

HOUSE BILL No. 2241

By Representatives Xu and Erickson

2-12

AN ACT concerning crimes, punishment and criminal procedure; relating to sex offenses; rape; misrepresentation of identity; amending K.S.A. 2018 Supp. 21-5503 and repealing the existing section.

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

Section 1. K.S.A. 2018 Supp. 21-5503 is hereby amended to read as follows: 21-5503. (a) Rape is:

(1) Knowingly engaging in sexual intercourse with a victim who does not consent to the sexual intercourse under any of the following circumstances:

(A) When the victim is overcome by force or fear; or

(B) when the victim is unconscious or physically powerless;

(2) Knowingly engaging in sexual intercourse with a victim when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender;

(3) sexual intercourse with a child who is under 14 years of age;

(4) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a medically or therapeutically necessary procedure; ~~or~~

(5) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a legally required procedure within the scope of the offender's authority; *or*

(6) *sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender as to the identity of the offender intended to lead the victim to believe the offender is another person.*

(b)(1) Rape as defined in:

(A) Subsection (a)(1) or (a)(2) is a severity level 1, person felony;

(B) subsection (a)(3) is a severity level 1, person felony, except as provided in subsection (b)(2); and

(C) subsection (a)(4) ~~or~~, (a)(5) *or* (a)(6) is a severity level 2, person

1 felony.

2 (2) Rape as defined in subsection (a)(3) or attempt, conspiracy or
3 criminal solicitation to commit rape as defined in subsection (a)(3) is an
4 off-grid person felony, when the offender is 18 years of age or older.

5 (c) If the offender is 18 years of age or older, the provisions of:

6 (1) ~~Subsection (e) of K.S.A. 2018 Supp. 21-5301(c)~~, and amendments
7 thereto, shall not apply to a violation of attempting to commit the crime of
8 rape as defined in subsection (a)(3);

9 (2) ~~subsection (e) of K.S.A. 2018 Supp. 21-5302(c)~~, and amendments
10 thereto, shall not apply to a violation of conspiracy to commit the crime of
11 rape as defined in subsection (a)(3); and

12 (3) ~~subsection (d) of K.S.A. 2018 Supp. 21-5303(d)~~, and amendments
13 thereto, shall not apply to a violation of criminal solicitation to commit the
14 crime of rape as defined in subsection (a)(3).

15 (d) It shall be a defense to a prosecution of rape under subsection (a)
16 (3) that the child was married to the accused at the time of the offense.

17 (e) Except as provided in subsection (a)(2), it shall not be a defense
18 that the offender did not know or have reason to know that the victim did
19 not consent to the sexual intercourse, that the victim was overcome by
20 force or fear, or that the victim was unconscious or physically powerless.

21 Sec. 2. K.S.A. 2018 Supp. 21-5503 is hereby repealed.

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