

TOP 10 TOPICS OFFICERS MUST KNOW FROM THE 2013 LEGISLATIVE SESSION

June 21, 2013

1. Effective January 1, 2014, a LEO is required to take a child under the age 18 into custody when the officer reasonably believes the child is a victim of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child. (HB2034§32 amending KSA 38-2231)

Effective January 1, 2014, a law enforcement officer taking a juvenile into custody under the above provision “shall place the child in protective custody and may deliver the child to a staff secure facility. The law enforcement officer shall contact the department for children and families to begin an assessment to determine safety, placement and treatment needs for the child. Such child shall not be placed in a juvenile detention facility or other secure facility” except as authorized by KSA 38-2232, 38-2242, 38-2243 and 38-2260. (HB2034§33 amending KSA 38-2232)

2. The law has changed on missing persons reports. Effective July 1, 2013, law enforcement is mandated to take a written report on any report received of a missing person, even if the only tie to your agency or jurisdiction is the contact with the reporting party. The only exception is if you have confirmed another agency has already taken a report, or you have confirmed the whereabouts of the person alleged to be missing. If the occurrence is in another jurisdiction the report should be immediately forwarded to the other agency(ies) for investigation. Law enforcement is also mandated to provide the reporting party with contact information for the National Center for Missing and Exploited Children and National Center for Missing Adults. An immediate determination if the missing person meets certain criteria for a high risk missing person is also required. High Risk means 1) abduction; 2) missing under suspicious or known dangerous circumstances; 3) missing more than 30 days; or 4) reason to believe person is at risk of death or great bodily harm. If High Risk, the KBI must be notified and the KBI must alert all Kansas LE agencies of the missing person. (SB118 amending KSA 75-712b and 75-712c.)
3. Concealed Carry
 - a. Concealed carry into a posted Building by a CCH permit holder is not a criminal or regulatory violation. The person in charge of the building can require them to leave or direct them to not return armed. Defiance of such a request may place the person in violation of criminal trespass laws.
 - b. Concealed carry permits from other states are valid for persons visiting or travelling through Kansas.
 - c. Concealed carry permits from other states are valid for persons who have moved to Kansas if the person also holds a receipt from the Attorney General’s Office showing they have applied for a Kansas permit.
 - d. Concealed carry by retired LEO and out-of-state LEO in posted buildings is not a violation.
 - e. Concealed carry records are confidential. It is a Class A misdemeanor for a LEO or anyone else to release
4. Switchblade knives and any concealed knife are now legal in Kansas. (HB2033 amending KSA 21-6301 and 21-6302)
5. Theft of a firearm is now a felony regardless of the value of the firearm (HB2278 amending KSA 21-5801, 21-5803 and 21-5807.)
6. Under certain conditions a temporary restraining order may now be issued that is in effect without service on the adverse party. These are not valid for more than 14 days and should have an expiration date in the order. (HB2081 amending KSA 60-903.)

7. DUI
 - a. The agg. battery statute is amended by adding a new provision for agg. battery, DUI in cases where a DUI results in great bodily harm, or results in bodily harm under circumstances where great bodily harm could occur. (HB2218 amending KSA 21-5413)
 - b. DUI Testing: The laws on grounds for requesting an evidentiary test for blood alcohol content were amended in response to a Kansas Supreme Court case. An officer may request an evidentiary test under the same conditions in the past, except the requirement the person be arrested for DUI is revised. The officer still must have reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, but the new statute clarifies that the reasonable belief must exist at the time the test is requested. Under the new law the person must be arrested but the arrest or custody may be for any charge. (HB2218 amending KSA 8-1001 and 8-1020.)
8. Proof of Insurance can now be displayed by a vehicle owner or operator on an electronic device. You are forbidden by the statute to look at any other items on the electronic device used to present the insurance information to you. (SB85 amending KSA 8-173, 8-1604, 40-3104 and 30-3118.)
9. Fireworks: It remains unlawful to sell, offer to sell, possess with intent to sell, ignite, fire, set off, or otherwise use a bottle rocket. But the statute is being moved to the Kansas Fireworks Act so the statute number will change. Until the new statute number is determined and published the proper citation for this is "2013 Session Law Chapter 108, section 5, subsection (a)." Those violations remain an unclassified misdemeanor with a maximum fine of \$100. Authorizes the State Fire Marshal or local law enforcement to seize fireworks stored, possessed, or transported in violation of either the Kansas Fireworks Act or any State Fire Marshal regulation; creates an administrative process for making an inventory of the seized fireworks and for the destruction of the seized fireworks by the Fire Marshal; hearings for violations are conducted by the Fire Marshal under the Kansas Administrative Procedure Act; provides the Fire Marshal or authorized representative to apply to the court for an emergency order authorizing the destruction or disposal of fireworks that are an immediate danger to the public safety, health, or welfare; establishes for a civil penalty up to a \$1000/ day for violations; moves the bottle rocket provisions in current statute to the Kansas Fireworks Act (KSA 31-501 et seq)
10. It is now a violation of state statute to discharge or recklessly discharge a firearm within or into any incorporated city. The statute lists specific exemptions: 1) defense of a person or property, 2) at a shooting range, 3) lawfully taking wildlife unless otherwise prohibited, 4) by a law enforcement officer, animal control officer, or a person with a wildlife control permit, 5) by special permit of the chief of police (by the sheriff if the city has no police department, 6) using blanks, 7) defending a person from attack by an animal. Violation is a class B nonperson misdemeanor. (HB2052, new statute.) Until the statute is given a number, the proper citation is "2013 Kansas Session Law 105, Section 1"

MORE INFORMATION ON THESE AND OTHER LEGISLATIVE ACTIONS IS AVAILABLE AT:

<http://www.kslawenforcementinfo.com/2013-session-information.html>

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

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