

## Senate Substitute for HOUSE BILL No. 2127

By Committee on Judiciary

3-27

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1 AN ACT concerning childhood sexual abuse; permitting a prosecution for  
2 childhood sexual abuse to be commenced at any time; providing  
3 exceptions in the Kansas tort claims act for claims arising from  
4 childhood sexual abuse; extending the time to file civil actions for  
5 recovery of damages caused by childhood sexual abuse; amending  
6 K.S.A. 12-105b, 75-6104 and 75-6105 and K.S.A. 2022 Supp. 21-5107  
7 and 60-523 and repealing the existing sections.  
8

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

10 Section 1. K.S.A. 12-105b is hereby amended to read as follows: 12-  
11 105b. (a) All claims against a municipality must be presented in writing  
12 with a full account of the items, and no claim shall be allowed except in  
13 accordance with the provisions of this section. A claim may be the usual  
14 statement of account of the vendor or party rendering a service or other  
15 written statement showing the required information.

16 (b) (1) Claims for salaries or wages of officers or employees need not  
17 be signed by the officer or employee if a payroll claim is certified by the  
18 administrative head of a department or group of officers or employees or  
19 an authorized representative that the salaries or wages stated therein were  
20 contracted or incurred for the municipality under authority of law, that the  
21 amounts claimed are correct, due and unpaid and that the amounts are due  
22 as salaries and wages for services performed by the person named.

23 (2) Nothing in this subsection shall be construed as prohibiting the  
24 payment of employment incentive or retention bonuses authorized by  
25 K.S.A. 72-2244, and amendments thereto.

26 (c) No costs shall be recovered against a municipality or against an  
27 employee of a municipality in any action brought against the municipality  
28 or an employee of a municipality for any claims allowed in part unless the  
29 recovery shall be for a greater sum than the amount allowed, with the  
30 interest due. Subject to the terms of applicable insurance contracts,  
31 judgments and settlements obtained for claims recoverable pursuant to the  
32 Kansas tort claims act shall be presented for payment in accordance with  
33 this section or in such manner as the governing body may designate.

34 (d) (1) *Except as provided in paragraph (2),* any person having a  
35 claim against a municipality or against an employee of a municipality  
36 which could give rise to an action brought under the Kansas tort claims act

1 shall file a written notice as provided in this subsection before  
2 commencing such action. The notice shall be filed with the clerk or  
3 governing body of the municipality and shall contain the following: ~~(1)~~(A)  
4 The name and address of the claimant and the name and address of the  
5 claimant's attorney, if any; ~~(2)~~(B) a concise statement of the factual basis  
6 of the claim, including the date, time, place and circumstances of the act,  
7 omission or event complained of; ~~(3)~~(C) the name and address of any  
8 public officer or employee involved, if known; ~~(4)~~(D) a concise statement  
9 of the nature and the extent of the injury claimed to have been suffered;  
10 and ~~(5)~~(E) a statement of the amount of monetary damages that is being  
11 requested. In the filing of a notice of claim, substantial compliance with  
12 the provisions and requirements of this subsection shall constitute valid  
13 filing of a claim. The contents of such notice shall not be admissible in any  
14 subsequent action arising out of the claim. Once notice of the claim is  
15 filed, no action shall be commenced until after the claimant has received  
16 notice from the municipality that it has denied the claim or until after 120  
17 days has passed following the filing of the notice of claim, whichever  
18 occurs first. A claim is deemed denied if the municipality fails to approve  
19 the claim in its entirety within 120 days unless the interested parties have  
20 reached a settlement before the expiration of that period. No person may  
21 initiate an action against a municipality or against an employee of a  
22 municipality unless the claim has been denied in whole or part. Any action  
23 brought pursuant to the Kansas tort claims act shall be commenced within  
24 the time period provided for in the code of civil procedure or it shall be  
25 forever barred, except that, a claimant shall have no less than 90 days from  
26 the date the claim is denied or deemed denied in which to commence an  
27 action.

