

SENATE BILL No. 45

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. 2018 Supp. 21-5405 and 21-5413 and
4 repealing the existing sections; also repealing K.S.A. 2018 Supp. 21-
5 5413a.

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

8 Section 1. K.S.A. 2018 Supp. 21-5405 is hereby amended to read as
9 follows: 21-5405. (a) Involuntary manslaughter is the killing of a human
10 being committed:

11 (1) Recklessly;

12 (2) in the commission of, or attempt to commit, or flight from any
13 felony, other than an inherently dangerous felony as defined in K.S.A.
14 2018 Supp. 21-5402, and amendments thereto, that is enacted for the
15 protection of human life or safety or a misdemeanor that is enacted for the
16 protection of human life or safety, including acts described in K.S.A. 8-
17 1566 and 8-1568(a), and amendments thereto, but excluding the acts
18 described in K.S.A. 8-1567, and amendments thereto;

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

21 (4) during the commission of a lawful act in an unlawful manner; or

22 (5) in the commission of, or attempt to commit, or flight from an act
23 described in K.S.A. 8-1567, and amendments thereto, while:

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

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

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

36 (b) Involuntary manslaughter as defined in:

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

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

4 (3) subsection (a)(5) is a severity level 3, person felony; *and*

5 (4) *subsection (a)(1), (a)(2) or (a)(3) is a severity level 2, person*
6 *felony, if the victim is a public safety sector employee as defined in K.S.A.*
7 *2018 Supp. 21-5413, and amendments thereto.*

8 Sec. 2. K.S.A. 2018 Supp. 21-5413 is hereby amended to read as
9 follows: 21-5413. (a) Battery is:

10 (1) Knowingly or recklessly causing bodily harm to another person;
11 or

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

14 (b) Aggravated battery is:

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

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

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

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

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

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

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

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

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

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

1 amendments thereto; or

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

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

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

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

13 (B) uniformed or properly identified state, county or city law
14 enforcement officer, other than a state correctional officer or employee, a
15 city or county correctional officer or employee or a juvenile detention
16 facility officer, or employee, while such officer is engaged in the
17 performance of such officer's duty;

18 (C) *uniformed or properly identified federal law enforcement officer*
19 *while such officer is engaged in the performance of such officer's duty;*

20 ~~(D)~~ judge, while such judge is engaged in the performance of such
21 judge's duty;

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

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

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

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

30 (B) uniformed or properly identified state, county or city law
31 enforcement officer, other than a state correctional officer or employee, a
32 city or county correctional officer or employee or a juvenile detention
33 facility officer, or employee, while such officer is engaged in the
34 performance of such officer's duty;

35 (C) *uniformed or properly identified federal law enforcement officer*
36 *while such officer is engaged in the performance of such officer's duty;*

37 ~~(D)~~ judge, while such judge is engaged in the performance of such
38 judge's duty;

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

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

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

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

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

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

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

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

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

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

20 (B) 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 (C) *uniformed or properly identified federal law enforcement officer*
24 *while such officer is engaged in the performance of such officer's duty;*

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

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

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

31 (2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)(1)
32 (C), committed against 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;

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 (C) *uniformed or properly identified federal law enforcement officer*
40 *while such officer is engaged in the performance of such officer's duty;*

