

SENATE BILL No. 39

By Senator Olson

1-20

1 AN ACT concerning criminal procedure; relating to sex offenders;
2 amending K.S.A. 22-4903 and K.S.A. 2010 Supp. 8-243, 8-255, 22-
3 4902, 22-4904 and 22-4913 and sections 285 and 299 of chapter 136
4 of the 2010 Session Laws of Kansas and repealing the existing
5 sections.
6

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

8 Section 1. K.S.A. 2010 Supp. 8-243 is hereby amended to read as
9 follows: 8-243. (a) Upon payment of the required fee, the division shall
10 issue to every applicant qualifying under the provisions of this act the
11 driver's license as applied for by the applicant. Such license shall bear the
12 class or classes of motor vehicles which the licensee is entitled to drive, a
13 distinguishing number assigned to the licensee, the full legal name, date
14 of birth, gender, address of principal residence and a brief description of
15 the license, a colored digital photograph of the licensee, a facsimile of
16 the signature of the licensee and the statement provided for in subsection
17 (b). No driver's license shall be valid until it has been signed by the
18 licensee. All drivers' licenses issued to persons under the age of 21 years
19 shall be readily distinguishable from licenses issued to persons age 21
20 years or older. In addition, all drivers' licenses issued to persons under the
21 age of 18 years shall also be readily distinguishable from licenses issued
22 to persons age 18 years or older. The secretary of revenue shall
23 implement a vertical format to make drivers' licenses issued to persons
24 under the age of 21 more readily distinguishable. Except as otherwise
25 provided, no driver's license issued by the division shall be valid until a
26 colored digital photograph of such licensee has been taken and verified
27 before being placed on the driver's license. The secretary of revenue shall
28 prescribe a fee of not more than \$8 and upon the payment of such fee, the
29 division shall cause a colored digital photograph of such applicant to be
30 placed on the driver's license. Upon payment of such fee prescribed by
31 the secretary of revenue, plus payment of the fee required by K.S.A. 8-
32 246, and amendments thereto, for issuance of a new license, the division
33 shall issue to such licensee a new license containing a colored digital
34 photograph of such licensee. A driver's license which does not contain the
35 principal address as required may be issued to persons who are program
participants pursuant to K.S.A. 2010 Supp. 75-455, and amendments

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(f) The division, in the interest of traffic and safety, may establish or contract with a private individual, corporation, partnership or association for the services of driver improvement clinics throughout the state and, upon reviewing the driving record of a person whose driving privileges are subject to suspension under subsection (a)(2), may permit the person to retain such person's driving privileges by attending a driver improvement clinic. Any person other than a person issued a commercial driver's license under K.S.A. 8-2,125 et seq., and amendments thereto, desiring to attend a driver improvement clinic shall make application to the division and such application shall be accompanied by the required fee. The secretary of revenue shall adopt rules and regulations prescribing a driver's improvement clinic fee which shall not exceed \$500 and such rules and regulations deemed necessary for carrying out the provisions of this section, including the development of standards and criteria to be utilized by such driver improvement clinics. Amounts received under this subsection shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the same in the state treasury as prescribed by subsection (f) of K.S.A. 8-267, and amendments thereto.

(g) When the action by the division restricting a person's driving privileges is based upon certification by the secretary of social and rehabilitation services pursuant to K.S.A. 2010 Supp. 39-7,155, and amendments thereto, the person may not request a hearing but, within 30 days after notice of restriction is mailed, may submit a written request for administrative review and provide evidence to the division to show the person whose driving privileges have been restricted by the division is not the person certified by the secretary of social and rehabilitation services, did not receive timely notice of the proposed restriction from the secretary of social and rehabilitation services or has been decertified by the secretary of social and rehabilitation services. Within 30 days of its receipt of the request for administrative review, the division shall notify the person whether the restriction has been affirmed or set aside. The request for administrative review shall not stay any action taken by the division.

New Sec. 3. (a) On October 31 of each year, any person required to register as a sex offender pursuant to the Kansas offender registration act shall:

- (1) Avoid all Halloween-related contact with children;
- (2) remain inside the person's residence between the hours of 5:00 p.m. and 11:00 p.m.;
- (3) post a sign at the person's residence stating "No candy at this residence"; and

Except as provided by a court order,

(4) turn off all outdoor residential lighting after 5:00 p.m.

