

SENATE BILL No. 466

By Committee on Ways and Means

2-18

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to domestic battery; amending K.S.A. 2015 Supp. 21-5414 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 2015 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. *The*
21 *person convicted shall serve at least 48 consecutive hours' imprisonment*
22 *either before or as a condition of any grant of probation or suspension,*
23 *reduction of sentence or parole. The court may place the person convicted*
24 *under a house arrest program pursuant to K.S.A. 2015 Supp. 21-6609, and*
25 *amendments thereto, to serve the remainder of the sentence only after such*
26 *person has served 48 consecutive hours' imprisonment;*

27 (2) except as provided in subsection (b)(3), a class A person
28 misdemeanor, if, within five years immediately preceding commission of
29 the crime, an offender is convicted of domestic battery a second time and
30 the offender shall be sentenced to not less than 90 days nor more than one
31 year's imprisonment and fined not less than \$500 nor more than \$1,000.
32 The five days imprisonment mandated by this paragraph may be served in
33 a work release program only after such offender has served 48 consecutive
34 hours imprisonment, provided such work release program requires such
35 offender to return to confinement at the end of each day in the work
36 release program. The offender shall serve at least five consecutive days

1 imprisonment before the offender is granted probation, suspension or
2 reduction of sentence or parole or is otherwise released. As a condition of
3 any grant of probation, suspension of sentence or parole or of any other
4 release, the offender shall be required to undergo a domestic violence
5 offender assessment conducted by a certified batterer intervention program
6 and follow all recommendations made by such program, unless otherwise
7 ordered by the court or department of corrections; and

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

28 (c) As used in this section:

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

38 (2) for the purpose of determining whether a conviction is a first,
39 second, third or subsequent conviction in sentencing under this section:

40 (A) "Conviction" includes being convicted of a violation of K.S.A.
41 21-3412a, prior to its repeal, this section or entering into a diversion or
42 deferred judgment agreement in lieu of further criminal proceedings on a
43 complaint alleging a violation of this section;

1 (B) "conviction" includes being convicted of a violation of a law of
2 another state, or an ordinance of any city, or resolution of any county,
3 which prohibits the acts that this section prohibits or entering into a
4 diversion or deferred judgment agreement in lieu of further criminal
5 proceedings in a case alleging a violation of such law, ordinance or
6 resolution;

7 (C) only convictions occurring in the immediately preceding five
8 years including prior to July 1, 2001, shall be taken into account, but the
9 court may consider other prior convictions in determining the sentence to
10 be imposed within the limits provided for a first, second, third or
11 subsequent offender, whichever is applicable; and

12 (D) it is irrelevant whether an offense occurred before or after
13 conviction for a previous offense.

14 (d) A person may enter into a diversion agreement in lieu of further
15 criminal proceedings for a violation of this section or an ordinance of any
16 city or resolution of any county which prohibits the acts that this section
17 prohibits only twice during any five-year period.

18 Sec. 2. K.S.A. 2015 Supp. 21-5414 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after its
20 publication in the statute book.