

HOUSE BILL No. 2024

By Committee on Judiciary

1-15

1 AN ACT concerning crimes and punishment; relating to domestic battery;
2 amending K.S.A. 2014 Supp. 21-5414 and repealing the existing
3 section.

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

6 Section 1. K.S.A. 2014 Supp. 21-5414 is hereby amended to read as
7 follows: 21-5414. (a) Domestic battery is:

8 (1) Knowingly or recklessly causing bodily harm by a family or
9 household member against a family or household member; or

10 (2) knowingly causing physical contact with a family or household
11 member by a family or household member when done in a rude, insulting
12 or angry manner.

13 (b) Domestic battery is:

14 (1) Except as provided in subsection (b)(2) or (b)(3), a class B person
15 misdemeanor and the offender shall be sentenced to not less than 48
16 consecutive hours nor more than six months' imprisonment and fined not
17 less than \$200, nor more than \$500 or in the court's discretion the court
18 may enter an order which requires the offender to undergo a domestic
19 violence offender assessment conducted by a certified batterer intervention
20 program and follow all recommendations made by such program;

21 (2) except as provided in subsection (b)(3), a class A person
22 misdemeanor, if, within five years immediately preceding commission of
23 the crime, an offender is convicted of domestic battery a second time and
24 the offender shall be sentenced to not less than 90 days nor more than one
25 year's imprisonment and fined not less than \$500 nor more than \$1,000.
26 The five days imprisonment mandated by this paragraph may be served in
27 a work release program only after such offender has served 48 consecutive
28 hours imprisonment, provided such work release program requires such
29 offender to return to confinement at the end of each day in the work
30 release program. The offender shall serve at least five consecutive days
31 imprisonment before the offender is granted probation, suspension or
32 reduction of sentence or parole or is otherwise released. As a condition of
33 any grant of probation, suspension of sentence or parole or of any other
34 release, the offender shall be required to undergo a domestic violence
35 offender assessment conducted by a certified batterer intervention program
36 and follow all recommendations made by such program, unless otherwise

HB2024 Proposed Amendments
For Committee on Judiciary
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ordered by the court ~~or department of corrections~~; and

(3) a person felony, if, within five years immediately preceding commission of the crime, an offender is convicted of domestic battery a third or subsequent time, and the offender shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$7,500. The offender convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the offender has served at least 90 days imprisonment. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court ~~or department of corrections~~. If the offender does not undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, the offender shall serve not less than 180 days nor more than one year's imprisonment. The 90 days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program.

(c) *In determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense under this section, a court shall consider ~~available~~ information relating to any current or prior protective order issued against such person.*

(d) As used in this section:

(1) "Family or household member" means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. "Family or household member" also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; ~~and~~

(2) "protective order" means:

(A) *A protection from abuse order issued pursuant to K.S.A. 60-3105, 60-3106 or 60-3107, and amendments thereto;*

(B) *a protective order issued by a court or tribunal of any state or Indian tribe that is consistent with the provisions of 18 U.S.C. § 2265;*

(C) *a restraining order issued pursuant to K.S.A. 23-2707, 38-2243, 38-2244 or 38-2255, and amendments thereto, or K.S.A. 60-1607, prior to its transfer;*

Strike "available"

presented to the court