

SENATE BILL No. 321

By Committee on Judiciary

1-24

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to involuntary manslaughter; battery; public safety sector employees;
3 penalties; amending K.S.A. 2017 Supp. 21-5405 and 21-5413 and
4 repealing the existing sections.

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

7 Section 1. K.S.A. 2017 Supp. 21-5405 is hereby amended to read as
8 follows: 21-5405. (a) Involuntary manslaughter is the killing of a human
9 being committed:

10 (1) Recklessly;

11 (2) in the commission of, or attempt to commit, or flight from any
12 felony, other than an inherently dangerous felony as defined in K.S.A.
13 2017 Supp. 21-5402, and amendments thereto, that is enacted for the
14 protection of human life or safety or a misdemeanor that is enacted for the
15 protection of human life or safety, including acts described in K.S.A. 8-
16 1566 and ~~subsection (a) of 8-1568(a)~~, and amendments thereto, but
17 excluding the acts described in K.S.A. 8-1567, and amendments thereto;

18 (3) in the commission of, or attempt to commit, or flight from an act
19 described in K.S.A. 8-1567, and amendments thereto; or

20 (4) during the commission of a lawful act in an unlawful manner.

21 (b) Involuntary manslaughter as defined in:

22 (1) Subsection (a)(1), (a)(2) or (a)(4) is a severity level 5, person
23 felony; ~~and~~

24 (2) subsection (a)(3) is a severity level 4, person felony; *and*

25 (3) *subsection (a)(2) or (a)(3) is a severity level 2, person felony, if*
26 *the victim is a public safety sector employee as defined in K.S.A. 2017*
27 *Supp. 21-5413, and amendments thereto.*

28 Sec. 2. K.S.A. 2017 Supp. 21-5413 is hereby amended to read as
29 follows: 21-5413. (a) Battery is:

30 (1) Knowingly or recklessly causing bodily harm to another person;
31 or

32 (2) knowingly causing physical contact with another person when
33 done in a rude, insulting or angry manner.

34 (b) Aggravated battery is:

35 (1) (A) Knowingly causing great bodily harm to another person or
36 disfigurement of another person;

1 (B) knowingly causing bodily harm to another person with a deadly
2 weapon, or in any manner whereby great bodily harm, disfigurement or
3 death can be inflicted; or

4 (C) knowingly causing physical contact with another person when
5 done in a rude, insulting or angry manner with a deadly weapon, or in any
6 manner whereby great bodily harm, disfigurement or death can be
7 inflicted;

8 (2) (A) recklessly causing great bodily harm to another person or
9 disfigurement of another person; or

10 (B) recklessly causing bodily harm to another person with a deadly
11 weapon, or in any manner whereby great bodily harm, disfigurement or
12 death can be inflicted; or

13 (3) (A) committing an act described in K.S.A. 8-1567, and
14 amendments thereto, when great bodily harm to another person or
15 disfigurement of another person results from such act; or

16 (B) committing an act described in K.S.A. 8-1567, and amendments
17 thereto, when bodily harm to another person results from such act under
18 circumstances whereby great bodily harm, disfigurement or death can
19 result from such act.

20 (c) Battery against a law enforcement officer is:

21 (1) Battery, as defined in subsection (a)(2), committed against a:

22 (A) Uniformed or properly identified university or campus police
23 officer while such officer is engaged in the performance of such officer's
24 duty;

25 (B) uniformed or properly identified state, county or city law
26 enforcement officer, other than a state correctional officer or employee, a
27 city or county correctional officer or employee or a juvenile detention
28 facility officer, or employee, while such officer is engaged in the
29 performance of such officer's duty;

30 (C) judge, while such judge is engaged in the performance of such
31 judge's duty;

32 (D) attorney, while such attorney is engaged in the performance of
33 such attorney's duty; or

34 (E) community corrections officer or court services officer, while
35 such officer is engaged in the performance of such officer's duty;

36 (2) battery, as defined in subsection (a)(1), committed against a:

