

HOUSE BILL No. 2002

By Representative Sloan

12-4

1 AN ACT concerning crimes and punishment; relating to sexual
2 exploitation of a child; amending K.S.A. 2014 Supp. 21-5510 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. 2014 Supp. 21-5510 is hereby amended to read as
7 follows: 21-5510. (a) Sexual exploitation of a child is:

8 (1) Employing, using, persuading, inducing, enticing or coercing a
9 child under 18 years of age, or a person whom the offender believes to be a
10 child under 18 years of age, to engage in sexually explicit conduct with the
11 intent to promote any performance;

12 (2) possessing any visual depiction of a child under 18 years of age
13 shown or heard engaging in sexually explicit conduct with intent to arouse
14 or satisfy the sexual desires or appeal to the prurient interest of the
15 offender or any other person;

16 (3) being a parent, guardian or other person having custody or control
17 of a child under 18 years of age and knowingly permitting such child to
18 engage in, or assist another to engage in, sexually explicit conduct for any
19 purpose described in subsection (a)(1) or (2); or

20 (4) promoting any performance that includes sexually explicit
21 conduct by a child under 18 years of age, or a person whom the offender
22 believes to be a child under 18 years of age, knowing the character and
23 content of the performance.

24 (b) (1) Sexual exploitation of a child as defined in:

25 (A) Subsection (a)(2) or (a)(3) is a severity level 5, person felony; and

26 (B) subsection (a)(1) or (a)(4) is a severity level 5, person felony,
27 except as provided in subsection (b)(2).

28 (2) Sexual exploitation of a child as defined in subsection (a)(1) or (a)
29 (4) or attempt, conspiracy or criminal solicitation to commit sexual
30 exploitation of a child as defined in subsection (a)(1) or (a)(4) is an off-
31 grid person felony, when the offender is 18 years of age or older and the
32 child is under 14 years of age.

33 (c) If the offender is 18 years of age or older and the child is under 14
34 years of age, the provisions of:

35 (1) Subsection (c) of K.S.A. 2014 Supp. 21-5301, and amendments
36 thereto, shall not apply to a violation of attempting to commit the crime of

1 sexual exploitation of a child as defined in subsection (a)(1) or (a)(4);

2 (2) subsection (c) of K.S.A. 2014 Supp. 21-5302, and amendments
3 thereto, shall not apply to a violation of conspiracy to commit the crime of
4 sexual exploitation of a child as defined in subsection (a)(1) or (a)(4); and

5 (3) subsection (d) of K.S.A. 2014 Supp. 21-5303, and amendments
6 thereto, shall not apply to a violation of criminal solicitation to commit the
7 crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)
8 (4).

9 (d) As used in this section:

10 (1) "Sexually explicit conduct" means actual or simulated: ~~Exhibition~~
11 *Appearance* in the nude, *with or without the knowledge of the victim*;
12 sexual intercourse or sodomy, including genital-genital, oral-genital, anal-
13 genital or oral-anal contact, whether between persons of the same or
14 opposite sex; masturbation; sado-masochistic abuse with the intent of
15 sexual stimulation; or lewd exhibition of the genitals, female breasts or
16 pubic area of any person;

17 (2) "promoting" means procuring, transmitting, distributing,
18 circulating, presenting, producing, directing, manufacturing, issuing,
19 publishing, displaying, exhibiting or advertising:

20 (A) For pecuniary profit; or

21 (B) with intent to arouse or gratify the sexual desire or appeal to the
22 prurient interest of the offender or any other person;

23 (3) "performance" means any film, photograph, negative, slide, book,
24 magazine or other printed or visual medium, any audio tape recording or
25 any photocopy, video tape, video laser disk, computer hardware, software,
26 floppy disk or any other computer related equipment or computer
27 generated image that contains or incorporates in any manner any film,
28 photograph, negative, photocopy, video tape or video laser disk or any
29 play or other live presentation;

30 (4) "nude" means any state of undress in which the human genitals,
31 pubic region, buttock or female breast, at a point below the top of the
32 areola, is less than completely and opaquely covered; and

33 (5) "visual depiction" means any photograph, film, video picture,
34 digital or computer-generated image or picture, whether made or produced
35 by electronic, mechanical or other means.

36 Sec. 2. K.S.A. 2014 Supp. 21-5510 is hereby repealed.

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