

# 2017 Amendments to Human Trafficking Laws

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## Criminal Law: Commercial Exploitation of a Child

Final Bill [SB40](#)

Final Brief [CCR Brief](#)

Final Summary

The crime of commercial sexual exploitation of a child (KSA 21-6422) is amended by combining subsections (a)(1)(A) and (B) into one subsection. The penalty is increased from a SL5 to a SL4 person felony. The combined description of the crime is "Hiring a person younger than 18 years of age by giving, or offering or agreeing to give, anything of value to any person, to engage in a manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act."

Transporting, procuring transportation, or paying for transportation of a child for purposes of selling sexual relations is stricken from this statute. Transporting is covered in aggravated human trafficking KSA 21-5426 subsections (a)(1) or (a)(4) and procuring or paying for transportation is no longer covered in statute that I can find. While some believe procuring and paying for are covered under the general term of transporting, you might want to address this with your local prosecutor for their interpretation.

Amends [21-6422](#)

Bill Section [14](#)

EffDate [7/1/2017](#)

DelayedEffDate

## Criminal Law: Communication facility used for human trafficking or sex crimes

Final Bill [SB40](#)

Final Brief [CCR Brief](#)

Final Summary

A new crime of Using a Communication Facility is created. It is a SL7 person felony if used to commit the crimes of human trafficking, commercial sexual exploitation of a child, or promoting the sale of sexual relations, including an attempt, conspiracy or solicitation of those crimes. It is an A person misdemeanor to use a communication facility in committing, causing, or facilitating the commission of the crime of buying sexual relations. "Communication facility" is defined as any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes telephone, wire, radio, computer, computer networks, beepers, pagers, and all other means of communication. An affirmative defense is created if the defendant committed the crime because they were subjected to human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child.

Amends [New](#)

Bill Section [1](#)

EffDate [7/1/2017](#)

DelayedEffDate

Criminal Law: Human Trafficking

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The crime of aggravated human trafficking is amended in subsection (b)(4) defining one form of the crime as "recruiting, harboring, transporting, providing or obtaining, by any means, a *child* knowing the *child* will be used to engage in forced labor, involuntary servitude, or sexual gratification of the defendant or another *involving the exchange of anything of value.*"

Subsection (b)(5) is added creating a new crime under aggravated human trafficking: "*Hiring a child by giving, or offering anything of value to any person to engage in 1) bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of another, 2) sexual intercourse, 3) sodomy, or 4) any unlawful sexual act when the offender recklessly disregards the age of the child.*"

An affirmative defense is created for violations of subsection (b)(4) or (5) for a defendant who 1) at the time of the violation was under 18 and 2) committed the violation because at the time of the violation the defendant was subjected to human trafficking or aggravated human trafficking. It is not a defense that a victim consented or willingly participated in the forced labor, involuntary servitude, or sexual gratification of the defendant or another, or that the offender had no knowledge of the age of the victim.

It is clarified that a person who violates any of the provisions of the human trafficking statute can also be prosecuted for commercial sexual exploitation of a child or any form of homicide.

A new mandatory fine is also created for those convicted of human trafficking of between \$2,500 and \$5,000, and those convicted of aggravated human trafficking a minimum of \$5,000. A provision is also added to allow a court to order anyone convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child.

The crime of aggravated human trafficking if committed in whole or in part for the purpose of the sexual gratification of another is added to the definition of "sex offense" in the capital murder statute.

Amends [21-5401](#); [21-5426](#)

Bill Section [9, 10](#)

EffDate

[7/1/2017](#)

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Criminal Law: Internet trading in child pornography

Final Bill [SB40](#)

Final Brief [CCR Brief](#)

Final Summary

Creates the crimes of Internet trading in child pornography (SL5 person felony). The crime is defined as an act of sexual exploitation of a child [KSA 21-5510(a)(2) SL5p] when a person 18 years of age or older knowingly causes or permits the performance to be viewed by use of any electronic device connected to the Internet by any person other than the offender or a person depicted in the performance.

Also creates the crime of aggravated internet trading in child pornography (SL3 person felony if the child is age 14-17 or an off-grid felony if the child is under age 14). Aggravated Internet trading in child pornography is an act of sexual exploitation of a child [KSA 21-5510(a)(1) or (4) SL3p] when the offender 1) employs, uses, persuades, induces, entices or coerces a child under 18 years of age, or a person whom the offender believes to be a child under 18 years of age, to engage in sexually explicit conduct with the intent to promote any performance; or 2) a parent, guardian, or other person having custody or control of a child under 18 years of age, knowingly permits such child to engage in, or assist another to engage in, sexually explicit conduct with the intent to promote any performance or with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender or any other person. If the child is under 14 years of age, the severity level reductions for attempt, conspiracy, and criminal solicitation do not apply to agg. Internet trading in child pornography.

Jurisdiction for either crime includes a place where the visual depiction or performance may be viewed by any person other than the offender using any electronic device connected to the Internet and is viewed by a law enforcement officer using an electronic device connected to the Internet while engaged in such officer's official duties.

Internet Trading in Child Pornography or Aggravated Trading in Child Pornography does not apply if the acts violate the sexting crimes passed last year of unlawful possession of a visual depiction of a child (KSA 21-5610) or unlawful transmission of a visual depiction of a child apply (KSA 21-5611).

Internet Trading in Child Pornography or Aggravated Trading in Child Pornography are both added to 1) The definitions of "sex offense" in the capital murder statute (KSA 21-5401); 2) the definition of "sexually violent crime" in the aggravated habitual sex offender statute (KSA 21-6626) and in the parole and postrelease supervision statute (KSA 22-3717); and 3) the statute prohibiting expungement of the crimes (KSA 38-2312). When the child is less than 14 years of age, the crime of aggravated Internet trading in child pornography is added as a crime where the sentence may be life with a mandatory minimum term of imprisonment of not less than 25 years (KSA 21-6627); and may not be directly appealed to the Kansas Supreme Court (22-3601).

