

# Guide To 2021 Kansas Legislation Impacting Law Enforcement

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[www.kansassheriffs.org](http://www.kansassheriffs.org)  
e-mail: [kas@kansassheriffs.net](mailto:kas@kansassheriffs.net)  
(620) 230-0864



[www.ksacp.org](http://www.ksacp.org)  
e-mail: [ksacp@ksacp.org](mailto:ksacp@ksacp.org)  
(620) 899-4122



[www.kpoa.org](http://www.kpoa.org)  
e-mail: [kpoa@kpoa.org](mailto:kpoa@kpoa.org)  
(316) 722-8433

Prepared by

Ed Klumpp, Chief of Police-Retired, Topeka Police Department

Legislative Liaison

Kansas Association of Chiefs of Police

Kansas Sheriff's Association

Kansas Peace Officers Association

E-mail: [ed.klumpp@KsLawEnforcementInfo.com](mailto:ed.klumpp@KsLawEnforcementInfo.com) Phone: (785) 640-1102

This document summarizes legislation impacting law enforcement passed by the 2020 legislature and 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/2021-session.html](http://www.KsLawEnforcementInfo.com/2021-session.html)

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### Errata Table

Version	Date	Correction
1.0	6/3/2021	Original Document
1.1	6/18/21	Pg. 1, Item 1, 2nd paragraph, next to last line, corrected “end of sentence” to “release from prison.” Pg. 19, added information to “Officer Exposure to Body Fluids.” Pg. 19, added information to “Towing of Vehicles”

## **UPDATED STATUTES**

Available now with current changes at:

<http://kansasleo.com/statutes.htm>

<http://www.kscoflaw.com/thelawpage.htm>

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

<http://www.ksrevisor.org/ksa.html>

Session Laws: [https://www.sos.ks.gov/pubs/pubs\\_session\\_laws.html](https://www.sos.ks.gov/pubs/pubs_session_laws.html)

## Links to Bills and Bills Summaries

If this document has been printed making the internal links unavailable, you can locate the bills and summaries at: [http://www.kslegislature.org/li/b2021\\_22/asures/bills/](http://www.kslegislature.org/li/b2021_22/asures/bills/) Enter only the bill number (leave off the SB or HB).



## Twelve Things from the 2021 Kansas Legislative Session Every Law Enforcement Officer Should Know

Updated statutes are available on or after the effective date of the amendments at either <http://kansasleo.com/statutes.htm> or <http://www.kscoplav.com/thelawpage.htm>.

Statutes on the state website are not updated until sometime in the fall.

### 1. **Firearms-Felon in Possession/Restoration of Rights:**

A provision was added to law for a convicted felon to have their right to possess firearms restored by having their prohibiting conviction expunged. Past expungements are included. Future expungements have an additional factor the courts must consider: Whether restoration of firearm rights to the defendant poses a risk to public safety. But this new court consideration will not apply to past expungements.

In the process of making the restoration of rights amendments, there were also amendments to the length of time a prohibition exists and when the clock starts on those time periods. The 10-year prohibitions are now 8-years, and the 5-year prohibitions are now 3-years. But the clock starts at the end of completion of sentence (end of prison, probation, parole, whichever is later) rather than time of conviction or release from prison. In most cases the prohibition period will be the same or longer.

See a chart of all the changes made in the felon in possession statute in Appendix A.

[HB2058 \(2021 SL Ch 94\) §2, 4, 6](#), Amending KSA 21-6301, 21-6304, and 21-6614. [Bill Summary](#). Effective 7/1/21.

### 2. **Firearms-CCH Permits-Reciprocity and Lower Minimum Age:**

A new level of CCH license is created called a “provisional” license. It has the same standards to obtain (required training, criminal history check, etc.) but is for persons ages 18, 19 or 20. A person with the “provisional permit” is allowed to carry a concealed handgun.

A valid license or permit to carry a concealed firearm issued by another jurisdiction is recognized in Kansas, but only while the holder is not a resident of Kansas and only entitles the lawful holder to carry concealed handguns in accordance with the laws of Kansas while such holder is present in this state.

[HB2058 \(2021 SL Ch 94\) §1, 2, 3, 5, 7, 8, 9, 10, 12, 13](#), Amending KSA 21-5914, 21-6301, 21-6302, 21-6304, 21-6309, 32-1002, 75-7c02, 75-7c03, 75-7c08, and 75-7c21. [Bill Summary](#). Effective 7/1/21.

### 3. **Sexual Extortion:**

A new SL4 or SL7 person felony crime is created for Sexual Extortion. The crime covers actions with intent to coerce or actually causing another person to (A) Engage in sexual contact, sexual intercourse or conduct that is of a sexual nature; or (B) produce, provide or distribute an image, video or other recording of a person in a state of nudity or engaging in conduct that is of a sexual nature.

[SB60 \(2021 SL Ch 103\) §1](#), New statute. [Bill Summary](#). Effective 7/1/21.

### 4. **Sexual Battery:**

The sexual battery and aggravated sexual battery statutes are amended to remove the exception from the crime for when the defendant is a spouse of the victim.

[SB60 \(2021 SL Ch 103\) §5](#), Amends KSA 21-5505. [Bill Summary](#). Effective 7/1/21.

**5. Auto Theft:**

Several statute changes were made attempting to aid in reduction and prosecution of auto theft crimes. Attempting to elude law enforcement while driving a stolen motor vehicle is added to the list of acts creating a prima facie case of intent to permanently deprive the owner of the motor vehicle and to the list of acts that make attempting to elude a felony. A minimum fine of \$500 is established for attempting to elude in a stolen motor vehicle.

[SB60 \(2021 SL Ch 103\) §3, 6](#), KSA 8-1568 and 21-5804. [Bill Summary](#). Effective 7/1/21.

**6. Attempt to Elude:**

A more severe level of felony (SL7 person felony) is created within the attempt to elude statute when a driver, in the course of attempting to elude law enforcement commits any of the following acts: drives the wrong way into an opposing lane of travel on a divided highway; departs the appropriate lane of travel into an opposing lane of travel on any roadway causing an evasive maneuver by another driver; drives through any intersection causing an evasive maneuver by another driver; or causes a collision involving another driver.

[SB60 \(2021 SL Ch 103\) §3](#), KSA 8-1568. [Bill Summary](#). Effective 7/1/21.

**7. Child Abuse or Neglect Investigations**

When law enforcement is investigating a report of child abuse or neglect a member of the agency, or their designee, is required to visually observe the victim and to document the observation in their report. If the investigation is a joint law enforcement and DCF investigation, both agencies are required to visually observe the child.

[HB2158 \(2021 SL Ch 111\) §3](#) Amending KSA 38-2226. [Bill Summary](#). Effective 6/3/21.

**8. Officer Exposure to Body Fluids, Court Ordered Testing:**

Prior law already authorized court ordered testing, but the testing was limited to only HIV and Hepatitis B. The revised law only expands the list of infectious diseases to include those already identified in a KDHE regulation as exposure risks for medical and first responder personnel. These tests can be ordered by the court for exposure to victims and others as well. The law is also amended to require the court to order the defendant to be tested at first appearance if it “appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved” and one of the following conditions exist:

- a. The victim of the crime or the county or district attorney requests the court to order such tests of the alleged offender; or
- b. Such person stated they had an infectious disease or were infected with an infectious disease, or used words of like effect, to the law enforcement officer making such arrest.

[HB2224 \(2021 SL Ch 112\) §1, 2](#), amending KSA 65-6001 and 65-6009. [Bill Summary](#). Effective 7/1/21.

**9. Emergency Management Act-Violations:**

During the COVID-19 crisis, the 2020 legislature amended the Kansas Emergency Management Act by making all violations of orders issued under the act as civil violations. While this change made sense for COVID related orders, it was detrimental to the law enforcement objectives in other, much more common, emergencies. In the 2021 session legislation was passed to restore the Class A misdemeanor violations for orders on curfews or restrictions of entry into designated geographic areas. All other violations remain a civil violation. This applies to Emergency Orders (Executive Orders issued under declared emergency) issued by the state or local authorities.

[SB40 \(2021 SL Ch 7\) §9](#), pages 10-11, amending KSA 48-939. [Bill Summary](#). Effective 3/25/21.

**10. Alcohol Laws** See an ABC memo summarizing the 2021 liquor law changes at this link.

**To Go Alcoholic Beverages:** Alcoholic liquor (including mixed drinks) or CMB may be sold for off premise consumption by drinking establishments, class A clubs, and class B clubs provided they are otherwise allowed to sell alcoholic beverages or CMB. This includes drive through and curbside food services with a drinking establishment license. It excludes those under any other license or permit such as caterers, temporary permits or special permits. All of the following are required:

- Each container of alcoholic liquor or cereal malt beverage must have been purchased by a patron of the licensed premises.
- All to-go containers of alcoholic beverage or CMB must be sealed or resealed and placed in a clear, tamper-proof bag.
- A dated receipt must be given to the patron.
- No original unopened containers of spirits may be removed from the licensed premises.
- No alcoholic liquor or cereal malt beverage may be removed from the licensed premises after 11:00 p.m. unless such alcoholic liquor is wine that was purchased and partially consumed on the licensed premises.

HB2137 (2021 SL Ch 107) §32, KSA 41-2653. Bill Summary. Effective 5/27/21.

**Growler** (An industry term for a “refillable and sealable container” provided by the customer): Retail liquor stores, drinking establishments, class A clubs and class B clubs may sell and refill a growler of beer, domestic beer and CMB, but growlers may not be sold or removed from the premises after 11 PM. The containers must be not less than 32 ounces and not more than 64 ounces and labeled with the licensee’s name and type of beer or CMB in the container.

