shall provide biological samples for DNA  
38 analysis to the registering law enforcement agency as required by  
39 K.S.A. 21-2511, and amendments thereto. The biological samples shall  
40 be in the form using a DNA databank kit authorized by the Kansas  
41 bureau of investigation. The registering law enforcement agency shall  
42 forward such biological samples to the Kansas bureau of investigation.  
43 Prior to taking such sample, the registering law enforcement agency

1 shall search the Kansas criminal justice information system to  
2 determine if such person's DNA profile is currently on file. If such  
3 person's DNA profile is on file with the Kansas bureau of  
4 investigation, the registering law enforcement agency is not required  
5 to take biological samples.

6 *(c) If an offender reports an employer pursuant to subsection (a)(10)*  
7 *or a school pursuant to subsection (a)(18) that is in a county other than*  
8 *the county in which the offender resides or intends to reside, the Kansas*  
9 *bureau of investigation shall notify the sheriff of the county in which the*  
10 *employer or school is located of the registration information for such*  
11 *offender.*

12 ~~Sec. 6.~~ 7. K.S.A. 2019 Supp. 21-5913, 21-6804, 22-4903 ~~and~~, 22-  
13 4905 ~~and 22-4907~~ are hereby repealed.

14 ~~Sec. 7.~~ 8. This act shall take effect and be in force from and after its  
15 publication in the statute book.

2021

HOUSE BILL NO. \_\_\_\_\_

AN ACT concerning the Kansas offender registration act; relating to registerable offenses; amending K.S.A. 2020 Supp. 22-4902 and 22-4906 and repealing the existing sections.

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

Section 1. K.S.A. 2020 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~~ an agreement entered into by the parties 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, other than the offender, 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. 2020 Supp. 21-5511, and amendments thereto;~~

~~(B)~~ criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its repeal, or K.S.A. 2020 Supp. 21-5504~~(a)(1) or~~ (a)(2), and amendments thereto;

~~(C)~~(B) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2020 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. 2020 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)~~(C) a felony violation of lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2020 Supp. 21-5513(a)(2), and amendments thereto;

(5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2020 Supp. 21-5505(a), and amendments thereto;

(6) is convicted of breach of privacy, as defined in K.S.A. 2020 Supp. 21-6101 (a)(6) or (a)(7), and amendments thereto;

(7) 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. 2020 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense defined in this subsection; or

~~(7)~~(8) 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. 2020 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 K.S.A. 2020 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 K.S.A. 2020 Supp. 21-5506(b), and amendments thereto;

(4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2020 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 K.S.A. 2020 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 K.S.A. 2020 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 K.S.A. 2020 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. 2020 Supp. 21-5510, and amendments thereto;

(9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2020 Supp. 21-5505(b), and amendments thereto;

(10) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2020 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.

2020 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. 2020 Supp. 21-5512, and amendments thereto;

(13) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2020 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. 2020 Supp. 21-6422, and amendments thereto;

(15) promoting the sale of sexual relations, as defined in K.S.A. 2020 Supp. 21-6420, and amendments thereto;

(16) [internet trading in child pornography, as defined in K.S.A. 2020 Supp. 21-5514, and amendments thereto;](#)

~~(17)~~ 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;

~~(17)~~~~(18)~~ 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. 2020 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this subsection; or

~~(18)~~~~(19)~~ 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 [a child](#) 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. 2020 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. 2020 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. 2020 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. 2020 Supp. 21-5404, and amendments thereto;~~

~~(E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2020 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto. The provisions of this paragraph shall not apply to violations of K.S.A. 2020 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 K.S.A. 2020 Supp. 21-5408(a), and amendments thereto, when the victim is less than 18 years age;

(G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or K.S.A. 2020 Supp. 21-5408(b), and amendments thereto, when the victim is less than 18 years of age;

~~(H) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2020 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 K.S.A. 2020 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, in open court and with particularity, 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. 2020 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. 2020 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 K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2020 Supp. 21-5709(a), and amendments thereto;

(C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or K.S.A. 2020 Supp. 21-5705(a)(1), and amendments thereto. The provisions of this paragraph shall not apply to violations 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. 2020 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 K.S.A. 2020 Supp. 21-5611(a), and amendments thereto, aggravated unlawful transmission of a visual depiction of a child, as defined in K.S.A. 2020 Supp. 21-5611(b), and amendments thereto, or unlawful possession of a visual depiction of a child, as defined in K.S.A. 2020 Supp. 21-5610, and amendments thereto; ~~or~~

(B) convicted of a crime in municipal court; or

(C) 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) or (t)(1)(B).

(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).

Sec. 2. K.S.A. 2020 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a)

(1) Except as provided in subsection ~~(e)~~ (d), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:

(A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2020 Supp. 21-5505(a), and amendments thereto;

~~(B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2020 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;~~

~~(C)~~ promoting the sale of sexual relations, as defined in K.S.A. 2020 Supp. 21-6420, and amendments thereto;

~~(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2020 Supp. 21-6421, prior to its amendment by section 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, when one of the parties involved is less than 18 years of age;~~

(E) a felony violation of lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2020 Supp. 21-5513(a)(2), and amendments thereto, ~~when one of the parties involved is less than 18 years of age;~~

~~(F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2020 Supp. 21-5401, and amendments thereto;~~

~~(G) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto;~~

(H) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2020 Supp. 21-5403, and amendments thereto;

~~(I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2020 Supp. 21-5404, and amendments thereto;~~

~~(J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2020 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto;~~

~~(K) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2020 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age;~~

~~(L)~~ (J) breach of privacy, as defined in K.S.A. 2020 Supp. 21-6101 (a)(6) or (a)(7), and amendments thereto;

(K) kidnapping, as defined in K.S.A. 2020 Supp. 21-5408(a), and amendments thereto, when the victim is less than 18 years of age;

(L) 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 a child at least 14 years of age and the offender was not more than four years older than the victim;

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

~~(N) conviction 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;~~

(O) 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. 2020 Supp. 21-5703, and amendments thereto;

(P) 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 by K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2020 Supp. 21-5709(a), and amendments thereto;

(Q) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or K.S.A. 2020 Supp. 21-5705(a)(1), and amendments thereto; or

(R) any 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. 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

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

(b) (1) Except as provided in subsection ~~(e)~~ (d), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the

date of conviction:

(A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its repeal, or K.S.A. 2020 Supp. 21-5504~~(a)(1)~~ or (a)(2), and amendments thereto, when one of the parties involved is less than 18 years of age;

(B) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(a), and amendments thereto;

(C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, or K.S.A. 2020 Supp. 21-5509, and amendments thereto;

(D) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2020 Supp. 21-5604(b), and amendments thereto;

(E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2020 Supp. 21-5506(a), and amendments thereto;

(F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2020 Supp. 21-5512, and amendments thereto;

(G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto, if the victim is 14 or more years of age but less than 18 years of age;

(H) internet trading in child pornography, as defined in K.S.A. 2020 Supp. 21-5514, and amendments thereto, if the victim is 14 or more years of age but less than 18 years of age

~~(H)~~(I) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2020 Supp. 21-5505(b), and amendments thereto;

~~(H)~~(J) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A.

2020 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is 14 or more years of age but less than 18 years of age; or

~~(H)~~(K) any 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. 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

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

(c) Except as provided in subsection (d), if convicted of any person felony when the court makes a finding on the record, in open court and with particularity, that a deadly weapon was used in the commission of such person felony, an offender's duration of registration shall be, if confined, five years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, five years from the date of conviction.

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

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

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2020 Supp. 21-5503, and amendments thereto;

(2) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(b), and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2020 Supp. 21-5506(b), and amendments thereto;

(4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2020 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 K.S.A. 2020 Supp. 21-5504(b), and amendments thereto;

(6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2020 Supp. 21-5426(b), and amendments thereto;

(7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto, if the victim is less than 14 years of age;

(8) internet trading in child pornography, as defined in K.S.A. 2020 Supp. 21-5514, and amendments thereto, if the victim is less than 14 years of age;

~~(8)(9) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2020 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is less than 14 years of age;~~

~~(9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or K.S.A. 2020 Supp. 21-5408(a), and amendments thereto;~~

(10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or K.S.A. 2020 Supp. 21-5408(b), and amendments thereto, when the victim is less than 18 years of age;

(11) commercial sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-6422, and amendments thereto;

(12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2020 Supp. 21-5401, and amendments thereto;

(13) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto;or

~~(12)~~(14) any 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. 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(e) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

(f) Notwithstanding any other provisions of this section, for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, the court shall:

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

(2) not require registration if the court, on the record, finds substantial and compelling

reasons therefor; or

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

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

(g) Notwithstanding any other provisions of this section, for an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2020 Supp. 21-6804, and amendments thereto, the court shall:

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

(2) not require registration if the court, on the record, finds substantial and compelling

reasons therefor; or

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

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

(h) Notwithstanding any other provisions of this section, an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2020 Supp. 21-6804, and amendments thereto, shall be required to register for such offender's lifetime.

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

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

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

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

Sec. 3. K.S.A. 2020 Supp. 22-4902 and 22-4906 are hereby repealed.

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



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Session of 2020

## HOUSE BILL No. 2475

By Committee on Corrections and Juvenile Justice

1-23

1 AN ACT concerning the Kansas offender registration act; relating to drug  
2 offenses; law enforcement access; amending K.S.A. 2019 Supp. 22-  
3 4906 and 22-4909 and repealing the existing sections.  
4

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

6 Section 1. K.S.A. 2019 Supp. 22-4906 is hereby amended to read as  
7 follows: 22-4906. (a) (1) Except as provided in subsection ~~(e)~~ (d), if  
8 convicted of any of the following offenses, an offender's duration of  
9 registration shall be, if confined, 15 years after the date of parole,  
10 discharge or release, whichever date is most recent, or, if not confined, 15  
11 years from the date of conviction:

12 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,  
13 or K.S.A. 2019 Supp. 21-5505(a), and amendments thereto;

14 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or  
15 K.S.A. 2019 Supp. 21-5511, and amendments thereto, when one of the  
16 parties involved is less than 18 years of age;

17 (C) promoting the sale of sexual relations, as defined in K.S.A. 2019  
18 Supp. 21-6420, and amendments thereto;

19 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its  
20 repeal, or K.S.A. 2019 Supp. 21-6421, prior to its amendment by section  
21 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013,  
22 when one of the parties involved is less than 18 years of age;

23 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior  
24 to its repeal, or K.S.A. 2019 Supp. 21-5513, and amendments thereto,  
25 when one of the parties involved is less than 18 years of age;

26 (F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
27 or K.S.A. 2019 Supp. 21-5401, and amendments thereto;

28 (G) murder in the first degree, as defined in K.S.A. 21-3401, prior to  
29 its repeal, or K.S.A. 2019 Supp. 21-5402, and amendments thereto;

30 (H) murder in the second degree, as defined in K.S.A. 21-3402, prior  
31 to its repeal, or K.S.A. 2019 Supp. 21-5403, and amendments thereto;

32 (I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its  
33 repeal, or K.S.A. 2019 Supp. 21-5404, and amendments thereto;

34 (J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to  
35 its repeal, or K.S.A. 2019 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and  
36 amendments thereto;

