

HOUSE BILL No. 2113

By Committee on Judiciary

1-27

9 AN ACT concerning crimes and punishment; relating to certain crimes
10 against court services officers; amending K.S.A. 21-3409, 21-3411, 21-
11 3413 and 21-3415 and K.S.A. 2008 Supp. 21-3110 and 75-5133 and
12 repealing the existing sections.
13

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

15 Section 1. K.S.A. 2008 Supp. 21-3110 is hereby amended to read as
16 follows: 21-3110. The following definitions shall apply when the words
17 and phrases defined are used in this code, except when a particular con-
18 text clearly requires a different meaning.

19 (1) "Act" includes a failure or omission to take action.

20 (2) "Another" means a person or persons as defined in this code other
21 than the person whose act is claimed to be criminal.

22 (3) "Conduct" means an act or a series of acts, and the accompanying
23 mental state.

24 (4) "Conviction" includes a judgment of guilt entered upon a plea of
25 guilty.

26 (5) "Deception" means knowingly and willfully making a false state-
27 ment or representation, express or implied, pertaining to a present or past
28 existing fact.

29 (6) To "deprive permanently" means to:

30 (a) Take from the owner the possession, use or benefit of property,
31 without an intent to restore the same; or

32 (b) Retain property without intent to restore the same or with intent
33 to restore it to the owner only if the owner purchases or leases it back,
34 or pays a reward or other compensation for its return; or

35 (c) Sell, give, pledge or otherwise dispose of any interest in property
36 or subject it to the claim of a person other than the owner.

37 (7) "Dwelling" means a building or portion thereof, a tent, a vehicle
38 or other enclosed space which is used or intended for use as a human
39 habitation, home or residence.

40 (8) "Firearm" means any weapon designed or having the capacity to
41 propel a projectile by force of an explosion or combustion.

42 (9) "Forcible felony" includes any treason, murder, voluntary man-
43 slaughter, rape, robbery, burglary, arson, kidnapping, aggravated battery,

- 1 aggravated sodomy and any other felony which involves the use or threat
2 of physical force or violence against any person.
- 3 (10) “Intent to defraud” means an intention to deceive another per-
4 son, and to induce such other person, in reliance upon such deception,
5 to assume, create, transfer, alter or terminate a right, obligation or power
6 with reference to property.
- 7 (11) “Law enforcement officer” means:
- 8 (a) Any person who by virtue of such person’s office or public em-
9 ployment is vested by law with a duty to maintain public order or to make
10 arrests for crimes, whether that duty extends to all crimes or is limited to
11 specific crimes;
- 12 (b) any officer of the Kansas department of corrections or, for the
13 purposes of K.S.A. 21-3409, 21-3411 and 21-3415, and amendments
14 thereto, any employee of the Kansas department of corrections; or
- 15 (c) any university police officer or campus police officer, as defined
16 in K.S.A. 22-2401a, and amendments thereto.
- 17 (d) *any court services officer of the Kansas judicial branch for the*
18 *purposes of K.S.A. 21-3409, 21-3411, 21-3413 and 21-3415, and amend-*
19 *ments thereto.*
- 20 (12) “Obtain” means to bring about a transfer of interest in or pos-
21 session of property, whether to the offender or to another.
- 22 (13) “Obtains or exerts control” over property includes but is not
23 limited to, the taking, carrying away, or the sale, conveyance, or transfer
24 of title to, interest in, or possession of property.
- 25 (14) “Owner” means a person who has any interest in property.
- 26 (15) “Person” means an individual, public or private corporation, gov-
27 ernment, partnership, or unincorporated association.
- 28 (16) “Personal property” means goods, chattels, effects, evidences of
29 rights in action and all written instruments by which any pecuniary obli-
30 gation, or any right or title to property real or personal, shall be created,
31 acknowledged, assigned, transferred, increased, defeated, discharged, or
32 dismissed.
- 33 (17) “Property” means anything of value, tangible or intangible, real
34 or personal.
- 35 (18) “Prosecution” means all legal proceedings by which a person’s
36 liability for a crime is determined.
- 37 (19) “Public employee” is a person employed by or acting for the
38 state or by or for a county, municipality or other subdivision or govern-
39 mental instrumentality of the state for the purpose of exercising their
40 respective powers and performing their respective duties, and who is not
41 a “public officer.”
- 42 (20) “Public officer” includes the following, whether elected or
43 appointed:

- 1 (a) An executive or administrative officer of the state, or a county,
2 municipality or other subdivision or governmental instrumentality of or
3 within the state.
- 4 (b) A member of the legislature or of a governing board of a county,
5 municipality, or other subdivision of or within the state.
- 6 (c) A judicial officer, which shall include a judge of the district court,
7 juror, master or any other person appointed by a judge or court to hear
8 or determine a cause or controversy.
- 9 (d) A hearing officer or presiding officer, which shall include any
10 person authorized by law or private agreement, to hear or determine a
11 cause or controversy and who is not a judicial officer.
- 12 (e) A law enforcement officer.
- 13 (f) Any other person exercising the functions of a public officer under
14 color of right.
- 15 (21) “Real property” or “real estate” means every estate, interest, and
16 right in lands, tenements and hereditaments.
- 17 (22) “Solicit” or “solicitation” means to command, authorize, urge,
18 incite, request, or advise another to commit a crime.
- 19 (23) “State” or “this state” means the state of Kansas and all land and
20 water in respect to which the state of Kansas has either exclusive or con-
21 current jurisdiction, and the air space above such land and water. “Other
22 state” means any state or territory of the United States, the District of
23 Columbia and the Commonwealth of Puerto Rico.
- 24 (24) “Stolen property” means property over which control has been
25 obtained by theft.
- 26 (25) “Threat” means a communicated intent to inflict physical or
27 other harm on any person or on property.
- 28 (26) “Written instrument” means any paper, document or other in-
29 strument containing written or printed matter or the equivalent thereof,
30 used for purposes of reciting, embodying, conveying or recording infor-
31 mation, and any money, token, stamp, seal, badge, trademark, or other
32 evidence or symbol of value, right, privilege or identification, which is
33 capable of being used to the advantage or disadvantage of some person.
- 34 Sec. 2. K.S.A. 21-3409 is hereby amended to read as follows: 21-
35 3409. (a) Assault of a law enforcement officer is an assault, as defined in
36 K.S.A. 21-3408 and amendments thereto:
- 37 (1) Committed against a uniformed or properly identified state,
38 county or city law enforcement officer while such officer is engaged in
39 the performance of such officer’s duty; ~~or~~
- 40 (2) committed against a uniformed or properly identified university
41 or campus police officer while such officer is engaged in the performance
42 of such officer’s duty; *or*
- 43 (3) *committed against a properly identified court services officer*

