

TOP 10 TOPICS OFFICERS MUST KNOW FROM THE 2014 LEGISLATIVE SESSION

June 28, 2014

1. **Search and Arrest Warrant Affidavits** are now more accessible to the media and public. Ten reasons information may be redacted or the affidavit may be sealed are provided. Public requests are made to the court clerk. The prosecution and defense then has 5 business days to tell the court why the affidavit should be sealed or redacted. The court then has 5 business days to release, seal, or redact the affidavit. ([HB2389](#)§3 and 4 amending KSA 22-2302 and 22-2502) More details are available at www.KsLawEnforcementInfo.com/2014-session.html.
2. The **Interference with Law Enforcement** statute is amended effective July 1, 2014. Corrects an error created when the revisor consolidated two statutes last year. The error restricted the use of the statute to cases involving felony or misdemeanor investigations only. This revision restores the application of the statute to the investigation in any law enforcement action including felony, misdemeanor, infraction, or non-criminal matters. In addition, a new subsection is created to clarify the law applies to knowingly making a false accusation against a law enforcement officer. ([HB2655](#)§2 amending KSA 21-5904)
3. The **Felons in Possession of Weapons** statute is amended to include certain knives as well as firearms. This is accomplished by changing the word “firearm” to “weapon” in the statute, defining “weapon” as a firearm or knife, and defining the term “knife.” The prohibited knives include dagger, dirk, switchblade, stiletto, straight-edge razor or any other dangerous or deadly cutting instrument of like character. ([HB2578](#)§12 amending KSA 21-6304) More details for items 3- 6 are available at www.KsLawEnforcementInfo.com/concealed-carry.html.
4. **Firearms in Vehicles and Open Carry local ordinances, resolutions, or regulations** are null and void and may not be enforced as of July 1, 2014. The loaded firearms in vehicles provisions in KSA 12-16,124 allowing local regulation of the manner of transporting of a firearm in a vehicle was stricken. Effectively, this likely eliminates any local ordinances, resolutions or regulation of loaded firearms in vehicles as well as open carry of firearms. ([HB2578](#)§7 amending KSA 12-16,124 and 21-5904)
5. **Firearms Open Carry in Posted Buildings** is prohibited anywhere concealed carry is prohibited. In addition, a new posting will be created for those places to post that want to allow concealed carry but prohibit open carry. ([HB2578](#)§5 creates new statute)
6. **Possession of a Firearm while Intoxicated** now applies to open carry and concealed carry. Exceptions for self-defense and on the person’s own property are included. The existing statute, KSA 75-7c12, which applied only to CCH permit holders is repealed. A new statute is created which is supposed to go into the criminal code. .08 is presumptive intoxication. Test refusal can be used in the criminal trial. Test refusal carries a civil penalty of \$1000. The refusal is part of the criminal case and cannot be pursued without the criminal charge. The testing process was reworked and is the same as the DUI process except all references to the motor vehicle related requirements are removed. ([HB2578](#)§6 creating a new statute)
7. **Child in Need of Care:** No child alleged or found to be a child in need of care may be placed in a juvenile detention facility unless: (1) Necessary to protect the safety of the child and is authorized by subsection (b) of K.S.A. 2013 Supp. 38-2232, 38-2242, 38-2243 or 38-2260; or (2) the child is also alleged to be a juvenile offender and such placement is authorized by K.S.A. 38-2330 or 38-2343. ([HB2588](#)§2, creates a new statute.)

8. **Electronic Crimes:** The law has changed regarding the jurisdiction in which certain electronic crimes may be prosecuted. The bill defines “crime committed with an electronic device” by specifying the applicable crimes are: Criminal use of a financial card, 21-5828; unlawful acts concerning computers, 21-5839; identity theft and identity fraud, 21-6107; and electronic solicitation, 21-5509. Those crimes may be prosecuted in the county where: 1) the victim resides; 2) the victim was present at the time of the crime; 3) the property gained by the crime was obtained or attempted to be obtained, or 4) any requisite act to the commission of the crime occurred. These venues are available in addition to any venue available under other provisions of law. ([HB2478](#), creates a new statute.)
9. **Juvenile Statute of Limitations:** Prosecution of a juvenile may commence at any time (no statute of limitation) for rape, aggravated criminal sodomy, capital murder, terrorism, or illegal use of weapons of mass destruction, the same as for an adult. For sexually violent crimes, prosecution may commence within 10 years if the victim is age 18 or older; and within 10 years of the victims 18th birthday if the victim is less than 18 years old. The existing law on commencing prosecution beyond the statute of limitations but within one year of a DNA match to the suspect also applies. Definitions are provided in the statute describing when prosecution commences and when the limitation period starts. These are the same statute of limitations as for adults. ([SB329](#)§1, amends KSA 38-2303.)
10. **The Newborn Infant Protection Act** is amended to include police stations, sheriff’s offices and law enforcement centers. Protects disclosure of the name or other identifiable information of a parent or custodian who voluntarily surrenders physical custody of an infant under the Newborn Infant Protection Act, unless there was reasonable suspicion the infant has been abused. Protects the person or facility receiving the infant from civil and criminal liability for any action taken under the Act. The parent or custodian would not be required to reveal personally identifiable information, but could offer information concerning the infant’s familial or medical history. Clarifies the person or facility to whom an infant is delivered would be prohibited from revealing the name or other identifiable information of the person who delivered the infant, unless there was reasonable suspicion the infant has been abused. ([HB2577](#), amends KSA 38-2282.)

MORE INFORMATION ON THESE AND OTHER LEGISLATIVE ACTIONS IS AVAILABLE AT:
<http://www.KsLawEnforcementInfo.com/2014-session.html>

Always follow the guidance of your agency for application and implementation of new and amended laws. The author is not an attorney and this document is not legal advice. It is a summary of the legislation based on observations and discussions during the legislative process. **Questions should be addressed within your agency following your agency’s protocol.**

Prepared by: Ed Klumpp, legislative liaison, Kansas Association of Chiefs of Police, Kansas Sheriff’s Association, and Kansas Peace Officers Association