~~(b) Violation of this section is a class A nonperson misdemeanor.~~

3 Sec. 4. K.S.A. 2010 Supp. 22-4902 is hereby amended to read as
4 follows: 22-4902. As used in the Kansas offender registration act, unless
5 the context otherwise requires:

Strike

6 (a) "Offender" means: (1) A sex offender as defined in subsection
7 (b);

8 (2) a violent offender as defined in subsection (d);

9 (3) a sexually violent predator as defined in subsection (f);

10 (4) any person who, on and after May 29, 1997, is convicted of any
11 of the following crimes when the victim is less than 18 years of age:

12 (A) Kidnapping as defined in K.S.A. 21-3420, prior to its repeal, or
13 subsection (a) of section 43 of chapter 136 of the 2010 Session Laws of
14 Kansas, and amendments thereto, except by a parent;

15 (B) aggravated kidnapping as defined in K.S.A. 21-3421, prior to its
16 repeal, or subsection (b) of section 43 of chapter 136 of the 2010 Session
17 Laws of Kansas, and amendments thereto; or

18 (C) criminal restraint as defined in K.S.A. 21-3424, prior to its
19 repeal, or section 46 of chapter 136 of the 2010 Session Laws of Kansas,
20 and amendments thereto, except by a parent;

21 (5) any person convicted of any of the following criminal sexual
22 conduct if one of the parties involved is less than 18 years of age:

23 (A) Adultery as defined by K.S.A. 21-3507, prior to its repeal, or
24 section 75 of chapter 136 of the 2010 Session Laws of Kansas, and
25 amendments thereto;

26 (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-
27 3505, prior to its repeal, or subsection (a) of section 68 of chapter 136 of
28 the 2010 Session Laws of Kansas, and amendments thereto;

29 (C) promoting prostitution as defined by K.S.A. 21-3513, prior to
30 its repeal, or section 230 of chapter 136 of the 2010 Session Laws of
31 Kansas, and amendments thereto;

32 (D) patronizing a prostitute as defined by K.S.A. 21-3515, prior to
33 its repeal, or section 231 of chapter 136 of the 2010 Session Laws of
34 Kansas, and amendments thereto; or

35 (E) lewd and lascivious behavior as defined by K.S.A. 21-3508,
36 prior to its repeal, or section 77 of chapter 136 of the 2010 Session Laws
37 of Kansas, and amendments thereto;

38 (6) any person who has been required to register under any federal,
39 military or other state's law or is otherwise required to be registered;

40 (7) any person who, on or after July 1, 2006, is convicted of any
41 person felony and the court makes a finding on the record that a deadly
42 weapon was used in the commission of such person felony;

43 (8) any person who has been convicted of an offense in effect at any

1 convicted of any sexually violent crime set forth in subsection (c) or is
2 adjudicated as a juvenile offender for an act which if committed by an
3 adult would constitute the commission of a sexually violent crime set
4 forth in subsection (c);:

(B) on or after July 1, 2011, is adjudicated as a
juvenile offender for an act which if committed by
an adult would constitute the commission of a
sexually violent crime set forth in subsection (c); or

5 ~~(B) on or after July 1, 2011, is convicted of any sexually violent~~
6 ~~crime set forth in subsection (c), or is adjudicated as a juvenile offender~~
7 ~~for an act which if committed by an adult would constitute the~~
8 ~~commission of a sexually violent crime set forth in subsection (c), if none~~
9 ~~of the parties involved is less than 16 years of age.~~

if the victim is 16 years of age or older

10 (2) "Aggravated sex offender" includes any person who, on or after
11 July 1, 2011, is convicted of any sexually violent crime set forth in
12 subsection (c), or is adjudicated as a juvenile offender for an act which if
13 committed by an adult would constitute the commission of a sexually
14 violent crime set forth in subsection (c), if one of the parties involved is
15 less than 16 years of age.

if the victim is less than 16 years of age

16 (c) "Sexually violent crime" means:
17 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or section
18 67 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
19 thereto;

20 (2) indecent liberties with a child as defined in K.S.A. 21-3503,
21 prior to its repeal, or subsection (a) of section 70 of chapter 136 of the
22 2010 Session Laws of Kansas, and amendments thereto;

23 (3) aggravated indecent liberties with a child as defined in K.S.A.
24 21-3504, prior to its repeal, or subsection (b) of section 70 of chapter
25 136 of the 2010 Session Laws of Kansas, and amendments thereto;

26 (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of
27 K.S.A. 21-3505, prior to its repeal, or subsection (a) of section 68 of
28 chapter 136 of the 2010 Session Laws of Kansas, and amendments
29 thereto;