- 1 *while such officer is engaged in the performance of such officer's duty.*
2 (b) Assault of a law enforcement officer is a class A person
3 misdemeanor.
4 Sec. 3. K.S.A. 21-3411 is hereby amended to read as follows: 21-
5 3411. (a) Aggravated assault of a law enforcement officer is an aggravated
6 assault, as defined in K.S.A. 21-3410 and amendments thereto:
7 (1) Committed against a uniformed or properly identified state,
8 county or city law enforcement officer while such officer is engaged in
9 the performance of such officer's duty; ~~or~~
10 (2) committed against a uniformed or properly identified university
11 or campus police officer while such officer is engaged in the performance
12 of such officer's duty; *or*
13 (3) *committed against a properly identified court services officer*
14 *while such officer is engaged in the performance of such officer's duty.*
15 (b) Aggravated assault of a law enforcement officer is a severity level
16 6, person felony. A person convicted of aggravated assault of a law en-
17 forcement officer shall be subject to the provisions of subsection (g) of
18 K.S.A. 21-4704, and amendments thereto.
19 Sec. 4. K.S.A. 21-3413 is hereby amended to read as follows: 21-
20 3413. (a) Battery against a law enforcement officer is:
21 (1) Battery, as defined in subsection (a)(2) of K.S.A. 21-3412, and
22 amendments thereto, committed against: (A) A uniformed or properly
23 identified university or campus police officer while such officer is engaged
24 in the performance of such officer's duty; ~~or~~ (B) a uniformed or properly
25 identified state, county or city law enforcement officer, other than a state
26 correctional officer or employee, a city or county correctional officer or
27 employee, a juvenile correctional facility officer or employee or a juvenile
28 detention facility officer or employee, while such officer is engaged in the
29 performance of such officer's duty; *or (C) a properly identified court*
30 *services officer while such officer is engaged in the performance of such*
31 *officer's duty; or*
32 (2) battery, as defined in subsection (a)(1) of K.S.A. 21-3412, and
33 amendments thereto, committed against: (A) A uniformed or properly
34 identified university or campus police officer while such officer is engaged
35 in the performance of such officer's duty; ~~or~~ (B) a uniformed or properly
36 identified state, county or city law enforcement officer, other than a state
37 correctional officer or employee, a city or county correctional officer or
38 employee, a juvenile correctional facility officer or employee or a juvenile
39 detention facility officer or employee, while such officer is engaged in the
40 performance of such officer's duty; *or (C) a properly identified court*
41 *services officer while such officer is engaged in the performance of such*
42 *officer's duty; or*
43 (3) battery, as defined in K.S.A. 21-3412, and amendments thereto,

- 1 committed against: (A) A state correctional officer or employee by a per-
2 son in custody of the secretary of corrections, while such officer or em-
3 ployee is engaged in the performance of such officer's or employee's duty;
- 4 (B) committed against a juvenile correctional facility officer or em-
5 ployee by a person confined in such juvenile correctional facility, while
6 such officer or employee is engaged in the performance of such officer's
7 or employee's duty;
- 8 (C) committed against a juvenile detention facility officer or em-
9 ployee by a person confined in such juvenile detention facility, while such
10 officer or employee is engaged in the performance of such officer's or
11 employee's duty; or
- 12 (D) committed against a city or county correctional officer or em-
13 ployee by a person confined in a city holding facility or county jail facility,
14 while such officer or employee is engaged in the performance of such
15 officer's or employee's duty.
- 16 (b) Battery against a law enforcement officer as defined in subsection
17 (a)(1) is a class A person misdemeanor. Battery against a law enforcement
18 officer as defined in subsection (a)(2) is a severity level 7, person felony.
19 Battery against a law enforcement officer as defined in subsection (a)(3)
20 is a severity level 5, person felony.
- 21 (c) As used in this section:
- 22 (1) "Correctional institution" means any institution or facility under
23 the supervision and control of the secretary of corrections.
- 24 (2) "State correctional officer or employee" means any officer or em-
25 ployee of the Kansas department of corrections or any independent con-
26 tractor, or any employee of such contractor, working at a correctional
27 institution.
- 28 (3) "Juvenile correctional facility officer or employee" means any of-
29 ficer or employee of the juvenile justice authority or any independent
30 contractor, or any employee of such contractor, working at a juvenile
31 correctional facility, as defined in K.S.A. 2007 Supp. 38-2302, and amend-
32 ments thereto.
- 33 (4) "Juvenile detention facility officer or employee" means any officer
34 or employee of a juvenile detention facility as defined in K.S.A. 2007
35 Supp. 38-2302, and amendments thereto.
- 36 (5) "City or county correctional officer or employee" means any cor-
37 rectional officer or employee of the city or county or any independent
38 contractor, or any employee of such contractor, working at a city holding
39 facility or county jail facility.
- 40 Sec. 5. K.S.A. 21-3415 is hereby amended to read as follows: 21-
41 3415. (a) Aggravated battery against a law enforcement officer is:
42 (1) An aggravated battery, as defined in subsection (a)(1)(A) of K.S.A.
43 21-3414 and amendments thereto, committed against: (A) A uniformed

1 or properly identified state, county or city law enforcement officer while
2 the officer is engaged in the performance of the officer's duty; ~~or~~ (B) a
3 uniformed or properly identified university or campus police officer while
4 such officer is engaged in the performance of such officer's duty; or (C)
5 *a properly identified court services officer while such officer is engaged*
6 *in the performance of such officer's duty;*

