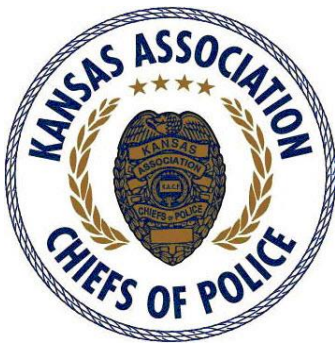


# Guide To 2016 Kansas Legislation Impacting Law Enforcement

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THIS VERSION FOR LINE OFFICERS AND LINE SUPERVISORS



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This document summarizes legislation impacting law enforcement passed by the 2015 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.**

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## **Ten Things Every Law Enforcement Officer Should Know From the 2016 Kansas Legislative Session**

1. **Minor in possession of alcohol:** Effective 7/1/16, there is a new exemption from prosecution for minor in possession of alcohol. The exemption applies if the minor is reporting a medical emergency. It requires the person to 1) notify LE or EMS; 2) cooperate with LE and EMS; and 3) remain at scene with person needing medical assistance. The person appearing to need medical assistance also cannot be prosecuted for MIP if they cooperate with LE and EMS. LE cannot have an action taken against them for compliance or non-compliance with the new law. The wording is “exempt from prosecution” because there may be occasions when it would not be prudent to simply release a person due to a minor’s state of intoxication rendering such a release unsafe, especially if a juvenile. So the law allows the person to be taken into custody if necessary, but they could not be prosecuted in court. Think of it working kind of like the no DL on person. This law does not apply to the crimes of social hosting or furnishing alcohol to a minor. [SB133](#) [Bill Summary](#)
2. **Body Cameras:** Effective 7/1/16, recordings from law enforcement body or in-car cameras are treated the same as investigative records for the purposes of open records, provided the following are allowed access to view the video: 1) a person who is a “subject” of the video; 2) a parent of a juvenile who is a “subject” of the video; 3) an attorney representing the “subject” of the video or the parent of a juvenile who is a “subject” of the video. There is no mandate to provide a copy of the recording to any of those parties, but release of the video is not prohibited. [SB22 §1 & 10](#). [Bill Summary](#)
3. **Criminal Law, New**
  - a. **Violation of Consumer Protection Order by Door-to Door Sales:** Effective July 1, 2016, it is a SL9 person felony for a person who is under a “Consumer Protection Order” to violate the order. It also adds the violation to the list of offenses leading to potential civil forfeiture action. The Attorney General will have a list of consumer protection orders on their website. [HB2460 §4, 5, & 6](#). [Bill Summary](#)
  - b. **Revenge Pornography:** The blackmail and breach of privacy are amended to cover distribution or threat of distribution of nude photos of another without their permission. Aimed at activity primarily occurring during the relationship breakup, commonly done to force an advantage in a divorce, child custody case, or other legal action. Breach of privacy now includes disseminating any videotape, photograph, film or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity and under circumstances in which the person had a reasonable expectation of privacy; with the intent to harass, threaten or intimidate such identifiable person, when the person did not consent to the dissemination. The blackmail statute is amended to include activity defined in the new provision of breach of privacy. [HB2501 §3 & 5](#). [Bill Summary](#)
  - c. **Sexting:** Establishes a law specific for Unlawful Transmission of a Visual Depiction of a Child (sexting) by teenagers at a much lower severity level than available today and not requiring offender registration. Protects more serious sex crimes to be prosecuted under the higher level crimes. The intent of this is to provide an action level other than the only options previously available of doing nothing or charging very serious felonies. It also exempts this crime from offender registration. [HB2501 §1, 2, 4 & 7](#). [Bill Summary](#)
4. **Criminal Law, Burglary to Open Business:** Effective July 1, 2016, the law on burglary is no longer applicable to an open business, even with a prior order for the person to not enter the business, unless such person makes entry with the intent to commit a person felony or a sexually motivated crime. [HB2462 §3 \(e\)](#). [Bill Summary](#)
5. **Criminal Law, Theft:** Effective July 1, 2016, the lower level of felony theft changes from \$1000 to \$1500. In addition, the third or subsequent misdemeanor theft must now be a loss of at least \$50 for the conversion of the crime to a felony. [HB2462§2](#). [Bill Summary](#)

6. **Firearms, Public employees when working:** Effective July 1, 2016, public employees may carry concealed firearms while engaged in their official duties away from their employers “place of business” unless they are prohibited by state or federal law from possessing a firearm. Look for more guidance from your agency and governing body. [HB2502§5 \(d\), \(e\), & \(h\)\(3\). Bill Summary](#)
7. **Juvenile Justice Reform:** This is a huge bill with far reaching impacts, mostly seen in how juvenile offenders are handled post arrest. It focuses on community programs without out of home placement. However, there are several key areas touching law enforcement operations. 1) Effective 7/1/17, an officer has the option of using a notice to appear to a juvenile and releasing the juvenile. The notice is for the juvenile and the parents to appear at Juvenile Intake within 48 hours. Care should be taken the juvenile is stable enough to release without becoming a runaway or harmful to themselves or others. Expect to see some agency policy on this issue. 2) Juvenile Intake will make the placement decision at time of intake. They must use an assessment tool which will guide that decision. Don’t expect any big changes in how juvenile placement is handled by intake. However, there is a clear message in the bill that the preference is to return the child immediately to the care of a parent. 3) Fewer juvenile offenders will be leaving your community. The bill focuses on community programs for juvenile correction efforts. This generally does not affect juvenile violators of an off-grid or SL1-4 non-drug crime. 4) Law enforcement officers with primary duties in K-12 schools will have some additional training required after January 1, 2017. That training will be developed by KLETC and the Attorney General. [SB367 Bill Brief](#)
8. **Personal electronic devices and Open Records:** Effective July 1, 2016, any government work related communications taking place on a government employee’s personally owned device is subject to open records. This includes e-mails, text messages, phone call records, social media postings, etc. The law protects non-work related personal information on the device. It does not provide for any inspection of your device, but failure to release such information upon an open records request would put the employee and the employer in violation of the Open Records Act. You can look for some guidance from your governing body on how they will handle this new rule. It is reasonable to expect a requirement to somehow submit the data subject to open records to your agency for storage. [SB22 §10. Bill Summary](#)
9. **Law Enforcement Procedure, Eyewitness Identification:** The legislature sent a message that best practices should be used by law enforcement in eyewitness identification procedures. This includes photo lineups, live lineups, and on scene “show-ups.” They did not pass a law requiring a specific procedure, but they are requiring every agency to have a written policy/procedure in place by 7/1/18 on this topic. 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 on the risks of false identification inherent in that system. [HB2151 §2. Bill Summary](#)
10. **Law Enforcement Procedure, Jurisdiction Across State Borders:** Effective April 7, 2016, there is clear statutory direction on how Kansas law enforcement can engage in assisting law enforcement in another state and how law enforcement in another state can assist Kansas law enforcement. Some key points: 1) This law does not affect direct pursuit or immediate pursuit across state lines; 2) this legislation is applicable to every Kansas law enforcement agency and officer, not just those in border jurisdictions; 3) officers will be covered by work comp of their employer regardless of what jurisdiction you are operating in; 4) liability rests with the individual officer and that officers employer; 5) arrests must be in compliance with the law of the state where the arrest takes place; 6) an out-of-state officer making an arrest in Kansas must a) turn the arrestee over to an officer with home jurisdiction where the arrest was made, and b) must complete any affidavits and reports documenting the probable cause of the arrest. All this can only happen if the head of the agency with jurisdiction where the assistance is needed, or that agency head’s designee, makes a request for assistance from the out-of-state law enforcement. [HB2549 Bill Summary](#)

