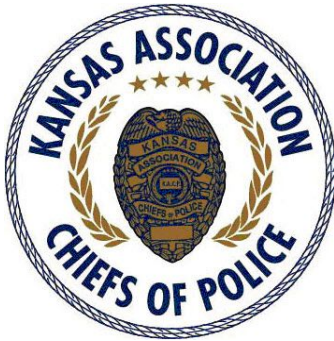


# Guide To 2018 Kansas Legislation Impacting Law Enforcement

Version 1.0  
June 26, 2018



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This document summarizes legislation impacting law enforcement passed by the 2018 legislature. This document is intended to address the statute changes most relevant to law enforcement operations. Not all changes are listed. **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, as well as published legislative reports. **Questions should be addressed within your agency following your agency's protocol.**

Additional documents available at [www.KsLawEnforcementInfo.com/2018-session.html](http://www.KsLawEnforcementInfo.com/2018-session.html)

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### Errata Table

Version	Date	Correction
1.0	06/29/2018	Original Document

### UPDATED STATUTES:

Available now at: <http://www.kscoplaw.com/thelawpage.htm>

Will not be available on the state website until later in the year.



# Ten Things from the 2018 Kansas Legislative Session Every Law Enforcement Officer Should Know

Presented by Kansas Association of Chiefs of Police; Kansas Sheriffs Association; Kansas Peace Officers Association

June 25, 2018

1. **Firearms/Weapons:** Effective May 3, 2018, four prohibitions to firearm possession that have existed in federal law but not state law are added to KSA 21-6301. These are: conviction of misdemeanor domestic violence in past 5 years; subject to certain court orders restraining the person from harassing, stalking, or threatening an intimate partner or a child of the person or the intimate partner, or from engaging in conduct placing the intimate partner or a child of the person or intimate partner in reasonable fear of bodily injury (It is required the person has had an opportunity to attend a hearing on the order and certain conditions of the order are required); in the US illegally; and fugitive from justice. There are also changes to the statute relating to throwing stars and firearm sound suppressors manufactured in Kansas and never having been removed from Kansas. The throwing stars are no longer in the subsection making them illegal to possess or sell, but instead are illegal only with intent to use against another person. Sound suppressors made in Kansas are exempt from the law unless they have been taken out of state at any time. See [full details, including revised KSA 21-6301, at this link \(http://bit.ly/KsWeapons2018\)](http://bit.ly/KsWeapons2018) [HB2145. Bill Summary](#)
2. **Civil Asset Forfeiture:** Effective July 1, 2018, there are major changes to the Civil Asset Forfeiture laws, mostly in legal process and creating centralized state reporting requirements. The changes most directly affecting line operations are in KSA 60-4109 (a)(4) creating a requirement by the officer making the decision to seek forfeiture to complete an affidavit of facts supporting forfeiture; a change to KSA 60-4106 (a)(2) increasing the level of proof relating to vehicles or other conveyance from "it appears" the owner or other person in charge of the conveyance is a consenting party or privy to the civil forfeiture law violation, to proof by preponderance of evidence; and a change to KSA 60-4112 striking the rebuttable presumption of intent to facilitate an act giving rise to forfeiture based on location near controlled substances at the time of seizure. The proximity to controlled substances is instead one of four factors in a non-exclusive list to consider as the totality of the circumstances in determination of the items being subject to forfeiture. See [full details at this link \(http://bit.ly/KsForfeiture2018\)](http://bit.ly/KsForfeiture2018) [HB2459. Bill Summary](#) See the revised statutes at: <http://www.kscoplaw.com/KSAs/Ch60Art41.htm>
3. **DUI:** Effective July 1, 2018, major revisions to the DUI laws are made, mostly to bring the laws into compliance with case law from state and federal courts over the past several years. The statute on preliminary breath tests is unchanged. However, changes are extensive in evidentiary testing including no longer can a person be charged criminally for refusing to submit to evidentiary testing. The test advisories are significantly changed and revised forms have been distributed by the Department of Revenue which must be used on and after July 1, 2018. There is a different advisory for blood and urine and for other types of tests, primarily a breath test. There are also changes in when tests may be requested in traffic crashes, also changes for the use of search warrants to obtain evidentiary tests. Because of how extensive the changes are I have not included details here. Be sure to review the [full details at this link \(http://bit.ly/DUI2018\)](http://bit.ly/DUI2018) [SB374. Bill Summary](#) See the revised statutes at: <http://www.kscoplaw.com/vehcode/art10.html>
4. **Drug Enforcement:**
  - a. **Drug Schedule Updates** Effective May 24, 2018 KSA 65-4105, Schedule I Drugs, is amended by adding 12 forms of synthetic opioid fentanyl and MT-45 an opioid analgesic. Also adds several cannabinoid classes to cover several new synthetics. KSA 65-4107, Schedule II Drugs, is amended by adding a fentanyl precursor. Dronabinol, a synthetic THC compound, is also moved here from Schedule IV to mirror a federal change. KSA 65-4109, Schedule III Drugs, is amended by updating the list of anabolic steroids. See [full details at this link \(http://bit.ly/KsDrugLaws2018\)](http://bit.ly/KsDrugLaws2018) [SB282 §1-3 Bill Summary](#) See the revised statutes at: <http://www.kscoplaw.com/KSAs/Ch65Art41.htm>
  - b. **Marijuana Definition and Cannabidiols:** Effective May 24, 2018, the Marijuana definition was amended in both KSA 21-5701 subsection (j) and KSA 65-4101 subsection (aa) to exclude cannabidiols. This was to allow the sale and possession (not manufacturing) of certain cannabidiols

marketed as a health aid commonly sold in health food stores and convenience stores. This definition does not exclude all cannabinoids from the definition and is designed to be very narrow for the marketed products. The change in definition does not allow those products to contain any amount of THC or other controlled substance, they must be THC free to be legal since THC is still a scheduled drug. See [full details at this link \(http://bit.ly/KsDrugLaws2018\)](http://bit.ly/KsDrugLaws2018) [SB282](#) §4-5 [Bill Summary](#) See the revised KSA 21-5701 at: <http://www.kscoplax.com/crimcode/2668code/art57.htm>

- c. **THC Penalties:** KSA 21-5706 is amended to make the penalties for simple possession of THC the same as they are for marijuana: First offense is a class B nonperson misdemeanor; second offense is a class A nonperson misdemeanor; and a third or subsequent offense is a drug severity level 5 felony. See [full details at this link \(http://bit.ly/KsDrugLaws2018\)](http://bit.ly/KsDrugLaws2018) [HB2458](#) §6 [Bill Summary](#) See the revised KSA 21-5706 at: <http://www.kscoplax.com/crimcode/2668code/art57.htm>
- 5. **Industrial or Agricultural Hemp:** Effective May 3, 2018, the Kansas Dept. of Agriculture is authorized to license industrial or agricultural hemp operations. These must be operated under the provisions of the Federal Farm Act. Hemp cannot contain more than 0.3% THC. Although this law is in effect now, it will be the first of 2019 before it will be operational. There are lots of parts to this but the most notable affecting line operations is licensed participants will be required to keep their license in their possession at all times they are engaged in cultivation, growth, research, oversight, study, analysis, transportation, processing, or distribution of certified seed or industrial hemp. [Sections 4-5] The definition of marijuana is amended in KSA 21-5701 subsection (j) and KSA 65-4101 subsection (aa) to exclude hemp as authorized in the Act. [Sections 4 & 6] KSA 65-4105, the schedule I drug statute, is amended in subsection (h)(1) to exclude THC obtained from industrial hemp but only “when cultivated, possessed or used for activities authorized by the alternative crop research act.” Any other THC possession, extraction, or distribution is still criminal, even if conducted by a person licensed under the Act. [Section 7] See [full details at this link \(http://bit.ly/KsDrugLaws2018\)](http://bit.ly/KsDrugLaws2018) [SB263](#) §4-7 [Bill Summary](#)
- 6. **Alcohol Enforcement:**
  - a. **CMB Act Enforcement:** A new statute is created effective July 1, 2018, authorizing the ABC director to issue a citation for any violation of the Kansas cereal malt beverage act, or any rules and regulations relating to the Act regarding the sale, consumption or possession of beer containing not more than 6% alcohol by volume. The citation must be issued in compliance with KSA 41-106. Fines cannot exceed \$1,000 for each violation. See [full details at this link \(http://bit.ly/KsAlcohol2018\)](http://bit.ly/KsAlcohol2018) [HB2502](#) §1 [Bill Summary](#) See the revised statutes at: <http://www.kscoplax.com/KSAs/Ch41Art27.htm>  
**NOTE:** Only ABC may issue citations for violations of ABC regulations and the numerous alcohol acts under their authority. However, KSA 41-106 provides the process for non-ABC law enforcement to report violations to the ABC after giving written notice at the time of the violation to the licensee or person in charge of the premises of the violation as provided in KSA 41-106 (c) and the law enforcement officer submits of report of the incident to the ABC. A form you may use for this report and other information regarding licensees is available at: <https://www.kdor.ks.gov/apps/LiquorLicensee/ABCLEOInfo.aspx>
  - b. **Hours of Sale for Off-Premise Consumption:** Effective May 24, 2018, Farm Winery and Winery Outlet allowable hours on Sunday to sell alcohol products for each license class for off-premise consumption is changed from noon-6 pm to 6am-midnight. [KSA 41-308a sub (d)]. Microbrewery and Microdistillery allowable hours on Sunday to sell alcohol products allowed for each license class for off-premise consumption on Sunday is changed from 11 am-7 pm to 6 am-midnight. [KSA 41-308b sub (e) and KSA 41-354 sub (c)]. See [full details at this link \(http://bit.ly/KsAlcohol2018\)](http://bit.ly/KsAlcohol2018) [HB2470](#) §3-5 [Bill Summary](#) See the revised statutes at: <http://www.kscoplax.com/KSAs/Ch41Art3.htm>
  - c. **Hours of Sale for On-Premise Consumption:** Effective May 24, 2018, Public Venues, Clubs, and Drinking Establishments hours when serving, mixing, or consuming alcoholic liquor on the licensed



premises is prohibited is changed from 2 am-9am to 2am-6am. [KSA 41-2614 sub (a)] See [full details at this link](#) (<http://bit.ly/KsAlcohol2018>) [HB2470](#) §6 [Bill Summary](#) See the revised statutes at: <http://www.kscoplax.com/KSAs/Ch41Art3.htm>

- d. **Strong Beer Time of Sale Restrictions in Certain Cities/Townships:** [HB2502 section 4] Effective 7/1/18 KSA 41-2704 sub (c) is amended to allow the day and hour restrictions for strong beer sales to follow that of CMB restrictions in certain cities and townships that have opted to expand the days and hours of sale as allowed in KSA 41-2911. (Cleanup from bill last year.) See [full details at this link](#) (<http://bit.ly/KsAlcohol2018>) [HB2502](#) §4 [Bill Summary](#) See the revised statutes at: <http://www.kscoplax.com/KSAs/Ch41Art27.htm>
- e. **Self-Serve Beer and Wine:** Effective May 24, 2018, KSA 41-2640 is amended by adding a new subsection (e) which authorizes public venues, clubs, and drinking establishments to allow self-serve beer and/or wine. The new provisions also create the following requirements: 1) the licensee must give the ABC at least 48-hours notice they will provide self-serve beer or wine [subsection (e)(2)(B)]; 2) the devices must be included in constant video monitoring, the recordings must be retained for at least 60 days, and law enforcement shall have access to the video [subsection (e)(2)(C)]; 3) access cards for the automated device must be used to allow the self-service [subsection (e)(2)(D)]; 4) persons purchasing the access cards must show identification at time of purchase [subsection (e)(2)(E)]; 5) the access cards must become inactive at the end of the business day (2 am) they are issued [subsection (e)(2)(F)]; 6) each access card must only allow the dispensing of no more than 15 ounces of wine or 32 ounces of beer. The access card can be reactivated by again showing identification and purchasing additional dispensing with the same quantity limits. [subsection (e)(2)(G)]; 7) employees using the automated machines to serve customers are not restricted to the limits [subsection (e)(2)(G)]; and 8) all laws and regulations concerning sale of alcohol to person under the legal age of consumption apply to the self-serve process [subsection ((e)(4)]. See [full details at this link](#) (<http://bit.ly/KsAlcohol2018>) [HB2470](#) §7 [Bill Summary](#) See the revised statutes at: <http://www.kscoplax.com/KSAs/Ch41Art26.htm>
- 7. **Counterfeiting:** Effective July 1, 2018, a new crime of counterfeiting is created in state statute which includes: 1) Making, forging, or altering any note, obligation, or security of the United States (SL7 nonperson felony for total face value of \$25,000 or more, SL8 nonperson felony for total face value less than \$25,000); 2) Distributing, or possessing with the intent to distribute, any obligation or security of the United States knowing the obligation or security has been so made, forged, or altered (same penalties as above; 3) Possessing any paper, ink, printer, press, currency plate, or other item with the intent to produce any counterfeit note, currency, obligation, or security of the United States (SL9 nonperson felony). [HB2458](#) §1 [Bill Summary](#) See the revised statutes at: <http://www.kscoplax.com/crimcode/2668code/art58.htm#21-5840>
- 8. **Juveniles**
  - a. **CINC Custody for Juvenile Mental Health Crisis:** Effective July 1, 2018, KSA 38-2231 is amended governing a law enforcement officer (LEO) taking a child into custody to require a LEO to take a child under 18 years of age into custody when the LEO reasonably believes the child is experiencing a mental health crisis and is likely to cause harm to self or others. [SB179](#) §2 [Bill Summary](#) See the revised statutes at: <http://www.kscoplax.com/Chapter38/Article22CodeForCareOfChildren.htm#38-2231>
  - b. **Offender Custody Disposition by LEO:** Effective July 1, 2018, KSA 38-2330 governing disposition of a juvenile taken into custody by a law enforcement officer as a juvenile offender is amended by adding the option of delivering the juvenile to a juvenile crisis intervention center, provided the juvenile is determined to not be detention eligible based on a standardized detention risk assessment tool, is experiencing a mental health crisis, and upon written authorization by a community mental health center. [SB179](#) §6 [Bill Summary](#) See the revised statutes at: <http://www.kscoplax.com/Chapter38/Article23JuvenileJusticeCode.htm#38-2330>

## 9. Protection Orders:

- a. **Juvenile Victim of Abuse:** Effective July 1, 2018, KSA 60-3104 and 60-3105 are amended to provide if a juvenile is the target of abuse, the following may apply for a Protection from Abuse Order on behalf of the juvenile: 1) the juvenile's parent, 2) an adult residing with the juvenile, or 3) a court-appointed legal custodian, or court-appointed legal guardian. [SB281](#) §2-3 [Bill Summary](#) See the revised statutes at: <http://www.kscoplax.com/KSAs/Ch60Art31.htm>
- b. **Juvenile Victim of Sexual Assault or Stalking:** Effective July 1, 2018, KSA 60-31a04 is amended to provide for a juvenile victim of sexual assault or stalking, the following persons may file for a protection order from sexual assault or stalking may be sought by 1) the juvenile's family, 2) an adult household member, or 3) a court-appointed legal custodian or court-appointed legal guardian. [SB281](#) §7 [Bill Summary](#) See the revised statutes at: <http://www.kscoplax.com/KSAs/Ch60Art31a.htm>
- c. **Human Trafficking:** Effective July 1, 2018, KSA 21-5924, 60-31a01, 60-31a02, 60-31a03, 60-31a04, 60-31a05, 60-31a06, 60-31a07, 60-31a08, 60-31a09 are amended to provide human trafficking victimization as an eligible act subject to a protection order. Allows victims of human trafficking to seek protection orders against a person allegedly trafficking the victim. If the victim is a juvenile, the order can be sought by 1) the juvenile's family, 2) an adult household member, 3) a court appointed legal custodian or court-appointed legal guardian, 4) a county or district attorney, or 5) the attorney general. A human trafficking protection order restrains the defendant from following, harassing, telephoning, contacting, recruiting, harboring, transporting, or committing or attempting to commit human trafficking upon the human trafficking victim, or otherwise communicating with the human trafficking victim. A violation of a human trafficking protection order is a violation of KSA 21-5924, violation of a protective order, or other applicable crimes in KSA Chapter 21. The human trafficking statutes that apply to allow eligibility for the protection order are KSA 21-5426, human trafficking and aggravated human trafficking; KSA 21-6422, commercial exploitation of a child; or KSA 21-6419 selling sexual relations. [SB281](#) §1 & 4-12 [Bill Summary](#) See the revised statutes at: <http://www.kscoplax.com/KSAs/Ch60Art31a.htm>
- d. **Cell Phone Contracts:** Effective July 1, 2018, a new statute is created providing protection from abuse orders may include a transfer of rights to a wireless telephone number. This is intended to address issues where the plaintiff and defendant in the PFA action share a cell phone account. Allows cell phone providers to divide an existing contract without consent of the person named in the account. [HB2524](#) [Bill Summary](#)

- 10. Unlawful Sexual Relations by LEO:** Effective July 1, 2018, KSA 21-5512 is amended to add law enforcement officers to the list of persons included in the Unlawful Sexual Relations statute. This would include voluntary sexual relations between an officer and a person " with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person 16 years or older who is interacting with such law enforcement officer during the course of a traffic stop, a custodial interrogation, an interview in connection with an investigation, or while the law enforcement officer has such person detained." [HB2523](#) §2 [Bill Summary](#) See the revised statutes at: <http://www.kscoplax.com/crimcode/2668code/art55.htm#21-5512>

NOTE: If this document has been printed making the internal links unavailable, you can locate the bills and summaries at: [http://www.kslegislature.org/li/b2017\\_18/measures/bills/](http://www.kslegislature.org/li/b2017_18/measures/bills/) Enter only the bill number (leave off the SB or HB).

The author of this document is not an attorney and this is not legal advice. It is a summary of legislation passed in the 2018 Kansas legislative session and based on explanations, observations, and studies of the bill and related documents.

Always follow your agency policies and utilize your agency protocol to refer to your local prosecutors and agency attorneys for legal interpretations and application of case law.

