

HOUSE Substitute for SENATE BILL No. 136

AN ACT concerning university and campus police officers; amending K.S.A. 21-3110, 21-3409, 21-3411 and 72-8222 and K.S.A. 2003 Supp. 21-3413, 21-3415, 22-2401a and 74-5602 and repealing the existing sections.

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

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

- (1) “Act” includes a failure or omission to take action.
- (2) “Another” means a person or persons as defined in this code other than the person whose act is claimed to be criminal.
- (3) “Conduct” means an act or a series of acts, and the accompanying mental state.
- (4) “Conviction” includes a judgment of guilt entered upon a plea of guilty.
- (5) “Deception” means knowingly and willfully making a false statement or representation, express or implied, pertaining to a present or past existing fact.
- (6) To “deprive permanently” means to:
 - (a) Take from the owner the possession, use or benefit of ~~his or her~~ property, without an intent to restore the same; or
 - (b) Retain property without intent to restore the same or with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or
 - (c) Sell, give, pledge or otherwise dispose of any interest in property or subject it to the claim of a person other than the owner.
- (7) “Dwelling” means a building or portion thereof, a tent, a vehicle or other enclosed space which is used or intended for use as a human habitation, home or residence.
- (8) “Forcible felony” includes any treason, murder, voluntary manslaughter, rape, robbery, burglary, arson, kidnapping, aggravated battery, aggravated sodomy and any other felony which involves the use or threat of physical force or violence against any person.
- (9) “Intent to defraud” means an intention to deceive another person, and to induce such other person, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property.
- (10) “Law enforcement officer” means:
 - (a) Any person who by virtue of such person’s office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes ~~or~~;
 - (b) any officer of the Kansas department of corrections or, for the purposes of K.S.A. 21-3409, 21-3411 and 21-3415 ~~and subsection (a)(2) of K.S.A. 21-3413~~, and amendments thereto, any employee of the Kansas department of corrections; or
 - (c) *any university police officer or campus police officer, as defined in K.S.A. 22-2401a, and amendments thereto.*
- (11) “Obtain” means to bring about a transfer of interest in or possession of property, whether to the offender or to another.
- (12) “Obtains or exerts control” over property includes but is not limited to, the taking, carrying away, or the sale, conveyance, or transfer of title to, interest in, or possession of property.
- (13) “Owner” means a person who has any interest in property.
- (14) “Person” means an individual, public or private corporation, government, partnership, or unincorporated association.
- (15) “Personal property” means goods, chattels, effects, evidences of rights in action and all written instruments by which any pecuniary obligation, or any right or title to property real or personal, shall be created, acknowledged, assigned, transferred, increased, defeated, discharged, or dismissed.
- (16) “Property” means anything of value, tangible or intangible, real or personal.
- (17) “Prosecution” means all legal proceedings by which a person’s liability for a crime is determined.
- (18) “Public employee” is a person employed by or acting for the state or by or for a county, municipality or other subdivision or governmental instrumentality of the state for the purpose of exercising their

respective powers and performing their respective duties, and who is not a “public officer.”

(19) “Public officer” includes the following, whether elected or appointed:

(a) An executive or administrative officer of the state, or a county, municipality or other subdivision or governmental instrumentality of or within the state.

(b) A member of the legislature or of a governing board of a county, municipality, or other subdivision of or within the state.

(c) A judicial officer, which shall include a judge of the district court, juror, master or any other person appointed by a judge or court to hear or determine a cause or controversy.

(d) A hearing officer, which shall include any person authorized by law or private agreement, to hear or determine a cause or controversy and who is not a judicial officer.

(e) A law enforcement officer.

(f) Any other person exercising the functions of a public officer under color of right.

(20) “Real property” or “real estate” means every estate, interest, and right in lands, tenements and hereditaments.

(21) “Solicit” or “solicitation” means to command, authorize, urge, incite, request, or advise another to commit a crime.

(22) “State” or “this state” means the state of Kansas and all land and water in respect to which the state of Kansas has either exclusive or concurrent jurisdiction, and the air space above such land and water. “Other state” means any state or territory of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

(23) “Stolen property” means property over which control has been obtained by theft.

(24) “Threat” means a communicated intent to inflict physical or other harm on any person or on property.

