SENATE BILL No. 279

By Committee on Judiciary

1-12

AN ACT concerning crimes, punishment and criminal procedure; relating
to unlawful sexual relations; amending K.S.A. 2011 Supp. 21-5512 and
repealing the existing section.

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

Section 1. K.S.A. 2011 Supp. 21-5512 is hereby amended to read as
follows: 21-5512. (a) Unlawful sexual relations is engaging in consensual
sexual intercourse, lewd fondling or touching, or sodomy with a person
who is not married to the offender if:

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

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

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

(4) the offender is a law enforcement officer, an employee of a
juvenile detention facility or sanctions house, or the employee of a
contractor who is under contract to provide services in such facility or
sanctions house and the person with whom the offender is engaging in
consensual sexual intercourse, lewd fondling or touching, or sodomy is a
person 16 years of age or older who is confined to such facility or
sanctions house;
(5) the offender is an employee of the juvenile justice authority or the
employee of a contractor who is under contract to provide services in a
juvenile correctional facility and the person with whom the offender is
engaging in consensual sexual intercourse, lewd fondling or touching, or
sodomy is a person 16 years of age or older who is confined to such
facility;
(6) the offender is an employee of the juvenile justice authority or the
employee of a contractor who is under contract to provide direct
supervision and offender control services to the juvenile justice authority
and:
(A) the person with whom the offender is engaging in consensual
sexual intercourse, lewd fondling or touching, or sodomy is a person 16
years of age or older and who has been:
(i) Released on conditional release from a juvenile correctional
facility under the supervision and control of the juvenile justice authority
or juvenile community supervision agency; or
(ii) placed in the custody of the juvenile justice authority under
the supervision and control of the juvenile justice authority or juvenile
community supervision agency and ; and
(B) the offender has knowledge that the person with whom the offender
is engaging in consensual sexual intercourse, lewd fondling or touching, or
sodomy is currently under supervision;
(7) the offender is an employee of the department of social and
rehabilitation services or the employee of a contractor who is under
contract to provide services in a social and rehabilitation services
institution in a social and rehabilitation services institution or to the
department of social and rehabilitation services and the person with whom
the offender is engaging in consensual sexual intercourse, not otherwise
subject to subsection (a)(2) of K.S.A. 2011 Supp. 21-5503, and
amendments thereto, lewd fondling or touching, or sodomy, not otherwise
subject to subsection (b)(3)(C) of K.S.A. 2011 Supp. 21-5504, and
amendments thereto, is a person 16 years of age or older who is a patient
in such institution in the custody of the department a patient in such
institution or in the custody of the secretary of social and rehabilitation
services;
(8) the offender is a person living, working or regularly volunteering
in a family foster home licensed by the department of health and
environment and the person with whom the offender is engaging in
consensual sexual intercourse, not otherwise subject to subsection (a)(2)
of K.S.A. 2011 Supp. 21-5503, and amendments thereto, lewd fondling or
touching, or sodomy, not otherwise subject to subsection (b)(3)(C) of K.S.A. 2011 Supp. 21-5504, and amendments thereto, is a person 16 years of age or older who is a foster child in the care of such family foster home; the offender is a worker, volunteer or other person in a position of authority in a family foster home licensed by the department of health and environment and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a foster child placed in the care of such family foster home;

(8) (9) the offender is a teacher or other person in a position of authority and the person with whom the offender is engaging in consensual sexual intercourse, not otherwise subject to subsection (a)(3) of K.S.A. 2011 Supp. 21-5503, or subsection (b)(1) of K.S.A. 2011 Supp. 21-5506, and amendments thereto, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a student enrolled at the school where the offender is employed. If the offender is the parent of the student, the provisions of subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments thereto, shall apply, not this subsection;

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

(10) (11) the offender is a community correctional services officer or the employee of a contractor who is under contract to provide supervision services for persons under community corrections supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been assigned to a community correctional services program under the supervision and control of community corrections and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of community corrections.

(b) Unlawful sexual relations as defined in:
(1) Subsection (a)(5) is a severity level 4, person felony; and

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

(c)(1) If an offender violates the provisions of this section by
    engaging in consensual sexual intercourse which would constitute a
    violation of K.S.A. 2011 Supp. 21-5503, and amendments thereto, the
    provisions of K.S.A. 2011 Supp. 21-5503, and amendments thereto, shall
    apply, not this section.

(2) If an offender violates the provisions of this section by engaging
    in consensual sexual intercourse which would constitute a violation of
    subsection (b)(1) of K.S.A. 2011 Supp. 21-5506, and amendments
    thereto, the provisions of subsection (b)(1) of K.S.A. 2011 Supp. 21-
    5506, and amendments thereto, shall apply, not this section.

(3) If an offender violates the provisions of this section by engaging
    in sodomy which would constitute a violation of subsection (a)(3), (a)(4)
    or (b) of K.S.A. 2011 Supp. 21-5504, and amendments thereto, the
    provisions of subsection (a)(3), (a)(4) or (b) of K.S.A. 2011 Supp. 21-
    5504, and amendments thereto, shall apply, not this section.

(4) If an offender violates the provisions of this section by engaging
    in lewd fondling or touching which would constitute a violation of
    subsection (b)(2) of K.S.A. 2011 Supp. 21-5506, and amendments
    thereto, the provisions of subsection (b)(2) of K.S.A. 2011 Supp. 21-
    5506, and amendments thereto, shall apply, not this section.

(e) (d) As used in this section:

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

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

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

(4) "postrelease supervision" means the same as in K.S.A. 2011 Supp.
    21-6803, and amendments thereto;

(5) "juvenile detention facility" means the same as in K.S.A. 2011
    Supp. 38-2302, and amendments thereto;

(6) "juvenile correctional facility" means the same as in K.S.A. 2011
    Supp. 38-2302, and amendments thereto;

(7) "sanctions house" means the same as in K.S.A. 2011 Supp. 38-
    2302, and amendments thereto;

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

(9) "teacher" means and includes teachers, coaches, supervisors,
    principals, superintendents and any other professional employee in any
    public or private school offering any of grades kindergarten through 12;
(10) "community corrections" means the entity responsible for supervising adults and juvenile offenders for confinement, detention, care or treatment, subject to conditions imposed by the court pursuant to the community corrections act, K.S.A. 75-5290, and amendments thereto, and the revised Kansas juvenile justice code, K.S.A. 2011 Supp. 38-2301 et seq., and amendments thereto;

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

(12) "juvenile community supervision agency" means an entity that receives grants for the purpose of providing direct supervision to juveniles in the custody of the juvenile justice authority.

Sec. 2. K.S.A. 2011 Supp. 21-5512 is hereby repealed.

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