2018 Officers Must Know

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6/25/18

Officer Page 4 of 4 pages



## Five Things from the 2018 Kansas Legislative Session Every Law Enforcement Administrator Should Know

Presented by Kansas Association of Chiefs of Police; Kansas Sheriffs Association; Kansas Peace Officers Association

June 25, 2018

- 1. Background Investigations:** Effective July 1, 2018, there is a process for mandatory disclosure of a law enforcement officer applicant's files if the applicant has been employed by another state or local law enforcement agency or governmental agency. This includes all performance reviews or other files related to job performance, commendations, administrative files, grievances, previous personnel applications, personnel-related claims, disciplinary actions, internal investigation files, suspensions, investigation-related leave, documents concerning termination or other departure from employment, all complaints, and all early warning information. See [full details at this link](#). [SB180](#) §1 & 2. [Bill Summary](#)  
**ACTION CONSIDERATION:** Share this information with your personnel or human resources officials so they can properly respond to these requests from other agencies. Be sure your background procedures include the required documents and processes to access this information from other agencies. Be sure those conducting your background investigations are aware of these changes.
- 2. Body Cam/Car Cam Video:** Effective July 1, 2018, persons listed in KSA 45-254 must be allowed to view LE video release within 20-days of the request. This includes 1) a person who is a subject of the recording; 2) any parent or legal guardian of a person under 18 years of age who is a subject of the recording; 3) an heir at law, an executor or an administrator of a decedent, when a decedent is a subject of the recording; and 4) an attorney representing any of those listed. See [full details at this link](#). [SB336](#). [Bill Summary](#)  
**ACTION CONSIDERATION:** Discuss these procedures with your legal staff and prosecutors. Identify methods for redaction if it should be necessary and allowable under the law. Determine you have adequate equipment to provide the viewing. Clarify that during the viewing, recording by the viewing person is not allowed. Consider a written policy on how this will be conducted.
- 3. Civil Asset Forfeiture:** Effective July 1, 2018, seizure for forfeiture requires a probable cause affidavit by officer initiating forfeiture action. The current federal expenditure rules for forfeiture funds is adopted for state forfeiture funds. Also amends several legal procedures involved in the civil asset forfeiture process. Retains current civil standards without criminal conviction and forfeited fund distribution. See [full details at this link](#). [HB2459](#) [Bill Summary](#)  
**ACTION CONSIDERATION:** Be sure you submit the required reports to your governing body at the end of the calendar year for 2018. Be sure you are using the state reporting system starting January 1, 2019, or when the KBI has it ready to use.
- 4. Redaction of Social Security Numbers in Released Documents:** Effective July 1, 2018, the entire social security number must be redacted from any publicly released documents. In the past the last four digits were allowed to be unredacted. [SB336](#)§9. [Bill Summary](#)  
**ACTION CONSIDERATION:** Be sure those handling your records and public release of documents is aware of this new requirement.

5. **Animal Control Sheltering Licensing:** Amends the Kansas Pet Animal Act by prohibiting a licensure requirement of those providing temporary care of dogs or cats owned by an animal shelter licensed pursuant to the Act. The shelter must maintain a current list of individuals providing such temporary care and must have a written and signed agreement between the temporary care provider and the shelter. Animal shelter license maximum fees are changed to \$400 for a first class city; \$335 for a second class city; and \$285 for a third class city. If the premises requires more than one license the fee is the highest of the above fees plus \$50 for each additional license. The license period is changed to Oct 1 to Sep 30 from July 1 to Jun 30. Prior law set a maximum fee of \$300 for all shelters. Effective July 1, 2018. [HB2477](#)§5 & 8. [Bill Summary](#)  
**ACTION CONSIDERATION:** Review these changes with those responsible for your animal shelter operations.

**Requirements from Past Sessions Effective July 1, 2018 :** Legislation was passed in 2016 and 2017 requiring all Kansas law enforcement agencies to have written policies in place no later than July 1, 2018, on Eyewitness Identification and on Recording of Interrogations. The intent is for law enforcement to use best practices on these issues which address leading causes of wrongful convictions. For eyewitness identification, this includes photo lineups, live lineups, and on scene “show-ups.” If you are still using a photo lineup with a series of photos all on one sheet of paper, you need to explore the vast amount of best practices research over the past 5 or more years which reflect this is not a best practice. The minimum requirement for recording interrogations is to record interrogations when a suspect under investigation for a homicide or any felony sex crime must be given Miranda warnings, and is in custody in a facility under the control of a Kansas law enforcement agency. They did not pass a law requiring a specific procedure, but every agency is required to have a written policy/procedure in place by 7/1/18 on these topics. See [KSA 22-4619](#) for Eyewitness ID and [KSA 22-4620](#) for Recording Interrogations.

**ACTION CONSIDERATION:** Be sure your officers are utilizing up-to-date best practices for these critical procedures. If you have a written procedure/policy in place, review it for compliance with the new statutes. If you do not have a written procedure/policy in place, start the process of preparing one and consider conferring with your county/district attorney in the process. Model Kansas policies are available at this website: <http://www.kcdaa.org/KCDAA-Best-Practices-&-Policies>.

ALSO SEE THE [TEN THINGS EVERY LAW ENFORCEMENT OFFICER SHOULD KNOW](#) FROM THE 2018 LEGISLATIVE SESSION.

The author of this document is not an attorney and this is not legal advice. It is a summary of legislation passed in the 2018 Kansas legislative session and based on explanations, observations, and studies of the bill and related documents.

Always follow your agency policies and utilize your agency protocol to refer to your local prosecutors and agency attorneys for legal interpretations and application of case law.

## 2018 ENACTED LEGISLATION TOPIC LIST

Tuesday, June 26, 2018

TOPIC	Final Bill	Final Brief	Summary	Bill Section	Effective Date
911 Coordinating Council Legislative Post Audit	<a href="#">HB2438</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	All	5/24/2018
Abuse/Neglect: Mandatory Reporters	<a href="#">SB311</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	1, 2	7/1/2018
Alcohol: Candy	<a href="#">HB2470</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1, 2, 8	5/24/2018
Alcohol: Hours of Sale	<a href="#">HB2470</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	3, 4, 5, 6	5/24/2018
Alcohol: Microbrewery Refillable Containers	<a href="#">HB2470</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	4	5/24/2018
Alcohol: Microbrewery: Contract Brewing	<a href="#">HB2470</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	4	5/24/2018
Alcohol: Self-Service Beer	<a href="#">HB2470</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	7	5/24/2018
Alcohol: Strong Beer Sale Hours in Certain Cities	<a href="#">HB2502</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	4	7/1/2018
Alcohol: Strong Beer Sales Enforcement	<a href="#">HB2502</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	1 & 2	7/1/2018
Amusement Rides	<a href="#">SB310</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	All	5/17/2018
Animal Control: Licensure of animal shelters and temporary care of dogs and cats	<a href="#">HB2477</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	5, 8	4/26/2018
Background Investigations: Law Enforcement	<a href="#">SB180</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1, 2	7/1/2018
Body Cam Video	<a href="#">SB336</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	8	7/1/2018
Civil Liability: Rescue of Animal or Person From Vehicle	<a href="#">HB2516</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	1	7/1/2018
Civil Process: Saturday Service	<a href="#">SB288</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	1	7/1/2018
Competency	<a href="#">HB2549</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	1 & 2	7/1/2018
Counterfeiting	<a href="#">HB2458</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1	7/1/2018
CPOST: Confidentiality of Records	<a href="#">SB180</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	3	7/1/2018
CPOST: Domestic Violence Definition	<a href="#">HB2523</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	3	7/1/2018
Crime Victims: Compensation	<a href="#">SB261</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	9	5/8/2018
Drivers License Renewal, CDL	<a href="#">HB2606</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	2 & 3	7/1/2018
Driver's License Renewal, Online	<a href="#">SB461</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1	7/1/2018
Drugs: CBD Oil	<a href="#">SB282</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	4, 5	5/24/2018

TOPIC	Final Bill	Final Brief	Summary	Bill Section	Effective Date
Drugs: Schedules	<a href="#">HB282</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1, 2,3	5/24/2018
Drugs: THC Penalty	<a href="#">HB2458</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	6	7/1/2018
Drugs: Treatment Programs: Drug Severity Level 4 Crimes	<a href="#">HB2458</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	8	7/1/2018
DUI	<a href="#">SB374</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	All	7/1/2018
DUI: Involuntary Manslaughter	<a href="#">HB2439</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	All	7/1/2018
Elder Abuse or Mistreatment: Inherently Dangerous Felony	<a href="#">HB2458</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	2	7/1/2018
Elder Abuse or Mistreatment: New Elements; Amended Sentencing	<a href="#">HB2458</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	5	7/1/2018
Emergency Vehicles: Weight Limits	<a href="#">SB272</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	3	7/1/2018
Escape	<a href="#">HB2458</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	7	7/1/2018
Federal Officers, Assault/Battery	<a href="#">HB2458</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	3, 4	7/1/2018
Firearms: Prohibition from Possession	<a href="#">HB2145</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	All	5/3/2018
Firearms: Silencer	<a href="#">HB2145</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	1	5/23/2018
Forfeiture, Civil Asset	<a href="#">HB2459</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	All	7/1/2018
Hemp: Agricultural	<a href="#">SB263</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	All	5/3/2018
Identity Theft: Credit Report Security Freeze	<a href="#">HB2580</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	All	7/1/2018
Interoperability Advisory Committee (Public Safety Radios)	<a href="#">HB2556</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1	7/1/2018
Juror contact limitations in Civil Cases	<a href="#">HB2579</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	5	7/1/2018
Juror contact limitations in Criminal Cases	<a href="#">HB2479</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	2	7/1/2018
Juvenile Crisis Intervention	<a href="#">SB179</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	All	7/1/2018
Juveniles: Case Length Limits	<a href="#">HB2454</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	3	7/1/2018
Juveniles: Detention review	<a href="#">HB2454</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	1, 2	7/1/2018
Juveniles: LEO Custody for CINC	<a href="#">SB179</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	2	7/1/2018
Juveniles: Newborn Infant Protection Act	<a href="#">SB179</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	14	7/1/2018
Juveniles: Offender Custody Disposition by LEO	<a href="#">SB179</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	6	7/1/2018
Law Enforcement Highway Memorials	<a href="#">SB375</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1-19	7/1/2018



TOPIC	Final Bill	Final Brief	Summary	Bill Section	Effective Date
License Plate: Distinctive	<a href="#">HB2599</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	1, 2, 4, 5, 6, 7, 8	7/1/2018
Licensure of Professional Occupations	<a href="#">HB2386</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1	7/1/2018
Open Records: Child Fatality	<a href="#">SB336</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	3	7/1/2018
Open Records: Review of exceptions	<a href="#">SB336</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	7	7/1/2018
Open Records: SSN Redaction	<a href="#">SB336</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	9	7/1/2018
Prison Privatization	<a href="#">SB328</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1	5/17/2018
Protection Orders, Abuse	<a href="#">SB281</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	2. 3	7/1/2018
Protection Orders, Human Trafficking	<a href="#">SB281</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	1 & 4-12	7/1/2018
Protection Orders, Sexual Assault or Stalking	<a href="#">SB281</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	7	7/1/2018
Protection Orders: Cell Phones	<a href="#">HB2524</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	All	7/1/2018
Reconciliation Bill	<a href="#">SB461</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	1, 2, and 4	7/1/2018
Records Check: Ag Hemp Program	<a href="#">SB263</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	2	5/3/2018
Records Check; Child Care Workers	<a href="#">HB2639</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	1	7/1/2018
Sales Suppression Devices	<a href="#">HB2488</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1	7/1/2018
Scrap Metal	<a href="#">SB261</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	3-8	5/17/2018
Sentencing: Criminal History Calculation	<a href="#">HB2567</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	All	3/29/2018
Sexual Relations, Unlawful: LEO	<a href="#">HB2523</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	2	7/1/2018
Sexually Violent Predator: Transitional Release	<a href="#">SB266</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	All	7/1/2018
Sheriff Qualifications	<a href="#">HB2523</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>		7/1/2018
Stay of Criminal Case	<a href="#">HB2479</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>		7/1/2018
Swatting	<a href="#">HB2581</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	1	7/1/2018
Technology: Cybersecurity Act	<a href="#">SB56</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1-8	7/1/2018
Technology: Information Technology Executive Council	<a href="#">SB56</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	9	7/1/2018
Throwing Stars	<a href="#">HB2145</a>	<a href="#">Supp Note</a>	<a href="#">Summary</a>	All	5/3/2018
Traffic: Commercial Vehicle: Length	<a href="#">SB272</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	5	7/1/2018
Traffic: Golf Carts	<a href="#">SB272</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	4	7/1/2018
Traffic: Motorcycle Training Courses	<a href="#">HB2606</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1	7/1/2018
Traffic: Passing Waste Collector	<a href="#">SB272</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1-2	7/1/2018

<u>TOPIC</u>	<u>Final Bill</u>	<u>Final Brief</u>	<u>Summary</u>	<u>Bill Section</u>	<u>Effective Date</u>
Traffic: School Buses: Passing	<a href="#">SB272</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	2	7/1/2018
Wrongfully Convicted: Compensation and Benefits	<a href="#">HB2579</a>	<a href="#">CCR Brief</a>	<a href="#">Summary</a>	1-4	7/1/2008

**Guide To  
2018 Kansas Legislation  
Impacting Law Enforcement**

**Section on  
Criminal Law  
Criminal Procedure  
and  
Law Enforcement Procedure**

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# 2018 CRIMINAL LAW, CRIMINAL PROCEDURE, AND LE PROCEDURE ENACTED LEGISLATION

Tuesday, June 26, 2018

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## TOPIC

### Abuse/Neglect: Mandatory Reporters

Status **Signed** 352

Final Bill [SB311](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 33

Bill Section 1, 2 Eff Date 7/1/2018 Delayed Eff Date

Adds emergency medical personnel to the list of mandatory reporters of abuse, neglect, exploitation, or need of protective services of certain "residents" or adults. As defined in KSA 39-1430, for the purposes of reports required to go to law enforcement, "resident" means a person confined to an adult care home and "adult" is a person age 18 or over alleged to be unable to protect their own interest and who is harmed or threatened with harm, whether financial, mental or physical in nature, through action or inaction by either another individual or through their own action or inaction.

Amends 39-1402 and 39-1431

### Background Investigations: Law Enforcement

Status **Signed** 71

Final Bill [SB180](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 93

Bill Section 1, 2 Eff Date 7/1/2018 Delayed Eff Date

Creates a process for mandatory disclosure of a law enforcement officer applicant's files if the applicant has been employed by another state or local law enforcement agency or governmental agency. For these purposes, "files" is defined as all performance reviews or other files related to job performance, commendations, administrative files, grievances, previous personnel applications, personnel-related claims, disciplinary actions, internal investigation files, suspensions, investigation-related leave, documents concerning termination or other departure from employment, all complaints, and all early warning information.

Amends New; 45-220

### Body Cam Video

Status **Signed** 377

Final Bill [SB336](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 87

Bill Section 8 Eff Date 7/1/2018 Delayed Eff Date

Amends KORA relating to LE video release by creating a 20 day maximum time to show video to certain people listed in KSA 45-254. Also clarifies both parents of a juvenile can view a video and adds "heir at law" or their attorney to view video. All other parts of the bill were deleted. The entire bill will also be referred to the Judicial Council for further review and recommendation. Most likely another bill will be introduced in the 2019 session.

Amends 45-254

### Civil Process: Saturday Service

Status **Signed** 328

Final Bill [SB288](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 100

Bill Section 1 Eff Date 7/1/2018 Delayed Eff Date

Repeals the provision of law on serving of civil process making it a misdemeanor to serve civil process on Saturday. This was a law enacted in the 1800's and never amended or repealed.

Amends 69-102

TOPIC

**Competency**

Status **Signed** 365

Final Bill [HB2549](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 81

Bill Section 1 & 2 Eff Date 7/1/2018 Delayed Eff Date

Adds "appropriate state" institution or facility to the list of places where a defendant may be committed for competency evaluation. This is in addition to the current authorization for placement in the state security hospital or any county or private institution or facility. The placement requirements are amended so they are the same for person charged with either a felony or a misdemeanor. It amends the place for commitment for competency restoration treatment by removing "the state security hospital" and replacing it with "any state institution or facility" in addition to the existing authorization for commitment to an appropriate county or private institution or facility. This is part of a plan for KDADS to expand the state competency evaluation and treatment programs to include Osawatomie State Hospital and other regional facilities they are considering implementing. It is unclear if they will continue to offer these services at Larned State Hospital or not.

Amends 22-3302, 22-3303

**Counterfeiting**

Status **Signed** 406

Final Bill [HB2458](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 112

Bill Section 1 Eff Date 7/1/2018 Delayed Eff Date

Creates new crime of counterfeiting which includes: 1) Making, forging, or altering any note, obligation, or security of the United States (SL7 nonperson felony for total face value of \$25,000 or more, SL8 nonperson felony for total face value less than \$25,000); 2) Distributing, or possessing with the intent to distribute, any obligation or security of the United States knowing the obligation or security has been so made, forged, or altered (same penalties as above; 3) Possessing any paper, ink, printer, press, currency plate, or other item with the intent to produce any counterfeit note, currency, obligation, or security of the United States (SL9 nonperson felony).

Amends New



**CPOST: Confidentiality of Records**Status **Signed** 405Final Bill [SB180](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 93

Bill Section 3 Eff Date 7/1/2018 Delayed Eff Date

Implements the proposal from the Judicial Council that defines the Central Registry of CPOST and provides for confidentiality rules similar to other regulatory boards. The registry is defined to include all records received or created by the commission pursuant to this statute and all records related to violations of the Kansas law enforcement training act, including records of complaints received or maintained by the commission. All registry records are confidential but may be disclosed as follows. Records other than investigatory files shall be released: To an agency that certifies, appoints or elects law enforcement officers; to the subject of the information (but the commission may redact identification of any other person who is the subject or source of the information); in any administrative proceeding conducted by the commission under the Kansas Administrative Procedure Act, or an appeal of an order of the commission entered in a proceeding, or to a party in such proceeding or that party's attorney; to a municipal, state or federal licensing, regulatory or enforcement agency with jurisdiction over acts or conduct similar to these constituting grounds for action under this act; and to the director of police training when such disclosure is relevant to the director's authority. Records may be disclosed to any person 1) if they contain only: A law enforcement officer's name; the law enforcement officer's current or past law enforcement employer(s) and dates of employment with each employer; a summary of the training completed by the officer as reported to the commission; and the status of the officer's certification; and 2) statewide summary data without personally identifiable information. All KORA exceptions may be applied. Files may also be disclosed as provided in the Kansas Administrative Procedures Act.

Amends 74-5611a

**CPOST: Domestic Violence Definition**Status **Signed** 333Final Bill [HB2523](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 92

Bill Section 3 Eff Date 7/1/2018 Delayed Eff Date

The definition of "misdemeanor crime of domestic violence" in the Kansas law enforcement training act is changed to match the definition in criminal law.