## **Criminal Law, New**

### **Consumer Protection Order Violation**

Creates a SL9 person felony for violating a consumer protection order on door-to-door sales and adds the violation to the list of offenses leading to potential civil forfeiture action. These orders are issued by action of the Attorney General as part of the Consumer Protection Act. There will be a listing of the active orders on the Attorney General's website.

[HB2460](#) §4, 5, & 6 [Bill Summary](#) Effective 7/1/2016

Statutes New; 60-4104

### **Sexting**

Establishes a law specific for Unlawful Transmission of a Visual Depiction of a Child (sexting) by teenagers at a much lower severity level than available today and not requiring offender registration. Protects more serious sex crimes to be prosecuted under the higher level crimes. The intent of this is to provide an action level other than the only options previously available of doing nothing or charging very serious felonies. It also exempts this crime from offender registration.

See details in Appendix A.

[HB2501](#) §1, 2, 4 & 7 [Bill Summary](#) Effective 7/1/2016

Statutes New and 21-5510; 22-4902

### **Livestock Branding**

Amends livestock branding law concerning application for brands and brand inspections. Among other things, the bill 1) Creates a new class B misdemeanor for branding livestock in any manner other than as required or authorized by state law or KAR. 2) Changes penalty for falsely branding an animal owned by another person from an unclassified felony with incarceration up to 5 years to a SL6 non person felony. 3) Clarifies any brand not renewed within 60 days (previously 120 days) of the end of its registration period will be forfeited. Retains "unlawfulness" of using a forfeited brand.

-Removes Class C Misdemeanor for violation of KSA 47-422 concerning registration and recording of brands

[HB2480](#) [Bill Summary](#) Effective 7/1/2016

Statutes 47-414, 47-414a, 47-416, 47-417, 47-417a, 47-418, 47-420, 47-421, 47-422, 47-423, 47-426, 47-428, 47-446, 47-1011a. Also repealing K.S.A. 47-418a, 47-432, 47-433, 47-434, 47-435, 47-436, 47-437, 47-438, 47-439, 47-440, 47-441, 47-442

## **Criminal Law, Amended**

### **Agg. Burglary to Open Business**

Unless there is an intent to commit a person felony or sexually motivated crime, business premises that are at the time open to the public, are exempt from the burglary and agg. burglary statute even if there was a prior order to not return to the business. This concept was taken from the Model Penal Code and was part of a package deal to increase penalties for some residential burglaries. The package was necessary to make the increased penalties "bed space neutral" for the prisons.

[HB2462](#) §3 (e) [Bill Summary](#) Effective 7/1/2016

Statutes 21-5807

### **Blackmail/Breach of Privacy**

Amends blackmail and breach of privacy to cover distribution of nude photos of another without their consent. Aimed at the distribution or threat of distribution of photos of a spouse or mate during or after a divorce or split. Such cases have also occurred attempting to influence other

legal proceedings such as child custody. Breach of privacy includes disseminating any videotape, photograph, film or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity and under circumstances in which the person in the photo had a reasonable expectation of privacy, when conducted with the intent to harass, threaten or intimidate the person in the photo who did not consent to the dissemination. The blackmail statute is amended to include activity defined in the new provision of breach of privacy.

[HB2501](#) §3 & 5 [Bill Summary](#) Effective 7/1/2016

Statutes 21-5418; 21-6101

### **Theft**

The threshold for felony theft is increased from \$1,000 to \$1,500. The rule for the third misdemeanor theft being a SL9 NP Felony is changed. Under the revised law, that enhancement provision only applies if the new misdemeanor theft is a loss of \$50 or more. The prior misdemeanor convictions must have been within the past five years, excluding time the person was incarcerated.

[HB2462](#) §2 [Bill Summary](#) Effective 7/1/2016

Statutes 21-5801

## **Criminal Law, Sentencing**

### **Burglary: Dwelling**

Agg. Burglary to an occupied dwelling becomes a SL 4 person felony instead of a SL 5 person felony. Agg. Burglary to a place occupied by a person other than a residence remains a SL5 person felony. A special rule is added to make a burglary to a residence presumptive imprisonment if the criminal history score places the offender in sentencing grids 7-C, 7-D or 7-E. Without the special rule the sentence would be presumptive probation which would result in a residential burglar without a prior person felony to avoid prison for the first three convictions. Burglary of a dwelling with intent to commit a theft of a firearm is changed to a SL 5 person felony rather than a SL 5 nonperson felony. Burglary of a non-residence with intent to commit theft of a firearm remains a SL5 nonperson felony. The penalty for burglary (not aggravated burglary) of a dwelling is changed from a SL7 person crime to a SL7 nonperson felony.