7 (2) an aggravated battery, as defined in subsection (a)(1)(B) or
8 (a)(1)(C) of K.S.A. 21-3414 and amendments thereto, committed against:
9 (A) A uniformed or properly identified state, county or city law enforce-
10 ment officer while the officer is engaged in the performance of the offi-
11 cer's duty; ~~or~~ (B) a uniformed or properly identified university or campus
12 police officer while such officer is engaged in the performance of such
13 officer's duty; or (C) *a properly identified court services officer while such*
14 *officer is engaged in the performance of such officer's duty; or*

15 (3) intentionally causing, with a motor vehicle, bodily harm to: (A) A
16 uniformed or properly identified state, county or city law enforcement
17 officer while the officer is engaged in the performance of the officer's
18 duty; ~~or~~ (B) a uniformed or properly identified university or campus po-
19 lice officer while such officer is engaged in the performance of such of-
20 ficer's duty; or (C) *a properly identified court services officer while such*
21 *officer is engaged in the performance of such officer's duty.*

22 (b) (1) Aggravated battery against a law enforcement officer as de-
23 scribed in subsection (a)(1) or (a)(3) is a severity level 3, person felony.

24 (2) Aggravated battery against a law enforcement officer as described
25 in subsection (a)(2) is a severity level 4, person felony.

26 (3) A person convicted of aggravated battery against a law enforce-
27 ment officer shall be subject to the provisions of subsection (g) of K.S.A.
28 21-4704 and amendments thereto.

29 Sec. 6. K.S.A. 2008 Supp. 75-5133 is hereby amended to read as
30 follows: 75-5133. (a) Except as otherwise more specifically provided by
31 law, all information received by the secretary of revenue, the director of
32 taxation or the director of alcoholic beverage control from returns, re-
33 ports, license applications or registration documents made or filed under
34 the provisions of any law imposing any sales, use or other excise tax ad-
35 ministered by the secretary of revenue, the director of taxation, or the
36 director of alcoholic beverage control, or from any investigation con-
37 ducted under such provisions, shall be confidential, and it shall be unlaw-
38 ful for any officer or employee of the department of revenue to divulge
39 any such information except in accordance with other provisions of law
40 respecting the enforcement and collection of such tax, in accordance with
41 proper judicial order or as provided in K.S.A. 74-2424, and amendments
42 thereto.

43 (b) The secretary of revenue or the secretary's designee may:

- 1 (1) Publish statistics, so classified as to prevent identification of par-
2 ticular reports or returns and the items thereof;
- 3 (2) allow the inspection of returns by the attorney general or the
4 attorney general's designee;
- 5 (3) provide the post auditor access to all such excise tax reports or
6 returns in accordance with and subject to the provisions of subsection (g)
7 of K.S.A. 46-1106, and amendments thereto;
- 8 (4) disclose taxpayer information from excise tax returns to persons
9 or entities contracting with the secretary of revenue where the secretary
10 has determined disclosure of such information is essential for completion
11 of the contract and has taken appropriate steps to preserve confidentiality;
- 12 (5) provide information from returns and reports filed under article
13 42 of chapter 79 of the Kansas Statutes Annotated to county appraisers
14 as is necessary to insure proper valuations of property. Information from
15 such returns and reports may also be exchanged with any other state
16 agency administering and collecting conservation or other taxes and fees
17 imposed on or measured by mineral production;
- 18 (6) provide, upon request by a city or county clerk or treasurer or
19 finance officer of any city or county receiving distributions from a local
20 excise tax, monthly reports identifying each retailer doing business in such
21 city or county or making taxable sales sourced to such city or county,
22 setting forth the tax liability and the amount of such tax remitted by each
23 retailer during the preceding month, and identifying each business loca-
24 tion maintained by the retailer and such retailer's sales or use tax regis-
25 tration or account number;
- 26 (7) provide information from returns and applications for registration
27 filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-
28 3601, and amendments thereto, to a city or county treasurer or clerk or
29 finance officer to explain the basis of statistics contained in reports pro-
30 vided by subsection (b)(6);
- 31 (8) disclose the following oil and gas production statistics received by
32 the department of revenue in accordance with K.S.A. 79-4216 et seq. and
33 amendments thereto: Volumes of production by well name, well number,
34 operator's name and identification number assigned by the state corpo-
35 ration commission, lease name, leasehold property description, county of
36 production or zone of production, name of purchaser and purchaser's tax
37 identification number assigned by the department of revenue, name of
38 transporter, field code number or lease code, tax period, exempt produc-
39 tion volumes by well name or lease, or any combination of this
40 information;
- 41 (9) release or publish liquor brand registration information provided
42 by suppliers, farm wineries and microbreweries in accordance with the
43 liquor control act. The information to be released is limited to: Item

