

**HOUSE BILL No. 2120**

By Committee on Judiciary

1-22

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to sex offenses; sexual battery; removing spousal exception; amending  
3 K.S.A. 2020 Supp. 21-5505 and repealing the existing section.  
4

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

6 Section 1. K.S.A. 2020 Supp. 21-5505 is hereby amended to read as  
7 follows: 21-5505. (a) Sexual battery is the touching of a victim ~~who is not~~  
8 ~~the spouse of the offender~~, who is 16 or more years of age and who does  
9 not consent thereto, with the intent to arouse or satisfy the sexual desires  
10 of the offender or another.

11 (b) Aggravated sexual battery is ~~the touching of a victim who is 16 or~~  
12 ~~more years of age and who does not consent thereto with the intent to~~  
13 ~~arouse or satisfy the sexual desires of the offender or another and sexual~~  
14 *battery, as defined in subsection (a)*, under any of the following  
15 circumstances:

16 (1) When the victim is overcome by force or fear;

17 (2) when the victim is unconscious or physically powerless; or

18 (3) when the victim is incapable of giving consent because of mental  
19 deficiency or disease, or when the victim is incapable of giving consent  
20 because of the effect of any alcoholic liquor, narcotic, drug or other  
21 substance, which condition was known by, or was reasonably apparent to,  
22 the offender.

23 (c) (1) Sexual battery is a class A person misdemeanor.

24 (2) Aggravated sexual battery is a severity level 5, person felony.

25 (d) Except as provided in subsection (b)(3), it shall not be a defense  
26 that the offender did not know or have reason to know that the victim did  
27 not consent to the battery, that the victim was overcome by force or fear, or  
28 that the victim was unconscious or physically powerless.

29 Sec. 2. K.S.A. 2020 Supp. 21-5505 is hereby repealed.

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