

HOUSE BILL No. 2522

By Committee on Judiciary

1-23

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to use of force; immunity from prosecution or liability; amending
3 K.S.A. 2017 Supp. 21-5221, 21-5230 and 22-2307 and repealing the
4 existing sections; also repealing K.S.A. 2017 Supp. 21-5231.
5

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

7 Section 1. K.S.A. 2017 Supp. 21-5221 is hereby amended to read as
8 follows: 21-5221. (a) As used in article 32 of chapter 21 of the Kansas
9 Statutes Annotated *and K.S.A. 2017 Supp. 21-5231*, prior to their repeal,
10 K.S.A. 2017 Supp. 21-5202 through 21-5208, 21-5210 through 21-5212,
11 and 21-5220 through ~~21-5231~~ 21-5230, and K.S.A. 2017 Supp. 21-3212a,
12 21-3220 and 21-3221, and amendments thereto:

13 (1) "Use of force" means any or all of the following directed at or
14 upon another person or thing: (A) Words or actions that reasonably convey
15 the threat of force, including threats to cause death or great bodily harm to
16 a person; (B) the presentation or display of the means of force; or (C) the
17 application of physical force, including by a weapon or through the actions
18 of another.

19 (2) "Use of deadly force" means the application of any physical force
20 described in paragraph (1) which is likely to cause death or great bodily
21 harm to a person. Any threat to cause death or great bodily harm,
22 including, but not limited to, by the display or production of a weapon,
23 shall not constitute use of deadly force, so long as the actor's purpose is
24 limited to creating an apprehension that the actor will, if necessary, use
25 deadly force in defense of such actor or another or to affect a lawful arrest.

26 (b) An actor who threatens deadly force as described in subsection (a)
27 (1) shall be subject to the determination in ~~subsection (a)~~ of K.S.A. 21-
28 3211(a), prior to its repeal, or ~~subsection (a)~~ of K.S.A. 2017 Supp. 21-
29 5222(a), and amendments thereto, and not to the determination in
30 ~~subsection (b)~~ of K.S.A. 21-3211(b), prior to its repeal, or ~~subsection (b)~~
31 of K.S.A. 2017 Supp. 21-5222(b), and amendments thereto.

32 Sec. 2. K.S.A. 2017 Supp. 21-5230 is hereby amended to read as
33 follows: 21-5230. A person who is not engaged in an unlawful activity and
34 who is attacked in a place where such person has a right to be has no duty
35 to retreat and has the right to stand such person's ground and use any force
36 which such person would be justified in using under article 32 of chapter

1 21 of the Kansas Statutes Annotated *and K.S.A. 2017 Supp. 21-5231*, prior
2 to their repeal, or K.S.A. 2017 Supp. 21-5202 through 21-5208, 21-5210
3 through 21-5212, and 21-5220 through ~~21-5231~~ 21-5230, and amendments
4 thereto.

5 Sec. 3. K.S.A. 2017 Supp. 22-2307 is hereby amended to read as
6 follows: 22-2307. (a) All law enforcement agencies in this state shall adopt
7 written policies regarding domestic violence calls as provided in
8 subsection (b). These policies shall be made available to all officers of
9 such agency.

10 (b) Such written policies shall include, but not be limited to, the
11 following:

12 (1) A statement directing that when a law enforcement officer
13 determines that there is probable cause to believe that a crime or offense
14 involving domestic violence, as defined in K.S.A. 2017 Supp. 21-5111,
15 and amendments thereto, has been committed, the officer shall, without
16 undue delay, arrest the person for which the officer has probable cause to
17 believe committed the crime or offense if such person's actions were not
18 an act of defense of a person or property as provided in K.S.A. 2017 Supp.
19 21-5222, 21-5223, 21-5225; *or* 21-5230 ~~or 21-5231~~, and amendments
20 thereto;

21 (2) a statement that nothing shall be construed to require a law
22 enforcement officer to:

23 (A) Arrest either party involved in an alleged act of domestic
24 violence when the law enforcement officer determines there is no probable
25 cause to believe that a crime or offense has been committed; *or*

26 (B) arrest both parties involved in an alleged act of domestic violence
27 when both claim to have been victims of such domestic violence;

28 (3) a statement directing that if a law enforcement officer receives
29 complaints of domestic violence from two or more opposing persons, the
30 officer shall evaluate each complaint separately to determine if there is
31 probable cause that each accused person committed a crime or offense and
32 their actions were not an act of defense of a person or property as provided
33 in K.S.A. 2017 Supp. 21-5222, 21-5223, 21-5225; *or* 21-5230 ~~or 21-5231~~,
34 and amendments thereto;

35 (4) a statement defining domestic violence in accordance with K.S.A.
36 2017 Supp. 21-5111, and amendments thereto;

37 (5) a statement describing the dispatchers' responsibilities;

38 (6) a statement describing the responding officers' responsibilities and
39 procedures to follow when responding to a domestic violence call and the
40 suspect is at the scene;

41 (7) a statement regarding procedures when the suspect has left the
42 scene of the crime;

43 (8) procedures for both misdemeanor and felony cases;

- 1 (9) procedures for law enforcement officers to follow when handling
- 2 domestic violence calls involving court orders, including protection from
- 3 abuse orders, restraining orders and a protective order issued by a court of
- 4 any state or Indian tribe;
- 5 (10) a statement that the law enforcement agency shall provide the
- 6 following information to victims, in writing:
- 7 (A) Availability of emergency and medical telephone numbers, if
- 8 needed;
- 9 (B) the law enforcement agency's report number;
- 10 (C) the address and telephone number of the prosecutor's office the
- 11 victim should contact to obtain information about victims' rights pursuant
- 12 to K.S.A. 74-7333 and 74-7335, and amendments thereto;
- 13 (D) the name and address of the crime victims' compensation board
- 14 and information about possible compensation benefits;
- 15 (E) advise the victim that the details of the crime may be made
- 16 public;
- 17 (F) advise the victim of such victims' rights under K.S.A. 74-7333
- 18 and 74-7335, and amendments thereto; and
- 19 (G) advise the victim of known available resources which may assist
- 20 the victim; and
- 21 (11) whether an arrest is made or not, a standard offense report shall
- 22 be completed on all such incidents and sent to the Kansas bureau of
- 23 investigation.
- 24 Sec. 4. K.S.A. 2017 Supp. 21-5221, 21-5230, 21-5231 and 22-2307
- 25 are hereby repealed.
- 26 Sec. 5. This act shall take effect and be in force from and after its
- 27 publication in the statute book.