

ORDINANCE NO. G-1129

AN ORDINANCE AMENDING TITLE II. PUBLIC HEALTH, SAFETY, AND WELFARE, OF THE MUNICIPAL CODE OF THE CITY OF JUNCTION CITY, KANSAS BY AMENDING CHAPTER 220 OFFENSES; ARTICLE III: OFFENSES AGAINST PERSONS; SECTION 220.150 & SECTION 220.155 (previously reserved).

WHEREAS, Junction City's current City Ordinance categorizes domestic battery as a sub-section of battery.

WHEREAS, Junction City recognizes the importance of having a separate ordinance for domestic battery.

WHEREAS, Junction City will be able to incorporate a new domestic battery ordinance once it is removed as a sub-section of the battery ordinance.

WHEREAS, Junction City recognizes the prevalence of domestic battery among its inhabitants and the importance in protecting family members by punishing those persons engaged in battery directed against other family or household members.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF JUNCTION CITY, KANSAS:

SECTION 220.150 is amended to read as follows:

SECTION 220.150: - BATTERY

A. Battery is:

- (1) Intentionally or recklessly causing bodily harm to another person; or
- (2) Intentionally causing physical contact with another person when done in a rude, insulting or angry manner.

B. Battery is a Class B misdemeanor.

SECTION 220.155 is amended to read as follows:

SECTION 220.155: - DOMESTIC BATTERY.

A. Domestic Battery is:

- (1) Intentionally or recklessly causing bodily harm by a family or household member against a family or household member; or
- (2) Intentionally causing physical contact with a family or household member by a family or household member when done in a rude, insulting or angry manner.

B. Sentencing:

(1) Upon a first conviction of a violation of domestic battery, a person shall be guilty of a Class B misdemeanor and sentenced to not less than 48 consecutive hours nor more than six months' imprisonment and fined not less than \$200, nor more than \$500 or in the court's discretion the court may enter an order which requires the person enroll in and successfully complete a domestic violence prevention program.

(2) If, within five years immediately preceding commission of the crime, a person is convicted of a violation of domestic battery a second time, such person shall be guilty of a Class A violation and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted must serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for domestic violence prevention.

C. 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) For the purpose of determining whether a conviction is a first or second conviction in sentencing under this section:

(a) Conviction includes being convicted of a violation of this section or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(b) Conviction includes being convicted of a violation of a law of another state, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(c) Only convictions occurring in the immediately preceding five years including prior to the effective date of this act shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first or second offender, whichever is applicable; and

(d) It is irrelevant whether an offense occurred before or after conviction for a previous offense.

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

This ordinance shall become effective upon publication in the Junction City Daily Union as required by law.

PASSED AND ADOPTED THIS 16th DAY OF JULY, 2013.



Tyler Ficken
City Clerk

Cecil Aska
Mayor