HB2137 (2021 SL Ch 107) §3, 5, 32, KSA 41-308, 41-308b, 41-2653. Bill Summary. Effective 5/27/21.

**Sunday Sales:** Retail liquor stores and CMB Retailers may begin sales as early as 9 AM on Sunday (was noon). This does not apply to counties that have not authorized Sunday sales. To allow the earlier times, the city or county must modify their existing ordinances or resolutions to establish the earlier time allowed.

HB2137 (2021 SL Ch 107) §11, 37, 38, KSA 41-712, 41-2704, 41-2911. Bill Summary. Effective 5/27/21.

**Holiday Sales:** Sale of alcoholic liquor by retail liquor stores is allowed on Memorial Day, Labor Day and Independence Day in all jurisdictions, including those that have not approved Sunday sales. If Independence Day falls on a Sunday, sales would not be permitted in those jurisdictions that have not expanded sales to Sunday.

HB2137 (2021 SL Ch 107) §11, 38, KSA 41-712, 41-2911. Bill Summary. Effective 5/27/21.

**Class A Clubs:** Class A Clubs may enter into a contract with non-members to host an event. The Class A Club must notify the ABC at least 48 hours before the event and the ABC must make the notification available to local law enforcement. This will be accomplished by posting the notice on the ABC website: <https://www.kdor.ks.gov/apps/liquorlicensee/> .

HB2137 (2021 SL Ch 107) §27, KSA 41-2637. Bill Summary. Effective 5/27/21.

**CMB Sales:** CMB may be purchased, consumed, or sold in drinking establishments, caterer services, class A clubs, class B clubs and public venues or at temporary permit venues. This does not require additional licensing.

HB2137 (2021 SL Ch 107). Bill Summary. Effective 5/27/21.

### **11. THC Content in products:**

CBD oils and other products manufactured from hemp (not marijuana) may contain up to 0.3% THC. This is total content for all THC types combined. Past law did not clearly address this leading to multiple interpretations. This amendment clarifies such products can contain small amounts of THC not exceeding 0.3%. Anything over that remains a violation of the THC laws in KSA 21-5706 and KSA 65-4105 (h). Section 3 of the bill (amending KSA 2-3901).

HB2244 (2021 SL Ch 76) §3, Amending KSA 2-3901. Bill Summary. Effective 7/1/21.

### **12. Traffic Laws:**

- a. Dump trucks are now required to display their license plates on the front of the truck and cement mixer trucks can display their license plate either on the front or the back of the vehicle.

HB2167 (2021 SL Ch 50), amending KSA 8-133. Bill Summary. Effective 7/1/21.

- b. Funeral processions are now provided right-of-way by statute, however, a violation of that right-of-way is not a citable violation.

SB67 (2021 SL Ch 71) §1-4, new statutes. Bill Summary. Effective 7/1/21.

- c. The “move over” laws now also apply to utility vehicles (gas service, water service, electrical service, cable service, telecommunications service, etc.).

SB67 (2021 SL Ch 71) §5-6, new statute and amending KSA 8-2118. Bill Summary. Effective 7/1/21.





## Five Things from the 2021 Kansas Legislative Session Every Law Enforcement Administrator Should Know

- 1. Emergency Management Act-Violations:** During the COVID-19 crisis, the 2020 legislature amended the Kansas Emergency Management Act by making all violations of orders issued under the act as civil violations. While this change made sense for COVID related orders, it was detrimental to the law enforcement objectives in other, much more common, emergencies. In the 2021 session legislation was passed to restore the Class A misdemeanor violations for orders on curfews or restrictions to entry into designated geographic areas. All other violations remain a civil violation. This applies to Emergency Orders (Executive Orders issued under declared emergency) issued by the state or local authorities.  
SB40 (2021 SL Ch 7) §9, pages 10-11, amending KSA 48-939. Bill Summary. Eff: 3/25/21.
- 2. Officer Exposure to Body Fluids, Court Ordered Testing:**  
Prior law already authorized court ordered testing, but the testing was limited to only HIV and Hepatitis B. The revised law only expands the list of infectious diseases to include those already identified in a KDHE regulation as exposure risks for medical and first responder personnel. The law says the court shall order the defendant to be tested at first appearance if it “appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved” and one of the following conditions exist:
  - a. The victim of the crime or the county or district attorney requests the court to order such tests of the alleged offender; or
  - b. Such person stated they had an infectious disease or were infected with an infectious disease, or used words of like effect, to the law enforcement officer making such arrest.HB2224 (2021 SL Ch 112) §1, 2, amends KSA 65-6001 and 65-6009. Bill Summary. Eff. 7/1/21.  
*Suggested Action: Work with your local prosecutor and Chief Judge to determine how the information is relayed to the court to request the tests. Perhaps a form that can be attached to the arrest report a judge would review for probable cause.*
- 3. Child Abuse or Neglect Investigations:**  
When law enforcement is investigating a report of child abuse or neglect a member of the agency, or their designee, is required visually observe the victim and to document the observation in their report. If the investigation is a joint law enforcement and DCF investigation, both agencies are required to visually observe the child.  
HB2158 (2021 SL Ch 111) §3 Amending KSA 38-2226. Bill Summary. Effective 6/3/21.
- 4. Victims of Identity Theft Applying for Unemployment:**  
Persons who were the victim of identity theft by having a false unemployment claim filed in their name can be further victimized if they become unemployed and attempt to file a legitimate unemployment claim. To assist with this, a program is set up for law enforcement agencies to voluntarily agree to confirm the identity of a person filing a claim when the claimant is notified by the Department of Labor that they must provide proof of identification before their claim application can be processed. For additional information about this program to assist these victims, send an e-mail to [KDOL.ReportSuspectedFraud@ks.gov](mailto:KDOL.ReportSuspectedFraud@ks.gov) with “**Law Enforcement ID Verification Opt In – (Name of your agency)**” in the subject line.  
HB2196 (2021 SL Ch 92) §10, New statute. Bill Summary. Effective 5/13/21.

5. **Agricultural Hemp:** 1) THC Content of Hemp Products; 2) Regulation of Hemp Processors; 3) Unlawful marketing, sale, or distribution of hemp extract; 4) Transportation of hemp and hemp products; and 5) Hemp Plant Disposal
- a. Hemp products, including CBD oils and products, may contain up to 0.3% THC. Past law did not clearly address this leading to multiple interpretations. This is total content for all THC types combined. This amendment makes it clear such products can contain small amounts of THC not exceeding 0.3%. Anything over that remains a violation of the THC laws in KSA 21-5706 and KSA 65-4105 (h). Section 3 of the bill (amending KSA 2-3901).
  - b. Hemp Processors are now regulated by the State Fire Marshal, including registration and criminal history checks of registrants. Sections 2 (new statute) and 5 (amending KSA 2-3907).
  - c. Unlawful marketing, sale or distribution of any industrial hemp extract with a delta-9 THC content greater than 0.3% is added to the crime in KSA 2-3908 (b). Section 6 of the bill (amending KSA 2-3908).
  - d. Transportation of hemp or hemp products is now regulated by the State Fire Marshal. The products here are not the “final” products such as CBD oil products, but include the products created during processing of hemp prior to the final product manufacturing. Sections 5 (amending KSA 2-3907) and 6 (amending KSA 2-3908) of the bill.  
Regulations are in place and available at this link.
  - e. Hemp plant disposal, when required due to a high THC content, is now a joint effort between the Department of Agriculture and law enforcement. Generally nothing of significance will change. But to comply with federal law and regulations, the state law now requires the Department of Agriculture to notify local law enforcement with jurisdiction when these cases arise and for the Department of Agriculture and law enforcement to coordinate the plan for the effective destruction of the high THC content hemp. This will allow local law enforcement to understand whether the high THC content is a low level unintended result of growing variables or a very high intentionally developed content. Any expenses related to the destruction must be paid by the grower. Typically, law enforcement will not be involved in the destruction process or experiencing any significant expense. Section 1 of the bill (new statute).

HB2244 (2021 SL Ch 76) §1, 2, 3, 5, 6, New statutes and amending KSA 2-3906, 2-3907 and 2-3908. Bill Summary. Effective 4/29/21.

## 2021 Legislative Session Major Law Changes

(All laws are effective July 1, 2021, unless indicated otherwise)

<p>Adult Abuse, Neglect, Exploitation</p>	<p>&gt;The Crime of Mistreatment of Dependent Adult is change from a SL5 to a SL2 person felony when physical harm is inflicted and from SL8 to SL5 person felony for omission or deprivation while residing in an adult care home.</p> <p>&gt; Both DCF and LE have the “duty to receive and investigate” reports of abuse, neglect, or exploitation of an adult. DCF is required to notify law enforcement in writing immediately when information they receive or develop in an investigation reveal a crime has occurred or has appeared to have occurred. Provisions for DCF joint investigations and sharing of information between DCF and LE are included and similar to the child abuse and neglect investigation laws.</p> <p>&gt;The Abuse, Neglect, and Exploitation of Persons Unit in the Office of the Attorney General is authorized to assist in any investigation or discussion of any elder and dependent adult abuse multidisciplinary team.</p>
<p>Attempt to Elude</p>	<p>The Attempt to Elude statute, KSA 8-1568, is amended to create a higher penalty for attempting to elude when the eluding vehicle is driven the wrong way into an opposing lane of travel on a divided highway; departs the appropriate lane of travel into an opposing lane of travel on any roadway causing an evasive maneuver by another driver; is driven through an intersection causing an evasive maneuver by another driver; or causes a collision involving another. The penalty under those conditions becomes a SL 7 person felony.</p>
<p>Auto Theft</p>	<p>KSA 21-5804 is amended to specify it is prima facie evidence of intent to permanently deprive the owner of the vehicle to attempt to elude law enforcement in a stolen vehicle.</p> <p>An amendment to KSA 8-1568 adds attempting to elude while operating a stolen motor vehicle to the list of things that makes the attempt to elude a felony and sets a minimum fine of \$500 in any case where the attempt to elude is with a stolen motor vehicle.</p> <p>The intent of these changes is to 1) assist with overcoming the often faced prosecutorial challenge in the theft case that the driver of a stolen care knew it was stolen, and 2) to assure there is some additional penalty for a conviction of attempting to elude in a stolen motor vehicle instead of just rolling the penalties as concurrent with other convictions in the case.</p>
<p>Child Abuse and Neglect Investigations: New Requirements</p>	<p>Effective on June 3, 2021.</p> <p>The statute on Investigations of Child Abuse or Neglect Crimes, KSA 38-2226, is amended to require a child who is an alleged victim of abuse or neglect to be visually observed by the DCF if the DCF is the investigating agency, or the law enforcement agency if law enforcement is investigating the report. The observation may be by a designee (medical personnel, officer from another jurisdiction, etc.). In the event of a joint investigation by DCF and law enforcement, both agencies are required to visually observe such child. Investigation reports must include the date, time, and location of any such visual observation of a child.</p>

