

HOUSE BILL No. 2738

By Committee on Corrections and Juvenile Justice

2-9

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sex crimes; unlawful voluntary sexual relations; penalties; amending
3 K.S.A. 2017 Supp. 21-5503, 21-5504, 21-5506, 21-5507, 21-5508, 21-
4 5509 and 22-4902 and repealing the existing sections.

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

7 Section 1. K.S.A. 2017 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 19 years of age when the child and the
11 offender are the only parties involved:

- 12 (A)(1) Voluntary sexual intercourse;
13 (B)(2) voluntary sodomy; or
14 (C)(3) voluntary lewd fondling or touching;
15 (2) when the offender is less than 19 years of age;
16 (3) when the offender is less than four years of age older than the
17 child;
18 (4) when the child and the offender are the only parties involved; and
19 (5) when the child and the offender are members of the opposite sex.

20 (b) Unlawful voluntary sexual relations as defined in:

21 (1) Subsection (a)(1)(A) is a severity level 8, person felony carries
22 the following penalties based on the age of the offender and the age of the
23 child, with each grid block indicating the severity level of a person felony
24 or the class of a person misdemeanor;

Table with Age of offender on the y-axis and Age of child on the x-axis. The table contains numerical values and 'offgrid' entries representing severity levels for different age combinations.

(2) subsection (a)(1)(B) is a severity level 9, person felony(2) carries

1 *the following penalties based on the age of the offender and the age of the*
 2 *child, with each grid block indicating the severity level of a person felony*
 3 *or the class of a person misdemeanor; and*

		Age of child								
		≤10	11	12	13	14	15	16	17	18
Age of offender	≤10		1	1	1	1	1	1	1	offgrid
	11	1					1	1	1	offgrid
	12	1					9	9	3	offgrid
	13	1					A	9	9	3
	14	1						A	A	9
	15	1	1	9	A				A	A
	16	1	1	9	9	A				
	17	1	1	3	9	A	A			
	18	offgrid	offgrid	offgrid	3	9	A			

4 (3) subsection (a)(1)(C) is a severity level 10, person felony(3)
 5 carries the following penalties based on the age of the offender and the
 6 age of the child, with each grid block indicating the severity level of a
 7 person felony or the class of a person misdemeanor:

		Age of child								
		≤10	11	12	13	14	15	16	17	18
Age of offender	≤10		3	3	3	3	3	3	3	offgrid
	11	3					3	3	3	offgrid
	12	3					10	10	5	offgrid
	13	3					B	10	10	5
	14	3						B	B	10
	15	3	3	10	B				B	B
	16	3	3	10	10	B				
	17	3	3	5	10	B	B			
	18	offgrid	offgrid	offgrid	5	10	B			

8 *Any grid block without a penalty indicates that the conduct described*
 9 *between persons of those ages is lawful. When the child and the offender*
 10 *differ in age by three years or less, there shall be no presumption made*
 11 *that the older child involved in the described conduct is the offender.*

12 Sec. 2. K.S.A. 2017 Supp. 21-5503 is hereby amended to read as
 13 follows: 21-5503. (a) *Except as provided in K.S.A. 2017 Supp. 21-5707,*
 14 *and amendments thereto, rape is:*

15 (1) Knowingly engaging in sexual intercourse with a victim who does
 16 not consent to the sexual intercourse under any of the following
 17 circumstances:

- 18 (A) When the victim is overcome by force or fear; or
- 19 (B) when the victim is unconscious or physically powerless;
- 20 (2) Knowingly engaging in sexual intercourse with a victim when the

1 victim is incapable of giving consent because of mental deficiency or
2 disease, or when the victim is incapable of giving consent because of the
3 effect of any alcoholic liquor, narcotic, drug or other substance, which
4 condition was known by the offender or was reasonably apparent to the
5 offender;

6 (3) sexual intercourse with a child who is under 14 years of age;

7 (4) sexual intercourse with a victim when the victim's consent was
8 obtained through a knowing misrepresentation made by the offender that
9 the sexual intercourse was a medically or therapeutically necessary
10 procedure; or

11 (5) sexual intercourse with a victim when the victim's consent was
12 obtained through a knowing misrepresentation made by the offender that
13 the sexual intercourse was a legally required procedure within the scope of
14 the offender's authority.

