

# Guide To 2023 Kansas Legislation Impacting Law Enforcement

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This document summarizes legislation impacting law enforcement passed by the 2023 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/2023-session.html](http://www.KsLawEnforcementInfo.com/2023-session.html)

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### **UPDATED STATUTES**

**Available July 1, 2023, with current changes at:**

<http://kansasleo.com/statutes.htm> or <http://www.kscoplalaw.com/thelawpage.htm>

**Official State website** not updated until official publication of statutes later in the year.

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

**Session Laws:** <https://sos.ks.gov/publications/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/b2023\\_24/measures/bills/](http://www.kslegislature.org/li/b2023_24/measures/bills/). Enter only the bill number (leave off the SB or HB).

### **Errata Table**

Version	Date	Correction
1.0	6/2/2023	Original Document

## Criminal Law

### **Battery**

The battery statute is amended by adding a sentencing enhancement for battery to a health care provider while such provider is engaged in the performance of such provider's duty. The crime is found in section 1, subsection (g) of the bill. It requires the victim to be a healthcare provider as defined in the bill in subsection (i)(12): "an individual who is licensed, registered, certified or otherwise authorized by the state of Kansas to provide healthcare services in this state." The penalty is increased from a class B misdemeanor to a class A misdemeanor.

[SB174 \(2023 SL Ch 94\) §1, KSA 21-5413 Bill Summary](#). Effective 7/1/23.

### **Burglary**

The burglary statute is amended by adding "domestic battery" and "violation of a protection order" to the list of intended crimes within the protected structure or vehicle. It covers "protection orders" of all types but does not include "restraining orders." There is no change to the other elements of the crime and no changes to sentencing.

[SB174 \(2023 SL Ch 94\) §4, KSA 21-5807 Bill Summary](#). Effective 7/1/23.

### **Child Abandonment**

Subsection (d) of the child abandonment statute is amended to reflect changes to the Newborn Infant Protection Act. Current law exempts the parent surrendering an infant from the child abandonment statute "if the infant has not suffered bodily harm." That is amended to "if the infant has not suffered *great* bodily harm."

[HB2024 \(2023 SL Ch 70\) §2, KSA 21-5605. Bill Summary](#). Effective 5/14/23.

### **Drug Treatment Option in Sentencing for Certain Crimes**

A defendant convicted of a nonperson severity level 7, 8, 9, or 10 felony with a criminal history score of C through I (without 2 or more person felonies) may be sentenced to participate in a certified drug abuse treatment program if the defendant has no prior convictions for manufacturing a controlled substance, cultivating or distributing a controlled substance, or unlawful acts involving proceeds from drug crimes.

A defendant convicted of a nonperson severity level 7, 8, 9, or 10 felony with a criminal history score of A or B (2 or more person felonies) may be sentenced to participate in a certified drug abuse treatment program if the defendant has no prior convictions for manufacturing a controlled substance, cultivating or distributing a controlled substance, or unlawful acts involving proceeds from drug crimes, and: 1) The person felonies in the defendant's history are nondrug severity level 8 or lower, and 2) The court finds that the safety of the members of the public will not be jeopardized by the placement of the defendant in a certified drug abuse treatment program.

[HB2010 \(2023 SL Ch 93\) §4, KSA 21-6824\(a\)\(2\). Bill Summary](#). Effective 7/1/23.

### **Human Smuggling**

A new crime of human smuggling is created. Human smuggling is defined as "intentionally transporting, harboring or concealing an individual into or within Kansas when the person: (A) Knows, or should have known, that the individual is entering into or remaining

in the United States illegally; (B) benefits financially or receives anything of value; and (C) knows, or should have known, that the individual being smuggled is likely to be exploited for the financial gain of another.”

Aggravated human smuggling is defined as “human smuggling that: (A) Is committed using a deadly weapon or by threat of use of a deadly weapon; (B) causes bodily harm, great bodily harm or disfigurement to the individual being smuggled; or (C) causes the individual being smuggled to become a victim of a sex offense described in article 55 of chapter 21 of the Kansas Statutes, or human trafficking as defined in K.S.A. 21-5426, or causes the person to commit selling sexual relations as defined in K.S.A. 21-6419.”