Amends 74-5602

**DUI: Involuntary Manslaughter**Status **Signed** 307Final Bill [HB2439](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 7

Bill Section All Eff Date 7/1/2018 Delayed Eff Date

A person who is DUI and involved in a fatality accident while their DL is suspended or restricted for a DUI related event violates the involuntary manslaughter statute. If involved in a crash resulting in serious bodily harm while under the same DL sanctions they violate the aggravated battery statute. Records for these violations may not be expunged, even for juveniles. These violations also are included in future DUI convictions in determining 3rd or subsequent conviction penalty enhancements.

Amends 8-262; 8-2,144; 8-1013; 8-1025; 8-1567; 21-5405; 21-5413; 21-6811; 38-2312; 75-52,148

**Elder Abuse or Mistreatment: Inherently Dangerous Felony**Status **Signed** 314Final Bill [HB2458](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 112

Bill Section 2 Eff Date 7/1/2018 Delayed Eff Date

Adds the crimes of Mistreatment of a Dependent Adult and Mistreatment of an Elder Person to the definition of Inherently Dangerous Felony as used in First Degree Murder.

Amends 21-5402

TOPIC

**Elder Abuse or Mistreatment: New Elements; Amended Sentencing**

Status **Signed** 315

Final Bill [HB2458](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 112

Bill Section 5 Eff Date 7/1/2018 Delayed Eff Date

Adds violation of the act of Obtaining a Guardian or a Conservator to the violation of Mistreatment of a Dependent Adult with a severity level based on dollar loss. Adds infliction of physical injury, unreasonable confinement, or unreasonable punishment to the crime of Mistreatment of an Elder Person as a SL5 person felony.

Amends 21-5417

**Escape**

Status **Signed** 351

Final Bill [HB2458](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 112

Bill Section 7 Eff Date 7/1/2018 Delayed Eff Date

Amends the crimes of escape and agg. escape by adding failing to return from an authorized leave granted by a custodial official authorized to grant such leave.

Amends 21-5911

**Federal Officers, Assault/Battery**

Status **Signed** 424

Final Bill [HB2458](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 112

Bill Section 3, 4 Eff Date 7/1/2018 Delayed Eff Date

Includes federal law enforcement officers in the definition of law enforcement officers under the statute on assault and the statute on battery. "Federal Law Enforcement Officer" is defined as any LEO employed by the US Government whose duties permit making an arrest and being armed.

Amends 21-5412, 21-5413

**Forfeiture, Civil Asset**

Status **Signed** 317

Final Bill [HB2459](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 26

Bill Section All Eff Date 7/1/2018 Delayed Eff Date 7/1/2019

Amends the Civil Asset Forfeiture statutes by requiring centralized reporting of forfeiture actions and expenditures and requires a probable cause affidavit by officer initiating forfeiture action. Adopts the current federal expenditure rules for forfeiture funds. Also amends several legal procedures involved in the civil asset forfeiture process. Retains current civil standards without criminal conviction and forfeited fund distribution.

Amends 45-220, 60-4101, 60-4106, 60-4107, 60-4109, 60-4110, 60-4111, 60-4112, 60-4113, 60-4114, 60-4

## TOPIC

### Juror contact limitations in Civil Cases

Status **Signed** 479

Final Bill [HB2579](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 108  
 Bill Section 5 Eff Date 7/1/2018 Delayed Eff Date

Immediately following discharge of the jury the defendant, the defendant's attorney or representative, the plaintiff, or the plaintiff's attorney or representative are allowed to discuss the jury deliberations or verdict with a member of the jury only if the juror consents to the discussion. If a discussion occurs at any time other than immediately following the discharge of the jury, prior to discussing the jury deliberations or verdict with a member of a jury, the contacting party must inform the juror of the identity of the case, the party in the case that the person represents, the subject of the interview, the absolute right of the juror to discuss or not discuss the deliberations or verdict in the case with the person, and the juror's right to review and have a copy of any declaration filed with the court. Any unreasonable contact with a juror by the parties without the juror's consent are required to be immediately reported to the trial court. Any violation shall be considered a violation of a lawful court order, which may be punished as contempt of court.

Amends New

### Juror contact limitations in Criminal Cases

Status **Signed** 417

Final Bill [HB2479](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 105  
 Bill Section 2 Eff Date 7/1/2018 Delayed Eff Date

Statutory procedures and limitations concerning contact with jurors in criminal cases and advising jurors of the right to discuss deliberations with certain people and under certain conditions after completion of a trial in a criminal action. If the prosecutor or defense attorney or their representative, or the defendant contacts a juror other than immediately following the discharge of the jury they must inform the juror of the specific case they want to discuss, the party they represent, the subject of the interview, the jurors right to discuss or to not discuss the deliberations or conduct of the jury, and the juror's right to review and have a copy of any declaration filed with the court. Unreasonable contact must be immediately reported to the court. Violations are subject to contempt of court. The statute does not prohibit the court from discussing the deliberations or verdict for any lawful purpose, nor law enforcement from for the purpose of investigating juror misconduct. Law enforcement must use caution if asked by a prosecutor to contact a juror.

Amends New

### Open Records: Review of exceptions

Status **Signed** 341

Final Bill [SB336](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 87  
 Bill Section 7 Eff Date 7/1/2018 Delayed Eff Date

Legislative review of exceptions to disclosure of public records. All those of direct concern to law enforcement are renewed, including: KSA 45-221(a)(53), concerning records disclosing name or contact information for any concealed carry licensee applicant for a license; KSA 65-6832 and KSA 65-6834, concerning protected health information; KSA 75-7c06, concerning records relating to concealed carry licenses; and KSA 75-7c20, concerning security plans adopted to exempt a state or municipal building from law stating the carrying of a concealed handgun shall not be prohibited in any public area of any state or municipal building.

Amends 45-229

## TOPIC

### Open Records: SSN Redaction

Status **Signed** 426

Final Bill [SB336](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 87

Bill Section 9 Eff Date 7/1/2018 Delayed Eff Date

Requiring redaction of ENTIRE social security number in documents available for public inspection and copying. If the information was disclosed in violation, the agency must notify the individual and offer credit monitoring services at no charge for one year and inform them they may place a security freeze on their credit report at no charge, and provide information necessary for the person to enroll for services.

Amends 75-3520

### Sales Suppression Devices

Status **Signed** 360

Final Bill [HB2488](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 104

Bill Section 1 Eff Date 7/1/2018 Delayed Eff Date

Creates a new a SL7 nonperson felony for unlawful acts involving automated sales suppression devices. These devices consist of a computer software program on a memory device that when connected to an electronic cash register and other point-of-sale system falsifies the electronic records to avert sales tax collection.

Amends New

### Scrap Metal

Status **Signed** 452

Final Bill [SB261](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 79

Bill Section 3-8 Eff Date 5/17/2018 Delayed Eff Date

Extends the delayed enforcement of scrap metal laws passed in 2016 by one year to 1/1/2020.

Amends 50-6,109a, 50-6,109c, 50-6,110, 50-6,111, 50-6,112a and 50-6,112b

### Sexual Relations, Unlawful: LEO

Status **Signed** 403

Final Bill [HB2523](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 92

Bill Section 2 Eff Date 7/1/2018 Delayed Eff Date

Adds law enforcement officers to the list of persons included in the Unlawful Sexual Relations statute. This would include voluntary sexual relations between an officer and a person " with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person 16 years or older who is interacting with such law enforcement officer during the course of a traffic stop, a custodial interrogation, an interview in connection with an investigation, or while the law enforcement officer has such person detained."

Amends 21-5512

### Sexually Violent Predator: Transitional Release

Status **Signed** 439

Final Bill [SB266](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 94

Bill Section All Eff Date 7/1/2018 Delayed Eff Date

Makes amendments to the Sexually Violent Predator Act. The definition of "sexually violent offender" is amended to add a new element: "who has serious difficulty in controlling such person's dangerous behavior." New definitions are added relating to the release process for the terms "conditional release," "conditional release monitor," and "progress review panel." Certain provisions regarding conditional release were changed including removing the statutory limit of 16 SVP in conditional release in any one county. Several procedural changes were also made. This is further action following a Judicial Council recommendation in 2016.

Amends 59-29a02, 59-29a07, 59-29a08, 59-29a11, 59-29a19 and 59-29a22

TOPIC

**Sheriff Qualifications**

Status **Signed** 358

Final Bill [HB2523](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 92  
 Bill Section  Eff Date 7/1/2018 Delayed Eff Date

Amends sheriff qualification by changing lifetime disqualification for misdemeanor alcohol, gambling or drug offense from lifetime to the 5 years prior to the date of election or appointment. Also changed other qualification provisions bringing them back into compliance with the Training Act. The method of determining high school equivalency for home schooling was also amended in this statute and in the Training Act.

Amends 19-801b

**Stay of Criminal Case**

Status **Signed** 332

Final Bill [HB2479](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 105  
 Bill Section  Eff Date 7/1/2018 Delayed Eff Date

Criminal cases may be stayed during state appeal of writ of habeas corpus relief.

Amends New

**Swatting**

Status **Signed** 380

Final Bill [HB2581](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 45  
 Bill Section 1 Eff Date 7/1/2018 Delayed Eff Date

Increases penalties for swatting events when death or great bodily injury occurs by amending the false alarm statute. The crime when resulting in injury is a SL6 person felony; great bodily harm is a SL4 person felony; and a SL1 person felony if death occurs. It also changes the phrase "giving a false alarm" to "making an unlawful request for emergency service assistance;" replaces "making a call in any manner" to "request" emergency service assistance; and changes the word "police" to "law enforcement."

Amends 21-6207

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## HB2459 Civil Asset Forfeiture Amendments: Key Points for Law Enforcement

The following are key law enforcement points for Civil Asset Forfeiture procedure changes mandated in HB2459 which becomes effective on July 1, 2018:

1. Among the many things that didn't change:
  - a. This is still a civil forfeiture and does not require a criminal conviction.
  - b. The list of criminal activity that may lead to forfeiture did not change.
  - c. Funds must still be kept in a "Trust Fund" and cannot be used to supplant your budget.
  - d. Most of the rules for third party interests remain in place although processes may be altered in some cases.
  - e. There are no new limits to value of items seized.
  - f. Forfeited proceeds remain with the law enforcement agency.
2. Two changes were made to what is subject to forfeiture:
  - a. Forfeiture of any common carrier conveyance is limited to those cases where it can be shown the owner or person in charge of the conveyance was either "a consenting party or privy to" the violation of the act. Up until July 1, 2018, the law only required "it appears" such conditions exist.
  - b. The rebuttable presumption of intent to facilitate an act giving rise to forfeiture based on location near controlled substances at the time of seizure is repealed as of July 1, 2018. This is still subject to consideration by the court under the "totality of circumstances," but it no longer will be a rebuttable presumption. This places the burden on us to demonstrate the relevance of this factor.
3. The court will determine the forfeiture based on the "totality of circumstances" allowing all factors to be considered and not just the factors listed in prior statute. The list remains as a nonexclusive list.
4. A new provision requires an "affidavit describing the essential facts supporting forfeiture" to be attached to the Notice of Pending Forfeiture. While not specified in statute, it is anticipated the seizing officer or officer determining forfeiture is appropriate for items already seized as evidence will complete such affidavit after each decision to seek forfeiture is made.
5. Effective July 1, 2018, the county or district attorney will have 14 days to respond to a forfeiture case your agency submits to provide notice they will accept or decline the forfeiture case. If they decline, or if they fail to respond, it opens the door for you to use an attorney authorized by your county or district attorney to handle the case.
6. Allowable expenditure provisions of the law will change effective July 1, 2018. The rules will follow the federal guidelines. The old rules apply to any purchase made prior to July 1, 2018.
7. As of July 1, 2018, the law will require forfeiture funds held by the law enforcement agencies be divided into the following categories: (A) Proceeds from state forfeiture; (B) proceeds from pending state forfeiture actions; and (C) proceeds from forfeiture actions under federal law. This was a recommendation from the 2016 Legislative Post Audit report.
8. The KBI will develop a statewide repository (database) of all civil forfeiture activity in the state. We will start using this no later than July 1, 2019. The KBI will supply more details on how this will function.
9. Annual Reports of Forfeiture Funds
  - a. The annual financial reports you are required to file each year will still be required, without any change, at the end of the 2018 calendar year.
  - b. Beginning with the 2019 calendar year your financial report will be due February 1, 2020, and must be filed with the new state repository at the KBI.
10. **The civil forfeiture process will remain under a great deal of public and legislative scrutiny. We should strive to be certain our forfeiture actions are solid, reasonable, and calculated to achieve a public safety objective, not an agency financial objective. Failure to achieve this will ultimately lead to the loss of this significant crime reducing public safety tool.**

## **HB2459 Civil Asset Forfeiture Amendments (Updated 6/24/18) Effective July 1, 2018**

[Link to the bill](#)

[Link to the Legislative Summary of the Bill](#)

Amended statutes available at: <http://www.kscoflaw.com/KSAs/Ch60Art41.htm>

Prepared by Ed Klumpp, [eklumpp@cox.net](mailto:eklumpp@cox.net), May 24, 2018

### **Data Collection for Forfeiture Actions (Section 1 of the bill)**

The data collection provisions require reporting a list of data on the seizure of assets for forfeiture and the disposition of those cases to a central state repository managed by the KBI. The KBI must have the database for this in place no later than July 1, 2019, and must create regulations to implement database operation. The seizing agency must submit the data within 60-days of the final disposition of the forfeiture and the prosecutors are required to provide required data from the plaintiff and court actions to the law enforcement agency within 30-days of final disposition.

The collection of data is to begin July 1, 2019, and includes: (1) Name of the seizing agency or lead agency if part of a multi-jurisdictional task force; (2) the county where the seizure occurred; (3) date time of the seizure; (4) agency and court case numbers for the seizure; (5) Type of law enforcement activity leading to the seizure; (6) the location of the seizure; (7) the conduct or offense giving rise to the forfeiture; (8) a description of the type of property seized and the estimated value; (9) a description of the type of contraband seized and the estimated value; (10) whether criminal charges were filed for an offense related to the forfeiture including agency and court case numbers for those charges; (11) the final disposition of the forfeiture action, including the disposition of any claim or exemption asserted under this act; (12) whether the forfeiture was transferred to the federal government for disposition; (13) total cost of the forfeiture action, including attorney fees; and (14) total proceeds from the forfeiture action, including distribution of proceeds by the seizing agency to any other agency or person.

### **Fund Balance Reporting (Sections 1 & 12 of the bill)**

For the 2018 calendar year the current requirement for an annual report to the governing body over the seizing agency remains. For CY 2019 and subsequent years, each agency is required to submit fund balances to the state database by February 1 of the following year including: (1) The agency's forfeiture fund balances on January 1 and December 31 of the preceding calendar year; and (2) the total amount of deposits; (3) a listing, by category, of expenditures from January 1 through December 31 of the preceding calendar year; and (4) amounts being held pending forfeiture case disposition. Those reports must provide separate data for state forfeitures and federal forfeitures. The KBI will monitor reporting and notify any agency they find not in compliance. The noncompliant agency must come within compliance within 30-days of notice. If the agency does not comply within the 30-days they will be forbidden to participate in any civil asset forfeiture action until they are in compliance. The KBI is required to report to the legislature no later than April 15 of each year listing any agency not in compliance.

### **Open Records Request for Data (Section 2 of the bill)**

KSA 45-220 is amended by adding subsection (h) providing the KBI may fulfill requests for summary civil asset forfeiture data. However, any request for specific agency or case records must be made to the agency originating the data.

#### **Property Subject to Seizure for Forfeiture (Section 4 of the bill)**

KSA 60-4106 (a)(2) is amended to limit subsection to forfeiture of any conveyance to only those cases where it can be shown by the preponderance of evidence the owner or person in charge of the conveyance was either “a consenting party or privy to” the violation of the act. Prior law only required “it appears” such conditions exist.

#### **Forfeiture of Items Located in Proximity to Controlled Substances (Section 9 of the bill)**

KSA 60-4112 is amended by striking the existing subsection (s) which created a rebuttable presumption of intent to facilitate an act giving rise to forfeiture based on location near controlled substances at the time of seizure. The proximity to controlled substances is instead one of four factors in a non-exclusive list to consider as the totality of the circumstances in determination of the items being subject to forfeiture.

#### **Expenditure of Funds (Section 12 of the bill)**

KSA 60-4117 is amended to provide clearer direction on allowable use of forfeited funds. A list of acceptable expenditures is added in new subsection (e) which generally follow the federal guidelines. Allowed expenditures are: (A) Support of investigations and operations that further the law enforcement agency’s goals or missions; (B) training of investigators, prosecutors and sworn and nonsworn law enforcement personnel in any area that is necessary to perform official law enforcement duties; (C) costs associated with the purchase, lease, construction, expansion, improvement or operation of law enforcement or detention facilities used or managed by the recipient agency; (D) costs associated with the purchase, lease, maintenance or operation of law enforcement equipment for use by law enforcement personnel that supports law enforcement activities; (E) costs associated with the purchase of multi-use equipment and operations used by both law enforcement and non-law enforcement personnel; (F) costs associated with a contract for a specific service that supports or enhances law enforcement; (G) costs associated with travel and transportation to perform or in support of law enforcement duties and activities; (H) costs associated with the purchase of plaques and certificates for law enforcement personnel in recognition of a law enforcement achievement, activity or training; (I) costs associated with conducting awareness programs by law enforcement agencies; (J) costs associated with paying a state or local law enforcement agency’s matching contribution or share in a state or federal grant program for items other than salaries; (K) cash transfers from one state or local law enforcement agency to another in support of the law enforcement agency’s goals or missions; and (L) transfers from a state or local law enforcement agency to a state, county or local governmental agency or community non-profit organization in support of the law enforcement agency’s goals or missions.

#### **Accounting of Funds (Section 12 of the bill)**

KSA 60-4117 subsection (e)(3) is added requiring funds held by the law enforcement agencies be divided into the following categories: (A) Proceeds from state forfeiture; (B) proceeds from pending state forfeiture actions; and (C) proceeds from forfeiture actions under federal law. This was a recommendation from the Legislative Post Audit report.

### **Affidavit of Essential Facts (Section 6 of the bill)**

KSA 60-4109 is amended to require an “affidavit describing the essential facts supporting forfeiture” to be included in the Notice of Pending Forfeiture. Existing law in KSA 60-4107 also provides for an “affidavit under oath demonstrating that probable cause exists for the property’s forfeiture. . .” This is similar to requirements for a charging or search warrant affidavit or affidavit on an arrest report. While not specified in statute, it is anticipated the seizing officer or officer determining forfeiture is appropriate for items already seized as evidence will be required to complete such affidavit after each decision to seek forfeiture.