Expungement	The statute on Expungements, KSA 21-6614, is amended by: 1) Adding an additional consideration by the courts when approving an expungement to determine the possession of a firearm by the petitioner is not likely to pose a threat to the safety of the public. 2) Removing access of expunged record to Concealed Carry Licensing Unit and states an expunged record cannot be used to prohibit issuing a CCH permit. 3) Prohibiting sharing expunged records with the FBI for the NICS used to determine a person's qualification to possess a firearm and requiring the KBI to notify the FBI that the record should be removed from NICS.
Firearm, Out of state CCH permit Valid in Kansas	Amendments are made to provide the recognition of CCH permits from other states.
Firearm, Possession by Felon	The statute on Felon in Possession of a Firearm, KSA 21-6304, is amended. The main changes are: 1) The time period time for the prohibition to expire starts upon completion of sentence, diversion agreement, probation or parole. The current time period starts at time of conviction or in some cases release from prison. 2) A rights restoration process is created based on expungement of the prohibiting conviction. See attachment for more details.
Firearm, Possession on Certain Gov't Property	Subsection (d)(4) of the statute on Unlawful Possession of a Firearm on Certain Government Property, KSA 21-6309, is amended. A revised exemption only exempts those not otherwise prohibited from firearm possession and is over the age of 21 or a CCH permit holder who is under the age of 21 (ages 18, 19, or 20). Prior law made this exemption available to anyone not otherwise prohibited regardless of age or CCH status. The change affects those ages 18 through 20 carrying an unconcealed firearm and anyone under the age of 18 carrying a firearm.
Firearm, CCH Permits for Persons Ages 18-20	Amends the Personal and Family Protection Act to create a provisional CCH permit for a person ages 18 through 20. This is the only way a person in this age range is qualified to carry concealed. They must complete training and all other aspects of obtaining a CCH permit.
Firearm, Concealed	The statute on Criminal carrying of a Weapon, KSA 21-6302, is amended by adding an exemption for those under age 21 (ages 18, 19, or 20) possessing the new provisional CCH permit to subsection (a)(4), carrying of a concealed firearm by a person under the age of 21.
Firearm, On School Property	Subsection (j) of the statute on Criminal Use of Weapons, KSA 21-6301, addressing firearms on school property is amended. A revised exemption only exempts those not otherwise prohibited from firearm possession <u>and</u> is over the age of 21 or a CCH permit holder who is under the age of 21 (ages 18, 19, or 20). Prior law made this exemption available to anyone not otherwise prohibited regardless of age or CCH status. The change affects those ages 18 through 20 carrying an unconcealed firearm and anyone under the age of 18 carrying a firearm.
Firearm, Restoration of Rights to Possess	The statute on Expungements, KSA 21-6614, is amended to provide an expungement of a crime prohibiting possession of a firearm results in restoration of rights to use, transport, receive, purchase, transfer and possess firearms, including any past expungement.

Firearm, Traffic in Contraband	The subsection of the statute relating to possession of firearms in a public parking lot in the current statute on Trafficking Contraband in a Correctional Institution or Care and Treatment Facility, KSA 21-5914, is amended. The exemption to the application of an increased penalty for the possession of a firearm or ammunition in a vehicle on a public parking lot of a correctional facility is amended to exempt only persons over the age of 21 or to a CCH permit holder who is under the age of 21 (ages 18, 19, or 20) from the higher penalty for this firearms violation. Prior law made this exemption available to everyone regardless of age or CCH status. The change affects those ages 18 through 20 carrying unconcealed firearms and anyone under the age of 18 carrying a firearm.
Fraudulent Liens	A new statute is created for a SL8 nonperson felony for filing a fraudulent lien. The fraudulent lien civil procedures in KSA 58-4301 and 58-4302 are amended to require when a lien or claim is set aside, the court must issue an order prohibiting the person who filed such lien or claim from filing any future lien or claim with any filing officer without approval of the court that enters the order. A violation of the order may subject the party in violation to civil and criminal penalties.
KEMA Violations	Effective March 25, 2021 The statute in the Kansas Emergency Management Act relating to criminal penalties for violating emergency orders, KSA 48-939, is amended to restore a class A misdemeanor for violations of an emergency order issued pursuant to KSA 48-925 mandating a curfew or prohibiting public entry in an area affected by a disaster. These can be local or state orders. All other violations continue to be a civil violation.
Officer Safety: Exposure to body fluids, Court ordered infectious disease testing	Prior law already authorized court ordered testing, but the testing was limited to only HIV and Hepatitis B. The revised law expands the list of infectious diseases to include those already identified in a KDHE regulation as exposure risks for medical and first responder personnel. These tests can be ordered by the court for exposure to officers, victims and others. The law is also amended to require the court to order the defendant to be tested at first appearance if it “appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved” and one of the following conditions exist: (1) The victim of the crime or the county or district attorney requests the court to order such tests of the alleged offender; or (2) Such person stated they had an infectious disease or were infected with an infectious disease, or used words of like effect, to the law enforcement officer making such arrest.
Sexual Battery	The statute on sexual battery, KSA 21-5505, is amended by removing the exemption for defendants that are a spouse of the victim. This change applies to both the misdemeanor and felony violations.

Sexual Extortion	<p>A new crime of Sexual Extortion is created and the violation is a SL7 person felony when committed with the intent to (A) Engage in sexual contact, sexual intercourse or conduct that is of a sexual nature; or (B) produce, provide or distribute an image, video or other recording of a person in a state of nudity or engaging in conduct that is of a sexual nature. It is a SL 4 person felony if the coercive conduct actually results in the victim (A) Engaging in sexual contact, sexual intercourse or conduct that is of a sexual nature; or (B) producing, providing or distributing an image, video or other recording of a person in a state of nudity or engaging in conduct that is of a sexual nature. Note age is not a factor here and other existing statutes may apply in certain circumstances if the victim is a juvenile. Additionally, the offender registry statutes, KSA 22-4902 and 22-4906, are amended to add commission of the new crime to the list of offenses defining a sex offender and requiring offender registration for 15 years, but this new registration provision does not apply to juvenile offenders.</p>
Unemployment Fraud	<p>Effective May 13, 2021</p> <p>A new statute is created to allow Kansas law enforcement agencies to opt in to a Dept. of Labor program to assist in confirming the identity of a person who has been a victim of unemployment fraud identity theft to assist confirming the identity of a person attempting to file a legitimate unemployment claim.</p>

## Criminal Law

### **Felon in Possession of a Firearm**

A provision was added to law for a convicted felon to have their right to possess firearms restored by having their prohibiting conviction expunged. Past expungements are included. Future expungements have an additional factor the courts must consider: Whether restoration of firearm rights to the defendant poses a risk to public safety. But this new court consideration will not apply to past expungements.

In the process of making the restoration of rights amendments, there were also amendments to the length of time a prohibition exists and when the clock starts on those time periods. The 10-year prohibitions are now 8-years, and the 5-year prohibitions are now 3-years. But the clock starts at the end of completion of sentence (end of prison, probation, parole, whichever is later) rather than time of conviction or end of sentence. In most cases the prohibition period will be the same or longer.

HB2058 (2021 SL Ch 94) §2, 4, 6, Amending KSA 21-6301, 21-6304, and 21-6614. Bill Summary. Effective 7/1/21.

See a chart of changes made in the felon in possession statute in Attachment A.

### **Firearms Amendments Relating to CCH Permits for Kansans Ages 18, 19, and 20**

As part of the change to recognize non-Kansan's out-of-state concealed carry permits to allow those permit holders to carry concealed in Kansas, the law was changed to allow Kansans ages 18 thru 20 to carry a concealed handgun with a Kansas CCH provisional permit. This was passed because some states allow persons of those ages to have a CCH permit and they did not want to exclude them from the reciprocity provisions. As a result the following statutes were amended to include the new permit holder provisions:

- ◆ KSA 21-5914 Traffic in Contraband in a Correctional Institution or Care and Treatment Facility, exempting persons who are 21 or older or possessing a provisional CCH permit and not otherwise from possessing a firearm under state or federal law from the statute from the enhanced sentences for possession of a firearm in or around their vehicle while in a parking lot of a listed facility.
- ◆ KSA 21-6301(j)(5) Criminal Use of Weapons, exempting persons otherwise permitted to carry a CCH from the school property or grounds prohibition in subsection (a)(11).
- ◆ KSA 21-6302(d) Criminal Carrying of Weapon, Carrying a concealed firearm, exempting a provisional permit holder or a person with a valid license from another state from subsection (a)(4), carrying a concealed handgun.
- ◆ KSA 21-6309 Unlawful Possession of Firearms on Certain Government Property, exempting persons who are 21 or older or possessing a provisional CCH permit and not otherwise from possessing a firearm under state or federal law from the statute.
- ◆ KSA 32-1002 Unlawful taking or dealing in wildlife; penalties; exceptions; carrying a handgun, exempting persons 21 or older or those with a provisional CCH permit and not otherwise from possessing a firearm under state or federal law from carrying a handgun, concealed or unconcealed, while hunting, fishing or furharvesting.

