

Session of 2025

HOUSE BILL No. 2183

By Committee on Judiciary

Requested by Representative Barrett

1-30

AN ACT concerning crimes, punishment and criminal procedure; including any photograph, film, video picture, digital or computer-generated image or picture that has been created, altered or modified by artificial intelligence or any digital means in the definition of a visual depiction for certain criminal offenses; modifying elements in the crimes of sexual exploitation of a child, unlawful transmission of a visual depiction of a child and breach of privacy; amending K.S.A. 21-5510 and 21-5611 and K.S.A. 2024 Supp. 21-6101 and repealing the existing sections.

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

Section 1. K.S.A. 21-5510 is hereby amended to read as follows: 21-5510. (a) Except as provided in K.S.A. 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, *regardless of whether an actual child under 18 years of age was involved in the creation of the original image*;

(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,

1 constitutes obscenity as defined in K.S.A. 21-6401(f)(1), and amendments
2 thereto.

3 (g) As used in this section and K.S.A. 21-5610, and amendments
4 thereto:

5 (1) "Sexually explicit conduct" means actual or simulated: Sexual
6 intercourse or sodomy, including genital-genital, oral-genital, anal-genital
7 or oral-anal contact, whether between persons of the same or opposite sex;
8 masturbation and sado-masochistic abuse for the purpose of sexual
9 stimulation;

10 (2) "state of nudity" means any state of undress in which the human
11 genitals, pubic region, buttock or female breast, at a point below the top of
12 the areola, is less than completely and opaquely covered;

13 (3) "transmission" means any form of communication, including, but
14 not limited to, physical transmission of paper and electronic transmission
15 that creates a record that may be retained and reviewed by a recipient
16 thereof, and that may be directly reproduced in paper form by such a
17 recipient through an automated process. Transmission also includes a
18 request to receive a transmission of a visual depiction; and

19 (4) "visual depiction" means any photograph, film, video picture,
20 digital or computer-generated image or picture made or produced by
21 electronic, mechanical or other means. *"Visual depiction" includes any*
22 *photograph, film, video picture, digital or computer-generated image or*
23 *picture that has been created, in whole or in part, altered or modified by*
24 *artificial intelligence or any digital means to appear to depict or purport*
25 *to depict a child engaging in sexually explicit conduct.*

26 Sec. 3. K.S.A. 2024 Supp. 21-6101 is hereby amended to read as
27 follows: 21-6101. (a) Breach of privacy is knowingly and without lawful
28 authority:

29 (1) Intercepting, without the consent of the sender or receiver, a
30 message by telephone, telegraph, letter or other means of private
31 communication;

32 (2) divulging, without the consent of the sender or receiver, the
33 existence or contents of such message if such person knows that the
34 message was illegally intercepted, or if such person illegally learned of the
35 message in the course of employment with an agency in transmitting such
36 message;

37 (3) entering with intent to listen surreptitiously to private
38 conversations in a private place or to observe the personal conduct of any
39 other person or persons entitled to privacy therein;

40 (4) installing or using outside or inside a private place any device for
41 hearing, recording, amplifying or broadcasting sounds originating in such
42 place, which sounds would not ordinarily be audible or comprehensible
43 without the use of such device, without the consent of the person or

1 persons entitled to privacy therein;

2 (5) installing or using any device or equipment for the interception of
3 any telephone, telegraph or other wire or wireless communication without
4 the consent of the person in possession or control of the facilities for such
5 communication;

6 (6) installing or using a camcorder, motion picture camera or
7 photographic camera of any type to videotape, film, photograph or record,
8 by electronic or other means, another identifiable person under or through
9 the clothing being worn by that other person or another identifiable person
10 who is nude or in a state of undress, for the purpose of viewing the body
11 of, or the undergarments worn by, that other person, without the consent or
12 knowledge of that other person, with the intent to invade the privacy of
13 that other person, under circumstances in which that other person has a
14 reasonable expectation of privacy;

15 (7) disseminating or permitting the dissemination of any videotape,
16 photograph, film or image obtained in violation of subsection (a)(6); or

17 (8) disseminating any videotape, photograph, film or image of
18 another identifiable person 18 years of age or older who is nude or
19 engaged in sexual activity and under circumstances in which such
20 identifiable person had a reasonable expectation of privacy, with the intent
21 to harass, threaten or intimidate such identifiable person, and such
22 identifiable person did not consent to such dissemination. *This includes*
23 *disseminating any videotape, photograph, film or image that has been*
24 *created, in whole or in part, altered or modified by artificial intelligence*
25 *or any digital means to appear to depict or purport to depict such*
26 *identifiable person, regardless of whether such identifiable person was*
27 *involved in the creation of the original image.*

28 (b) Breach of privacy as defined in:

29 (1) Subsection (a)(1) through (a)(5) is a class A nonperson
30 misdemeanor;

31 (2) subsection (a)(6) or (a)(8) is a:

32 (A) Severity level 8, person felony, except as provided in subsection
33 (b)(2)(B); and

34 (B) severity level 5, person felony upon a second or subsequent
35 conviction within the previous five years; and

36 (3) subsection (a)(7) is a severity level 5, person felony.

37 (c) Subsection (a)(1) shall not apply to messages overheard through a
38 regularly installed instrument on a telephone party line or on an extension.

39 (d) The provisions of this section shall not apply to:

40 (1) An operator of a switchboard, or any officer, employee or agent of
41 any public utility providing telephone communications service, whose
42 facilities are used in the transmission of a communication, to intercept,
43 disclose or use that communication in the normal course of employment

1 while engaged in any activity which is incident to the rendition of public
2 utility service or to the protection of the rights of property of such public
3 utility;

4 (2) a provider of an interactive computer service, as defined in 47
5 U.S.C. § 230, for content provided by another person;

6 (3) a radio common carrier, as defined in K.S.A. 66-1,143, and
7 amendments thereto; and

8 (4) a local exchange carrier or telecommunications carrier as defined
9 in K.S.A. 66-1,187, and amendments thereto.

10 (e) The provisions of subsection (a)(8) shall not apply to a person
11 acting with a bona fide and lawful scientific, educational, governmental,
12 news or other similar public purpose.

13 (f) As used in this section, "private place" means a place where one
14 may reasonably expect to be safe from uninvited intrusion or surveillance.

15 Sec. 4. K.S.A. 21-5510 and 21-5611 and K.S.A. 2024 Supp. 21-6101
16 are hereby repealed.

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

Strike in line 7

; and

(5) a cable service, as defined in 47 U.S.C. § 522