(25) “Written instrument” means any paper, document or other instrument containing written or printed matter or the equivalent thereof, used for purposes of reciting, embodying, conveying or recording information, and any money, token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.

Sec. 2. K.S.A. 21-3409 is hereby amended to read as follows: 21-3409. (a) Assault of a law enforcement officer is an assault, as defined in K.S.A. 21-3408 and amendments thereto:

(1) Committed against 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) *committed against a uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer’s duty.*

(b) Assault of a law enforcement officer is a class A person misdemeanor.

Sec. 3. K.S.A. 21-3411 is hereby amended to read as follows: 21-3411. (a) Aggravated assault of a law enforcement officer is an aggravated assault, as defined in K.S.A. 21-3410 and amendments thereto:

(1) Committed against 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) *committed against a uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer’s duty.*

(b) 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. 21-4704, and amendments thereto.

Sec. 4. K.S.A. 2003 Supp. 21-3413 is hereby amended to read as follows: 21-3413. Battery against a law enforcement officer is a battery, as defined in K.S.A. 21-3412 and amendments thereto:

(a) (1) Committed against a 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;

(2) committed against 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;

(3) committed against a 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;

(4) committed against a 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~~

(5) committed against a 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; *or*

(6) *committed against a uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty.*

(b) Battery against a law enforcement officer as defined in subsection (a)(1) is a class A person misdemeanor. Battery against a law enforcement officer as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a severity level 5, person felony.

(c) 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. 38-1602 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. 38-1602 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.

Sec. 5. K.S.A. 2003 Supp. 21-3415 is hereby amended to read as follows: 21-3415. (a) Aggravated battery against a law enforcement officer is:

(1) An aggravated battery, as defined in subsection (a)(1)(A) of K.S.A. 21-3414 and amendments thereto, 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) a 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 (a)(1)(B) or (a)(1)(C) of K.S.A. 21-3414 and amendments thereto, 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) a uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or*

(3) intentionally causing, *with a motor vehicle*, bodily harm to: (A) A uniformed or properly identified state, county or city law enforcement officer ~~with a motor vehicle~~, while the officer is engaged in the performance of the officer's duty; *or (B) a uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty.*

(b) (1) Aggravated battery against a law enforcement officer as described in subsection (a)(1) or (a)(3) is a severity level 3, person felony.

(2) Aggravated battery against a law enforcement officer as described in subsection (a)(2) is a severity level 6, person felony.

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

Sec. 6. K.S.A. 2003 Supp. 22-2401a is hereby amended to read as follows: 22-2401a. (1) Law enforcement officers employed by consolidated county law enforcement agencies or departments and sheriffs and their deputies may exercise their powers as law enforcement officers:

(a) Anywhere within their county; and

(b) in any other place when a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person.

(2) Law enforcement officers employed by any city may exercise their powers as law enforcement officers:

(a) Anywhere within the city limits of the city employing them and outside of such city when on property owned or under the control of such city; and

(b) in any other place when a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person.

~~(3) University police officers employed by the chief executive officer of any state educational institution or municipal university may exercise their powers as university police officers anywhere:~~

~~—(a) On property owned or operated by the state educational institution or municipal university, by a board of trustees of the state educational institution, an endowment association, an athletic association, a fraternity, sorority or other student group associated with the state educational institution or municipal university;~~

~~—(b) on the streets, property and highways immediately adjacent to the campus of the state educational institution or municipal university;~~

~~—(c) within the city where such property as described in this subsection is located, as necessary to protect the health, safety and welfare of students and faculty of the state educational institution or municipal university, with appropriate agreement by the local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the chief executive officer of the state educational institution or municipal university involved before such agreement may take effect, and~~

~~—(d) additionally, when there is reason to believe that a violation of a state law, a county resolution, or a city ordinance has occurred on property described in subsection (3)(a) or (b), such officers with appropriate notification of, and coordination with, local law enforcement agencies or departments, may investigate and arrest persons for such a violation anywhere within the city where such property, streets and highways are located. Such officers also may exercise such powers in any other place when in fresh pursuit of a person. University police officers shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located. University police officers at the university of Kansas medical center may provide emergency transportation of medical supplies and transplant organs.~~