HB2058 (2021 SL Ch 94) §1, 2, 5, 7, Amending KSA 38-1002, 21-5914, 21-6301, 21-6302, 21-6309. Bill Summary. Effective 7/1/21.

## **Auto Theft**

In an effort to counter a continuing rise in the Kansas auto theft rate, several changes were made in the criminal law.

- ◆ KSA 21-5804 is amended to specify it is prima facie evidence of intent to permanently deprive the owner of the vehicle if the driver of a stolen motor vehicle attempts to elude law enforcement .
- ◆ KSA 8-1568 is amended by adding attempting to elude while operating a stolen motor vehicle to the acts making the attempt to elude a felony and sets a minimum fine of \$500 in any case where the attempt to elude is with a stolen motor vehicle.

The intent of these changes is to 1) assist with overcoming the often faced prosecutorial challenge in the theft case that the driver of a stolen car knew it was stolen, and 2) to assure there is some additional penalty for a conviction of attempting to elude in a stolen motor vehicle instead of just rolling the penalties as concurrent with other convictions in the case.

SB60 (2021 SL Ch 103) §3, 6, KSA 8-1568 and 21-5804. Bill Summary. Effective 7/1/21.

## **Attempt to Elude**

The Attempt to Elude statute, KSA 8-1568, is amended to create a higher penalty for:

- ◆ Attempting to elude when the eluding vehicle is driven the wrong way into an opposing lane of travel on a divided highway;
- ◆ departs the appropriate lane of travel into an opposing lane of travel on any roadway causing an evasive maneuver by another driver;
- ◆ is driven through an intersection causing an evasive maneuver by another driver;
- ◆ or causes a collision involving another.

The penalty under those conditions becomes a SL 7 person felony.

SB60 (2021 SL Ch 103) §3, KSA 8-1568. Bill Summary. Effective 7/1/21.

## **Sexual Battery**

The sexual battery and aggravated sexual battery statutes are amended to remove the exception from the crime for when the defendant is a spouse of the victim.

SB60 (2021 SL Ch 103) §5, Amends KSA 21-5505. Bill Summary. Effective 7/1/21.

## **Sexual Extortion**

A new SL4 or SL7 person felony crime is created for Sexual Extortion. The crime covers actions with intent to coerce or actually causing another person to (A) Engage in sexual contact, sexual intercourse or conduct that is of a sexual nature; or (B) produce, provide or distribute an image, video or other recording of a person in a state of nudity or engaging in conduct that is of a sexual nature.

SB60 (2021 SL Ch 103) §1, New statute. Bill Summary. Effective 7/1/21.

## **Riots, Inciting in a Correctional Facility or Jail**

KSA 21-2601 is amended with a new enhanced penalty when the riot or incitement to riot occurs in a state DOC corrections facility or a county jail. The severity for rioting becomes, a SL8 person felony, instead of a Class A misdemeanor; and incitement to riot becomes a SL6 person felony, instead of a SL8 person felony.

HB2026 (2021 SL Ch 109) §2, pages 1-2, amending KSA 21-6201, Bill Summary. Effective 7/1/21



## **Stalking**

The crime of stalking is amended to establish an enhanced penalty when the offender intentionally engaging in a course of conduct targeted at a specific child under the age of 14 that would cause a reasonable person in the circumstances of the targeted child, or a reasonable person in the circumstances of an immediate family member of such child, to fear for the child's safety. The penalty for the new provision is a SL7 person felony for a first conviction and a SL4 person felony for a second or subsequent conviction.

HB2071 (2021 SL Ch 48) §1, KSA 21-5427. [Bill Summary](#). Effective 4/29/21.

## **Emergency Management Act-Violations**

During the COVID-19 crisis, the 2020 legislature amended the Kansas Emergency Management Act by making all violations of orders issued under the act as civil violations. While this change made sense for COVID related orders, it was detrimental to the law enforcement objectives in other, much more common, emergencies. In the 2021 session legislation was passed to restore the Class A misdemeanor violations for orders on curfews or restrictions of entry into designated geographic areas. All other violations remain a civil violation. This change applies to Emergency Orders (Executive Orders issued under declared emergency) issued by the state or local authorities.

SB40 (2021 SL Ch 7) §9, pages 10-11, amending KSA 48-939. [Bill Summary](#). Effective 3/25/21.

## **Fraudulent Liens**

Kansas was experiencing more issues with fraudulent liens being filed against public officials, primarily law enforcement and judges, resulting in new and amended law to address the issue. These liens are filed against real property owned by the victim. Often these aren't discovered until the victim tries to sell their property or get a loan on their property. It then requires legal action to clear the lien from the property, which can be a lengthy and expensive process. Public Officials should be aware of this and periodically check with their register of deeds to make sure no illegal liens have been filed.

A new statute is created for a SL8 nonperson felony for filing a fraudulent lien. The fraudulent lien civil procedures in KSA 58-4301 and 58-4302 are amended to require when a lien or claim is set aside, the court must issue an order prohibiting the person who filed such lien or claim from filing any future lien or claim with any filing officer without approval of the court that enters the order. A violation of the order may subject the party in violation to civil and criminal penalties.

HB2390 (2021 SL Ch 82) §1, 14, and 15, pages 1 and 24-26, new statute and amending KSA 58-4301 and 58-4302, [Bill Summary](#). Effective 7/1/21

## **Mistreatment of Dependent Adult (Sentencing Enhancement)**

The existing law in KSA 21-5417 is amended to increase the penalty from a SL5 person felony to a SL2 person felony for mistreatment of an adult by infliction of physical injury, unreasonable confinement, or unreasonable punishment while residing in an adult care home. The penalty for mistreatment by omission or deprivation while residing in an adult care home is increased from a SL8 person felony to a SL5 person felony.

HB2121 (2021 SL Ch 105) §1, pages 2-3, new statute, [Bill Summary](#). Effective 7/1/21

## **Unemployment Fraud**

In KSA 44-719, existing law provides obtaining or increasing benefits by making a false statement is punishable under the theft statute. This year KSA 44-719 was amended to provide the crime is still prosecuted as a theft, but the penalty is enhanced to a SL5 nonperson felony if the person has not been employed in Kansas, if the person applies under another persons name or identity, or if the person files three or more false statement within a 30-day period.

HB2196 (2021 SL Ch 92) §20, pages 71-72, amending KSA 44-719, Bill Summary, Effective 5/13/21

## **Unlawful Tampering with a Monitoring Device**

KSA 21-6322, the statute on tampering with an electronic monitoring equipment (for example a GPS ankle monitor) is amended reducing the penalties. When the device is a requirement from a misdemeanor crime the sentence is reduced from a SL6 nonperson felony to a Class A misdemeanor. When the device is requirement from a felony crime the sentence is reduced from a SL6 nonperson felony to a SL8 nonperson felony.

HB2026 (2021 SL Ch 109) §3, page 2, amending KSA 21-6322, Bill Summary. Effective 7/1/21

## **Trespassing on Critical Infrastructure Property**

KSA 21-5818, is amended by striking the existing law on “tampering with a pipeline” and replacing it with “Trespassing on Critical Infrastructure Property” and “Aggravated Trespassing on Critical Infrastructure Property.” Aggravated trespassing is trespassing with the intent to damage, destroy, tamper with the facility, or impede or inhibit operations. Critical Infrastructure Facility is defined as one of 16 listed types of business or distribution activities. The property must be either enclosed with a fence or other barrier, or posted with signs for a violation to occur. The statute also creates new crimes of “Criminal Damage to a Critical Infrastructure Facility” and “Aggravated Criminal Damage to a Critical Infrastructure Facility.” Aggravated criminal damage is damage with intent to impede or inhibit operations. Trespassing is a Class A nonperson misdemeanor; aggravated trespassing is a SL7 nonperson felony; criminal damage is a SL6 nonperson felony; and aggravated criminal damage is a SL5 nonperson.

SB172 (2021 SL Ch 40) §1, pages 1-2, amending KSA 21-5818, Bill Summary. Effective 7/1/21

## Criminal Procedure

### **Psychological or Psychiatric Examinations of Crime Victims**

A new statute prohibits courts from ordering psychological examinations of crime victims during the prosecution of a crime.

[SB60 \(2021 SL Ch 103\) §2](#), New statute. [Bill Summary](#). Effective 7/1/21.

### **Expungements**

The statute on Expungements, KSA 21-6614, is amended by:

- ◆ Adding an additional consideration by the courts when approving an expungement to determine the possession of a firearm by the petitioner is not likely to pose a threat to the safety of the public.
- ◆ Removing access of expunged record to Concealed Carry Licensing Unit and states an expunged record cannot be used to prohibit issuing a CCH permit.
- ◆ Prohibiting sharing expunged records with the FBI for the NICS used to determine a person's qualification to possess a firearm
- ◆ Requiring the KBI to notify the FBI that the record should be removed from NICS.

[HB2058 \(2021 SL Ch 94\) §6](#), Amending KSA 21-6614. [Bill Summary](#). Effective 7/1/21.

