

**SENATE BILL No. 41**

By Committee on Judiciary

1-19

1 AN ACT concerning crimes, punishment and criminal procedure; creating  
2 the crimes of assault of a public transportation employee and battery  
3 against a public transportation employee; amending K.S.A. 2016 Supp.  
4 21-5412 and 21-5413 and repealing the existing sections.

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

7 Section 1. K.S.A. 2016 Supp. 21-5412 is hereby amended to read as  
8 follows: 21-5412. (a) Assault is knowingly placing another person in  
9 reasonable apprehension of immediate bodily harm;

10 (b) Aggravated assault is assault, as defined in subsection (a),  
11 committed:

12 (1) With a deadly weapon;

13 (2) while disguised in any manner designed to conceal identity; or

14 (3) with intent to commit any felony.

15 (c) Assault of a law enforcement officer is assault, as defined in  
16 subsection (a), committed against:

17 (1) A uniformed or properly identified state, county or city law  
18 enforcement officer, while such officer is engaged in the performance of  
19 such officer's duty; or

20 (2) a uniformed or properly identified university or campus police  
21 officer, while such officer is engaged in the performance of such officer's  
22 duty.

23 (d) Aggravated assault of a law enforcement officer is assault of a law  
24 enforcement officer, as defined in subsection (c), committed:

25 (1) With a deadly weapon;

26 (2) while disguised in any manner designed to conceal identity; or

27 (3) with intent to commit any felony.

28 (e) *Assault of a public transportation employee is assault, as defined*  
29 *in subsection (a), committed against a public transportation employee in,*  
30 *on or within 100 feet of facilities, vehicles, property or equipment of a*  
31 *transportation system, including, but not limited to, park and ride lots,*  
32 *transit centers, bus shelters, street furniture, public streets and sidewalks*  
33 *inside and outside areas of a transportation system's property and lands,*  
34 *interest in lands and rights-of-way of all kinds that are owned, leased, held*  
35 *or used by transportation systems for the purpose of providing public*  
36 *transportation services, while such employee is engaged in the*

1 *performance of such employee's duty operating a vehicle.*

2 (f) (1) Assault is a class C person misdemeanor.

3 (2) Aggravated assault is a severity level 7, person felony.

4 (3) Assault of a law enforcement officer is a class A person  
5 misdemeanor.

6 (4) Aggravated assault of a law enforcement officer is a severity level  
7 6, person felony. A person convicted of aggravated assault of a law  
8 enforcement officer shall be subject to the provisions of ~~subsection (g) of~~  
9 K.S.A. 2016 Supp. 21-6804(g), and amendments thereto.

10 (5) *Assault of a public transportation employee is a class B person*  
11 *misdemeanor. A person convicted of assault of a public transportation*  
12 *employee may be barred by a public transportation provider from using*  
13 *public transportation services.*

14 (g) *As used in the section, "public transportation employee" means*  
15 *any employee or contract employee of a transportation system, as defined*  
16 *in K.S.A. 75-5034, and amendments thereto.*

17 Sec. 2. K.S.A. 2016 Supp. 21-5413 is hereby amended to read as  
18 follows: 21-5413. (a) Battery is:

19 (1) Knowingly or recklessly causing bodily harm to another person;  
20 or

21 (2) knowingly causing physical contact with another person when  
22 done in a rude, insulting or angry manner.

23 (b) Aggravated battery is:

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

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

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

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

35 (B) recklessly causing bodily harm to another person with a deadly  
36 weapon, or in any manner whereby great bodily harm, disfigurement or  
37 death can be inflicted; or

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

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

1 result from such act.

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

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

4 (A) Uniformed or properly identified university or campus police  
5 officer while such officer is engaged in the performance of such officer's  
6 duty;

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

12 (C) judge, while such judge is engaged in the performance of such  
13 judge's duty;

14 (D) attorney, while such attorney is engaged in the performance of  
15 such attorney's duty; or

16 (E) community corrections officer or court services officer, while  
17 such officer is engaged in the performance of such officer's duty;

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

19 (A) Uniformed or properly identified university or campus police  
20 officer while such officer is engaged in the performance of such officer's  
21 duty; or

22 (B) uniformed or properly identified state, county or city law  
23 enforcement officer, other than a state correctional officer or employee, a  
24 city or county correctional officer or employee or a juvenile detention  
25 facility officer, or employee, while such officer is engaged in the  
26 performance of such officer's duty;

27 (C) judge, while such judge is engaged in the performance of such  
28 judge's duty;

29 (D) attorney, while such attorney is engaged in the performance of  
30 such attorney's duty; or

31 (E) community corrections officer or court services officer, while  
32 such officer is engaged in the performance of such officer's duty; or

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

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

37 (B) state correctional officer or employee by a person confined in  
38 such juvenile correctional facility, while such officer or employee is  
39 engaged in the performance of such officer's or employee's duty;

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

43 (D) city or county correctional officer or employee by a person

1 confined in a city holding facility or county jail facility, while such officer  
2 or employee is engaged in the performance of such officer's or employee's  
3 duty.

