

## HOUSE BILL No. 2234

By Committee on Corrections and Juvenile Justice

2-3

9 AN ACT concerning sexual abuse; amending K.S.A. 21-3503, 21-3504,  
10 21-3508, 21-3512, 21-3516, 21-3517, 21-3518 and 60-3102 and re-  
11 pealing the existing sections.

12

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

14 Section 1. K.S.A. 21-3503 is hereby amended to read as follows: 21-  
15 3503. (a) Indecent liberties with a child is engaging in any of the following  
16 acts with a child who is 14 or more years of age but less than 16 years of  
17 age:

18 (1) Any lewd fondling or touching of the person of either the child  
19 or the offender, done or submitted to with the intent to ~~arouse or to~~  
20 ~~satisfy the sexual desires of either the child or the offender, or both~~ *abuse,*  
21 *humiliate, harass, degrade, or arouse or gratify the sexual desire of any*  
22 *person; or*

23 (2) soliciting the child to engage in any lewd fondling or touching of  
24 the person of another with the intent to ~~arouse or satisfy the sexual desires~~  
25 ~~of the child, the offender or another~~ *abuse, humiliate, harass, degrade,*  
26 *or arouse or gratify the sexual desire of any person.*

27 (b) It shall be a defense to a prosecution of indecent liberties with a  
28 child as described in subsection (a)(1) that the child was married to the  
29 accused at the time of the offense.

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

31 Sec. 2. K.S.A. 21-3504 is hereby amended to read as follows: 21-  
32 3504. (a) Aggravated indecent liberties with a child is:

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

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

38 (A) Any lewd fondling or touching of the person of either the child  
39 or the offender, done or submitted to with the intent to ~~arouse or satisfy~~  
40 ~~the sexual desires of either the child or the offender, or both~~ *abuse, hu-*  
41 *miliate, harass, degrade, or arouse or gratify the sexual desire of any*  
42 *person; or*

43 (B) causing the child to engage in any lewd fondling or touching of

1 the person of another with the intent to ~~arouse or satisfy the sexual desires~~  
2 ~~of the child, the offender or another~~ *abuse, humiliate, harass, degrade,*  
3 *or arouse or gratify the sexual desire of any person;* or

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

6 (A) Any lewd fondling or touching of the person of either the child  
7 or the offender, done or submitted to with the intent to ~~arouse or to~~  
8 ~~satisfy the sexual desires of either the child or the offender, or both~~ *abuse,*  
9 *humiliate, harass, degrade, or arouse or gratify the sexual desire of any*  
10 *person;* or

11 (B) soliciting the child to engage in any lewd fondling or touching of  
12 the person of another with the intent to ~~arouse or satisfy the sexual desires~~  
13 ~~of the child, the offender or another~~ *abuse, humiliate, harass, degrade,*  
14 *or arouse or gratify the sexual desire of any person.*

15 (b) It shall be a defense to a prosecution of aggravated indecent lib-  
16 erties with a child as provided in subsection (a)(1), (a)(2)(A) and (a)(3)(A)  
17 that the child was married to the accused at the time of the offense.

18 (c) Except as provided further, aggravated indecent liberties with a  
19 child as described in subsections (a)(1) and (a)(3) is a severity level 3,  
20 person felony. Aggravated indecent liberties with a child as described in  
21 subsection (a)(2) is a severity level 4, person felony. When the offender  
22 is 18 years of age or older, aggravated indecent liberties with a child as  
23 described in subsection (a)(3) is an off-grid person felony.

24 Sec. 3. K.S.A. 21-3508 is hereby amended to read as follows: 21-  
25 3508. (a) Lewd and lascivious behavior is:

26 (1) Publicly engaging in otherwise lawful sexual intercourse or sod-  
27 omy with knowledge or reasonable anticipation that the participants are  
28 being viewed by others; or

29 (2) publicly exposing a sex organ or exposing a sex organ in the pres-  
30 ence of a person who is not the spouse of the offender and who has not  
31 consented thereto, with intent to ~~arouse or gratify the sexual desires of~~  
32 ~~the offender or another~~ *abuse, humiliate, harass, degrade, or arouse or*  
33 *gratify the sexual desire of any person.*

34 (b) (1) Lewd and lascivious behavior if committed in the presence of  
35 a person 16 or more years of age is a class B nonperson misdemeanor.