30 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior
31 to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010
32 Session Laws of Kansas, and amendments thereto;

33 (6) indecent solicitation of a child as defined by K.S.A. 21-3510,
34 prior to its repeal, or subsection (a) of section 72 of chapter 136 of the
35 2010 Session Laws of Kansas, and amendments thereto;

36 (7) aggravated indecent solicitation of a child as defined by K.S.A.
37 21-3511, prior to its repeal, or subsection (b) of section 72 of chapter 136
38 of the 2010 Session Laws of Kansas, and amendments thereto;

39 (8) sexual exploitation of a child as defined by K.S.A. 21-3516,
40 prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws
41 of Kansas, and amendments thereto;

42 (9) sexual battery as defined by K.S.A. 21-3517, prior to its repeal,
or subsection (a) of section 69 of chapter 136 of the 2010 Session Laws

(C)

(7) Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender registration act then all provisions of that act shall apply, except that the term of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

(b) (1) Except as provided in paragraph (2), if any person required to register as provided in this act changes the address of the person's residence, the offender, within 14 days, shall inform in writing the law enforcement agency where such offender last registered and the Kansas bureau of investigation of the new address.

(2) If an aggravated sex offender, as defined by subsection (b) of K.S.A. 22-4902, and amendments thereto, required to register as provided in this act, changes the address of the person's residence, the offender, within 24 hours, shall inform in writing the law enforcement agency where such offender last registered and the Kansas bureau of investigation of the new address.

(c) Any person who is required to register under this act shall report in person three times each year to the sheriff's office in the county in which the person resides or is otherwise located. The person shall be required to report once during the month of the person's birthday and every four months thereafter. The sheriff's office may determine the appropriate times and days for reporting by the person, consistent with this subsection. The person shall verify:

(1) Whether the person still resides at the address last reported;

(2) whether the person still attends the school or educational institution last reported;

(3) whether the person is still employed at the place of employment last reported; and

(4) whether the person's vehicle registration information is the same as last reported.

Nothing contained in this subsection shall be construed to alleviate any person required to register as provided in this act from meeting the requirements prescribed in subsections (a)(1), (a)(2) and (b).

The sheriff's office shall forward any updated information and current photograph required under subsection (d), to the Kansas bureau of investigation.

(d) Every person who is required to register under this act shall submit to the taking of an updated photograph by the sheriff's office on each occasion when the person reports to the sheriff's office in the county in which the person resides or is otherwise located.

(e) Every person who is required to register under this act shall remit payment to the sheriff in the amount of \$20 on each occasion when the

three days

person reports to the sheriff's office in the county in which the person resides or is otherwise located. All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office which shall be used solely for law enforcement and criminal prosecution purposes and which shall not be used as a source of revenue to reduce the amount of funding otherwise made available to the sheriff's office.

Sec. 7. K.S.A. 2010 Supp. 22-4913 is hereby amended to read as follows: 22-4913. (a) On and after July 1, 2011, aggravated sex offenders, as defined by subsection (b) of K.S.A. 22-4902, and amendments thereto, shall not reside within 2,000 feet of any licensed child care facility, registered family day care home or the real property of any school upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any grades one through 12. This subsection shall not apply to any state institution or facility.

(b) Except as provided in subsection (c), on and after the effective date of this act June 1, 2006, cities and counties shall be prohibited from adopting or enforcing any ordinance, resolution or regulation establishing residential restrictions for offenders as defined by K.S.A. 22-4902, and amendments thereto.

(c) The prohibition in subsection (b), shall not apply to any city or county residential licensing or zoning program for correctional placement residences that includes regulations for the housing of such offenders.

(d) As used in this section, "correctional placement residence" means a facility that provides residential services for individuals or offenders who reside or have been placed in such facility due to any one of the following situations:

- (1) Prior to, or instead of, being sentenced to prison;
 - (2) received a conditional release prior to a hearing;
 - (3) as a part of a sentence of confinement of not more than one year;
 - (4) a privately operated facility housing parolees;
 - (5) received a deferred sentence and placed in a facility operated by community corrections;
 - (6) required court-ordered treatment services for alcohol or drug abuse; or
 - (7) voluntary treatment services for alcohol or drug abuse.
- Correctional placement residence shall not include a single or multi-family dwelling or commercial residential building that provides a residence to staff and persons other than those described in paragraphs (1) through (7).

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