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

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

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

10 (B) uniformed or properly identified university or campus police  
11 officer while such officer is engaged in the performance of such officer's  
12 duty;

13 (C) judge, while such judge is engaged in the performance of such  
14 judge's duty;

15 (D) attorney, while such attorney is engaged in the performance of  
16 such attorney's duty; or

17 (E) community corrections officer or court services officer, while  
18 such officer is engaged in the performance of such officer's duty;

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

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

24 (B) uniformed or properly identified university or campus police  
25 officer while such officer is engaged in the performance of such officer's  
26 duty;

27 (C) judge, while such judge is engaged in the performance of such  
28 judge's duty;

29 (D) attorney, while such attorney is engaged in the performance of  
30 such attorney's duty; or

31 (E) community corrections officer or court services officer, while  
32 such officer is engaged in the performance of such officer's duty; or

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

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

37 (B) uniformed or properly identified university or campus police  
38 officer while such officer is engaged in the performance of such officer's  
39 duty.

40 (e) Battery against a school employee is a battery, as defined in  
41 subsection (a), committed against a school employee in or on any school  
42 property or grounds upon which is located a building or structure used by a  
43 unified school district or an accredited nonpublic school for student

1 instruction or attendance or extracurricular activities of pupils enrolled in  
2 kindergarten or any of the grades one through 12 or at any regularly  
3 scheduled school sponsored activity or event, while such employee is  
4 engaged in the performance of such employee's duty.

5 (f) Battery against a mental health employee is a battery, as defined in  
6 subsection (a), committed against a mental health employee by a person in  
7 the custody of the secretary for aging and disability services, while such  
8 employee is engaged in the performance of such employee's duty.

9 (g) ~~Battery against a public transportation employee is battery, as~~  
10 ~~defined in subsection (a), committed against a public transportation~~  
11 ~~employee in, on or within 100 feet of facilities, vehicles, property or~~  
12 ~~equipment of a transportation system, including, but not limited to, park~~  
13 ~~and ride lots, transit centers, bus shelters, street furniture, public streets~~  
14 ~~and sidewalks inside and outside areas of a transportation system's~~  
15 ~~property and lands, interest in lands and rights-of-way of all kinds that are~~  
16 ~~owned, leased, held or used by transportation systems for the purpose of~~  
17 ~~providing public transportation services, while such employee is engaged~~  
18 ~~in the performance of such employee's duty operating a vehicle.~~

19 (h) (1) Battery is a class B person misdemeanor.

20 (2) Aggravated battery as defined in:

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

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

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

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

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

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

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

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

32 (4) Aggravated battery against a law enforcement officer as defined  
33 in:

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

35 and

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

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

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

41 (7) *Battery against a public transportation employee is a class A*  
42 *person misdemeanor. A person convicted of battery against a public*  
43 *transportation employee may be barred by a public transportation*

1 *provider from using public transportation services.*

2 (h) As used in this section:

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

5 (2) "state correctional officer or employee" means any officer or  
6 employee of the Kansas department of corrections or any independent  
7 contractor, or any employee of such contractor, whose duties include  
8 working at a correctional institution;

9 (3) "juvenile detention facility officer or employee" means any officer  
10 or employee of a juvenile detention facility as defined in K.S.A. 2016  
11 Supp. 38-2302, and amendments thereto;

12 (4) "city or county correctional officer or employee" means any  
13 correctional officer or employee of the city or county or any independent  
14 contractor, or any employee of such contractor, whose duties include  
15 working at a city holding facility or county jail facility;

16 (5) "school employee" means any employee of a unified school  
17 district or an accredited nonpublic school for student instruction or  
18 attendance or extracurricular activities of pupils enrolled in kindergarten or  
19 any of the grades one through 12;

20 (6) "mental health employee" means: (A) An employee of the Kansas  
21 department for aging and disability services working at Larned state  
22 hospital, Osawatomie state hospital, Kansas neurological institute and  
23 Parsons state hospital and training center and the treatment staff as defined  
24 in K.S.A. 59-29a02, and amendments thereto; and (B) contractors and  
25 employees of contractors under contract to provide services to the Kansas  
26 department for aging and disability services working at any such  
27 institution or facility;

28 (7) "judge" means a duly elected or appointed justice of the supreme  
29 court, judge of the court of appeals, judge of any district court of Kansas,  
30 district magistrate judge or municipal court judge;

31 (8) "attorney" means a: (A) County attorney, assistant county  
32 attorney, special assistant county attorney, district attorney, assistant  
33 district attorney, special assistant district attorney, attorney general,  
34 assistant attorney general or special assistant attorney general; and (B)  
35 public defender, assistant public defender, contract counsel for the state  
36 board of indigents' defense services or an attorney who is appointed by the  
37 court to perform services for an indigent person as provided by article 45  
38 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto;

39 (9) "community corrections officer" means an employee of a  
40 community correctional services program responsible for supervision of  
41 adults or juveniles as assigned by the court to community corrections  
42 supervision and any other employee of a community correctional services  
43 program that provides enhanced supervision of offenders such as house

1 arrest and surveillance programs; ~~and~~

2 (10) "court services officer" means an employee of the Kansas  
3 judicial branch or local judicial district responsible for supervising,  
4 monitoring or writing reports relating to adults or juveniles as assigned by  
5 the court, or performing related duties as assigned by the court; *and*

6 (11) "*public transportation employee*" means any employee or  
7 contract employee of a transportation system, as defined in K.S.A. 75-  
8 5034, and amendments thereto.

9 Sec. 3. K.S.A. 2016 Supp. 21-5412 and 21-5413 are hereby repealed.

10 Sec. 4. This act shall take effect and be in force from and after its  
11 publication in the statute book.