15 (b) (1) Rape as defined in:

16 (A) Subsection (a)(1) or (a)(2) is a severity level 1, person felony;

17 (B) subsection (a)(3) is a severity level 1, person felony, except as
18 provided in subsection (b)(2); and

19 (C) subsection (a)(4) or (a)(5) is a severity level 2, person felony.

20 (2) Rape as defined in subsection (a)(3) or attempt, conspiracy or
21 criminal solicitation to commit rape as defined in subsection (a)(3) is an
22 off-grid person felony, when the offender is 18 years of age or older.

23 (c) If the offender is 18 years of age or older, the provisions of:

24 (1) ~~Subsection (c) of K.S.A. 2017 Supp. 21-5301(c)~~, and amendments
25 thereto, shall not apply to a violation of attempting to commit the crime of
26 rape as defined in subsection (a)(3);

27 (2) ~~subsection (c) of K.S.A. 2017 Supp. 21-5302(c)~~, and amendments
28 thereto, shall not apply to a violation of conspiracy to commit the crime of
29 rape as defined in subsection (a)(3); and

30 (3) ~~subsection (d) of K.S.A. 2017 Supp. 21-5303(d)~~, and amendments
31 thereto, shall not apply to a violation of criminal solicitation to commit the
32 crime of rape as defined in subsection (a)(3).

33 (d) It shall be a defense to a prosecution of rape under subsection (a)
34 (3) that the child was married to the accused at the time of the offense.

35 (e) Except as provided in subsection (a)(2), it shall not be a defense
36 that the offender did not know or have reason to know that the victim did
37 not consent to the sexual intercourse, that the victim was overcome by
38 force or fear, or that the victim was unconscious or physically powerless.

39 Sec. 3. K.S.A. 2017 Supp. 21-5504 is hereby amended to read as
40 follows: 21-5504. (a) *Except as provided in K.S.A. 2017 Supp. 21-5507,*
41 *and amendments thereto*, criminal sodomy is:

42 (1) Sodomy between persons who are 16 or more years of age and
43 members of the same sex;

- 1 (2) sodomy between a person and an animal;
- 2 (3) sodomy with a child who is 14 or more years of age but less than
3 16 years of age; or
- 4 (4) causing a child 14 or more years of age but less than 16 years of
5 age to engage in sodomy with any person or animal.
- 6 (b) *Except as provided in K.S.A. 2017 Supp. 21-5507, and*
7 *amendments thereto*, aggravated criminal sodomy is:
- 8 (1) Sodomy with a child who is under 14 years of age;
- 9 (2) causing a child under 14 years of age to engage in sodomy with
10 any person or an animal; or
- 11 (3) sodomy with a victim who does not consent to the sodomy or
12 causing a victim, without the victim's consent, to engage in sodomy with
13 any person or an animal under any of the following circumstances:
- 14 (A) When the victim is overcome by force or fear;
- 15 (B) when the victim is unconscious or physically powerless; or
- 16 (C) when the victim is incapable of giving consent because of mental
17 deficiency or disease, or when the victim is incapable of giving consent
18 because of the effect of any alcoholic liquor, narcotic, drug or other
19 substance, which condition was known by, or was reasonably apparent to,
20 the offender.
- 21 (c) (1) Criminal sodomy as defined in:
- 22 (A) Subsection (a)(1) or (a)(2) is a class B nonperson misdemeanor;
23 and
- 24 (B) subsection (a)(3) or (a)(4) is a severity level 3, person felony.
- 25 (2) Aggravated criminal sodomy as defined in:
- 26 (A) Subsection (b)(3) is a severity level 1, person felony; and
- 27 (B) subsection (b)(1) or (b)(2) is a severity level 1, person felony,
28 except as provided in subsection (c)(3).
- 29 (3) Aggravated criminal sodomy as defined in subsection (b)(1) or (b)
30 (2) or attempt, conspiracy or criminal solicitation to commit aggravated
31 criminal sodomy as defined in subsection (b)(1) or (b)(2) is an off-grid
32 person felony, when the offender is 18 years of age or older.
- 33 (d) If the offender is 18 years of age or older, the provisions of:
- 34 (1) ~~Subsection (e) of K.S.A. 2017 Supp. 21-5301(c), and amendments~~
35 ~~thereto~~, shall not apply to a violation of attempting to commit the crime of
36 aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2);
- 37 (2) ~~subsection (e) of K.S.A. 2017 Supp. 21-5302(c), and amendments~~
38 ~~thereto~~, shall not apply to a violation of conspiracy to commit the crime of
39 aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2); and
- 40 (3) ~~subsection (d) of K.S.A. 2017 Supp. 21-5303(d), and amendments~~
41 ~~thereto~~, shall not apply to a violation of criminal solicitation to commit the
42 crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)
43 (2).

