

HOUSE BILL No. 2568

By Committee on Corrections and Juvenile Justice

1-27

HOSPITAL

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RS - JThompson - 02/15/12

1 AN ACT concerning the Kansas offender registration act; amending  
2 K.S.A. 2011 Supp. 22-4902, 22-4903, 22-4904, 22-4905, 22-4906, 22-  
3 4907, 22-4908 and 22-4909 and repealing the existing sections; also  
4 repealing K.S.A. 2011 Supp. 22-4902a and 22-4906a.

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

6 Section 1. K.S.A. 2011 Supp. 22-4902 is hereby amended to read as  
7 follows: 22-4902. As used in the Kansas offender registration act, unless  
8 the context otherwise requires:

9 (a) "Offender" means:

10 (1) A sex offender, ~~as defined in subsection (b)~~;

11 (2) a violent offender, ~~as defined in subsection (c)~~;

12 (3) a drug offender, ~~as defined in subsection (f)~~;

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

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

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

18 (1) On or after April 14, 1994, is convicted of any sexually violent  
19 crime ~~set forth in subsection (e)~~;

20 (2) On or after April 14, 1994, is adjudicated as a juvenile offender  
21 for an act which if committed by an adult would constitute the commission  
22 of a sexually violent crime ~~set forth in subsection (e)~~, unless the court, on  
23 the record, finds that the act involved non-forcible sexual conduct, the  
24 victim was at least 14 years of age and the offender was not more than four  
25 years older than the victim;

26 (3) has been determined to be a sexually violent predator, ~~as defined~~  
27 ~~in subsection (d)~~;

28 (4) on or after May 29, 1997, is convicted of any of the following  
29 crimes when one of the parties involved is less than 18 years of age:

30 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or  
31 K.S.A. 2011 Supp. 21-511, and amendments thereto;

32 (B) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-  
33 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2011  
34 Supp. 21-5504, and amendments thereto;

35 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its  
36

1 repeal, or K.S.A. 2011 Supp. 21-6420, and amendments thereto;

2 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its  
3 repeal, or K.S.A. 2011 Supp. 21-6421, and amendments thereto; or

4 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior  
5 to its repeal, or K.S.A. 2011 Supp. 21-5513, and amendments thereto;

6 ~~(5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior  
7 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5505, and  
8 amendments thereto;~~

9 ~~(6) (5) is convicted of an attempt, conspiracy or criminal solicitation,  
10 as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or  
11 K.S.A. 2011 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,  
12 of an offense defined in this subsection; or~~

13 ~~(7) (6) has been convicted of an offense in effect at any time prior to  
14 July 1, 2011, that is comparable to any crime defined in this subsection, or  
15 any out of state conviction or any municipal 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 2011 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 subsection (a) of K.S.A. 2011 Supp. 21-5506, and  
22 amendments thereto;

23 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-  
24 3504, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5506,  
25 and amendments thereto;

26 (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of  
27 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.  
28 2011 Supp. 21-5504, and amendments thereto;

29 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior  
30 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5504, and  
31 amendments thereto;

32 (6) indecent solicitation of a child as defined in K.S.A. 21-3510, prior  
33 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5508, and  
34 amendments thereto;

35 (7) aggravated indecent solicitation of a child as defined in K.S.A.  
36 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-  
37 5508, and amendments thereto;

38 (8) sexual exploitation of a child as defined in K.S.A. 21-3516, prior  
39 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

40 (9) aggravated sexual battery as defined in K.S.A. 21-3518, prior to  
41 its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5505, and  
42 amendments thereto;

43 (10) aggravated incest as defined in K.S.A. 21-3603, prior to its

1 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5605, and amendments  
2 thereto;

3 (11) electronic solicitation as defined in K.S.A. 21-3523, prior to its  
4 repeal, and K.S.A. 2011 Supp. 21-5509, and amendments thereto,  
5 committed on or after April 17, 2008;

6 (12) unlawful sexual relations as defined in K.S.A. 21-3520, prior to  
7 its repeal, or K.S.A. 2011 Supp. 21-5512, and amendments thereto;  
8 ~~committed on or after July 1, 2010;~~

9 (13) ~~sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,~~  
10 ~~or subsection (a) of K.S.A. 2011 Supp. 21-5505, and amendments thereto;~~

11 ~~(14) any conviction or adjudication for an offense in effect at~~  
12 ~~any time prior to July 1, 2011, that is comparable to a sexually violent~~  
13 ~~crime as defined in this subsection, or any out of state conviction or~~  
14 ~~adjudication for an offense that under the laws of this state would be a~~  
15 ~~sexually violent crime as defined in this subsection;~~

16 (15) an attempt, conspiracy or criminal solicitation, as defined in  
17 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011  
18 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually  
19 violent crime, as defined in this subsection; or

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

28 (d) "Sexually violent predator" means any person who, on or after  
29 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.  
30 59-29a01 *et seq.*, and amendments thereto.