1 (K) criminal restraint, as defined in K.S.A. 21-3424, prior to its  
2 repeal, or K.S.A. 2019 Supp. 21-5411, and amendments thereto, except by  
3 a parent, and only when the victim is less than 18 years of age;

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

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

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

15 (O) unlawful manufacture or attempting such of any controlled  
16 substance or controlled substance analog, as defined in K.S.A. 65-4159,  
17 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or  
18 K.S.A. 2019 Supp. 21-5703, and amendments thereto; *or*

19 ~~(P) possession of ephedrine, pseudoephedrine, red phosphorus,~~  
20 ~~lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized~~  
21 ~~ammonia or phenylpropanolamine, or their salts, isomers or salts of~~  
22 ~~isomers with intent to use the product to manufacture a controlled~~  
23 ~~substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A.~~  
24 ~~2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2019 Supp. 21-~~  
25 ~~5709(a), and amendments thereto;~~

26 ~~(Q) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-~~  
27 ~~36a05(a)(1), prior to its transfer, or K.S.A. 2019 Supp. 21-5705(a)(1), and~~  
28 ~~amendments thereto; or~~

29 ~~(R) 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. 2019~~  
31 ~~Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an~~  
32 ~~offense defined in this subsection.~~

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

40 (b) (1) Except as provided in subsection ~~(e)~~ (d), if convicted of any of  
41 the following offenses, an offender's duration of registration shall be, if  
42 confined, 25 years after the date of parole, discharge or release, whichever  
43 date is most recent, or, if not confined, 25 years from the date of

1 conviction:

2 (A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its  
3 repeal, or K.S.A. 2019 Supp. 21-5504(a)(1) or (a)(2), and amendments  
4 thereto, when one of the parties involved is less than 18 years of age;

5 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,  
6 prior to its repeal, or K.S.A. 2019 Supp. 21-5508(a), and amendments  
7 thereto;

8 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its  
9 repeal, or K.S.A. 2019 Supp. 21-5509, and amendments thereto;

10 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
11 repeal, or K.S.A. 2019 Supp. 21-5604(b), and amendments thereto;

12 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior  
13 to its repeal, or K.S.A. 2019 Supp. 21-5506(a), and amendments thereto;

14 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to  
15 its repeal, or K.S.A. 2019 Supp. 21-5512, and amendments thereto;

16 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
17 to its repeal, or K.S.A. 2019 Supp. 21-5510, and amendments thereto, if  
18 the victim is 14 or more years of age but less than 18 years of age;

19 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to  
20 its repeal, or K.S.A. 2019 Supp. 21-5505(b), and amendments thereto;

21 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its  
22 repeal, or K.S.A. 2019 Supp. 21-6420, prior to its amendment by section  
23 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if  
24 the person selling sexual relations is 14 or more years of age but less than  
25 18 years of age; or

26 (J) any attempt, conspiracy or criminal solicitation, as defined in  
27 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2019  
28 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an  
29 offense defined in this subsection.

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

37 (c) (1) *Except as provided in subsection (d), if convicted of any of the*  
38 *following offenses, an offender's duration of registration shall be, if*  
39 *confined, five years after the date of parole, discharge or release,*  
40 *whichever date is most recent, or, if not confined, five years from the date*  
41 *of conviction:*

42 (A) *Possession of ephedrine, pseudoephedrine, red phosphorus,*  
43 *lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized*

- 1 *ammonia or phenylpropanolamine, or their salts, isomers or salts of*  
2 *isomers with intent to use the product to manufacture a controlled*  
3 *substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A.*  
4 *2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2019 Supp. 21-*  
5 *5709(a), and amendments thereto;*
- 6 (B) *K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-*  
7 *36a05(a)(1), prior to its transfer, or K.S.A. 2019 Supp. 21-5705(a)(1), and*  
8 *amendments thereto; or*
- 9 (C) *any attempt, conspiracy or criminal solicitation, as defined in*  
10 *K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2019*  
11 *Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an*  
12 *offense defined in this subsection.*
- 13 (2) *Except as otherwise provided by the Kansas offender registration*  
14 *act, the duration of registration terminates, if not confined, at the*  
15 *expiration of five years from the date of conviction. Any period of time*  
16 *during which any offender is incarcerated in any jail or correctional*  
17 *facility or during which the offender does not comply with any and all*  
18 *requirements of the Kansas offender registration act shall not count*  
19 *toward the duration of registration.*
- 20 (d) *Upon a second or subsequent conviction of an offense requiring*  
21 *registration, an offender's duration of registration shall be for such*  
22 *offender's lifetime.*
- 23 ~~(d)~~(e) *The duration of registration for any offender who has been*  
24 *convicted of any of the following offenses shall be for such offender's*  
25 *lifetime:*
- 26 (1) *Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.*  
27 *2019 Supp. 21-5503, and amendments thereto;*
- 28 (2) *aggravated indecent solicitation of a child, as defined in K.S.A.*  
29 *21-3511, prior to its repeal, or K.S.A. 2019 Supp. 21-5508(b), and*  
30 *amendments thereto;*
- 31 (3) *aggravated indecent liberties with a child, as defined in K.S.A.*  
32 *21-3504, prior to its repeal, or K.S.A. 2019 Supp. 21-5506(b), and*  
33 *amendments thereto;*
- 34 (4) *criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),*  
35 *prior to its repeal, or K.S.A. 2019 Supp. 21-5504(a)(3) or (a)(4), and*  
36 *amendments thereto;*
- 37 (5) *aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior*  
38 *to its repeal, or K.S.A. 2019 Supp. 21-5504(b), and amendments thereto;*
- 39 (6) *aggravated human trafficking, as defined in K.S.A. 21-3447, prior*  
40 *to its repeal, or K.S.A. 2019 Supp. 21-5426(b), and amendments thereto;*
- 41 (7) *sexual exploitation of a child, as defined in K.S.A. 21-3516, prior*  
42 *to its repeal, or K.S.A. 2019 Supp. 21-5510, and amendments thereto, if*  
43 *the victim is less than 14 years of age;*

1 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its  
2 repeal, or K.S.A. 2019 Supp. 21-6420, prior to its amendment by section  
3 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if  
4 the person selling sexual relations is less than 14 years of age;

5 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or  
6 K.S.A. 2019 Supp. 21-5408(a), and amendments thereto;

7 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its  
8 repeal, or K.S.A. 2019 Supp. 21-5408(b), and amendments thereto;

9 (11) commercial sexual exploitation of a child, as defined in K.S.A.  
10 2019 Supp. 21-6422, and amendments thereto; or

11 (12) any attempt, conspiracy or criminal solicitation, as defined in  
12 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2019  
13 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an  
14 offense defined in this subsection.

15 ~~(e)~~(f) Any person who has been declared a sexually violent predator  
16 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall  
17 register for such person's lifetime.

18 ~~(f)~~(g) Notwithstanding any other provisions of this section, for an  
19 offender less than 14 years of age 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, the  
22 court shall:

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

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

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

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

43 ~~(g)~~(h) Notwithstanding any other provisions of this section, for an

1 offender 14 years of age or more who is adjudicated as a juvenile offender  
2 for an act which if committed by an adult would constitute a sexually  
3 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and  
4 such crime is not an off-grid felony or a felony ranked in severity level 1  
5 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or  
6 K.S.A. 2019 Supp. 21-6804, and amendments thereto, the court shall:

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

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

16 (3) require registration, but such registration information shall not be  
17 open to inspection by the public or posted on any internet website, as  
18 provided in K.S.A. 22-4909, and amendments thereto. If the court requires  
19 registration but such registration is not open to the public, such offender  
20 shall provide a copy of such court order to the registering law enforcement  
21 agency at the time of registration. The registering law enforcement agency  
22 shall forward a copy of such court order to the Kansas bureau of  
23 investigation.

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

27 ~~(h)~~(i) Notwithstanding any other provisions of this section, an  
28 offender 14 years of age or more who is adjudicated as a juvenile offender  
29 for an act which if committed by an adult would constitute a sexually  
30 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and  
31 such crime is an off-grid felony or a felony ranked in severity level 1 of  
32 the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or  
33 K.S.A. 2019 Supp. 21-6804, and amendments thereto, shall be required to  
34 register for such offender's lifetime.

35 ~~(i)~~(j) Notwithstanding any other provision of law, if a diversionary  
36 agreement or probation order, either adult or juvenile, or a juvenile  
37 offender sentencing order, requires registration under the Kansas offender  
38 registration act for an offense that would not otherwise require registration  
39 as provided in K.S.A. 22-4902(a)(5), and amendments thereto, then all  
40 provisions of the Kansas offender registration act shall apply, except that  
41 the duration of registration shall be controlled by such diversionary  
42 agreement, probation order or juvenile offender sentencing order.

43 ~~(j)~~(k) The duration of registration does not terminate if the convicted

1 or adjudicated offender again becomes liable to register as provided by the  
2 Kansas offender registration act during the required period of registration.

3 ~~(k)~~(l) For any person moving to Kansas who has been convicted or  
4 adjudicated in an out-of-state court, or who was required to register under  
5 an out-of-state law, the duration of registration shall be the length of time  
6 required by the out-of-state jurisdiction or by the Kansas offender  
7 registration act, whichever length of time is longer. The provisions of this  
8 subsection shall apply to convictions or adjudications prior to June 1,  
9 2006, and to persons who moved to Kansas prior to June 1, 2006, and to  
10 convictions or adjudications on or after June 1, 2006, and to persons who  
11 moved to Kansas on or after June 1, 2006.

12 ~~(h)~~(m) For any person residing, maintaining employment or attending  
13 school in this state who has been convicted or adjudicated by an out-of-  
14 state court of an offense that is comparable to any crime requiring  
15 registration pursuant to the Kansas offender registration act, but who was  
16 not required to register in the jurisdiction of conviction or adjudication, the  
17 duration of registration shall be the duration required for the comparable  
18 offense pursuant to the Kansas offender registration act.

19 *(n) Registration information for a person required to register for an*  
20 *offense described in subsection (c) shall be made available only to law*  
21 *enforcement and shall not be open to inspection by the public or posted on*  
22 *any website, as provided in K.S.A. 22-4909, and amendments thereto.*

23 Sec. 2. K.S.A. 2019 Supp. 22-4909 is hereby amended to read as  
24 follows: 22-4909. (a) Except as prohibited by subsections (c), (d), (e) ~~and~~,  
25 ~~(f) of this section and subsections (f) and (g) of and (g) and~~ K.S.A. 22-  
26 4906(g), (h) and (n), and amendments thereto, the statements or any other  
27 information required by the Kansas offender registration act shall be open  
28 to inspection by the public at the registering law enforcement agency, at  
29 the headquarters of the Kansas bureau of investigation and on any internet  
30 website sponsored or created by a registering law enforcement agency or  
31 the Kansas bureau of investigation that contains such statements or  
32 information, and specifically are subject to the provisions of the Kansas  
33 open records act, K.S.A. 45-215 et seq., and amendments thereto.

