

**HOUSE BILL No. 2183**

By Committee on Judiciary

Requested by Representative Barrett

1-30

1 AN ACT concerning crimes, punishment and criminal procedure;  
2 including any photograph, film, video picture, digital or computer-  
3 generated image or picture that has been created, altered or modified by  
4 artificial intelligence or any digital means in the definition of a visual  
5 depiction for certain criminal offenses; modifying elements in the  
6 crimes of sexual exploitation of a child, unlawful transmission of a  
7 visual depiction of a child and breach of privacy; amending K.S.A. 21-  
8 5510 and 21-5611 and K.S.A. 2024 Supp. 21-6101 and repealing the  
9 existing sections.

10  
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 21-5510 is hereby amended to read as follows: 21-  
13 5510. (a) Except as provided in K.S.A. 21-5610 and 21-5611, and  
14 amendments thereto, sexual exploitation of a child is:

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

19 (2) possessing any visual depiction of a child under 18 years of age  
20 shown or heard engaging in sexually explicit conduct with intent to arouse  
21 or satisfy the sexual desires or appeal to the prurient interest of the  
22 offender or any other person, *regardless of whether an actual child under*  
23 *18 years of age was involved in the creation of the original image;*

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

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

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

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

35 (B) subsection (a)(1) or (a)(4) is a severity level 3, person felony,

1 except as provided in subsection (b)(2).

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

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

9 (1) K.S.A. 21-5301(c), and amendments thereto, shall not apply to a  
10 violation of attempting to commit the crime of sexual exploitation of a  
11 child as defined in subsection (a)(1) or (a)(4);

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

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

18 (d) As used in this section:

19 (1) "Sexually explicit conduct" means actual or simulated: Exhibition  
20 in the nude; sexual intercourse or sodomy, including genital-genital, oral-  
21 genital, anal-genital or oral-anal contact, whether between persons of the  
22 same or opposite sex; masturbation; sado-masochistic abuse with the intent  
23 of sexual stimulation; or lewd exhibition of the genitals, female breasts or  
24 pubic area of any person;

25 (2) "promoting" means procuring, transmitting, distributing,  
26 circulating, presenting, producing, directing, manufacturing, issuing,  
27 publishing, displaying, exhibiting or advertising:

28 (A) For pecuniary profit; or

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

31 (3) "performance" means any film, photograph, negative, slide, book,  
32 magazine or other printed or visual medium, any audio tape recording or  
33 any photocopy, video tape, video laser disk, computer hardware, software,  
34 floppy disk or any other computer related equipment or computer  
35 generated image that contains or incorporates in any manner any film,  
36 photograph, negative, photocopy, video tape or video laser disk or any  
37 play or other live presentation;

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

41 (5) "visual depiction" means any photograph, film, video picture,  
42 digital or computer-generated image or picture, whether made or produced  
43 by electronic, mechanical or other means. "Visual depiction" includes any

1 *photograph, film, video picture, digital or computer-generated image or*  
2 *picture that has been created, in whole or in part, altered or modified by*  
3 *artificial intelligence or any digital means to appear to depict or purport*  
4 *to depict a child engaging in sexually explicit conduct.*

5 (e) The provisions of this section shall not apply to possession of a  
6 visual depiction of a child in a state of nudity if the person possessing such  
7 visual depiction is the child who is the subject of such visual depiction.

8 Sec. 2. K.S.A. 21-5611 is hereby amended to read as follows: 21-  
9 5611. (a) Unlawful transmission of a visual depiction of a child is  
10 knowingly transmitting a visual depiction of a child 12 or more years of  
11 age but less than 18 years of age in a state of nudity when the offender is  
12 less than 19 years of age.

13 (b) Aggravated unlawful transmission of a visual depiction of a child  
14 is:

15 (1) Knowingly transmitting a visual depiction of a child 12 or more  
16 years of age but less than 18 years of age in a state of nudity:

17 (A) With the intent to harass, embarrass, intimidate, defame or  
18 otherwise inflict emotional, psychological or physical harm;

19 (B) for pecuniary or tangible gain; or

20 (C) with the intent to exhibit or transmit such visual depiction to more  
21 than one person; and

22 (2) when the offender is less than 19 years of age.

23 (c) (1) Unlawful transmission of a visual depiction of a child is a:

24 (A) Class A person misdemeanor, except as provided in subsection (c)  
25 (1)(B); and

26 (B) severity level 10, person felony upon a second or subsequent  
27 conviction.

28 (2) Aggravated unlawful transmission of a visual depiction of a child  
29 is a:

30 (A) Severity level 9, person felony, except as provided in subsection  
31 (c)(2)(B); and

32 (B) severity level 7, person felony upon a second or subsequent  
33 conviction.

34 (d) It shall be a rebuttable presumption that an offender had the intent  
35 to harass, embarrass, intimidate, defame or otherwise inflict emotional,  
36 psychological or physical harm if the offender transmitted a visual  
37 depiction of a person other than such child in a state of nudity to more than  
38 one person.

39 (e) The provisions of this section shall not apply to transmission of a  
40 visual depiction of a child in a state of nudity by the child who is the  
41 subject of such visual depiction.

42 (f) The provisions of this section shall not apply to a visual depiction  
43 of a child engaged in sexually explicit conduct or a visual depiction that

1 constitutes obscenity as defined in K.S.A. 21-6401(f)(1), and amendments  
2 thereto.

