



**Kansas Association of
Chiefs of Police**

PO Box 2163
Hutchinson, KS 67504
(620)899-4122



**Kansas Sheriffs
Association**

PO Box 1122
Pittsburg, KS 66762
(620)230-0864



**Kansas Peace Officers
Association**

PO Box 2592
Wichita, KS 67201
(316)722-8433

**Testimony to the Senate Judiciary Committee
In Support of SB6
January 27, 2021**

Chair Warren and Committee Members:

Our associations support SB6. This bill will allow prior convictions for domestic violence offenses to be counted in determining sentencing for the crime of domestic battery.

Implementation of a domestic violence designation was initiated by 2010 legislation that was the result of a Judicial Council study requested by the Chair of the House Corrections and Juvenile Justice Committee in response to a 2019 bill proposing creation of the designation. The Judicial Council recommendations were made after their analysis of due process concerns. They found those concerns would be alleviated by the requirement for the court to make a determination if a crime of conviction was a domestic violence crime, which is in the current law. The bottom line is the DV designation can only be made by a finding of fact by the court the crime of conviction was indeed a domestic violence crime, as defined in KSA 21-5111(j). (KSA 22-4616)

It has long been understood that domestic violence can include criminal acts other than battery. It has also been long understood that domestic violence is very often preceded by such crimes. Thus, in many cases the battery is part of a continuing chain of abusive events including the preceding lesser crimes.

With the due process in place for the designation, we do not believe it is unreasonable to allow for those crimes to enhance the penalty for domestic violence.

We encourage the committee to move this bill forward favorably.

Ed Klumpp
Legislative Liaison
eklumpp@cox.net
(785) 640-1102

KSA 22-4616. Domestic violence offenses; designation; special sentencing provision.

(a) On and after July 1, 2011, in all criminal cases filed in the district court, if there is evidence that the defendant committed a domestic violence offense, the trier of fact shall determine whether the defendant committed a domestic violence offense. On and after July 1, 2013, in all criminal cases filed in the municipal court, if there is evidence that the defendant committed a domestic violence offense, the trier of fact shall determine whether the defendant committed a domestic violence offense.

(1) Except as provided further, if the trier of fact determines that the defendant committed a domestic violence offense, the court shall place a domestic violence designation on the criminal case and the defendant shall be subject to the provisions of subsection (p) of K.S.A. 2020 Supp. [21-6604](#), and amendments thereto.

(2) The court shall not place a domestic violence designation on the criminal case and the defendant shall not be subject to the provisions of subsection (p) of K.S.A. 2020 Supp. [21-6604](#), and amendments thereto, only if the court finds on the record that:

(A) The defendant has not previously committed a domestic violence offense or participated in a diversion upon a complaint alleging a domestic violence offense; and

(B) the domestic violence offense was not used to coerce, control, punish, intimidate or take revenge against a person with whom the offender is involved or has been involved in a dating relationship or against a family or household member.

(b) The term "domestic violence offense" shall have the meaning provided in K.S.A. 2020 Supp. [21-5111](#), and amendments thereto.

(c) This section shall be a part of and supplemental to the Kansas code for criminal procedure.

History: L. 2010, ch. 101, § 1; L. 2011, ch. 30, § 141; L. 2012, ch. 162, § 17; May 31.

KSA 21-5111(j) defines a "domestic violence offense" as "any crime committed whereby the underlying factual basis includes an act of domestic violence."

KSA 21-5111 (i) defines "domestic violence" as "an act or threatened act of violence against a person with whom the offender is involved or has been involved in a dating relationship, or an act or threatened act of violence against a family or household member by a family or household member. Domestic violence also includes any other crime committed against a person or against property, or any municipal ordinance violation against a person or against property, when directed against a person with whom the offender is involved or has been involved in a dating relationship or when directed against a family or household member by a family or household member. For the purposes of this definition:

(1) "Dating relationship" means a social relationship of a romantic nature. In addition to any other factors the court deems relevant, the trier of fact may consider the following when

making a determination of whether a relationship exists or existed: Nature of the relationship, length of time the relationship existed, frequency of interaction between the parties and time since termination of the relationship, if applicable.

(2) "Family or household member" means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time."