37 (A) Uniformed or properly identified university or campus police
38 officer while such officer is engaged in the performance of such officer's
39 duty; or

40 (B) uniformed or properly identified state, county or city law
41 enforcement officer, other than a state correctional officer or employee, a
42 city or county correctional officer or employee or a juvenile detention
43 facility officer, or employee, while such officer is engaged in the

1 performance of such officer's duty;

2 (C) judge, while such judge is engaged in the performance of such
3 judge's duty;

4 (D) attorney, while such attorney is engaged in the performance of
5 such attorney's duty; or

6 (E) community corrections officer or court services officer, while
7 such officer is engaged in the performance of such officer's duty; or

8 (3) battery, as defined in subsection (a) committed against a:

9 (A) State correctional officer or employee by a person in custody of
10 the secretary of corrections, while such officer or employee is engaged in
11 the performance of such officer's or employee's duty;

12 (B) state correctional officer or employee by a person confined in
13 such juvenile correctional facility, while such officer or employee is
14 engaged in the performance of such officer's or employee's duty;

15 (C) juvenile detention facility officer or employee by a person
16 confined in such juvenile detention facility, while such officer or employee
17 is engaged in the performance of such officer's or employee's duty; or

18 (D) city or county correctional officer or employee by a person
19 confined in a city holding facility or county jail facility, while such officer
20 or employee is engaged in the performance of such officer's or employee's
21 duty.

22 (d) Aggravated battery against a law enforcement officer is:

23 (1) An aggravated battery, as defined in subsection (b)(1)(A)
24 committed against a:

25 (A) Uniformed or properly identified state, county or city law
26 enforcement officer while the officer is engaged in the performance of the
27 officer's duty;

28 (B) uniformed or properly identified university or campus police
29 officer while such officer is engaged in the performance of such officer's
30 duty;

31 (C) judge, while such judge is engaged in the performance of such
32 judge's duty;

33 (D) attorney, while such attorney is engaged in the performance of
34 such attorney's duty; or

35 (E) community corrections officer or court services officer, while
36 such officer is engaged in the performance of such officer's duty;

37 (2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)(1)
38 (C), committed against a:

39 (A) Uniformed or properly identified state, county or city law
40 enforcement officer while the officer is engaged in the performance of the
41 officer's duty;

42 (B) uniformed or properly identified university or campus police
43 officer while such officer is engaged in the performance of such officer's

1 duty;

2 (C) judge, while such judge is engaged in the performance of such
3 judge's duty;

4 (D) attorney, while such attorney is engaged in the performance of
5 such attorney's duty; or

6 (E) community corrections officer or court services officer, while
7 such officer is engaged in the performance of such officer's duty; or

8 (3) knowingly causing, with a motor vehicle, bodily harm to a:

9 (A) Uniformed or properly identified state, county or city law
10 enforcement officer while the officer is engaged in the performance of the
11 officer's duty; or

12 (B) uniformed or properly identified university or campus police
13 officer while such officer is engaged in the performance of such officer's
14 duty.

15 (e) Battery against a school employee is a battery, as defined in
16 subsection (a), committed against a school employee in or on any school
17 property or grounds upon which is located a building or structure used by a
18 unified school district or an accredited nonpublic school for student
19 instruction or attendance or extracurricular activities of pupils enrolled in
20 kindergarten or any of the grades one through 12 or at any regularly
21 scheduled school sponsored activity or event, while such employee is
22 engaged in the performance of such employee's duty.

23 (f) Battery against a mental health employee is a battery, as defined in
24 subsection (a), committed against a mental health employee by a person in
25 the custody of the secretary for aging and disability services, while such
26 employee is engaged in the performance of such employee's duty.

27 (g) (1) Battery is a class B person misdemeanor.