3 (g) As used in this section and K.S.A. 21-5610, and amendments  
4 thereto:

5 (1) "Sexually explicit conduct" means actual or simulated: Sexual  
6 intercourse or sodomy, including genital-genital, oral-genital, anal-genital  
7 or oral-anal contact, whether between persons of the same or opposite sex;  
8 masturbation and sado-masochistic abuse for the purpose of sexual  
9 stimulation;

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

13 (3) "transmission" means any form of communication, including, but  
14 not limited to, physical transmission of paper and electronic transmission  
15 that creates a record that may be retained and reviewed by a recipient  
16 thereof, and that may be directly reproduced in paper form by such a  
17 recipient through an automated process. Transmission also includes a  
18 request to receive a transmission of a visual depiction; and

19 (4) "visual depiction" means any photograph, film, video picture,  
20 digital or computer-generated image or picture made or produced by  
21 electronic, mechanical or other means. *"Visual depiction" includes any*  
22 *photograph, film, video picture, digital or computer-generated image or*  
23 *picture that has been created, in whole or in part, altered or modified by*  
24 *artificial intelligence or any digital means to appear to depict or purport*  
25 *to depict a child engaging in sexually explicit conduct.*

26 Sec. 3. K.S.A. 2024 Supp. 21-6101 is hereby amended to read as  
27 follows: 21-6101. (a) Breach of privacy is knowingly and without lawful  
28 authority:

29 (1) Intercepting, without the consent of the sender or receiver, a  
30 message by telephone, telegraph, letter or other means of private  
31 communication;

32 (2) divulging, without the consent of the sender or receiver, the  
33 existence or contents of such message if such person knows that the  
34 message was illegally intercepted, or if such person illegally learned of the  
35 message in the course of employment with an agency in transmitting such  
36 message;

37 (3) entering with intent to listen surreptitiously to private  
38 conversations in a private place or to observe the personal conduct of any  
39 other person or persons entitled to privacy therein;

40 (4) installing or using outside or inside a private place any device for  
41 hearing, recording, amplifying or broadcasting sounds originating in such  
42 place, which sounds would not ordinarily be audible or comprehensible  
43 without the use of such device, without the consent of the person or

1 persons entitled to privacy therein;

2 (5) installing or using any device or equipment for the interception of  
3 any telephone, telegraph or other wire or wireless communication without  
4 the consent of the person in possession or control of the facilities for such  
5 communication;

6 (6) installing or using a camcorder, motion picture camera or  
7 photographic camera of any type to videotape, film, photograph or record,  
8 by electronic or other means, another identifiable person under or through  
9 the clothing being worn by that other person or another identifiable person  
10 who is nude or in a state of undress, for the purpose of viewing the body  
11 of, or the undergarments worn by, that other person, without the consent or  
12 knowledge of that other person, with the intent to invade the privacy of  
13 that other person, under circumstances in which that other person has a  
14 reasonable expectation of privacy;

15 (7) disseminating or permitting the dissemination of any videotape,  
16 photograph, film or image obtained in violation of subsection (a)(6); or

17 (8) disseminating any videotape, photograph, film or image of  
18 another identifiable person 18 years of age or older who is nude or  
19 engaged in sexual activity and under circumstances in which such  
20 identifiable person had a reasonable expectation of privacy, with the intent  
21 to harass, threaten or intimidate such identifiable person, and such  
22 identifiable person did not consent to such dissemination. *This includes*  
23 *disseminating any videotape, photograph, film or image that has been*  
24 *created, in whole or in part, altered or modified by artificial intelligence*  
25 *or any digital means to appear to depict or purport to depict such*  
26 *identifiable person, regardless of whether such identifiable person was*  
27 *involved in the creation of the original image.*

28 (b) Breach of privacy as defined in:

29 (1) Subsection (a)(1) through (a)(5) is a class A nonperson  
30 misdemeanor;

31 (2) subsection (a)(6) or (a)(8) is a:

32 (A) Severity level 8, person felony, except as provided in subsection  
33 (b)(2)(B); and

34 (B) severity level 5, person felony upon a second or subsequent  
35 conviction within the previous five years; and

36 (3) subsection (a)(7) is a severity level 5, person felony.

37 (c) Subsection (a)(1) shall not apply to messages overheard through a  
38 regularly installed instrument on a telephone party line or on an extension.

39 (d) The provisions of this section shall not apply to:

40 (1) An operator of a switchboard, or any officer, employee or agent of  
41 any public utility providing telephone communications service, whose  
42 facilities are used in the transmission of a communication, to intercept,  
43 disclose or use that communication in the normal course of employment

1 while engaged in any activity which is incident to the rendition of public  
2 utility service or to the protection of the rights of property of such public  
3 utility;

4 (2) a provider of an interactive computer service, as defined in 47  
5 U.S.C. § 230, for content provided by another person;

6 (3) a radio common carrier, as defined in K.S.A. 66-1,143, and  
7 amendments thereto; and

8 (4) a local exchange carrier or telecommunications carrier as defined  
9 in K.S.A. 66-1,187, and amendments thereto.

10 (e) The provisions of subsection (a)(8) shall not apply to a person  
11 acting with a bona fide and lawful scientific, educational, governmental,  
12 news or other similar public purpose.

13 (f) As used in this section, "private place" means a place where one  
14 may reasonably expect to be safe from uninvited intrusion or surveillance.

15 Sec. 4. K.S.A. 21-5510 and 21-5611 and K.S.A. 2024 Supp. 21-6101  
16 are hereby repealed.

17 Sec. 5. This act shall take effect and be in force from and after its  
18 publication in the statute book.