### **Surety Bonds: Delivery of a Person Arrested**

KSA 22-2809, bond agent's return of person on surety bond, is amended to require when a bond agent wants to revoke the bond, the defendant must be delivered to a custodial officer of the court in the county where the complaint subject to the bond was filed. Under current law, sureties seeking discharge of an appearance bond may do so in any county in the state. The amended statute also defines "custodial officer of the court" as the sheriff or keeper of the jail in the county.

[HB2121 \(2021 SL Ch 105\) §4](#), page 5, amending KSA 22-2809, [Bill Summary](#). Effective 7/1/21

### **Supervision of Offenders**

Existing law in KSA 21-6610 allows a person being placed on supervision, parole or probation, to be transferred to a judicial district of residence with agreement of the receiving supervising authority. The statute is amended to allow the same type of transfer to be made at time of sentencing with approval of the "receiving district court and all parties." A similar provision was added to KSA 21-6824 for to allow transfer supervision of an offender in a drug treatment program to a judicial district other than the judicial district of the sentencing court.

[HB2026 \(2021 SL Ch 109\) §4, 5](#), page 2-4, amending KSA 21-6610 and 21-6824, [Bill Summary](#). Effective 7/1/21

### **Supervision of Person on Diversion Agreement**

KSA 22-2907 is amended to allow a county or district attorney and the Judicial District or community corrections services to monitor and supervise the person on diversion. Existing law made provided no authority for supervision of persons on diversion. Persons on diversion are also eligible for "SB123" drug treatment programs.

[HB2026 \(2021 SL Ch 109\) §6, 9](#), page 4-5 and 9-10, amending KSA 22-2907 and 75-52,144, [Bill Summary](#). Effective 7/1/21

## Speedy Trial

Two bills relating to speedy trial issues resulting from the COVID-19 pandemic were passed. KSA 22-3402 was amended by removing the provision to allow the Kansas Supreme Court Chief Justice to issue orders to extend or suspend any deadlines. That provision also included a mandate to schedule trials within 150 days upon termination of the order that was also repealed. In its place, the existing speedy trial statutory provision is suspended until May 1, 2023. The intent is for the legislature to look at this in 2023 and see if the case backlog still exists, and if so, consider further extension of the suspension.

KSA 20-172 was also amended. Existing and continuing law in this statute has the same provisions to allow the Supreme Court Chief Justice to extend or suspend deadlines and time limitations during state or local disaster emergencies. The amendment added state or local disasters declared under KSA 48-932 in addition to those under 48-924.

[HB2078 \(2021 SL Ch 12 §1, page 1, amending KSA 22-3402, Bill Summary.](#) Effective 3/31/21

[HB2227 \(2021 SL Ch 8\) §1, page 1, amending KSA 20-172, Bill Summary.](#) Effective 3/30/21

## Law Enforcement Procedure

### **Child Abuse or Neglect Investigations**

When law enforcement is investigating a report of child abuse or neglect a member of the agency, or their designee, is required visually observe the victim and to document the observation in their report. If the investigation is a joint law enforcement and DCF investigation, both agencies are required to visually observe the child.

HB2158 (2021 SL Ch 111) §3 Amending KSA 38-2226. Bill Summary. Effective 6/3/21.

### **Elder and Dependent Adult Abuse Multidisciplinary Teams**

A new statute requires the Attorney General to appoint a Kansas elder and dependent abuse multidisciplinary team coordinator. The coordinator must facilitate the convening of an elder and dependent adult abuse multidisciplinary team in each judicial district. The sheriff of each county in the judicial district and the county or district attorney in each county within the judicial district must be members of the team. A representative of any other law enforcement agency may be added to the team but is not required. Team responsibilities include:

- ◆ Coordinate investigations of elder and dependent adult abuse, as defined by the relevant statutes
- ◆ Identify opportunities within local jurisdictions to improve policies and procedures in the notification of and response to abuse, neglect, and exploitation of elder or dependent adults, within the limits of local resources
- ◆ Determine the manner and frequency of meetings and must meet at least quarterly.
- ◆ May create and enter into memorandums of understanding with any governmental agency or private entity deemed necessary by the team.

HB2114 (2021 SL Ch 81) §2, pages 2-3, new statute, Bill Summary. Effective 7/1/21

### **Mandatory Reporting of Reason to Suspect an Adult is Being Harmed by Abuse, Neglect, or Exploitation or in Need of Protective Services**

NOTE: Law Enforcement Officers are already mandatory reporters in current law. Failing to report is a Class B Misdemeanor. These reports must be made to the DCF. Basically the same standards of child abuse and neglect reporting. Amendments in this bill add firefighters, community corrections officers, and community service officers to the list of mandatory reporters.

HB2114 (2021 SL Ch 81) §4, pages 5-7, amending KSA 39-1431, Bill Summary. Effective 7/1/21

### **Investigation of Adult Abuse, Neglect, or Exploitation Cases**

The DCF and law enforcement have the “duty to receive and investigate” reports of abuse, neglect, or exploitation of an adult. DCF is required to notify law enforcement, in writing immediately when information they receive or develop in an investigation reveal a crime has occurred or has appeared to have occurred. Provisions for DCF joint investigations and sharing of information between DCF and law enforcement are included and similar to the child abuse and neglect investigation laws.

HB2114 (2021 SL Ch 81) §5, 8, pages 7-9, amending KSA 39-1433 and 39-1443, Bill Summary. Effective 7/1/21

## **Attorney General Abuse, Neglect, and Exploitation of Persons Unit**

The statute creating the Abuse, Neglect, and Exploitation of Persons Unit in the Office of the Attorney General is amended to allow the Unit to assist in any investigation or discussion of any elder and dependent adult abuse multidisciplinary team.

[HB2114 \(2021 SL Ch 81\) §9](#), pages 9-10, amending KSA 75-723, [Bill Summary](#). Effective 7/1/21

## **The Adult Abuse, Neglect or Exploitation Act**

The Adult Abuse, Neglect or Exploitation Act is in KSA 39-1430, et seq., currently through 39-1443. KSA 39-1430 defines the terms used throughout the Act. The amendments to KSA 39-1430 in this bill removes the term “fiduciary abuse” and expands the definition of “exploitation” which is now “financial exploitation.” The key elements of financial exploitations are:

- ◆ The unlawful or improper use, control or withholding of an adult's property, income, resources or trust funds by any other person or entity in a manner that is not for the profit of or to the advantage of the adult. Including, but not limited to:
  - ◇ The use of deception, intimidation, coercion, extortion or undue influence by a person or entity to obtain or use an adult's property, income, resources or trust funds in a manner for the profit of or to the advantage of such person or entity;
  - ◇ The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust or a guardianship or conservatorship appointment, as it relates to the property, income, resources or trust funds of the adult; or
  - ◇ The obtainment or use of an adult's property, income, resources or trust funds, without lawful authority, by a person or entity who knows or clearly should know that the adult lacks the capacity to consent to the release or use of such adult's property, income, resources or trust funds.
- ◆ Adult is defined as: A person 18 years of age or older residing in their own home, the home of a family member, home of a friend, in a family home (as defined in KSA 39-1501), or is receiving community services funded by DCF, funded by or licensed by KDADS. (“Family member” and “friend” are not defined in the Act.) Excluded from the definition are those adults who are in an adult care home, medical care facility, or psychiatric hospital. Those exclusions are made because similar protections for those adults are found in another set of existing statutes starting at KSA 39-1401. To qualify under the act, the adult must be unable to protect their own interest and is harmed or threatened with harm, whether financial, mental or physical, through action or inaction by either another individual or through their such person's own action or inaction when.

[HB2114 \(2021 SL Ch 81\) §3](#), pages 3-5, new statute, [Bill Summary](#). Effective 7/1/21

## **Missing Indigenous People**

The Attorney General is asked to coordinate training regarding missing and indigenous people in consultation with Native American Indian tribes, the Kansas bureau of investigation, the Kansas law enforcement training center and other appropriate state agencies.

[HB2008 \(2021 SL Ch 24\) §1](#), page 1, new statute, [Bill Summary](#). Effective 7/1/21

### **Officer Exposure to Body Fluids, Court Ordered Testing:**

Prior law already authorized court ordered testing, but the testing was limited to only HIV and Hepatitis B. The revised law only expands the list of infectious diseases to include those already identified in a KDHE regulation as exposure risks for medical and first responder personnel. These tests can be ordered by the court for exposure to victims and others as well. The law is also amended to require the court to order the defendant to be tested at first appearance if it “appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved” and one of the following conditions exist:

- ◆ The victim of the crime or the county or district attorney requests the court to order such tests of the alleged offender; or
- ◆ Such person stated they had an infectious disease or were infected with an infectious disease, or used words of like effect, to the law enforcement officer .

The change in KSA 65-1001 amending the definition of “infectious disease” also changes the application of KSA 65-6008 allowing for court ordered testing for exposure to “a corrections officer, emergency services employee, law enforcement employee or juvenile correctional facility staff comes in contact with or otherwise is exposed to transmission of body fluids from one or more other persons while performing duties within the scope of such employee's duties. In those cases, the head of the employing agency or entity may make application to a court of competent jurisdiction for an order requiring such other person or persons to submit to infectious disease tests. Such application shall include an allegation that the person or persons sought to be tested have been requested to submit voluntarily to infectious disease tests and have refused the tests.

HB2224 (2021 SL Ch 112) §1, 2, amending KSA 65-6001 and 65-6009. Bill Summary. Effective 7/1/21.

### **Towing of Vehicles and Sale of Towed Vehicles**

KSA 8-1103 is amended to prohibit towing of vehicles to a location outside the state of Kansas without prior consent or either the driver or owner of the vehicle, a motor club which the driver or owner is a member of, or an agent of the insurance company processing a claim with respect to the vehicle. Amendments to KSA 8-1104 also requires an interstate search of registered owners and lienholders prior to sale of nonrepairable vehicles and vehicles less than 15 years old and requiring publication in the newspaper at least seven days prior to sale of vehicles and property at auction.

