

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Corrections and Juvenile Justice** recommends **HB 2439** be amended on page 2, following line 5, by inserting:

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

- (1) Knowingly or recklessly causing bodily harm to another person; or
 - (2) knowingly causing physical contact with another person when done in a rude, insulting or angry manner.
- (b) Aggravated battery is:
- (1) (A) Knowingly causing great bodily harm to another person or disfigurement of another person;
 - (B) knowingly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or
 - (C) knowingly causing physical contact with another person when done in a rude, insulting or angry manner with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted;
- (2) (A) recklessly causing great bodily harm to another person or disfigurement of another person;~~or~~
 - (B) recklessly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or
- (3) (A) committing an act described in K.S.A. 8-1567, and amendments thereto, when

great bodily harm to another person or disfigurement of another person results from such act; or

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

(4) committing an act described in K.S.A. 8-1567, and amendments thereto, when great bodily harm to another person or disfigurement of another person results from such act while:

(A) In violation of any restriction imposed on such person's driving privileges pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto;

(B) such person's driving privileges are suspended or revoked pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto; or

(C) such person has been deemed a habitual violator as defined in K.S.A. 8-285, and amendments thereto, including at least one violation of K.S.A. 8-1567, and amendments thereto, or violating an ordinance of any city in this state, any resolution of any county in this state or any law of another state, which ordinance, resolution or law declares to be unlawful the acts prohibited by that statute.

(c) Battery against a law enforcement officer is:

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

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

(B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee or a juvenile

detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty;

- (C) judge, while such judge is engaged in the performance of such judge's duty;
 - (D) attorney, while such attorney is engaged in the performance of such attorney's duty; or
 - (E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;
- (2) battery, as defined in subsection (a)(1), committed against a:
- (A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or
 - (B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty;
 - (C) judge, while such judge is engaged in the performance of such judge's duty;
 - (D) attorney, while such attorney is engaged in the performance of such attorney's duty; or
 - (E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty; or
- (3) battery, as defined in subsection (a) committed against a:
- (A) State correctional officer or employee by a person in custody of the secretary of corrections, while such officer or employee is engaged in the performance of such officer's or employee's duty;

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

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

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

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

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

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

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

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

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

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

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

(A) Uniformed or properly identified state, county or city law enforcement officer while the

officer is engaged in the performance of the officer's duty;

- (B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;
- (C) judge, while such judge is engaged in the performance of such judge's duty;
- (D) attorney, while such attorney is engaged in the performance of such attorney's duty; or
- (E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty; or

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

- (A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty; or
- (B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty.

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

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

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

(2) Aggravated battery as defined in:

- (A) Subsection (b)(1)(A) or (b)(4) is a severity level 4, person felony;
- (B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person felony;
- (C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person felony; and
- (D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person felony.

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

- (A) Subsection (c)(1) is a class A person misdemeanor;
- (B) subsection (c)(2) is a severity level 7, person felony; and
- (C) subsection (c)(3) is a severity level 5, person felony.

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

- (A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony; and
- (B) subsection (d)(2) is a severity level 4, person felony.

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

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

(h) As used in this section:

- (1) "Correctional institution" means any institution or facility under the supervision and control of the secretary of corrections;
- (2) "state correctional officer or employee" means any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, whose duties include working at a correctional institution;

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

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

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

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

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

(8) "attorney" means a: (A) County attorney, assistant county attorney, special assistant county attorney, district attorney, assistant district attorney, special assistant district attorney, attorney general, assistant attorney general or special assistant attorney general; and (B) public defender, assistant public defender, contract counsel for the state board of indigents' defense services or an attorney who is appointed by the court to perform services for an indigent person as provided by article 45 of chapter

22 of the Kansas Statutes Annotated, and amendments thereto;

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

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

On page 8, in line 37, after "(3)" by inserting "or (b)(4)";

On page 9, following line 29, by inserting:

"Sec. 5. K.S.A. 2017 Supp. 8-1013 is hereby amended to read as follows: 8-1013. As used in K.S.A. 8-1001 through 8-1010, 8-1011, 8-1012, 8-1014, 8-1015, 8-1016, 8-1017 and 8-1018, and amendments thereto, and this section:

(a) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

(b) (1) "Alcohol or drug-related conviction" means any of the following: (A) Conviction of vehicular battery or aggravated vehicular homicide, prior to their repeal, if the crime is committed while committing a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits any acts prohibited by that statute, or conviction of a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto,~~or~~ conviction of a violation of aggravated battery as described in ~~subsection (b)(3) of~~ K.S.A. 2017 Supp.

21-5413(b)(3) or (b)(4), and amendments thereto, or conviction of a violation of involuntary manslaughter as described in K.S.A. 2017 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto; (B) conviction of a violation of a law of another state which would constitute a crime described in subsection (b)(1)(A) if committed in this state; (C) conviction of a violation of an ordinance of a city in this state or a resolution of a county in this state which would constitute a crime described in subsection (b)(1)(A), whether or not such conviction is in a court of record; or (D) conviction of an act which was committed on a military reservation and which would constitute a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, or would constitute a crime described in subsection (b)(1)(A) if committed off a military reservation in this state.

(2) For the purpose of determining whether an occurrence is a first, second or subsequent occurrence: (A) "Alcohol or drug-related conviction" also includes entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging commission of a crime described in subsection (b)(1), including a diversion agreement entered into prior to the effective date of this act; and (B) it is irrelevant whether an offense occurred before or after conviction or diversion for a previous offense.

(c) "Division" means the division of vehicles of the department of revenue.

(d) "Ignition interlock device" means a device which uses a breath analysis mechanism to prevent a person from operating a motor vehicle if such person has consumed an alcoholic beverage.

(e) "Occurrence" means a test refusal, test failure or alcohol or drug-related conviction, or any combination thereof arising from one arrest, including an arrest which occurred prior to the effective day date of this act.

(f) "Other competent evidence" includes: (1) Alcohol concentration tests obtained from samples taken three hours or more after the operation or attempted operation of a vehicle; and (2) readings obtained from a partial alcohol concentration test on a breath testing machine.

(g) "Samples" includes breath supplied directly for testing, which breath is not preserved.

(h) "Test failure" or "fails a test" refers to a person's having results of a test administered pursuant to this act, other than a preliminary screening test, which show an alcohol concentration of .08 or greater in the person's blood or breath, and includes failure of any such test on a military reservation.

(i) "Test refusal" or "refuses a test" refers to a person's failure to submit to or complete any test of the person's blood, breath, urine or other bodily substance, other than a preliminary screening test, in accordance with this act, and includes refusal of any such test on a military reservation.

(j) "Law enforcement officer" has the meaning provided by K.S.A. 2017 Supp. 21-5111, and amendments thereto, and includes any person authorized by law to make an arrest on a military reservation for an act which would constitute a violation of K.S.A. 8-1567 or K.S.A. 2017 Supp. 8-1025, and amendments thereto, if committed off a military reservation in this state.";

On page 15, in line 11, after "(3)" by inserting "or (b)(4);

On page 23, in line 6, after "(3)" by inserting "or (b)(4);

On page 26, in line 15, after "(3)" by inserting "or (b)(4);

On page 33, in line 1, before "8-1025" by inserting "8-1013,"; also in line 1, after "21-5405," by inserting "21-5413,";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "aggravated battery;"; in line 4,

before "8-1025" by inserting "8-1013,"; also in line 4, before "21-6811" by inserting "21-5413,"; and the bill be passed as amended.

Chairperson