

HOUSE BILL No. 2370

By Representative Osman

2-8

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sex offenses; defining consent; amending K.S.A. 2022 Supp. 21-
3 5501 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2022 Supp. 21-5501 is hereby amended to read as
7 follows: 21-5501. ~~The following definitions shall apply when the words~~
8 ~~and phrases defined are~~ *As* used in article 55 of chapter 21 of the Kansas
9 Statutes Annotated, and K.S.A. 2022 Supp. 21-6419 through 21-6422, and
10 amendments thereto, except when a particular context clearly requires a
11 different meaning:

12 (a) (1) *"Consent" means words or overt actions by an individual*
13 *indicating a freely given present agreement to engage in a specific sexual*
14 *activity and may be revoked at any time. Consent to a specific sexual*
15 *activity does not constitute consent to a sexual activity that occurs after*
16 *withdrawal of consent during the course of such sexual activity.*

17 (2) *"Consent" does not include:*

18 (A) *The lack of verbal or physical resistance by the victim resulting*
19 *from the use or threat of force;*

20 (B) *submission by the victim; or*

21 (C) *the manner of dress of the victim at the time of the offense.*

22 (b) *"Sexual intercourse" means any penetration of the female sex organ*
23 *by a finger, the male sex organ or any object. Any penetration, however*
24 *slight, is sufficient to constitute sexual intercourse. "Sexual intercourse"*
25 *does not include penetration of the female sex organ by a finger or object*
26 *in the course of the performance of:*

27 (1) *Generally recognized health care practices; or*

28 (2) *a body cavity search conducted in accordance with K.S.A. 22-*
29 *2520 through 22-2524, and amendments thereto.*

30 (b)(c) *"Sodomy" means oral contact or oral penetration of the female*
31 *genitalia or oral contact of the male genitalia; anal penetration, however*
32 *slight, of a male or female by any body part or object; or oral or anal*
33 *copulation or sexual intercourse between a person and an animal.*
34 *"Sodomy" does not include penetration of the anal opening by a finger or*
35 *object in the course of the performance of:*

36 (1) *Generally recognized health care practices; or*

1 (2) a body cavity search conducted in accordance with K.S.A. 22-
2 2520 through 22-2524, and amendments thereto.

3 ~~(e)~~(d) "Spouse" means a lawful husband or wife, unless the couple is
4 living apart in separate residences or either spouse has filed an action for
5 annulment, separate maintenance or divorce or for relief under the
6 protection from abuse act.

7 ~~(d)~~(e) "Unlawful sexual act" means any rape, indecent liberties with a
8 child, aggravated indecent liberties with a child, criminal sodomy,
9 aggravated criminal sodomy, lewd and lascivious behavior, sexual battery
10 or aggravated sexual battery, as defined in this code.

11 Sec. 2. K.S.A. 2022 Supp. 21-5501 is hereby repealed.

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