1 (e) It shall be a defense to a prosecution of criminal sodomy, as
2 defined in subsection (a)(3), and aggravated criminal sodomy, as defined
3 in subsection (b)(1), that the child was married to the accused at the time
4 of the offense.

5 (f) Except as provided in subsection (b)(3)(C), it shall not be a
6 defense that the offender did not know or have reason to know that the
7 victim did not consent to the sodomy, that the victim was overcome by
8 force or fear, or that the victim was unconscious or physically powerless.

9 Sec. 4. K.S.A. 2017 Supp. 21-5506 is hereby amended to read as
10 follows: 21-5506. (a) *Except as provided in K.S.A. 2017 Supp. 21-5507,*
11 *and amendments thereto*, indecent liberties with a child is engaging in any
12 of the following acts with a child who is 14 or more years of age but less
13 than 16 years of age:

14 (1) Any lewd fondling or touching of the person of either the child or
15 the offender, done or submitted to with the intent to arouse or to satisfy the
16 sexual desires of either the child or the offender, or both; or

17 (2) soliciting the child to engage in any lewd fondling or touching of
18 the person of another with the intent to arouse or satisfy the sexual desires
19 of the child, the offender or another.

20 (b) *Except as provided in K.S.A. 2017 Supp. 21-5507, and*
21 *amendments thereto*, aggravated indecent liberties with a child is:

22 (1) Sexual intercourse with a child who is 14 or more years of age but
23 less than 16 years of age;

24 (2) engaging in any of the following acts with a child who is 14 or
25 more years of age but less than 16 years of age and who does not consent
26 thereto:

27 (A) Any lewd fondling or touching of the person of either the child or
28 the offender, done or submitted to with the intent to arouse or to satisfy the
29 sexual desires of either the child or the offender, or both; or

30 (B) causing the child to engage in any lewd fondling or touching of
31 the person of another with the intent to arouse or satisfy the sexual desires
32 of the child, the offender or another; or

33 (3) engaging in any of the following acts with a child who is under 14
34 years of age:

35 (A) Any lewd fondling or touching of the person of either the child or
36 the offender, done or submitted to with the intent to arouse or to satisfy the
37 sexual desires of either the child or the offender, or both; or

38 (B) soliciting the child to engage in any lewd fondling or touching of
39 the person of another with the intent to arouse or satisfy the sexual desires
40 of the child, the offender or another.

41 (c) (1) Indecent liberties with a child is a severity level 5, person
42 felony.

43 (2) Aggravated indecent liberties with a child as defined in:

- 1 (A) Subsection (b)(1) is a severity level 3, person felony;
2 (B) subsection (b)(2) is a severity level 4, person felony; and
3 (C) subsection (b)(3) is a severity level 3, person felony, except as
4 provided in subsection (c)(3).
- 5 (3) Aggravated indecent liberties with a child as defined in subsection
6 (b)(3) or attempt, conspiracy or criminal solicitation to commit aggravated
7 indecent liberties with a child as defined in subsection (b)(3) is an off-grid
8 person felony, when the offender is 18 years of age or older.
- 9 (d) If the offender is 18 years of age or older, the provisions of:
- 10 (1) ~~Subsection (e) of K.S.A. 2017 Supp. 21-5301(c)~~, and amendments
11 thereto, shall not apply to a violation of attempting to commit the crime of
12 aggravated indecent liberties with a child as defined in subsection (b)(3);
- 13 (2) ~~subsection (e) of K.S.A. 2017 Supp. 21-5302(c)~~, and amendments
14 thereto, shall not apply to a violation of conspiracy to commit the crime of
15 aggravated indecent liberties with a child as defined in subsection (b)(3);
- 16 (3) ~~subsection (d) of K.S.A. 2017 Supp. 21-5303(d)~~, and amendments
17 thereto, shall not apply to a violation of criminal solicitation to commit the
18 crime of aggravated indecent liberties with a child as defined in subsection
19 (b)(3).
- 20 (e) It shall be a defense to a prosecution of indecent liberties with a
21 child, as defined in subsection (a)(1), and aggravated indecent liberties
22 with a child, as defined in subsections (b)(1), (b)(2)(A) and (b)(3)(A) that
23 the child was married to the accused at the time of the offense.
- 24 Sec. 5. K.S.A. 2017 Supp. 21-5508 is hereby amended to read as
25 follows: 21-5508. (a) *Except as provided in K.S.A. 2017 Supp. 21-5507,*
26 *and amendments thereto*, indecent solicitation of a child is enticing,
27 commanding, inviting, persuading or attempting to persuade a child 14 or
28 more years of age but less than 16 years of age to:
- 29 (1) Commit or to submit to an unlawful sexual act; or
30 (2) enter any vehicle, building, room or secluded place with intent to
31 commit an unlawful sexual act upon or with the child.
- 32 (b) *Except as provided in K.S.A. 2017 Supp. 21-5507, and*
33 *amendments thereto*, aggravated indecent solicitation of a child is enticing,
34 commanding, inviting, persuading or attempting to persuade a child under
35 the age of 14 years to:
- 36 (1) Commit or submit to an unlawful sexual act; or
37 (2) enter any vehicle, building, room or secluded place with the intent
38 to commit an unlawful sexual act upon or with the child.
- 39 (c) (1) Indecent solicitation of a child is a severity level 6, person
40 felony.
41 (2) Aggravated indecent solicitation of a child is a severity level 5,
42 person felony.
- 43 (d) It shall not be a defense that the offender did not know or have

1 reason to know that the sexual act was unlawful.

2 Sec. 6. K.S.A. 2017 Supp. 21-5509 is hereby amended to read as
3 follows: 21-5509. (a) *Except as provided in K.S.A. 2017 Supp. 21-5507,*
4 *and amendments thereto,* electronic solicitation is, by means of
5 communication conducted through the telephone, internet or by other
6 electronic means, enticing or soliciting a person, whom the offender
7 believes to be a child, to commit or submit to an unlawful sexual act.

8 (b) Electronic solicitation is a:

9 (1) Severity level 3, person felony if the offender believes the person
10 to be a child 14 or more years of age but less than 16 years of age; and

11 (2) severity level 1, person felony if the offender believes the person
12 to be a child under 14 years of age.

13 (c) As used in this section, "communication conducted through the
14 internet or by other electronic means" includes, but is not limited to, e-
15 mail, chatroom chats and text messaging.

16 Sec. 7. K.S.A. 2017 Supp. 22-4902 is hereby amended to read as
17 follows: 22-4902. As used in the Kansas offender registration act, unless
18 the context otherwise requires:

19 (a) "Offender" means:

20 (1) A sex offender;

21 (2) a violent offender;

22 (3) a drug offender;

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

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

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

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

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

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

36 (4) on or after July 1, 1997, is convicted of any of the following
37 crimes when one of the parties involved is less than 18 years of age:

38 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
39 K.S.A. 2017 Supp. 21-5511, and amendments thereto;

40 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
41 repeal, or K.S.A. 2017 Supp. 21-5504(a)(1) or (a)(2), and amendments
42 thereto;

43 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its

1 repeal, or K.S.A. 2017 Supp. 21-6420, prior to its amendment by section
2 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

3 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
4 repeal, or K.S.A. 2017 Supp. 21-6421, prior to its amendment by section
5 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

6 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
7 to its repeal, or K.S.A. 2017 Supp. 21-5513, and amendments thereto;

8 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
9 to its repeal, or K.S.A. 2017 Supp. 21-5505(a), and amendments thereto;

10 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
11 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
12 K.S.A. 2017 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
13 of an offense defined in this subsection; or

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

17 (c) "Sexually violent crime" means:

18 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
19 2017 Supp. 21-5503, and amendments thereto;

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

22 (3) aggravated indecent liberties with a child, as defined in K.S.A.
23 21-3504, prior to its repeal, or K.S.A. 2017 Supp. 21-5506(b), and
24 amendments thereto;

25 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
26 prior to its repeal, or K.S.A. 2017 Supp. 21-5504(a)(3) or (a)(4), and
27 amendments thereto;