[HB2462](#) §3 & 4 [Bill Summary](#) Effective 7/1/2016

Statutes 21-5807; 21-6804

### **Possession of Marijuana**

See listing in the Drug category.

## **Law Enforcement Procedure**

### **Abuse and Neglect**

Child abuse or neglect cases occurring in a KDADS facility would be reported to local law enforcement authorities instead of the Attorney General. Reports of child abuse or neglect occurring in a DOC facility, including juvenile facilities, would be reported to DOC for investigation. Investigations of child abuse or neglect by employees of KDADS and DCF, or to the children of KDADS or DCF employees, would be handled by local law enforcement. Also amends duties of the Attorney General Abuse, Neglect, and Exploitation of Persons Unit, including adding a provision they "may" at the discretion of the Attorney General "assist in any investigation of child abuse or neglect conducted by a law enforcement agency pursuant to K.S.A. 38-2226, and amendments thereto;" and "assist in any investigation of adult abuse, neglect, exploitation or fiduciary abuse conducted by a law enforcement agency pursuant to

K.S.A. 39-1443." Adds licensed behavior analysts and licensed assistant behavior analysts to the list of persons required to report abuse and neglect.

[SB408 Bill Summary](#) Effective 7/1/2016

Statutes 38-2223; 38-2226; 75-723

#### **Body Cameras: KORA**

Makes recordings from body or vehicle cameras investigatory records for the purposes of KORA. The following people may view the video, but LE is not required to provide a copy to them: (1) A person who is a subject of the recording; (2) a parent or legal guardian of a person under 18 years of age who is a subject of the recording; (3) an attorney for a person described in (1) or (2); and (4) an heir at law, an executor or an administrator of a decedent, when the decedent is a subject of the recording.

[SB22 §1 & 10 Bill Summary](#) Effective 7/1/2016

Statutes New

#### **Eyewitness Identification**

Requires all law enforcement agencies to have a written policy on Eyewitness Identification which includes provisions on (1) Use of blind and blinded procedures; (2) instructions to the witness that the perpetrator may or may not be present; (3) use of non-suspect fillers who are reasonably similar to the perpetrator and do not make the suspect stand out; and (4) after an identification is made by the witness, eliciting a confidence statement, in the witness's own words, regarding the level of certainty in the selection.

[HB2151 §2 Bill Summary](#) Effective 7/1/2016 Delayed Effective Date 7/1/18

Statutes New

#### **Jurisdiction**

The statute on jurisdiction of university police officers is amended. Adds jurisdiction to property occupied by, but not owned by, a state educational institution or municipal university. Also adds property owned, occupied or operated by a corporation affiliated with and for any site of a function or academic program sponsored by a state educational institution or municipal university. The jurisdiction around any property where they have jurisdiction is described now as "adjacent to and *coterminous*" instead of just "adjacent to." (This language is the same as currently in the campus police officer jurisdiction provisions.) The provision allowing jurisdiction within a city where the described property is located is amended to include a county, provided there is an agreement between the school and the local law enforcement agency. It further extends the jurisdiction of the KU med officers to include property owned by the Kansas Hospital Authority, with a written agreement.

[HB2696 §8-9 Bill Summary](#) Effective 7/1/2016

Statutes 22-2401a; 76-726

#### **Missing Persons**

Amends the timeline for when law enforcement is required to make NCIC entry for missing person from "when practical" to "within two hours of receipt of the minimum data required to enter a record into" NCIC. This brings the statute in line with federal law and FBI-CJIS policy.

[SB376 Bill Summary](#) Effective 3/31/2016

Statutes 75-712c

#### **Mutual Aid**

Creates a clear statutory direction on how Kansas law enforcement can engage in assisting law enforcement in another state and how law enforcement in another state can assist Kansas law enforcement. Some key points: 1) This law does not affect direct pursuit or immediate pursuit across state lines; 2) this legislation is applicable to every Kansas law enforcement agency and officer, not just those in border jurisdictions; 3) officers will be covered by work comp of their employer regardless of what

jurisdiction you are operating in; 4) liability rests with the individual officer and that officers employer; 5) arrests must be in compliance with the law of the state where the arrest takes place; 6) an out-of-state officer making an arrest in Kansas must a) turn the arrestee over to an officer with home jurisdiction where the arrest was made, and b) must complete any affidavits and reports documenting the probable cause of the arrest. All this requires the head of the agency, or designee, with jurisdiction where the assistance is needed, makes a request for assistance from the out-of-state law enforcement.

[HB2549 Bill Summary](#) Effective 4/7/2016

Statutes New

### **Runaway**

Amends the statute requiring law enforcement to take a missing juvenile into custody. Existing statute required both reason to believe the child was missing and entered in NCIC. The amended statute requires a reason to believe the child was missing or a runaway or entered as a missing person in NCIC.

[SB418 §12 Bill Summary](#) Effective 7/1/2016

Statutes 38-2231

### **Search of Parolee**

In response to an appeals court case, State vs. Toliver, amends the parameters for searching a parolee and probationer. Parolees are subject to a search of the person and the person's effects, vehicle, residence and property. This effects searches by parole officers and law enforcement officers. Note current and continuing law allows searches by any law enforcement officer only when based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity and requires a written report to the parole officer regardless of outcome of the search.

[SB325 Bill Summary](#) Effective 7/1/2016

Statutes 22-3717

### **Venue: Electronic Device, Crime Committed with**

Makes the list of applicable criminal statutes in the definition of crime committed with electronic device a non-exclusive list by adding "including, but not limited to." (Criminal Use of Credit Card; unlawful act concerning computers; Identity theft/fraud; electronic solicitation.) This relates to the law passed last year providing jurisdiction where the victim lives or where any part of the crime took place.

