

SENATE BILL No. 472

By Committee on Federal and State Affairs

2-6

1 AN ACT concerning crimes, punishment and criminal procedure; creating
2 the crime of unlawful sexual communication and providing criminal
3 penalties therefor.
4

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

6 Section 1. (a) Unlawful sexual communication is knowingly
7 transmitting a visual depiction of a person who is 18 or more years of age
8 in a state of nudity to a person who is not married to the offender if:

9 (1) The offender is an employee or volunteer of the department of
10 corrections or the employee or volunteer of a contractor who is under
11 contract to provide services for a correctional institution and the person to
12 whom the offender is transmitting such visual depiction is a person 16
13 years of age or older who is an inmate;

14 (2) the offender is a parole officer, volunteer for the department of
15 corrections or the employee or volunteer of a contractor who is under
16 contract to provide supervision services for persons on parole, conditional
17 release or postrelease supervision and the person to whom the offender is
18 transmitting such visual depiction is a person 16 years of age or older who
19 is an inmate who has been released on parole, conditional release or
20 postrelease supervision and the offender has knowledge that the person to
21 whom the offender is transmitting such visual depiction is an inmate who
22 has been released and is currently on parole, conditional release or
23 postrelease supervision;

24 (3) the offender is a law enforcement officer, an employee of a jail or
25 the employee of a contractor who is under contract to provide services in a
26 jail and the person to whom the offender is transmitting such visual
27 depiction is a person 16 years of age or older who is confined to such jail;

28 (4) the offender is a law enforcement officer, an employee of a
29 juvenile detention facility or the employee of a contractor who is under
30 contract to provide services in such facility and the person to whom the
31 offender is transmitting such visual depiction is a person 16 years of age or
32 older who is confined to such facility;

33 (5) the offender is an employee of the department of corrections or
34 the employee of a contractor who is under contract to provide services in a
35 juvenile correctional facility and the person to whom the offender is
36 transmitting such visual depiction is a person 16 years of age or older who

1 is confined to such facility;

2 (6) the offender is an employee of the department of corrections or
3 the employee of a contractor who is under contract to provide direct
4 supervision and offender control services to the department of corrections
5 and:

6 (A) The person to whom the offender is transmitting such visual
7 depiction is a person 16 years of age or older who has been:

8 (i) Released on conditional release from a juvenile correctional
9 facility under the supervision and control of the department of corrections
10 or a juvenile community supervision agency; or

11 (ii) placed in the custody of the department of corrections under the
12 supervision and control of the department of corrections or a juvenile
13 community supervision agency; and

14 (B) the offender has knowledge that the person to whom the offender
15 is transmitting such visual depiction is currently under supervision;

16 (7) the offender is an employee of the Kansas department for aging
17 and disability services or the Kansas department for children and families
18 or the employee of a contractor who is under contract to provide services
19 in an aging and disability institution or children and families institution or
20 to the Kansas department for aging and disability services or the Kansas
21 department for children and families and the person to whom the offender
22 is transmitting such visual depiction is a person 16 years of age or older
23 who is a patient in such institution or in the custody of the secretary for
24 aging and disability services or the secretary for children and families;

25 (8) the offender is a worker, volunteer or other person in a position of
26 authority in a family foster home licensed by the department of health and
27 environment and the person to whom the offender is transmitting such
28 visual depiction is a person 16 years of age or older who is a foster child
29 placed in the care of such family foster home;

30 (9) the offender is a teacher or other person in a position of authority
31 and the person to whom the offender is transmitting such visual depiction
32 is a person 16 years of age or older who is a student enrolled at the school
33 where the offender is employed;

34 (10) the offender is a court services officer or the employee of a
35 contractor who is under contract to provide supervision services for
36 persons under court services supervision and the person to whom the
37 offender is transmitting such visual depiction is a person 16 years of age or
38 older who has been placed on probation under the supervision and control
39 of court services and the offender has knowledge that the person to whom
40 the offender is transmitting such visual depiction is currently under the
41 supervision of court services;

42 (11) the offender is a community correctional services officer or the
43 employee of a contractor who is under contract to provide supervision

1 services for persons under community corrections supervision and the
2 person to whom the offender is transmitting such visual depiction is a
3 person 16 years of age or older who has been assigned to a community
4 correctional services program under the supervision and control of
5 community corrections and the offender has knowledge that the person to
6 whom the offender is transmitting such visual depiction is currently under
7 the supervision of community corrections;

8 (12) the offender is a surety or an employee of a surety and the person
9 to whom the offender is transmitting such visual depiction is a person 16
10 years of age or older who is the subject of a surety or bail bond agreement
11 with such surety and the offender has knowledge that the person to whom
12 the offender is transmitting such visual depiction is the subject of a surety
13 or bail bond agreement with such surety; or

14 (13) the offender is a law enforcement officer and the person to
15 whom the offender is transmitting such visual depiction is a person 16
16 years of age or older who is interacting with such law enforcement officer
17 during the course of a traffic stop, a custodial interrogation, an interview in
18 connection with an investigation or while the law enforcement officer has
19 such person detained.

20 (b) Unlawful sexual communication as defined in:

21 (1) Subsection (a)(5) is a severity level 6, person felony; and

22 (2) subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9),
23 (a)(10), (a)(11), (a)(12) or (a)(13) is a severity level 7, person felony.

24 (c) As used in this section:

25 (1) "Community corrections" means the entity responsible for
26 supervising adults and juvenile offenders for confinement, detention, care
27 or treatment, subject to conditions imposed by the court pursuant to the
28 community corrections act, K.S.A. 75-5290, and amendments thereto, and
29 the revised Kansas juvenile justice code, K.S.A. 38-2301 et seq., and
30 amendments thereto;

31 (2) "correctional institution" means the same as defined in K.S.A. 75-
32 5202, and amendments thereto;

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

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

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

40 (6) "juvenile community supervision agency" means an entity that
41 receives grants for the purpose of providing direct supervision to juveniles
42 in the custody of the department of corrections;

43 (7) "juvenile correctional facility" means the same as defined in

1 K.S.A. 38-2302, and amendments thereto;

2 (8) "juvenile detention facility" means the same as defined in K.S.A.
3 38-2302, and amendments thereto;

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

6 (10) "postrelease supervision" means the same as defined in K.S.A.
7 21-6803, and amendments thereto;

8 (11) "state of nudity" means any state of undress in which the human
9 genitals, pubic region, buttock or female breast, at a point below the top of
10 the areola, is less than completely and opaquely covered;

11 (12) "surety" means the same as defined in K.S.A. 22-2809a, and
12 amendments thereto;

13 (13) "teacher" means and includes teachers, coaches, supervisors,
14 principals, superintendents and any other professional employee in any
15 public or private school offering any of grades kindergarten through 12;

16 (14) "transmission" means any form of communication, including,
17 but not limited to, physical transmission of paper and electronic
18 transmission that creates a record that may be retained and reviewed by a
19 recipient thereof and that directly reproduced in paper form by such a
20 recipient through an automated process; and

21 (15) "visual depiction" means any photograph, film, video picture,
22 digital or computer-generated image or picture made or produced by
23 electronic, mechanical or other means.

24 (d) This section shall be a part of and supplemental to the Kansas
25 criminal code.

26 Sec. 2. This act shall take effect and be in force from and after its
27 publication in the statute book.