34 (b) Any information posted on an internet website sponsored or  
35 created by a registering law enforcement agency or the Kansas bureau of  
36 investigation shall identify, in a prominent manner, whether an offender is  
37 a sex offender, a violent offender or a drug offender. Such internet  
38 websites shall include the following information for each offender:

39 (1) Name of the offender, including any aliases;  
40 (2) address of each residence at which the offender resides or will  
41 reside and, if the offender does not have any present or expected residence  
42 address, other information about where the offender has their home or  
43 habitually lives. If current information of this type is not available because

1 the offender is in violation of the requirement to register or cannot be  
2 located, the website must so note;

3 (3) temporary lodging information;

4 (4) address of any place where the offender is a student or will be a  
5 student;

6 (5) license plate number and a description of any vehicle owned or  
7 operated by the offender, including any aircraft or watercraft;

8 (6) physical description of the offender;

9 (7) the offense or offenses for which the offender is registered and  
10 any other offense for which the offender has been convicted or  
11 adjudicated;

12 (8) a current photograph of the offender; and

13 (9) all professional licenses, designations and certifications.

14 (c) Notwithstanding subsection (a), information posted on an internet  
15 website sponsored or created by a registering law enforcement agency or  
16 the Kansas bureau of investigation shall not contain the address of any  
17 place where the offender is an employee or any other information about  
18 where the offender works. Such internet website shall contain a statement  
19 that employment information is publicly available and may be obtained by  
20 contacting the appropriate registering law enforcement agency or by  
21 signing up for community notification through the official website of the  
22 Kansas bureau of investigation.

23 (d) Notwithstanding subsection (a), pursuant to a court finding  
24 petitioned by the prosecutor, any offender who is required to register  
25 pursuant to the Kansas offender registration act, but has been provided a  
26 new identity and relocated under the federal witness security program or  
27 who has worked as a confidential informant, or is otherwise a protected  
28 witness, shall be required to register pursuant to the Kansas offender  
29 registration act, but shall not be subject to public registration.

30 (e) Notwithstanding subsection (a), when a court orders expungement  
31 of a conviction or adjudication that requires an offender to register  
32 pursuant to the Kansas offender registration act, the registration  
33 requirement for such conviction or adjudication does not terminate. Such  
34 offender shall be required to continue registering pursuant to the Kansas  
35 offender registration act, but shall not be subject to public registration. If a  
36 court orders expungement of a conviction or adjudication that requires an  
37 offender to register pursuant to the Kansas offender registration act, and  
38 the offender has any other conviction or adjudication that requires  
39 registration, such offender shall be required to register pursuant to the  
40 Kansas offender registration act, and the registration for such other  
41 conviction or adjudication shall be open to inspection by the public and  
42 shall be subject to the provisions of subsection (a), unless such registration  
43 has been ordered restricted pursuant to ~~subsection (f) or (g)~~ of K.S.A. 22-

1 4906(g), (h) or (n), and amendments thereto.

2 (f) Notwithstanding subsection (a), the following information shall  
3 not be disclosed other than to law enforcement agencies:

4 (1) The name, address, telephone number or any other information  
5 which specifically and individually identifies the identity of any victim of  
6 a registerable offense;

7 (2) the social security number of the offender;

8 (3) the offender's criminal history arrests that did not result in  
9 convictions or adjudications;

10 (4) travel and immigration document numbers of the offender; and

11 (5) internet identifiers of the offender.

12 (g) *Notwithstanding subsection (a), registration information for a*  
13 *person whose registration has been ordered restricted pursuant to K.S.A.*  
14 *22-4906(g), (h) or (n), and amendments thereto, shall be made available*  
15 *only to law enforcement and shall not be open to inspection by the public*  
16 *or posted on any website pursuant to this section.*

17 Sec. 3. K.S.A. 2019 Supp. 22-4906 and 22-4909 are hereby repealed.

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



Bill draft repealing lifetime registration  
for second time drug offenders

2020

HOUSE BILL NO. \_\_\_\_

AN ACT concerning the Kansas offender registration act; relating to length of registration; second and subsequent drug offenses; amending K.S.A. 2020 Supp. 22-4906 and repealing the existing section.

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

Section 1. K.S.A. 2020 Supp. 22-4906 is hereby amended to read as follows: 22-4906.

(a) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:

(A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2020 Supp. 21-5505(a), and amendments thereto;

(B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2020 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;

(C) promoting the sale of sexual relations, as defined in K.S.A. 2020 Supp. 21-6420, and amendments thereto;

(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2020 Supp. 21-6421, prior to its amendment by section 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, when one of the parties involved is less than 18 years of age;

(E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2020 Supp. 21-5513, and amendments thereto, when one of the parties involved is less than 18 years of age;

(F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2020

Supp. 21-5401, and amendments thereto;

(G) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto;

(H) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2020 Supp. 21-5403, and amendments thereto;

(I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2020 Supp. 21-5404, and amendments thereto;

(J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2020 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto;

(K) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2020 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age;

(L) 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;

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

(N) conviction 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;

(O) 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. 2020 Supp. 21-5703, and amendments thereto;

(P) 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 by K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2020 Supp. 21-5709(a), and amendments thereto;

(Q) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or K.S.A. 2020 Supp. 21-5705(a)(1), and amendments thereto; or

(R) any 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. 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

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

(b) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the date of conviction:

(A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its repeal, or K.S.A. 2020 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto, when one of the parties involved is

less than 18 years of age;

(B) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(a), and amendments thereto;

(C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, or K.S.A. 2020 Supp. 21-5509, and amendments thereto;

(D) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2020 Supp. 21-5604(b), and amendments thereto;

(E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2020 Supp. 21-5506(a), and amendments thereto;

(F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2020 Supp. 21-5512, and amendments thereto;

(G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto, if the victim is 14 or more years of age but less than 18 years of age;

(H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2020 Supp. 21-5505(b), and amendments thereto;

(I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2020 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is 14 or more years of age but less than 18 years of age; or

(J) any 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. 2020 Supp. 21-5301, 21-5302 and 21-5303, and

amendments thereto, of an offense defined in this subsection.

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

(c) (1) Upon a second or subsequent conviction of an offense requiring registration as a sex offender or a violent offender, an offender's duration of registration shall be for such offender's lifetime.

(2) Upon a second or subsequent conviction of an offense requiring registration that does not result in lifetime registration pursuant to paragraph (1), registration terms shall not aggregate.

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

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2020 Supp. 21-5503, and amendments thereto;

(2) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2020 Supp. 21-5508(b), and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2020 Supp. 21-5506(b), and amendments thereto;

(4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2020 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 K.S.A. 2020 Supp. 21-5504(b), and amendments thereto;

(6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2020 Supp. 21-5426(b), and amendments thereto;

(7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto, if the victim is less than 14 years of age;

(8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2020 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is less than 14 years of age;

(9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or K.S.A. 2020 Supp. 21-5408(a), and amendments thereto;

(10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or K.S.A. 2020 Supp. 21-5408(b), and amendments thereto;

(11) commercial sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-6422, and amendments thereto; or

(12) any 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. 2020 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(e) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

(f) Notwithstanding any other provisions of this section, for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult

would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, the court shall:

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

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

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

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

(g) Notwithstanding any other provisions of this section, for an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the

nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2020 Supp. 21-6804, and amendments thereto, the court shall:

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

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

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

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

(h) Notwithstanding any other provisions of this section, an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as

provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2020 Supp. 21-6804, and amendments thereto, shall be required to register for such offender's lifetime.

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

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

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

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

registration shall be the duration required for the comparable offense pursuant to the Kansas offender registration act.

Sec. 2. K.S.A. 2020 Supp. 22-4906 is hereby repealed.

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

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Session of 2020

## HOUSE BILL No. 2473

By Committee on Corrections and Juvenile Justice

1-23

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
 2 to sex offenses; unlawful voluntary sexual relations; Kansas offender  
 3 registration act; amending K.S.A. 2019 Supp. 21-5507 and 22-4902  
 4 and repealing the existing sections.  
 5

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

7 Section 1. K.S.A. 2019 Supp. 21-5507 is hereby amended to read as  
 8 follows: 21-5507. (a) Unlawful voluntary sexual relations is:

9 (1) Engaging in any of the following acts with a child who is ~~14~~ 10 or  
 10 more years of age but less than 16 years of age:

11 (A) Voluntary sexual intercourse *or voluntary sodomy; or*

12 ~~(B) voluntary sodomy; or~~

13 ~~(C)(B)~~ voluntary lewd fondling or touching;

14 (2) (A) when the offender is less than ~~19~~ 13 years of age; *or*

15 ~~(3)(B)~~ when the offender is ~~less than four years of age older than the~~  
 16 ~~child~~ 13 years of age or older but less than 19 years of age, and the  
 17 offender and the child are less than 48 months apart in age; and

18 ~~(4)(3)~~ when the child and the offender are the only parties involved;  
 19 ~~and~~

20 ~~(5) when the child and the offender are members of the opposite sex.~~

21 (b) Unlawful voluntary sexual relations as defined in:

22 (1) Subsection (a)(1)(A) is a ~~severity level 8, person felony;~~

23 (A) *Class A person misdemeanor, except as provided in subsection (b)*  
 24 *(1)(B); and*

25 (B) *severity level 9, person felony if the offender and the child are 24*  
 26 *or more months but less than 48 months apart in age, and the offender is*  
 27 *13 or more years of age; and*

28 (2) subsection (a)(1)(B) is a ~~severity level 9, person felony; and:~~

29 (A) *Class A person misdemeanor, except as provided in subsection (b)*  
 30 *(2)(B); and*

31 (B) *severity level 10, person felony if the offender and the child are*  
 32 *24 or more months but less than 48 months apart in age, and the offender*  
 33 *is 13 or more years of age*

34 ~~(3) subsection (a)(1)(C) is a severity level 10, person felony.~~

35 Sec. 2. K.S.A. 2019 Supp. 22-4902 is hereby amended to read as  
 36 follows: 22-4902. As used in the Kansas offender registration act, unless

- 1 the context otherwise requires:
- 2 (a) "Offender" means:
- 3 (1) A sex offender;
- 4 (2) a violent offender;
- 5 (3) a drug offender;
- 6 (4) any person who has been required to register under out-of-state
- 7 law or is otherwise required to be registered; and
- 8 (5) any person required by court order to register for an offense not
- 9 otherwise required as provided in the Kansas offender registration act.
- 10 (b) "Sex offender" includes any person who:
- 11 (1) On or after April 14, 1994, is convicted of any sexually violent
- 12 crime;
- 13 (2) on or after July 1, 2002, is adjudicated as a juvenile offender for
- 14 an act which if committed by an adult would constitute the commission of
- 15 a sexually violent crime, unless the court, on the record, finds that the act
- 16 involved non-forcible sexual conduct, the victim was at least 14 years of
- 17 age and the offender was not more than four years older than the victim;
- 18 (3) has been determined to be a sexually violent predator;
- 19 (4) on or after July 1, 1997, is convicted of any of the following
- 20 crimes when one of the parties involved is less than 18 years of age:
- 21 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
- 22 K.S.A. 2019 Supp. 21-5511, and amendments thereto;
- 23 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
- 24 repeal, or K.S.A. 2019 Supp. 21-5504(a)(1) or (a)(2), and amendments
- 25 thereto;
- 26 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
- 27 repeal, or K.S.A. 2019 Supp. 21-6420, prior to its amendment by section
- 28 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;
- 29 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
- 30 repeal, or K.S.A. 2019 Supp. 21-6421, prior to its amendment by section
- 31 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or
- 32 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
- 33 to its repeal, or K.S.A. 2019 Supp. 21-5513, and amendments thereto;
- 34 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
- 35 to its repeal, or K.S.A. 2019 Supp. 21-5505(a), and amendments thereto;
- 36 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
- 37 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
- 38 K.S.A. 2019 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
- 39 of an offense defined in this subsection; or
- 40 (7) has been convicted of an offense that is comparable to any crime
- 41 defined in this subsection, or any out-of-state conviction for an offense that
- 42 under the laws of this state would be an offense defined in this subsection.
- 43 (c) "Sexually violent crime" means:

- 1 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
2 2019 Supp. 21-5503, and amendments thereto;
- 3 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior  
4 to its repeal, or K.S.A. 2019 Supp. 21-5506(a), and amendments thereto;
- 5 (3) aggravated indecent liberties with a child, as defined in K.S.A.  
6 21-3504, prior to its repeal, or K.S.A. 2019 Supp. 21-5506(b), and  
7 amendments thereto;
- 8 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),  
9 prior to its repeal, or K.S.A. 2019 Supp. 21-5504(a)(3) or (a)(4), and  
10 amendments thereto;
- 11 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
12 to its repeal, or K.S.A. 2019 Supp. 21-5504(b), and amendments thereto;
- 13 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,  
14 prior to its repeal, or K.S.A. 2019 Supp. 21-5508(a), and amendments  
15 thereto;
- 16 (7) aggravated indecent solicitation of a child, as defined in K.S.A.  
17 21-3511, prior to its repeal, or K.S.A. 2019 Supp. 21-5508(b), and  
18 amendments thereto;
- 19 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
20 to its repeal, or K.S.A. 2019 Supp. 21-5510, and amendments thereto;
- 21 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to  
22 its repeal, or K.S.A. 2019 Supp. 21-5505(b), and amendments thereto;
- 23 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
24 repeal, or K.S.A. 2019 Supp. 21-5604(b), and amendments thereto;
- 25 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its  
26 repeal, and K.S.A. 2019 Supp. 21-5509, and amendments thereto;
- 27 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to  
28 its repeal, or K.S.A. 2019 Supp. 21-5512, and amendments thereto;
- 29 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,  
30 prior to its repeal, or K.S.A. 2019 Supp. 21-5426(b), and amendments  
31 thereto, if committed in whole or in part for the purpose of the sexual  
32 gratification of the defendant or another;
- 33 (14) commercial sexual exploitation of a child, as defined in K.S.A.  
34 2019 Supp. 21-6422, and amendments thereto;
- 35 (15) promoting the sale of sexual relations, as defined in K.S.A. 2019  
36 Supp. 21-6420, and amendments thereto;
- 37 (16) any conviction or adjudication for an offense that is comparable  
38 to a sexually violent crime as defined in this subsection, or any out-of-state  
39 conviction or adjudication for an offense that under the laws of this state  
40 would be a sexually violent crime as defined in this subsection;
- 41 (17) an attempt, conspiracy or criminal solicitation, as defined in  
42 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2019  
43 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually

1 violent crime, as defined in this subsection; or

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

9 (d) "Sexually violent predator" means any person who, on or after  
10 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.  
11 59-29a01 et seq., and amendments thereto.

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

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

15 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
16 or K.S.A. 2019 Supp. 21-5401, and amendments thereto;

17 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to  
18 its repeal, or K.S.A. 2019 Supp. 21-5402, and amendments thereto;

19 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior  
20 to its repeal, or K.S.A. 2019 Supp. 21-5403, and amendments thereto;

21 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its  
22 repeal, or K.S.A. 2019 Supp. 21-5404, and amendments thereto;

23 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to  
24 its repeal, or K.S.A. 2019 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and  
25 amendments thereto. The provisions of this paragraph shall not apply to  
26 violations of K.S.A. 2019 Supp. 21-5405(a)(3), and amendments thereto,  
27 which occurred on or after July 1, 2011, through July 1, 2013;

28 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or  
29 K.S.A. 2019 Supp. 21-5408(a), and amendments thereto;

30 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its  
31 repeal, or K.S.A. 2019 Supp. 21-5408(b), and amendments thereto;

32 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its  
33 repeal, or K.S.A. 2019 Supp. 21-5411, and amendments thereto, except by  
34 a parent, and only when the victim is less than 18 years of age; or

35 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior  
36 to its repeal, or K.S.A. 2019 Supp. 21-5426(b), and amendments thereto, if  
37 not committed in whole or in part for the purpose of the sexual  
38 gratification of the defendant or another;

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

42 (3) has been convicted of an offense that is comparable to any crime  
43 defined in this subsection, any out-of-state conviction for an offense that

1 under the laws of this state would be an offense defined in this subsection;  
2 or

3 (4) is convicted of an attempt, conspiracy or criminal solicitation, as  
4 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or  
5 K.S.A. 2019 Supp. 21-5301, 21-5302 and 21-5303, and amendments  
6 thereto, of an offense defined in this subsection.

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

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

9 (A) Unlawful manufacture or attempting such of any controlled  
10 substance or controlled substance analog, as defined in K.S.A. 65-4159,  
11 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or  
12 K.S.A. 2019 Supp. 21-5703, and amendments thereto;

13 (B) possession of ephedrine, pseudoephedrine, red phosphorus,  
14 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized  
15 ammonia or phenylpropanolamine, or their salts, isomers or salts of  
16 isomers with intent to use the product to manufacture a controlled  
17 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010  
18 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2019 Supp. 21-5709(a),  
19 and amendments thereto;

20 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-  
21 36a05(a)(1), prior to its transfer, or K.S.A. 2019 Supp. 21-5705(a)(1), and  
22 amendments thereto. The provisions of this paragraph shall not apply to  
23 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)  
24 which occurred on or after July 1, 2009, through April 15, 2010;

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

29 (3) is or has been convicted of an attempt, conspiracy or criminal  
30 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to  
31 their repeal, or K.S.A. 2019 Supp. 21-5301, 21-5302 and 21-5303, and  
32 amendments thereto, of an offense defined in this subsection.

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

40 (h) "School" means any public or private educational institution,  
41 including, but not limited to, postsecondary school, college, university,  
42 community college, secondary school, high school, junior high school,  
43 middle school, elementary school, trade school, vocational school or

1 professional school providing training or education to an offender for three  
2 or more consecutive days or parts of days, or for 10 or more  
3 nonconsecutive days in a period of 30 consecutive days.

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

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

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

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

20 (m) "Law enforcement agency having initial jurisdiction" means the  
21 registering law enforcement agency of the county or location of  
22 jurisdiction where the offender expects to most often reside upon the  
23 offender's discharge, parole or release.

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

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

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

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

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

43 (s) "Duration of registration" means the length of time during which

1 an offender is required to register for a specified offense or violation.

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

4 (A) Convicted of unlawful transmission of a visual depiction of a  
5 child, as defined in K.S.A. 2019 Supp. 21-5611(a), and amendments  
6 thereto, aggravated unlawful transmission of a visual depiction of a child,  
7 as defined in K.S.A. 2019 Supp. 21-5611(b), and amendments thereto, or  
8 unlawful possession of a visual depiction of a child, as defined in K.S.A.  
9 2019 Supp. 21-5610, and amendments thereto; ~~or~~

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

13 (C) *convicted of unlawful voluntary sexual relations, as defined in*  
14 *K.S.A. 2019 Supp. 21-5507, and amendments thereto, or adjudicated as a*  
15 *juvenile offender for an act which, if committed by an adult, would*  
16 *constitute a violation of K.S.A. 2019 Supp. 21-5507, and amendments*  
17 *thereto.*

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

21 Sec. 3. K.S.A. 2019 Supp. 21-5507 and 22-4902 are hereby repealed.

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

**Penalties for voluntary sexual contact under current law**

		Age of the person being charged									
		<11	12	13	14	15	16	17	18	>=19	
Age of the child	≤11	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	og/og/og	og/og/og	
	12	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	og/og/og	og/og/og	
	13	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	1/1/3	og/og/og	og/og/og	
	14	8/9/10 ?	8/9/10 ?	8/9/10 ?	8/9/10	8/9/10	8/9/10	8/9/10	3/3/5	3/3/5	
	15	8/9/10 ?	8/9/10 ?	8/9/10 ?	8/9/10 ?	8/9/10	8/9/10	8/9/10	8/9/10	3/3/5	
	≥16										

sexual intercourse sodomy lewd fondling or touching	NA KSA 21-5504(a)(1) NA	NA B nonperson misdemeanor NA
sexual intercourse sodomy lewd fondling or touching	KSA 21-5507(b)(1) KSA 21-5507(b)(2) KSA 21-5507(b)(3)	8 person felony 9 person felony 10 person felony
sexual intercourse sodomy lewd fondling or touching	KSA 21-5506(b)(1) KSA 21-5504(a)(3) KSA 21-5506(a)(1)	3 person felony 3 person felony 5 person felony
sexual intercourse sodomy lewd fondling or touching	KSA 21-5503(b)(2) KSA 21-5504(c)(3) KSA 21-5506(c)(3)	off-grid felony off-grid felony off-grid felony
sexual intercourse sodomy lewd fondling or touching	KSA 21-5503(b)(1) KSA 21-5504(b)(1) KSA 21-5506(b)(3)	1 person felony 1 person felony 3 person felony

? Boxes marked 8/9/10 ? – It is not entirely clear whether the Romeo and Juliet statute applies to offenses where the child charged is younger than the child “victim.” For the statute to apply, the offender must be “less than four years of age older than the child” and the child must be 14 or 15. By definition, a 12-year-old is less than four years of age older than a 14-year-old. If the Romeo and Juliet statute does not apply, the penalty for the boxes marked with a question mark would be SL 1/1/3.