36 (2) Lewd and lascivious behavior if committed in the presence of a  
37 person under 16 years of age is a severity level 9, person felony.

38 Sec. 4. K.S.A. 21-3512 is hereby amended to read as follows: 21-  
39 3512. (a) Prostitution is performing for hire, or offering or agreeing to  
40 perform for hire where there is an exchange of value, any of the following  
41 acts:

42 (1) Sexual intercourse;

43 (2) sodomy; or

- 1 (3) manual or other bodily contact stimulation of the genitals of any  
2 person with the intent to ~~arouse or gratify the sexual desires of the of-~~  
3 ~~fender or another~~ *abuse, humiliate, harass, degrade, or arouse or gratify*  
4 *the sexual desire of any person.*
- 5 (b) Prostitution is a class B nonperson misdemeanor.
- 6 Sec. 5. K.S.A. 21-3516 is hereby amended to read as follows: 21-  
7 3516. (a) Sexual exploitation of a child is:
- 8 (1) Except as provided in subsection (a)(5), employing, using, per-  
9 suading, inducing, enticing or coercing a child under 18 years of age to  
10 engage in sexually explicit conduct for the purpose of promoting any  
11 performance;
- 12 (2) possessing any visual depiction, including any photograph, film,  
13 video picture, digital or computer generated image or picture, whether  
14 made or produced by electronic, mechanical or other means, where such  
15 visual depiction of a child under 18 years of age is shown or heard en-  
16 gaging in sexually explicit conduct with intent to arouse or satisfy the  
17 sexual desires or appeal to the prurient interest of the offender, the child  
18 or another;
- 19 (3) being a parent, guardian or other person having custody or control  
20 of a child under 18 years of age and knowingly permitting such child to  
21 engage in, or assist another to engage in, sexually explicit conduct for any  
22 purpose described in subsection (a)(1) or (2);
- 23 (4) except as provided in subsection (a)(6), promoting any perform-  
24 ance that includes sexually explicit conduct by a child under 18 years of  
25 age, knowing the character and content of the performance;
- 26 (5) employing, using, persuading, inducing, enticing or coercing a  
27 child under 14 years of age to engage in sexually explicit conduct for the  
28 purpose of promoting any performance; or
- 29 (6) promoting any performance that includes sexually explicit conduct  
30 by a child under 14 years of age, knowing the character and content of  
31 the performance.
- 32 (b) As used in this section:
- 33 (1) "Sexually explicit conduct" means actual or simulated: Exhibition  
34 in the nude; sexual intercourse or sodomy, including genital-genital, oral-  
35 genital, anal-genital or oral-anal contact, whether between persons of the  
36 same or opposite sex; masturbation; sado-masochistic abuse for the pur-  
37 pose of sexual stimulation; or lewd exhibition of the genitals, female  
38 breasts or pubic area of any person.
- 39 (2) "Promoting" means procuring, selling, providing, lending, mail-  
40 ing, delivering, transferring, transmitting, distributing, circulating, dis-  
41 seminating, presenting, producing, directing, manufacturing, issuing,  
42 publishing, displaying, exhibiting or advertising:
- 43 (A) For pecuniary profit; or

1 (B) with intent to ~~arouse or gratify the sexual desire~~ *abuse, humiliate,*  
2 *harass, degrade, or arouse or gratify the sexual desire of any person* or  
3 appeal to the prurient interest of ~~the offender, the child or another~~ *any*  
4 *person.*

5 (3) "Performance" means any film, photograph, negative, slide, book,  
6 magazine or other printed or visual medium, any audio tape recording or  
7 any photocopy, video tape, video laser disk, computer hardware, software,  
8 floppy disk or any other computer related equipment or computer gen-  
9 erated image that contains or incorporates in any manner any film, pho-  
10 tograph, negative, photocopy, video tape or video laser disk or any play  
11 or other live presentation.