**LAW ENFORCEMENT APPLICATION CAUTION:** KSA Chapter 8 Article 11 deals with Abandoned and Disabled Vehicles. It most likely has an impact on abandoned or disabled vehicles towed by law enforcement. The provisions on towing out of state could impact you if you are in a border county. The new requirements on sale of towed vehicles probably also apply to law enforcement. Pay particular attention that the authorization to tow out of state must come from the owner, driver, an auto club of the driver or owner, or an agent of an insurance company processing a claim related to the vehicle. Law enforcement is not included in the list of persons permitted to give such authorization.

SB36 (2021 SL Ch 73) §4, 5, pages 8-9, amending 8-1103 and 8-1104, Bill Summary. Effective 7/1/21

**Closed Case Task Force**

The Closed Case Task Force is extended one year until December 20, 2021. The task force was created in 2019 for the purpose of improving the processing of CODIS hits identifying suspects in past cases.

[HB2077 \(2021 SL Ch 104\) §1](#), pages 1-2, Amending KSA 21-6901, [Bill Summary](#). Effective 5/27/21

**Criminal Justice Reform Commission**

The Kansas Criminal Justice Reform Commission is extended until December 1, 2021. An additional member is added representing public defenders. Some topics to be studied were deleted and others were added. The added topics included diversions and supervision of offenders.

[HB2077 \(2021 SL Ch 104\) §2](#), pages 2-4, amending KSA 21-6902, [Bill Summary](#). Effective 5/27/21



## Juveniles

### **Joint Committee on Child Welfare System Oversight**

A joint legislative committee is created to review trends impacting the child welfare system; Duties, responsibilities, and contributions of DCF, Kansas Department for Aging and Disability Services (KDADS), Kansas Department of Health and Environment (KDHE), Department of Corrections, law enforcement, and the Judicial Branch that comprise and impact the child welfare system; Reports from child welfare-related groups, including citizen review panels, the Kansas Supreme Court Permanency Planning Task Force, the Kansas Children's Cabinet, and any interim study committees or work groups authorized by the Kansas Legislature; Reports on concerns received from the DCF child welfare ombudsman, customer service department, or similar office; and a variety of other topics listed in the statute.

HB2158 (2021 SL Ch 111) §1, pages 1-3, new statute, Bill Summary. Effective 6/3/21

### **Child Death Review Board**

KSA 22a-243 is amended to allow the Child Death Review Board to share information with law enforcement agencies and prosecutors when they have information leading them to find a child's death was the result of abuse or neglect and law enforcement is not aware of the crime. They are also authorized to share information with law enforcement and prosecutors if they determine a child's death is not a result of abuse or neglect and they know law enforcement has an offense report on file alleging abuse or neglect occurred.

HB2158 (2021 SL Ch 111) §2, pages 2-3, amending KSA 22a-243, Bill Summary. Effective 6/3/21

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## **Alcohol**

See an ABC memo summarizing all of the 2021 liquor law changes at this link.  
[Amended Statutes Available at this Link](#) (See K.S.A. Chapter 41)

### **To Go Alcoholic Beverages**

Alcoholic liquor (including mixed drinks) or CMB may be sold for off premise consumption by drinking establishments, class A clubs, and class B clubs provided they are otherwise allowed to sell alcoholic beverages or CMB. This includes drive through and curbside food services with a drinking establishment license. It excludes those under any other license or permit such as caterers, temporary permits or special permits. All of the following are required:

- ◆ Each container of alcoholic liquor or cereal malt beverage must have been purchased by a patron of the licensed premises
- ◆ All to-go containers of alcoholic beverage or CMB must be sealed or resealed and placed in a clear, tamper-proof bag.
- ◆ A dated receipt must be given to the patron.
- ◆ No original unopened containers of spirits may be removed from the licensed premises.
- ◆ No alcoholic liquor or cereal malt beverage may be removed from the licensed premises after 11:00 p.m. unless such alcoholic liquor is wine that was purchased and partially consumed on the licensed premises.

[HB2137 \(2021 SL Ch 107\) §32](#), KSA 41-2653. [Bill Summary](#). Effective 5/27/21.

### **Growler** (An industry term for a “refillable and sealable container” provided by the customer)

Retail liquor stores, drinking establishments, class A clubs and class B clubs may sell and refill a growler of beer, domestic beer and CMB, but growlers may not be sold or removed from the premises after 11 PM. The containers must be not less than 32 ounces and not more than 64 ounces and labeled with the licensee’s name and type of beer or CMB in the container.

[HB2137 \(2021 SL Ch 107\) §3, 5, 32](#), KSA 41-308, 41-308b, 41-2653. [Bill Summary](#). Effective 5/27/21.

### **Sunday Sales**

Retail liquor stores and CMB Retailers may begin sales as early as 9 AM on Sunday (was noon). This does not apply to counties that have not authorized Sunday sales. To allow the earlier times, the city or county must modify their existing ordinances or resolutions to establish the earlier time allowed.

[HB2137 \(2021 SL Ch 107\) §11, 37, 38](#), KSA 41-712, 41-2704, 41-2911. [Bill Summary](#). Effective 5/27/21.

### **Holiday Sales**

Sale of alcoholic liquor by retail liquor stores is allowed on Memorial Day, Labor Day and Independence Day in all jurisdictions, including those that have not approved Sunday sales. If Independence Day falls on a Sunday, sales would not be permitted in those jurisdictions that have not expanded sales to Sunday.

[HB2137 \(2021 SL Ch 107\) §11, 38](#), KSA 41-712, 41-2911. [Bill Summary](#). Effective 5/27/21.

**Class A Clubs**

Class A Clubs may enter into a contract with non-members to host an event. The Class A Club must notify the ABC at least 48 hours before the event and the ABC must make the notification available to local law enforcement. This will be accomplished by posting the notice on the ABC website: <https://www.kdor.ks.gov/apps/liquorlicensee/>. HB2137 (2021 SL Ch 107) §27, KSA 41-2637. Bill Summary. Effective 5/27/21.

**CMB Sales**

CMB may be purchased, consumed, or sold in drinking establishments, caterer services, class A clubs, class B clubs and public venues or at temporary permit venues. This does not require additional licensing. HB2137 (2021 SL Ch 107). Bill Summary. Effective 5/27/21.

## Drugs

### **THC Content**

THC content of products from hemp may contain a THC content of up to 0.3%. This only applies to hemp products, not products from other cannabis sources. (KSA 2-3901 as amended in HB2244 §3.)

- ◆ Hemp products are defined as “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 any extract from industrial hemp intended for further processing. Final "hemp products" may contain a tetrahydrocannabinol concentration of not more than 0.3%. As used in this paragraph, "tetrahydrocannabinol concentration" means the same as in K.S.A. 65-6235(b)(3), and amendments thereto.”
- ◆ KSA 65-6235(b)(3) defines "tetrahydrocannabinol concentration" as “the combined percentage of tetrahydrocannabinol and its optical isomers, their salts and acids and salts of their acids, reported as free tetrahydrocannabinol on a percent by weight basis.” [Emphasis added]
- ◆ “Final hemp products” is not further defined in the statute, but appears to mean products not intended for further processing containing hemp extracts or derivatives.

Any hemp product intended to be further processed and containing more than 0.3% delta-9 THC cannot be marketed, sold or distributed in Kansas to any person not licensed by the Department of Agriculture. (KSA 2-3908 as amended in HB2244 §6.)

The list of prohibited hemp products in KSA 2-3908(a) remains unchanged. All cannabis products not from industrial hemp remain a violation of the marijuana laws.

HB2244 (2021 SL Ch 76) §3, 6, amending KSA 2-3901 and 2-3908. Bill Summary. Effective 4/29/21.

### **Agricultural Hemp-Disposal:**

- ◆ Hemp plant disposal, when required due to a high THC content, is now a joint effort between the Department of Agriculture and law enforcement. Generally nothing of significance will change. But to comply with federal law and regulations, the state law now requires the Department of Agriculture to notify local law enforcement with jurisdiction when these cases arise and for the Department of Agriculture and law enforcement to coordinate the plan for the effective destruction of the high THC content hemp. This will allow local law enforcement to understand whether the high THC content is a low level unintended result of growing variables or a very high intentionally developed content. Any expenses related to the destruction must be paid by the grower. Typically, law enforcement will not be involved in the destruction process or experiencing any significant expense.

HB2244 (2021 SL Ch 76) §1, New statute. Bill Summary. Effective 4/29/21.

**Agricultural Hemp-Unlawful Marketing, Sale, Distribution of Extracts:**

- ◆ Unlawful marketing, sale or distribution of any industrial hemp extract with a delta-9 THC content greater than 0.3% is added to the crime in KSA 2-3908 (b).

HB2244 (2021 SL Ch 76) §6, KSA 2-3908. Bill Summary. Effective 4/29/21.

**Agricultural Hemp-Processors and Transportation:**

- ◆ Hemp Processors are now regulated by the State Fire Marshal, including registration and criminal history checks of registrants.
- ◆ Transportation of hemp or hemp products is now regulated by the State Fire Marshal. The products here are not the “final” products such as CBD oil products, but include the products created during processing of hemp prior to the final product manufacturing.

Fire Marshal Regulations are in place and available at this link.

HB2244 (2021 SL Ch 76) §2, 5, and 6, New statutes and amending KSA 2-3907 and 2-3908. Bill Summary. Effective 4/29/21.