[HB2501 §6 Bill Summary](#) Effective 7/1/2016

Statutes 22-2619

## **Drugs**

### **Drug Schedule**

Annual Drug Schedule revisions. Adds an opiate drug, a hallucinogenic compound, and a type of carboxamide compound to schedule I and adds eluxadoline to schedule IV. The bill clarifies the spelling of psilocyn throughout the UCSA. NOTE: U-47700 was not an issue yet and is not included in this schedule amendment.

[HB2018 §2-5 Bill Summary](#) Effective 5/26/2016

Statutes 65-4127e, 65-4105, 65-4109 and 65-4111

### **Marijuana Penalties**

Amends the sentence for first conviction of possession of marijuana from a Class A misd to a Class B misd; the second conviction from a DSL5 felony to a Class A misd; and third and subsequent convictions remain a DSL5 felony.

[HB2462 §1 Bill Summary](#) Effective 7/1/2016

Statutes 21-5706



## **Juveniles**

### **CINC: Access to reports**

Amends the list of persons and entities with access to the official file and social file in a child in need of care proceeding, to add to the list any county or district attorney with a pending child in need of care matter regarding any of the same parties or interested parties. While law enforcement was not added to the list, we can go through our county/district attorney if we have a need.

[SB418 §10 & 11 Bill Summary](#) Effective 7/1/2016

Statutes 38-2211

### **Human Trafficking**

Revisions are made to human trafficking laws to bring them up-to-date with recently revised federal law. DCF is required to immediately report to local law enforcement when a child is reported to DCF as a human trafficking victim or when a child in DCF custody is missing. LE is then required to make the missing person entry into NCIC and the KBI system. Defines "reasonable and prudent parenting" and "runaway" for CINC purposes. Definition of "sexual abuse" is clarified by expanding the list of crimes and making the list of offenses non-exclusive. The Interstate Compact for Juveniles administrator in DOC is added to the people who are allowed access to law enforcement records on juveniles, the list of persons required to freely exchange information on a CINC, and to intake records. Several provisions for permanency planning were amended. Effective 1/1/17 several provision regarding the staff secure facilities are amended. Allows intake records to be used by the prosecutor and courts only for diagnostic and referral purposes.

[SB418 §6, 9, 10, & 12-22 Bill Summary](#) Effective 7/1/2016 Delayed Effective Date 1/1/2017

Statutes 38-2202; 38-2210; 38-2231; 38-2263; 38-2264; 38-2265; 38-2287; 38-2302; 38-2310; 38-2365; 65-535; 75-7023. Also repealing 38-2310a.

### **Juvenile Justice Reform**

Complete and extensive overhaul of the Juvenile Justice laws. See Attachment B for details.

[SB367 Bill Brief](#) Effective 7/1/2016 Various Delayed Effective Dates

Statutes 8-241; 8-2110; 12-4112; 12-4117; 20-167; 38-2202; 38-2232; 38-2242; 38-2243; 38-2260; 38-2288; 38-2302; 38-2304; 38-2313; 38-2325; 38-2330; 38-2331; 38-2332; 38-2342; 38-2343; 38-2344; 38-2346; 38-2347; 38-2360; 38-2361; 38-2364; 38-2367; 38-2368; 38-2369; 38-2371; 38-2372; 38-2373; 38-2374; 38-2375; 38-2376; 38-2377; 38-2389; 65-5603; 72-1113; 72-8222; 72-89b03; 72-89c02; 74-4914; 75-3722; 75-6704; 75-7023; 75-7038; 75-7044; 75-7046; and 79-4803. Also repealing 38-2334; 38-2335.

## **Traffic Law**

### **DUI: Admin Hearing**

In administrative hearings for DUI test failure or refusal, the argument a stop was not constitutional is preserved for an appeal to the courts, but not subject to decision in the administrative hearing. A person facing an administrative hearing has a right to the police reports prior to the hearing, but must pay no more than \$0.25 per page for the reports.

[HB2289 Bill Summary](#) Effective 7/1/2016

Statutes 8-1002 and 8-1020

### **HazMat**

Exempts Class A commercial operator from hazardous material requirements when hauling less than 1,000 gals of diesel as a custom harvester, agrichemical business, farm retail outlet, or livestock feeder.

[SB349 Bill Summary](#) Effective 4/21/2016

Statutes New

**Length Limits: Harvesters**

Truck tractor with two trailer combination or one truck tractor semitrailer combination used in transporting equipment utilized by custom harvesters under contract to agricultural producers to harvest commodities shall not exceed 81.5 feet, excluding load overhang.

[SB99 §1 Bill Summary](#) Effective 4/14/2016

Statutes 8-1904

**Length Limits: Vehicle Haulers: Stinger Steered**

Increased maximum length of "stinger-steered" vehicles used to transport motor vehicles from 75 feet to 80 feet. Also increased allowable front load overhang from 3' to 4', and allowable rear overhang from 4' to 6' for auto haulers.

[SB99 §1 Bill Summary](#) Effective 4/14/2016

Statutes 8-1904

**Motorcycle DL and Temporary Tag**

Technical amendment to correct a statute that still referenced a 30-day registration permit. This statute deals with exempting motorcycle operators from a class M license while the temporary registration permit is valid.

[HB2522 §4 Bill Summary](#) Effective 7/1/2016

Statutes 8-235

**Weight limit**

Allows a vehicle operated by an engine fueled primarily by natural gas to exceed the vehicle weight limits in a statute limiting axle weights by an amount equal to the difference between the weight attributable to the natural gas tank and fueling system and the weight of a comparable diesel tank and fueling system, up to a maximum gross vehicle weight of 82,000 pounds.

[SB99 §4 Bill Summary](#) Effective 4/14/2016

Statutes 8-1909

**Traffic, Other**

**License Plates: Specialty**

Specialty plate for Alzheimer's Disease Awareness.