- 1 number, universal numeric code, type status, product description, alcohol
2 percentage, selling units, unit size, unit of measurement, supplier num-
3 ber, supplier name, distributor number and distributor name;
- 4 (10) release or publish liquor license information provided by liquor
5 licensees, distributors, suppliers, farm wineries and microbreweries in
6 accordance with the liquor control act. The information to be released is
7 limited to: County name, owner, business name, address, license type,
8 license number, license expiration date and the process agent contact
9 information;
- 10 (11) release or publish cigarette and tobacco license information ob-
11 tained from cigarette and tobacco licensees in accordance with the Kansas
12 cigarette and tobacco products act. The information to be released is
13 limited to: County name, owner, business name, address, license type and
14 license number;
- 15 (12) provide environmental surcharge or solvent fee, or both, infor-
16 mation from returns and applications for registration filed pursuant to
17 K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secre-
18 tary of health and environment or the secretary's designee for the sole
19 purpose of ensuring that retailers collect the environmental surcharge tax
20 or solvent fee, or both;
- 21 (13) provide water protection fee information from returns and ap-
22 plications for registration filed pursuant to K.S.A. 82a-954, and amend-
23 ments thereto, to the secretary of the state board of agriculture or the
24 secretary's designee and the secretary of the Kansas water office or the
25 secretary's designee for the sole purpose of verifying revenues deposited
26 to the state water plan fund;
- 27 (14) provide to the secretary of commerce copies of applications for
28 project exemption certificates sought by any taxpayer under the enter-
29 prise zone sales tax exemption pursuant to subsection (cc) of K.S.A. 79-
30 3606, and amendments thereto;
- 31 (15) disclose information received pursuant to the Kansas cigarette
32 and tobacco act and subject to the confidentiality provisions of this act to
33 any criminal justice agency, as defined in subsection (c) of K.S.A. 22-
34 4701, and amendments thereto, or to any law enforcement officer, as
35 defined in ~~subsection (c)(10)~~ of K.S.A. 21-3110, and amendments thereto,
36 on behalf of a criminal justice agency, when requested in writing in con-
37 junction with a pending investigation; and
- 38 (16) provide to retailers tax exemption information for the sole pur-
39 pose of verifying the authenticity of tax exemption numbers issued by the
40 department.
- 41 (c) Any person receiving any information under the provisions of sub-
42 section (b) shall be subject to the confidentiality provisions of subsection
43 (a) and to the penalty provisions of subsection (d).

1 (d) Any violation of this section shall be a class A, nonperson mis-
2 demeanor, and if the offender is an officer or employee of this state, such
3 officer or employee shall be dismissed from office. Reports of violations
4 of this paragraph shall be investigated by the attorney general. The district
5 attorney or county attorney and the attorney general shall have authority
6 to prosecute any violation of this section if the offender is a city or county
7 clerk or treasurer or finance officer of a city or county.

8 Sec. 7. K.S.A. 21-3409, 21-3411, 21-3413 and 21-3415 and K.S.A.
9 2008 Supp. 21-3110 and 75-5133 are hereby repealed.

10 Sec. 8. This act shall take effect and be in force from and after its
11 publication in the statute book.