## Penalties for voluntary sexual contact under Committee's proposal

Age of the child	Age of the person being charged															
	10	11	12	13	14	15	16	17	18	≥19						
10	A	A	A	9/10	9/10	1/3	1/3	1/3	OG	OG						
11	A	A	A	A	9/10	9/10	1/3	1/3	OG	OG						
12	A	A	A	A	A	9/10	9/10	1/3	OG	OG						
13	A	A	A	A	A	A	9/10	9/10	OG	OG						
14	A	A	A	A	A	A	A	9/10	9/10	3/5						
15	A	A	A	A	A	A	A	A	9/10	3/5						
≥16																

sexual intercourse sodomy lewd fondling or touching	NA KSA 21-5504(a)(1) NA	NA B nonperson misdemeanor NA	NA
sexual intercourse or sodomy lewd fondling or touching	KSA 21-5507(b)(1)(A) or (B) KSA 21-5507(b)(2)(A) or (B)	A person misdemeanor A person misdemeanor	
sexual intercourse or sodomy lewd fondling or touching	KSA 21-5507(b)(1)(C) KSA 21-5507(b)(2)(C)	9 person felony 10 person felony	
sexual intercourse sodomy lewd fondling or touching	KSA 21-5506(b)(1) KSA 21-5504(a)(3) KSA 21-5506(a)(1)	3 person felony 3 person felony 5 person felony	
sexual intercourse sodomy lewd fondling or touching	KSA 21-5503(b)(2) KSA 21-5504(c)(3) KSA 21-5506(c)(3)	off-grid felony off-grid felony off-grid felony	
sexual intercourse sodomy lewd fondling or touching	KSA 21-5503(b)(1) KSA 21-5504(b)(1) KSA 21-5506(b)(3)	1 person felony 1 person felony 3 person felony	

**21-5503. Rape.** (a) Rape is:

(1) Knowingly engaging in sexual intercourse with a victim who does not consent to the sexual intercourse under any of the following circumstances:

- (A) When the victim is overcome by force or fear; or
- (B) when the victim is unconscious or physically powerless;

(2) Knowingly engaging in sexual intercourse with a victim when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender;

(3) sexual intercourse with a child who is under 14 years of age;

(4) sexual intercourse with a victim:

(A) when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a medically or therapeutically necessary procedure; or

(B) without the victim's consent during a treatment session, consultation, interview or examination by a healthcare provider, chiropractor, massage therapist, or other person providing a medical or therapeutic procedure; or

(5) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a legally required procedure within the scope of the offender's authority.

(b)(1) Rape as defined in:

(A) Subsection (a)(1) or (a)(2) is a severity level 1, person felony;

(B) subsection (a)(3) is a severity level 1, person felony, except as provided in subsection (b)(2);

and

(C) subsection (a)(4) or (a)(5) is a severity level 2, person felony.

(2) Rape as defined in subsection (a)(3) or attempt, conspiracy or criminal solicitation to commit rape as defined in subsection (a)(3) is an off-grid person felony, when the offender is 18 years of age or older.

(c) If the offender is 18 years of age or older, the provisions of:

(1) Subsection (c) of K.S.A. 2019 Supp. [21-5301](#), and amendments thereto, shall not apply to a violation of attempting to commit the crime of rape as defined in subsection (a)(3);

(2) subsection (c) of K.S.A. 2019 Supp. [21-5302](#), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of rape as defined in subsection (a)(3); and

(3) subsection (d) of K.S.A. 2019 Supp. [21-5303](#), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of rape as defined in subsection (a)(3).

~~(d) It shall be a defense to a prosecution of rape under subsection (a)(3) that the child was married to the accused at the time of the offense.~~

(ed) Except as provided in subsection (a)(2), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sexual intercourse, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

- 21-5504. Criminal sodomy; aggravated criminal sodomy.** (a) Criminal sodomy is:
- ~~(1) Sodomy between persons who are 16 or more years of age and members of the same sex;~~
  - ~~(2)~~ sodomy between a person and an animal;
  - ~~(3)~~ sodomy with a child who is 14 or more years of age but less than 16 years of age; or
  - ~~(4)~~ causing a child 14 or more years of age but less than 16 years of age to engage in sodomy with any person other than the offender or an animal.
- (b) Aggravated criminal sodomy is:
- (1) Sodomy with a child who is under 14 years of age;
  - (2) causing a child under 14 years of age to engage in sodomy with any person other than the offender or an animal; or
  - (3) sodomy with a victim who does not consent to the sodomy or causing a victim, without the victim's consent, to engage in sodomy with any person or an animal under any of the following circumstances:
    - (A) When the victim is overcome by force or fear;
    - (B) when the victim is unconscious or physically powerless; or
    - (C) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.
- (c) (1) Criminal sodomy as defined in:
- (A) Subsection (a)(1) ~~or (a)(2)~~ is a class B nonperson misdemeanor; and
  - (B) subsection (a)(2) or (a)(3) ~~or (a)(4)~~ is a severity level 3, person felony.
- (2) Aggravated criminal sodomy as defined in:
- (A) Subsection (b)(3) is a severity level 1, person felony; and
  - (B) subsection (b)(1) or (b)(2) is a severity level 1, person felony, except as provided in subsection (c) (3).
- (3) Aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) or attempt, conspiracy or criminal solicitation to commit aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) is an off-grid person felony, when the offender is 18 years of age or older.
- (d) If the offender is 18 years of age or older, the provisions of:
- (1) Subsection (c) of K.S.A. 2019 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2);
  - (2) subsection (c) of K.S.A. 2019 Supp. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2); and
  - (3) subsection (d) of K.S.A. 2019 Supp. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2).
- (e) It shall be a defense to a prosecution of criminal sodomy, as defined in subsection (a)(2) (a)(3), and aggravated criminal sodomy, as defined in subsection (b)(1), that the child was married to the accused at the time of the offense.
- (f) Except as provided in subsection (b)(3)(C), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sodomy, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

**21-5506. Indecent liberties with a child; aggravated indecent liberties with a child.** (a) Indecent liberties with a child is engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age:

(1) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or

(2) soliciting the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another.

(b) Aggravated indecent liberties with a child is:

(1) Sexual intercourse with a child who is 14 or more years of age but less than 16 years of age;

(2) engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age and who does not consent thereto:

(A) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or

(B) causing the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another; or

(3) engaging in any of the following acts with a child who is under 14 years of age:

(A) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or

(B) soliciting the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another.

(c) (1) Indecent liberties with a child is a severity level 5, person felony.

(2) Aggravated indecent liberties with a child as defined in:

(A) Subsection (b)(1) is a severity level 3, person felony;

(B) subsection (b)(2) is a severity level 4, person felony; and

(C) subsection (b)(3) is a severity level 3, person felony, except as provided in subsection (c)(3).

(3) Aggravated indecent liberties with a child as defined in subsection (b)(3) or attempt, conspiracy or criminal solicitation to commit aggravated indecent liberties with a child as defined in subsection (b)(3) is an off-grid person felony, when the offender is 18 years of age or older.

(d) If the offender is 18 years of age or older, the provisions of:

(1) Subsection (c) of K.S.A. 2019 Supp. [21-5301](#), and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated indecent liberties with a child as defined in subsection (b)(3);

(2) subsection (c) of K.S.A. 2019 Supp. [21-5302](#), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated indecent liberties with a child as defined in subsection (b)(3);

(3) subsection (d) of K.S.A. 2019 Supp. [21-5303](#), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated indecent liberties with a child as defined in subsection (b)(3).

(e) It shall be a defense to a prosecution of indecent liberties with a child, as defined in subsection (a)(1), and aggravated indecent liberties with a child, as defined in subsections (b)(1); ~~and (b)(2)(A) and (b)(3)(A)~~ that the child was married to the accused at the time of the offense.

2021

HOUSE BILL NO. \_\_\_\_

AN ACT concerning crimes, punishment and criminal procedure; relating to sex offenses; attempt; amending K.S.A. 2020 Supp. 21-5301, 21-5302, 21-5303, 21-5503, 21-5504, 21-5506, 21-5510, 21-5514, 21-6422 and 21-6627 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 21-5301 is hereby amended to read as follows: 21-5301.

(a) An attempt is any overt act toward the perpetration of a crime done by a person who intends to commit such crime but fails in the perpetration thereof or is prevented or intercepted in executing such crime.

(b) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed or the means employed or the act itself were such that the commission of the crime was not possible.

(c) (1) An attempt to commit an off-grid felony shall be ranked at nondrug severity level 1. An attempt to commit any other nondrug felony shall be ranked on the nondrug scale at two severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for an attempt to commit a nondrug felony shall be a severity level 10.

(2) The provisions of this subsection shall not apply to a violation of attempting to commit the crime of:

(A) Aggravated human trafficking, as defined in K.S.A. 2020 Supp. 21-5426(b), and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(B) terrorism, as defined in K.S.A. 2020 Supp. 21-5421, and amendments thereto;

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2020 Supp. 21-

5422, and amendments thereto; or

~~(D) rape, as defined in K.S.A. 2020 Supp. 21-5503(a)(3), and amendments thereto, if the offender is 18 years of age or older;~~

~~(E) aggravated indecent liberties with a child, as defined in K.S.A. 2020 Supp. 21-5506(b)(3), and amendments thereto, if the offender is 18 years of age or older;~~

~~(F) aggravated criminal sodomy, as defined in K.S.A. 2020 Supp. 21-5504(b)(1) or (2), and amendments thereto, if the offender is 18 years of age or older;~~

~~(G) commercial sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-6422, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;~~

~~(H) sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-5510(a)(1) or (4), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age;~~

~~(I) aggravated internet trading in child pornography, as defined in K.S.A. 2020 Supp. 21-5514(b), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age; or~~

~~(J) capital murder, as defined in K.S.A. 2020 Supp. 21-5401, and amendments thereto.~~

(d) (1) An attempt to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.

(2) The provisions of this subsection shall not apply to a violation of attempting to commit a violation of K.S.A. 2020 Supp. 21-5703, and amendments thereto.

(e) An attempt to commit a class A person misdemeanor is a class B person misdemeanor. An attempt to commit a class A nonperson misdemeanor is a class B nonperson misdemeanor.

(f) An attempt to commit a class B or C misdemeanor is a class C misdemeanor.

Sec. 2. K.S.A. 2020 Supp. 21-5302 is hereby amended to read as follows: 21-5302. (a) A conspiracy is an agreement with another person to commit a crime or to assist in committing a crime. No person may be convicted of a conspiracy unless an overt act in furtherance of such conspiracy is alleged and proved to have been committed by such person or by a co-conspirator.

(b) It is immaterial to the criminal liability of a person charged with conspiracy that any other person with whom the defendant conspired lacked the actual intent to commit the underlying crime provided that the defendant believed the other person did have the actual intent to commit the underlying crime.

(c) It shall be a defense to a charge of conspiracy that the accused voluntarily and in good faith withdrew from the conspiracy, and communicated the fact of such withdrawal to one or more of the accused person's co-conspirators, before any overt act in furtherance of the conspiracy was committed by the accused or by a co-conspirator.

(d) (1) Conspiracy to commit an off-grid felony shall be ranked at nondrug severity level 2. Conspiracy to commit any other nondrug felony shall be ranked on the nondrug scale at two severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for conspiracy to commit a nondrug felony shall be a severity level 10.

(2) The provisions of this subsection shall not apply to a violation of conspiracy to commit the crime of:

(A) Aggravated human trafficking, as defined in K.S.A. 2020 Supp. 21-5426(b), and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(B) terrorism, as defined in K.S.A. 2020 Supp. 21-5421, and amendments thereto;

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2020 Supp. 21-5422, and amendments thereto; or

~~(D) rape, as defined in K.S.A. 2020 Supp. 21-5503(a)(3), and amendments thereto, if the offender is 18 years of age or older;~~

~~(E) aggravated indecent liberties with a child, as defined in K.S.A. 2020 Supp. 21-5506(b)(3), and amendments thereto, if the offender is 18 years of age or older;~~

~~(F) aggravated criminal sodomy, as defined in K.S.A. 2020 Supp. 21-5504(b)(1) or (2), and amendments thereto, if the offender is 18 years of age or older;~~

~~(G) commercial sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-6422, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;~~

~~(H) sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-5510(a)(1) or (4), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age;~~

~~(I) aggravated internet trading in child pornography, as defined in K.S.A. 2020 Supp. 21-5514(b), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age; or~~

~~(J)~~(D) violations of the Kansas racketeer influenced and corrupt organization act, as

described in K.S.A. 2020 Supp. 21-6329, and amendments thereto.

