

Kansas Offender Registration Act Amendments; SB 366

SB 366 creates a mechanism to seek relief from the Kansas Offender Registration Act (KORA) for certain drug offenders. It also requires KORA registration for certain convictions of breach of privacy and for convictions of internet trading in child pornography.

Relief from KORA Registration for Certain Drug Offenders

The bill allows a drug offender to file a verified petition for relief from registration requirements if the offender has registered for a period of at least five years after parole, discharge, release, conviction, or adjudication. Time spent in incarceration, or time during which the offender does not substantially comply with KORA requirements, does not count toward the five-year duration of the registration period.

An offender who must register due to an out-of-state conviction or adjudication is not eligible to apply for relief under the bill unless that jurisdiction no longer requires the offender to file.

The bill outlines requirements for the contents of the petition and requires the Judicial Council to develop a petition form for use under the bill's provisions. The bill includes filing, notice, hearing, and other procedural requirements for the petition, including notification to any living victims of the offense requiring registration. The bill allows the court to require a risk-assessment of the registrant and provides the process for that risk-assessment.

The bill requires the court to order relief from registration requirements if the offender shows by clear and convincing evidence that:

- The offender has not been convicted or adjudicated of a felony, other than a violation of KORA, within the five years immediately preceding the filing of the petition, and no proceedings involving any such felony are presently pending or being instituted against the offender;
- The offender's circumstances, behavior, and treatment history demonstrate that the offender is sufficiently rehabilitated to warrant relief; and
- Registration of the offender is no longer necessary to promote public safety.

If the court denies a petition, the bill prohibits the offender from filing another petition until three years have elapsed, unless the court orders a shorter time period.

The bill requires successful petitioners to be removed from the offender registry and the Kansas Bureau of Investigation website, and relieves such petitioners from compliance with registration requirements.

The bill creates an exception to allow offenders who have successfully been removed from the offender registry to petition for expungement of that offense and allows an offender to

combine a petition for relief from registration requirements with a petition for expungement, if the offense is otherwise eligible for expungement.

Offender Registration for Breach of Privacy and Internet Trading in Child Pornography

The bill amends the definition of “sex offender” in the KORA to include any person who is convicted of breach of privacy by the following means:

- Installing or using a concealed camcorder, motion picture camera, or photographic camera of any type to secretly videotape, film, photograph, or record, by electronic or other means, another identifiable person under or through the clothing being worn by that other person or another identifiable person who is nude or in a state of undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to invade the privacy of that other person, under circumstances in which that other person has a reasonable expectation of privacy;
- Disseminating or permitting the dissemination of any videotape, photograph, film, or image obtained in violation of the above provision; or
- Disseminating any videotape, photograph, film, or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity and under circumstances in which such identifiable person had a reasonable expectation of privacy, with the intent to harass, threaten, or intimidate such identifiable person, and such identifiable person did not consent to such dissemination.

The bill specifies the definition of “offender” in KORA (to require registration) would not include a person adjudicated as a juvenile offender for the above acts.

The bill adds convictions of breach of privacy under the above provisions to those crimes for which an offender must register under KORA for 15 years.

The bill amends the definition of “sexually violent crime” in KORA to include the crimes of internet trading in child pornography and aggravated internet trading in child pornography.

The bill requires an offender to register under KORA for a period of 25 years if convicted of internet trading in child pornography or aggravated internet trading in child pornography if the victim is more than 14 years of age but less than 18 years of age. The bill requires an offender to register under KORA for such offender’s lifetime if convicted of aggravated internet trading in child pornography if the victim is less than 14 years of age.