

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2086

By Committee on Corrections and Juvenile Justice

1-18

1 AN ACT concerning crimes, punishments and criminal procedure; relating
2 to offender registration; definitions; amending K.S.A. 2016 Supp. 22-
3 4902 and 22-4903 and repealing the existing sections; also repealing
4 K.S.A. 2016 Supp. 22-4903a.

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

7 Section 1. K.S.A. 2016 Supp. 22-4902 is hereby amended to read as
8 follows: 22-4902. As used in the Kansas offender registration act, unless
9 the context otherwise requires:

10 (a) "Offender" means:

11 (1) A sex offender;

12 (2) a violent offender;

13 (3) a drug offender;

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

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

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

19 (1) On or after April 14, 1994, is convicted of any sexually violent
20 crime;

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

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

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

29 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
30 K.S.A. 2016 Supp. 21-5511, and amendments thereto;

31 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
32 repeal, or K.S.A. 2016 Supp. 21-5504(a)(1) or (a)(2), and amendments
33 thereto;

34 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
35 repeal, or K.S.A. 2016 Supp. 21-6420, prior to its amendment by section
36 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

1 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
2 repeal, or K.S.A. 2016 Supp. 21-6421, prior to its amendment by section
3 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

4 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
5 to its repeal, or K.S.A. 2016 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. 2016 Supp. 21-5505(a), and
8 amendments thereto;

9 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
10 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
11 K.S.A. 2016 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
12 of an offense defined in this subsection; or

13 (7) has been convicted of an offense that is comparable to any crime
14 defined in this subsection, or any out-of-state conviction for an offense that
15 under the laws of this state would be an offense defined in this subsection.

16 (c) "Sexually violent crime" means:

17 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
18 2016 Supp. 21-5503, and amendments thereto;

19 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
20 to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;

21 (3) aggravated indecent liberties with a child, as defined in K.S.A.
22 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and
23 amendments thereto;

24 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
25 prior to its repeal, or K.S.A. 2016 Supp. 21-5504(a)(3) or (a)(4), and
26 amendments thereto;

27 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
28 to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto;

29 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
30 prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments
31 thereto;

32 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
33 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and
34 amendments thereto;

35 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
36 to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto;

37 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
38 its repeal, or K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;

39 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
40 repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto;

41 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
42 repeal, and K.S.A. 2016 Supp. 21-5509, and amendments thereto;

43 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to

1 its repeal, or K.S.A. 2016 Supp. 21-5512, and amendments thereto;

2 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
3 prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments
4 thereto, if committed in whole or in part for the purpose of the sexual
5 gratification of the defendant or another;

6 (14) commercial sexual exploitation of a child, as defined in K.S.A.
7 2016 Supp. 21-6422, and amendments thereto;

8 (15) any conviction or adjudication for an offense that is comparable
9 to a sexually violent crime as defined in this subsection, or any out-of-state
10 conviction or adjudication for an offense that under the laws of this state
11 would be a sexually violent crime as defined in this subsection;

12 (16) an attempt, conspiracy or criminal solicitation, as defined in
13 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016
14 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
15 violent crime, as defined in this subsection; or

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

23 (d) "Sexually violent predator" means any person who, on or after
24 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
25 59-29a01 et seq., and amendments thereto.

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

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

29 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
30 or K.S.A. 2016 Supp. 21-5401, and amendments thereto;

31 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to
32 its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments thereto;

33 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior
34 to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments thereto;

35 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
36 repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto;

37 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
38 its repeal, or K.S.A. 2016 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
39 amendments thereto. The provisions of this paragraph shall not apply to
40 violations of K.S.A. 2016 Supp. 21-5405(a)(3), and amendments thereto,
41 which occurred on or after July 1, 2011, through July 1, 2013;

42 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
43 K.S.A. 2016 Supp. 21-5408(a), and amendments thereto;

1 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
2 repeal, or K.S.A. 2016 Supp. 21-5408(b), and amendments thereto;

3 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its
4 repeal, or K.S.A. 2016 Supp. 21-5411, and amendments thereto, except by
5 a parent, and only when the victim is less than 18 years of age; or

6 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
7 to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments thereto, if
8 not committed in whole or in part for the purpose of the sexual
9 gratification of the defendant or another;

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

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

17 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
18 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
19 K.S.A. 2016 Supp. 21-5301, 21-5302 and 21-5303, and amendments
20 thereto, of an offense defined in this subsection.

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

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

23 (A) Unlawful manufacture or attempting such of any controlled
24 substance or controlled substance analog, as defined in K.S.A. 65-4159,
25 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
26 K.S.A. 2016 Supp. 21-5703, and amendments thereto; *or*

27 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
28 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
29 ammonia or phenylpropanolamine, or their salts, isomers or salts of
30 isomers with intent to use the product to manufacture a controlled
31 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
32 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2016 Supp. 21-5709(a),
33 and amendments thereto;

34 ~~(C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-~~
35 ~~36a05(a)(1), prior to its transfer, or K.S.A. 2016 Supp. 21-5705(a)(1), and~~
36 ~~amendments thereto. The provisions of this paragraph shall not apply to~~
37 ~~violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)-~~
38 ~~which occurred on or after July 1, 2009, through April 15, 2010;~~

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

43 (3) is or has been convicted of an attempt, conspiracy or criminal

1 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
2 their repeal, or K.S.A. 2016 Supp. 21-5301, 21-5302 and 21-5303, and
3 amendments thereto, of an offense defined in this subsection.

