HOUSE BILL No. 2526

By Representatives Concannon, Crum, Finch, Gandhi, Gonzalez, Hill, Hineman, Jennings, Phillips, Rothlisberg, Rubin, Tietze, Trimmer and Waymaster

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AN ACT concerning crimes and punishments; relating to assault; battery; unlawful interference with a firefighter; unlawful interference with an emergency medical services attendant; creating the crime of unlawful interference with a health care provider; amending K.S.A. 2013 Supp. 21-5412, 21-5413, 21-6325 and 21-6326 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 21-5412 is hereby amended to read as follows: 21-5412. (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 health care provider is assault, as defined in subsection (a), committed against a health care provider while such provider is engaged in the performance of such provider's duty.

(f) Aggravated assault of a health care provider is assault of a health care provider, as defined in subsection (e), 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)~~ *(g)* (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. 2013 Supp. 21-6804, and amendments thereto.

(5) Assault of a health care provider is a class A person misdemeanor.

(6) Aggravated assault of a health care provider is a severity level 6, person felony.

(h) As used in this section, "health care provider" means:

(1) A person licensed by the state board of healing arts;

(2) a person engaged in a postgraduate training program approved by the state board of healing arts;

(3) an attendant certified by the emergency medical services board;

(4) a person registered or licensed by the state board of pharmacy;

(5) a person licensed by the behavioral sciences regulatory board;

(6) a licensed optometrist, dietician, speech-language pathologist, audiologist, dentist, dental hygienist, practical nurse or professional nurse;

(7) a person certified by the secretary for aging and disability services as a nurse aide, medication aide or paid nutrition assistant;

(8) a person performing services for a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, but who does not receive compensation, either directly or indirectly, for those services;

(9) a person currently enrolled in a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto, and performing healthcare-related services for a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto; and

(10) a person currently enrolled in a training program approved by the emergency medical services board pursuant to K.S.A 65-6111, and amendments thereto.

Sec. 2. K.S.A. 2013 Supp. 21-5413 is hereby amended to read as follows: 21-5413. (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) (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; 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, a juvenile correctional facility officer or employee or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty; or

(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, a juvenile correctional facility officer or employee or a juvenile detention facility officer, or employee, 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) juvenile correctional facility 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; or

(B) uniformed or properly identified university or campus police 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; or

(B) uniformed or properly identified university or campus police 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 of social and rehabilitation services, while such employee is engaged in the performance of such employee's duty.

(g) Battery against a health care provider is:

(1) Battery, as defined in subsection (a)(2), committed against a health care provider while such provider is engaged in the performance of such provider's duty;

(2) battery, as defined in subsection (a)(1), committed against a health care provider while such provider is engaged in the performance of such provider's duty; or

(3) intentionally causing human bodily fluid to make physical contact with a health care provider while such provider is engaged in the performance of such provider's duty.

(h) Aggravated battery against a health care provider is:

(1) Aggravated battery, as defined in subsection (b)(1)(A), committed against a health care provider while such provider is engaged in the performance of such provider's duty;

(2) aggravated battery, as defined in subsection (b)(1)(B) or (b)(1)(C), committed against a health care provider while such provider is engaged in the performance of such provider's duty; or

(3) intentionally causing human bodily fluid to make physical contact with a health care provider while such provider is engaged in the performance of such provider's duty and the offender has knowledge that the source of the human bodily fluid is infected with human immunodeficiency virus, hepatitis B or hepatitis C at the time the offense is committed.

~~(g)~~ *(i)* (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 health care provider as defined in:

(A) Subsection (g)(1) is a class A person misdemeanor; and

(B) subsection (g)(2) or (g)(3) is a severity level 7, person felony.

(8) Aggravated battery against a health care provider as defined in:

(A) Subsection (h)(1) is a severity level 3, person felony; and

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

~~(h)~~ *(j)* 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, working at a correctional institution;

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

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

(5) "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, working at a city holding facility or county jail facility;

(6) "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; ~~and~~

(7) "mental health employee" means an employee of the department of social and rehabilitation services working at Larned state hospital, Osawatomie state hospital and Rainbow mental health facility, 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*;*

(8) "health care provider" means:

(A) A person licensed by the state board of healing arts;

(B) a person engaged in a postgraduate training program approved by the state board of healing arts;

(C) an attendant certified by the emergency medical services board;

(D) a person registered or licensed by the state board of pharmacy;

(E) a person licensed by the behavioral sciences regulatory board;

(F) a licensed optometrist, dietician, speech-language pathologist, audiologist, dentist, dental hygienist, practical nurse or professional nurse;

(G) a person certified by the secretary for aging and disability services as a nurse aide, medication aide or paid nutrition assistant;

(H) a person performing services for a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, but who does not receive compensation, either directly or indirectly, for those services;

(I) a person currently enrolled in a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto, and performing healthcare-related services for a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto; and

(J) a person currently enrolled in a training program approved by the emergency medical services board pursuant to K.S.A 65-6111, and amendments thereto; and

(9) "human bodily fluid" means any naturally produced secretion or waste product generated by the human body and shall include, but not be limited to, any quantity of human blood, urine, saliva, mucus, vomitus, seminal fluid or feces.

Sec. 3. K.S.A. 2013 Supp. 21-6325 is hereby amended to read as follows: 21-6325. (a) Unlawful interference with a firefighter is knowingly:

(1) Interfering with any firefighter while *such firefighter is* engaged in the performance of such firefighter's ~~duties~~ *duty*; or

(2) obstructing, interfering with or impeding the efforts of any firefighter to reach the location of a fire or other emergency.

(b) Unlawful interference with a firefighter is a class ~~B~~ *A* person misdemeanor.

(c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for assault or battery.

Sec. 4. K.S.A. 2013 Supp. 21-6326 is hereby amended to read as follows: 21-6326. (a) Unlawful interference with an emergency medical services attendant is knowingly:

(1) Interfering with any attendant while *such attendant is* engaged in the performance of such attendant's ~~duties,~~ *duty;* or

(2) obstructing, interfering with or impeding the efforts of any

attendant to reach the location of an emergency.

(b) Unlawful interference with an emergency medical services attendant is a class ~~B~~ *A* person misdemeanor.

(c) As used in this section, "attendant" means the same as in K.S.A. 65-6112, and amendments thereto.

(d) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for assault or battery.

New Sec. 5. (a) Unlawful interference with a health care provider is knowingly interfering with any health care provider while such provider is engaged in the performance of such provider's duty.

(b) Unlawful interference with a health care provider is a class A person misdemeanor.

(c) As used in this section, "health care provider" means:

(1) A person licensed by the state board of healing arts;

(2) a person engaged in a postgraduate training program approved by the state board of healing arts;

(3) a person registered or licensed by the state board of pharmacy;

(4) a person licensed by the behavioral sciences regulatory board;

(5) a licensed optometrist, dietician, speech-language pathologist, audiologist, dentist, dental hygienist, practical nurse or professional nurse;

(6) a person certified by the secretary for aging and disability services as a nurse aide, medication aide or paid nutrition assistant;

(7) a person performing services for a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, but who does not receive compensation, either directly or indirectly, for those services;

(8) a person currently enrolled in a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto, and performing healthcare-related services for a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto; and

(9) a person currently enrolled in a training program approved by the emergency medical services board pursuant to K.S.A 65-6111, and amendments thereto.

(d) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for assault or battery.

(e) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 6. K.S.A. 2013 Supp. 21-5412, 21-5413, 21-6325 and 21-6326 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.