[HB2473 §1 Bill Summary](#) Effective 7/1/2016

Statutes New

**License Plates; Military Decals**

Adds Combat Action Badge to existing military decals allowed to be displayed on veterans related license plates. Decals must be of military awards earned by vehicle owner and must be purchased from DMV. Expands eligible tags from Purple Heart Tag; US military tag; military veteran tag to any tag in which the owner has to show proof of military service. Existing list allowable decals includes Silver Star; Bronze Star; Combat Medical Badge; Combat Infantry Badge; Navy/Marine Corps Combat Action Ribbon; Army Distinguished Service Cross; Navy Cross; Air Force Cross; Distinguished Flying Cross.

[HB2473 §2 Bill Summary](#) Effective 7/1/2016 Delayed Effective Date 1/1/2017

Statutes 8-1,156

**Travel Trailer Titles**

Creates non-highway or salvage titles for travel trailers. Currently travel trailers coming into Kansas with non-highway or salvage titles from another state are not allowed to be issued such

titles and receive a full Kansas title. This is being used to "wash" out-of-state titles and misrepresent damaged trailers, defrauding buyers.

[HB2563 Bill Summary](#) Effective 7/1/2016

Statutes 8-197; 8-198; 8-199

## **Firearms**

### **Adequate Security Measures**

The definition of "adequate security measures" (the legal name of the screening in public buildings closed to the carrying of a firearm) have changed to require armed personnel at the screening site. It isn't clear if it applies to all personnel or if it just requires at least one person to be armed.

[HB2502 §6 \(m\)\(1\) Bill Summary](#) Effective 7/1/2016

Statutes 75-7c20

### **CCH Permit: Military Personnel**

Kansas residents who presents proof they are on active duty with any branch of the armed forces of the United States and is stationed at a United States military installation located outside this state, may submit by mail to the sheriff of the county where the applicant resides an application for a concealed carry permit including other materials required to accompany the application. Provided the applicant is fingerprinted at a United States military installation, the applicant may submit a full set of fingerprints along with the application. In addition, proof of training can include out-of-state training determined by the Attorney General as having training requirements equal to or greater than that required by the act.

[HB2502 §3, & 4 Bill Summary](#) Effective 7/1/2016

Statutes 75-7c04 and 75-7c05

### **CCH Permit: Training**

Proof of training can include out-of-state training determined by the Attorney General as having training requirements equal to or greater than that required by the act.

[HB2502 §3 \(b\)\(2\)\(C\) Bill Summary](#) Effective 7/1/2016

Statutes 75-7c04

### **Courtrooms**

The provision in statute about courtrooms was amended striking the provision that having armed personnel in the courtroom met the requirement for "other security measures" and instead requiring "adequate security measures" to be used to prohibit carrying a firearm into a courtroom. This requires screening prior to reaching the entrance to the courtroom. It does not require this to be done, but it is required if firearms are prohibited in the courtroom.

[HB2502 §6 \(h\) Bill Summary](#) Effective 7/1/2016

Statutes 75-7c20

### **Public Buildings**

Allows prohibiting carrying of firearms in parts of public buildings, while leaving portions of the same building open to firearms. This also includes the ability to close a portion of the building only during certain times or events. Temporary signage is allowed when necessary in areas not always closed to concealed carry.

[HB2502 §6 Bill Summary](#) Effective 7/1/2016

Statutes 75-7c20

### **Public employees when working**

Permits public employees to carry a concealed firearm while working when outside of their employer's building. There has been some question whether this allows concealed carry on

private non-business premises. A definition of public employer as used in KSA 75-7c10 is added which excludes USD employers from this statute.

[HB2502](#) §5(d), (e), 7 (h)(3) [Bill Summary](#) Effective 7/1/2016  
Statutes 75-7c10

## **Alcohol**

### **Cider and Meade**

Authorizes microbreweries to manufacture and sell cider and meade. By definition, hard cider is a subset of wine and is a fermented, carbonated product from apples or pears with an alcohol content not exceeding 8.5%. Production and sales can be up to 100,000 gallons per year.

[SB326](#) §3 & 4 [Bill Summary](#) Effective 7/1/2016  
Statutes 41-102; 41-308b

### **Minor in Possession**

Grants immunity of prosecution for possession of alcohol by a minor, if the minor is reporting a medical emergency due to alcohol consumption. Does not change the crimes of social hosting or furnishing alcohol to a minor. Can include up to 3 people acting together to request medical assistance and render aid to a person. Requires the person to 1) notify LE or EMS; 2) cooperate with LE and EMS; and 3) Remain at scene with person needing medical assistance. The person appearing to need medical assistance also cannot be prosecuted for MIP if they cooperate with LE and EMS. LE cannot have an action taken against them for compliance or non-compliance with the new law. It was intentional to use immunity of prosecution vs. immune from arrest to allow for taking the person into custody if necessary for safety of the person, especially if a juvenile.

[SB133](#) [Bill Summary](#) Effective 7/1/2016  
Statutes 41-727

## **Victims**

### **Drones**

Regulation of drones; private property rights; civil cause of action under civil stalking laws. This does not create any criminal violation. No impact on law enforcement use of drones. This is aimed at persons using drones to watch persons on their own property.

[SB319](#) §3 [Bill Summary](#) Effective 7/1/2016  
Statutes 60-31a02

### **Identity Theft: Assistance from AGs Office**

Authorizes the attorney general to assist victims of identity theft, identity fraud and related crimes in obtaining refunds, canceling fraudulent accounts, correcting false information in consumer reports, correcting false information in personnel files and court records, obtaining security freezes, completing identity theft affidavits, filing complaints and related matters.

[HB2460](#) §a, 2, & 3 [Bill Summary](#) Effective 7/1/2016  
Statutes New; 50-6,139. Also repealing 50-7a03.

### **Identity Theft: Security Freezes**

Requires a consumer reporting agency to place a security freeze for a protected consumer if the consumer reporting agency receives a request from the protected consumer's representative. Authorizes consumer credit report security freezes for individuals less than 18 years old. These provisions are not effective until 1/1/17.

