



# 2016 Legislative Session



**M-Squad**  
**May 17, 2016**

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This presentation is made possible through support of the  
Kansas Sheriffs Association  
Kansas Association of Chiefs of Police  
Kansas Peace Officers Association

Additional information is available at:  
[www.KsLawEnforcementInfo.com/2016-session.html](http://www.KsLawEnforcementInfo.com/2016-session.html)

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## **DISCLAIMER** **AND** **HOW TO USE THIS INFORMATION**

*Disclaimer: The presenter is not an attorney. The intent of this presentation is not to provide legal advice. It is to provide what the presenter believes to be an accurate summary of the legislative intent of the bills as developed during participation in the legislative process.*

*Always consult your local agency's legal advisor, local prosecutor, or other attorney for legal interpretation and the requirements of new statutes.*

*Always follow your agency's direction on enforcement policies and procedures.*

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### Current Legislative Status

- **Bills Signed by Governor**
  - Effective July 1
  - Effective with Publication in Kansas Register
  - Delayed effective dates
- *Bills Passed Not Signed*

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### Criminal Law

- **Agg. Burglary to Open Business (HB2462)**
  - Can only be used with intent to commit person felony or sexually motivated crime.
- *Violation of Consumer Protection Order (HB2460) SL9 Person*

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### Criminal Law

- **Theft (HB2462)**
  - \$1500 for felony
  - 3<sup>rd</sup> Misdemeanor is felony
    - If loss is \$50 or greater.
    - 5 year lookback
- *Revenge Porn (HB2501)*
  - *Breach of Privacy KSA 21-6101*
  - *Blackmail KSA 21-5428*

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### Criminal Law

- *Sexting (HB2501) Unlawful Possession of a Visual Depiction of a Child*
  - *Image of person in state of nudity*
  - *Does not apply to images involving sexually explicit conduct or obscenity*
  - *Person in photo cannot be charged*
  - *Images of person 12 through 15 yrs. of age, possessed by person under 19 yoa.*
  - *Exempts Persons under 19 possessing nude photo of 16 or 17 yr. old.*
  - *Received directly from person in image.*
  - *Defense*
    - *Received w/o request or coercion*
    - *Not transmitted, disseminated or exhibited*
    - *Good faith effort to erase, delete, destroy*

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### Criminal Law

- *Sexting (HB2501)*
  - *Unlawful Transmission of a Visual Depiction of a Child*
  - *Image of person in state of nudity*
  - *Images of person 12 through 17 yoa, transmitted by person under 19 yoa.*
  - *Does not apply to images involving sexually explicit conduct or obscenity*
  - *Person in photo cannot be charged*
  - *No offender registration*

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### Criminal Law

- *Sexting (HB2501)*
  - *Possession of image when obtained directly from person in image is a B Misdemeanor.*
  - *Transmission is a Class A Misdemeanor for 1<sup>st</sup> offense; SL10 person felony for second and subseq.*
  - *Agg. Transmission is with*
    - *Intent to harass, embarrass, intimidate, defame, or otherwise inflict physical, emotional, psychological, harm*
    - *For pecuniary or tangible gain*
    - *Intent to exhibit or transmit to more than 1 person*
    - *SL9 Person (1<sup>st</sup> Offense)/SL7 Pers (2<sup>nd</sup>+)*

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### Criminal Procedure

- *Significantly Subaverage Intellectual Functioning (HB2049)*
  - *USSC Hall v Florida*
  - *Applicable to Death Penalty Defendants*
- *Crime committed with electronic device (HB2501)*

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### Law Enforcement Procedure

- **Abuse and Neglect (SB408)**
  - Transfers certain cases from AG to local law enforcement.
- **Jurisdiction: University Police (HB2696)**
- **Missing Persons (SB376)**
  - NCIC entry within 2 hours

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### Law Enforcement Procedure

- **Mutual Aid (HB2549)**
  - Across state lines
- **Runaway (SB418)**
  - Law enforcement must take child into custody with reason to believe child is missing or a runaway and or entered into NCIC.

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## Investigations

- **Search of Parolee (SB325)**
  - *State v Toliver*
  - *Search of person and person's effects, vehicle, residence, and property.*
- **CINC Cases: Access to Reports (SB418)**
  - *Access for county/district attorney added*
  - *Requires pending child in need of care matter with any of the same parties or same interested parties.*
- **Eyewitness Identification (HB2151)**
  - *Requires written policy by 7/1/18*

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## Firearms and Weapons

- **(HB2502)**
- **Public Buildings: Partial/Temporary Ban**
- **Courtrooms**
- **Public Employees When Working**
- **Restricted Access Entry Fast Pass Permits**
- **Adequate Security Measure: Armed Personnel Required**

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## DRUGS

- **Drug Schedules (HB2018)**
  - *Schedule Updates for Synthetics and Other Illegal Substances*
- **Possession of Marijuana Penalties (HB2462)**
  - *1<sup>st</sup> Offense B Misdemeanor; 2<sup>nd</sup> A Misdemeanor; 3<sup>rd</sup>+ DSL5*

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### Juvenile Justice Reform

- SB367: Various effective dates
- Local programming required
- Funding from state??
- Law enforcement is allowed to use complaint/notice to appear. (1/1/17)
  - Parent and child must contact intake within 48 hours.
- Agreements/Training for Schools and law enforcement assigned to schools.