(e) Conspiracy to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.

(f) A conspiracy to commit a misdemeanor is a class C misdemeanor.

Sec. 3. K.S.A. 2020 Supp. 21-5303 is hereby amended to read as follows: 21-5303. (a) Criminal solicitation is commanding, encouraging or requesting another person to commit a felony, attempt to commit a felony or aid and abet in the commission or attempted commission of a felony for the purpose of promoting or facilitating the felony.

(b) It is immaterial under subsection (a) that the actor fails to communicate with the person solicited to commit a felony if the person's conduct was designed to effect a communication.

(c) It is an affirmative defense that the actor, after soliciting another person to commit a felony, persuaded that person not to do so or otherwise prevented the commission of the felony, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purposes.

(d) (1) Criminal solicitation to commit an off-grid felony shall be ranked at nondrug severity level 3. Criminal solicitation to commit any other nondrug felony shall be ranked on the nondrug scale at three severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for criminal solicitation to commit a nondrug felony shall be a severity level 10.

(2) The provisions of this subsection shall not apply to a violation of criminal

solicitation to commit the crime of:

(A) Aggravated human trafficking, as defined in K.S.A. 2020 Supp. 21-5426(b), and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(B) terrorism, as defined in K.S.A. 2020 Supp. 21-5421, and amendments thereto; or

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2020 Supp. 21-5422, and amendments thereto;

~~(D) rape, as defined in K.S.A. 2020 Supp. 21-5503(a)(3), and amendments thereto, if the offender is 18 years of age or older;~~

~~(E) aggravated indecent liberties with a child, as defined in K.S.A. 2020 Supp. 21-5506(b)(3), and amendments thereto, if the offender is 18 years of age or older;~~

~~(F) aggravated criminal sodomy, as defined in K.S.A. 2020 Supp. 21-5504(b)(1) or (2), and amendments thereto, if the offender is 18 years of age or older;~~

~~(G) commercial sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-6422, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;~~

~~(H) sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-5510(a)(1) or (4), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age; or~~

~~(I) aggravated internet trading in child pornography, as defined in K.S.A. 2020 Supp. 21-5514(b), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age.~~

(e) Criminal solicitation to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.

Sec. 4. K.S.A. 2020 Supp. 21-5503 is hereby amended to read as follows: 21-5503. (a)

Rape is:

(1) Knowingly engaging in sexual intercourse with a victim who does not consent to the sexual intercourse under any of the following circumstances:

(A) When the victim is overcome by force or fear; or

(B) when the victim is unconscious or physically powerless;

(2) Knowingly engaging in sexual intercourse with a victim when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender;

(3) sexual intercourse with a child who is under 14 years of age;

(4) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a medically or therapeutically necessary procedure; or

(5) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a legally required procedure within the scope of the offender's authority.

(b)(1) Rape as defined in:

(A) Subsection (a)(1) or (a)(2) is a severity level 1, person felony;

(B) subsection (a)(3) is a severity level 1, person felony, except as provided in subsection (b)(2); and

(C) subsection (a)(4) or (a)(5) is a severity level 2, person felony.

(2) Rape as defined in subsection (a)(3) ~~or attempt, conspiracy or criminal solicitation to commit rape as defined in subsection (a)(3)~~ is an off-grid person felony, when the offender is 18 years of age or older.

~~(c) If the offender is 18 years of age or older, the provisions of:~~

~~(1) Subsection (e) of K.S.A. 2020 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of rape as defined in subsection (a)(3);~~

~~(2) subsection (e) of K.S.A. 2020 Supp. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of rape as defined in subsection (a)(3); and~~

~~(3) subsection (d) of K.S.A. 2020 Supp. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of rape as defined in subsection (a)(3).~~

~~(d)~~ It shall be a defense to a prosecution of rape under subsection (a)(3) that the child was married to the accused at the time of the offense.

~~(e)~~(d) Except as provided in subsection (a)(2), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sexual intercourse, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

Sec. 5. K.S.A. 2020 Supp. 21-5504 is hereby amended to read as follows: 21-5504. (a)

Criminal sodomy is:

(1) Sodomy between persons who are 16 or more years of age and members of the same sex;

(2) sodomy between a person and an animal;

(3) sodomy with a child who is 14 or more years of age but less than 16 years of age; or

(4) causing a child 14 or more years of age but less than 16 years of age to engage in sodomy with any person or animal.

(b) Aggravated criminal sodomy is:

(1) Sodomy with a child who is under 14 years of age;

(2) causing a child under 14 years of age to engage in sodomy with any person or an animal; or

(3) sodomy with a victim who does not consent to the sodomy or causing a victim, without the victim's consent, to engage in sodomy with any person or an animal under any of the following circumstances:

(A) When the victim is overcome by force or fear;

(B) when the victim is unconscious or physically powerless; or

(C) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

(c) (1) Criminal sodomy as defined in:

(A) Subsection (a)(1) or (a)(2) is a class B nonperson misdemeanor; and

(B) subsection (a)(3) or (a)(4) is a severity level 3, person felony.

(2) Aggravated criminal sodomy as defined in:

(A) Subsection (b)(3) is a severity level 1, person felony; and

(B) subsection (b)(1) or (b)(2) is a severity level 1, person felony, except as provided in subsection (c)(3).

(3) Aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) ~~or attempt, conspiracy or criminal solicitation to commit aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2)~~ is an off-grid person felony, when the offender is 18 years of age or older.

(d) ~~If the offender is 18 years of age or older, the provisions of:~~

~~(1) Subsection (e) of K.S.A. 2020 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2);~~

~~(2) subsection (e) of K.S.A. 2020 Supp. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2); and~~

~~(3) subsection (d) of K.S.A. 2020 Supp. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2).~~

~~(e)~~—It shall be a defense to a prosecution of criminal sodomy, as defined in subsection (a)(3), and aggravated criminal sodomy, as defined in subsection (b)(1), that the child was

married to the accused at the time of the offense.

~~(f)~~(e) Except as provided in subsection (b)(3)(C), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sodomy, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

Sec. 6. K.S.A. 2020 Supp. 21-5506 is hereby amended to read as follows: 21-5506. (a) Indecent liberties with a child is engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age:

(1) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or

(2) soliciting the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another.

(b) Aggravated indecent liberties with a child is:

(1) Sexual intercourse with a child who is 14 or more years of age but less than 16 years of age;

(2) engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age and who does not consent thereto:

(A) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or

(B) causing the child to engage in any lewd fondling or touching of the person of

another with the intent to arouse or satisfy the sexual desires of the child, the offender or another;  
or

(3) engaging in any of the following acts with a child who is under 14 years of age:

(A) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or

(B) soliciting the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another.

(c) (1) Indecent liberties with a child is a severity level 5, person felony.

(2) Aggravated indecent liberties with a child as defined in:

(A) Subsection (b)(1) is a severity level 3, person felony;

(B) subsection (b)(2) is a severity level 4, person felony; and

(C) subsection (b)(3) is a severity level 3, person felony, except as provided in subsection (c)(3).

(3) Aggravated indecent liberties with a child as defined in subsection (b)(3) ~~or attempt, conspiracy or criminal solicitation to commit aggravated indecent liberties with a child as defined in subsection (b)(3)~~ is an off-grid person felony, when the offender is 18 years of age or older.

(d) ~~If the offender is 18 years of age or older, the provisions of:~~

~~(1) Subsection (c) of K.S.A. 2020 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated indecent liberties with a child as defined in subsection (b)(3);~~

~~(2) subsection (c) of K.S.A. 2020 Supp. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated indecent liberties with a child as defined in subsection (b)(3);~~

~~(3) subsection (d) of K.S.A. 2020 Supp. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated indecent liberties with a child as defined in subsection (b)(3).~~

~~(e)~~—It shall be a defense to a prosecution of indecent liberties with a child, as defined in subsection (a)(1), and aggravated indecent liberties with a child, as defined in subsections (b)(1), (b)(2)(A) and (b)(3)(A) that the child was married to the accused at the time of the offense.

Sec. 7. K.S.A. 2020 Supp. 21-5510 is hereby amended to read as follows: 21-5510. (a) Except as provided in K.S.A. 2020 Supp. 21-5610 and 21-5611, and amendments thereto, sexual exploitation of a child is:

(1) Employing, using, persuading, inducing, enticing or coercing a child under 18 years of age, or a person whom the offender believes to be a child under 18 years of age, to engage in sexually explicit conduct with the intent to promote any performance;

(2) possessing any visual depiction of a child under 18 years of age shown or heard engaging in sexually explicit conduct with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender or any other person;

(3) being a parent, guardian or other person having custody or control of a child under 18 years of age and knowingly permitting such child to engage in, or assist another to engage in, sexually explicit conduct for any purpose described in subsection (a)(1) or (2); or

(4) promoting any performance that includes sexually explicit conduct by a child under

18 years of age, or a person whom the offender believes to be a child under 18 years of age, knowing the character and content of the performance.

(b) (1) Sexual exploitation of a child as defined in:

(A) Subsection (a)(2) or (a)(3) is a severity level 5, person felony; and

(B) subsection (a)(1) or (a)(4) is a severity level 3, person felony, except as provided in subsection (b)(2).

(2) Sexual exploitation of a child as defined in subsection (a)(1) or (a)(4) ~~or attempt, conspiracy or criminal solicitation to commit sexual exploitation of a child as defined in subsection (a)(1) or (a)(4)~~ is an off-grid person felony, when the offender is 18 years of age or older and the child is under 14 years of age.

(c) ~~If the offender is 18 years of age or older and the child is under 14 years of age, the provisions of:~~

~~(1) K.S.A. 2020 Supp. 21-5301(e), and amendments thereto, shall not apply to a violation of attempting to commit the crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)(4);~~

~~(2) K.S.A. 2020 Supp. 21-5302(d), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)(4); and~~

~~(3) K.S.A. 2020 Supp. 21-5303(d), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)(4).~~

~~(d) As used in this section:~~

(1) "Sexually explicit conduct" means actual or simulated: Exhibition in the nude; sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex; masturbation; sado-masochistic abuse with the intent of sexual stimulation; or lewd exhibition of the genitals, female breasts or pubic area of any person;

(2) "promoting" means procuring, transmitting, distributing, circulating, presenting, producing, directing, manufacturing, issuing, publishing, displaying, exhibiting or advertising:

(A) For pecuniary profit; or

(B) with intent to arouse or gratify the sexual desire or appeal to the prurient interest of the offender or any other person;

(3) "performance" means any film, photograph, negative, slide, book, magazine or other printed or visual medium, any audio tape recording or any photocopy, video tape, video laser disk, computer hardware, software, floppy disk or any other computer related equipment or computer generated image that contains or incorporates in any manner any film, photograph, negative, photocopy, video tape or video laser disk or any play or other live presentation;

(4) "nude" means any state of undress in which the human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered; and

(5) "visual depiction" means any photograph, film, video picture, digital or computer-generated image or picture, whether made or produced by electronic, mechanical or other means.