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

43 ~~(D)(E)~~ attorney, while such attorney is engaged in the performance of

- 1 such attorney's duty; or
2 ~~(E)~~(F) community corrections officer or court services officer, while
3 such officer is engaged in the performance of such officer's duty; or
4 (3) knowingly causing, with a motor vehicle, bodily harm to a:
5 (A) Uniformed or properly identified state, county or city law
6 enforcement officer while the officer is engaged in the performance of the
7 officer's duty; ~~or~~
8 (B) uniformed or properly identified university or campus police
9 officer while such officer is engaged in the performance of such officer's
10 duty; *or*
11 (C) *uniformed or properly identified federal law enforcement officer*
12 *while such officer is engaged in the performance of such officer's duty.*
13 (e) Battery against a school employee is a battery, as defined in
14 subsection (a), committed against a school employee in or on any school
15 property or grounds upon which is located a building or structure used by a
16 unified school district or an accredited nonpublic school for student
17 instruction or attendance or extracurricular activities of pupils enrolled in
18 kindergarten or any of the grades one through 12 or at any regularly
19 scheduled school sponsored activity or event, while such employee is
20 engaged in the performance of such employee's duty.
21 (f) Battery against a mental health employee is a battery, as defined in
22 subsection (a), committed against a mental health employee by a person in
23 the custody of the secretary for aging and disability services, while such
24 employee is engaged in the performance of such employee's duty.
25 (g) (1) Battery is a class B person misdemeanor.
26 (2) Aggravated battery as defined in:
27 (A) Subsection (b)(1)(A) or (b)(4) is a severity level 4, person felony;
28 (B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person
29 felony;
30 (C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person
31 felony; ~~and~~
32 (D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person
33 felony;
34 (E) *subsection (b)(1)(A), (b)(2)(A), (b)(3)(A) or (b)(4) is a severity*
35 *level 3, person felony, if committed against: (i) A public safety sector*
36 *employee; or (ii) a person complying with a lawful order from or at the*
37 *direction of any law enforcement officer; 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: (i) A public safety sector*
40 *employee; or (ii) a person complying with a lawful order from or at the*
41 *direction of any law enforcement officer.*
42 (3) Battery against a law enforcement officer as defined in:
43 (A) Subsection (c)(1) is a class A person misdemeanor;

- 1 (B) subsection (c)(2) is a severity level 7, person felony; and
2 (C) subsection (c)(3) is a severity level 5, person felony.
3 (4) Aggravated battery against a law enforcement officer as defined
4 in:
5 (A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony;
6 and
7 (B) subsection (d)(2) is a severity level 4, person felony.
8 (5) Battery against a school employee is a class A person
9 misdemeanor.
10 (6) Battery against a mental health employee is a severity level 7,
11 person felony.
12 (h) As used in this section:
13 (1) "Correctional institution" means any institution or facility under
14 the supervision and control of the secretary of corrections;
15 (2) "state correctional officer or employee" means any officer or
16 employee of the Kansas department of corrections or any independent
17 contractor, or any employee of such contractor, whose duties include
18 working at a correctional institution;
19 (3) "juvenile detention facility officer or employee" means any officer
20 or employee of a juvenile detention facility as defined in K.S.A. 2018
21 Supp. 38-2302, and amendments thereto;
22 (4) "city or county correctional officer or employee" means any
23 correctional officer or employee of the city or county or any independent
24 contractor, or any employee of such contractor, whose duties include
25 working at a city holding facility or county jail facility;
26 (5) "school employee" means any employee of a unified school
27 district or an accredited nonpublic school for student instruction or
28 attendance or extracurricular activities of pupils enrolled in kindergarten or
29 any of the grades one through 12;
30 (6) "mental health employee" means: (A) An employee of the Kansas
31 department for aging and disability services working at Larned state
32 hospital, Osawatomie state hospital, Kansas neurological institute and
33 Parsons state hospital and training center and the treatment staff as defined
34 in K.S.A. 59-29a02, and amendments thereto; and (B) contractors and
35 employees of contractors under contract to provide services to the Kansas
36 department for aging and disability services working at any such
37 institution or facility;
38 (7) "judge" means a duly elected or appointed justice of the supreme
39 court, judge of the court of appeals, judge of any district court of Kansas,
40 district magistrate judge or municipal court judge;
41 (8) "attorney" means a: (A) County attorney, assistant county
42 attorney, special assistant county attorney, district attorney, assistant
43 district attorney, special assistant district attorney, attorney general,

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

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

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

16 (11) *"federal law enforcement officer means a law enforcement*
17 *officer employed by the United States federal government who, as part of*
18 *such officer's duties, is permitted to make arrests and to be armed; and*

19 (12) *"public safety sector employee" means an employee of any law*
20 *enforcement office, sheriff's department, municipal fire department,*
21 *volunteer and non-volunteer fire protection association, emergency*
22 *management department, **emergency medical services provider**, public*
23 *works department or other similar public or private agency, while actually*
24 *engaged in official duties of the department or agency.*

25 Sec. 3. K.S.A. 2018 Supp. 21-5405, 21-5413 and 21-5413a are
26 hereby repealed.

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