

## HOUSE BILL No. 2404

By Committee on Taxation

Requested by Representative Estes

3-6

AN ACT concerning the Kansas offender registration act; making it unlawful for adult sex offenders to enter onto certain school property or attend certain school activities and creating criminal penalties for violation thereof; amending K.S.A. 22-4901 and 22-4902 and repealing the existing sections.

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

New Section 1. (a) It shall be unlawful for any sex offender who is 18 years of age or older and whose underlying crime for which the offender is required to register under the Kansas offender registration act was a crime against a victim who was less than 18 years of age to enter onto school property or attend a school activity.

(b) Violation of this section is:

- (1) Upon a first conviction, a severity level 6, person felony;
- (2) upon a second conviction, a severity level 5, person felony; and
- (3) upon a third or subsequent conviction, a severity level 3, person felony.

(c) This section shall be a part of and supplemental to the Kansas offender registration act.

Sec. 2. K.S.A. 22-4901 is hereby amended to read as follows: 22-4901. ~~K.S.A. 22-4901 through 22-4911 and 22-4913~~ *Article 49 of chapter 22 of the Kansas Statutes Annotated*, and amendments thereto, shall be known and may be cited as the Kansas offender registration act.

Sec. 3. K.S.A. 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 (1) On or after April 14, 1994, is convicted of any sexually violent  
2 crime;

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

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

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

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

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

15 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its  
16 repeal, or K.S.A. 21-6420, prior to its amendment by section 17 of chapter  
17 120 of the 2013 Session Laws of Kansas on July 1, 2013;

18 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its  
19 repeal, or K.S.A. 21-6421, prior to its amendment by section 18 of chapter  
20 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

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

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

25 (6) is convicted of sexual extortion, as defined in K.S.A. 21-5515,  
26 and amendments thereto;

27 (7) is convicted of breach of privacy, as defined in K.S.A. 21-6101(a)  
28 (6), (a)(7) or (a)(8), and amendments thereto;

29 (8) is convicted of an attempt, conspiracy or criminal solicitation, as  
30 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or  
31 K.S.A. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense  
32 defined in this subsection; or

33 (9) has been convicted of an offense that is comparable to any crime  
34 defined in this subsection, or any out-of-state conviction for an offense that  
35 under the laws of this state would be an offense defined in this subsection.

36 (c) "Sexually violent crime" means:

37 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
38 21-5503, and amendments thereto;

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

41 (3) aggravated indecent liberties with a child, as defined in K.S.A.  
42 21-3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments  
43 thereto;

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

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

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

8 (7) aggravated indecent solicitation of a child, as defined in K.S.A.  
9 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments  
10 thereto;

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

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

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

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

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

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

25 (14) commercial sexual exploitation of a child, as defined in K.S.A.  
26 21-6422, and amendments thereto;

27 (15) promoting the sale of sexual relations, as defined in K.S.A. 21-  
28 6420, and amendments thereto;

29 (16) internet trading in child pornography or aggravated internet  
30 trading in child pornography, as defined in K.S.A. 21-5514, and  
31 amendments thereto;

32 (17) any conviction or adjudication for an offense that is comparable  
33 to a sexually violent crime as defined in this subsection, or any out-of-state  
34 conviction or adjudication for an offense that under the laws of this state  
35 would be a sexually violent crime as defined in this subsection;

36 (18) an attempt, conspiracy or criminal solicitation, as defined in  
37 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-  
38 5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent  
39 crime, as defined in this subsection; or

40 (19) any act that has been determined beyond a reasonable doubt to  
41 have been sexually motivated, unless the court, on the record, finds that  
42 the act involved non-forcible sexual conduct, the victim was at least 14  
43 years of age and the offender was not more than four years older than the

1 victim. As used in this paragraph, "sexually motivated" means that one of  
2 the purposes for which the defendant committed the crime was for the  
3 purpose of the defendant's sexual gratification.

4 (d) "Sexually violent predator" means any person who, on or after  
5 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.  
6 59-29a01 et seq., and amendments thereto.

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

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

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

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

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

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

18 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to  
19 its repeal, or K.S.A. 21-5405(a)(1), (a)(2) or (a)(4), and amendments  
20 thereto. The provisions of this paragraph shall not apply to violations of  
21 K.S.A. 21-5405(a)(3), and amendments thereto, that occurred on or after  
22 July 1, 2011, through July 1, 2013;

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

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

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

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

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

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

41 (4) is convicted of an attempt, conspiracy or criminal solicitation, as  
42 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or  
43 K.S.A. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an

1 offense defined in this subsection.

