

Office of Judiciary Administration
Proposed Amendment
March 14, 2012

As Amended by Senate Committee

Session of 2012

SENATE BILL No. 304

By Joint Committee on Administrative Rules and Regulations

1-19

1 AN ACT concerning domestic violence; enacting the batterer intervention
2 program certification act; amending K.S.A. 2011 Supp. 12-4509, *21-*
3 *5414, 21-6604* and 22-4616 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) There is hereby created in the office of the
7 attorney general a batterer intervention program certification unit.

8 (b) Except as otherwise provided by law, the books, documents,
9 papers, records or other sources of information obtained and the
10 investigations conducted by the unit shall be confidential as required by
11 state or federal law.

12 (c) The purpose of the batterer intervention program certification unit
13 is to certify and inspect batterer intervention programs in Kansas. To
14 accomplish this purpose, upon request of the unit, the unit shall have
15 access to all records of reports, investigation documents and written
16 reports of findings related to confirmed cases of domestic violence or
17 exploitation of persons or cases in which there is reasonable suspicion to
18 believe domestic violence has occurred which are received or generated by
19 the department of social and rehabilitation services, department on aging,
20 department of health and environment, *or* Kansas bureau of investigation
21 ~~or the behavioral sciences regulatory board.~~

22 (d) The attorney general shall develop a set of tools, methodologies,
23 requirements and forms for the domestic violence offender assessment
24 required by subsection (p) of K.S.A. 2011 Supp. 21-6604, and
25 amendments thereto. The batterer intervention program tools,
26 methodologies, requirements and forms shall be developed in consultation
27 with the agency certified by the centers for disease control and prevention
28 and the department of health and human services as the domestic violence
29 coalition for the state and with local domestic violence victims' services
30 organizations.

31 (e) The attorney general may appoint a panel to assist the attorney
32 general by making recommendations regarding the:

33 (1) Content and development of a batterer intervention certification
34 program; and

35 (2) rules and regulations.

36 (f) The attorney general may appoint such advisory committees as the

1 community;

2 (11) perform services under a system of day fines whereby the
3 defendant is required to satisfy fines, costs or reparation or restitution
4 obligations by performing services for a period of days determined by the
5 court on the basis of ability to pay, standard of living, support obligations
6 and other factors;

7 (12) make reparation or restitution to the aggrieved party for the
8 damage or loss caused by the defendant's crime, in an amount and manner
9 determined by the court and to the person specified by the court; or

10 (13) reimburse the city, in accordance with any order made under
11 subsection ~~(f)~~ (g), for all or a part of the reasonable expenditures by the
12 city to provide counsel and other defense services to the defendant.

13 ~~(f)~~ (g) In addition to or in lieu of any other sentence authorized by
14 law, whenever a person is found guilty of the violation of an ordinance the
15 judge may order such person to reimburse the city for all or a part of the
16 reasonable expenditures by the city to provide counsel and other defense
17 services to the defendant. In determining the amount and method of
18 payment of such sum, the court shall take account of the financial
19 resources of the defendant and the nature of the burden that payment of
20 such sum will impose. A defendant who has been required to pay such sum
21 and who is not willfully in default in the payment thereof may at any time
22 petition the court which sentenced the defendant to waive payment of such
23 sum or of any unpaid portion thereof. If it appears to the satisfaction of the
24 court that payment of the amount due will impose manifest hardship on the
25 defendant or the defendant's immediate family, the court may waive
26 payment of all or part of the amount due or modify the method of
27 payment.

28 *Sec. 15. K.S.A. 2011 Supp. 21-5414 is hereby amended to read as*
29 *follows: 21-5414. (a) Domestic battery is:*

30 *(1) Knowingly or recklessly causing bodily harm by a family or*
31 *household member against a family or household member; or*

32 *(2) knowingly causing physical contact with a family or household*
33 *member by a family or household member when done in a rude,*
34 *insulting or angry manner.*

35 *(b) Domestic battery is a:*

36 *(1) Except as provided in subsection (b)(2) or (b)(3), a Class B*
37 *person misdemeanor and the offender shall be sentenced to not less than*
38 *48 consecutive hours nor more than six months' imprisonment and*
39 *fined not less than \$200, nor more than \$500 or in the court's discretion*
40 *the court may enter an order which requires the offender enroll in and*
41 *successfully complete a domestic violence prevention program, except as*
42 *provided in subsection (b)(2) or (b)(3) to undergo a domestic violence*
43 *offender assessment conducted by a certified batterer intervention*

, unless otherwise ordered by the court or department of corrections

1 program and follow all recommendations made by such program;