## Traffic Law

### Driver's Licenses

- ◆ Suspensions for fail to pay fine/fail to appear
  - ◇ Extension of suspension time period. Existing law a 90-day extended period of suspension if a conviction for driving when the person's driving privileges are canceled, suspended, or revoked, occurred during the suspension period no longer applies if the person's license was suspended only for failure to comply with a traffic citation. The extension still applies for all other types of suspensions.
  - ◇ Eligibility and application for restricted driving privileges. The requirement that the person has not previously received a stayed suspension as a result of a driving while suspended conviction to be eligible for restricted driving privileges if the driver's license expired while the license was suspended for failure to pay fines for traffic citations is removed.
  - ◇ Application fee for restricted driving privileges: The nonrefundable \$25 fee to apply for restricted driving privileges in lieu of suspension of driving privileges for failure to comply with a traffic citation is repealed.
  - ◇ Reinstatement fee. The bill makes a technical amendment to the period during which the Supreme Court is authorized to impose an additional charge per reinstatement fee. Continuing law requires a court to assess a \$100 reinstatement fee when the court notifies the Division of failure to comply with a traffic citation.  
[SB127 \(2021 SL Ch 89\) §3, 5, KSA 8-262. Bill Summary](#). Effective 5/6/21.
- ◆ Municipal road graders

The driver of a municipal motor grader (road grader) is exempted from the requirements of the Commercial Driver's License Act. Others exempt by continuing law include firefighters, military vehicles operated by military personnel, commercial vehicles used solely for private noncommercial use, and certain farm tractors moved by implement dealers . "Municipality" is defined as any county, township, city, school district, or other political or taxing subdivision of the state.  
[HB2295 \(2021 SL Ch 47\) §1, KSA 8-262. Bill Summary](#). Effective 7/1/21.
- ◆ Emergency Contact Information in Division of Vehicle Files

A new statutory authorization directs the Division of Vehicles to collect emergency contact information and to attach it to driver's license and identification card files. Submission of the information by the holder of the license or ID card is voluntary. Only law enforcement can access the information, and they may access it only in cases of death or other emergency when next of kin needs to be notified.  
[HB2245 \(2021 SL Ch 56\), New statute. Bill Summary](#). Effective 7/1/21.
- ◆ Extension of Expiration of Driver's License and Kansas ID Cards

Expiration of driver's licenses and ID cards that expired between March 12, 202 and March 31, 2021, is extended to June 30, 2021.  
[SB127 \(2021 SL Ch 89\) §2, KSA 8-247. Bill Summary](#). Effective 5/6/21.

**Note:** As of July 1, there are no extensions of the expiration of a driver's license. The extension for vehicle registration ended earlier in the year.

## Registration Plates

- ◆ Concrete Mixer Trucks  
Concrete mixer trucks can now display their license plate either on the front or the back of the vehicle.  
[HB2167 \(2021 SL Ch 50\)](#), amending KSA 8-133. [Bill Summary](#). Effective 7/1/21.
- ◆ Dump Trucks  
Dump trucks are now required to display their license plates on the front of the truck .  
[HB2167 \(2021 SL Ch 50\)](#), amending KSA 8-133. [Bill Summary](#). Effective 7/1/21.
- ◆ Specialty Tags  
Several new specialty tags created this year. Military branch license plates; Braden’s Hope for Childhood Cancer; proud educator; Alpha Kappa Alpha: Delta Sigma Theta; Love Chloe Foundation; and Gadsden flag license plates.  
[HB2166 \(2021 SL Ch 95\) § 1-10](#)), New statutes. [Bill Summary](#). Effective 7/1/21
- ◆ Military Surplus Vehicles  
A “military surplus vehicle” authorizes registration of a military surplus vehicle and for a registered military surplus vehicle to be used as are other vehicles of the same type, but prohibits the use of a military surplus vehicle to transport passengers for hire. A decal must be displayed on the license plate to identify the vehicle as a military surplus vehicle. The military surplus vehicle cannot be registered until a vehicle identification number inspection has been completed. References to military surplus vehicles is added in definitions of “collector” and “parts car.” A “military surplus vehicle” is defined as one that 1) Has three or fewer axles; 2) Meets size and weight limits in continuing law; 3) Is less than 35 years old; and 4) Was manufactured for use in the U.S. military forces or the military force of any country that was a member of NATO at the time the vehicle was manufactured and that is subsequently authorized for sale to civilians. The definition excludes a tracked vehicle.  
[HB2014 \(2021 SL Ch 18\)](#), new statute, and amending KSA 8-194, 8-195, 8-196, and 8- 1486 .  
[Bill Summary](#). Effective 7/1/21.

## Funeral Processions

Funeral escorts are authorized to direct vehicles and pedestrian to allow funeral processions to pass through intersections and disregard traffic control devices. Vehicles in a funeral procession are authorized pass through a controlled intersection. Vehicles in a funeral procession have the right-of-way but must yield to authorized emergency vehicles; yield as directed by a police officer, and exercise due care when participating in the procession to avoid colliding with any other vehicle or pedestrian. Vehicles in the procession must use headlights and tail lights, but flashing hazard lights are optional. The vehicles in a procession must follow the preceding vehicle as closely as safe and practical and are exempt from any following to close law. Right-of-way privilege is lost if the vehicle is more than 300 feet behind the immediately preceding vehicle in the procession. A city or county may require a law enforcement or non-law enforcement lead vehicle or funeral escort, and may require prior notice of any planned funeral procession to the city police department or county sheriff. Violations of these provisions are not citable violations.  
[SB67 \(2021 SL Ch 71\) §1-4](#), new statutes. [Bill Summary](#). Effective 7/1/21.



### **Move Over Law for Public Utility Vehicles**

The “move over” laws now also apply to utility vehicles (gas service, water service, electrical service, cable service, telecommunications service, etc.). The public utility vehicle must be utilizing flashing amber lights for the law to apply. Drivers of a vehicle approaching a utility vehicle must yield to the public utility vehicle and to pedestrians working in the roadway. Drivers of a vehicle approaching a utility vehicle must change lanes on a multi-lane roadway or if not practical to change lanes must slow and use caution as passing the vehicle or pedestrian workers.

[SB67 \(2021 SL Ch 71\) §5-6](#), new statute and amending KSA 8-2118. [Bill Summary](#). Effective 7/1/21.

### **Motor Carriers**

A significant number of changes were made to the motor carrier statutes, however none of them appear to impact issues commonly faced by law enforcement officers not specifically trained in commercial vehicle enforcement. The details of the changes can be seen at the “Bill Summary” link below.

[SB26 \(2021 SL Ch 77\)](#), new statutes. [Bill Summary](#). Effective 7/1/21.

### **Secure Loads**

An exemption to the requirement to secure the load, KSA 8-1906, is created for trucks, trailers, or semitrailers when hauling agricultural forage commodities intrastate from the place of production to a market or place of storage or from a place of storage to a place of use. The exemption does not apply to hauling hay bales or other packaged or bundled forage commodities.

[SB89 \(2021 SL Ch 49\) §1](#), KSA 8-2118. [Bill Summary](#). Effective 7/1/21.

### **Waiver of Fine or Court Cost**

The court is authorized to waive or modify payments upon determining that paying the amount due would impose manifest hardship on the person or their immediate family.

[SB127 \(2021 SL Ch 89\) §5](#), KSA 8-262. [Bill Summary](#). Effective 5/6/21.

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## **Kansas Open Records Act (KORA)**

### **Existing Exceptions Extended**

Several sunset provisions from various Kansas Open Records Act (KORA) provisions of interest to law enforcement. These reviews are an annual routine and after an exception is in place for several years they are reviewed for consideration of either extending or deleting the sunset provision. This year the following exemptions of law enforcement interest were reviewed and continue in place:

- ◆ KSA 22-2302(c)(4)(J), concerning affidavits supporting search warrants with information constituting a “clearly unwarranted invasion of personal privacy”;
- ◆ KSA 22-2302(c)(6)(B), concerning court records containing sealed affidavits supporting search warrants;
- ◆ KSA 22-2502(e)(4)(J), concerning affidavits supporting electronic search warrants with information constituting a “clearly unwarranted invasion of personal privacy”;
- ◆ KSA 22-2502(e)(6)(B), concerning court records containing sealed affidavits supporting electronic search warrants.

[HB2390 \(2021 SL Ch 82\) §12](#), page 24, amending 45-229(q), [Bill Summary](#). Effective 7/1/21

The sunset provision in the following statute was removed:

- ◆ KSA 45-254(a), concerning law enforcement body or vehicle camera footage.

[HB2390 \(2021 SL Ch 82\) §13](#), page 24, amending 45-254, Effective 7/1/21

### **Cybersecurity Plans**

KSA 45-217(d) is amended creating a new exception to not require a public agency to disclose records of or procedures related to cybersecurity plans, assessments, and vulnerabilities if disclosure would jeopardize public safety.

[HB2390 \(2021 SL Ch 82\) §10, 12](#), pages 14, 16, amending KSA 45-217 (e), (f), and (g), 45-221(a)(12), [Bill Summary](#). Effective 7/1/21

### **Home Address Information of Local Correctional or Detention Officers**

Upon request, public agencies must restrict information from public access on a public website searchable by a keyword search identifying the home address or home ownership of certain persons by adding local correctional officers and local detention officers to the list of protected professions. Law enforcement officers are already included. Covered employees must request the information be removed from public access.

[HB2390 \(2021 SL Ch 82\) §11](#), pages 19, amending KSA 45-221(a)(51), [Bill Summary](#). Effective 7/1/21

### **Post Audit Requests**

Any public agency is prohibited from charging a fee under the open records act for records requested by legislative post audit for an authorized audit.

[HB2049 \(2021 SL Ch 5\)](#), KSA 46-1114. [Bill Summary](#). Effective 7/1/21.

