

RE-CORRECTED
As Amended by Senate Committee

Session of 2012

SENATE BILL No. 279

By Committee on Judiciary

1-12

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

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

6 Section 1. K.S.A. 2011 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

1 consensual sexual intercourse, lewd fondling or touching, or sodomy is a
2 person 16 years of age or older who is confined to such facility or
3 sanctions house;

4 (5) the offender is an employee of the juvenile justice authority or the
5 employee of a contractor who is under contract to provide services in a
6 juvenile correctional facility and the person with whom the offender is
7 engaging in consensual sexual intercourse, lewd fondling or touching, or
8 sodomy is a person 16 years of age or older who is confined to such
9 facility;

10 (6) the offender is an employee of the juvenile justice authority or the
11 employee of a contractor who is under contract to provide direct
12 supervision and offender control services to the juvenile justice authority
13 and:

14 (A) the person with whom the offender is engaging in consensual
15 sexual intercourse, lewd fondling or touching, or sodomy is **a person 16**
16 years of age or older ~~and who has been:~~

17 ~~(A) (i)~~ Released on conditional release from a juvenile correctional
18 facility under the supervision and control of the juvenile justice authority
19 or juvenile community supervision agency; or

20 ~~(B) (ii)~~ placed in the custody of the juvenile justice authority under
21 the supervision and control of the juvenile justice authority or juvenile
22 community supervision agency ~~and ; and~~

23 (B) the offender has knowledge that the person with whom the offender
24 is engaging in consensual sexual intercourse, lewd fondling or touching, or
25 sodomy is currently under supervision;

26 (7) the offender is an employee of the department of social and
27 rehabilitation services or the employee of a contractor who is under
28 contract to provide services ~~in a social and rehabilitation services~~
29 ~~institution~~ **in a social and rehabilitation services institution or to the**
30 *department of social and rehabilitation services* and the person with whom
31 the offender is engaging in consensual sexual intercourse, ~~not otherwise~~
32 ~~subject to subsection (a)(2) of K.S.A. 2011 Supp. 21-5503, and~~
33 ~~amendments thereto,~~ lewd fondling or touching, or sodomy, ~~not otherwise~~
34 ~~subject to subsection (b)(3)(C) of K.S.A. 2011 Supp. 21-5504, and~~
35 ~~amendments thereto,~~ is a person 16 years of age or older who is a patient
36 in such institution in the custody of the department **a patient in such**
37 **institution or in the custody of the secretary of social and rehabilitation**
38 *services;*

39 ~~(8) the offender is a person living, working or regularly volunteering~~
40 ~~in a family foster home licensed by the department of health and~~
41 ~~environment and the person with whom the offender is engaging in~~
42 ~~consensual sexual intercourse, not otherwise subject to subsection (a)(2)~~
43 ~~of K.S.A. 2011 Supp. 21-5503, and amendments thereto, lewd fondling or~~

1 ~~touching, or sodomy, not otherwise subject to subsection (b)(3)(C) of~~
2 ~~K.S.A. 2011 Supp. 21-5504, and amendments thereto, is a person 16 years~~
3 ~~of age or older who is a foster child in the care of such family foster home;~~
4 ~~**the offender is a worker, volunteer or other person in a position of**~~
5 ~~**authority in a family foster home licensed by the department of health**~~
6 ~~**and environment and the person with whom the offender is engaging in**~~
7 ~~**consensual sexual intercourse, lewd fondling or touching, or sodomy is**~~
8 ~~**a person 16 years of age or older who is a foster child placed in the care**~~
9 ~~**of such family foster home;**~~