2 (2) except as provided in subsection (b)(3), a class A person
3 misdemeanor, if, within five years immediately preceding commission of
4 the crime, an offender is convicted of domestic battery a second time and
5 the offender shall be sentenced to not less than 90 days nor more than
6 one year's imprisonment and fined not less than \$500 nor more than
7 \$1,000, ~~except as provided in subsection (b)(3). The five days~~
8 ~~imprisonment mandated by this paragraph may be served in a work~~
9 ~~release program only after such offender has served 48 consecutive~~
10 ~~hours imprisonment, provided such work release program requires such~~
11 ~~offender to return to confinement at the end of each day in the work~~
12 ~~release program. The offender shall serve at least five consecutive days~~
13 ~~imprisonment before the offender is granted probation, suspension or~~
14 ~~reduction of sentence or parole or is otherwise released. As a condition~~
15 ~~of any grant of probation, suspension of sentence or parole or of any~~
16 ~~other release, the offender shall be required to enter into and complete a~~
17 ~~treatment program for domestic violence prevention undergo a domestic~~
18 ~~violence offender assessment conducted by a certified batterer~~
19 ~~intervention program and follow all recommendations made by such~~
20 ~~program; and~~

21 (3) a person felony, if, within five years immediately preceding
22 commission of the crime, an offender is convicted of domestic battery a
23 third or subsequent time, and the offender shall be sentenced to not less
24 than 90 days nor more than one year's imprisonment and fined not less
25 than \$1,000 nor more than \$7,500. The offender convicted shall not be
26 eligible for release on probation, suspension or reduction of sentence or
27 parole until the offender has served at least 90 days imprisonment. The
28 court shall require as a condition of parole that such offender enter into
29 and complete a treatment program for domestic violence As a condition of
30 any grant of probation, suspension of sentence or parole or of any other
31 release, the offender shall be required to undergo a domestic violence
32 offender assessment conducted by a certified batterer intervention
33 program and follow all recommendations made by such program. If the
34 offender does not enter into and complete a treatment program for
35 domestic violence undergo a domestic violence offender assessment
36 conducted by a certified batterer intervention program and follow all
37 recommendations made by such program, the offender shall serve not less
38 than 180 days nor more than one year's imprisonment. The 90 days
39 imprisonment mandated by this paragraph may be served in a work
40 release program only after such offender has served 48 consecutive
41 hours imprisonment, provided such work release program requires such
42 offender to return to confinement at the end of each day in the work
43 release program.

, unless otherwise ordered by the court or department of corrections

1 a certified copy of the order imposing such conditions is required to be
2 carried by the person for whom the license was issued any time such
3 person is operating a motor vehicle on the highways of this state. If the
4 person convicted is a nonresident, the judge shall cause a copy of the
5 order to be transmitted to the division and the division shall forward a
6 copy of it to the motor vehicle administrator, of such person's state of
7 residence. Such judge shall furnish to any person whose driver's license
8 has had conditions imposed on it under this paragraph a copy of the
9 order, which shall be recognized as a valid Kansas driver's license until
10 such time as the division shall issue the restricted license provided for in
11 this paragraph.

12 (C) Upon expiration of the period of time for which conditions are
13 imposed pursuant to this subsection, the licensee may apply to the
14 division for the return of the license previously surrendered by such
15 licensee. In the event such license has expired, such person may apply to
16 the division for a new license, which shall be issued immediately by the
17 division upon payment of the proper fee and satisfaction of the other
18 conditions established by law, unless such person's privilege to operate a
19 motor vehicle on the highways of this state has been suspended or
20 revoked prior thereto. If any person shall violate any of the conditions
21 imposed under this paragraph, such person's driver's license or privilege
22 to operate a motor vehicle on the highways of this state shall be revoked
23 for a period of not less than 60 days nor more than one year by the judge
24 of the court in which such person is convicted of violating such
25 conditions.

26 (4) As used in this subsection, "highway" and "street" means the
27 same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

28 (p) In addition to any of the above, for any criminal offense that
29 includes the domestic violence designation pursuant to K.S.A. 2011
30 Supp. 22-4616, and amendments thereto, the court shall require the
31 defendant to: (1) Undergo a domestic violence offender assessment
32 conducted by a certified batterer intervention program; and (2) follow all
33 recommendations made by such program, unless otherwise ordered by
34 the court or the department of corrections. The court may order a
35 domestic violence offender assessment and any other evaluation prior to
36 sentencing if the assessment or evaluation would assist the court in
37 determining an appropriate sentence. The entity completing the
38 assessment or evaluation shall provide the assessment or evaluation and
39 recommendations to the court and the court shall provide the domestic
40 violence offender assessment ~~and any other evaluation~~ to any entity
41 responsible for supervising such defendant. A defendant ordered to
42 undergo a domestic violence offender assessment shall be required to
43 pay for the assessment and, unless otherwise ordered by the court or the