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### Juvenile Justice Reform

- Prosecution as adult.
  - Age 14
  - Presumptions to try as an adult are removed.
- Intake makes release and referral decisions.
- Preference to release to parent.
  - Unless not in best interest of child.
  - Reason to believe risk to public safety or property

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### Juvenile Justice Reform

- Case Length Limits
  - Misdemeanors: Up to 12 months
  - Low and moderate risk: up to 15 months
  - High risk: up to 18 months
  - No limits on off-grid or SL1-4 felonies
  - Cannot be ran consecutive

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## Juvenile Justice Reform

- **Probation Terms**
  - **Determined by court based on**
    - Most serious adjudicated count
    - Risk and needs assessment
    - Cannot exceed case length limits
  - **Length limits**
    - Low and moderate risk misdemeanor and low risk felon: up to 6 months
    - High risk misdemeanor and moderate risk felon: up to 9 months
    - High risk felon: up to 12 months

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## Juvenile Justice Reform

- **Extension of Probation Terms**
  - **May be extended to complete evidence based program**
  - **May be extended for good cause**
    - Low risk: up to one additional month
    - Moderate risk: up to 3 additional months
    - High risk: up to 6 additional months

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## Juvenile Justice Reform

- **Graduated responses for technical probation violations**
- **Reintegration plans required**
- **Immediate intervention plans (1/1/17)**
  - **Multidisciplinary team to review cases where the juvenile is not satisfactorily completing the plan.**
- **Much more in the bill.**

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## Human Trafficking

- SB418
- DCF is required to notify law enforcement immediately when a person is identified as a human trafficking victim
- Definition of CINC amended to include juvenile with a protective custody order issued due to human trafficking; or a child who has committed selling sexual relations.
- Information gathered at intake cannot be used in court except for diagnostic and referral purposes of a trafficked juvenile.

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## Open Records

- Body Camera/Vehicle Video (SB22)
- Personal Devices (SB22)
  - Public record is subject to open records even if on personal device or personal communication system.
  - Device and personal communications is not subject to inspection or disclosure.
- Warrant Affidavits (HB2545)
  - Once ruled open it is open to anyone.
  - Notice to victims via prosecutor.
  - New personal privacy provisions used to redact but not close.

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## Offender Registration

- No offender registration under new Sexting crime
- Violation Penalties (HB2463)
  - Violation is a person crime if the crime leading to registration is a person crime
  - Violation is a nonperson crime if the crime leading to registration is a nonperson crime

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## Alcohol Law

- **Minor in Possession (SB133)**
- **Cider and Meade (SB326)**

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## Sentencing

- **Agg. Burglary: Residential (HB2462)**
  - SL4 Person; Was SL5 Person
- **Burglary: Residential (HB2462)**
  - Now a nonperson SL7; Was Person SL7
  - Presumptive Imprisonment in Grid areas 7-C; 7-D; or 7-E; Was Presumptive Probation
- **Burglary of Dwelling with Intent to Steal Firearm (HB2462)**
  - SL5 Person; Was SL5 Nonperson

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## Sentencing

- **Absconders (HB2463)**
  - *Can be sentenced to prison without quick dip sanctions occurring first*
- **Criminal History for Juvenile Offenses (HB2463)**
  - *For new crime committed after age 25 SL5-10 felonies, all drug felonies, any non-grid felony; any misdemeanor decays and is not counted.*

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## Sentencing

- **Early release for parents (HB2151)**
  - Home release at DOC discretion
  - Only SL4-SL10 or Drug SL3-5 crimes.
  - No prior conviction for sex offense or non-drug inherently dangerous felony.
  - Must have custody of child
  - Must have less than 12 months remaining on sentence.
- **Program Credits (HB2447)**
  - Increased from 90 days to 120 days.

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## Other

- **KCJIS Disposition Records (SB362)**
- *Identity Theft: AG Victim Assistance (HB2460)*
- **Identity Theft (HB2134)**
  - Security Freezes
  - Includes person less than 18 yoa.
- **Public Speech Protection Act (SB319)**
- **Rental Property Inspections (SB366)**
- **DL Photos, Laser Printed (HB2522)**
- **Effect of past convictions on professional licensing changing to allow for showing of rehabilitation. (HB2456 & HB2615)**

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## Other

- **Final Dispositions (SB392)**
  - Prisoner can request final disposition on pending cases.
- **Drones (SB319)**
  - Subject to Civil Action under Stalking Civil Remedies.
- **Bail Enforcement Agents Must be Licensed by AG (HB2056)**
  - Violation subject to consumer protection action
  - 1<sup>st</sup> Violation of apprehending person without a license is A Misdemeanor
  - 2<sup>nd</sup> and subsequent SL9 NP Felony

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## KPERS

- SB168
- Annuity Rates
- Death and Disability Contributions
- Death Benefits for KPERS Act of 2015 members
- Deferred Comp
- Working After Retirement
  - KP&F earnings cap to \$25,000/year.
- State Payments Deferred (Budget Bill)

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## Other Topics You Want to Discuss

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## SUMMARY

More amendments will be published in the **Guide to 2016 Legislation**

Watch for the final session summary document

<http://www.kslawenforcementinfo.com/2016-session.html>

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