28 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
29 to its repeal, or K.S.A. 2017 Supp. 21-5504(b), and amendments thereto;

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

33 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
34 21-3511, prior to its repeal, or K.S.A. 2017 Supp. 21-5508(b), and
35 amendments thereto;

36 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
37 to its repeal, or K.S.A. 2017 Supp. 21-5510, and amendments thereto;

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

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

42 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
43 repeal, and K.S.A. 2017 Supp. 21-5509, and amendments thereto;

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

3 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
4 prior to its repeal, or K.S.A. 2017 Supp. 21-5426(b), and amendments
5 thereto, if committed in whole or in part for the purpose of the sexual
6 gratification of the defendant or another;

7 (14) commercial sexual exploitation of a child, as defined in K.S.A.
8 2017 Supp. 21-6422, and amendments thereto;

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

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

15 (17) an attempt, conspiracy or criminal solicitation, as defined in
16 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2017
17 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
18 violent crime, as defined in this subsection; or

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

26 (d) "Sexually violent predator" means any person who, on or after
27 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
28 59-29a01 et seq., and amendments thereto.

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

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

32 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
33 or K.S.A. 2017 Supp. 21-5401, and amendments thereto;

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

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

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

40 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
41 its repeal, or K.S.A. 2017 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
42 amendments thereto. The provisions of this paragraph shall not apply to
43 violations of K.S.A. 2017 Supp. 21-5405(a)(3), and amendments thereto,

1 which occurred on or after July 1, 2011, through July 1, 2013;

2 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
3 K.S.A. 2017 Supp. 21-5408(a), and amendments thereto;

4 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
5 repeal, or K.S.A. 2017 Supp. 21-5408(b), and amendments thereto;

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

9 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
10 to its repeal, or K.S.A. 2017 Supp. 21-5426(b), and amendments thereto, if
11 not committed in whole or in part for the purpose of the sexual
12 gratification of the defendant or another;

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

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

20 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
21 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
22 K.S.A. 2017 Supp. 21-5301, 21-5302 and 21-5303, and amendments
23 thereto, of an offense defined in this subsection.

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

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

26 (A) Unlawful manufacture or attempting such of any controlled
27 substance or controlled substance analog, as defined in K.S.A. 65-4159,
28 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
29 K.S.A. 2017 Supp. 21-5703, and amendments thereto;

30 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
31 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
32 ammonia or phenylpropanolamine, or their salts, isomers or salts of
33 isomers with intent to use the product to manufacture a controlled
34 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
35 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2017 Supp. 21-5709(a),
36 and amendments thereto;

37 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
38 36a05(a)(1), prior to its transfer, or K.S.A. 2017 Supp. 21-5705(a)(1), and
39 amendments thereto. The provisions of this paragraph shall not apply to
40 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)
41 which occurred on or after July 1, 2009, through April 15, 2010;

42 (2) 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 (3) is or has been convicted of an attempt, conspiracy or criminal
 4 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
 5 their repeal, or K.S.A. 2017 Supp. 21-5301, 21-5302 and 21-5303, and
 6 amendments thereto, of an offense defined in this subsection.

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

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

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

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

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

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

37 (m) "Law enforcement agency having initial jurisdiction" means the
 38 registering law enforcement agency of the county or location of
 39 jurisdiction where the offender expects to most often reside upon the
 40 offender's discharge, parole or release.

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

43 (o) "Registering entity" means any person, agency or other

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

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

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

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

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

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

21 (A) Convicted of unlawful transmission of a visual depiction of a
22 child, as defined in K.S.A. 2017 Supp. 21-5611(a), and amendments
23 thereto, aggravated unlawful transmission of a visual depiction of a child,
24 as defined in K.S.A. 2017 Supp. 21-5611(b), and amendments thereto, or
25 unlawful possession of a visual depiction of a child, as defined in K.S.A.
26 2017 Supp. 21-5610, and amendments thereto; ~~or~~

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

30 (C) *adjudicated as a juvenile offender for an act described in K.S.A.*
31 *2017 Supp. 21-5507, and amendments thereto.*

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

35 Sec. 8. K.S.A. 2017 Supp. 21-5503, 21-5504, 21-5506, 21-5507, 21-
36 5508, 21-5509 and 22-4902 are hereby repealed.

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