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

32 (1) On or after May 29, 1997, is convicted of any of the following  
33 crimes:

34 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
35 or K.S.A. 2011 Supp. 21-5401, and amendments thereto;

36 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to  
37 its repeal, or K.S.A. 2011 Supp. 21-5402, and amendments thereto;

38 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior  
39 to its repeal, or K.S.A. 2011 Supp. 21-5403, and amendments thereto;

40 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its  
41 repeal, or K.S.A. 2011 Supp. 21-5404, and amendments thereto;

42 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to  
43 its repeal, or K.S.A. 2011 Supp. 21-5405, and amendments thereto;

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1 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or  
2 subsection (a) of K.S.A. 2011 Supp. 21-5408, and amendments thereto;

3 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its  
4 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5408, and amendments  
5 thereto;

6 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its  
7 repeal, or K.S.A. 2011 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 subsection (b) of K.S.A. 2011 Supp. 21-5426, and  
11 amendments thereto;

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

15 (3) has been convicted of an offense ~~in effect at any time prior to~~  
16 ~~July 1, 2011~~, that is comparable to any crime defined in this subsection, ~~or~~  
17 any out of state conviction ~~or any municipal 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. 2011 Supp. 21-5301, 21-5302 and 21-5303, and amendments  
23 thereto, of an offense defined in this subsection.

24 (f) "Drug offender" means any person who has been convicted of:

25 (1) Unlawful manufacture or attempting such of any controlled  
26 substance or controlled substance analog as defined in K.S.A. 65-4159,  
27 prior to its repeal, ~~or K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or~~  
28 ~~K.S.A. 2011 Supp. 21-5703, and amendments thereto;~~

29 (2) possession of ephedrine, pseudoephedrine, red phosphorus,  
30 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized  
31 ammonia or phenylpropanolamine, or their salts, isomers or salts of  
32 isomers with intent to use the product to manufacture a controlled  
33 substance as defined in subsection (a) of K.S.A. 65-7006, prior to its  
34 repeal, ~~or subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its~~  
35 ~~transfer, or subsection (a) of K.S.A. 2011 Supp. 21-5709, and amendments~~  
36 ~~thereto;~~

37 (3) K.S.A. 65-4161, prior to its repeal, ~~or subsection (a)(1) of K.S.A.~~  
38 ~~2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A.~~  
39 ~~2011 Supp. 21-5705, and amendments thereto.~~ The provisions of this  
40 paragraph shall not apply to violations of subsections (a)(2) through (a)(6)  
41 or (b) of K.S.A. 2010 Supp. 21-36a05; ~~and amendments thereto, which~~  
42 ~~occurred on or after July 1, 2009, through April 15, 2010;~~  
43 (4) an offense ~~in effect at any time prior to July 1, 2011, that is~~

1 comparable to any crime defined in this subsection, or any out of state  
2 conviction or any municipal conviction for an offense that under the laws  
3 of this state would be an offense defined in this subsection; or  
4 (5) an attempt, conspiracy or criminal solicitation, as defined in  
5 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011  
6 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an  
7 offense defined in this subsection.

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

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

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

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

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

37 (L) "Transient" means having no fixed or identifiable residence.

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

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

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

9 (p) "Treatment facility" means any public or private facility, ~~hospital~~  
 10 or institution providing inpatient *mental health, drug or alcohol* treatment  
 11 or counseling.

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

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

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

20 Sec. 2. K.S.A. 2011 Supp. 22-4903 is hereby amended to read as  
 21 follows: 22-4903.

22 (a) Violation of the Kansas offender registration act is the failure by  
 23 an offender, as defined in K.S.A. 22-4902, and amendments thereto, to  
 24 comply with any and all provisions of such act, including any and all  
 25 duties set forth in K.S.A. 22-4905 through 22-4907, and amendments  
 26 thereto. Any violation of the Kansas offender registration act which  
 27 continues for more than 30 consecutive days, shall, upon the 31<sup>st</sup>  
 28 consecutive day, constitute a new and separate offense, and shall continue  
 29 to constitute a new and separate offense every 30 days thereafter for as  
 30 long as the violation continues.

31 (b) Aggravated violation of the Kansas offender registration act is  
 32 violation of the Kansas offender registration act which continues for more  
 33 than 180 consecutive days. Any aggravated violation of the Kansas  
 34 offender registration act which continues for more than 180 consecutive  
 35 days shall, upon the 181<sup>st</sup> consecutive day, constitute a new and separate  
 36 offense, and shall continue to constitute a new and separate violation of the  
 37 Kansas offender registration act every 30 days thereafter, or a new and  
 38 separate aggravated violation of the Kansas offender registration act every  
 39 180 days thereafter, for as long as the violation continues.

40 (c) (1) Violation of the Kansas offender registration act is:

- 41 (A) Upon a first conviction, a severity level 6, person felony;
- 42 (B) upon a second conviction, a severity level 5, person felony; and
- 43 (C) upon a third or subsequent conviction, a severity level 3, person

, but does not include a hospital,  
 as defined in K.S.A. 65-425, and  
 amendments thereto