28 (2) Aggravated battery as defined in:

29 (A) Subsection (b)(1)(A) is a severity level 4, person felony;

30 (B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person
31 felony;

32 (C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person
33 felony; ~~and~~

34 (D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person
35 felony;

36 (E) *subsection (b)(1)(A), (b)(2)(A) or (b)(3)(A) is a severity level 3,
37 person felony, if committed against a public safety sector employee; and*

38 (F) *subsection (b)(1)(B), (b)(1)(C), (b)(2)(B) or (b)(3)(B) is a severity
39 level 4, person felony, if committed against a public safety sector
40 employee.*

41 (3) Battery against a law enforcement officer as defined in:

42 (A) Subsection (c)(1) is a class A person misdemeanor;

43 (B) subsection (c)(2) is a severity level 7, person felony; and

1 (C) subsection (c)(3) is a severity level 5, person felony.

2 (4) Aggravated battery against a law enforcement officer as defined
3 in:

4 (A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony;
5 and

6 (B) subsection (d)(2) is a severity level 4, person felony.

7 (5) Battery against a school employee is a class A person
8 misdemeanor.

9 (6) Battery against a mental health employee is a severity level 7,
10 person felony.

11 (h) As used in this section:

12 (1) "Correctional institution" means any institution or facility under
13 the supervision and control of the secretary of corrections;

14 (2) "state correctional officer or employee" means any officer or
15 employee of the Kansas department of corrections or any independent
16 contractor, or any employee of such contractor, whose duties include
17 working at a correctional institution;

18 (3) "juvenile detention facility officer or employee" means any officer
19 or employee of a juvenile detention facility as defined in K.S.A. 2017
20 Supp. 38-2302, and amendments thereto;

21 (4) "city or county correctional officer or employee" means any
22 correctional officer or employee of the city or county or any independent
23 contractor, or any employee of such contractor, whose duties include
24 working at a city holding facility or county jail facility;

25 (5) "school employee" means any employee of a unified school
26 district or an accredited nonpublic school for student instruction or
27 attendance or extracurricular activities of pupils enrolled in kindergarten or
28 any of the grades one through 12;

29 (6) "mental health employee" means: (A) An employee of the Kansas
30 department for aging and disability services working at Larned state
31 hospital, Osawatomie state hospital, Kansas neurological institute and
32 Parsons state hospital and training center and the treatment staff as defined
33 in K.S.A. 59-29a02, and amendments thereto; and (B) contractors and
34 employees of contractors under contract to provide services to the Kansas
35 department for aging and disability services working at any such
36 institution or facility;

37 (7) "judge" means a duly elected or appointed justice of the supreme
38 court, judge of the court of appeals, judge of any district court of Kansas,
39 district magistrate judge or municipal court judge;

40 (8) "attorney" means a: (A) County attorney, assistant county
41 attorney, special assistant county attorney, district attorney, assistant
42 district attorney, special assistant district attorney, attorney general,
43 assistant attorney general or special assistant attorney general; and (B)

1 public defender, assistant public defender, contract counsel for the state
2 board of indigents' defense services or an attorney who is appointed by the
3 court to perform services for an indigent person as provided by article 45
4 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto;

5 (9) "community corrections officer" means an employee of a
6 community correctional services program responsible for supervision of
7 adults or juveniles as assigned by the court to community corrections
8 supervision and any other employee of a community correctional services
9 program that provides enhanced supervision of offenders such as house
10 arrest and surveillance programs; ~~and~~

11 (10) "court services officer" means an employee of the Kansas
12 judicial branch or local judicial district responsible for supervising,
13 monitoring or writing reports relating to adults or juveniles as assigned by
14 the court, or performing related duties as assigned by the court; *and*

15 (11) "*public safety sector employee*" means an employee of any law
16 enforcement office, sheriff's department, municipal fire department,
17 volunteer and non-volunteer fire protection association, emergency
18 management department, public works department or other similar public
19 or private agency, while actually engaged in official duties of the
20 department or agency.

21 Sec. 3. K.S.A. 2017 Supp. 21-5405 and 21-5413 are hereby repealed.

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