(3) University police officers employed by the chief executive officer of any state educational institution or municipal university may exercise their powers as university police officers anywhere:

(a) On property owned or operated by the state educational institution or municipal university, by a board of trustees of the state educational institution, an endowment association, an athletic association, a fraternity, sorority or other student group associated with the state educational institution or municipal university;

(b) on the streets, property and highways immediately adjacent to the campus of the state educational institution or municipal university;

(c) *within the city where such property as described in this subsection is located, as necessary to protect the health, safety and welfare of students and faculty of the state educational institution or municipal university, with appropriate agreement by the local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the chief executive officer of the state educational institution or municipal university involved before such agreement may take effect; and*

(d) *additionally, when there is reason to believe that a violation of a state law, a county resolution, or a city ordinance has occurred on property described in subsection (3)(a) or (b), such officers with appropriate notification of, and coordination with, local law enforcement agencies or departments, may investigate and arrest persons for such a violation anywhere within the city where such property, streets and highways are located. Such officers also may exercise such powers in any other place when in fresh pursuit of a person. University police officers shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located. University police officers at the university of Kansas medical center may provide emergency transportation of medical supplies and transplant organs.*

(4) In addition to the areas where law enforcement officers may exercise their powers pursuant to subsection (2), law enforcement officers of any jurisdiction within Johnson or Sedgwick county may exercise their powers as law enforcement officers in any area within the respective county when executing a valid arrest warrant or search warrant, to the extent necessary to execute such warrants.

(5) In addition to the areas where university police officers may exercise their powers pursuant to subsection (3), university police officers may exercise the powers of law enforcement officers in any area outside their normal jurisdiction when a request for assistance has been made by law enforcement officers from the area for which assistance is requested.

(6) In addition to the areas where law enforcement officers may exercise their powers pursuant to subsection (2), law enforcement officers of any jurisdiction within Johnson county may exercise their powers as law enforcement officers in any adjoining city within Johnson county when any crime, including a traffic infraction, has been or is being committed by a person in view of the law enforcement officer. A law enforcement officer shall be considered to be exercising such officer's powers pursuant to subsection (2), when such officer is responding to the scene of a crime, even if such officer exits the city limits of the city employing the officer and further reenters the city limits of the city employing the officer to respond to such scene.

(7) *Campus police officers employed by a community college or school district may exercise the power and authority of law enforcement officers anywhere:*

(a) *On property owned, occupied or operated by the school district or community college or at the site of a function sponsored by the school district or community college;*

(b) *on the streets, property and highways immediately adjacent to and coterminous with property described in subsection (7)(a);*

(c) *within the city or county where property described in subsection (7)(a) is located, as necessary to protect the health, safety and welfare of students and faculty of the school district or community college, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the board of education or board of trustees involved;*

(d) *with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in subsection (7)(a) or (7)(b) is located, when there is reason to believe*

that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation;

(e) when in fresh pursuit of a person; and

(f) when transporting persons in custody to an appropriate facility, wherever it may be located.

~~(7)~~ (8) As used in this section:

(a) “Law enforcement officer” has the meaning ascribed thereto in K.S.A. 22-2202 and amendments thereto.

(b) “University police officers officer” means ~~university police officers~~ *a police officer employed by the chief executive officer of: (1) Any state educational institution under the control and supervision of the state board of regents; or (2) a municipal university.*

(c) “Campus police officer” means *a school security officer designated as a campus police officer pursuant to K.S.A. 72-8222, and amendments thereto.*

~~(e)~~ (d) “Fresh pursuit” means pursuit, without unnecessary delay, of a person who has committed a crime, or who is reasonably suspected of having committed a crime.

Sec. 7. K.S.A. 72-8222 is hereby amended to read as follows: 72-8222. (a) The board of education of any school district or the board of trustees of any community college may employ school security officers, and may designate any one or more of such school security officers as a ~~school law enforcement~~ *campus police officer*, to aid and supplement law enforcement agencies of ~~this state and of the community~~ *the state and of the city and county* in which the school district or community college is located.