10 (8) (9) the offender is a teacher or a *other* person in a position of
11 authority and the person with whom the offender is engaging in consensual
12 sexual intercourse, ~~not otherwise subject to subsection (a)(3) of K.S.A.~~
13 ~~2011 Supp. 21-5503, or subsection (b)(1) of K.S.A. 2011 Supp. 21-5506,~~
14 ~~and amendments thereto, lewd fondling or touching, not otherwise subject~~
15 ~~to subsection (a) of K.S.A. 2011 Supp. 21-5506, or subsection (b)(2) or (b)~~
16 ~~(3) of K.S.A. 2011 Supp. 21-5506, and amendments thereto, or sodomy,~~
17 ~~not otherwise subject to subsection (a) of K.S.A. 2011 Supp. 21-5504, or~~
18 ~~subsection (b)(1) or (b)(2) of K.S.A. 2011 Supp. 21-5504, and~~
19 ~~amendments thereto, **lewd fondling or touching, or sodomy is a person 16**~~
20 ~~**years of age or older who** is a student enrolled at the school where the~~
21 ~~offender is employed. If the offender is the parent of the student, the~~
22 ~~provisions of subsection (b) of K.S.A. 2011 Supp. 21-5604, and~~
23 ~~amendments thereto, shall apply, not this subsection;~~

24 (9) (10) the offender is a court services officer or the employee of a
25 contractor who is under contract to provide supervision services for
26 persons under court services supervision and the person with whom the
27 offender is engaging in consensual sexual intercourse, lewd fondling or
28 touching, or sodomy is a person 16 years of age or older who has been
29 placed on probation under the supervision and control of court services
30 and the offender has knowledge that the person with whom the offender is
31 engaging in consensual sexual intercourse, lewd fondling or touching, or
32 sodomy is currently under the supervision of court services; or

33 (10) (11) the offender is a community correctional services officer or
34 the employee of a contractor who is under contract to provide supervision
35 services for persons under community corrections supervision and the
36 person with whom the offender is engaging in consensual sexual
37 intercourse, lewd fondling or touching, or sodomy is a person 16 years of
38 age or older who has been assigned to a community correctional services
39 program under the supervision and control of community corrections and
40 the offender has knowledge that the person with whom the offender is
41 engaging in consensual sexual intercourse, lewd fondling or touching, or
42 sodomy is currently under the supervision of community corrections.

43 (b) Unlawful sexual relations as defined in:

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

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

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

9 ***(2) If an offender violates the provisions of this section by engaging***
10 ***in consensual sexual intercourse which would constitute a violation of***
11 ***subsection (b)(1) of K.S.A. 2011 Supp. 21-5506, and amendments***
12 ***thereto, the provisions of subsection (b)(1) of K.S.A. 2011 Supp. 21-***
13 ***5506, and amendments thereto, shall apply, not this section.***

14 ***(3) If an offender violates the provisions of this section by engaging***
15 ***in sodomy which would constitute a violation of subsection (a)(3), (a)(4)***
16 ***or (b) of K.S.A. 2011 Supp. 21-5504, and amendments thereto, the***
17 ***provisions of subsection (a)(3), (a)(4) or (b) of K.S.A. 2011 Supp. 21-***
18 ***5504, and amendments thereto, shall apply, not this section.***

19 ***(4) If an offender violates the provisions of this section by engaging***
20 ***in lewd fondling or touching which would constitute a violation of***
21 ***subsection (b)(2) of K.S.A. 2011 Supp. 21-5506, and amendments***
22 ***thereto, the provisions of subsection (b)(2) of K.S.A. 2011 Supp. 21-***
23 ***5506, and amendments thereto, shall apply, not this section.***

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

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

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

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

31 (4) "postrelease supervision" means the same as in K.S.A. 2011 Supp.
32 21-6803, and amendments thereto;

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

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

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

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

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

1 (10) "community corrections" means the entity responsible for
2 supervising adults and juvenile offenders for confinement, detention, care
3 or treatment, subject to conditions imposed by the court pursuant to the
4 community corrections act, K.S.A. 75-5290, and amendments thereto, and
5 the revised Kansas juvenile justice code, K.S.A. 2011 Supp. 38-2301 *et*
6 *seq.*, and amendments thereto;

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

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

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

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