### **Civil Forfeiture Plaintiff Attorney Process (Section 5 of the bill)**

KSA 60-4107 subsection (h) provides the process for referral to a prosecutor by a local law enforcement agency and is amended to require a response within 14 days from the county or district attorney to the submitting law enforcement agency that they are either accepting or declining the forfeiture case. If declined or if they fail to respond within the 14 days, a seizing local agency may pursue the case through a state agency or with an attorney authorized by the county or district attorney.

KSA 60-4107 subsection (i) provides the process for referral to a prosecutor by a state law enforcement agency and is amended to require a response within 14 days from the county or district attorney to the submitting law enforcement agency that they are either accepting or declining the forfeiture case. If declined or if they fail to respond within the 14 days, a seizing state agency may pursue the case through a state Attorney General or with an attorney authorized by the Attorney General.

A county or district attorney or the attorney general shall not request or receive any referral fee or personal financial benefit, either directly or indirectly, in any proceeding conducted under this act. This is aimed at addressing a concern in the Legislative Post Audit report about referral of a case to an attorney outside the prosecutor’s office which results in the referring prosecutor receiving any financial gain, such as a referral to a private law firm they or a close relative has a financial interest in.

### **Notice of Pending Forfeiture (Sections 6 and 7 of the bill)**

KSA 60-4109 subsections (3) and (4) are amended to clarify the service of the required notice of pending forfeiture from the plaintiff attorney will follow the service process under the Code of Civil Procedure and, if such service is not possible because the person to serve is not known or the attempt to serve by certified mail fails, notice may be made by publication in the official county newspaper.

Subsection (4) is also amended to require the notice to include an affidavit describing the essential facts supporting forfeiture; copies of judicial council forms for petitioning for recognition of an exemption pursuant to KSA 60-4110, and for making a claim pursuant to KSA 60-4111. An acknowledgement of the opportunity to file a petition for recognition of exemption is also required to be included by a change to KSA 60-4110 subsection (a).

### **Claim to Return Property by Owner or Interest Holder in the Property** (Sections 7, 8, 10 & 11 of the bill)

KSA 60-4110 subsections (a) and (b) and KSA 60-4114 subsection (f) are also amended to change the time for a filing for recognition of exemption from 30-days to 60-days after the effective date of the notice of pending forfeiture.

KSA 60-4110 subsection (b) is also amended to change the time limit for the plaintiff attorney to notify the seizing agency and petitioner of exemption a written recognition of exemption and statement of nonexempt interests relating to any or all interests in the property from 120 days to 90 days.

KSA 60-4111 and KSA 60-4113 are amended to ease the burden on an owner or interest holder of the property to file claim without an attorney, and clarifying substantial compliance with the information requirements is legally sufficient. This provision will also result in the Judicial Council creating forms for such non-attorney filing.

A claimant must sign the claim document which is subject to perjury, and the requirement to claim be in affidavit form and subject to making a false writing is removed.

A provision is also added allowing for the claimant to assert a right against self-incrimination in a claim and directing the court on matters relating to such assertion.

### **Judicial Proceedings** (Section 9 of the bill)

KSA 60-4112 subsection (e) is amended to change the limits of a criminal defendant to later deny certain facts from the criminal case from “allegations” to “elements” of the criminal offense for which they are convicted.

KSA 60-4112 subsection (j) and (k) are amended to direct the court to include the “totality of circumstances” in determining if property is subject to forfeiture replacing the current specific and limited list of factors. The proximity of items to be forfeited to contraband or instruments of a crime are moved to a list of factors to consider. That list is factors that may be considered, but does not restrict consideration to the list.

KSA 60-4112 subsection (p) which becomes subsection (o) in the amended law is changed to allow the motion to stay discovery in a criminal case to a motion from any party, not just on motion by the plaintiff.

### **Other Reference Documents**

2016 Legislative Post Audit of Seized and Forfeited Property

[Full Report](#)   [Highlights](#)

[Report of the Judicial Council Civil Asset Forfeiture Advisory Committee](#)

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## **SB336 Body Cam and Car Cam Video Amendments**

**Effective July 1, 2018**

All amendments are in Section 8 starting on page 13 of the bill which amends KSA 45-254

[Link to the bill](#)      [Link to the Legislative Summary of the Bill](#)

Prepared by Ed Klumpp, [eklumpp@cox.net](mailto:eklumpp@cox.net), May 17, 2018

### **What Requesters Does this Statute Apply To? [Subsection (c)]**

Effective July 1, 2018, the following persons may request to listen to an audio recording or to view a video recording made by a body camera or a vehicle camera: (1) A person who is a subject of the recording; (2) any parent or legal guardian of a person under 18 years of age who is a subject of the recording; (3) an heir at law, when a decedent is a subject of the recording; and (4) an attorney for a person described in this subsection.

Heir at Law Defined [Subsection (d)]: An heir at law means: “(A) An executor or an administrator of the decedent; (B) the spouse of the decedent, if living; (C) if there is no living spouse of the decedent, an adult child of the decedent, if living; or (D) if there is no living spouse or adult child of the decedent, a parent of the decedent, if living.”

### **KORA Request for Body Cam and Car Cam Video [Subsection (b)]**

Any person listed above may request to listen to an audio recording or to view a video recording made by a body camera or a vehicle camera. The request must comply with [KSA 45-220](#) and the agency may not deny a request made by an authorized person in compliance with KSA 45-220.

### **The Law Only Requires the Viewing of the Recording [Subsections (a) & (b)]**

This statute only requires the viewing of video or listening to audio recordings. It does not require, but does not prohibit, the release of the recording. Release is governed by the other KORA statutes and subsection (a) applies the KORA provisions for criminal investigation records.

### **After a Request is Made, What is the Time Line to Present the Recording? [Subsection (b)]**

The law is amended to require the agency to allow the requesting person to listen to the requested audio recording or to view the requested video recording within 20 days after making the request.

### **Can the Law Enforcement Agency Charge for Any Costs to Produce the Recording? [Subsection (b)]**

Both current and continuing law provides the law enforcement agency “may charge a reasonable fee for such services provided by the law enforcement agency.” This is a permissive provision and the agency may choose not to charge such fee. This provision is unchanged.

### **Does This Law Only Apply to Body Cam and Vehicle Cam Video? [Subsection (d)]**

The existing as well as the amended statute applies to audio or video recordings made by any recording device “worn by a law enforcement officer” or “attached to a law enforcement vehicle.” There is no change to this provision.

**No other changes were made to the laws on body cam and vehicle cam recordings in this session. However, the entire issue has been referred to the Judicial Council for study prior to the 2019 session. We will see this issue again next year.**

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## **Law Enforcement Background Investigation (SB180)**

**Effective July 1, 2018**

Links: [SB180](#)     [Legislative Summary of SB180](#)

Prepared by Ed Klumpp, [eklumpp@cox.net](mailto:eklumpp@cox.net), June 25, 2018

### **Introduction**

This bill was introduced by our associations in 2017 with the intentions of improving our ability to obtain complete information when conducting background investigations for law enforcement positions on applicants who are either currently working or have worked in the past for another Kansas law enforcement agency. The second goal of the bill was to protect the agency providing the information from liability and to offer reasonable protection of the information provided. It is modeled after a Colorado statute.

### **Hiring Agency Responsibilities**

- The applicant must sign a written waiver signed by the applicant that
  - Explicitly authorizes each state or local law enforcement agency or governmental agency that has employed the applicant to disclose the applicant's files to the hiring agency, [NOTE: I believe the term "explicitly authorizes" is intended to require a separate release for each former or current agency specifically naming that agency], and
  - Releases each agency that employed the applicant from any liability related to the use and disclosure of the files.
- An applicant who refuses to execute the waiver shall not be considered by the hiring agency.
- A copy of the waiver shall be provided to each agency along with the request for information.
- The hiring agency is prohibited from disclosing the information received under this law, except as necessary for such agency's internal hiring processes, or in a negligent hiring civil action.
- The files are not otherwise subject to discovery, subpoena, or other process directed toward the hiring agency obtaining the files.

### **Previous Employer Responsibilities**

- To allow a background investigator from a hiring agency to review personnel files of the applicant, including all performance reviews or other files related to job performance, commendations, administrative files, grievances, previous personnel applications, personnel-related claims, disciplinary actions, internal investigation files, suspensions, investigation-related leave, documents concerning termination or other departure from employment, all complaints, and all early warning information.
- To disclose the files to the hiring agency within 21 days of receiving the request either by providing copies to the hiring agency or allowing the hiring agency to review the files at the office of the agency holding the records. Providing copies is at the discretion of the agency holding the records, not the hiring agency.
- The bill establishes an exception if the agency is prohibited from providing the files pursuant to a binding nondisclosure agreement executed before July 1, 2018, to which such agency is a party. However, agencies must disclose an applicant's files if such files

are subject to a binding nondisclosure agreement executed on or after July 1, 2018, but disclosure is limited to only those files necessary to determine an applicant's qualifications and fitness for performance of a law enforcement officer's duties.

- The agency revealing the records agencies may redact personally identifiable information of persons other than the applicant in files disclosed.

#### **Liability**

- An agency or the employees of the agency releasing the records are not be liable for complying with the provisions of this section in good faith or participating in an official oral interview with an investigator regarding the applicant.

#### **Open Records**

- The law provides the files constitute a record of the agency that made, maintained, or kept the files for the purposes of the Kansas Open Records Act (KORA) and are not subject to a KORA request directed toward the hiring agency.
- Adds a provision to KORA specifying a request for records defined by the bill as "files" that were submitted to an agency must be directed to the agency that made, maintained, or kept such files.

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**Guide To  
2018 Kansas Legislation  
Impacting Law Enforcement**

**Section on  
Juvenile Law  
Juvenile Procedure**

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# 2018 JUVENILE RELATED ENACTED LEGISLATION

Tuesday, June 26, 2018

Prepared by Ed Klumpp

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## TOPIC

### Juvenile Crisis Intervention

Status **Signed** 463

Final Bill [SB179](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 107

Bill Section **All** Eff Date **7/1/2018** Delayed Eff Date

Allows licensing of Juvenile Crisis Intervention Centers as a facility that provides short-term observation, assessment, treatment, and case planning, and referral juveniles experiencing a mental health crisis and is likely to cause harm to self or others. The bill requires intervention centers to provide treatment to juveniles admitted to the centers, as appropriate while admitted. An intervention center may not be located in a jail or a juvenile detention facility.

A juvenile may be admitted to an intervention center when: 1)The head of the center determines the juvenile is in need of treatment and is likely to cause harm to self or others; 2) A qualified professional from a community mental health center (CMHC) has given written authorization for the juvenile to be admitted to an intervention center; and 3) No other more appropriate treatment services are available and accessible to the juvenile at the time of admission.

The statute governing when a LEO may take a child into custody is amended to require a LEO to take a child under 18 years of age into custody when the LEO reasonably believes the child is experiencing a mental health crisis and is likely to cause harm to self or others.

A juvenile may be admitted to an intervention center for not more than 30 days, and a parent with legal custody or a legal guardian of the juvenile can remove the juvenile from the center at any time. If the removal could cause the juvenile to become a child in need of care pursuant to the CINC Code, the head of the intervention center may report such concerns to DCF or may request the county or district attorney to initiate proceedings under the CINC Code. If the head of the intervention center determines such a request to the county or district attorney is the most appropriate action, the head of the intervention center shall make the request and keep the juvenile in the intervention center for an additional 24-hour period to initiate the appropriate proceedings.

A LEO is allowed to deliver a child taken into custody without a court order to an intervention center after written authorization by a CMHC. When a LEO takes a child into protective custody because the LEO reasonably believes the child is experiencing a mental health crisis and is likely to cause harm to self or others, the LEO may deliver the child to an intervention center after written authorization by a CMHC, but the child may not be placed in a juvenile detention facility or other secure facility.

The Revised Kansas Juvenile Justice Code governing is amended to allow an officer, when a juvenile cannot be delivered to the juvenile's parent or custodian, to deliver the juvenile to an intervention center, if the juvenile is determined to not be detention eligible based on a standardized detention risk assessment tool and is experiencing a mental health crisis, after written authorization by a CMHC. Existing additional options are retained.

Amends 38-2231, 38-2232, 38-2242, 38-2243, 38-2330 and 75-52,164

TOPIC

**Juveniles: Case Length Limits**

Status **Signed** 313

Final Bill [HB2454](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 52  
 Bill Section 3 Eff Date 7/1/2018 Delayed Eff Date

Clarifies that when probation term limits and overall case length limits in the Kansas Revised Juvenile Justice Code are tolled due to the offender absconding from supervision while on probation, the limits shall not begin to run again until the offender is located and brought back to the jurisdiction. The bill also would clarify that, if the juvenile fails to appear for the dispositional hearing, such limits shall not apply until the juvenile is brought before the court for disposition.

Amends 38-2391

**Juveniles: Detention review**

Status **Signed** 311

Final Bill [HB2454](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 52  
 Bill Section 1, 2 Eff Date 7/1/2018 Delayed Eff Date

Allows a juvenile to waive their 14 day detention hearing. Clarifies audio-video appearance can be used at any detention hearing. If a juvenile offender is being held in detention, requires a dispositional hearing for sentencing take place within 45 days after the juvenile has been adjudicated.

Amends 38-2343; 38-2360

**Juveniles: LEO Custody for CINC**

Status **Signed** 487

Final Bill [SB179](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 107  
 Bill Section 2 Eff Date 7/1/2018 Delayed Eff Date

Amends the statute governing when a law enforcement officer (LEO) may take a child into custody to require a LEO to take a child under 18 years of age into custody when the LEO reasonably believes the child is experiencing a mental health crisis and is likely to cause harm to self or others.

Amends 38-2231



**Juveniles: Newborn Infant Protection Act**Status **Signed** 345Final Bill [SB179](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 107

Bill Section 14 Eff Date 7/1/2018 Delayed Eff Date

The maximum age of an infant for purposes of the Act is increased from 45 days old to 60 days old.

An employee of a facility where an infant was left is allowed to take physical custody of the child without a court order. References to "person or facility" throughout the Act are amended to clarify when provisions are applicable to employees of any facility specified in the Act, any facility specified, or both. When an infant is delivered to a facility pursuant to the Act that is not a medical care facility, the employee taking physical custody of the infant must make arrangements for the immediate transportation of the infant to the nearest medical care facility. The medical care facility, its employees, agents, and medical staff are required to perform treatment in accordance with the prevailing standard of care as necessary to protect the physical health and safety of the infant.

Immunity provisions add administrative immunity for the facilities specified in the Act and their employees to the existing criminal and civil immunity and adds a provision the immunity does not extend to any negligent or intentional acts or omissions, occurring after the acceptance of the infant.

A new term, "relinquishing parent" is created in the statute to delineate between rights of the parent giving up the child and the parent who does not know the other parent is giving up the child. New provisions are added to the statute providing immunity from civil or criminal liability for a relinquishing parent if the following conditions are met: 1) The relinquishing parent delivered the infant voluntarily and safely to the physical custody of an employee at a facility specified in the Act; 2) The infant was no more than 60 days old when delivered to the physical custody of an employee at a facility specified in the Act; and 3) the infant was not abused or neglected by the relinquishing parent prior to such delivery.

Amends 38-2282

**Juveniles: Offender Custody Disposition by LEO**Status **Signed** 488Final Bill [SB179](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 107

Bill Section 6 Eff Date 7/1/2018 Delayed Eff Date

Amends the statute governing disposition of a juvenile taken into custody by a law enforcement officer as a juvenile offender by adding the option of delivering the juvenile to a juvenile crisis intervention center, provided the juvenile is determined to not be detention eligible based on a standardized detention risk assessment tool, is experiencing a mental health crisis, and upon written authorization by a community mental health center.

Amends 38-2330

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## Juvenile Crisis Intervention

[Link to 2018 SB179](#)

[Link to Legislative Summary of SB179](#)

Effective July 1, 2018

Prepared by Ed Klumpp, [eklumpp@cox.net](mailto:eklumpp@cox.net), May 29, 2018

Creates new statutes and amends: 38-2231, 38-2232, 38-2242, 38-2243, 38-2330 and 75-52,164

### SUMMARY

Creates law and directs establishment of regulations for operation of juvenile crisis intervention centers which are to provide short-term observation, assessment, treatment, and case planning, and referral for any juvenile who is experiencing a mental health crisis and is likely to cause harm to self or others, similar to the Care and Treatment Act. The intervention centers are required to provide appropriate treatment to juveniles in their care. An intervention center may be on the same premises as another licensed facility, but the living unit of the intervention center must be maintained in a separate, self-contained unit. **An intervention center may not be located in a city or county jail or a juvenile detention facility.**

Nothing in the bill requires any jurisdiction or Community Mental Health Center to operate a juvenile crisis intervention center, it only establishes the requirements if establishing one and the authority of the facility to hold and treat appropriate juveniles.

### Admission of a juvenile may occur upon:

1. Written authorization from a Community Mental Health Center qualified professional for the admission;
2. A determination by the Juvenile Crisis Intervention Center the juvenile is in need of treatment and is likely to cause harm to self or others, and;
3. No more appropriate alternative treatment is available and accessible to the juvenile at the time of admission.

### Law Enforcement Requirements

KSA 38-2231, the statute in the CINC Code directing when law enforcement officers must take a child into custody as a child in need of care is amended to add the requirement to take any child into custody when the officer "reasonable believes the child is experiencing a mental health crisis and is likely to cause harm to self or others."

KSA 38-2232 in the CINC Code is amended

1. To provide "When any law enforcement officer takes into custody [under the Child in Need of Care Act] any child as provided in [the new custody requirement described above in KSA 38-2231] the law enforcement officer shall place the child in protective custody and may deliver the child to a juvenile crisis intervention center after written authorization by a community mental health center. Such child shall not be placed in a juvenile detention facility or other secure facility." This is in addition to the existing alternatives allowed in this statute.
2. To provide when a child is taken into police custody as a child in need of care and the child is not "delivered to the custody of the child's parent or other custodian" the option of delivering the child to a "juvenile crisis intervention center after written authorization by a community mental health center" is added to the existing options.

KSA 38-2330 in the Juvenile Offense Code is amended to add a new option for a juvenile offender placement ". . .if the juvenile is determined to not be detention eligible based on a standardized

detention risk assessment tool and is experiencing a mental health crisis, deliver a juvenile to a juvenile crisis intervention center. . . after written authorization by a community mental health center.”