12 (4) "Nude" means any state of undress in which the human genitals,  
13 pubic region, buttock or female breast, at a point below the top of the  
14 areola, is less than completely and opaquely covered.

15 (c) Except as provided further, sexual exploitation of a child is a se-  
16 verity level 5, person felony. Sexual exploitation of a child as described in  
17 subsection (a)(5) or (a)(6) when the offender is 18 years of age or older  
18 is an off-grid person felony.

19 (d) This section shall be part of and supplemental to the Kansas crim-  
20 inal code.

21 Sec. 6. K.S.A. 21-3517 is hereby amended to read as follows: 21-  
22 3517. (a) Sexual battery is the intentional touching of the person of an-  
23 other who is 16 or more years of age, who is not the spouse of the offender  
24 and who does not consent thereto, with the intent to ~~arouse or satisfy the~~  
25 ~~sexual desires of the offender or another~~ *abuse, humiliate, harass, de-*  
26 *grade, or arouse or gratify the sexual desire of any person.*

27 (b) Sexual battery is a class A person misdemeanor.

28 (c) This section shall be part of and supplemental to the Kansas crim-  
29 inal code.

30 Sec. 7. K.S.A. 21-3518 is hereby amended to read as follows: 21-  
31 3518. (a) Aggravated sexual battery is the intentional touching of the per-  
32 son of another who is 16 or more years of age and who does not consent  
33 thereto, with the intent to ~~arouse or satisfy the sexual desires of the of-~~  
34 ~~fender or another~~ *abuse, humiliate, harass, degrade, or arouse or gratify*  
35 *the sexual desire of any person* under any of the following circumstances:

36 (1) When the victim is overcome by force or fear;

37 (2) when the victim is unconscious or physically powerless;

38 (3) when the victim is incapable of giving consent because of mental  
39 deficiency or disease, or when the victim is incapable of giving consent  
40 because of the effect of any alcoholic liquor, narcotic, drug or other sub-  
41 stance, which condition was known by, or was reasonably apparent to, the  
42 offender.

43 (b) Aggravated sexual battery is a severity level 5, person felony.

- 1 (c) This section shall be part of and supplemental to the Kansas crim-  
2 inal code.
- 3 Sec. 8. K.S.A. 60-3102 is hereby amended to read as follows: 60-  
4 3102. As used in the protection from abuse act:
- 5 (a) “Abuse” means the occurrence of one or more of the following  
6 acts between intimate partners or household members:
- 7 (1) Intentionally attempting to cause bodily injury, or intentionally or  
8 recklessly causing bodily injury.
- 9 (2) Intentionally placing, by physical threat, another in fear of im-  
10minent bodily injury.
- 11 (3) Engaging in any of the following acts with a minor under 16 years  
12 of age who is not the spouse of the offender:
- 13 (A) The act of sexual intercourse; or
- 14 (B) any lewd fondling or touching of the person of either the minor  
15 or the offender, done or submitted to with the intent to ~~arouse or to~~  
16 ~~satisfy the sexual desires of either the minor or the offender, or both~~  
17 *abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire*  
18 *of any person.*
- 19 (b) “Intimate partners or household members” means persons who  
20 are or have been in a dating relationship, persons who reside together or  
21 who have formerly resided together or persons who have had a child in  
22 common.
- 23 (c) “Dating relationship” means a social relationship of a romantic  
24 nature. A dating relationship shall be presumed if a plaintiff verifies, pur-  
25 suant to K.S.A. 53-601, and amendments thereto, that such relationship  
26 exists. In addition to any other factors the court deems relevant, the court  
27 shall consider the following factors in making a determination of whether  
28 a relationship exists or existed include:
- 29 (1) Nature of the relationship;
- 30 (2) length of time the relationship existed;
- 31 (3) frequency of interaction between the parties; and
- 32 (4) time since termination of the relationship, if applicable.
- 33 Sec. 9. K.S.A. 21-3503, 21-3504, 21-3508, 21-3512, 21-3516, 21-  
34 3517, 21-3518 and 60-3102 are hereby repealed.
- 35 Sec. 10. This act shall take effect and be in force from and after its  
36 publication in the statute book.