

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2007

## HOUSE BILL No. 2191

By Committee on Judiciary

1-24

12 AN ACT concerning crimes, criminal procedure and punishment; ~~relat-~~  
13 ~~ing to unlawful sexual relations~~, amending K.S.A. 2006 Supp. [8-  
14 **1602,] 21-3437 and 21-3520 and repealing the existing section  
15 **sections.****

16  
17 *Be it enacted by the Legislature of the State of Kansas:*

18 **[Section 1. K.S.A. 2006 Supp. 8-1602 is hereby amended to**  
19 **read as follows: 8-1602. (a) The driver of any vehicle involved in**  
20 **an accident resulting in injury to, great bodily harm to or death of**  
21 **any person shall immediately stop such vehicle at the scene of such**  
22 **accident, or as close thereto as possible, but shall then forthwith**  
23 **return to and in every event shall remain at the scene of the ac-**  
24 **cident until the driver has fulfilled the requirements of K.S.A. 8-**  
25 **1604, and amendments thereto. Every such stop shall be made**  
26 **without obstructing traffic more than is necessary.**

27 **[(b) A person who violates this section which results in:**

28 **[(1) Injury to any person shall be guilty of a class A person**  
29 **misdemeanor.**

30 **[(2) Great bodily harm to any person shall be guilty of a sever-**  
31 **ity level 10, person felony.**

32 **[(3) The death of any person shall be guilty of a severity level**  
33 **9, person felony. In addition to any other penalty provided for a vi-**  
34 **olation of this paragraph, the court shall upon a conviction of such a**  
35 **violation:**

36 **[(A) If the violator is under 18 years of age, order the division of**  
37 **vehicles to suspend the driving privileges of such violator until such date**  
38 **as such violator turns 21 years of age. Upon receipt of the court order,**  
39 **the division shall notify the violator and suspend the driving privileges of**  
40 **the violator until such date as such violator turns 21 years of age whether**  
41 **or not the violator has a driver's license.**

42 **[(B) If the violator is 18 years of age or older, order the division of**  
43 **vehicles to suspend the driving privileges of such violator for five years.**

1 *Upon receipt of the court order, the division shall notify the violator and*  
2 *suspend the driving privileges of the violator for five years whether or*  
3 *not the violator has a driver's license.*

4 **[(c) The director may revoke the license or permit to drive or**  
5 **any nonresident operating privilege of any person so convicted.]**

6 **Section ~~1~~ [2.] K.S.A. 2006 Supp. 21-3437 is hereby amended**  
7 **to read as follows: 21-3437. (a) Mistreatment of a dependent adult**  
8 **is knowingly and intentionally committing one or more of the fol-**  
9 **lowing acts:**

10 **(1) Infliction of physical injury, unreasonable confinement or**  
11 **cruel punishment upon a dependent adult;**

12 **(2) taking unfair advantage of a dependent adult's physical or**  
13 **financial resources for another individual's personal or financial**  
14 **advantage by the use of undue influence, coercion, harassment,**  
15 **duress, deception, false representation or false pretense by a care-**  
16 **taker or another person; or**

17 **(3) omitting or depriving treatment, goods or services by a**  
18 **caretaker or another person which are necessary to maintain phys-**  
19 **ical or mental health of a dependent adult.**

20 **(b) No dependent adult is considered to be mistreated for the**  
21 **sole reason that such dependent adult relies upon or is being fur-**  
22 **nished treatment by spiritual means through prayer in lieu of med-**  
23 **ical treatment in accordance with the tenets and practices of a**  
24 **recognized church or religious denomination of which such de-**  
25 **pendent adult is a member or adherent.**

26 **(c) For purposes of this section: "Dependent adult" means an**  
27 **individual 18 years of age or older who is unable to protect their**  
28 **own interest. Such term shall include:**

29 **(1) Any resident of an adult care home including but not lim-**  
30 **ited to those facilities defined by K.S.A. 39-923 and amendments**  
31 **thereto;**

32 **(2) any adult cared for in a private residence;**

33 **(3) any individual kept, cared for, treated, boarded or other-**  
34 **wise accommodated in a medical care facility;**

35 **(4) any individual with mental retardation or a developmental**  
36 **disability receiving services through a community mental retar-**  
37 **dation facility or residential facility licensed under K.S.A. 75-3307b**  
38 **and amendments thereto;**

39 **(5) any individual with a developmental disability receiving**  
40 **services provided by a community service provider as provided in**  
41 **the developmental disability reform act; or**

42 **(6) any individual kept, cared for, treated, boarded or other-**  
43 **wise accommodated in a state psychiatric hospital or state insti-**

