

## HOUSE BILL No. 2621

By Representative Holscher

2-5

---

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to unlawful sexual relations; law enforcement; amending K.S.A. 2017  
3 Supp. 21-5512 and repealing the existing section.  
4

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

6 Section 1. K.S.A. 2017 Supp. 21-5512 is hereby amended to read as  
7 follows: 21-5512. (a) Unlawful sexual relations is engaging in consensual  
8 sexual intercourse, lewd fondling or touching, or sodomy with a person  
9 who is not married to the offender if:

10 (1) The offender is an employee or volunteer of the department of  
11 corrections, or the employee or volunteer of a contractor who is under  
12 contract to provide services for a correctional institution, and the person  
13 with whom the offender is engaging in consensual sexual intercourse, lewd  
14 fondling or touching, or sodomy is a person 16 years of age or older who  
15 is an inmate;

16 (2) the offender is a parole officer, volunteer for the department of  
17 corrections or the employee or volunteer of a contractor who is under  
18 contract to provide supervision services for persons on parole, conditional  
19 release or postrelease supervision and the person with whom the offender  
20 is engaging in consensual sexual intercourse, lewd fondling or touching, or  
21 sodomy is a person 16 years of age or older who is an inmate who has  
22 been released on parole, conditional release or postrelease supervision and  
23 the offender has knowledge that the person with whom the offender is  
24 engaging in consensual sexual intercourse, lewd fondling or touching, or  
25 sodomy is an inmate who has been released and is currently on parole,  
26 conditional release or postrelease supervision;

27 (3) the offender is a law enforcement officer, an employee of a jail, or  
28 the employee of a contractor who is under contract to provide services in a  
29 jail and the person with whom the offender is engaging in consensual  
30 sexual intercourse, lewd fondling or touching, or sodomy is a person 16  
31 years of age or older who is confined to such jail;

32 (4) the offender is a law enforcement officer, an employee of a  
33 juvenile detention facility or sanctions house, or the employee of a  
34 contractor who is under contract to provide services in such facility or  
35 sanctions house and the person with whom the offender is engaging in  
36 consensual sexual intercourse, lewd fondling or touching, or sodomy is a

1 person 16 years of age or older who is confined to such facility or  
2 sanctions house;

3 (5) the offender is an employee of the department of corrections or  
4 the employee of a contractor who is under contract to provide services in a  
5 juvenile correctional facility and the person with whom the offender is  
6 engaging in consensual sexual intercourse, lewd fondling or touching, or  
7 sodomy is a person 16 years of age or older who is confined to such  
8 facility;

9 (6) the offender is an employee of the department of corrections or  
10 the employee of a contractor who is under contract to provide direct  
11 supervision and offender control services to the department of corrections  
12 and:

13 (A) The person with whom the offender is engaging in consensual  
14 sexual intercourse, lewd fondling or touching, or sodomy is a person 16  
15 years of age or older who has been:

16 (i) Released on conditional release from a juvenile correctional  
17 facility under the supervision and control of the department of corrections  
18 or juvenile community supervision agency; or

19 (ii) placed in the custody of the department of corrections under the  
20 supervision and control of the department of corrections or juvenile  
21 community supervision agency; and

22 (B) the offender has knowledge that the person with whom the  
23 offender is engaging in consensual sexual intercourse, lewd fondling or  
24 touching, or sodomy is currently under supervision;

25 (7) the offender is an employee of the Kansas department for aging  
26 and disability services or the Kansas department for children and families  
27 or the employee of a contractor who is under contract to provide services  
28 in an aging and disability or children and families institution or to the  
29 Kansas department for aging and disability services or the Kansas  
30 department for children and families and the person with whom the  
31 offender is engaging in consensual sexual intercourse, lewd fondling or  
32 touching, or sodomy is a person 16 years of age or older who is a patient in  
33 such institution or in the custody of the secretary for aging and disability  
34 services or the secretary for children and families;

35 (8) the offender is a worker, volunteer or other person in a position of  
36 authority in a family foster home licensed by the department of health and  
37 environment and the person with whom the offender is engaging in  
38 consensual sexual intercourse, lewd fondling or touching, or sodomy is a  
39 person 16 years of age or older who is a foster child placed in the care of  
40 such family foster home;

41 (9) the offender is a teacher or other person in a position of authority  
42 and the person with whom the offender is engaging in consensual sexual  
43 intercourse, lewd fondling or touching, or sodomy is a person 16 years of

1 age or older who is a student enrolled at the school where the offender is  
2 employed. If the offender is the parent of the student, the provisions of  
3 ~~subsection (b)~~ of K.S.A. 2017 Supp. 21-5604(b), and amendments thereto,  
4 shall apply, not this subsection;

5 (10) the offender is a court services officer or the employee of a  
6 contractor who is under contract to provide supervision services for  
7 persons under court services supervision and the person with whom the  
8 offender is engaging in consensual sexual intercourse, lewd fondling or  
9 touching, or sodomy is a person 16 years of age or older who has been  
10 placed on probation under the supervision and control of court services  
11 and the offender has knowledge that the person with whom the offender is  
12 engaging in consensual sexual intercourse, lewd fondling or touching, or  
13 sodomy is currently under the supervision of court services;

14 (11) the offender is a community correctional services officer or the  
15 employee of a contractor who is under contract to provide supervision  
16 services for persons under community corrections supervision and the  
17 person with whom the offender is engaging in consensual sexual  
18 intercourse, lewd fondling or touching, or sodomy is a person 16 years of  
19 age or older who has been assigned to a community correctional services  
20 program under the supervision and control of community corrections and  
21 the offender has knowledge that the person with whom the offender is  
22 engaging in consensual sexual intercourse, lewd fondling or touching, or  
23 sodomy is currently under the supervision of community corrections; ~~or~~