28 *(2) This subsection shall not apply to any claim for recovery of*  
29 *damages against a governmental entity arising from childhood sexual*  
30 *abuse as defined in K.S.A. 60-523, and amendments thereto.*

31 (e) Claims against a municipality ~~which~~ that provide for a discount  
32 for early payment or for the assessment of a penalty for late payment may  
33 be authorized to be paid in advance of approval thereof by the governing  
34 body in accordance with the provisions of this subsection. The governing  
35 body may designate and authorize one or more of its officers or employees  
36 to pay any such claim made against the municipality in advance of its  
37 presentation to and approval by the governing body if payment of the  
38 amount of such claim is required before the next scheduled regular  
39 meeting of the governing body in order for the municipality to benefit  
40 from the discount provided for early payment or to avoid assessment of the  
41 penalty for late payment. Any officer or employee authorized to pay claims  
42 under this subsection shall keep an accurate record of all moneys paid and  
43 the purpose for which expended, and shall submit the record to the

1 governing body at the next meeting thereof. Payments of claims by an  
2 officer or employee of the municipality under authority of this subsection  
3 are valid to the same extent as if the claims had been approved and ordered  
4 to be paid by the governing body.

5 (f) When an employee is required to travel on behalf of a  
6 municipality, the employee shall be entitled, upon complying with the  
7 provisions of the municipality's policies and regulations on employee  
8 travel, to timely payment of subsistence allowances and reimbursement for  
9 transportation and other related travel expenses incurred by the employee  
10 while on an approved travel status. When reimbursement through the  
11 regular claims approval process of the municipality will require more than  
12 15 days from the date the reimbursement claim is filed, the claim may be  
13 authorized to be paid in advance of approval thereof by the governing  
14 body in accordance with the provisions of this subsection. The governing  
15 body may designate and authorize one or more of its officers or employees  
16 to pay any such claim made against the municipality in advance of its  
17 presentation to and approval by the governing body if payment of the  
18 amount of such claim is required before the next scheduled regular  
19 meeting of the governing body. Any officer or employee authorized to pay  
20 claims under this subsection shall keep an accurate record of all moneys  
21 paid and the purpose for which expended, and shall submit the record to  
22 the governing body at the next meeting thereof. Payments of claims by an  
23 officer or employee of the municipality under authority of this subsection  
24 are valid to the same extent as if the claims had been approved and ordered  
25 to be paid by the governing body.

26 (g) Claims submitted by members of a municipality's self-insured  
27 health plan may be authorized to be paid in advance of approval thereof by  
28 the governing body. Such claims shall be submitted to the administrative  
29 officer of such insurance plan.

30 (h) Claims against a school district for the purchase of food or  
31 gasoline while students are on a co-curricular or extra-curricular activity  
32 outside of the school boundaries may be paid in advance of approval  
33 thereof by the governing body in accordance with the provisions of this  
34 subsection. The governing body may designate and authorize one or more  
35 of its officers or employees to pay any such claim made against the school  
36 district in advance of its presentation to and approval by the governing  
37 body.

38 (i) Except as otherwise provided, before any claim is presented to the  
39 governing body or before any claim is paid by any officer or employee of  
40 the municipality under subsection (e) or (f), it shall be audited by the clerk,  
41 secretary, manager, superintendent, finance committee or finance  
42 department or other officer or officers charged by law to approve claims  
43 affecting the area of government concerned in the claim, and thereby

1 approved in whole or in part as correct, due and unpaid.

2 Sec. 2. K.S.A. 2022 Supp. 21-5107 is hereby amended to read as  
3 follows: 21-5107. (a) *(1) A prosecution for any of the following crimes*  
4 *may be commenced at any time:*

5 (A) *Rape; as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.*  
6 *2022 Supp. 21-5503, and amendments thereto;*

7 (B) *aggravated criminal sodomy; as defined in K.S.A. 21-3506, prior*  
8 *to its repeal, or K.S.A. 2022 Supp. 21-5504(b), and amendments thereto;*

9 (C) *murder; as described in K.S.A. 21-3401, 21-3402 or 21-3439,*  
10 *prior to their repeal, or K.S.A. 2022 Supp. 21-5401, 21-5402 or 21-5403,*  
11 *and amendments thereto;*

12 (D) *terrorism as defined in K.S.A. 21-3449, prior to its repeal, or*  
13 *K.S.A. 2022 Supp. 21-5421, and amendments thereto; or*