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

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

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

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

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

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

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

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

40 (o) "Registering entity" means any person, agency or other
41 governmental unit, correctional facility or registering law enforcement
42 agency responsible for obtaining the required information from, and
43 explaining the required registration procedures to, any person required to

1 register pursuant to the Kansas offender registration act. "Registering
2 entity" shall include, but not be limited to, sheriff's offices, tribal police
3 departments and correctional facilities.

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

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

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

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

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

18 (A) Convicted of unlawful transmission of a visual depiction of a
19 child, as defined in K.S.A. 2016 Supp. 21-5611(a), and amendments
20 thereto, aggravated unlawful transmission of a visual depiction of a child,
21 as defined in K.S.A. 2016 Supp. 21-5611(b), and amendments thereto, or
22 unlawful possession of a visual depiction of a child, as defined in K.S.A.
23 2016 Supp. 21-5610, and amendments thereto; or

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

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

30 Sec. 2. K.S.A. 2016 Supp. 22-4903 is hereby amended to read as
31 follows: 22-4903. (a) Violation of the Kansas offender registration act is
32 the failure by an offender, as defined in K.S.A. 22-4902, and amendments
33 thereto, to comply with any and all provisions of such act, including any
34 and all duties set forth in K.S.A. 22-4905 through 22-4907, and
35 amendments thereto. Any violation of the Kansas offender registration act
36 which continues for more than 30 consecutive days shall, upon the 31st
37 consecutive day, constitute a new and separate offense, and shall continue
38 to constitute a new and separate offense every 30 days thereafter for as
39 long as the violation continues.

40 (b) Aggravated violation of the Kansas offender registration act is
41 violation of the Kansas offender registration act which continues for more
42 than 180 consecutive days. Any aggravated violation of the Kansas
43 offender registration act which continues for more than 180 consecutive

1 days shall, upon the 181st consecutive day, constitute a new and separate
2 offense, and shall continue to constitute a new and separate violation of the
3 Kansas offender registration act every 30 days thereafter, or a new and
4 separate aggravated violation of the Kansas offender registration act every
5 180 days thereafter, for as long as the violation continues.

6 (c) (1) Except as provided in subsection (c)(3), violation of the
7 Kansas offender registration act is:

8 (A) Upon a first conviction, a severity level 6 felony;

9 (B) upon a second conviction, a severity level 5 felony; and

10 (C) upon a third or subsequent conviction, a severity level 3 felony.

11 Such violation shall be designated as a person or nonperson crime in
12 accordance with the designation assigned to the underlying crime for
13 which the offender is required to be registered under the Kansas offender
14 registration act. If the offender is required to be registered under both a
15 person and nonperson underlying crime, the violation shall be designated
16 as a person crime.

17 (2) Except as provided in subsection (c)(3), aggravated violation of
18 the Kansas offender registration act is a severity level 3 felony.

19 Such violation shall be designated as a person or nonperson crime in
20 accordance with the designation assigned to the underlying crime for
21 which the offender is required to be registered under the Kansas offender
22 registration act. If the offender is required to be registered under both a
23 person and nonperson underlying crime, the violation shall be designated
24 as a person crime.

25 (3) Violation of the Kansas offender registration act or aggravated
26 violation of the Kansas offender registration act consisting only of failing
27 to remit payment to the sheriff's office as required in K.S.A. 22-4905~~(k)~~(l),
28 and amendments thereto, is:

29 ~~(A) Except as provided in subsection (c)(3)(B), a class A nonperson~~
30 ~~misdemeanor if, within 15 days of registration, full payment is not~~
31 ~~remitted to the sheriff's office;~~

32 ~~(B) a severity level 9 felony if, within 15 days of the most recent~~
33 ~~registration, two or more full payments have not been remitted to the~~
34 ~~sheriff's office.~~

35 ~~Such violation shall be designated as a person or nonperson crime in~~
36 ~~accordance with the designation assigned to the underlying crime for~~
37 ~~which the offender is required to be registered under the Kansas offender~~
38 ~~registration act. If the offender is required to be registered under both a~~
39 ~~person and nonperson underlying crime, the violation shall be designated~~
40 ~~as a person crime.~~

41 (d) Prosecution of violations of this section may be held:

42 (1) In any county in which the offender resides;

43 (2) in any county in which the offender is required to be registered

1 under the Kansas offender registration act;

2 (3) in any county in which the offender is located during which time
3 the offender is not in compliance with the Kansas offender registration act;
4 or

5 (4) in the county in which any conviction or adjudication occurred for
6 which the offender is required to be registered under the Kansas offender
7 registration act.

8 Sec. 3. K.S.A. 2016 Supp. 22-4902, 22-4903 and 22-4903a are
9 hereby repealed.

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