

SENATE BILL No. 41

By Committee on Judiciary

1-19

Proposed Amendments to SB 41
Senate Judiciary
February 10, 2017
Prepared by: Jason Thompson
Office of Revisor of Statutes

1 AN ACT concerning crimes, punishment and criminal procedure; creating
2 the crimes of assault of a public transportation employee and battery
3 against a public transportation employee; amending K.S.A. 2016 Supp.
4 21-5412 and 21-5413 and repealing the existing sections.

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

7 Section 1. K.S.A. 2016 Supp. 21-5412 is hereby amended to read as
8 follows: 21-5412. (a) Assault is knowingly placing another person in
9 reasonable apprehension of immediate bodily harm;

10 (b) Aggravated assault is assault, as defined in subsection (a),
11 committed:

- 12 (1) With a deadly weapon;
- 13 (2) while disguised in any manner designed to conceal identity; or
- 14 (3) with intent to commit any felony.

15 (c) Assault of a law enforcement officer is assault, as defined in
16 subsection (a), committed against:

17 (1) A uniformed or properly identified state, county or city law
18 enforcement officer ~~while such officer is engaged in the performance of~~ ,
19 such officer's duty; or

20 (2) a uniformed or properly identified university or campus police
21 officer ~~while such officer is engaged in the performance of such officer's~~ ,
22 duty.

23 (d) Aggravated assault of a law enforcement officer is assault of a law
24 enforcement officer, as defined in subsection (c), committed:

- 25 (1) With a deadly weapon;
- 26 (2) while disguised in any manner designed to conceal identity; or
- 27 (3) with intent to commit any felony.

28 (e) *Assault of a public transportation employee is assault, as defined*
29 *in subsection (a), committed against a public transportation employee in,*
30 *on or within 100 feet of facilities, vehicles, property or equipment of a*
31 *transportation system, including, but not limited to, park-and-ride lots,*
32 *transit centers, bus shelters, street furniture, public streets and sidewalks*
33 *inside and outside areas of a transportation system's property and lands,*
34 *interest in lands and rights-of-way of all kinds that are owned, leased, held*
35 *or used by transportation systems for the purpose of providing public*
36 *transportation services.*

Strike in lines 29-36, insert:
, while such employee is engaged in
the performance of such employee's
duty operating a vehicle

- 1 (f) (1) Assault is a class C person misdemeanor.
- 2 (2) Aggravated assault is a severity level 7, person felony.
- 3 (3) Assault of a law enforcement officer is a class A person
- 4 misdemeanor.
- 5 (4) Aggravated assault of a law enforcement officer is a severity level
- 6 6, person felony. A person convicted of aggravated assault of a law
- 7 enforcement officer shall be subject to the provisions of ~~subsection (g) of~~
- 8 K.S.A. 2016 Supp. 21-6804(g), and amendments thereto.
- 9 (5) *Assault of a public transportation employee is a class B person*
- 10 *misdemeanor. A person convicted of assault of a public transportation*
- 11 *employee may be barred by a public transportation provider from using*
- 12 *public transportation services.*
- 13 (g) *As used in the section, "public transportation employee" means*
- 14 *any employee or contract employee of a transportation system, as defined*
- 15 *in K.S.A. 75-5034, and amendments thereto.*
- 16 Sec. 2. K.S.A. 2016 Supp. 21-5413 is hereby amended to read as
- 17 follows: 21-5413. (a) Battery is:
- 18 (1) Knowingly or recklessly causing bodily harm to another person;
- 19 or
- 20 (2) knowingly causing physical contact with another person when
- 21 done in a rude, insulting or angry manner.
- 22 (b) Aggravated battery is:
- 23 (1) (A) Knowingly causing great bodily harm to another person or
- 24 disfigurement of another person;
- 25 (B) knowingly causing bodily harm to another person with a deadly
- 26 weapon, or in any manner whereby great bodily harm, disfigurement or
- 27 death can be inflicted; or
- 28 (C) knowingly causing physical contact with another person when
- 29 done in a rude, insulting or angry manner with a deadly weapon, or in any
- 30 manner whereby great bodily harm, disfigurement or death can be
- 31 inflicted;
- 32 (2) (A) recklessly causing great bodily harm to another person or
- 33 disfigurement of another person; or
- 34 (B) recklessly causing bodily harm to another person with a deadly
- 35 weapon, or in any manner whereby great bodily harm, disfigurement or
- 36 death can be inflicted; or
- 37 (3) (A) committing an act described in K.S.A. 8-1567, and
- 38 amendments thereto, when great bodily harm to another person or
- 39 disfigurement of another person results from such act; or
- 40 (B) committing an act described in K.S.A. 8-1567, and amendments
- 41 thereto, when bodily harm to another person results from such act under
- 42 circumstances whereby great bodily harm, disfigurement or death can
- 43 result from such act.