#### Other Law Amendments

1. The statute on CINC court ex parte orders, KSA 38-2242, is amended to add the Juvenile Crisis Intervention Center as an option for the placement during protective custody.
2. The statute on CINC temporary custody orders, KSA 38-2243, is amended to allow “. . . probable cause to believe that the. . .child is experiencing a mental health crisis and is in need of treatment. . .” to the conditions allowing the court to enter an order of temporary custody. It also permits placement in a Juvenile Crisis Intervention Center “after written authorization by a community mental health center, a juvenile crisis intervention center, as described in section 1, and amendments thereto.”

#### Length of Admission for Treatment

- The admission may not last more than 30 days
- A parent with legal custody or a legal guardian of the juvenile can remove the juvenile from the center at any time.
  - The head of the intervention center may report any concerns such removal by the parent may be cause to place the child into CINC custody to
    - DCF or
    - May request the county or district attorney to initiate CINC proceedings.
  - If such request is made to the county or district attorney, the head of the intervention center shall make the request and keep the juvenile in the intervention center for an additional 24-hour period to initiate the appropriate proceedings.

#### Other Provisions

On or before January 1, 2019, the Secretary for Children and Families, is required to establish rules and regulations to implement Act.

Funding for the facilities may be available from the Evidence based Programs Account of the State General Fund or other available appropriations for juvenile crisis intervention services. These are generally funds established to be set aside from savings created by various state program reforms and designated to be “reinvested” in local juvenile programs. These requests would be through state agencies provided agreements are established with the Secretary of Corrections. The available funds are not to exceed \$2,000,000 annually.

Several other provisions not directly impacting law enforcement are also included in the bill.

#### **ADDITIONAL REFERENCE DOCUMENTS:**

[December 2017 Kansas Judicial Council Report on Juvenile Crisis Intervention Centers](#)

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**Guide To  
2018 Kansas Legislation  
Impacting Law Enforcement**

**Section on  
Firearms  
and  
Other Weapons**

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# 2018 WEAPONS RELATED ENACTED LEGISLATION

Wednesday, June 27, 2018

Prepared by Ed Klumpp

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## TOPIC

### Firearms: Prohibition from Possession

Status Signed 145

Final Bill [HB2145](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 61

Bill Section All Eff Date 5/3/2018 Delayed Eff Date

Prohibiting the possession of a firearm by certain individuals. Adds prohibition of possession for 1) Misdemeanor DV conviction within last 5 years; 2) Fugitive from Justice; 3) Illegally in US; 4) Certain protection orders. These provisions in state law are designed to apply exactly the same as in existing federal law. Thus the changes in state law do not create a new prohibition, but allows state charges to be filed.

Amends 21-6301

### Firearms: Silencer

Status Signed 213

Final Bill [HB2145](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter

Bill Section 1 Eff Date 5/23/2018 Delayed Eff Date

Exempts firearm sound suppressor (silencer) devices from KSA 21-6301 if manufactured in Kansas and never taken out of Kansas. Retroactive to 4/25/2013 which is intended to protect two men convicted of federal charges in SE Kansas. This is more of a clean up from passing the creation of KSA 50-1201 through 50-1211 in 2013. An active federal case will answer the remaining question of whether federal licensure is required for a suppressor (silencer) made in Kansas and not crossing state lines. In any event such a case would not be in violation of state law and would have to be charged federally.

Amends 21-6301

### Throwing Stars

Status Signed 465

Final Bill [HB2145](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 61

Bill Section All Eff Date 5/3/2018 Delayed Eff Date

Amends KSA 21-6301 by moving throwing stars from subsection (a)(1) where they are illegal to sell, purchase, manufacture, or possess to subsection (a)(2) where they are illegal to possess with intent to use against another.

Amends 21-6301

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## **HB2145 amending KSA 21-6301 goes into effect Thursday, May 3, 2018.**

This document was prepared for briefing purposes by Ed Klumpp, Chief of Police—Retired, [eklumpp@cox.net](mailto:eklumpp@cox.net). I am not an attorney, and this is not legal advice. It is merely a briefing document of legislation. Follow advice from your agency, prosecutors and agency attorneys in enforcement actions and legal interpretations.

The new law makes the following changes:

1. Adds four existing federal prohibitions to possessing a firearm to Kansas statutes. The additions are intended to have the same application and requirements of federal law. The prohibitions are added to KSA 21-6301 and make it illegal to possess a firearm by any person that is:
  - a. A fugitive from justice, as defined in the statute. [Subsection (a)(15)]
  - b. An illegal alien or otherwise in the country illegally. [Subsection (a)(16)]
  - c. Subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or a child of the person or the intimate partner, or from engaging in conduct placing the intimate partner or a child of the person or intimate partner in reasonable fear of bodily injury. It is required the person has had an opportunity to attend a hearing on the order. It is also required the order contain either 1) a finding they present a credible threat to an intimate partner or child, or 2) explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury. [Subsection (a)(17)]
  - d. Within the preceding five years, has been convicted of a misdemeanor for a domestic violence offense, or a misdemeanor under a law of another jurisdiction which is substantially the same as such misdemeanor offense. [Subsection (a)(18)]
2. Moves the possession of a throwing star from subsection (a)(1) to subsection (a)(2). This makes possession of a throwing star only a violation if there is an intent to use it unlawfully against another. Mere possession of a throwing star is no longer a violation.
3. Adds an exemption to the state law violation of possessing a firearm sound suppressor if the suppressor was manufactured in Kansas and has not been taken out of state. See KSA 50-1204 for more conditions and information.

All the new crimes listed in item 1 above are a SL8, nonperson felony.

The changes in item 1 above have many conditions placed on them designed to assure they mirror federal law and do not create any additional restrictions to firearm possession not already illegal under federal law. This includes specific definitions for the terms “intimate partner,” “domestic violence,” and “fugitive from justice” as used in this statute. See subsection (m). These definitions may vary from the definition of these terms used in other statutes.

- Domestic violence is defined in subsection (m)(1) “the use or attempted use of physical force, or the threatened use of a deadly weapon, committed against a person with whom the offender is involved or has been involved in a dating relationship or is a family or household member.”
- Fugitive from justice is defined in subsection (m)(2) as “any person having knowledge that a warrant for the commission of a felony has been issued for the apprehension of such person under KSA 22-2713.”
- Intimate Partner is defined in subsection (m)(3) as “the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person or an individual who cohabitates or has cohabitated with the person.”

Be sure to review the elements of each crime in the statute thoroughly and seek advice from your agency, your prosecutors, or other legal resources of your agency on the application of the new law provisions.

You can access the bill document at:

[http://www.kslegislature.org/li/b2017\\_18/measures/documents/hb2145\\_enrolled.pdf](http://www.kslegislature.org/li/b2017_18/measures/documents/hb2145_enrolled.pdf)

You can access the legislative briefing document at:

[http://www.kslegislature.org/li/b2017\\_18/measures/documents/summary\\_hb\\_2145\\_2018.pdf](http://www.kslegislature.org/li/b2017_18/measures/documents/summary_hb_2145_2018.pdf)

## Relevant statutes

### **21-6301. Criminal use of weapons. As amended by 2018 HB2145, 2018 Session Law Chapter 61**

(a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing or possessing any bludgeon, sand club, *or* metal knuckles ~~or throwing star~~;

(2) possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged razor, *throwing star*, stiletto or any other dangerous or deadly weapon or instrument of like character;

(3) setting a spring gun;

(4) possessing any device or attachment of any kind designed, used or intended for use in suppressing the report of any firearm;

(5) selling, manufacturing, purchasing or possessing a shotgun with a barrel less than 18 inches in length, or any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger, whether the person knows or has reason to know the length of the barrel or that the firearm is designed or capable of discharging automatically;

(6) possessing, manufacturing, causing to be manufactured, selling, offering for sale, lending, purchasing or giving away any cartridge which can be fired by a handgun and which has a plastic-coated bullet that has a core of less than 60% lead by weight, whether the person knows or has reason to know that the plastic-coated bullet has a core of less than 60% lead by weight;

(7) selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age whether the person knows or has reason to know the length of the barrel;

(8) selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;

(9) selling, giving or otherwise transferring any firearm to any person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. [59-2946](#), and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. [59-29b46](#), and amendments thereto;

(10) possessing any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(11) possessing any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event whether the person knows or has reason to know that such person was in or on any such property or grounds;

(12) refusing to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer;

(13) possessing any firearm by a person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. [59-2946](#), and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. [59-29b46](#), and amendments thereto; or

(14) possessing a firearm with a barrel less than 12 inches long by any person less than 18 years of age.

(15) possessing any firearm while a fugitive from justice;

(16) possessing any firearm by a person who is an alien illegally or unlawfully in the United States;

(17) possessing any firearm by a person while such person is subject to a court order that:

(A) Was issued after a hearing, of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking or threatening an intimate partner of such person or a child of such person or such intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or the child; and

(C) (i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; ~~or~~

(18) possessing any firearm by a person who, within the preceding five years, has been convicted of a misdemeanor for a domestic violence offense, or a misdemeanor under a law of another jurisdiction which is substantially the same as such misdemeanor offense.

(b) Criminal use of weapons as defined in:

(1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a class A nonperson misdemeanor;

(2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson felony;

(3) subsection (a)(10) or (a)(11) is a class B nonperson select misdemeanor;

(4) subsection (a)(13), (a)(15), (a)(16), (a)(17) or (a)(18) is a severity level 8, nonperson felony; and

(5) subsection (a)(14) is a:

(A) Class A nonperson misdemeanor except as provided in subsection (b)(5)(B);

(B) severity level 8, nonperson felony upon a second or subsequent conviction.

(c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

(4) the manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.

(d) Subsections (a)(4) and (a)(5) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. § 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) Subsection (a)(6) shall not apply to a governmental laboratory or solid plastic bullets.

(f) Subsection (a)(4) shall not apply to a law enforcement officer who is:

(1) Assigned by the head of such officer's law enforcement agency to a tactical unit which receives specialized, regular training;

(2) designated by the head of such officer's law enforcement agency to possess devices described in subsection (a)(4); and

(3) in possession of commercially manufactured devices which are:

(A) Owned by the law enforcement agency;

(B) in such officer's possession only during specific operations; and

(C) approved by the bureau of alcohol, tobacco, firearms and explosives of the United States department of justice.

(g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory.

(h) Subsections (a)(4) and (a)(5) shall not apply to or affect any person or entity in compliance with the national firearms act, 26 U.S.C. § 5801 et seq.

*(i) (1) Subsection (a)(4) shall not apply to or affect any person in possession of a device or attachment designed, used or intended for use in suppressing the report of any firearm, if such device or attachment satisfies the description of a Kansas-made firearm accessory as set forth in K.S.A. 2017 Supp. 50-1204, and amendments thereto.*

(2) *The provisions of this subsection shall apply to any violation of subsection (a)(4) that occurred on or after April 25, 2013.*

(j) Subsection (a)(11) shall not apply to:

(1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;

(2) possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;

(3) possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student; or

(4) possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day; or

(5) possession of a concealed handgun by an individual who is not prohibited from possessing a firearm under either federal or state law.

~~(j)~~(k) Subsections (a)(9) and (a)(13) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. 2017 Supp. 75-7c26, and amendments thereto.

~~(k)~~(l) Subsection (a)(14) shall not apply if such person, less than 18 years of age, was:

(1) In attendance at a hunter's safety course or a firearms safety course;

(2) engaging in practice in the use of such firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located, or at another private range with permission of such person's parent or legal guardian;

(3) engaging in an organized competition involving the use of such firearm, or participating in or practicing for a performance by an organization exempt from federal income tax pursuant to section 501(c)(3) of the internal revenue code of 1986 which uses firearms as a part of such performance;

(4) hunting or trapping pursuant to a valid license issued to such person pursuant to article 9 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

(5) traveling with any such firearm in such person's possession being unloaded to or from any activity described in subsections ~~(k)~~(l) (1) through ~~(k)~~(l)(4), only if such firearm is secured, unloaded and outside the immediate access of such person;

(6) on real property under the control of such person's parent, legal guardian or grandparent and who has the permission of such parent, legal guardian or grandparent to possess such firearm; or

(7) at such person's residence and who, with the permission of such person's parent or legal guardian, possesses such firearm for the purpose of exercising the rights contained in K.S.A. 2017 Supp. 21-5222, 21-5223 or 21-5225, and amendments thereto.

~~(j)~~(m) As used in this section,

(1) *"Domestic violence" means the use or attempted use of physical force, or the threatened use of a deadly weapon, committed against a person with whom the offender is involved or has been involved in a dating relationship or is a family or household member.*

(2) *"Fugitive from justice" means any person having knowledge that a warrant for the commission of a felony has been issued for the apprehension of such person under K.S.A. 22-2713, and amendments thereto.*

(3) *"Intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person or an individual who cohabitates or has cohabitated with the person.*

(4) *"throwing star" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.*

**22-2713. Arrest prior to requisition; prisoners in federal facilities, waiver of requirements for extradition.** (a) Whenever any person within this state is charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases arising under K.S.A. 22-2706, and amendments thereto, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of the person's bail, probation, assignment to a community correctional services program, postrelease supervision or

parole, or with being under sentence, some portion of which remains unexecuted, from which such person has not been paroled, placed on postrelease supervision or discharged or otherwise released, or whenever complaint has been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under K.S.A. 22-2706, and amendments thereto, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of the person's bail, probation, assignment to a community correctional services program, postrelease supervision or parole, or with being under sentence, some portion of which remains unexecuted, from which such person has not been paroled, placed on postrelease supervision or discharged or otherwise released, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any law enforcement officer commanding the apprehension of the person named therein, wherever such person may be found in this state, and to bring such person before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

(b) Any person incarcerated in any federal facility may be released to the custody of the duly accredited officers, or such officer's designees, of a foreign state, if:

(1) Such person has violated the terms of such person's probation, postrelease supervision, parole or who has an unexpired sentence in the foreign state;

(2) the foreign state has personal jurisdiction over such person; and

(3) the foreign state has issued a valid warrant for the apprehension of such person. For that purpose no formalities shall be required other than establishing the authority of the officer and the identity of the person to be apprehended. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived by the state of Kansas, as to such persons.

**50-1204. Personal firearms, accessories and ammunition manufactured in Kansas; exempt, interstate commerce.** (a) A personal firearm, a firearm accessory or ammunition that is manufactured commercially or privately and owned in Kansas and that remains within the borders of Kansas is not subject to any federal law, treaty, federal regulation, or federal executive action, including any federal firearm or ammunition registration program, under the authority of congress to regulate interstate commerce. It is declared by the legislature that those items have not traveled in interstate commerce. This section applies to a firearm, a firearm accessory or ammunition that is manufactured commercially or privately and owned in the state of Kansas.

(b) Component parts are not firearms, firearms accessories or ammunition, and their importation into Kansas and incorporation into a firearm, a firearm accessory or ammunition manufactured and owned in Kansas does not subject the firearm, firearm accessory or ammunition to federal regulation. It is declared by the legislature that such component parts are not firearms, firearms accessories or ammunition and are not subject to congressional authority to regulate firearms, firearms accessories and ammunition under interstate commerce as if they were actually firearms, firearms accessories or ammunition.

(c) Firearms accessories that are imported into Kansas from another state and that are subject to federal regulation as being in interstate commerce do not subject a firearm to federal regulation under interstate commerce because they are attached to or used in conjunction with a firearm in Kansas.

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**Guide To  
2018 Kansas Legislation  
Impacting Law Enforcement**

**Section on  
Drug Enforcement**

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# 2018 DRUG RELATED ENACTED LEGISLATION

Monday, June 25, 2018

Prepared by Ed Klumpp

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## TOPIC

### CBD Oil

Status Signed 473

Final Bill [SB282](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 101

Bill Section 4, 5 Eff Date 5/24/2018 Delayed Eff Date

Amends the definition of marijuana in Ch 21 and Ch 65 by exempting cannabidiol from the definition. As a result, cannabidiol in CBD products with no THC will be legal in Kansas. NOTE: This still violates current federal law.

Amends 21-5701 and 65-4101

### Drugs: Schedules

Status Signed 327

Final Bill [HB282](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 101

Bill Section 1, 2,3 Eff Date 5/24/2018 Delayed Eff Date

Updating substances included in schedules I, II and III of the uniform controlled substances act. KSA 65-4105, Schedule I Drugs, is amended by adding 12 forms of synthetic opioid fentanyl and MT-45 an opioid analgesic. Also adds several cannabinoid classes to cover several new synthetics. KSA 65-4107, Schedule II Drugs, is amended by adding a fentanyl precursor. Dronabinol, a synthetic THC compound, is also moved here from Schedule IV to mirror a federal change. KSA 65-4109, Schedule III Drugs, is amended by updating the list of anabolic steroids.

Amends 65-4105, 65-4107 and 65-4109

### THC Penalty

Status Signed 374

Final Bill [HB2458](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 112

Bill Section 6 Eff Date 7/1/2018 Delayed Eff Date

Making the penalty for possession of THC the same as that for possession of MJ. First offense is a class B nonperson misdemeanor; second offense is a class A nonperson misdemeanor; and a third or subsequent offense is a drug severity level 5 felony.

Amends 21-5706

**Drug Treatment Programs: Drug Severity Level 4 Crimes**Status **Signed** 127Final Bill [HB2458](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 112

Bill Section 8 Eff Date 7/1/2018 Delayed Eff Date

Allows the nonprison sanction of placement in a certified drug abuse treatment program, commonly referred to as the SB123 program, to include offenders convicted of a severity level 4 offense with a criminal history of E or lower (no prior person felony convictions) who do not have any felony conviction of drug manufacturing, drug cultivation or distribution, or unlawful acts involving proceeds derived from drug violations. The amendment is intended to allow drug treatment for defendants in distribution of small quantities provided they have no prior distribution convictions.

Offenders are not eligible if they: (A) Are residents of, and returning to, another state pursuant to the interstate corrections compact or the interstate compact for adult offender supervision; (B) are not lawfully present in the United States and being detained for deportation; or (C) do not meet certain risk assessment levels.

Amends 21-6824

**Hemp: Agricultural**Status **Signed** 302Final Bill [SB263](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 62

Bill Section All Eff Date 5/3/2018 Delayed Eff Date

Creates a research program under the Ks Dept of Ag for industrial hemp as authorized in the Federal 2014 Farm Act. The passed version of this bill has language relating to the definitions relating to impacts on law enforcement that was worked out by law enforcement and the KBI to minimize negative impact on other drug enforcement activities.