1 **tution for the mentally retarded.**

2 **(d) (1) Mistreatment of a dependent adult as defined in sub-**  
 3 **section (a)(1) is a severity level 6, person felony.**

4 *(2) Mistreatment of a dependent adult as defined in subsection (a)(2)*  
 5 *is a severity level 6, person felony if the aggregate amount of the value of*  
 6 *the resources is \$100,000 or more.*

7 ~~(2)~~ **(3) Mistreatment of a dependent adult as defined in sub-**  
 8 **section (a)(2) is a severity level 7, person felony if the aggregate**  
 9 **amount of the value of the resources is at least \$25,000 ~~or more~~ but**  
 10 **less than \$100,000.**

11 ~~(3)~~ **(4) Mistreatment of a dependent adult as defined in sub-**  
 12 **section (a)(2) is a severity level 9, person felony if the aggregate**  
 13 **amount of the value of the resources is at least \$1,000 but less than**  
 14 **\$25,000.**

15 ~~(4)~~ **(5) Mistreatment of a dependent adult as defined in sub-**  
 16 **section (a)(2) is a class A person misdemeanor if the aggregate**  
 17 **amount of the value of the resources is less than \$1,000.**

18 ~~(5)~~ **(6) Mistreatment of a dependent adult as defined in sub-**  
 19 **section (a)(3) is a class A person misdemeanor.**

20 ~~(6)~~ **(7) Mistreatment of a dependent adult as defined in sub-**  
 21 **section (a)(2) is a severity level 9, person felony if the aggregate**  
 22 **amount of the value of the resources is less than \$1,000 and com-**  
 23 **mitted by a person who has, within five years immediately preced-**  
 24 **ing commission of the crime, been convicted of mistreatment of a**  
 25 **dependent adult two or more times.**

26 Section ~~±~~ **2.** K.S.A. 2006 Supp. 21-3520 is hereby amended to read  
 27 as follows: 21-3520. (a) Unlawful sexual relations is engaging in consensual  
 28 sexual intercourse, lewd fondling or touching, or sodomy with a person  
 29 who is not married to the offender if:

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

36 (2) the offender is a parole officer, *volunteer for the department of*  
 37 *corrections* or the employee *or volunteer* of a contractor who is under  
 38 contract to provide supervision services for persons on parole, conditional  
 39 release or postrelease supervision and the person with whom the offender  
 40 is engaging in consensual sexual intercourse, lewd fondling or touching,  
 41 or sodomy is a person 16 years of age or older who is an inmate who has  
 42 been released on parole or conditional release or postrelease supervision  
 43 under the direct supervision and control of the offender; or

- 1 (3) the offender is a law enforcement officer, an employee of a jail,  
2 or the employee of a contractor who is under contract to provide services  
3 in a jail and the person with whom the offender is engaging in consensual  
4 sexual intercourse, lewd fondling or touching, or sodomy is a person 16  
5 years of age or older who is confined by lawful custody to such jail; or
- 6 (4) the offender is a law enforcement officer, an employee of a ju-  
7 venile detention facility or sanctions house, or the employee of a con-  
8 tractor who is under contract to provide services in such facility or sanc-  
9 tions house and the person with whom the offender is engaging in  
10 consensual sexual intercourse, lewd fondling or touching, or sodomy is a  
11 person 16 years of age or older who is confined by lawful custody to such  
12 facility or sanctions house; or
- 13 (5) the offender is an employee of the juvenile justice authority or  
14 the employee of a contractor who is under contract to provide services in  
15 a juvenile correctional facility and the person with whom the offender is  
16 engaging in consensual sexual intercourse, lewd fondling or touching, or  
17 sodomy is a person 16 years of age or older who is confined by lawful  
18 custody to such facility; or
- 19 (6) the offender is an employee of the juvenile justice authority or  
20 the employee of a contractor who is under contract to provide direct  
21 supervision and offender control services to the juvenile justice authority  
22 and the person with whom the offender is engaging in consensual sexual  
23 intercourse, lewd fondling or touching, or sodomy is 16 years of age or  
24 older and (A) released on conditional release from a juvenile correctional  
25 facility under the supervision and control of the juvenile justice authority  
26 or juvenile community supervision agency or (B) placed in the custody of  
27 the juvenile justice authority under the supervision and control of the  
28 juvenile justice authority or juvenile community supervision agency and  
29 the offender has knowledge that the person with whom the offender is  
30 engaging in consensual sexual intercourse, lewd fondling or touching, or  
31 sodomy is currently under supervision;
- 32 (7) the offender is an employee of the department of social and re-  
33 habilitation services or the employee of a contractor who is under contract  
34 to provide services in a social and rehabilitation services institution and  
35 the person with whom the offender is engaging in consensual sexual in-  
36 tercourse, not otherwise subject to subsection (a)(1)(C) of K.S.A. 21-3502,  
37 and amendments thereto, lewd fondling or touching, or sodomy, not oth-  
38 erwise subject to subsection (a)(3)(C) of K.S.A. 21-3506, and amendments  
39 thereto, is a person 16 years of age or older who is a patient in such  
40 institution;
- 41 (8) the offender is a teacher or a person in a position of authority and  
42 the person with whom the offender is engaging in consensual sexual in-  
43 tercourse, **not otherwise subject to subsection (a)(2) of K.S.A. 21-**