- 1 (c) Battery against a law enforcement officer is:
- 2 (1) Battery, as defined in subsection (a)(2), committed against a:
- 3 (A) Uniformed or properly identified university or campus police
- 4 officer while such officer is engaged in the performance of such officer's
- 5 duty;
- 6 (B) uniformed or properly identified state, county or city law
- 7 enforcement officer, other than a state correctional officer or employee, a
- 8 city or county correctional officer or employee or a juvenile detention
- 9 facility officer, or employee, while such officer is engaged in the
- 10 performance of such officer's duty;
- 11 (C) judge, while such judge is engaged in the performance of such
- 12 judge's duty;
- 13 (D) attorney, while such attorney is engaged in the performance of
- 14 such attorney's duty; or
- 15 (E) community corrections officer or court services officer, while
- 16 such officer is engaged in the performance of such officer's duty;
- 17 (2) battery, as defined in subsection (a)(1), committed against a:
- 18 (A) Uniformed or properly identified university or campus police
- 19 officer while such officer is engaged in the performance of such officer's
- 20 duty; or
- 21 (B) uniformed or properly identified state, county or city law
- 22 enforcement officer, other than a state correctional officer or employee, a
- 23 city or county correctional officer or employee or a juvenile detention
- 24 facility officer, or employee, while such officer is engaged in the
- 25 performance of such officer's duty;
- 26 (C) judge, while such judge is engaged in the performance of such
- 27 judge's duty;
- 28 (D) attorney, while such attorney is engaged in the performance of
- 29 such attorney's duty; or
- 30 (E) community corrections officer or court services officer, while
- 31 such officer is engaged in the performance of such officer's duty; or
- 32 (3) battery, as defined in subsection (a) committed against a:
- 33 (A) State correctional officer or employee by a person in custody of
- 34 the secretary of corrections, while such officer or employee is engaged in
- 35 the performance of such officer's or employee's duty;
- 36 (B) state correctional officer or employee by a person confined in
- 37 such juvenile correctional facility, while such officer or employee is
- 38 engaged in the performance of such officer's or employee's duty;
- 39 (C) juvenile detention facility officer or employee by a person
- 40 confined in such juvenile detention facility, while such officer or employee
- 41 is engaged in the performance of such officer's or employee's duty; or
- 42 (D) city or county correctional officer or employee by a person
- 43 confined in a city holding facility or county jail facility, while such officer

1 or employee is engaged in the performance of such officer's or employee's
2 duty.

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

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

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

9 (B) uniformed or properly identified university or campus police
10 officer while such officer is engaged in the performance of such officer's
11 duty;

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

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

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

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

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

23 (B) uniformed or properly identified university or campus police
24 officer while such officer is engaged in the performance of such officer's
25 duty;

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

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

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

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

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

36 (B) uniformed or properly identified university or campus police
37 officer while such officer is engaged in the performance of such officer's
38 duty.

39 (e) Battery against a school employee is a battery, as defined in
40 subsection (a), committed against a school employee in or on any school
41 property or grounds upon which is located a building or structure used by a
42 unified school district or an accredited nonpublic school for student
43 instruction or attendance or extracurricular activities of pupils enrolled in

1 kindergarten or any of the grades one through 12 or at any regularly
2 scheduled school sponsored activity or event, while such employee is
3 engaged in the performance of such employee's duty.