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

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

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

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

15 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-  
16 36a05(a)(1), prior to its transfer, or K.S.A. 21-5705(a)(1), and  
17 amendments thereto. The provisions of this paragraph shall not apply to  
18 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b) that  
19 occurred on or after July 1, 2009, through April 15, 2010;

20 (2) has been convicted of an offense that is comparable to any crime  
21 defined in this subsection, any out-of-state conviction for an offense that  
22 under the laws of this state would be an offense defined in this subsection;  
23 or

24 (3) is or has been convicted of an attempt, conspiracy or criminal  
25 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to  
26 their repeal, or K.S.A. 21-5301, 21-5302 and 21-5303, and amendments  
27 thereto, of an offense defined in this subsection.

28 (g) Convictions or adjudications that result from or are connected  
29 with the same act, or result from crimes committed at the same time, shall  
30 be counted for the purpose of this section as one conviction or  
31 adjudication. Any conviction or adjudication set aside pursuant to law is  
32 not a conviction or adjudication for purposes of this section. A conviction  
33 or adjudication from any out-of-state court shall constitute a conviction or  
34 adjudication for purposes of this section.

35 (h) "School" means any public or private educational institution,  
36 including, but not limited to, postsecondary school, college, university,  
37 community college, secondary school, high school, junior high school,  
38 middle school, elementary school, trade school, vocational school or  
39 professional school providing training or education to an offender for three  
40 or more consecutive days or parts of days, or for 10 or more  
41 nonconsecutive days in a period of 30 consecutive days.

42 (i) "Employment" means any full-time, part-time, transient, day-labor  
43 employment or volunteer work, with or without compensation, for three or

1 more consecutive days or parts of days, or for 10 or more nonconsecutive  
2 days in a period of 30 consecutive days.

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

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

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

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

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

21 (o) "Registering entity" means any person, agency or other  
22 governmental unit, correctional facility or registering law enforcement  
23 agency responsible for obtaining the required information from, and  
24 explaining the required registration procedures to, any person required to  
25 register pursuant to the Kansas offender registration act. "Registering  
26 entity" includes, but is not limited to, sheriff's offices, tribal police  
27 departments and correctional facilities.

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

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

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

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

40 (t) *"School activity" means an activity sponsored by a unified school*  
41 *district or an accredited nonpublic school at which students in*  
42 *kindergarten or any of the grades one through 12 or children under the*  
43 *age of eligibility to attend kindergarten who attend a preschool program*

1 *are the primary intended participants or the primary intended audience,*  
2 *including, but not limited to, school instructional time, after school care,*  
3 *after school tutoring, athletic events, school dances and social events,*  
4 *field trips, school plays or assemblies.*

5 (u) "School property" means property upon which is located a  
6 structure used by a unified school district or an accredited nonpublic  
7 school for instruction, attendance or extracurricular activities for students  
8 enrolled in kindergarten or any of the grades one through 12 or for  
9 children under the age of eligibility to attend kindergarten who attend a  
10 preschool program.

11 (v) (1) Notwithstanding any other provision of this section,  
12 "offender" shall not include any person who is:

13 (A) Convicted of unlawful transmission of a visual depiction of a  
14 child, as defined in K.S.A. 21-5611(a), and amendments thereto,  
15 aggravated unlawful transmission of a visual depiction of a child, as  
16 defined in K.S.A. 21-5611(b), and amendments thereto, or unlawful  
17 possession of a visual depiction of a child, as defined in K.S.A. 21-5610,  
18 and amendments thereto;

19 (B) adjudicated as a juvenile offender for an act which, if committed  
20 by an adult, would constitute the commission of a crime defined in  
21 subsection ~~(t)(1)(A)~~ (v)(1)(A);

22 (C) adjudicated as a juvenile offender for an act which, if committed  
23 by an adult, would constitute the commission of sexual extortion as  
24 defined in K.S.A. 21-5515, and amendments thereto; or

25 (D) adjudicated as a juvenile offender for an act which, if committed  
26 by an adult, would constitute a violation of K.S.A. 21-6101(a)(6), (a)(7) or  
27 (a)(8), and amendments thereto.

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

31 Sec. 4. K.S.A. 22-4901 and 22-4902 are hereby repealed.

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