Amends New; 21-5702; 65-4101

More Legislative Information Available at [www.KsLawEnforcementInfo/2018-session.html](http://www.KsLawEnforcementInfo/2018-session.html)

## **Drug Statute Amendments 2018 SB263, SB282, HB2458**

[Link to the SB282](#)

[Link to the Legislative Summary of SB282](#)

**Effective May 24, 2018**

[Link to the HB2458](#)

[Link to the Legislative Summary of HB2458](#)

**Effective July 1, 2018**

[Link to the SB263](#)

[Link to the Legislative Summary of SB263](#)

**Effective May 3, 2018**

Prepared by Ed Klumpp, [eklumpp@cox.net](mailto:eklumpp@cox.net), May 21, 2018

### **Drug Schedule Updates (SB282, sections 1, 2, & 3) Effective May 24, 2018**

KSA 65-4105, Schedule I Drugs, is amended by adding 12 forms of synthetic opioid fentanyl and MT-45 an opioid analgesic. Also adds several cannabinoid classes to cover several new synthetics.

KSA 65-4107, Schedule II Drugs, is amended by adding a fentanyl precursor. Dronabinol, a synthetic THC compound, is also moved here from Schedule IV to mirror a federal change.

KSA 65-4109, Schedule III Drugs, is amended by updating the list of anabolic steroids.

### **Marijuana Definition and Cannabidiols (SB282, sections 4 & 5) Effective May 24, 2018**

The Marijuana definition was amended in both KSA 21-5701 subsection (j) and KSA 65-4101 subsection (aa) to exclude cannabidiols. This was to allow the sale and possession (not manufacturing) of certain cannabidiols marketed as a health aid commonly sold in health food stores and convenience stores. This definition does not exclude all cannabinoids from the definition and is designed to be very narrow for the marketed products. The change in definition does not allow those products to contain any amount of THC or other controlled substance, they must be THC free to be legal since THC is still a scheduled drug.

### **Drug Treatment for Drug SL4 Felons (HB2458, section 8) Effective July 1, 2018**

KSA 21-6824 is amended to allow the nonprison sanction of placement in a certified drug abuse treatment program, commonly referred to as the SB123 program, to include offenders convicted of a severity level 4 offense with a criminal history of E or lower (no prior person felony convictions) who do not have any felony conviction of drug manufacturing, drug cultivation or distribution, or unlawful acts involving proceeds derived from drug violations. The amendment is intended to allow drug treatment for defendants in distribution of small quantities provided they have no prior distribution convictions.

Offenders are not eligible if they: (A) Are residents of, and returning to, another state pursuant to the interstate corrections compact or the interstate compact for adult offender supervision; (B) are not lawfully present in the United States and being detained for deportation; or (C) do not meet certain risk assessment levels.

### **THC Possession Penalties (HB2458 section 6) Effective July 1, 2018**

KSA 21-5706 is amended to make the penalties for possession of THC the same as they are for marijuana: First offense is a class B nonperson misdemeanor; second offense is a class A nonperson misdemeanor; and a third or subsequent offense is a drug severity level 5 felony.

### **Industrial or Agricultural Hemp (SB263, sections 4 & 5) Effective May 3, 2018**

The legislature approved the "Alternative Crop Research Act" legalizing industrial or agricultural hemp, however it is limited to what is allowed under federal law for promoting the research and development of industrial hemp. This requires it to be well regulated under the Kansas Department of Agriculture (KDA). KDA is authorized to establish a pilot program in Russell County, and other counties determined by the KDA, for economic development, research,

cultivation, market analysis, manufacturing, and transportation of industrial hemp and industrial hemp products. [New Section 2]

Definitions are in new section 1 and include:

- “Industrial hemp” means all parts and varieties of the plant *cannabis sativa* L., cultivated or possessed by a state educational institution or the department, whether growing or not, that contain a delta-9 tetrahydrocannabinol concentration of no more than 0.3% on a dry weight basis.
- “Certified seed” means industrial hemp seed that has been certified by a certifying agency, as defined by K.S.A. 2-1415, and amendments thereto, as having a delta-9 tetrahydrocannabinol concentration of no more than 0.3% on a dry weight basis.
- “Hemp products” means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption and certified seed for cultivation, if the seeds originate from industrial hemp varieties.

The KDA can operate the program with coordination through either a state university or an advisory board. They are already forming the advisory board and it will include a law enforcement representative. [New section 1]

Participants must be licensed which requires a fingerprint based criminal history check. Persons with a felony drug conviction are ineligible for licensure. [New section 2 subsection (d)]

KDA must develop rules and regulations to administer the program by the end of 2018. [New section 2 subsection (e)]

Participants will be required to keep their license in their possession at all times they are engaged in cultivation, growth, research, oversight, study, analysis, transportation, processing, or distribution of certified seed or industrial hemp pursuant to the Act. This was implemented at the request of law enforcement to assist us in differentiating between legal hemp operations and cannabis related criminal activity. [New section 2 subsection (e)]

The definition of marijuana is amended in KSA 21-5701 subsection (j) and KSA 65-4101 subsection (aa) to exclude hemp as authorized in the Act. [Sections 4 & 6]

KSA 65-4105, the schedule I drug statute, is amended in subsection (h)(1) to exclude THC obtained from industrial hemp but only “when cultivated, possessed or used for activities authorized by the alternative crop research act.” Any other THC possession, extraction, or distribution is still criminal, even if conducted by a person licensed under the Act. [Section 7]

While the bill became effective when published in the Kansas Register on May 3, 2018, the program cannot become active until after the Kansas Department of Agriculture creates the regulations and issues licenses. We probably will not see hemp being grown under the Act in Kansas until spring of 2019 at the earliest.

The author of this document is not an attorney and this is not legal advice. It is a summary of legislation passed in the 2018 Kansas legislative session and is based on explanations, observations, and studies of the bill and related documents.

Always follow your agency policies and utilize your agency protocol to refer to your local prosecutors and agency attorneys for legal interpretations.

# **Guide To 2018 Kansas Legislation Impacting Law Enforcement**

## **Section on DUI**

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# 2018 DUI RELATED ENACTED LEGISLATION

Wednesday, June 27, 2018

Prepared by Ed Klumpp

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## TOPIC

### DUI

Status Signed 400

Final Bill [SB374](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 106

Bill Section All Eff Date 7/1/2018 Delayed Eff Date

Considerable amendments were made to the DUI laws most significantly repealing the criminal violation for refusing an evidentiary test and changing the test consent and advisory procedures. The "implied consent" language is removed and replaced with language stating tests "may be required" and "may be requested." When requesting a test any reference to "reasonable grounds to believe" has been changed to "probable cause to believe."

The rules for crash related DUI also changed by removing the references to varying degrees of injury and instead using injury or death. The new provision requires the person to have been involved in a collision involving property damage, personal injury or death AND probable cause the person is DUI. Testing based only on a person's vehicle operation causing an accident are removed.

New provisions were included addressing obtaining tests with or without a search warrant. The language is different for obtaining blood or urine and obtaining other breath or bodily substance samples for testing and specifies a warrant is required to obtain a blood or urine sample absent consent. Amendments were also made to the statutes allowing officers to direct blood collection by medical professionals.

The above changes were in response to several appellate court decisions over the past 2-3 years.

The administrative penalties for evidentiary test refusals remain in place. There are not changes to the preliminary test statutes. New DC27 and DC70 forms will be required.

The language in the collective knowledge provision of investigators and the test request are changed to apply to any DUI investigation instead of only accident investigations.

Amends 8-2,137; 8-2,142; 8-2,144; 8-2,145; 8-1001; 8-1002; 8-1012; 8-1013; 8-1020; 8-1024; 8-1025; 81567; 65-1,107; 75-712h

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## **DUI Amendments (SB374 and HB2439)**

**Effective July 1, 2018**

[Links: SB374](#)

[Legislative Summary of SB374](#)

[HB2439](#)

[Legislative Summary of HB2439](#)

Amended statutes available at: <http://www.kscofplaw.com/vehcode/art10.html>

Prepared by Ed Klumpp, [eklumpp@cox.net](mailto:eklumpp@cox.net), May 19, 2018

### **Introduction [SB374]**

The 66-page bill amends 34 statutes, but it is not as ominous as that sounds. The amendments in 31 of those statutes are technical amendments primarily changing or deleting statute references, mostly due to the repeal of KSA 8-1025. That leaves the meaningful changes in only three sections of the bill amending KSA 8-2,144 (section 6 starting on page 8); 8-1001 (section 7 starting on page 12); and 8-1567 (section 13 starting on page 21); plus the repeal of KSA 8-1025. Most, if not all, of the amendments directly affecting law enforcement are in section 7 of the bill (pages 12-16) amending KSA 8-1001, testing procedures, and in the repeal of KSA 8-1025, the criminal violation for refusing a test.

### **Preliminary Tests [SB374 KSA 8-1012, not amended in the final bill]**

The bill does not amend nor repeal KSA 8-1012 governing preliminary testing. This leaves the existing statute in place and without change. It still includes the required notice and penalty for refusing the test. Prosecutors are telling me case law has ruled the criminal provision unconstitutional. Check with your local prosecutors for advice on using preliminary tests and the use of the notice when doing so.

### **Criminal and Administrative Penalties for Test Refusal [SB374 Repeal of KSA 8-1025, Section 35 of the bill]**

KSA 8-1025 is fully repealed (not amended). This is the statute enacted in 2012 that provided a criminal penalty for refusing an evidentiary test required in KSA 8-1001, DUI testing. This repeal is based on case law ruling the provisions unconstitutional. Administrative actions for evidentiary test refusal or failure provided in KSA 8-1014 remain unchanged. Evidentiary test refusal is still admissible as evidence in court as provided by KSA 8-1001 subsection (n).

### **Implied Consent [SB374 Section 7 of the bill]**

Implied consent is no longer applicable, based on recent case law. KSA 8-1001 is amended to remove any references to "consent" or "deemed consent" related to what has been known as implied consent and replacing it with the reference to "may be requested" and "may be required." The result is all statutory references to a vehicle operator having deemed consent to testing by choosing to operate a vehicle and allowing the withdrawal of such consent are removed and replaced by statutory language specifying when a test may be required and allowing law enforcement officers to request the test when the test is required. Such request must be based on probable cause to believe the person has committed the crime of DUI. The term "reasonable grounds" is removed and replaced with "probable cause" throughout the bill as required to create consistency with the new "probable cause" standard. These changes were made to address recent case law requirements.

The provision in subsection (b)(1) that requires the person is either "arrested or otherwise taken into custody for any violation of statute, county resolution, or city ordinance" or "involved in a motor vehicle accident or collision resulting in property damage or personal injury" remains in the amended law. However, the several factors relating to traffic collisions are removed in the amended law as outlined below.

### **Request of Tests [SB374 Section 7, subsection (b) & striking subsections (p) & (w)]**

KSA 8-1001 subsection (b)(1) is amended by removing the phrase referring to the law enforcement officer requesting "a test. . . If, at the time of request. . . the officer has reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both. . ." and replacing it with, "One or more tests may be required of a person when, at the time of the request, a law enforcement officer has probable cause to believe the person has committed a violation of" DUI, is operating a commercial vehicle with any alcohol or drugs in their system [also see KSA 8-1001 subsection (m)] or the driver is under the age of 21 with any alcohol or drugs in their system.

#### Requests in Cases Involving Vehicle Collision

KSA 8-1001 subsection (b)(1) is also amended to delete references to varying degrees of injury and provisions about whether actions of the operator contributed to the accident are removed. Subsections

(p) and (w) of the original statute which provided that operating a vehicle in a manner to cause death or serious injury was probable cause to believe the person was under the influence, and the definition of serious injury are deleted. This results in requests for tests for persons involved in a collision must be based on being “involved in a motor vehicle accident or collision resulting in property damage or personal injury or death” and probable cause the person has committed a DUI offense. No longer can a test be requested solely on the basis the driver’s actions contributed to the collision, the driver could be cited for any traffic violation listed in KSA 8-2117, and the collision resulted in death or serious injury. Those factors no longer constitute probable cause for requesting a test without probable cause the driver committed a DUI violation.

#### Collective Knowledge of Law Enforcement Officers

KSA 8-1001 subsection (b)(2) which provides the officer requesting or directing the administration of a test may act on their personal knowledge or the collective knowledge of law enforcement officers involved in the investigation is amended. The limitation to “officers involved in the accident investigation or arrest” is changed to simply the “officers involved in the investigation or arrest.” This allows this provision to apply to the investigation of a non-collision DUI case.

#### **Test Advisories or Notices** [SB374 Section 7, new subsections (c) & (d); subsections (q) & (r); KSA 8-2,145; and removing old subsection (k)]

KSA 8-1001 is amended by removing all notices required prior to evidentiary testing in subsection (k) and replaces them with new notices. Those new notices are found in new subsection (c) for requesting a test of other than blood or urine; and in new subsection (d) for requesting a blood or urine test.

#### Additional Notices for Operators of a Commercial Vehicle and for any Vehicle Operator Under 21

In addition to the notices required in KSA 8-1001, the notices required in KSA 8-2,145 for commercial vehicle drivers and KSA 8-1567a for drivers under 21 being tested for DUI remain unchanged.

#### Effect of Not Providing the Notices

KSA 8-1001 subsections (q) and (r) are amended to reference the notices as “authorized” instead of “required.” (Note: Subsection (c) & (d) provide the notices “shall be given,” so they are not optional. It is just the impact of failing to give notice is mitigated for the purposes stated in these subsections.) The provision that test results cannot be suppressed in the criminal case of DUI because of “technical irregularities” is amended to “because of irregularities not affecting the substantial rights of the accused in the consent or notice authorized in subsection (c) or (d). . .” The new provision clarifies irregularities or not given the notice can still be used in defense of the “. . . administrative action regarding the subject’s driving privileges.”

Dept. of Revenue will be issuing revised DC27 and DC70 advisory forms.

#### **Test Sample by Search With or Without a Warrant** [SB374 Section 7, subsections (e), (f), & (s)]

KSA 8-1001 is amended by adding two new subsections and amending another regarding acquiring a test sample by a search with or without a warrant.

New subsection (e) clarifies the statute does not “limit the right of a law enforcement officer to conduct any search of a person’s breath or bodily substance, other than blood or urine, incident to a lawful arrest pursuant to the constitution of the United States, with or without providing the person the advisories authorized in subsection (c), nor limit the admissibility at any trial or hearing of alcohol or drug concentration testing results obtained pursuant to such a search.”

New subsection (f) clarifies the statute does not “limit the right of a law enforcement officer to conduct or obtain a blood or urine test of a person pursuant to a warrant under K.S.A. 22-2502, and amendments thereto, the constitution of the United States or a judicially recognized exception to the search warrant requirement, with or without providing the person the advisories authorized in subsection (d), nor limit the admissibility at any trial or hearing of alcohol or drug concentration testing results obtained pursuant to such a search.” Consent is the most common, among several “judicially recognized exceptions.”

Subsection (s) amends the existing provision that nothing in the statute “shall be construed to limit the admissibility at any trial of alcohol or drug concentration testing results obtained pursuant to a search warrant” by adding “or other judicially recognized exception to the warrant requirement.”

## **Directing Blood Collection by a Medical Professional [SB374 Section 7, KSA 8-1001, subsections (g) and (h)]**

KSA 8-1001 has a new subsection (g) which provides a law enforcement officer may direct the sample of blood to be collected by “a medical professional” to draw “one or more samples of blood from a person to determine the blood’s alcohol or drug concentration: (1) If the person has given consent, with or without the advisories in subsection (d), and meets the requirements of subsection (b) [probable cause, etc.]; (2) if law enforcement has obtained a search warrant authorizing the collection of blood from the person; or (3) if the person refuses or is unable to consent to submit to and complete a test, and another judicially recognized exception to the warrant requirement applies.”

KSA 8-1001 subsection (h) defines which “medical professionals” may be directed to obtain the blood sample. This only includes: (1) A person licensed to practice medicine and surgery, licensed as a physician assistant, or a person acting under the direction of any such licensed person; (2) a registered nurse or a licensed practical nurse; (3) any qualified medical technician, including, but not limited to, an advanced emergency medical technician or a paramedic, as those terms are defined in K.S.A. 65-6112, authorized by medical protocol; or (4) a phlebotomist.” These provisions are different than prior statutory language that was in subsection (d) which was stricken from KSA 8-1001.

Subsection (i) of the amended KSA 8-1001 provides for a written statement from the officer to the medical professional. Upon being provided that written statement, the medical professional “shall withdraw the sample of blood as soon as practical and shall deliver the sample to the law enforcement officer or another law enforcement officer as directed by the requesting law enforcement officer as soon as practical, provided the collection of the sample does not jeopardize the person’s life, cause serious injury to the person or seriously impede the person’s medical assessment, care or treatment.” The subsection also provides, “The medical professional shall not require the person that is the subject of the test or tests to provide any additional consent or sign any waiver form.”

### Immunity of Civil Action for Medical Professional and Medical Care Facility

KSA 8-1024 and KSA 8-1001 subsection (j) provides immunity from civil liability for medical professionals and the medical care facility obtaining the sample based on the law enforcement request. (NOTE: The law enforcement officer submitting the request is responsible for assuring all legal requirements to request the test are met.) The amended KSA 8-1001 states: “The medical professional authorized herein to withdraw the blood and the medical care facility where the blood is drawn may act on good faith that the requirements have been met for directing the withdrawing of blood once presented with the written statement provided for under this subsection. . . In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent.” The amended KSA 8-1024 states, “No medical care facility, clinical laboratory, medical clinic, other medical institution, person licensed to practice medicine or surgery, person acting under the direction of any such licensed person, licensed physician assistant, registered nurse, licensed practical nurse, medical technician, paramedic, advanced emergency medical technician, phlebotomist, health care provider or person who participates in good faith in the obtaining, withdrawal, collection or testing of blood, breath, urine or other bodily substance at the direction of a law enforcement officer pursuant to K.S.A. 8-1001, and amendments thereto, or as otherwise authorized by law, shall incur any civil, administrative or criminal liability as a result of such participation, regardless of whether or not the patient resisted or objected to the administration of the procedure or test.”

**NOTE:** While the bill does not create a new crime for the medical professional declining to comply, nor does it address what to do if the medical professional declines to obtain the sample, I will offer my personal advice (not a legal opinion). First and foremost, follow your agency policy on this matter. If your agency does not have a policy, ask for clarification using your appropriate channels. If this is not successful, ask your prosecutor. I personally highly recommend you do not arrest the medical professional. (Remember, they are probably just following the directives of their employer and superiors much like law enforcement is required to do.) If you believe there has been a violation of law, I suggest you simply submit an offense report to your prosecutor. Your agency may minimize this problem by contracting with a medical professional or medical facility to provide this service.