Human smuggling is a SL5 person felony. Aggravated human smuggling is a SL3 person felony.

HB2350 (2023 SL Ch 89), New statute Bill Summary. Effective 7/1/23.

### **Interference with Law Enforcement**

The statute on Interference with Law Enforcement is amended to create a higher penalty for fleeing from an officer other than by operating a motor vehicle. This change was made to address the higher risk to the public, to the officer, and to the offender when fleeing from officers on foot. The language would include other sorts of fleeing such as on a bicycle or other device. The sentencing enhancement requires two things to occur: 1) the officer must have reason to detain the offender as provided in KSA 22-2402 (reasonable belief the person is committing, has committed or is about to commit a crime); and 2) the officer gives the person visual or audible signal to stop.

The penalty increase is when the person is fleeing from a circumstance involving a felony. It raises the penalty from a SL9 nonperson felony to a SL 7 nonperson felony. It is a SL5 nonperson felony if the person discharges or uses as firearm while fleeing. There is no change in the penalty if the person is fleeing from a circumstance involving a misdemeanor crime or civil case.

SB174 (2023 SL Ch 94) §5, KSA 21-5904 Bill Summary. Effective 7/1/23.

### **Stalking**

The stalking statute is amended by adding the “utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns” by the offender to the list of acts that can be used to show a “course of conduct.” There is no change to the penalties or the core elements of the crime.

SB217 (2023 SL Ch 78) §1, KSA 21-5427. Bill Summary. Effective 7/1/23.

## Criminal Procedure

### **Attorney General Authority to Prosecute Certain Crimes Occurring in 2 of More Counties**

The Attorney General is granted “concurrent authority with any county or district attorney to prosecute theft or RICO violations where those crimes are alleged to be a course of conduct or to have occurred in 2 or more counties.

[SB174 \(2023 SL Ch 94\) §7](#), KSA 75-702 [Bill Summary](#). Effective 7/1/23.

### **Speedy Trial**

The suspension of the statutory speedy trial restrictions was extended until March 1, 2024. The constitutional speedy trial provision remains applicable and unchanged. The statute was suspended because of the COVID related backlog in the courts.

[HB2121 \(2023 SL Ch 15\)](#), KSA 22-3402 . [Bill Summary](#). Effective 4/20/23.

### **Statute of Limitations Related to Sex Crimes Against Children**

The statute of limitations is removed for criminal charges related to childhood sexual abuse.

For criminal prosecution, “Childhood Sexual Abuse” is defined as any of the following crimes committed against a person who is under the age of 18 at the time of the offense: KSA 21-5506 (indecent liberties with a child); KSA 21-21-5504(a)(3) or (4) (criminal sodomy). KSA 21-3509 (enticement of a child); KSA 21-5508 (indecent solicitation of a child); KSA 21-5510 (sexual exploitation of a child); KSA 21-5505(b) (aggravated sexual battery); KSA 21-5604(b) (aggravated incest); KSA 21-5426(b) (aggravated human trafficking, if committed for the purpose of sexual gratification of the another); KSA 21-5514 (internet trading in child pornography); or KSA 21-6422 (commercial sexual exploitation of a child). Prior statutes on those crimes also apply.

[HB2127 \(2023 SL Ch 28\) §2](#), KSA 21-5107. [Bill Summary](#). Effective 7/1/23.

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## Firearms

### **Concealed Carry Permits**

The state application fees for a concealed carry permit are repealed. This includes the (\$100) for the Office of Attorney General; the \$16 fee to the Department of Revenue for the CCL card; and the \$15 late fee when filing for renewal after the expiration date of the permit. The fees to the sheriffs (\$32.50) remains in place.

SB116 (2023 SL Ch62), KSA 75-7c05; 75-7c08. Bill Summary. Effective 7/1/23.