14 (E) *illegal use of weapons of mass destruction*~~*may be commenced at*~~  
15 ~~*any time*~~ *as defined in K.S.A. 21-3450, prior to its repeal, or K.S.A. 2022*  
16 *Supp. 21-5422, and amendments thereto.*

17 (2) *A prosecution for childhood sexual abuse may be commenced at*  
18 *any time. As used in this paragraph, "childhood sexual abuse" means any*  
19 *of the following crimes when the victim is under 18 years of age:*

20 (A) *Indecent liberties with a child as defined in K.S.A. 21-3503, prior*  
21 *to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;*

22 (B) *aggravated indecent liberties with a child as defined in K.S.A. 21-*  
23 *3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and*  
24 *amendments thereto;*

25 (C) *criminal sodomy as defined in K.S.A. 21-3505(a)(2) and (a)(3),*  
26 *prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) and (a)(4), and*  
27 *amendments thereto;*

28 (D) *enticement of a child as defined in K.S.A. 21-3509, prior to its*  
29 *repeal;*

30 (E) *indecent solicitation of a child as defined in K.S.A. 21-3510,*  
31 *prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and amendments*  
32 *thereto;*

33 (F) *aggravated indecent solicitation of a child as defined in K.S.A.*  
34 *21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and*  
35 *amendments thereto;*

36 (G) *sexual exploitation of a child as defined in K.S.A. 21-3516, prior*  
37 *to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;*

38 (H) *aggravated sexual battery as defined in K.S.A. 21-3518, prior to*  
39 *its repeal, or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto;*

40 (I) *aggravated incest as defined in K.S.A. 21-3603, prior to its repeal,*  
41 *or K.S.A. 2022 Supp. 21-5604(b), and amendments thereto;*

42 (J) *aggravated human trafficking as defined in K.S.A. 21-3447, prior*  
43 *to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, if*

1 committed in whole or in part for the purpose of the sexual gratification of  
2 the defendant or another;

3 (K) internet trading in child pornography or aggravated internet  
4 trading in child pornography as defined in K.S.A. 2022 Supp. 21-5514,  
5 and amendments thereto; or

6 (L) commercial sexual exploitation of a child as defined in K.S.A.  
7 2022 Supp. 21-6422, and amendments thereto.

8 (b) Except as provided in subsection (e), a prosecution for any crime  
9 shall be commenced within 10 years after its commission if the victim is  
10 the Kansas public employees retirement system.

11 (c) Except as provided in ~~subsection~~ subsections (a) and (e), a  
12 prosecution for a sexually violent crime as defined in K.S.A. 22-3717, and  
13 amendments thereto:

14 (1) When the victim is 18 years of age or older shall be commenced  
15 within 10 years or one year from the date on which the identity of the  
16 suspect is conclusively established by DNA testing, whichever is later; or

17 (2) when the victim is under 18 years of age shall be commenced  
18 within 10 years of the date the victim turns 18 years of age or one year  
19 from the date on which the identity of the suspect is conclusively  
20 established by DNA testing, whichever is later.

21 (d) Except as provided ~~by~~ in subsection (e), a prosecution for any  
22 crime; as defined in K.S.A. 2022 Supp. 21-5102, and amendments thereto,  
23 not governed by subsection (a), (b) or (c) shall be commenced within five  
24 years after it is committed.

25 (e) The period within which a prosecution shall be commenced shall  
26 not include any period in which:

27 (1) The accused is absent from the state;

28 (2) the accused is concealed within the state so that process cannot be  
29 served upon the accused;

30 (3) the fact of the crime is concealed;

31 (4) a prosecution is pending against the defendant for the same  
32 conduct, even if the indictment or information which commences the  
33 prosecution is quashed or the proceedings thereon are set aside, or are  
34 reversed on appeal;

35 (5) an administrative agency is restrained by court order from  
36 investigating or otherwise proceeding on a matter before it as to any  
37 criminal conduct defined as a violation of any of the provisions of article  
38 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes  
39 Annotated, and amendments thereto, which may be discovered as a result  
40 thereof regardless of who obtains the order of restraint; or