[HB2134](#) [Bill Summary](#) Effective 4/14/2016 Delayed Effective Date on part of bill 1/1/2017  
Statutes 50-702

## **Offender Registration**

### **Sexting**

Exempts the new crime of unlawful transmission of a visual depiction of a child (sexting) from offender registration. See Attachment A for more details.

[HB2501 §7 Bill Summary](#) Effective 7/1/2016

Statutes 22-4902

### **Sexually Violent Predator**

Requires a court committing an offender under the Kansas Sexually Violent Predator Act for control, care, and treatment by KDADS to notify the registering law enforcement agency of the county where the offender resides during commitment. Requires the AG to prepare the notice for the court to submit the electronic transmittal. The offender must register within three business days of arriving in the county where the offender is committed. The offender would not be required to update registration until placed in a reintegration facility or placed on conditional or transitional release, at which point the offender would be personally responsible for complying with KORA provisions.

[SB407 §1-3 Bill Summary](#) Effective 7/1/2016

Statutes 22-4903, 22-4904 and 22-4905

### **Violation penalty**

Currently all violations of KSA 22-4903, violation of offender registry act, are person crimes. Under this bill they remain person crimes if any crime for which they must register is a person crime, but a nonperson crime if the crime for which they must register is a nonperson crime.

[HB2463 §4 Bill Summary](#) Effective 7/1/2016

Statutes 22-4903

## **Open Records**

### **Personal devices**

Employment related communications on a personal device is subject to KORA. "Public record" means any recorded information, regardless of form or characteristics or location, which is made, maintained or kept by or is in the possession of: (A) Any public agency; or (B) any officer or employee of a public agency pursuant to the officer's or employee's official duties and which is related to the functions, activities, programs or operations of any public agency. "Public record" shall not include: (A) Records which are owned by a private person or entity and are not related to functions, activities, programs or operations funded by public funds. As used in this subparagraph, "private person" shall not include an officer or employee of a public agency who is acting pursuant to the officer's or employee's official duties; (B) records which are made, maintained or kept by an individual who is a member of the legislature or of the governing body of any political or taxing subdivision of the state.

[SB22 §10 Bill Summary](#) Effective 7/1/2016

Statutes 45-217

### **Warrant Affidavit**

Clarifies that once a court rules to release an arrest or search warrant affidavit in a KORA request the released record becomes part of the court record open to the public. Requires the prosecutor to notify any victim of an alleged crime that resulted in the issuance of the warrant (or the victim's family if the victim is deceased) of the request for disclosure. The bill clarifies the existing justification for redacting or sealing affidavits or sworn testimony that jeopardizes the safety or wellbeing of a victim, witness, confidential source, or undercover agent, includes the physical, mental, or emotional safety of such person. Allows a magistrate to redact affidavits

and sworn testimony to prevent the disclosure of information that constitutes a clearly unwarranted invasion of personal privacy, as defined by the bill.

[HB2545 Bill Summary](#) Effective 7/1/2016

Statutes 22-2302 and 22-2502

## **Elections**

### **Campaign Workers**

Prohibits cities and counties from regulating or prohibiting canvassing, polling, soliciting, or otherwise approaching private residences for the purpose of distributing campaign literature or campaigning for elective office.

[HB2558 §1 Bill Summary](#) Effective 7/1/2016

Statutes New

## **Informational**

### **Bail Bond Agents**

Requires bail bond agents to register and be licensed through the Attorney General's Office and receive annual training. Current bail bond agents have until 7/1/17 to receive required training.

[HB2056 Bill Summary](#) Effective 7/1/2016 Delayed Effective Date 7/1/2017

Statutes New and 22-2806; 12-4516; 21-6614; 22-2809a. Also repealing 12-4516d; 21-6614f.

### **EMS: Investigations; fines; subpoenas**

Allows the Board of EMS to conduct investigations, issue subpoenas for allowed documents or for persons to appear before the board or hearing, and impose fines not to exceed \$500 per violation to a licensed person in violation of the act or not to exceed \$2500 per violation to a licensed ambulance service. Gives the EMS Board access to any government held records relevant to such investigation.

[SB224 Bill Summary](#) Effective 7/1/2016

Statutes 65-6111; 65-6130

### **EMS: Standards and Training**

EMS revisions on training and accepted practices. Amends the authorized activities of certain emergency medical services (EMS) certifications; changes the composition, powers, and duties of the Emergency Medical Services Board (EMS Board); amends certain definitions; and makes technical amendments to reflect current law.

[HB2387 Bill Summary](#) Effective 7/1/2016

Statutes 65-6102, 65-6111, 65-6112, 65-6120, 65-6121, 65-6129b, 65-6129c, 65-6133, 65-6135, 65-6144

### **KPERS: Annuity Rates**

Establishes the annual annuity interest rates for members under the KPERS act of 2015.

[SB168 §11 Bill Summary](#) Effective 7/1/2016

Statutes 74-49,313

### **KPERS: Death Benefits**

Applies accidental death benefits for members under the KPERS act of 2015.

[SB168 §6 Bill Summary](#) Effective 7/1/2016

Statutes 74-4916

### **KPERS: DROP (Deferred Retirement Option Program)**

Technical amendment to KHP DROP program from last year. Clarifies payment for accruals count toward final average salary for those hired prior to July 1, 1993. Members of the Kansas Highway Patrol who participate in the DROP Plan, which is a voluntary pilot program that was authorized in 2015, would be allowed to have their retirement benefits recalculated, taking into

account any payments of the member's accumulated sick and annual leave compensation made at retirement. If the member's recalculated final average salary would be higher than the final average salary used in the calculating the member's monthly DROP accrual, the retirement payment after DROP participation has been completed uses the higher amount. Under current law the DROP period may be for three to five years. The difference between a member's monthly DROP accrual and recalculated monthly retirement benefit would be credited as a noninterest bearing lump sum to the member's account prior to ending participation in the DROP Plan.