**Collection of Urine** [SB374 Section 7, subsection (k)]

Procedures for collecting urine samples found in KSA 8-1001 subsection (k) are unchanged. There are some technical amendments made for consistency with other amendments, primarily due to changes in subsections (b) and (c) relating to collision investigations and probable cause for a DUI violation.

**Test results to defendant** [SB374 Section 7, subsection (t)]

The provision in KSA 8-1001 subsection (t) stating a report of the results of any test is to be made available on request to any person submitting to a test is amended by adding “when available.”

**Law Enforcement liability** [SB374 Section 7, subsection (l)]

The provision in KSA 8-1001 subsection (l) providing a law enforcement officer following the statute is not subject to civil or criminal liability for the action taken pursuant to the statute is retained unchanged.

**DUI, Involuntary Manslaughter** [HB2439 section 1, 2, 4 & 7]

A person who is DUI and involved in a fatality accident while their DL is revoked, suspended or restricted for a DUI related event, or is a habitual violator with at least one DUI violates the involuntary manslaughter statute, KSA 21-5405. If involved in a crash resulting in serious bodily harm while under the same DL sanctions violates aggravated battery statute KSA 21-5413 subsection (b)(4) which is a SL4 person felony. Juvenile records for this violation may not be expunged. [Section 9 amending KSA 38-3212] These violations also are included in future DUI convictions in determining 3rd or subsequent conviction penalty enhancements. [Sec. 4 amending KSA 8-2,144; Sec. 7 amending KSA 8-1567]

**Post-Conviction Supervision Violation Amendments** [SB374 Sections 6 and 13 of the bill]

KSA 8-2,144, Commercial Vehicle DUI, and 8-1567, DUI, are amended by adding two provisions involving post-conviction supervision violations. The first provides that an offender for whom a warrant has been issued by the court alleging a violation of supervision is considered a fugitive from justice if the warrant cannot be served and allows the court to determine if the time from issuance of the warrant to the court finds the person violated supervision will be counted as time served on supervision. The second addition provides the term of supervision may be extended by the court beyond one year, and any violation of the conditions of such extended term of supervision may subject such person to the revocation of supervision and imprisonment in jail of up to the remainder of the original sentence.

**Penalty Enhancement for Child in the Vehicle While DUI** [SB374 Sections 6 and 13 of the bill]

KSA 8-2,144, Commercial Vehicle DUI, and 8-1567, DUI, are amended by restricting the enhancement only to a driver age 18 or older, and by changing the maximum age of the child passenger to 18 from 14.

**Prior Comparable Convictions** [SB374 Bill preamble; Section 6, subsection (n); Section 13, subsection (i)]

The bill preamble stating legislative intention is added, and provides determination of comparable prior violations is to be construed liberally regardless of whether they are identical to or narrower than the Kansas offense. It also specifically states the laws of Missouri, Oklahoma, Colorado, Nebraska, and the Wichita city ordinance shall be included in prior offense calculations.

KSA 8-2,144 subsection (n), Commercial Vehicle DUI, and 8-1567 subsection (i), DUI, are amended by deleting the existing instructions on determining comparable offense and replacing it with “any law of another jurisdiction that would constitute an offense that is comparable to the” Kansas offense. A new subsection is also added providing further direction to the court to determine comparability.

**Court Reports to DMV** [SB374 Section 6, subsection (h); Section 13, subsection (h)]

KSA 8-2,144, subsection (h) is amended deleting the requirement for the court to submit any diversion agreement for a violation of this statute to DMV. KSA 8-1567 subsection (i) is amended by adding a requirement for the court to include the “finding regarding the alcohol concentration in the offender’s blood or breath” in the report to DMV of the conviction or diversion agreement.

The author of this document is not an attorney and this is not legal advice. It is a summary of legislation passed in the 2018 Kansas legislative session and based on explanations, observations, and studies of the bill and related documents.

Always follow your agency policies and utilize your agency protocol to refer to your local prosecutors and agency attorneys for legal interpretations and application of case law.

**Guide To  
2018 Kansas Legislation  
Impacting Law Enforcement**

**Section on  
Traffic Law  
and  
Traffic Enforcement**

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# 2018 TRAFFIC RELATED ENACTED LEGISLATION

Wednesday, June 27, 2018

Prepared by Ed Klumpp

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## TOPIC

### Drivers License Renewal, CDL

Status Signed 471

Final Bill [HB2606](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 53

Bill Section 2 & 3 Eff Date 7/1/2018 Delayed Eff Date

Extends from four years to five years the period of time an original commercial driver's license (CDL) issued on and after July 1, 2018, will be valid. The bill extends from four years to five years the period of time before expiration of a CDL. KSA 8-247 was further amended by SB461 (SL Ch 102) section 2.

Amends 8-247; 8-2,135

### Driver's License Renewal, Online

Status Signed 394

Final Bill [SB461](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 102

Bill Section 1 Eff Date 7/1/2018 Delayed Eff Date

Allows online DL renewal with diver's certification they have had an eye exam. Cannot occur for two successive renewals. This amendment originally passed in HB2606 which was replaced with these same provisions by SB461. These amendments are in KSA 8-240 subsection (j).

Amends 8-240

### Emergency Vehicles: Weight Limits

Status Signed 411

Final Bill [SB272](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 72

Bill Section 3 Eff Date 7/1/2018 Delayed Eff Date

Gross weight emergency vehicles are not to exceed 86,000 pounds and maximum axle weight is 24,000 pounds on a single steering axle, 33,500 pounds on a single drive axle, 62,000 pounds on a tandem axle, and 52,000 pounds on a tandem rear drive steering axle. As used in this statute, "emergency vehicle" is defined as a vehicle designed to be used under emergency conditions to transport personnel and equipment and to support the suppression of fires and mitigation of other hazardous situations.

Amends New

### License Plate: Distinctive

Status Signed 491

Final Bill [HB2599](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 63

Bill Section 1, 2, 4, 5, 6, 7, 8 Eff Date 7/1/2018 Delayed Eff Date

Creates Specialty Plates for City of Wichita, Special Olympics, Choose Life, Korean war, operation desert storm, operation Iraqi freedom and operation enduring freedom license plates.

Amends New; 8-1,141; 8-1,147.

### Commercial Vehicle: Length

Status Signed 401

Final Bill [SB272](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 72

Bill Section 5 Eff Date 7/1/2018 Delayed Eff Date

Allows multi-trailer car transport vehicles (towaway trailers) to be up to 82 feet long if they are not hauling any property.

Amends 8-1904

TOPIC

**Golf Carts**

Status **Signed** 335

Final Bill [SB272](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 72

Bill Section 4 Eff Date 7/1/2018 Delayed Eff Date

Allows golf carts to be driven on certain streets at night, if equipped with lighting as required for motorcycles. Also requires use of slow-moving vehicle emblem designed and mounted as provided in KSA 8-1717. Existing law continues to prohibit operation of golf carts on any interstate, federal or state highway or on any street with a speed limit above 30mph. Operation in a public highway or street within a city is prohibited unless the city authorizes such operation as allowed in this statute.

Amends 8-15,108

**Motorcycle Training Courses**

Status **Signed** 461

Final Bill [HB2606](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 53

Bill Section 1 Eff Date 7/1/2018 Delayed Eff Date

Exempts applicants for Class M (motorcycle) driver's licenses who have completed motorcycle safety training in accordance with the Motorcycle Safety Foundation (MSF) from completing further written and driving testing by the Division of Vehicles. KSA 8-240 further amended by SB461. The required MSF examination must be administered by the Division, the U.S. Department of Defense, or as part of a curriculum recognized by the MSF.

Amends 8-240

**Waste Collector Truck, Passing**

Status **Signed** 322

Final Bill [SB272](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 72

Bill Section 1-2 Eff Date 7/1/2018 Delayed Eff Date

Requires drivers to move left or slow down when passing a stationary waste collection truck on the roadway while engaged in work. Waste collection truck is defined as a vehicle specifically designed, equipped and used exclusively for garbage, refuse, recycling, etc. The violating is a traffic infraction with a fine of \$45. Warning are required and no citations may be issued until July 1, 2019. A existing statute, KSA 8-1722, requires trash collection vehicles to use simultaneously flashing amber lights when engaged in trash collection activities and traveling under 15 mph.

Amends New; 8-2118

**School Buses: Passing**

Status **Signed** 101

Final Bill [SB272](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 72

Bill Section 2 Eff Date 7/1/2018 Delayed Eff Date

Existing fine of \$375 for first offense is retained. Creates mandatory fine of \$750 for a 2nd offense of passing a stopped school bus within 5 years and \$1,000 for 3rd and subsequent offenses within 5 years. No change in elements of violation or enforcement procedures, only changes the fine.

Amends 8-2118



**Guide To  
2018 Kansas Legislation  
Impacting Law Enforcement**

**Section on  
Alcohol Enforcement**

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# 2018 ALCOHOL RELATED ENACTED LEGISLATION

Tuesday, June 26, 2018

Prepared by Ed Klumpp

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## TOPIC

### Alcohol: Candy

Status Signed 331

Final Bill [HB2470](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 99

Bill Section 1, 2, 8 Eff Date 5/24/2018 Delayed Eff Date

Manufacturing candy containing alcohol is now controlled by Alcohol Beverage Control if the alcohol content is greater than 0.5% by volume. Retail sale of candy containing alcohol is now controlled by Alcohol Beverage Control if the alcohol content is greater than 1% by volume. The definition of "Alcoholic liquor" is amended to include "alcoholic candy" and the term "consumed as a beverage" is changed to "consumed."

Amends 41-102; 65-664

### Alcohol: Hours of Sale

Status Signed 334

Final Bill [HB2470](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 99

Bill Section 3, 4, 5, 6 Eff Date 5/24/2018 Delayed Eff Date

Public Venues, Clubs, and Drinking Establishments hours when serving, mixing, or consuming alcoholic liquor on the licensed premises is prohibited is changed from 2 am-9am to 2am-6am. [KSA 41-2614 sub (a)] Farm Winery and Winery Outlet allowable hours on Sunday to sell alcohol products allowed for each license class for off-premise consumption is changed from noon-6 pm to 6am-midnight. [KSA 41-308a sub (d)] Microbrewery and Microdistillery allowable hours on Sunday to sell alcohol products allowed for each license class for off-premise consumption is changed from noon-6 pm to 6 am-midnight. [KSA 41-308b sub (e) and KSA 41-354 sub (c)]

Amends 41-308a; 41-308b; 41-354; 41-2614

### Alcohol: Microbrewery Refillable Containers

Status Signed 330

Final Bill [HB2470](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 99

Bill Section 4 Eff Date 5/24/2018 Delayed Eff Date

Authorizing the on-premises sale by microbreweries of certain refillable containers of beer for off-premises consumption and providing labeling requirements for such containers. Such containers must be no smaller than 32 fluid ounces and not more than 64 fluid ounces. Also changes maximum alcohol content from 10% to 15% by weight.

Amends 41-308b

### Alcohol: Microbrewery: Contract Brewing

Status Signed 250

Final Bill [HB2470](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 99

Bill Section 4 Eff Date 5/24/2018 Delayed Eff Date

Allows microbreweries to contract with other microbreweries in Kansas for production and brewing of beer and hard cider.

Amends 41-308b

**Alcohol: Self-Service Beer**Status **Signed** 457Final Bill [HB2470](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 99Bill Section **7** Eff Date **5/24/2018** Delayed Eff Date

Authorizes self serve beer in drinking establishment. Requires the use of an access card with a 32 ounce limit and video monitoring of dispensing devices.

Public venues, clubs, and drinking establishments may dispense self-serve beer and/or wine with the following requirements: 1) the licensee must give the ABC at least 48-hours notice they will provide self-serve beer or wine; 2) the devices must be included in constant video monitoring, the recordings must be retained for at least 60 days, and law enforcement shall have access to the video; 3) access cards for the automated device must be used to allow the self-service; 4) persons purchasing the access cards must show identification at time of purchase; 5) the access cards must become inactive at the end of the business day they are issued; 6) each access card must only allow the dispensing of no more than 15 ounces of wine or 32 ounces of beer. The access card can be reactivated by again showing identification and purchasing additional dispensing with the same quantity limits; 7) employees using the automated machines to serve customers are not restricted to the limits; and 8) all laws and regulations concerning sale of alcohol to person under the legal age of consumption apply to the self-serve process. The Department of Revenue must establish Rules and Regulations for implementation prior to January 1, 2019. The term "day" including the more specific "business day" is defined as from 6 am one calendar day until 2 am the following calendar day.

Amends 41-2640

**Alcohol: Strong Beer Sale Hours in Certain Cities**Status **Signed** 485Final Bill [HB2502](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 8Bill Section **4** Eff Date **7/1/2018** Delayed Eff Date

Strong beer sales day and hour restrictions to follow that of CMB restrictions in certain cities and townships that have opted to expand the days and hours of sale as allowed in KSA 41-2911. This is a cleanup from the law change last year allowing strong beer sales in grocery stores and convenience stores.

Amends 41-2704

**Alcohol: Strong Beer Sales Enforcement**Status **Signed** 339Final Bill [HB2502](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 8Bill Section **1 & 2** Eff Date **7/1/2018** Delayed Eff Date

A new statute is created authorizing the ABC director to issue a citation for any violation of the Kansas cereal malt beverage act, or any rules and regulations relating to the Act regarding the sale, consumption or possession of beer containing not more than 6% alcohol by volume. The citation must be issued in compliance with KSA 41-106. Fines cannot exceed \$1,000 for each violation. [HB2502, New section 1] NOTE: Only ABC may issue citations for violations of ABC regulations and the numerous alcohol acts under their authority. However, KSA 41-106 provides the process for non-ABC law enforcement to report violations. Clean up of a bill last year allowing strong beer to be sold in grocery and convenience stores. Also allows ABC director to not renew license if licensee has unpaid fines.

Amends New; 41-2702

## **Alcohol Statute Amendments From 2018 Session**

[Link to the HB2470](#)

[Link to the Legislative Summary of HB2470](#)

**Effective May 24, 2018**

[Link to the HB2502](#)

[Link to the Legislative Summary of HB2502](#)

**Effective July 1, 2018**

Prepared by Ed Klumpp, [eklumpp@cox.net](mailto:eklumpp@cox.net), May 21, 2018

### **Cereal Malt Beverages (HB2502, section 1) Effective July 1, 2018**

This is a cleanup bill to the law passed in 2017 allowing strong beer sales by CMB licensees.

A new statute is created authorizing the ABC director to issue a citation for any violation of the Kansas cereal malt beverage act, or any rules and regulations relating to the Act regarding the sale, consumption or possession of beer containing not more than 6% alcohol by volume. The citation must be issued in compliance with KSA 41-106. Fines cannot exceed \$1,000 for each violation. [HB2502, New section 1] Effective July 1, 2018

NOTE: Only ABC may issue citations for violations of ABC regulations and the numerous alcohol acts under their authority. However, [KSA 41-106](#) provides the process for non-ABC law enforcement to report violations to the ABC after giving written notice at the time of the violation to the licensee or person in charge of the premises of the violation as provided in KSA 41-106 (c) and the law enforcement officer submits a report of the incident to the ABC. A form you may use for this report and other information regarding licensees is available at: <https://www.kdor.ks.gov/apps/LiquorLicensee/ABCLEOInfo.aspx>

Other sections of HB2502 relate to collection of fines imposed under the new statute.

### **Strong Beer Time of Sale Restrictions in Certain Cities/Townships [HB2502 section 4] Effective 7/1/18**

KSA 41-2704 sub (c) is amended to allow the day and hour restrictions for strong beer sales to follow that of CMB restrictions in certain cities and townships that have opted to expand the days and hours of sale as allowed in KSA 41-2911. (Cleanup from bill last year.)

NOTE: [SB13](#), passed in 2017, will allow CMB licensees to sell beer up to 6% alcohol starting April 1, 2019.

### **Hours of Sale for Off-Premise Consumption (HB2470 sections 3, 4, & 5) Effective May 24, 2018**

Farm Winery and Winery Outlet allowable hours on Sunday to sell alcohol products allowed for each license class for off-premise consumption is changed from noon-6 pm to 6am-midnight. [KSA 41-308a sub (d)]

Microbrewery and Microdistillery allowable hours on Sunday to sell alcohol products allowed for each license class for off-premise consumption on Sunday is changed from 11 am-7 pm to 6 am-midnight. [KSA 41-308b sub (e) and KSA 41-354 sub (c)]

### **Hours of Sale for On-Premise Consumption (HB2470 sections 6) Effective May 24, 2018**

Public Venues, Clubs, and Drinking Establishments hours when serving, mixing, or consuming alcoholic liquor on the licensed premises is prohibited is changed from 2 am-9am to 2am-6am. [KSA 41-2614 sub (a)]

### **Microbreweries: Refillable Containers (HB2470 section 4) Effective May 24, 2018**

Microbreweries are authorized to dispense their products for off-premises consumption in refillable containers. Those containers must be no smaller than 32 fluid ounces (quart) and no larger than 64 fluid ounces (1/2 gallon). The containers must be resealable by the microbrewery

and must be labeled with the name of the contents and the name of the microbrewery. [KSA 41-308b sub (a)(5)]

**Alcohol Content of Domestic Beer** (HB2470, sections 1 & 2) Effective May 24, 2018

KSA 41-102 subsection (j) defining “domestic beer” (beer produced in Kansas) is amended to change the maximum alcohol content from 10% by weight to 15% by weight.

**Self-Serve Beer and Wine** (HB2470 section 7) Effective May 24, 2018

KSA 41-2640 is amended by adding a new subsection (e) which authorizes public venues, clubs, and drinking establishments to allow self-serve beer and/or wine. The new provisions also create the following requirements: 1) the licensee must give the ABC at least 48-hours notice they will provide self-serve beer or wine [subsection (e)(2)(B)]; 2) the devices must be included in constant video monitoring, the recordings must be retained for at least 60 days, and law enforcement shall have access to the video [subsection (e)(2)(C)]; 3) access cards for the automated device must be used to allow the self-service [subsection (e)(2)(D)]; 4) persons purchasing the access cards must show identification at time of purchase [subsection (e)(2)(E)]; 5) the access cards must become inactive at the end of the business day (2 am) they are issued [subsection (e)(2)(F)]; 6) each access card must only allow the dispensing of no more than 15 ounces of wine or 32 ounces of beer. The access card can be reactivated by again showing identification and purchasing additional dispensing with the same quantity limits. [subsection (e)(2)(G)]; 7) employees using the automated machines to serve customers are not restricted to the limits [subsection (e)(2)(G)]; and 8) all laws and regulations concerning sale of alcohol to person under the legal age of consumption apply to the self-serve process [subsection ((e)(4))].