KSA 21-5502 is amended to provide evidence of a witness's previous sexual conduct may not be presented in prosecutions of Internet Trading in Child Pornography or Aggravated Trading in Child Pornography.

Amends [New; 21-5401; 21-6626; 22-3717; 38-2312](#)

Bill Section [3, 9, 16, 20, 23](#)

EffDate [7/1/2017](#)

DelayedEffDate

Criminal Law: Promoting travel for human trafficking

Final Bill [SB40](#) Final Brief [CCR Brief](#) Final Summary

Creates a new crime of Promoting Travel for Child Exploitation, which is a SL5 person felony. Promoting Travel for Child Exploitation is knowingly selling or offering to sell travel services that include or facilitate travel for the purpose of any person engaging in conduct constituting aggravated human trafficking, sexual exploitation of a child, Internet trading in child pornography, or commercial sexual exploitation of a child. There is a violation if the promotion or sale is offered to a person in Kansas even though the destination and sexual misconduct acts would occur outside of Kansas. "Travel services" is defined as transportation by air, sea, or ground; hotel or any lodging accommodations; package tours; or vouchers or coupons to be redeemed for future travel or accommodations for a fee, commission, or other valuable consideration. [NOTE: The simple transportation of a person for the purposes of human trafficking remain in KSA 21-5426.]

Amends **New**

Bill Section **2** EffDate **7/1/2017** DelayedEffDate

Criminal Law: Sexual Exploitation of a Child

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Sexual exploitation of a child (KSA 21-5510) is amended to increase the severity level from a SL5 to a SL3 person felony when committed by 1) employing, using, persuading, inducing, enticing, or coercing a child under 18 years of age, or a person whom the offender believes to be a child under 18 years of age, to engage in sexually explicit conduct with the intent to promote any performance [KSA 21-5510 (a)(1)]; or 2) promoting any performance that includes sexually explicit conduct by a child under 18 years of age, knowing the character and content of the performance [KSA 21-5510 (a)(4)]. The elements of the crime have not changed, just the penalty.

Amends **21-5510**

Bill Section **12** EffDate **7/1/2017** DelayedEffDate

Criminal Penalty: Sexual Relations, Buying

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The penalty for buying sexual relations is amended to be between \$1,200 and \$5,000. it was a fine of \$2,500 for a first-time offense and a fine of up to \$5,000 for a second or subsequent offense. Half of all fines collected, in district or municipal courts, are remitted to the Human Trafficking Victim Assistance Fund. Existing law had required \$2,500 of any such fine to be remitted to that fund.

Amends **12-4120; 21-6421**

Bill Section **5, 13** EffDate **7/1/2017** DelayedEffDate

Expungement: Human Trafficking

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A court is required to order expungement of juvenile records and files if it finds the juvenile is a victim of human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child; the adjudication concerned acts committed by the juvenile as a result of such victimization, including but not limited to acts which, if committed by an adult, would constitute a violation of disorderly conduct or selling sexual relations; and the hearing on expungement occurred on or after the date of final discharge. The crimes of internet trading of child pornography and aggravated internet trading of child pornography are added to the list of crimes for which the expungement of an adult or juvenile record is not allowed. Several other amendments appear in the bill which are technical and do not make substantive changes.

Amends 21-6614; 38-2312

Bill Section 15, 23

EffDate 7/1/2017

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Human Trafficking: Commercial Driver Training

Final Bill [SB40](#)

Final Brief [CCR Brief](#)

Final Summary

On and after July 1, 2018, an applicant for issuance or renewal of a commercial driver's license must provide proof of satisfactory completion of training approved by the Attorney General in human trafficking identification and prevention to the Division of Vehicles prior to such issuance or renewal. The Attorney General, in consultation with the Director of Vehicles, will promulgate rules and regulations no later than January 1, 2019, to implement this requirement.

Amends New

Bill Section 4

EffDate 7/1/2017

DelayedEffDate

Human Trafficking: Technical amendment

Final Bill [SB40](#)

Final Brief [CCR Brief](#)

Final Summary

The name of the National Human Trafficking Hotline, which formerly was known as the National Human Trafficking Resource Center, is updated.

Amends 75-759

Bill Section 25

EffDate 7/1/2017

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Offender Registration: Human Trafficking

Final Bill [SB40](#)

Final Brief [CCR Brief](#)

Final Summary

The Kansas Offender Registration Act is amended by adding the crime of promoting the sale of sexual relations to the list of sexually violent crimes and specify a person convicted of such crime is required to register for 15 years.

Amends 22-4902; 22-4906

Bill Section 21, 22

EffDate 7/1/2017

DelayedEffDate

Victims: Human Trafficking Victim Compensation

Final Bill [SB40](#)

Final Brief [CCR Brief](#)

Final Summary

Compensation from the Crime Victims Compensation Board is allowed to a victim of human trafficking or commercial sexual exploitation of a child who was 18 years or younger at the time the crime was committed and is otherwise qualified for compensation.

Amends 74-7305

Bill Section 24

EffDate

7/1/2017

DelayedEffDate

More Legislative Information Available at [www.KsLawEnforcementInfo/2017-session.html](http://www.KsLawEnforcementInfo/2017-session.html)

Disclaimer: I am not an attorney and the above is not legal advice or legal interpretation. It is a summary of the legislation as presented at the legislature and in legislative documents.