[SB168](#) §8-10 [Bill Summary](#) Effective 7/1/2016

Statutes 74-4986o; 74-4986p; 74-4986q

**KPERS: Working After Retirement**

Strikes the sunset to KPERS school working after retirement exception and extending certain working after retirement exceptions upon submission of an assurance protocol and allowing retirants to return to work for a different participating employer when such employer pays a 30% contribution rate. Also increases KP&F working after retirement earnings cap to \$25,000 from \$15,000.

[SB168](#) §1-5 [Bill Summary](#) Effective 7/1/2016

Statutes 46-2201; 74-4914; 74-4937; 74-4957; 49-4957a

**Rental Property Inspection Limitations**

Prohibits cities or counties from adopting, enforcing or maintaining a residential property licensing ordinance or resolution which includes a requirement for periodic interior inspections of privately owned residential property for city or county code violations unless the lawful occupant has consented to such interior inspection. This subsection shall not apply to inspections of mixed-use residential and commercial property. It does not prohibit a city or county from conducting plan reviews, periodic construction inspections or final occupancy inspections as required by building permits.

[SB366](#) §3 [Bill Summary](#) Effective 7/1/2016

Statutes New

**Schools: K-12: Air guns**

Allows air guns on K-12 school grounds and in K-12 schools for organized programs.

[HB2502](#) §1-2 [Bill Summary](#) Effective 7/1/2016

Statutes New and 72-89a01

**Schools: K-12: Restraint of student**

Restricts use of physical and chemical (medication) restraint of K-12 students. Appears to apply only to school personnel. Also includes reporting and review requirements.

[SB193](#) [Bill Summary](#) Effective 7/1/2016

Statutes 72-89d01, 72-89d02, 72-89d03, 72-89d04, 72-89d05, 72-89d06 and 72-89d08

**Work Comp: Technical amendment**

Corrects incorrect statute reference in Subsection (a)(12)(B)(iii).

[HB2285](#) §1 [Bill Summary](#) Effective 7/1/2016

Statutes 44-706

More Legislative Information Available at [www.KsLawEnforcementInfo/2016-session.html](http://www.KsLawEnforcementInfo/2016-session.html)

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## **Attachment A**

### **Unlawful Possession or Transmission of a Visual Depiction of a Child Appearing in a State of Nudity (Sexting)**

A new law specific for Unlawful Possession or Transmission of a Visual Depiction of a Child Appearing in a State of Nudity is aimed at teenagers engaging in activities known as “sexting.” It carries a much lower severity level other more serious crimes available for charging today. It specifically excludes any offender registration. It is designed to retain the use of more serious sex crimes to be prosecuted under the higher level crimes when explicit sexual activity is involved in the image. The intent of this is to provide a better education and prevention tool to discourage engaging in this activity.

[HB2501](#) §1, 2, 4 & 7 [Bill Summary](#) Effective 7/1/2016

Statutes New and 21-5510; 22-4902

#### **Possession of a visual depiction of a child**

Possession of a visual depiction of a child is possession a photo of a person ages 12 through 18 in a state of nudity when obtained directly from the person in the photo. It is a defense to the crime that the recipient of a depiction received it without requesting, coercing, or otherwise attempting to obtain the depiction; did not transmit, exhibit, or disseminate the depiction; and made a good faith effort to erase, delete, or destroy the depiction.

Possession of a visual depiction of a child is a class B, person misdemeanor

#### **Unlawful transmission of a visual depiction of a child**

Unlawful transmission of a visual depiction of a child is defined as knowingly transmitting a visual depiction of a child ages 12 through 18 in a state of nudity when the offender is less than 19 years of age.

Unlawful transmission is a class A, person misdemeanor for a first conviction and a severity level 10, person felony for a subsequent conviction.

#### **Aggravated transmission of a visual depiction of a child**

Aggravated transmission of a visual depiction of a child requires the same elements and adds the requirement that the transmitting occur with the intent to harass, embarrass, intimidate, defame, or otherwise inflict emotional, psychological, or physical harm. There is a rebuttable presumption the offender had this intent if the offender transmitted such visual depiction to more than one person. It also constitutes aggravated transmission if the transmission was made for pecuniary or tangible gain or with the intent to exhibit or transmit the depiction to more than one person.

Aggravated unlawful transmission is a severity level 9, person felony for a first conviction and a severity level 7, person felony for a subsequent conviction.

#### **Actions not included in offense**

- These crimes do not apply to the child who is the subject of the depiction.
- The crimes do not apply to a visual depiction of a child engaged in sexually explicit conduct or a depiction that constitutes obscenity. Other more serious existing crimes apply in these cases.
- It is not unlawful for a person under the age of 19 to possess a visual depiction of a child in a state of nudity who is 16 years of age or older. It is unlawful to transmit the depiction.

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## **Appendix B**

### **Juvenile Justice Reform**

Complete and extensive overhaul of the Juvenile Justice laws. See attachment for details.  
[SB367 Bill Brief](#) Effective 7/1/2016 Various Delayed Effective Dates

The following summarizes only those parts of the bill directly affecting law enforcement:

#### **Oversight Committee**

Much of the implementation of the reform will be guided and monitored by an Oversight Committee. Local law enforcement will have a seat on this committee which will be filled with appointment by the Attorney General. The make-up and duties of the committee are found in section 4 of the bill. The Committee provisions are effective on July 1, 2016.

#### **Training**

The bill includes a requirement for specific training for all law enforcement officers whose primary assignment is in K-12 schools. The design of that training is responsibility of the Attorney General working in collaboration with the Kansas Law Enforcement Training Center. This part of the bill is effective July 1, 2016, marking when work must begin on developing the training. The Attorney General must have regulations in place for the training by January 1, 2017. The deadline for completing the training is not set out in the bill and should be established by regulation. This provision is found in section 14 of the bill.

#### **Definition of Law Enforcement Officer**

The applicable definition of a “law enforcement officer” is found in KSA 38-2202 in relation to Article 22 on Juvenile Offenders and KSA 38-2302 in relation to Article 23 on a Child in Need of Care. The definition is identical in both statutes and neither is amended by this bill. The definition includes “any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.” These statutes are found in sections 23 and 29 of the bill. Section 23 doesn’t take effect until 7/1/19, but the existing statute has the same definition for law enforcement officer making that definition current law and effective for the purposes of the bill. Section 29 takes effect on July 1, 2016.

