

SENATE BILL No. 17

By Committee on Judiciary

1-15

1 AN ACT concerning crimes and punishment; relating to unlawful sexual
2 relations; amending K.S.A. 2012 Supp. 21-5512 and repealing the
3 existing section.
4

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

6 Section 1. K.S.A. 2012 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 juvenile justice authority or the
4 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 juvenile justice authority or the
10 employee of a contractor who is under contract to provide direct
11 supervision and offender control services to the juvenile justice authority
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 juvenile justice authority
18 or juvenile community supervision agency; or

19 (ii) placed in the custody of the juvenile justice authority under the
20 supervision and control of the juvenile justice authority 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 department of social and
26 rehabilitation services or the employee of a contractor who is under
27 contract to provide services in a social and rehabilitation services
28 institution or to the department of social and rehabilitation services and the
29 person with whom the offender is engaging in consensual sexual
30 intercourse, lewd fondling or touching, or sodomy is a person 16 years of
31 age or older who is a patient in such institution or in the custody of the
32 secretary of social and rehabilitation services;

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

39 (9) the offender is a teacher or other person in a position of authority
40 and the person with whom the offender is engaging in consensual sexual
41 intercourse, lewd fondling or touching, or sodomy is a person 16 years of
42 age or older who is a student enrolled at the school where the offender is
43 employed. If the offender is the parent of the student, the provisions of

1 subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto,
2 shall apply, not this subsection;

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

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

22 *(12) the offender is an employee of an adult care home or the*
23 *employee or volunteer of a contractor who is under contract to provide*
24 *services for an adult care home and the person with whom the offender is*
25 *engaging in consensual sexual intercourse, lewd fondling or touching, or*
26 *sodomy is a person 16 years of age or older who is a resident in such*
27 *adult care home.*

28 (b) Unlawful sexual relations as defined in:

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

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

32 (c) (1) If an offender violates the provisions of this section by
33 engaging in consensual sexual intercourse which would constitute a
34 violation of K.S.A. 2012 Supp. 21-5503, and amendments thereto, the
35 provisions of K.S.A. 2012 Supp. 21-5503, and amendments thereto, shall
36 apply, not this section.

37 (2) If an offender violates the provisions of this section by engaging
38 in consensual sexual intercourse which would constitute a violation of
39 subsection (b)(1) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,
40 the provisions of subsection (b)(1) of K.S.A. 2012 Supp. 21-5506, and
41 amendments thereto, shall apply, not this section.

42 (3) If an offender violates the provisions of this section by engaging
43 in sodomy which would constitute a violation of subsection (a)(3), (a)(4)

1 or (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, the
2 provisions of subsection (a)(3), (a)(4) or (b) of K.S.A. 2012 Supp. 21-
3 5504, and amendments thereto, shall apply, not this section.

4 (4) If an offender violates the provisions of this section by engaging
5 in lewd fondling or touching which would constitute a violation of
6 subsection (b)(2) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,
7 the provisions of subsection (b)(2) of K.S.A. 2012 Supp. 21-5506, and
8 amendments thereto, shall apply, not this section.

9 (d) As used in this section:

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

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

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

16 (4) "postrelease supervision" means the same as in K.S.A. 2012 Supp.
17 21-6803, and amendments thereto;

18 (5) "juvenile detention facility" means the same as in K.S.A. 2012
19 Supp. 38-2302, and amendments thereto;

20 (6) "juvenile correctional facility" means the same as in K.S.A. 2012
21 Supp. 38-2302, and amendments thereto;

22 (7) "sanctions house" means the same as in K.S.A. 2012 Supp. 38-
23 2302, and amendments thereto;

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

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

29 (10) "community corrections" means the entity responsible for
30 supervising adults and juvenile offenders for confinement, detention, care
31 or treatment, subject to conditions imposed by the court pursuant to the
32 community corrections act, K.S.A. 75-5290, and amendments thereto, and
33 the revised Kansas juvenile justice code, K.S.A. 2012 Supp. 38-2301 et
34 seq., and amendments thereto;

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

38 (12) "juvenile community supervision agency" means an entity that
39 receives grants for the purpose of providing direct supervision to juveniles
40 in the custody of the juvenile justice authority; *and*

41 (13) *"adult care home" means the same as in K.S.A. 39-923, and*
42 *amendments thereto.*

43 Sec. 2. K.S.A. 2012 Supp. 21-5512 is hereby repealed.

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