41 (6) whether the fact of the crime is concealed by the active act or  
42 conduct of the accused, there is substantially competent evidence to  
43 believe two or more of the following factors are present:

1 (A) The victim was a child under 15 years of age at the time of the  
2 crime;

3 (B) the victim was of such age or intelligence that the victim was  
4 unable to determine that the acts constituted a crime;

5 (C) the victim was prevented by a parent or other legal authority from  
6 making known to law enforcement authorities the fact of the crime  
7 whether or not the parent or other legal authority is the accused; and

8 (D) there is substantially competent expert testimony indicating the  
9 victim psychologically repressed such ~~witness'~~ *victim's* memory of the fact  
10 of the crime, and in the expert's professional opinion the recall of such  
11 memory is accurate and free of undue manipulation, and substantial  
12 corroborating evidence can be produced in support of the allegations  
13 contained in the complaint or information but in no event may a  
14 prosecution be commenced as provided in subsection (e)(6) later than the  
15 date the victim turns 28 years of age. Corroborating evidence may include,  
16 but is not limited to, evidence the defendant committed similar acts against  
17 other persons or evidence of contemporaneous physical manifestations of  
18 the crime.

19 (f) An offense is committed either when every element occurs, or, if a  
20 legislative purpose to prohibit a continuing offense plainly appears, at the  
21 time when the course of conduct or the defendant's complicity therein  
22 is terminated. Time starts to run on the day after the offense is committed.

23 (g) A prosecution is commenced when a complaint or information is  
24 filed, or an indictment returned, and a warrant thereon is delivered to the  
25 sheriff or other officer for execution. No such prosecution shall be deemed  
26 to have been commenced if the warrant so issued is not executed without  
27 unreasonable delay.

28 (h) As used in this section, "parent or other legal authority" shall  
29 include, but not be limited to, natural and stepparents, grandparents, aunts,  
30 uncles or siblings.

31 Sec. 3. K.S.A. 2022 Supp. 60-523 is hereby amended to read as  
32 follows: 60-523. (a) No action for recovery of damages *for an injury or*  
33 *illness* suffered as a result of childhood sexual abuse shall be commenced  
34 more than ~~three~~ 13 years after the date the ~~person~~ *victim* attains 18 years of  
35 age or more than three years ~~from~~ *after* the date the ~~person~~ *person* ~~discovers or~~  
36 ~~reasonably should have discovered that the injury or illness was caused by~~  
37 *of a criminal conviction for a crime described in subsection (b) related to*  
38 *such childhood sexual abuse, whichever occurs later.*

39 (b) As used in this section:

40 (1) "Injury or illness" includes psychological injury or illness, whether  
41 or not accompanied by physical injury or illness.

42 (2) "Childhood sexual abuse" ~~includes~~ *means* any act committed  
43 against the person ~~which act~~ *that* occurred when the person was under the

1 age of 18 years and ~~which act~~ *that* would have been a violation of any of  
 2 the following:

3 (A) *Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.*  
 4 *2022 Supp. 21-5503, and amendments thereto;*

5 (B) *Indecent liberties with a child as defined in K.S.A. 21-3503, prior*  
 6 *to its repeal, or ~~subsection (a)~~ of K.S.A. 2022 Supp. 21-5506(a), and*  
 7 *amendments thereto;*

8 ~~(B)~~(C) *aggravated indecent liberties with a child as defined in K.S.A.*  
 9 *21-3504, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2022 Supp. 21-*  
 10 *5506(b), and amendments thereto;*

11 ~~(C)~~(D) *criminal sodomy as defined in K.S.A. 21-3505(a)(2) and (a)*  
 12 *(3), prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) and (a)(4), and*  
 13 *amendments thereto;*

14 (E) *aggravated criminal sodomy as defined in K.S.A. 21-3506, prior*  
 15 *to its repeal, or ~~subsection (b)~~ of K.S.A. 2022 Supp. 21-5504(b), and*  
 16 *amendments thereto;*

17 ~~(D)~~(F) *enticement of a child as defined in K.S.A. 21-3509, prior to its*  
 18 *repeal;*

19 ~~(E)~~(G) *indecent solicitation of a child as defined in K.S.A. 21-3510,*  
 20 *prior to its repeal, or ~~subsection (a)~~ of K.S.A. 2022 Supp. 21-5508(a), and*  
 21 *amendments thereto;*