24 (12) the offender is a surety or an employee of a surety and the person  
25 with whom the offender is engaging in consensual sexual intercourse, lewd  
26 fondling or touching, or sodomy is a person 16 years of age or older who  
27 is the subject of a surety or bail bond agreement with such surety and the  
28 offender has knowledge that the person with whom the offender is  
29 engaging in consensual sexual intercourse, lewd fondling or touching, or  
30 sodomy is the subject of a surety or bail bond agreement with such surety;  
31 *or*

32 *(13) the offender is a law enforcement officer and the person with*  
33 *whom the offender is engaging in consensual sexual intercourse, lewd*  
34 *fondling or touching, or sodomy is a person 16 years of age or older who*  
35 *is interacting with such law enforcement officer during the course of such*  
36 *law enforcement officer's duties, including, but not limited to, a custodial*  
37 *interrogation as defined in K.S.A. 2017 Supp. 22-4620, and amendments*  
38 *thereto, and the offender has knowledge that the person with whom the*  
39 *offender is engaging in consensual sexual intercourse, lewd fondling or*  
40 *touching, or sodomy is interacting with such law enforcement officer*  
41 *during the course of such law enforcement officer's duties.*

42 (b) Unlawful sexual relations as defined in:

43 (1) Subsection (a)(5) is a severity level 4, person felony; and

1 (2) subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9),  
2 (a)(10), (a)(11) ~~or~~, (a)(12) *or* (a)(13) is a severity level 5, person felony.

3 (c) (1) If an offender violates the provisions of this section by  
4 engaging in consensual sexual intercourse which would constitute a  
5 violation of K.S.A. 2017 Supp. 21-5503, and amendments thereto, the  
6 provisions of K.S.A. 2017 Supp. 21-5503, and amendments thereto, shall  
7 apply, not this section.

8 (2) If an offender violates the provisions of this section by engaging  
9 in consensual sexual intercourse which would constitute a violation of  
10 ~~subsection (b)(1) of~~ K.S.A. 2017 Supp. 21-5506(b)(1), and amendments  
11 thereto, the provisions of ~~subsection (b)(1) of~~ K.S.A. 2017 Supp. 21-  
12 5506(b)(1), and amendments thereto, shall apply, not this section.

13 (3) If an offender violates the provisions of this section by engaging  
14 in sodomy which would constitute a violation of ~~subsection (a)(3), (a)(4)~~  
15 ~~or (b) of~~ K.S.A. 2017 Supp. 21-5504(a)(3), (a)(4) *or* (b), and amendments  
16 thereto, the provisions of ~~subsection (a)(3), (a)(4) or (b) of~~ K.S.A. 2017  
17 Supp. 21-5504(a)(3), (a)(4) *or* (b), and amendments thereto, shall apply,  
18 not this section.

19 (4) If an offender violates the provisions of this section by engaging  
20 in lewd fondling or touching which would constitute a violation of  
21 ~~subsection (b)(2) of~~ K.S.A. 2017 Supp. 21-5506(b)(2), and amendments  
22 thereto, the provisions of ~~subsection (b)(2) of~~ K.S.A. 2017 Supp. 21-  
23 5506(b)(2), and amendments thereto, shall apply, not this section.

24 (d) As used in this section:

25 (1) "Correctional institution" means the same as in K.S.A. 75-5202,  
26 and amendments thereto;

27 (2) "inmate" means the same as in K.S.A. 75-5202, and amendments  
28 thereto;

29 (3) "parole officer" means the same as in K.S.A. 75-5202, and  
30 amendments thereto;

31 (4) "postrelease supervision" means the same as in K.S.A. 2017 Supp.  
32 21-6803, and amendments thereto;

33 (5) "juvenile detention facility" means the same as in K.S.A. 2017  
34 Supp. 38-2302, and amendments thereto;

35 (6) "juvenile correctional facility" means the same as in K.S.A. 2017  
36 Supp. 38-2302, and amendments thereto;

37 (7) "sanctions house" means the same as in K.S.A. 2017 Supp. 38-  
38 2302, and amendments thereto;

39 (8) "institution" means the same as in K.S.A. 76-12a01, and  
40 amendments thereto;

41 (9) "teacher" means and includes teachers, coaches, supervisors,  
42 principals, superintendents and any other professional employee in any  
43 public or private school offering any of grades kindergarten through 12;

1 (10) "community corrections" means the entity responsible for  
2 supervising adults and juvenile offenders for confinement, detention, care  
3 or treatment, subject to conditions imposed by the court pursuant to the  
4 community corrections act, K.S.A. 75-5290, and amendments thereto, and  
5 the revised Kansas juvenile justice code, K.S.A. 2017 Supp. 38-2301 et  
6 seq., and amendments thereto;

7 (11) "court services" means the entity appointed by the district court  
8 that is responsible for supervising adults and juveniles placed on probation  
9 and misdemeanants placed on parole by district courts of this state;

10 (12) "juvenile community supervision agency" means an entity that  
11 receives grants for the purpose of providing direct supervision to juveniles  
12 in the custody of the department of corrections; and

13 (13) "surety" means the same as in K.S.A. 22-2809a, and  
14 amendments thereto.

15 Sec. 2. K.S.A. 2017 Supp. 21-5512 is hereby repealed.

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