

HOUSE BILL No. 2658

By Committee on Corrections and Juvenile Justice

2-12

1 AN ACT concerning crimes, criminal procedure and punishment; relating
2 to care and treatment facilities; battery; traffic in contraband; amending
3 K.S.A. 2013 Supp. 21-5413 and 21-5914 and repealing the existing
4 sections.

5

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

7 Section 1. K.S.A. 2013 Supp. 21-5413 is hereby amended to read as
8 follows: 21-5413. (a) Battery is:

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

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

13 (b) Aggravated battery is:

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

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

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

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

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

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

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

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

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

4 (B) uniformed or properly identified state, county or city law
5 enforcement officer, other than a state correctional officer or employee, a
6 city or county correctional officer or employee, a juvenile correctional
7 facility officer or employee or a juvenile detention facility officer, or
8 employee, while such officer is engaged in the performance of such
9 officer's duty; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (f) Battery against a mental health employee is a battery, as defined in
25 subsection (a), committed against a mental health employee by a person in
26 the custody of ~~the secretary of social and rehabilitation services~~ *a care and*
27 *treatment facility*, while such employee is engaged in the performance of
28 such employee's duty.

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

30 (2) Aggravated battery as defined in:

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (h) As used in this section:

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

11 (2) "state correctional officer or employee" means any officer or
12 employee of the Kansas department of corrections or any independent
13 contractor, or any employee of such contractor, working at a correctional
14 institution;

15 (3) "juvenile correctional facility officer or employee" means any
16 officer or employee of the juvenile justice authority or any independent
17 contractor, or any employee of such contractor, working at a juvenile
18 correctional facility, as defined in K.S.A. 2013 Supp. 38-2302, and
19 amendments thereto;

20 (4) "juvenile detention facility officer or employee" means any officer
21 or employee of a juvenile detention facility as defined in K.S.A. 2013
22 Supp. 38-2302, and amendments thereto;

23 (5) "city or county correctional officer or employee" means any
24 correctional officer or employee of the city or county or any independent
25 contractor, or any employee of such contractor, working at a city holding
26 facility or county jail facility;

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

31 (7) "mental health employee" means an employee ~~of the department~~
32 ~~of social and rehabilitation services working at Larned state hospital,~~
33 ~~Osawatomie state hospital and Rainbow mental health facility, Kansas~~
34 ~~neurological institute and Parsons state hospital and training center and the~~
35 ~~treatment staff as defined in K.S.A. 59-29a02, and amendments thereto~~
36 ~~or subcontractor of a care and treatment facility; and~~

37 (8) "care and treatment facility" means *Larned state hospital,*
38 *Osawatomie state hospital and rainbow mental health facility, Kansas*
39 *neurological institute and Parsons state hospital and training center, the*
40 *state security hospital provided for under K.S.A. 76-1305 et seq., and*
41 *amendments thereto, and any facility operated for the purposes provided*
42 *for under K.S.A. 59-29a02 et seq., and amendments thereto.*

43 Sec. 2. K.S.A. 2013 Supp. 21-5914 is hereby amended to read as

1 follows: 21-5914. (a) Traffic in contraband in a correctional institution or
2 care and treatment facility is, without the consent of the administrator of
3 the correctional institution or care and treatment facility:

4 (1) Introducing or attempting to introduce any item into or upon the
5 grounds of any correctional institution or care and treatment facility;

6 (2) taking, sending, attempting to take or attempting to send any item
7 from any correctional institution or care and treatment facility;

8 (3) any unauthorized possession of any item while in any correctional
9 institution or care and treatment facility;

10 (4) distributing any item within any correctional institution or care
11 and treatment facility;

12 (5) supplying to another who is in lawful custody any object or thing
13 adapted or designed for use in making an escape; or

14 (6) introducing into an institution in which a person is confined any
15 object or thing adapted or designed for use in making any escape.

16 (b) Traffic in contraband in a correctional institution or care and
17 treatment facility is a:

18 (1) Severity level 6, nonperson felony, except as provided in
19 subsection (b)(2) or (b)(3);

20 (2) severity level 5, nonperson felony, if such items are:

21 (A) Firearms, ammunition, explosives or a controlled substance
22 which is defined in K.S.A. 2013 Supp. 21-5701, and amendments thereto,
23 except as provided in subsection (b)(3);

24 (B) defined as contraband by rules and regulations adopted by the
25 secretary of corrections, in a state correctional institution or facility by an
26 employee of a state correctional institution or facility, except as provided
27 in subsection (b)(3);

28 (C) defined as contraband by rules and regulations adopted by the
29 secretary ~~of social and rehabilitation services~~ *for aging and disability*
30 *services*, in a care and treatment facility by an employee of a care and
31 treatment facility, except as provided in subsection (b)(3); or

32 (D) defined as contraband by rules and regulations adopted by the
33 commissioner of the juvenile justice authority, in a juvenile correctional
34 facility by an employee of a juvenile correctional facility, except as
35 provided by subsection (b)(3); and

36 (3) severity level 4, nonperson felony if:

37 (A) Such items are firearms, ammunition or explosives, in a
38 correctional institution by an employee of a correctional institution or in a
39 care and treatment facility by an employee of a care and treatment facility;
40 or

41 (B) a violation of *subsection* (a)(5) or (a)(6) by an employee or
42 volunteer of the department of corrections, or the employee or volunteer of
43 a contractor who is under contract to provide services to the department of

1 corrections.

2 (c) The provisions of subsection (b)(2)(A) shall not apply to the
3 possession of a firearm or ammunition by a person licensed under the
4 personal and family protection act, K.S.A. 75-7c01 et seq., and
5 amendments thereto, in a parking lot open to the public if the firearm or
6 ammunition is carried on the person while in a vehicle or while securing
7 the firearm or ammunition in the vehicle, or stored out of plain view in a
8 locked but unoccupied vehicle.

9 (d) As used in this section:

10 (1) "Correctional institution" means any state correctional institution
11 or facility, conservation camp, state security hospital, juvenile correctional
12 facility, community correction center or facility for detention or
13 confinement, juvenile detention facility or jail;

14 (2) "care and treatment facility" means the state security hospital
15 provided for under K.S.A. 76-1305 et seq., and amendments thereto, and
16 ~~any facility operated by the department of social and rehabilitation~~
17 ~~services~~ for the purposes provided for under K.S.A. 59-29a02 et seq., and
18 amendments thereto; and

19 (3) "lawful custody" means the same as in K.S.A. 2013 Supp. 21-
20 5912, and amendments thereto.

21 Sec. 3. K.S.A. 2013 Supp. 21-5413 and 21-5914 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.