- 1 **3502 or subsection (a)(1) of K.S.A. 21-3504, and amendments**  
2 **thereto, lewd fondling or touching, not otherwise subject to K.S.A.**  
3 **21-3503 or subsection (a)(2) or (a)(3) of K.S.A. 21-3504, and amend-**  
4 **ments thereto, or sodomy, not otherwise subject to K.S.A. 21-3505**  
5 **or subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments**  
6 **thereto, is ~~16 or 17 years of age and~~ a student enrolled at the school**  
7 **where the offender is employed. If the offender is the parent of the**  
8 **student, the provisions of K.S.A. 21-3603, and amendments thereto, shall**  
9 **apply, not this subsection;**
- 10 (9) the offender is a court services officer or the employee of a con-  
11 tractor who is under contract to provide supervision services for persons  
12 under court services supervision and the person with whom the offender  
13 is engaging in consensual sexual intercourse, lewd fondling or touching,  
14 or sodomy is a person 16 years of age or older who has been placed on  
15 probation under the supervision and control of court services and the  
16 offender has knowledge that the person with whom the offender is en-  
17 gaging in consensual sexual intercourse, lewd fondling or touching, or  
18 sodomy is currently under the supervision of court services; or
- 19 (10) the offender is a community correctional services officer or the  
20 employee of a contractor who is under contract to provide supervision  
21 services for persons under community corrections supervision and the  
22 person with whom the offender is engaging in consensual sexual inter-  
23 course, lewd fondling or touching, or sodomy is a person 16 years of age  
24 or older who has been assigned to a community correctional services  
25 program under the supervision and control of community corrections and  
26 the offender has knowledge that the person with whom the offender is  
27 engaging in consensual sexual intercourse, lewd fondling or touching, or  
28 sodomy is currently under supervision of community corrections.
- 29 (b) For purposes of this act:
- 30 (1) “Correctional institution” means the same as prescribed by K.S.A.  
31 75-5202, and amendments thereto;
- 32 (2) “inmate” means the same as prescribed by K.S.A. 75-5202, and  
33 amendments thereto;
- 34 (3) “parole officer” means the same as prescribed by K.S.A. 75-5202,  
35 and amendments thereto;
- 36 (4) “postrelease supervision” means the same as prescribed in the  
37 Kansas sentencing guidelines act in K.S.A. 21-4703, and amendments  
38 thereto;
- 39 (5) “juvenile detention facility” means the same as prescribed by  
40 K.S.A. 2006 Supp. 38-2302, and amendments thereto;
- 41 (6) “juvenile correctional facility” means the same as prescribed by  
42 K.S.A. 2006 Supp. 38-2302, and amendments thereto;
- 43 (7) “sanctions house” means the same as prescribed by K.S.A. 2006

1 Supp. 38-2302, and amendments thereto;

2 (8) “institution” means the same as prescribed by K.S.A. 76-12a01,  
3 and amendments thereto; and

4 (9) “teacher” means and includes teachers, supervisors, principals,  
5 superintendents and any other professional employee in any public or  
6 private school **offering any of grades kindergarten through 12**;

7 (10) “community corrections” means the entity responsible for su-  
8 pervising adults and juvenile offenders for confinement, detention, care  
9 or treatment, subject to conditions imposed by the court pursuant to the  
10 community corrections act, K.S.A. 75-5290, and amendments thereto,  
11 and the Kansas juvenile justice code, K.S.A. 38-1601 et seq., and amend-  
12 ments thereto;

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

16 (12) “law enforcement officer” means the same as prescribed by  
17 K.S.A. 21-3110, and amendments thereto; and

18 (13) “juvenile community supervision agency” means an entity that  
19 receives grants for the purpose of providing direct supervision to juveniles  
20 in the custody of the juvenile justice authority.

21 (c) Unlawful sexual relations is a severity level 10, person felony.

22 Sec. ~~2-3~~-**4.** K.S.A. 2006 Supp. [~~8-1602,~~] **21-3437** and 21-3520 **is**  
23 **are** hereby repealed.

24 Sec. ~~3-4~~-**5.** This act shall take effect and be in force from and after  
25 its publication in the statute book.