

## HOUSE BILL No. 2208

By Committee on Corrections and Juvenile Justice

2-8

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to sex offenses; creating the crime of sexual extortion; offender  
3 registration; amending K.S.A. 2018 Supp. 22-4902 and repealing the  
4 existing section.

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

7 New Section 1. (a) Sexual extortion is communicating by any means  
8 a threat to injure the property or reputation of a person, or a threat to  
9 distribute an image or video of a person that is of a sexual nature or depicts  
10 such person in a state of nudity:

11 (1) With the intent to coerce such person to: (A) Engage in sexual  
12 contact, sexual intercourse or conduct that is of a sexual nature; or (B)  
13 produce, provide or distribute an image, video or other recording of a  
14 person in a state of nudity or engaging in conduct that is of a sexual nature;  
15 or

16 (2) that causes such person to: (A) Engage in sexual contact, sexual  
17 intercourse or conduct that is of a sexual nature; or (B) produce, provide or  
18 distribute an image, video or other recording of a person in a state of  
19 nudity or engaging in conduct that is of a sexual nature.

20 (b) Sexual extortion as defined in:

21 (1) Subsection (a)(1) is a severity level 7, person felony; and

22 (2) subsection (a)(2) is a severity level 4, person felony.

23 (c) This section shall be part of and supplemental to the Kansas  
24 criminal code.

25 Sec. 2. K.S.A. 2018 Supp. 22-4902 is hereby amended to read as  
26 follows: 22-4902. As used in the Kansas offender registration act, unless  
27 the context otherwise requires:

28 (a) "Offender" means:

29 (1) A sex offender;

30 (2) a violent offender;

31 (3) a drug offender;

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

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

36 (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 of  
5 a sexually violent crime, unless the court, on the record, finds that the act  
6 involved non-forcible sexual conduct, the victim was at least 14 years of  
7 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. 2018 Supp. 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. 2018 Supp. 21-5504(a)(1) or (a)(2), and amendments  
15 thereto;

16 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its  
17 repeal, or K.S.A. 2018 Supp. 21-6420, prior to its amendment by section  
18 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

19 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its  
20 repeal, or K.S.A. 2018 Supp. 21-6421, prior to its amendment by section  
21 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

22 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior  
23 to its repeal, or K.S.A. 2018 Supp. 21-5513, and amendments thereto;

24 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior  
25 to its repeal, or K.S.A. 2018 Supp. 21-5505(a), and amendments thereto;

26 (6) *is convicted of sexual extortion, as defined in section 1, and*  
27 *amendments thereto;*

28 (7) is convicted of an attempt, conspiracy or criminal solicitation, as  
29 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or  
30 K.S.A. 2018 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,  
31 of an offense defined in this subsection; or

32 ~~(7)~~(8) has been convicted of an offense that is comparable to any  
33 crime defined in this subsection, or any out-of-state conviction for an  
34 offense that under the laws of this state would be an offense defined in this  
35 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 2018 Supp. 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. 2018 Supp. 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. 2018 Supp. 21-5506(b), and  
43 amendments 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. 2018 Supp. 21-5504(a)(3) or (a)(4), and  
3 amendments thereto;
- 4 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
5 to its repeal, or K.S.A. 2018 Supp. 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. 2018 Supp. 21-5508(a), and amendments  
8 thereto;
- 9 (7) aggravated indecent solicitation of a child, as defined in K.S.A.  
10 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and  
11 amendments thereto;
- 12 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
13 to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto;
- 14 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to  
15 its repeal, or K.S.A. 2018 Supp. 21-5505(b), and amendments thereto;
- 16 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
17 repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto;
- 18 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its  
19 repeal, and K.S.A. 2018 Supp. 21-5509, and amendments thereto;
- 20 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to  
21 its repeal, or K.S.A. 2018 Supp. 21-5512, and amendments thereto;
- 22 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,  
23 prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments  
24 thereto, if committed in whole or in part for the purpose of the sexual  
25 gratification of the defendant or another;
- 26 (14) commercial sexual exploitation of a child, as defined in K.S.A.  
27 2018 Supp. 21-6422, and amendments thereto;
- 28 (15) promoting the sale of sexual relations, as defined in K.S.A. 2018  
29 Supp. 21-6420, and amendments thereto;
- 30 (16) any conviction or adjudication for an offense that is comparable  
31 to a sexually violent crime as defined in this subsection, or any out-of-state  
32 conviction or adjudication for an offense that under the laws of this state  
33 would be a sexually violent crime as defined in this subsection;
- 34 (17) an attempt, conspiracy or criminal solicitation, as defined in  
35 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018  
36 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually  
37 violent crime, as defined in this subsection; or
- 38 (18) any act which has been determined beyond a reasonable doubt to  
39 have been sexually motivated, unless the court, on the record, finds that  
40 the act involved non-forcible sexual conduct, the victim was at least 14  
41 years of age and the offender was not more than four years older than the  
42 victim. As used in this paragraph, "sexually motivated" means that one of  
43 the purposes for which the defendant committed the crime was for the

1 purpose of the defendant's sexual gratification.

