

SENATE BILL No. 493

By Committee on Judiciary

2-5

AN ACT concerning crimes, punishment and criminal procedure; relating to sex offenses; adding an element of sexual exploitation of a child involving communication through electronic means and social media; providing criminal penalties therefor; amending K.S.A. 2025 Supp. 21-5510 and repealing the existing section.

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

Section 1. K.S.A. 2025 Supp. 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) (A) 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; or

(B) possessing any artificially generated visual depiction 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; or

(5) knowingly engaging in a pattern of conduct or communication in person, through a third party or by electronic means, including, but not limited to, an electronic device, social media, text message or any other means, to gain access to, the compliance of or the trust of or prepare, persuade, induce, entice or coerce 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 or any other unlawful sexual activity.

1 (b) (1) Sexual exploitation of a child as defined in:

2 (A) Subsection (a)(2)~~or~~, (a)(3) *or* (a)(5) is a severity level 5, person
3 felony; and

4 (B) subsection (a)(1) or (a)(4) is a severity level 3, person felony,
5 except as provided in subsection (b)(2).

6 (2) Sexual exploitation of a child as defined in subsection (a)(1) or (a)
7 (4) or attempt, conspiracy or criminal solicitation to commit sexual
8 exploitation of a child as defined in subsection (a)(1) or (a)(4) is an off-
9 grid person felony, when the offender is 18 years of age or older and the
10 child is under 14 years of age.

11 (c) If the offender is 18 years of age or older and the child is under 14
12 years of age, the provisions of:

13 (1) K.S.A. 21-5301(c), and amendments thereto, shall not apply to a
14 violation of attempting to commit the crime of sexual exploitation of a
15 child as defined in subsection (a)(1) or (a)(4);

16 (2) K.S.A. 21-5302(d), and amendments thereto, shall not apply to a
17 violation of conspiracy to commit the crime of sexual exploitation of a
18 child as defined in subsection (a)(1) or (a)(4); and

19 (3) K.S.A. 21-5303(d), and amendments thereto, shall not apply to a
20 violation of criminal solicitation to commit the crime of sexual
21 exploitation of a child as defined in subsection (a)(1) or (a)(4).

22 (d) As used in this section:

23 (1) "Sexually explicit conduct" means actual or simulated: Exhibition
24 in the nude; sexual intercourse or sodomy, including genital-genital, oral-
25 genital, anal-genital or oral-anal contact, whether between persons of the
26 same or opposite sex; masturbation; sado-masochistic abuse with the intent
27 of sexual stimulation; or lewd exhibition of the genitals, female breasts or
28 pubic area of any person;

29 (2) "promoting" means procuring, transmitting, distributing,
30 circulating, presenting, producing, directing, manufacturing, issuing,
31 publishing, displaying, exhibiting or advertising:

32 (A) For pecuniary profit; or

33 (B) with intent to arouse or gratify the sexual desire or appeal to the
34 prurient interest of the offender or any other person;

35 (3) "performance" means any film, photograph, negative, slide, book,
36 magazine or other printed or visual medium, any audio tape recording or
37 any photocopy, video tape, video laser disk, computer hardware, software,
38 floppy disk or any other computer related equipment or computer
39 generated image that contains or incorporates in any manner any film,
40 photograph, negative, photocopy, video tape or video laser disk or any
41 play or other live presentation;

42 (4) "nude" means any state of undress in which the human genitals,
43 pubic region, buttock or female breast, at a point below the top of the

1 areola, is less than completely and opaquely covered;

2 (5) "obscene" means a visual depiction or artificially generated visual
3 depiction that, taken as a whole, appeals to the prurient interest of an
4 average person, applying contemporary community standards, that is
5 patently offensive and that, taken as a whole, lacks serious literary, artistic,
6 political or scientific value;

7 (6) "artificially generated visual depiction" means a visual depiction
8 that is obscene and produced through the use of computer software, digital
9 manipulation or other means that creates an image or video that appears to
10 depict a child under 18 years of age shown or heard engaging in sexually
11 explicit conduct. "Artificially generated visual depiction" includes
12 depictions that are obscene and indistinguishable from a real child,
13 morphed from a real child's image or generated without any actual child
14 involvement; and

15 (7) "visual depiction" means any photograph, film, video picture,
16 digital or computer-generated image or picture, whether made or produced
17 by electronic, mechanical or other means.

18 (e) The provisions of this section shall not apply to possession of a
19 visual depiction of a child in a state of nudity if the person possessing such
20 visual depiction is the child who is the subject of such visual depiction.

21 Sec. 2. K.S.A. 2025 Supp. 21-5510 is hereby repealed.

22 Sec. 3. This act shall take effect and be in force from and after its
23 publication in the statute book.