(b) The protective function of school security officers ~~and school law enforcement officers~~ shall extend to all ~~school district~~ *property of the school district or community college* and the protection of students, teachers and other employees together with the property of such persons on or in any school or *community college* property or areas adjacent thereto, or while attending or located at the site of any school or community college-sponsored function. While engaged in the protective functions specified in this section, each school security officer ~~and each school law enforcement officer~~ shall possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in every county in which there is located any part of the territory of the school district or community college.

(c) *The protective function of campus police officers shall extend to all property of the school district or community college and the protection of students, teachers and other employees together with the property of such persons on or in any school or community college property or areas adjacent thereto, or while attending or located at the site of any school or community college-sponsored function. While engaged in the protective functions specified in this section, each campus police officer shall possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in every county in which there is located any part of the territory of the school district or community college.*

(d) *Campus police officers shall have the power and authority of law enforcement officers:*

(1) *On property owned, occupied or operated by the school district or community college or at the site of a function sponsored by the school district or community college;*

(2) *on the streets, property and highways immediately adjacent to and coterminous with property described in subsection (d)(1);*

(3) *within the city or county where property described in subsection (d)(1) is located, as necessary to protect the health, safety and welfare of students and faculty of the school district or community college, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the board of education or board of trustees involved;*

(4) *with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in subsection (d)(1) or (d)(2) is located, when there is reason to believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation;*

(5) *when in fresh pursuit of a person; and*

(6) *when transporting persons in custody to an appropriate facility, wherever it may be located.*

(e) *In addition to enforcement of state law, county resolutions and city ordinances, campus police officers shall enforce rules and regulations and rules and policies of the board of trustees or school board, whether or not violation thereof constitutes a criminal offense. While on duty, campus police officers shall wear and display publicly a badge of office. No such badge shall be required to be worn by any plain clothes investigator or departmental administrator, but any such officer shall present proper credentials and identification when required in the performance of such officer's duties. In performance of any of the powers, duties and functions authorized by this section, K.S.A. 2003 Supp. 22-2401a, and amendments thereto, or any other law, campus police officers shall have the same rights, protections and immunities afforded other law enforcement officers.*

(f) *The board of education of each school district shall adopt a policy providing for notification of a student's parents or guardians whenever the student is taken into custody by a campus police officer.*

Sec. 8. K.S.A. 2003 Supp. 74-5602 is hereby amended to read as follows: 74-5602. As used in the Kansas law enforcement training act:

(a) "Training center" means the law enforcement training center within the division of continuing education of the university of Kansas, created by K.S.A. 74-5603 and amendments thereto.

(b) "Commission" means the Kansas law enforcement training commission, created by K.S.A. 74-5606 and amendments thereto.

(c) "Dean" means the dean of the division of continuing education of the university of Kansas.

(d) "Director," as created in K.S.A. 74-5603 and amendments thereto, means the director of police training at the law enforcement training center.

(e) "Police officer" or "law enforcement officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to, the sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff's office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858 and amendments thereto; conservation officers of the Kansas department of wildlife and parks; ~~campus police officers at all state educational institutions or a municipal university~~ *university police officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus police officers, as defined in K.S.A. 22-2401a, and amendments thereto;* law enforcement agents of the director of alcoholic beverage control; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol area security guards, existing under the authority of K.S.A. 75-4503 and amendments thereto. Such terms shall also include railroad policemen appointed pursuant to K.S.A. 66-524 and amendments thereto; and school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222 and amendments thereto. Such terms shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official's elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the commissioner of juvenile justice, the secretary of corrections or the secretary of social and rehabilitation services; any deputy conservation officer of the Kansas department of wildlife and parks; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-

time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the duties of such person's office or employment. Such term shall include any officer appointed or elected on a provisional basis.

(f) "Full-time" means employment requiring at least 1,000 hours of work per year.

(g) "Part-time" means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of work per year.

(h) "Misdemeanor crime of domestic violence" means a violation of domestic battery as provided by K.S.A. 2003 Supp. 21-3412a and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

(i) "Auxiliary personnel" means members of organized nonsalaried groups which operate as an adjunct to a police or sheriff's department, including reserve officers, posses and search and rescue groups.

Sec. 9. K.S.A. 21-3110, 21-3409, 21-3411 and 72-8222 and K.S.A. 2003 Supp. 21-3413, 21-3415, 22-2401a and 74-5602 are hereby repealed.

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

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.