22 ~~(F)~~(H) *aggravated indecent solicitation of a child as defined in K.S.A.*  
 23 *21-3511, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2022 Supp. 21-*  
 24 *5508(b), and amendments thereto;*

25 ~~(G)~~(I) *sexual exploitation of a child as defined in K.S.A. 21-3516,*  
 26 *prior to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments*  
 27 *thereto; ~~or~~*

28 ~~(H)~~(J) *aggravated sexual battery as defined in K.S.A. 21-3518, prior*  
 29 *to its repeal, or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto;*

30 (K) *aggravated incest as defined in K.S.A. 21-3603, prior to its*  
 31 *repeal, or ~~subsection (b)~~ of K.S.A. 2022 Supp. 21-5604(b), and*  
 32 *amendments thereto;*

33 (L) *aggravated human trafficking as defined in K.S.A. 21-3447, prior*  
 34 *to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, if*  
 35 *committed in whole or in part for the purpose of the sexual gratification of*  
 36 *the defendant or another;*

37 (M) *internet trading in child pornography or aggravated internet*  
 38 *trading in child pornography as defined in K.S.A. 2022 Supp. 21-5514,*  
 39 *and amendments thereto;*

40 (N) *commercial sexual exploitation of a child as defined in K.S.A.*  
 41 *2022 Supp. 21-6422, and amendments thereto; or*

42 (O) *any prior laws of this state of similar effect at the time the act was*  
 43 *committed.*

1       (c) ~~Discovery that the injury or illness was caused by childhood-~~  
 2 ~~sexual abuse shall not be deemed to have occurred solely by virtue of the~~  
 3 ~~person's awareness, knowledge or memory of the acts of abuse. The person~~  
 4 ~~need not establish which act in a series of continuing sexual abuse~~  
 5 ~~incidents caused the injury or illness complained of, but may compute the~~  
 6 ~~date of discovery from the date of discovery of the last act by the same~~  
 7 ~~perpetrator which is a part of a common scheme or plan of sexual abuse.~~

8       ~~(d)~~ This section shall be applicable to:

9       ~~(1)~~ any action commenced on or after July 1, 1992, including any  
 10 action ~~which~~ *that* would be barred by application of the period of  
 11 limitation applicable prior to July 1, 1992;

12       ~~(2)~~ any action commenced prior to July 1, 1992, and pending on July  
 13 ~~1, 1992.~~

14       Sec. 4. K.S.A. 75-6104 is hereby amended to read as follows: 75-  
 15 6104. (a) A governmental entity or an employee acting within the scope of  
 16 the employee's employment shall not be liable for damages resulting from:

17       ~~(a)~~(1) Legislative functions, including, but not limited to, the  
 18 adoption or failure to adopt any statute, regulation, ordinance or  
 19 resolution;

20       ~~(b)~~(2) judicial function;

21       ~~(c)~~(3) enforcement of or failure to enforce a law, whether valid or  
 22 invalid, including, but not limited to, any statute, rule and regulation,  
 23 ordinance or resolution;

24       ~~(d)~~(4) adoption or enforcement of, or failure to adopt or enforce, any  
 25 written personnel policy which protects persons' health or safety unless a  
 26 duty of care, independent of such policy, is owed to the specific individual  
 27 injured, except that the finder of fact may consider the failure to comply  
 28 with any written personnel policy in determining the question of  
 29 negligence;

30       ~~(e)~~(5) any claim based upon the exercise or performance or the failure  
 31 to exercise or perform a discretionary function or duty on the part of a  
 32 governmental entity or employee, whether or not the discretion is abused  
 33 and regardless of the level of discretion involved;

34       ~~(f)~~(6) the assessment or collection of taxes or special assessments;

35       ~~(g)~~(7) any claim by an employee of a governmental entity arising  
 36 from the tortious conduct of another employee of the same governmental  
 37 entity, if such claim is:

38       ~~(1)~~(A) Compensable pursuant to the Kansas workers compensation  
 39 act; or

