



January 23, 2023

To: House Judiciary Committee

From: R.E. "Tuck" Duncan, Executive Director, KPTA

RE: HB2023 — Creating the crime of interference with the conduct of a hospital, providing criminal penalties for violation thereof and increasing the criminal penalties for battery of a healthcare provider who is employed by a hospital.

Please consider the amendments to this bill as set forth on the attached amending both the Kansas assault and battery criminal statutes. In the public transit arena verbal assaults tend to occur more frequently (i.e there is a greater likelihood), but do not result in physical harm. Examples include: Threats, Harassment, and Intimidation. Physical assaults tend to occur not as frequently but typically pose greater danger. Examples include: Spitting or deliberately coughing on the operator, Striking or attempting to strike the operator with hands, feet, or other body parts, or with an object and Using or raising weapons against the operator.

According to the Federal Transit Administration Transit Operator Assault Events reported to their database has seen a 4x increase from 2009. FTA has developed The virtual Assault Awareness and Prevention for Transit Operators course to provide transit bus operators with prevention strategies necessary to reduce the likelihood of assault incidents. <https://www.transit.dot.gov/regulations-and-programs/safety/nti-assault-awareness-and-prevention-transit-operators-course>

Operator assault is both a security concern and a safety concern. A security concern generally involves a threat actor—someone who intends to do harm and a safety concern introduces safety risk into a transit system, whether or not a threat actor is involved. But despite the comprehensive safety training programs our transit agencies provide for all workers, we need to strengthen Kansas law to deter this conduct.

For example, our neighbor Missouri punishes assault more harshly when it's committed against a "special victim," as defined in law. Special victims include the following special victims who work in vulnerable positions if the assault took place while they were performing their duties or as a direct result of those duties: law enforcement officers, emergency personnel (firefighters, ER staff, EMTs), corrections officers (parole, probation, jailors), and utility, highway, **and mass transit workers.**¹

Please make this amendment to improve public safety and welfare. *Thank you for your kind attention to and consideration of this matter.*

¹ Ref: Mo.Rev.Stat. 565.002 (k) Any employee of a mass transit system, including any employee of public bus or light rail companies, while in the performance of his or her job duties;

21-5412. Assault; aggravated assault; assault of a law enforcement officer; aggravated assault of a law enforcement officer.

- (a) Assault is knowingly placing another person in reasonable apprehension of immediate bodily harm;
- (b) Aggravated assault is assault, as defined in subsection (a), committed:
 - (1) With a deadly weapon;
 - (2) while disguised in any manner designed to conceal identity; or
 - (3) with intent to commit any felony.
- (c) Assault of a law enforcement officer is assault, as defined in subsection (a), committed against:
 - (1) A uniformed or properly identified state, county or city law enforcement officer while such officer is engaged in the performance of such officer's duty; or
 - (2) a uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty.
- (d) Aggravated assault of a law enforcement officer is assault of a law enforcement officer, as defined in subsection (c), committed:
 - (1) With a deadly weapon;
 - (2) while disguised in any manner designed to conceal identity; or
 - (3) with intent to commit any felony.
- (e) Assault of a public transportation employee is assault, as defined in subsection (a), committed against a public transportation employee in, on or within one hundred feet of facilities, vehicles, property and equipment of a transportation system, including, without limitation, park-and-ride lots, transit centers, bus shelters, street furniture, public streets and sidewalks inside and outside areas of a transportation system's property, lands, interest in lands, and rights of way of all kinds that are owned, leased, held, or used by transportation systems for the purpose of providing public transportation services.*
- ~~(e)~~ *(f)*
 - (1) Assault is a class C person misdemeanor.
 - (2) Aggravated assault is a severity level 7, person felony.
 - (3) Assault of a law enforcement officer is a class A person misdemeanor.
 - (4) Aggravated assault of a law enforcement officer is a severity level 6, person felony. A person convicted of aggravated assault of a law enforcement officer shall be subject to the provisions of subsection (g) of K.S.A. 2016 Supp. 21-6804, and amendments thereto.
 - (5) Assault of a public transportation employee is a class A person misdemeanor. A person convicted of assault of a public transportation employee may be barred by a public transportation provider from using public transportation services.*
- (g) As used in the section:*
 - (1) "Public transportation employee" means any employee or contract employee of a transportation system, as set forth in K.S.A. 75-5034 (a).*

21-5413. Battery; aggravated battery; battery against a law enforcement officer; aggravated battery against a law enforcement officer; battery against a school employee; battery against a mental health employee.

- (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)

DRAFT Bus Operator Assault and Battery amendments

- (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.
- (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

DRAFT Bus Operator Assault and Battery amendments

- (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) Battery of a public transportation employee is battery, as defined in subsection (a), committed against a public transportation employee in, on or within one hundred feet of facilities, vehicles, property and equipment of a transportation system, including, without limitation, park-and-ride lots, transit centers, bus shelters, street furniture, public streets and sidewalks inside and outside areas of a transportation system's property, lands, interest in lands, and rights of way of all kinds that are owned, leased, held, or used by transportation systems for the purpose of providing public transportation services.

~~(g)~~(h)

- (1) Battery is a class B person misdemeanor.
- (2) Aggravated battery as defined in:
 - (A) Subsection (b)(1)(A) 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.
- (7) Battery against a public transportation employee is a class A person misdemeanor. A person convicted of battery of a public transportation employee may be barred by a public transportation provider from using public transportation services.***

DRAFT Bus Operator Assault and Battery amendments

(h)(i) 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. 2014 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.
- (11) ***“public transportation employee” means any employee or contract employee of a transportation system, as set forth in K.S.A. 75-5034 (a).***