



# 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

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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.kscoplaw.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.kscoplaw.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.kscoplaw.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.kscoplaw.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.kscoplaw.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.kscoplaw.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.kscoplaw.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.kscoplaw.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.kscoplaw.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.kscoplaw.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.

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