40       ~~(2)~~(B) not compensable pursuant to the Kansas workers  
 41 compensation act because the injured employee was a firemen's relief  
 42 association member who was exempt from such act pursuant to K.S.A. 44-  
 43 505d, and amendments thereto, at the time the claim arose;



1       ~~(h)~~(8) the malfunction, destruction or unauthorized removal of any  
2 traffic or road sign, signal or warning device unless it is not corrected by  
3 the governmental entity responsible within a reasonable time after actual  
4 or constructive notice of such malfunction, destruction or removal.  
5 Nothing herein shall give rise to liability arising from the act or omission  
6 of any governmental entity in placing or removing any of the above signs,  
7 signals or warning devices when such placement or removal is the result of  
8 a discretionary act of the governmental entity;

9       ~~(i)~~(9) any claim which is limited or barred by any other law or which  
10 is for injuries or property damage against an officer, employee or agent  
11 where the individual is immune from suit or damages;

12       ~~(j)~~(10) any claim based upon emergency management activities,  
13 except that governmental entities shall be liable for claims to the extent  
14 provided in article 9 of chapter 48 of the Kansas Statutes Annotated, *and*  
15 *amendments thereto*;

16       ~~(k)~~(11) the failure to make an inspection, or making an inadequate or  
17 negligent inspection, of any property other than the property of the  
18 governmental entity, to determine whether the property complies with or  
19 violates any law or rule and regulation or contains a hazard to public  
20 health or safety;

21       ~~(l)~~(12) snow or ice conditions or other temporary or natural  
22 conditions on any public way or other public place due to weather  
23 conditions, unless the condition is affirmatively caused by the negligent  
24 act of the governmental entity;

25       ~~(m)~~(13) the plan or design for the construction of or an improvement  
26 to public property, either in its original construction or any improvement  
27 thereto, if the plan or design is approved in advance of the construction or  
28 improvement by the governing body of the governmental entity or some  
29 other body or employee exercising discretionary authority to give such  
30 approval and if the plan or design was prepared in conformity with the  
31 generally recognized and prevailing standards in existence at the time such  
32 plan or design was prepared;

33       ~~(n)~~(14) failure to provide, or the method of providing, police or fire  
34 protection;

35       ~~(o)~~(15) any claim for injuries resulting from the use of any public  
36 property intended or permitted to be used as a park, playground or open  
37 area for recreational purposes, unless:

38       (A) The governmental entity or an employee thereof is guilty of gross  
39 and wanton negligence proximately causing such injury; *or*

40       (B) *an employee of the governmental entity commits childhood sexual*  
41 *abuse as defined in K.S.A. 60-523, and amendments thereto*;

42       ~~(p)~~(16) the natural condition of any unimproved public property of  
43 the governmental entity;

1       ~~(q)~~(17) any claim for injuries resulting from the use or maintenance  
2 of a public cemetery owned and operated by a municipality or an  
3 abandoned cemetery, title to which has vested in a governmental entity  
4 pursuant to K.S.A. 17-1366 through 17-1368, and amendments thereto,  
5 unless the governmental entity or an employee thereof is guilty of gross  
6 and wanton negligence proximately causing the injury;

7       ~~(r)~~(18) the existence, in any condition, of a minimum maintenance  
8 road, after being properly so declared and signed as provided in K.S.A. 68-  
9 5,102, and amendments thereto;

10       ~~(s)~~(19) any claim for damages arising from the operation of vending  
11 machines authorized pursuant to K.S.A. 68-432 or ~~K.S.A.~~ 75-3343a, and  
12 amendments thereto;

13       ~~(t)~~(20) providing, distributing or selling information from geographic  
14 information systems which includes an entire formula, pattern,  
15 compilation, program, device, method, technique, process, digital database  
16 or system which electronically records, stores, reproduces and manipulates  
17 by computer geographic and factual information which has been  
18 developed internally or provided from other sources and compiled for use  
19 by a public agency, either alone or in cooperation with other public or  
20 private entities;

21       ~~(u)~~(21) any claim arising from providing a juvenile justice program to  
22 juvenile offenders, if such juvenile justice program has contracted with the  
23 commissioner of juvenile justice or with another nonprofit program that  
24 has contracted with the commissioner of juvenile justice. The provisions of  
25 this section do not apply to community service work within the scope of  
26 K.S.A. 60-3614, and amendments thereto, *or to claims arising from*  
27 *childhood sexual abuse as defined in K.S.A. 60-523, and amendments*  
28 *thereto*;

