



## Things from the 2023 Kansas Legislative Session Every Law Enforcement Administrator Should Know

### 1. Jail Pre-Booking Medical Screening Standards

Jails are still required to accept prisoners for arrests by municipal agencies as provided in the unamended subsection (a)(1). However, there are now statutory exceptions requiring medical screening when certain medical conditions are present. These include:

Unconsciousness any time during or after the incident leading to the arrest; serious illness (as defined in the statute); serious injury (as defined in the statute); seriously impaired by alcohol (as defined in the statute).

Serious illness: This includes, but is not limited to: (A) Any illness or ailment resulting in loss of consciousness or responsiveness or affecting a person's level of consciousness to a degree immediate intervention is prudent; (B) body temperature in excess of 101° F; (C) acute or chronic blood loss indicative of underlying illness; or (D) pain to a degree it affects the person's ability to function.

Serious injury: This includes any injury with a substantial risk of death or resulting in: (A) Loss of orientation, loss of full movement of a limb or complaint of neck or spinal pain with an onset related to the incident leading to or during the person's custody; (B) a reasonable belief a bone fracture may exist; (C) laceration with an appearance it needs sutures; (D) loss or serious impairment of vision with an onset during or subsequent to the events leading to the arrest; (E) loss or fracture of any teeth with an onset during or subsequent to the events leading to the arrest; or (F) any similar condition reasonably indicating immediate assessment by a medical care provider is prudent.

Seriously impaired by alcohol or drugs or combination thereof: This includes the loss of consciousness, inability to stand without assistance or inability to move from one location to another without assistance reasonably believed to be induced by the consumption of alcohol, a controlled substance as defined in chapter 65 of the statutes, a drug other than a controlled substance or a combination of alcohol, controlled substances or drugs.

The responsibility for custody during the screening is with the arresting agency.

The cost of the screening lies first with the person in custody or their insurance, then the arresting agency as provided in KSA 19-4444 (allows cost recovery from prisoner in certain cases) and 22-4612 (provides for charges to arresting agency to be paid at Medicaid rates and prohibits releasing the person just to shift the cost responsibility). The arresting agency is responsible if not paid.

None of this rules out consideration at time of arrest of the cost versus public safety benefit of making the arrest at that time or seek a warrant to make the arrest after the medical crisis has passed. However, we cannot overlook those few provisions in law mandating an immediate physical arrest, such as domestic violence.

[SB228 \(2023 SL Ch 83\)](#) KSA 19-1930. [Bill Summary](#). Effective 7/1/23.

2. **Mental Health Wait Lists and Reimbursement for Costs**

The budget bill includes up to \$5,000,000 to reimburse healthcare providers, local law enforcement, and other county agencies for unpaid costs of patient observation and transportation due to wait times for state hospital admission. This is meant to shift the cost burden back to the state created by the wait lists for admission of involuntary commitments to state hospitals. The intent is to reimburse costs associated with the extended wait times due to the wait list, including but not limited to a place to keep the person under observation and additional personnel costs to monitor the person. The process for these reimbursements has not been announced by KDADS as of this writing. [HB2184 \(2023 SL Ch 82\)](#), §89, Subsection (x) on page 117 of the bill. [Bill Summary](#). Effective 5/8/23.

3. **Towed Abandoned or Disabled Vehicle Sales**

A public agency or person providing wrecker or towing service shall provide a certification of compliance to a purchaser upon the sale and transfer of a vehicle pursuant to KSA 8-1102 and 8-1103 (abandoned or disabled vehicle). The certificate of compliance allows the purchaser to apply for and receive a certificate of title from the division of vehicles that is free and clear of all liens, security interests and encumbrances. The certificate of compliance is completed on a form to be developed and approved by the Department of Revenue. The certificate of compliance certifies all requirements of KSA 8-1102 through 8-1104 and any VIN inspection requirements have been met. There is a \$20 fee to the division of vehicles or the county treasurer that processes the certificate of compliance. The \$20 can be assessed to the owner, if the owner claims the vehicle prior to sale. [HB2147 \(2023 SL Ch 52\) §1, 3, 4, 5](#), New law; KSA 8-1102; 8-1103; 8-1104. [Bill Summary](#). Eff. 1/1/24.

KSA 8-1103 also amended by [SB106 \(2023 SL Ch 91\) §1](#). [Bill Summary](#). Effective 7/1/23.

4. **Background Investigations**

Each applicant for a law enforcement officer position is required to provide a written waiver that authorizes disclosure of an applicant's previous employment records to the hiring agency. The list of files to be disclosed is expanded to include the employment application, background investigations, polygraph or voice stress analysis examination results, and law-enforcement-related psychological evaluation reports connected to the application process, regardless of whether the applicant was ultimately hired. The agency that has employed the applicant in a law enforcement position, received an application for a law enforcement position from the applicant, or conducted a background investigation on the applicant is authorized to disclose the applicant's files to the requesting agency. The amended law excludes psychological examination reports not directly related to the applicant's suitability for law enforcement employment or certification.

[SB189 \(2023 SL Ch 63\)](#), KSA 75-4379. [Bill Summary](#). Effective 7/1/23.

5. **Infectious Disease Testing**

Current law authorizes the agency head to petition the court for an order to test a person for infectious disease whose body fluids have come into contact with a first responder. The amended law allows the agency head to designate another person to seek such a court order. There were no other changes to the statute or process.

[HB2015 \(2023 SL Ch 37\) §3](#), KSA 65-6008. [Bill Summary](#). Effective 7/1/23.

## 6. **Cybersecurity Incident Reporting Requirements**

Requires any public entity that has a cybersecurity incident involving a system connected to a state system to notify the Kansas Information Security Office within 12 hours of discovering an incident.

An exception to reporting to the Kansas Information Security Office is made for entities connected to the Kansas Criminal Justice Information System (KCJIS). KCJIS related incidents involving systems not connected to any other state of Kansas information system are reported pursuant to rules and regulations adopted by the Kansas Criminal Justice Information System Committee (KCJIS Committee). The Kansas Bureau of Investigation (KBI) is required to notify the KISO of reports it receives per KCJIS rules and regulations within 12 hours of receiving such reports.

Also, any government contractor that experiences an incident involving the following must notify the Kansas Information Security Office (KISO) within 72 hours a determination an incident has occurred involving: 1) Confidentiality and 2) Integrity or availability of personal or confidential information provided by the State of Kansas, networks or information systems operated by or for the State. Also requires the contractor to notify the KISO within 12 hours after a determination is made during an investigation that such an incident directly impacted state data, networks or Information systems.

[HB2019 \(2023 SL Ch 75\) §1](#), new statute. [Bill Summary](#). Effective 7/1/23.

## 7. **Deferred Option Retirement Program (DROP) For KP&F Members**

All members of Kansas Police and Fire Retirement System are now eligible for the Deferred Retirement Option Program (DROP). The program is optional for each KP&F employer and each employee who is a KP&F member eligible to retire.

This option allows the KP&F employer and KP&F employee to agree to entering the program. It does not require the employer to participate in the program. The program allows the employee to continue to work for 3, 4, or 5 years. The employees retirement benefit is set based on the final average salary and years of service at the time of entering the agreement. The employee continues to get their salary while working plus any raises and benefits, but those do not later alter the retirement benefit. During this period the retirement benefits are held in an account held by KPERS. When the employee actually retires, the employee receives all of the funds from that account as a lump sum.

[HB2196 \(2023 SL Ch 46\) §1](#), New law. [Bill Summary](#). Effective 4/27/23.