#### **Taking a Child into Custody as a Juvenile Offender**

The provisions of KSA 38-2232 covering the statutory requirement when law enforcement takes a child into custody as a juvenile offender are amended, but these amendments are not effective until July 1, 2019. The amendments change the language requiring transfer of custody of the child from “. . . the child shall forthwith be delivered to the custody of. . .” to “. . . the child shall promptly be delivered to the custody of. . .” when referring to release to the parent/guardian, to the facility directed by a “court, court services officer, juvenile intake and assessment worker, licensed attendant care center or other person or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to a facility or person designated by the secretary [of DCF]”; or in the case of truancy, to the school of attendance. This section also deletes references to placing the child in a juvenile detention center since such placement will be heavily restricted after July 1, 2019. This is found in section 24 of the bill.

### **Taking a Child into Custody as a Child in Need of Care (CINC)**

The provisions of KSA 38-2330 covering the statutory requirements when law enforcement takes a child into custody as a child in need of care (CINC) is amended effective January 1, 2017. These amendments remove the authority of court services, juvenile community corrections officers, and others authorized to supervise a child in need of care to take a child into custody for violations of a term of probation or placement. Those persons along with “any other officer with power of arrest” also will no longer be able to arrest a juvenile without a warrant for condition violations but may request a warrant from the court if the person has two prior violations of conditions AND the juvenile “poses a significant risk of physical harm to another or damage to property.”

A juvenile taken into custody by a law enforcement officer is required to take the child without unnecessary delay to “the custody of the juvenile’s parent or other custodian, unless there are reasonable grounds to believe that such action would not be in the best interests of the child or would pose a risk to public safety or property.” Stricken from subsection (d)(1) is the requirement to go to intake first and the provision allowing the officer to place the child in a nonsecure facility under certain conditions. In other words, release to the parent is the priority and other options will be very difficult to accomplish. If a parent or custodian of the child is not available, the child may be issued a notice to appear or taken to intake. The use of detention is only allowed when “all suitable alternatives are exhausted.”

### **Notice to Appear**

Effective January 1, 2017, there is statutory authority for law enforcement to issue a child a notice to appear versus immediately taking the child to intake. The notice to appear requires the child and the parent to appear at Juvenile Intake within 48 hours. The law provides law enforcement “may” issue a notice to appear, it does not require a notice to appear be used in any given circumstance. The specifics of this are in section 33 subsection (d)(2) and subsection (g). The requirements of the Notice to Appear contents, service, and distribution are in subsection (g). Among other things it requires service on the juvenile, the juvenile’s parent and copies to Juvenile Intake and the County/District Attorney.

### **Juvenile Offender Information and Reportable Events**

Effective July 1, 2017, KSA 38-2325 is amended the definition of “Juvenile Offender Information” by adding an extensive and non-inclusive list of data. See [Section 32 subsection \(c\)](#) for details. It also removes placement in a youth residential facility as a reportable event.

### **Transfer of Juveniles To Juvenile Correctional Facility**

Effective January 1, 2017, the process for transfer of a child to the custody of the Kansas Department of Corrections for court placement to the state Juvenile Correction Facility is amended. However, the changes directly affecting law enforcement are purely technical and the process we follow remains essentially the same. This is found in section 49 of the bill (page 50).

### **Department of Corrections Notification of Release of Juvenile from State Custody**

Effective July 1, 2017, KSA 38-2377 is amended. The significant change is that the ability of the prosecutor to ask the court to order the child to remain in state custody is removed. The prosecutor may now only ask the court to place the child on conditional release if not previously ordered by the court and such conditional release remains subject to the limits on the overall length of time the child can be under supervision and detention. Details are in section 53 (page 53) of the bill.

## **Schools**

Effective July 1, 2017, KSA 72-1113 relating to truancy is amended. The change is in section 56 subsection (c)(4) (page 57) is related to reporting truancy to the county/district attorney and states it must not conflict with the newly required MOU between the school district and the prosecutor.

The same requirement to not violate the MOU is made applicable to KSA 72-8222 by an amendment in section 57 subsection (c) of the bill (page 58). This provision deals with jurisdiction and “all general law enforcement powers, rights, privileges, protections and immunities in every county in which there is located any part of the territory of the school district or community college.” This provision becomes effective on July 1, 2017.

KSA 72-89b03 is amended by section 58 (page 59) effective July 1, 2017. There are three main amendments in the section:

1. Subsection (i) requires an MOU to be in place between each school district and “with relevant stakeholders, including law enforcement agencies, the courts and the district and county attorneys. . .” The MOU must establish “clear guidelines for how and when school-based behaviors are referred to law enforcement or the juvenile justice system with the goal of reducing such referrals and protecting public safety.” A copy of the MOU must be filed with the State Board of Education.
2. Subsection (b)(1) conditioning the report of a crime to law enforcement to not conflict with the MOU required in subsection (i).
3. Subsection (d) adds some reporting elements required in the annual report on criminal acts related to the school district by each school board. The report must now also include “arrests and referrals to law enforcement or juvenile intake and assessment services made in connection to the criminal act” and “an analysis according to race, gender and any other relevant demographic information.”

KSA 72-89c02 is amended effective July 1, 2017, by section 59 (page 60). The change is in subsection (a) and makes reporting to law enforcement when a student is found with a weapon in school conditional upon not conflicting with the MOU required in section 58 subsection (i).

## **Juvenile Intake**

A child taken into custody as a child in need of care (CINC) or as a juvenile offender will have initial placement decided by juvenile intake and must be based on a “detention risk assessment tool.” Intake is also given significant latitude to place the child directly into an “immediate intervention program” which is similar to a diversion. That placement is subject to policy established in consultation with the prosecutor (it does not require agreement with or approval by the prosecutor). Such placement is an alternative to referral to the prosecutor. This is found in section 63 (page 66) of the bill and is effective on January 1, 2017.

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