29       ~~(v)~~(22) performance of, or failure to perform, any activity pursuant to  
30 K.S.A. 74-8922, and amendments thereto, including, but not limited to,  
31 issuance and enforcement of a consent decree agreement, oversight of  
32 contaminant remediation and taking title to any or all of the federal  
33 enclave described in such statute;

34       ~~(w)~~(23) any claim arising from the making of a donation of used or  
35 excess fire control, fire rescue, or emergency medical services equipment  
36 to a fire department, fire district, volunteer fire department, medical  
37 emergency response team or the Kansas forest service if at the time of  
38 making the donation the donor believes that the equipment is serviceable  
39 or may be made serviceable. This subsection also applies to equipment that  
40 is acquired through the federal excess personal property program  
41 established by the federal property and administrative services act of 1949  
42 (~~P.L. 81-152; 63 stat. 377; 40 United States Code Section, 40 U.S.C. §~~  
43 483). This subsection shall apply to any breathing apparatus or any

1 mechanical or electrical device which functions to monitor, evaluate, or  
2 restore basic life functions, only if it is recertified to the manufacturer's  
3 specifications by a technician certified by the manufacturer; or

4 ~~(x)~~(24) any claim arising from the acceptance of a donation of fire  
5 control, fire rescue or emergency medical services equipment, if at the  
6 time of the donation the donee reasonably believes that the equipment is  
7 serviceable or may be made serviceable and if after placing the donated  
8 equipment into service, the donee maintains the donated equipment in a  
9 safe and serviceable manner.

10 (b) The enumeration of exceptions to liability in this section shall not  
11 be construed to be exclusive nor as legislative intent to waive immunity  
12 from liability in the performance or failure to perform any other act or  
13 function of a discretionary nature.

14 (c) *The exceptions to liability in subsections (a)(1) through (a)(4)*  
15 *shall not be construed to preclude, prohibit or otherwise limit a claim for*  
16 *damages arising from childhood sexual abuse as defined in K.S.A. 60-523,*  
17 *and amendments thereto. Failure of a governmental entity to adopt or*  
18 *enforce a policy, regulation or law related to childhood sexual abuse and*  
19 *failure to exercise reasonable discretion in the supervision of a*  
20 *governmental employee who commits childhood sexual abuse may be*  
21 *considered by the trier of fact in determining the question of a*  
22 *governmental entity's negligence.*

23 Sec. 5. K.S.A. 75-6105 is hereby amended to read as follows: 75-  
24 6105. (a) Subject to the provisions of K.S.A. 75-6111, and amendments  
25 thereto, the liability for claims within the scope of this act shall not exceed  
26 \$500,000 for any number of claims arising out of a single occurrence or  
27 accident.

28 (b) When the amount awarded to or settled upon multiple claimants  
29 exceeds the limitations of this section, any party may apply to the district  
30 court which has jurisdiction of the cause to apportion to each claimant the  
31 proper share of the total amount limited ~~herein~~ *by this section*. The share  
32 apportioned to each claimant shall be in the proportion that the ratio of the  
33 award or settlement made to the claimant bears to the aggregate awards  
34 and settlements for all claims arising out of the occurrence or accident.

35 (c) A governmental entity shall not be liable for punitive or  
36 exemplary damages or for interest prior to judgment. An employee acting  
37 within the scope of the employee's employment shall not be liable for  
38 punitive or exemplary damages or for interest prior to judgment, except for  
39 any act or omission of the employee because of actual fraud or actual  
40 malice.

41 (d) *This section shall not apply to any claim for recovery of damages*  
42 *against a governmental entity arising from childhood sexual abuse as*  
43 *defined in K.S.A. 60-523, and amendments thereto.*

1       Sec. 6. K.S.A. 12-105b, 75-6104 and 75-6105 and K.S.A. 2022 Supp.  
2 21-5107 and 60-523 are hereby repealed.

3       Sec. 7. This act shall take effect and be in force from and after its  
4 publication in the statute book.