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

8 (g) ~~Battery against a public transportation employee is battery, as
9 defined in subsection (a), committed against a public transportation
10 employee in, on or within 100 feet of facilities, vehicles, property or
11 equipment of a transportation system, including, but not limited to, park
12 and-ride lots, transit centers, bus shelters, street furniture, public streets
13 and sidewalks inside and outside areas of a transportation system's
14 property and lands, interest in lands and rights-of-way of all kinds that are
15 owned, leased, held or used by transportation systems for the purpose of
16 providing public transportation services.~~

Strike in lines 10-16, insert:
, while such employee is engaged in
the performance of such employee's
duty operating a vehicle

17 (h) (1) Battery is a class B person misdemeanor.

18 (2) Aggravated battery as defined in:

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

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

22 (C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person
23 felony; and

24 (D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person
25 felony.

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

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

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

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

30 (4) Aggravated battery against a law enforcement officer as defined
31 in:

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

33 and

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

35 (5) Battery against a school employee is a class A person
36 misdemeanor.

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

39 (7) *Battery against a public transportation employee is a class A
40 person misdemeanor. A person convicted of battery against a public
41 transportation employee may be barred by a public transportation
42 provider from using public transportation services.*

43 (h) As used in this section:

- 1 (1) "Correctional institution" means any institution or facility under
2 the supervision and control of the secretary of corrections;
- 3 (2) "state correctional officer or employee" means any officer or
4 employee of the Kansas department of corrections or any independent
5 contractor, or any employee of such contractor, whose duties include
6 working at a correctional institution;
- 7 (3) "juvenile detention facility officer or employee" means any officer
8 or employee of a juvenile detention facility as defined in K.S.A. 2016
9 Supp. 38-2302, and amendments thereto;
- 10 (4) "city or county correctional officer or employee" means any
11 correctional officer or employee of the city or county or any independent
12 contractor, or any employee of such contractor, whose duties include
13 working at a city holding facility or county jail facility;
- 14 (5) "school employee" means any employee of a unified school
15 district or an accredited nonpublic school for student instruction or
16 attendance or extracurricular activities of pupils enrolled in kindergarten or
17 any of the grades one through 12;
- 18 (6) "mental health employee" means: (A) An employee of the Kansas
19 department for aging and disability services working at Larned state
20 hospital, Osawatomie state hospital, Kansas neurological institute and
21 Parsons state hospital and training center and the treatment staff as defined
22 in K.S.A. 59-29a02, and amendments thereto; and (B) contractors and
23 employees of contractors under contract to provide services to the Kansas
24 department for aging and disability services working at any such
25 institution or facility;
- 26 (7) "judge" means a duly elected or appointed justice of the supreme
27 court, judge of the court of appeals, judge of any district court of Kansas,
28 district magistrate judge or municipal court judge;
- 29 (8) "attorney" means a: (A) County attorney, assistant county
30 attorney, special assistant county attorney, district attorney, assistant
31 district attorney, special assistant district attorney, attorney general,
32 assistant attorney general or special assistant attorney general; and (B)
33 public defender, assistant public defender, contract counsel for the state
34 board of indigents' defense services or an attorney who is appointed by the
35 court to perform services for an indigent person as provided by article 45
36 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto;
- 37 (9) "community corrections officer" means an employee of a
38 community correctional services program responsible for supervision of
39 adults or juveniles as assigned by the court to community corrections
40 supervision and any other employee of a community correctional services
41 program that provides enhanced supervision of offenders such as house
42 arrest and surveillance programs; ~~and~~
- 43 (10) "court services officer" means an employee of the Kansas

1 judicial branch or local judicial district responsible for supervising,
2 monitoring or writing reports relating to adults or juveniles as assigned by
3 the court, or performing related duties as assigned by the court; *and*
4 *(11) "public transportation employee" means any employee or*
5 *contract employee of a transportation system, as defined in K.S.A. 75-*
6 *5034, and amendments thereto.*
7 Sec. 3. K.S.A. 2016 Supp. 21-5412 and 21-5413 are hereby repealed.
8 Sec. 4. This act shall take effect and be in force from and after its
9 publication in the statute book.