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

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

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

8 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
9 or K.S.A. 2018 Supp. 21-5401, and amendments thereto;

10 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to  
11 its repeal, or K.S.A. 2018 Supp. 21-5402, and amendments thereto;

12 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior  
13 to its repeal, or K.S.A. 2018 Supp. 21-5403, and amendments thereto;

14 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its  
15 repeal, or K.S.A. 2018 Supp. 21-5404, and amendments thereto;

16 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to  
17 its repeal, or K.S.A. 2018 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and  
18 amendments thereto. The provisions of this paragraph shall not apply to  
19 violations of K.S.A. 2018 Supp. 21-5405(a)(3), and amendments thereto,  
20 which occurred on or after July 1, 2011, through July 1, 2013;

21 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or  
22 K.S.A. 2018 Supp. 21-5408(a), and amendments thereto;

23 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its  
24 repeal, or K.S.A. 2018 Supp. 21-5408(b), and amendments thereto;

25 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its  
26 repeal, or K.S.A. 2018 Supp. 21-5411, and amendments thereto, except by  
27 a parent, and only when the victim is less than 18 years of age; or

28 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior  
29 to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments thereto, if  
30 not committed in whole or in part for the purpose of the sexual  
31 gratification of the defendant or another;

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

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

39 (4) is convicted of an attempt, conspiracy or criminal solicitation, as  
40 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or  
41 K.S.A. 2018 Supp. 21-5301, 21-5302 and 21-5303, and amendments  
42 thereto, of an offense defined in this subsection.

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

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

2 (A) Unlawful manufacture or attempting such of any controlled  
3 substance or controlled substance analog, as defined in K.S.A. 65-4159,  
4 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or  
5 K.S.A. 2018 Supp. 21-5703, and amendments thereto;

6 (B) possession of ephedrine, pseudoephedrine, red phosphorus,  
7 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized  
8 ammonia or phenylpropanolamine, or their salts, isomers or salts of  
9 isomers with intent to use the product to manufacture a controlled  
10 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010  
11 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2018 Supp. 21-5709(a),  
12 and amendments thereto;

13 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-  
14 36a05(a)(1), prior to its transfer, or K.S.A. 2018 Supp. 21-5705(a)(1), and  
15 amendments thereto. The provisions of this paragraph shall not apply to  
16 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)  
17 which occurred on or after July 1, 2009, through April 15, 2010;

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

22 (3) is or has been convicted of an attempt, conspiracy or criminal  
23 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to  
24 their repeal, or K.S.A. 2018 Supp. 21-5301, 21-5302 and 21-5303, and  
25 amendments thereto, of an offense defined in this subsection.

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

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

40 (i) "Employment" means any full-time, part-time, transient, day-labor  
41 employment or volunteer work, with or without compensation, for three or  
42 more consecutive days or parts of days, or for 10 or more nonconsecutive  
43 days in a period of 30 consecutive days.

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

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

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

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

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

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

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

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

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

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

38 (t) (1) Notwithstanding any other provision of this section, "offender"  
39 shall not include any person who is:

40 (A) Convicted of unlawful transmission of a visual depiction of a  
41 child, as defined in K.S.A. 2018 Supp. 21-5611(a), and amendments  
42 thereto, aggravated unlawful transmission of a visual depiction of a child,  
43 as defined in K.S.A. 2018 Supp. 21-5611(b), and amendments thereto, or

1 unlawful possession of a visual depiction of a child, as defined in K.S.A.  
2 2018 Supp. 21-5610, and amendments thereto; or

3 (B) adjudicated as a juvenile offender for an act which if committed  
4 by an adult would constitute the commission of a crime defined in  
5 subsection (t)(1)(A).

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

9 Sec. 3. K.S.A. 2018 Supp. 22-4902 is hereby repealed.

10 Sec. 4. This act shall take effect and be in force from and after its  
11 publication in the statute book.