~~(e)~~(d) The provisions of this section shall not apply to possession of a visual depiction of a child in a state of nudity if the person possessing such visual depiction is the child who is the

subject of such visual depiction.

Sec. 8. K.S.A. 2020 Supp. 21-5514 is hereby amended to read as follows: 21-5514. (a) Except as provided in K.S.A. 2020 Supp. 21-5610 and 21-5611, and amendments thereto, internet trading in child pornography is sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-5510(a)(2), and amendments thereto, when the offender is 18 years of age or older, and the offender knowingly causes or permits the visual depiction to be viewed, by use of any electronic device connected to the internet, by any person other than the offender or a person depicted in the visual depiction.

(b) Except as provided in K.S.A. 2020 Supp. 21-5610 and 21-5611, and amendments thereto, aggravated internet trading in child pornography is sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-5510(a)(1) or (4), and amendments thereto, when the offender is 18 years of age or older and the offender knowingly causes or permits the performance to be viewed, by use of any electronic device connected to the internet, by any person other than the offender or a person depicted in the performance.

(c) (1) Internet trading in child pornography is a severity level 5, person felony.

(2) Aggravated internet trading in child pornography is a severity level 3, person felony, except as provided in subsection (c)(3).

(3) Aggravated internet trading in child pornography ~~or attempt, conspiracy or criminal solicitation to commit aggravated internet trading in child pornography~~ is an off-grid person felony when the child is under 14 years of age.

~~(d) If the child is under 14 years of age, the provisions of:~~

~~(1) K.S.A. 2020 Supp. 21-5301(e), and amendments thereto, shall not apply to a~~

~~violation of attempting to commit the crime of aggravated internet trading in child pornography pursuant to this section;~~

~~(2) K.S.A. 2020 Supp. 21-5302(d), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated internet trading in child pornography pursuant to this section; and~~

~~(3) K.S.A. 2020 Supp. 21-5303(d), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated internet trading in child pornography pursuant to this section.~~

(e) In addition to the venue provided for under any other provision of law, a prosecution for internet trading in child pornography or aggravated internet trading in child pornography may be brought in the county where the visual depiction or performance may be viewed by any person other than the offender using any electronic device connected to the internet and is viewed by a law enforcement officer using an electronic device connected to the internet while engaged in such officer's official duties.

(f) As used in this section, "the internet" has the meaning as provided in K.S.A. 66-2011, and amendments thereto.

(g) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 9. K.S.A. 2020 Supp. 21-6422 is hereby amended to read as follows: 21-6422. (a) Commercial sexual exploitation of a child is knowingly:

(1) Hiring a person younger than 18 years of age by giving, or offering or agreeing to give, anything of value to any person, to engage in a manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender

or another, sexual intercourse, sodomy or any unlawful sexual act;

(2) establishing, owning, maintaining or managing any property, whether real or personal, where sexual relations are being sold or offered for sale by a person younger than 18 years of age, or participating in the establishment, ownership, maintenance or management thereof; or

(3) permitting any property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a place where sexual relations are being sold or offered for sale by a person who is younger than 18 years of age.

(b) (1) Commercial sexual exploitation of a child is a:

(A) Severity level 4, person felony, except as provided in subsections (b)(1)(B) and (b)(2); and

(B) severity level 2, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, except as provided in subsection (b)(2).

(2) Commercial sexual exploitation of a child ~~or attempt, conspiracy or criminal solicitation to commit commercial sexual exploitation of a child~~ is an off-grid person felony when the offender is 18 years of age or older and the victim is less than 14 years of age.

(3) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) or (b)(2) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 75-758, and amendments thereto.

(4) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child.

~~(e) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:~~

~~(1) K.S.A. 2020 Supp. 21-5301(e), and amendments thereto, shall not apply to a violation of attempting to commit the crime of commercial sexual exploitation of a child pursuant to this section;~~

~~(2) K.S.A. 2020 Supp. 21-5302(d), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of commercial sexual exploitation of a child pursuant to this section; and~~

~~(3) K.S.A. 2020 Supp. 21-5303(d), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of commercial sexual exploitation of a child pursuant to this section.~~

Sec. 10. K.S.A. 2020 Supp. 21-6627 is hereby amended to read as follows: 21-6627. (a)

(1) Except as provided in subsection (b) or (d), a defendant who is 18 years of age or older and is convicted of the following crimes committed on or after July 1, 2006, shall be sentenced to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 25 years unless the court determines that the defendant should be sentenced as determined in subsection (a)(2):

(A) Aggravated human trafficking, as defined in K.S.A. 2020 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age;

(B) rape, as defined in K.S.A. 2020 Supp. 21-5503(a)(3), and amendments thereto;

(C) aggravated indecent liberties with a child, as defined in K.S.A. 2020 Supp. 21-5506(b)(3), and amendments thereto;

(D) aggravated criminal sodomy, as defined in K.S.A. 2020 Supp. 21-5504(b)(1) or (b)(2), and amendments thereto;

(E) commercial sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age;

(F) sexual exploitation of a child, as defined in K.S.A. 2020 Supp. 21-5510(a)(1) or (a)(4), and amendments thereto, if the child is less than 14 years of age; and

(G) aggravated internet trading in child pornography, as defined in K.S.A. 2020 Supp. 21-5514(b), and amendments thereto, if the child is less than 14 years of ~~ages~~ ages; and

(H) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2020 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in ~~subsections~~ subsection (a)(1)(A) ~~through (a)(1)(G)~~.

(2) The provision of subsection (a)(1) requiring a mandatory minimum term of imprisonment of not less than 25 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 2020 Supp. 21-6626, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, would be subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range would exceed 300 months if the sentence established for a severity level 1 crime was imposed. In such case, the defendant is required to serve a mandatory

minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range.

(b) (1) On and after July 1, 2006, if a defendant who is 18 years of age or older is convicted of a crime listed in subsection (a)(1) and such defendant has previously been convicted of a crime listed in subsection (a)(1), a crime in effect at any time prior to July 1, 2011, which is substantially the same as a crime listed in subsection (a)(1) or a crime under a law of another jurisdiction which is substantially the same as a crime listed in subsection (a)(1), the court shall sentence the defendant to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 40 years. The provisions of this paragraph shall not apply to a crime committed under K.S.A. 2020 Supp. 21-5507, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as K.S.A. 2020 Supp. 21-5507, and amendments thereto.

(2) The provision of subsection (b)(1) requiring a mandatory minimum term of imprisonment of not less than 40 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 2020 Supp. 21-6626, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, would be subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range would exceed 480 months if the sentence established for a severity level 1 crime was imposed. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range.

(c) When a person is sentenced pursuant to subsection (a) or (b), such person shall be sentenced to a mandatory minimum term of imprisonment of not less than 25 years, 40 years or be sentenced as determined in subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, a person sentenced pursuant to this section shall not be eligible for parole prior to serving such mandatory term of imprisonment, and such imprisonment shall not be reduced by the application of good time credits. Except as provided in subsection (d), no other sentence shall be permitted.

(d) (1) On or after July 1, 2006, for a first time conviction of an offense listed in subsection (a)(1), the sentencing judge shall impose the mandatory minimum term of imprisonment provided by subsection (a), unless the judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose a departure. If the sentencing judge departs from such mandatory minimum term of imprisonment, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. The departure sentence shall be the sentence pursuant to the revised Kansas sentencing guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and, subject to the provisions of K.S.A. 2020 Supp. 21-6818, and amendments thereto, no sentence of a mandatory minimum term of imprisonment shall be imposed hereunder.

(2) As used in this subsection, "mitigating circumstances" shall include, but are not limited to, the following:

(A) The defendant has no significant history of prior criminal activity;

(B) the crime was committed while the defendant was under the influence of extreme

mental or emotional disturbances;

(C) the victim was an accomplice in the crime committed by another person, and the defendant's participation was relatively minor;

(D) the defendant acted under extreme distress or under the substantial domination of another person;

(E) the capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law was substantially impaired; and

(F) the age of the defendant at the time of the crime.

~~(e) The provisions of K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, shall not apply to any defendant sentenced pursuant to this section.~~

Sec. 11. K.S.A. 2020 Supp. 21-5301, 21-5302, 21-5303, 21-5503, 21-5504, 21-5506, 21-5510, 21-5514, 21-6422 and 21-6627 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.



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**22-3717. Parole or postrelease supervision; eligibility; interviews, notices and hearings; rules and regulations; conditions of parole or postrelease supervision.** (a) Except as otherwise provided by this section; K.S.A. 1993 Supp. [21-4628](#), prior to its repeal; K.S.A. [21-4624](#), [21-4635](#) through [21-4638](#) and [21-4642](#), prior to their repeal; K.S.A. 2019 Supp. [21-6617](#), [21-6620](#), [21-6623](#), [21-6624](#), [21-6625](#) and [21-6626](#), and amendments thereto; and K.S.A. [8-1567](#), and amendments thereto; an inmate, including an inmate sentenced pursuant to K.S.A. [21-4618](#), prior to its repeal, or K.S.A. 2019 Supp. [21-6707](#), and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) An inmate sentenced to imprisonment for life without the possibility of parole pursuant to K.S.A. 2019 Supp. [21-6617](#), and amendments thereto, shall not be eligible for parole.

(2) Except as provided by K.S.A. [21-4635](#) through [21-4638](#), prior to their repeal, and K.S.A. 2019 Supp. [21-6620](#), [21-6623](#), [21-6624](#) and [21-6625](#), and amendments thereto, an inmate sentenced to imprisonment for the crime of: (A) Capital murder committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; (B) murder in the first degree based upon a finding of premeditated murder committed on or after July 1, 1994, but prior to July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; and (C) murder in the first degree as described in K.S.A. 2019 Supp. [21-5402](#)(a)(2), and amendments thereto, committed on or after July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(3) Except as provided by subsections (b)(1), (b)(2) and (b)(5), K.S.A. 1993 Supp. [21-4628](#), prior to its repeal, K.S.A. [21-4635](#) through [21-4638](#), prior to their repeal, and K.S.A. 2019 Supp. [21-6620](#), [21-6623](#), [21-6624](#) and [21-6625](#), and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(4) Except as provided by K.S.A. 1993 Supp. [21-4628](#), prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. [21-4618](#), prior to its repeal, or K.S.A. 2019 Supp. [21-6707](#), and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(5) An inmate sentenced to imprisonment for a violation of K.S.A. [21-3402](#)(a), prior to its repeal, committed on or after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

(6) An inmate sentenced to imprisonment pursuant to K.S.A. [21-4643](#), prior to its repeal, or K.S.A. 2019 Supp. [21-6627](#), and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

(c) (1) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

(A) The aggregate minimum sentences, as determined pursuant to K.S.A. [21-4608](#), prior to its repeal, or K.S.A. 2019 Supp. [21-6606](#), and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(B) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

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(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. [21-4643](#), prior to its repeal, or K.S.A. 2019 Supp. [21-6627](#), and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment.

