

**HOUSE BILL No. 2079**

By Representative Parker

1-24

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to sex offenses; sexual battery; spouses; amending K.S.A. 2018 Supp.  
3 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. 2018 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 under  
14 any of the following circumstances:

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

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

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

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

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

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

28 Sec. 2. K.S.A. 2018 Supp. 21-5505 is hereby repealed.

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