### **Emergency Contact Information in Division of Vehicle Files**

Emergency contact information attached to driver’s license and identification card files allowed by the just established authorization to collect the information is exempt.

[HB2245 \(2021 SL Ch 56\)](#), New statute. [Bill Summary](#). Effective 7/1/21.

### **Elder and Dependent Adult Abuse Multidisciplinary Teams**

The just established Elder and Dependent Adult Abuse Multidisciplinary Teams have an exemption from KORA for all documents, materials or other information obtained by or discussed by the team.

HB2114 (2021 SL Ch 81) §2, pages 2-3, new statute, Bill Summary. Effective 7/1/21

## Victim Care

### **Sexually Violent Crime Victims**

The time limitations to apply for victims compensation may be waived by the Crime Victims Compensation Board for mental health counseling for victims of sexually violent crimes.

The definition of “victim” is amended by adding a person who was 16 years of age or younger at the time the child witnessed a violent crime and suffers personal injury or death as a result.

HB2077 (2021 SL Ch 104) §3, 4, KSA 74-7301 and 74-7305. Bill Summary. Effective 5/27/21.

### **Unemployment Fraud Victims**

A provision is created to allow law enforcement agencies to assist the Department of Labor in confirming the identity of an applicant for unemployment benefits who has been a past victim of unemployment fraud. These victims are generally those whose name was used by a person defrauding the system of government funds. But that act causes the system flag additional claims under the victim’s name as potential fraud cases causing further confirmation the claim is truly being filed by the victim. For more information see the Department of Labor Website:

<https://www.dol.ks.gov/web/guest/law-enforcement-identity-verification>

HB2196 (2021 SL Ch 92) §10, pages 10-11, new statute, Bill Summary, Effective 5/13/21

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## Emergency Management Act

### **Emergency Management Act-Violations**

During the COVID-19 crisis, the 2020 legislature amended the Kansas Emergency Management Act by making all violations of orders issued under the act as civil violations. While this change made sense for COVID related orders, it was detrimental to the law enforcement objectives in other, much more common, emergencies. In the 2021 session legislation was passed to restore the Class A misdemeanor violations for orders on curfews or restrictions of entry into designated geographic areas. All other violations remain a civil violation. This change applies to Emergency Orders (Executive Orders issued under declared emergency) issued by the state or local authorities.

[SB40 \(2021 SL Ch 7\) §9](#), pages 10-11, amending KSA 48-939. [Bill Summary](#). Effective 3/25/21.

### **Public Safety Telecommunicators**

911 Center Public Safety Telecommunicators are added to the definition of “emergency responder.” This addresses a problem some dispatch centers not under direct control of a sheriff or chief had in obtaining PPE during the COVID-19 crisis because they weren’t included in the definition.

[SB40 \(2021 SL Ch 7\) §10](#), page 11, amending KSA 48-949. [Bill Summary](#). Effective 3/25/21.

### **COVID-19 Response: Law Enforcement Status Summary**

All orders relating to the COVID Emergency Declaration issued prior to April 1 are no longer in effect by order of the legislature in SB40 and SB283. On April 1 several new Emergency Orders were issued by the Governor. There are no current state mask orders in place, but local jurisdictions may still have mask orders.

- ◆ The only order of direct interest to law enforcement operations still in effect is [Executive Order No. 21-16, provisions related to drivers’ license and identification cards during the state of disaster emergency](#). Extending the expiration dates to June 30.
- ◆ There are currently no extensions on expiration dates of vehicle registration.

[SB14 \(2021 SL Ch 1\)](#), [Bill Summary](#). Effective 1/25/21.

[SB40 \(2021 SL Ch 7\)](#), [Bill Summary](#). Effective 3/25/21.

[SB283 \(2021 SL Ch 14\)](#), [Bill Summary](#). Effective 4/1/21.

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## **Mental Health Legislation**

### **State Hospital Moratorium**

A provision in HB2007, the budget bill, directs KDADS to make expenditures to lift the moratorium on admissions at any of the state hospitals by October 1, 2021, and directing the agency to make no expenditures that imposes a moratorium on admissions at any state hospital after October 1, 2021. Since this is a “proviso” in a budget bill, it only remains in effect until June 30, 2022.

HB2007 (2021 SL Ch 98) §84 subsection (s)(1), pages 101-102. Bill Summary. Effective 5/17/21.

### **Certified Community Behavioral Health Clinics**

During the fiscal year ending June 30, 2022, expenditures shall be made to implement a process for certification and funding for certified community behavioral health clinics. KDADS is required to certify as a certified community behavioral health clinic any licensed community behavioral health center providing the following services: Crisis services; screening, assessment and diagnosis, including risk assessment; person-centered treatment planning; outpatient mental health and substance use services; primary care screening and monitoring of key indicators of health risks; targeted case management; psychiatric rehabilitation services; peer support and family supports; medication-assisted treatment; assertive community treatment; and community-based mental healthcare for military servicemembers and veterans.

HB2007 (2021 SL Ch 98) §84 subsection (u), page 102. Bill Summary. Effective 5/17/21.

HB2208 (2021 SL Ch 88) §9, pages 2-3. Bill Summary. Effective 5/6/21.

### **Other Budget Provisions for Mental Health**

- ◆ \$2.0 million for additional funding for Community Mental Health Center grants
- ◆ \$1.0 million for a psychiatric residential treatment facilities pilot program at Ember Hope in Newton, Kansas.
- ◆ \$4.0 million to operate, or contract for the operation of, eight acute inpatient psychiatric care beds for children in the city of Hays, Kansas, or the surrounding area.

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## **KPERS and KP&F**

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

The DROP is amended to allow a member who has elected a DROP period of less than 5 years, to extend it to the maximum of 5 years total with approval of the employer. The existing “irrevocable” clause for entering the program is also removed. DROP continues to be available only to the KHP and KBI.

HB2243 (2021 SL Ch 75) §4-5, pages 6-7. Bill Summary. Effective 7/1/21.

### **Duty Related Death From Injury or Illness Placing an Employee on Disability Retirement**

Amendments are made to the benefits for KP&F who are Tier II members (hired since July 1, 1989) who are disabled and ultimately die due to a “service-connected” condition. The changes apply to deaths that occurred on and after January 1, 2017. The new benefit will be the greater of:

- ◆ A monthly benefit equal to 50.0 percent of the member’s final average salary at the time of the disability, plus 10.0 percent for each dependent child who is under the age of either 18 years or 23 years, if a full-time student; or
- ◆ The retirement benefit the deceased member would have received if the member had been able to retire, if there are no dependent children.
- ◆ The total amount of benefits payable can not exceed 75.0 percent of the member’s final average salary.

HB2063 (2021 SL Ch 88), Amending KSA 74-4960a, Bill Summary. Effective 5/6/21.

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## Comparison Chart for KSA 21-6304 as Amended by HB2058

Law Prior to July 1, 2021		Law on and After July 1, 2021	
Prohibition Period	Included Offenses	Prohibition Period	Included Offenses
Permanent	Person felony while <u>in possession of</u> a firearm. Article 57 of Ch 21 (any drug felony) while <u>in possession of</u> a firearm. <u>No</u> expungement/pardon provision.	Permanent	Person felony while <u>using</u> a firearm. Article 57 of Ch 21 (any drug felony) while <u>using</u> a firearm. <u>Expungement/pardon</u> provision.
10 year from <u>conviction or release from prison</u>	Felony while <u>not in possession of</u> a firearm under the following statutes 21-5402 1st degree murder 21-5403 2nd degree murder 21-5404 Voluntary manslaughter 21-5405 Involuntary manslaughter 21-5408 Kidnapping 21-5412(b) or (d) Agg assault deadly weapon 21-5413(b) or (d) Agg battery deadly weapon 21-5415(a) Criminal threat 21-5420(b) Agg. robbery 21-5503 Rape 21-5504(b) Agg. sodomy 21-5505(b) Agg. sexual battery 21-5807(b) Agg. burglary article 57 of chapter 21 Drug felonies Expungement/pardon provision exists.  Nonperson felony possessing firearm. No expungement/pardon provision.	8 year from <u>end of sentence</u>	Felony while <u>not using</u> a firearm under the following statutes 21-5402 1st degree murder 21-5403 2nd degree murder 21-5404 Voluntary manslaughter 21-5405 Involuntary manslaughter 21-5408 Kidnapping 21-5412(b) or (d) Agg assault deadly weapon 21-5413(b) or (d) Agg battery deadly weapon 21-5415(a) Criminal threat 21-5420(b) Agg. robbery 21-5503 Rape 21-5504(b) Agg. sodomy 21-5505(b) Agg. sexual battery 21-5807(b) Agg. burglary article 57 of chapter 21 Drug felonies <u>No</u> expungement/pardon provision exists.  Nonperson felony while using a firearm moved to 3 month prohibition.
5 years from <u>conviction or release from prison</u>	<u>Any felony</u> not listed in the 10 year prohibition group above, was not found to be <u>in possession of</u> a firearm when the crime was committed. No expungement/pardon provision.	3 years from <u>end of sentence</u>	<u>Any person felony</u> not listed in the 8 year prohibition group above, was not found to be using a firearm when the crime was committed. Expungement/pardon provision.
	See 10 year prohibition provisions above for nonperson felony while in possession of firearm. Current law had no prohibition for nonperson felony when no firearm was in possession.	3 Months from end of sentence	Any nonperson felony not listed in the three areas shown above. Use of firearm or no use of firearm included. Expungement/pardon provision.

## NOTES:

Expungement/pardon provision provides prohibition ends if charge is expunged or pardoned.

End of sentence is latest of end of prison, probation, or parole.

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