(d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, or persons subject to subparagraph (G), will not be eligible for parole, but will be released to a mandatory period of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 1 through 4 crimes, drug severity levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after July 1, 2012, must serve 36 months on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 4 crimes committed on or after July 1, 2012, must serve 24 months on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 7 through 10 crimes, drug severity level 4 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 5 crimes committed on or after July 1, 2012, must serve 12 months on postrelease supervision.

(D) Persons sentenced to a term of imprisonment that includes a sentence for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, committed on or after July 1, 1993, but prior to July 1, 2006, a sexually motivated crime in which the offender has been ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and amendments thereto, electronic solicitation, K.S.A. [21-3523](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5509](#), and amendments thereto, or unlawful sexual relations, K.S.A. [21-3520](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5512](#), and amendments thereto, shall serve the period of postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C), plus the amount of good time and program credit earned and retained pursuant to K.S.A. [21-4722](#), prior to its repeal, or K.S.A. 2019 Supp. [21-6821](#), and amendments thereto, on postrelease supervision.

(i) If the sentencing judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. [21-4721](#), prior to its repeal, or K.S.A. 2019 Supp. [21-6820](#), and amendments thereto.

(iii) In determining whether substantial and compelling reasons exist, the court shall consider:

(a) Written briefs or oral arguments submitted by either the defendant or the state;

(b) any evidence received during the proceeding;

(c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to K.S.A. [21-4714](#)(e), prior to its repeal, or K.S.A. 2019 Supp. [21-6813](#)(e), and amendments thereto; and

(d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the prisoner review board shall ensure that court ordered sex offender treatment be carried out.

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(v) In carrying out the provisions of subsection (d)(1)(D), the court shall refer to K.S.A. [21-4718](#), prior to its repeal, or K.S.A. 2019 Supp. [21-6817](#), and amendments thereto.

(vi) Upon petition and payment of any restitution ordered pursuant to K.S.A. 2019 Supp. [21-6604](#), and amendments thereto, the prisoner review board may provide for early discharge from the postrelease supervision period imposed pursuant to subsection (d)(1)(D)(i) upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated shall be registered according to the offender registration act, K.S.A. [22-4901](#) through [22-4910](#), and amendments thereto.

(viii) Persons convicted of K.S.A. [21-3510](#) or [21-3511](#), prior to their repeal, or K.S.A. 2019 Supp. [21-5508](#), and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(G) (i) Except as provided in subsection (u), persons sentenced to imprisonment for a sexually violent crime committed on or after July 1, 2006, but prior to July 1, 2021, or a severity level 1 through 5 sexually violent crime committed on or after July 1, 2021, when the offender was 18 years of age or older, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(ii) Persons sentenced to imprisonment for a sexually violent crime committed on or after the effective date of this act, when the offender was under 18 years of age, and who are released from prison, shall be released to a mandatory period of postrelease supervision for 60 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. [21-4722](#), prior to its repeal, or K.S.A. 2019 Supp. [21-6821](#), and amendments thereto.

(iii) Upon petition and payment of restitution, the prisoner review board may provide for early discharge from the postrelease supervision period imposed pursuant to subsection (d)(1)(G)(i) upon completion of court ordered programs and completion of 10 years postrelease supervision. Early discharge from postrelease supervision is at the discretion of the board.

(iv) The petition requesting early discharge from postrelease supervision must be served on the county or district attorney of the county where the offender was sentenced. The county or district attorney shall provide victim notification. At the hearing, the prisoner review board may consider any evidence relevant to the offender's danger to the public. The offender must prove by clear and convincing evidence that lifetime postrelease supervision is no longer necessary to protect the public.

(v) If the petition is denied, the offender shall not file a subsequent petition for early discharge from lifetime postrelease supervision until five years from the date of the denial.

(2) Persons serving a period of postrelease supervision pursuant to subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner review board for early discharge. Upon payment of restitution, the prisoner review board may provide for early discharge.

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(3) Persons serving a period of incarceration for a supervision violation shall not have the period of postrelease supervision modified until such person is released and returned to postrelease supervision.

(4) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction is revoked pursuant to K.S.A. [22-3716\(c\)](#), and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to K.S.A. [22-3716\(c\)](#), and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(5) As used in this subsection, "sexually violent crime" means:

(A) Rape, K.S.A. [21-3502](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5503](#), and amendments thereto;

(B) indecent liberties with a child, K.S.A. [21-3503](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5506\(a\)](#), and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. [21-3504](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5506\(b\)](#), and amendments thereto;

(D) criminal sodomy, K.S.A. [21-3505\(a\)\(2\)](#) and [21-3505\(a\)\(3\)](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5504\(a\)\(3\)](#) and [21-5504\(a\)\(4\)](#), and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. [21-3506](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5504\(b\)](#), and amendments thereto;

(F) indecent solicitation of a child, K.S.A. [21-3510](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5508\(a\)](#), and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. [21-3511](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5508\(b\)](#), and amendments thereto;

(H) sexual exploitation of a child, K.S.A. [21-3516](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5510](#), and amendments thereto;

(I) aggravated sexual battery, K.S.A. [21-3518](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5505\(b\)](#), and amendments thereto;

(J) aggravated incest, K.S.A. [21-3603](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5604\(b\)](#), and amendments thereto;

(K) aggravated human trafficking, as defined in K.S.A. [21-3447](#), prior to its repeal, or K.S.A. 2019 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;

(L) internet trading in child pornography, as defined in K.S.A. 2019 Supp. [21-5514\(a\)](#), and amendments thereto;

(M) aggravated internet trading in child pornography, as defined in K.S.A. 2019 Supp. [21-5514\(b\)](#), and amendments thereto;

(N) commercial sexual exploitation of a child, as defined in K.S.A. 2019 Supp. [21-6422](#), and amendments thereto; or

(O) 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. 2019 Supp. [21-5301](#), [21-5302](#) or [21-5303](#), and amendments thereto, of a sexually violent crime as defined in this section.

(6) As used in this subsection, "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.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the prisoner

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review board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. [21-4724](#), prior to its repeal, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the prisoner review board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. [21-4628](#), prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the prisoner review board.

(g) Subject to the provisions of this section, the prisoner review board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. [75-5210a](#), and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The prisoner review board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least one month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. [74-7338](#), and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the

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employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. [75-5210a](#), and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the prisoner review board will review the inmate's proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. [75-5210a](#), and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on postrelease supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) (1) Before ordering the parole of any inmate, the prisoner review board shall have the inmate appear either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. [75-5210a](#), and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. [75-5210a](#), and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. [75-5210a](#), and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to

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three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to 10 years, but any such deferral shall require the board to state the basis for its findings.

(2) Inmates sentenced for a class A or class B felony who have not had a board hearing in the five years prior to July 1, 2010, shall have such inmates' cases reviewed by the board on or before July 1, 2012. Such review shall begin with the inmates with the oldest deferral date and progress to the most recent. Such review shall be done utilizing existing resources unless the board determines that such resources are insufficient. If the board determines that such resources are insufficient, then the provisions of this paragraph are subject to appropriations therefor.

(k) (1) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(2) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to searches of the person and the person's effects, vehicle, residence and property by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment.

(3) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to searches of the person and the person's effects, vehicle, residence and property by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity. Any law enforcement officer who conducts such a search shall submit a written report to the appropriate parole officer no later than the close of the next business day after such search. The written report shall include the facts leading to such search, the scope of such search and any findings resulting from such search.

(l) (1) The prisoner review board shall promulgate rules and regulations in accordance with [K.S.A. 77-415](#) et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

(m) Whenever the prisoner review board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

(1) Unless it finds compelling circumstances that would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

(2) to the extent practicable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision make progress towards or successfully complete the

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equivalent of a secondary education if the inmate has not previously completed such educational equivalent and is capable of doing so;

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized not-for-profit or charitable or social service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. [22-4529](#), and amendments thereto, unless the board finds compelling circumstances that would render payment unworkable;

(5) unless it finds compelling circumstances that would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the prisoner review board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. [22-4522](#), and amendments thereto, whichever is less, minus any previous payments for such services;

(6) shall order that the parolee or person on postrelease supervision agree in writing to be subject to searches of the person and the person's effects, vehicle, residence and property by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment; and

(7) shall order that the parolee or person on postrelease supervision agree in writing to be subject to searches of the person and the person's effects, vehicle, residence and property by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity.

(n) If the court that sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the prisoner review board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances that would render a plan of restitution unworkable.

(o) Whenever the prisoner review board grants the parole of an inmate, the board, within 14 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. [22-3725](#), and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days

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per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life-threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions that result in a financial savings to the state.

(s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall be applied retroactively as provided in subsection (t).

(t) For offenders sentenced prior to July 1, 2014, who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section:

(1) On or before September 1, 2013, for offenders convicted of:

(A) Severity levels 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes;

(B) severity level 4 crimes on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012; and

(C) severity level 5 crimes on the sentencing guidelines grid for drug crimes committed on and after July 1, 2012;

(2) on or before November 1, 2013, for offenders convicted of:

(A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes;

(B) level 3 crimes on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012; and

(C) level 4 crimes on the sentencing guidelines grid for drug crimes committed on or after July 1, 2012; and

(3) on or before January 1, 2014, for offenders convicted of:

(A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing guidelines grid for nondrug crimes;

(B) severity levels 1 and 2 crimes on the sentencing guidelines grid for drug crimes committed at any time; and

(C) severity level 3 crimes on the sentencing guidelines grid for drug crimes committed on or after July 1, 2012.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. [21-4643](#), prior to its repeal, or K.S.A. 2019 Supp. [21-6627](#), and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the prisoner review board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

(v) Whenever the prisoner review board orders a person to be electronically monitored pursuant to this section, or the court orders a person to be electronically monitored pursuant to K.S.A. 2019 Supp. [21-6604](#)(r), and amendments thereto, the board shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

(w) (1) On and after July 1, 2012, for any inmate who is a sex offender, as defined in K.S.A. [22-4902](#), and amendments thereto, whenever the prisoner review board orders the parole of such inmate or establishes conditions for such inmate placed on postrelease supervision, such inmate shall agree in writing to not possess pornographic materials.

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(A) As used in this subsection, "pornographic materials" means any obscene material or performance depicting sexual conduct, sexual contact or a sexual performance; and any visual depiction of sexually explicit conduct.

(B) As used in this subsection, all other terms have the meanings provided by K.S.A. 2019 Supp. [21-5510](#), and amendments thereto.

(2) The provisions of this subsection shall be applied retroactively to every sex offender, as defined in K.S.A. [22-4902](#), and amendments thereto, who is on parole or postrelease supervision on July 1, 2012. The prisoner review board shall obtain the written agreement required by this subsection from such offenders as soon as practicable.

Bill draft re persistent vs. aggravated  
habitual sex offenders

K.S.A. 21-6804:

....

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who:

(A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. [22-3717](#), and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(A)(i) has ~~at least~~ one conviction for a sexually violent crime, as defined in K.S.A. [22-3717](#), and amendments thereto, in this state or comparable felony under the laws of another state, the federal government or a foreign government; or

(B) (i) has been convicted of rape, as defined in K.S.A. [21-3502](#), prior to its repeal, or K.S.A. 2019 Supp. [21-5503](#), and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(B)(i) has ~~at least~~ one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in subsection (j)(2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

....