The Department of Revenue must establish Rules and Regulations for implementation of this new law prior to January 1, 2019. [subsection (e)(3)]

**Candy Containing Alcohol** (HB2470, sections 1, 2, & 8) Effective May 24, 2018

Manufacturing candy containing alcohol is now controlled by Alcohol Beverage Control if the alcohol content is greater than 0.5% by volume. [KSA 41-102 sub (b) & KSA 65-664 sub (c)]

KSA 41-102 is amended by adding a definition for “alcoholic candy” as subsection (b) and amending the definition of “alcoholic liquor” in subsection (c) to include “alcoholic candy” and “consumed as a beverage” to “consumed.” The result is for the ABC to now regulate retail sale of candy with an alcohol content greater than 1% by volume. [KSA 41-102 sub (b) & KSA 65-664 sub (c)]

**Other Topics Not Generally Local Law Enforcement Issues But Useful to Know**

KSA 41-308b is amended to allow microbreweries to contract between each other to manufacture beer or hard cider. [HB2470 section 4, subsections (a)(10) and (b)] Effective May 24, 2018

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Always follow your agency policies and utilize your agency protocol to refer to your local prosecutors and agency attorneys for legal interpretations.

**Guide To  
2018 Kansas Legislation  
Impacting Law Enforcement**

**Section on  
Miscellaneous Legislation**

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# 2018 MISCELLANEOUS ENACTED LEGISLATION

Wednesday, June 27, 2018

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## TOPIC

### 911 Coordinating Council Legislative Post Audit

Status **Signed** 492

Final Bill [HB2438](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 95

Bill Section **All** Eff Date **5/24/2018** Delayed Eff Date

Changes the frequency of the audit conducted by Legislative Post Audit of the 911 Coordinating Council PSAP expenditures from every 3 years to every 5 years. Directs Legislative Post Audit to conduct an audit of the 911 Coordinating Council expenditures and operations. The audit is to include: (A) annual expenses and financial needs, including personnel, of the council; (B) total annual operating expenses of the council under the 2.5% cap on expenditures; (C) current and projected contractual expenses of the council; (D) expenditures and distribution of moneys from the 911 state grant fund by the council; and (E) whether the moneys expended by the council are being used pursuant to the act.

Amends 12-5377

### Amusement Rides

Status **Signed** 350

Final Bill [SB310](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 84

Bill Section **All** Eff Date **5/17/2018** Delayed Eff Date

Amendments to the Kansas amusement ride act. Regulated amusement rides include: Inflatable devices rented and erected at temporary locations must be operated by a person that has received certification; any water slide 15 feet or higher without an attendant stationed at each slide. Newly excluded rides include: Antique amusement rides (Manufactured prior to 1930); limited-use amusement rides (owned and operated by a nonprofit for less than 20 days or 160 hours per year); registered agritourism activities; hayrack rides; barrel trains; rides owned and operated only for private use.

Amends 40-4801, 40-4802, 44-1601, 44-1602, 44-1603, 44-1606, 44-1607, 44-1608, 44-1609, 44-1610, 4

### Animal Control: Licensure of animal shelters and temporary care of dogs and cats

Status **Signed** 466

Final Bill [HB2477](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 55

Bill Section **5, 8** Eff Date **4/26/2018** Delayed Eff Date

Amends the Kansas Pet Animal Act by prohibiting a licensure requirement of those providing temporary care of dogs or cats owned by an animal shelter licensed pursuant to the Act. The shelter must maintain a current list of individuals providing such temporary care and must have a written and signed agreement between the temporary care provider and the shelter.

Animal shelter license maximum fees are changed to \$400 for a first class city; \$335 for a second class city; and \$285 for a third class city. If the premises requires more than one license the fee is the highest of the above fees plus \$50 for each additional license. The license period is changed to Oct 1 to Sep 30 from July 1 to Jun 30. Prior law set a maximum fee of \$300 for all shelters.

Amends 47-1704, 47-1721

**Civil Liability: Rescue of Animal or Person From Vehicle**Status **Signed** 353Final Bill [HB2516](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 41

Bill Section 1 Eff Date 7/1/2018 Delayed Eff Date

Provides immunity from civil liability for damage to a motor vehicle related to the rescue of a "vulnerable person" or "domestic animal." "Vulnerable person" is defined as "an adult whose ability to perform the normal activities of daily living or to provide for such adult's own care or protection is impaired or a minor." "Domestic Animal" excludes livestock or other farm animals. To be eligible for the immunity, a person engaging in the rescue must notify law enforcement or 911 and remain with the vulnerable person or domestic animal until law enforcement arrives.

Amends New

**Crime Victims: Compensation**Status **Signed** 304Final Bill [SB261](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 79

Bill Section 9 Eff Date 5/8/2018 Delayed Eff Date

Amends the definition of "collateral source" of compensation to victims to include "any source." This term is used to limit compensation to victims who have been compensated through some other means.

Amends 74-7301

**Identity Theft: Credit Report Security Freeze**Status **Signed** 379Final Bill [HB2580](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 44

Bill Section All Eff Date 7/1/2018 Delayed Eff Date

Amends the Fair Credit Reporting Act to recognize statutes on security freezes on credit reports and prohibits the credit reporting agency from charging a fee to place, temporarily lift, or remove a freeze.

Amends 50-722; 50-723; 50-725

**Interoperability Advisory Committee (Public Safety Radios)**Status **Signed** 368Final Bill [HB2556](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 85

Bill Section 1 Eff Date 7/1/2018 Delayed Eff Date

Establishes a statewide Interoperability Advisory Committee to "oversee the development and deployment of centralized interoperable communications planning and implementation capacity for the state of Kansas" and providing them "all the powers necessary to achieve this purpose." This new statutorily created Committee replaces the current State Interoperability Executive Committee which was created by Executive Order. It appears it will function in much the same manner.

Amends New

**Law Enforcement Highway Memorials**Status **Signed** 493Final Bill [SB375](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 78

Bill Section 1-19 Eff Date 7/1/2018 Delayed Eff Date

Designating a portion of US69 in Johnson County as the Brandon Collins (JO Deputy) Memorial Highway and designating segments of other Kansas and United States highways to nine members of the Kansas highway patrol killed in the line of duty.

Amends New

## TOPIC

### Professional Occupations Licensure

Status **Signed** 474

Final Bill [HB2386](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 86  
 Bill Section 1 Eff Date 7/1/2018 Delayed Eff Date

These provisions do not apply to law enforcement certification from CPOST. For most state licensed positions new requirements are put into place on how criminal convictions can or cannot be used in the licensing process.

Amends 74-120

### Open Records: Child Fatality

Status **Signed** 436

Final Bill [SB336](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 87  
 Bill Section 3 Eff Date 7/1/2018 Delayed Eff Date

KSA 38-2212 sub (f) is amended to allow KORA release of information by DCF after the fatality or near fatality of a child in need of care caused by abuse or neglect. DCF must give notice to the involved parties when a KORA request is received, and the parties may contest the release. If the event resulted in a fatality DCF must release certain information including the age and sex of the child; date of the fatality; a summary of any previous reports of abuse or neglect received by DCF regarding abuse or neglect of the child including with findings for those reports; and any DCF recommended services provided to the child. IF the fatality occurred while the child was in DCF custody they must release the following items in response to a KORA request: 1) Age and sex of the child; date of the fatality; and summary of the facts surrounding the death.

Amends 38-2212

### Prison Privatization

Status **Signed** 355

Final Bill [SB328](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 83  
 Bill Section 1 Eff Date 5/17/2018 Delayed Eff Date

Prohibits the outsourcing or privatization of any operations or facilities of any correctional institution or juvenile correctional facility

Amends New

### Protection Orders, Abuse

Status **Signed** 489

Final Bill [SB281](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 110  
 Bill Section 2. 3 Eff Date 7/1/2018 Delayed Eff Date

If a juvenile is the target of abuse, the following may apply for a Protection from Abuse Order on behalf of the juvenile: 1) the juvenile's parent, 2) an adult residing with the juvenile, or 3) a court-appointed legal custodian, or court-appointed legal guardian.

Amends 60-3104, 60-3105

**Protection Orders, Human Trafficking**Status **Signed** 326Final Bill [SB281](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 110

Bill Section 1 &amp; 4-12 Eff Date 7/1/2018 Delayed Eff Date

Adds human trafficking victimization as an eligible act subject to a protection order. Allows victims of human trafficking to seek protection orders against a person allegedly trafficking the victim. If the victim is a juvenile, the order can be sought by 1) the juvenile's family, 2) an adult household member, 3) a court-appointed legal custodian or court-appointed legal guardian, 4) a county or district attorney, or 5) the attorney general.

A human trafficking protection order would restrain the defendant from following, harassing, telephoning, contacting, recruiting, harboring, transporting, or committing or attempting to commit human trafficking upon the human trafficking victim, or otherwise communicating with the human trafficking victim. The order shall contain a statement that, if the order is violated, the violation shall constitute violation KSA 21-5924, violation of a protective order, or other applicable crimes in KSA Chapter 21.

The human trafficking statutes that apply to allow eligibility for the protection order are KSA 21-5426, human trafficking and aggravated human trafficking; KSA 21-6422, commercial exploitation of a child; or KSA 21-6419 selling sexual relations.

For a juvenile victim, a protection from sexual assault or stalking (not human trafficking) may be sought by the juvenile's family, an adult household member, or a court-appointed legal custodian or court-appointed legal guardian.

Amends 21-5924, 60-31a01, 60-31a02, 60-31a03, 60-31a04, 60-31a05, 60-31a06, 60-31a07, 60-31a08, 60-3

**Protection Orders, Sexual Assault or Stalking**Status **Signed** 490Final Bill [SB281](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 110

Bill Section 7 Eff Date 7/1/2018 Delayed Eff Date

For a juvenile victim of sexual assault or stalking, the following persons may file for a protection order from sexual assault or stalking may be sought by 1) the juvenile's family, 2) an adult household member, or 3) a court-appointed legal custodian or court-appointed legal guardian.

Amends 60-31a04

**Protection Orders: Cell Phones**Status **Signed** 359Final Bill [HB2524](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 37

Bill Section All Eff Date 7/1/2018 Delayed Eff Date

Allows petitions for a protection from abuse order to include a request for transfer of rights to a wireless telephone number. This is intended to address issues where the plaintiff and defendant in the PFA action share a cell phone account. Allows cell phone providers to divide an existing contract without consent of the person named in the account.

Amends New

**Reconciliation Bill**Status **Signed** 477Final Bill [SB461](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 102

Bill Section 1, 2, and 4 Eff Date 7/1/2018 Delayed Eff Date

Further amends bills that were passed in more than one bill to reconcile the various amendments into one amendment.

Amends 8-240; 8-247- 21-6627

## TOPIC

### Records Check: Ag Hemp Program

Status **Signed** 476

Final Bill [SB263](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 62

Bill Section 2 Eff Date 5/3/2018 Delayed Eff Date

Requires all agricultural hemp license holders to be fingerprinted and undergo a state and national criminal history check at the license holder's expense. Authorized the Dept. of Ag to submit the fingerprints to the Kansas Bureau of Investigation (KBI), and the KBI to charge a reasonable fee for conducting a criminal history record check. A license cannot be issued to individuals who have been convicted of felonies involving controlled substances.

Amends New

### Records Check; Child Care Workers

Status **Signed** 422

Final Bill [HB2639](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 47

Bill Section 1 Eff Date 7/1/2018 Delayed Eff Date

Provides for fingerprint based records checks for persons maintaining or residing, working or regularly volunteering at a child care facility by KDHE.

Amends 65-516

### Sentencing: Criminal History Calculation

Status **Signed** 375

Final Bill [HB2567](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 16

Bill Section All Eff Date 3/29/2018 Delayed Eff Date

Amending criminal code rules for determination of an offender's criminal history classification by 1) changing "another state" to "the convicting jurisdiction" and 2) if a crime is not classified as either a felony or misdemeanor in the convicting jurisdiction the class of a comparable crime in Kansas law applies, and if there is no comparable offense the crime will not be counted.

Amends 21-6811

### Cybersecurity Act

Status **Signed** 77

Final Bill [SB56](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 97

Bill Section 1-8 Eff Date 7/1/2018 Delayed Eff Date

Enacting the Kansas cybersecurity act. Bill was amended to apply only to Executive Branch state agencies, with several excluded.

NOTE: The provision in the original bill having significant local impact requiring security audits of certain systems and payments to the state of \$700 per employee connecting to state systems was removed.

Amends New

### Technology: Information Technology Executive Council

Status **Signed** 443

Final Bill [SB56](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 97

Bill Section 9 Eff Date 7/1/2018 Delayed Eff Date

Reestablishes the Information Technology Executive Council. Changes makeup of Council. With amendments in HB2359 creates the responsibility of the Council to establish state cybersecurity standards. The new format provides for a representative of KCJIS, one representative of cities, and one representative of counties. They are required to meet quarterly and through statutes amended in the revised Cybersecurity Act they are charged with developing cybersecurity standards and will be provided cybersecurity briefings.

Amends 75-7202

**Wrongfully Convicted: Compensation and Benefits**

Status **Signed** 370

Final Bill [HB2579](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 108

Bill Section 1-4 Eff Date 7/1/2008 Delayed Eff Date

Creates state compensation for a person found to be wrongfully convicted.  
Provides compensation to a person imprisoned for a wrongful conviction at \$65,000/year while incarcerated plus an additional \$25,000 per year while on parole, postrelease supervision or required to register under the Kansas Offender Registration Act, death row. The person is also entitled to counseling, housing assistance, DOC reentry services, and personal financial literacy assistance; attorney fees as deemed appropriate by the court relating to the claim; tuition assistance and participate in the state health care benefits program from the date of judgement in the claim through the following calendar year. The bill also provides for expungement of the arrest and conviction records and expungement and destruction of any biological samples held by the KBI if the court enters a certificate of innocence finding.

Amends New; 75-6117

## Protection Order for Human Trafficking Victims

2018 SB281 [http://www.kslegislature.org/li/b2017\\_18/measures/documents/sb281\\_enrolled.pdf](http://www.kslegislature.org/li/b2017_18/measures/documents/sb281_enrolled.pdf)

Bill Summary [http://www.kslegislature.org/li/b2017\\_18/measures/documents/summary\\_sb\\_281\\_2018.pdf](http://www.kslegislature.org/li/b2017_18/measures/documents/summary_sb_281_2018.pdf)

Effective July 1, 2018

Amended Statutes: 21-5924; **60-3104**; 60-31a01; **60-31a02**; 60-31a03, **60-31a04**, 60-31a05, **60-31a06**, 60-31a07, 60-31a08, 60-31a09 [Statutes in **Bold** are the primary statutes]

Updated statutes are available at:

KSA 21-5924 – <http://www.kscoflaw.com/crimcode/2668code/art59.htm#21-5924>

KSA 60-3104 – <http://www.kscoflaw.com/KSAs/Ch60Art31.htm#60-3104>

KSA Ch 60 Art 31a – <http://www.kscoflaw.com/KSAs/Ch60Art31a.htm>

## SUMMARY

Adds human trafficking victimization as an eligible act subject to a protection order. Allows victims of human trafficking to seek protection orders against a person trafficking the victim. Remember the level of proof for a protection order is less than probable cause, so a protection order may be granted against a trafficker that is not charged. If the victim is a juvenile, the order can be sought by the juvenile's family, an adult household member, a court-appointed legal custodian or court-appointed legal guardian, a county or district attorney, or the attorney general.

A human trafficking protection order would restrain the defendant from following, harassing, telephoning, contacting, recruiting, harboring, transporting, or committing or attempting to commit human trafficking upon the human trafficking victim, or otherwise communicating with the human trafficking victim. The order shall contain a statement that, if the order is violated, the violation shall constitute violation KSA 21-5924, violation of a protective order, or other applicable crimes in KSA Chapter 21.

The human trafficking statutes that apply to allow eligibility for the protection order are KSA 21-5426, human trafficking and aggravated human trafficking; KSA 21-6422, commercial exploitation of a child; or KSA 21-6419 selling sexual relations.

## Protection from Abuse and Protection from Sexual Assault or Stalking (Juvenile Victims)

For a juvenile victim, a protection order from abuse or from sexual assault or stalking (not human trafficking) may be sought by the juvenile's family, an adult household member, or a court-appointed legal custodian or court-appointed legal guardian.

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## LEGISLATIVE RESEARCH SUMMARY

[http://www.kslegislature.org/li/b2017\\_18/measures/documents/summary\\_sb\\_281\\_2018.pdf](http://www.kslegislature.org/li/b2017_18/measures/documents/summary_sb_281_2018.pdf)

### **Protection from Stalking, Sexual Assault, or Human Trafficking Act; SB 281**

SB 281 amends the Protection from Stalking or Sexual Assault Act to apply to victims of human trafficking. The bill renames the act the Protection from Stalking, Sexual Assault, or Human Trafficking Act and defines “human trafficking” as any act that would constitute the following crimes as defined in Kansas criminal law: human trafficking, aggravated human trafficking, commercial sexual exploitation of a child, and selling sexual relations. Similarly, “human trafficking victim” is defined as a victim of one of these crimes.

The bill revises who may seek relief on behalf of a minor child under the Protection from Abuse and Protection from Stalking, Sexual Assault, or Human Trafficking Act. Specifically, when a minor child is alleged to be a human trafficking victim, the bill allows the following to seek relief on the minor’s behalf: a parent of the minor child, an adult residing with the minor child, the child’s court-appointed legal custodian or court-appointed legal guardian, a county or district attorney, or the Attorney General. Additionally, the bill allows the child’s court-appointed legal custodian or court-appointed legal guardian to seek relief on behalf of a minor child under the Protection from Abuse Act and the Protection from Stalking, Sexual Assault, or Human Trafficking Act. Under continuing law in these acts, parents and adults residing with the minor are authorized to seek relief on behalf of a minor not alleged to be a human trafficking victim.

The bill allows a court to enter an order restraining the defendant from following, harassing, telephoning, contacting, recruiting, harboring, transporting, or committing or attempting to commit human trafficking upon the human trafficking victim or otherwise communicating with the human trafficking victim. The order must contain a statement that violation of the order may constitute an offense under the Kansas Criminal Code, and the accused may be prosecuted, convicted of, and punished for such offense.

The bill replaces references in the Protection from Abuse Act and Protection from Stalking, Sexual Assault, or Human Trafficking Act to “district judge” with “judge of the district court.”

The bill also makes conforming amendments to statutes within the Protection from Stalking, Sexual Assault, or Human Trafficking Act and amends the crime of violation of a protective order, a class A misdemeanor, to include knowingly violating a protection from human trafficking order.