### **Criminal Discharge of a Firearm**

The crime of criminal discharge of a firearm is amended to include when the firearm is discharged at a vehicle in which there is a person present regardless of whether the person discharging the firearm knows or has reason to know that there is a human being present.

A special sentencing rule is created for convictions of criminal discharge of a firearm involving the reckless and unauthorized discharge of a firearm at a dwelling, building, structure, or motor vehicle. Application of the special rule requires a finding by the trier of fact that the offender knew or reasonably should have known a person was present at the locations listed above. When the person present is 14 years of age or older, the length of sentence is as provided on the sentencing grid plus 60 months. When the person present is less than 14 years of age, the sentence is as provided on the sentencing grid plus 120 months. The sentence must be served consecutive for any other sentence and must be presumed imprisonment regardless of where the sentence falls on the sentencing grid.

HB2010 (2023 SL Ch 93) §2 and 3, KSA 21-6308; 21-6804(aa). Bill Summary. Effective 7/1/23.

### **Possession of a Firearm by a Convicted Felon**

A special sentencing rule is created for convictions of felon in possession of a firearm when 1) The conviction of the felony leading to the prohibition to possess the firearm was as not a juvenile adjudication; 2) The weapon the offender possessed during such violation was a firearm; and 3) such firearm was used by the offender during the commission of any violent felony. In such cases, the sentence for felon in possession of a firearm must be served consecutive to any other sentence and must be presumed imprisonment regardless of where the sentence falls on the sentencing grid.

For the purposes of this provision, violent felony is defined as: Capital murder or first- or second-degree murder; voluntary manslaughter; kidnapping, when the crime involves holding a person for ransom or as a shield or hostage, or aggravated kidnapping; Aggravated assault, when committed with a deadly weapon, or aggravated assault of a law enforcement officer, when committed with a deadly weapon; aggravated battery, when the conduct causes great bodily harm or disfigurement, or when the conduct causes bodily harm that could cause great bodily harm, disfigurement or death or aggravated battery against a law enforcement officer, unless the conduct involves bodily harm caused with a motor vehicle; mistreatment of a dependent adult or mistreatment of an elder person, when the conduct involves infliction of physical injury or unreasonable confinement or punishment; rape; aggravated criminal sodomy; abuse of a child, unless the acts constituting the crime are committed recklessly; any felony offense under statutes prohibiting the unlawful manufacturing, cultivation, or distribution of controlled

substances; treason; criminal discharge of a firearm in the presence of another human being; fleeing or attempting to elude a police officer; any felony that includes the domestic violence designation, as determined by the trier of fact.

HB2010 (2023 SL Ch 93) §3, KSA 21-6804(z). [Bill Summary](#). Effective 7/1/23.



## Law Enforcement Procedure

### **Background Investigations, Access to Other Agency Information**

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.

### **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 are no other changes to the statute or process.

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

### **Jail Booking and Medical Screenings**

A bill was passed making major updates to the statutes in Chapter 19, Article 19, governing jails. Some of these statutes had not been updated since the early 1900's and there were major conflicts with case law and good jail management practices. While most were just administrative cleanup, the following were changes of interest to all of law enforcement and not just for managers of jail operations.

Pre-booking medical screening of prisoners was addressed in KSA 19-1930 with a provision modeled after Missouri law. The key provisions are:

- 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" 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) a 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" means 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" means 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 bill requires 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 by 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).

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.

See Attachment A on page 33 for details of the entire bill, most are administrative jail issues and modernization of language. Also see "Competency Evaluation and Treatment" in the Mental Health section on page 25.

[SB228 \(2023 SL Ch 83\) §12 KSA 19-1930. Bill Summary. Effective 7/1/23.](#)

## Juveniles

### **Case Length for Juvenile Offenders**

The court may extend the overall case length limit to allow for completion of an evidence-based program if the juvenile's repeated, intentional effort to delay is the reason for failure to complete the evidence-based program, as reported by the evidence-based services provider. Such extensions may only be granted incrementally.

[HB2021 \(2023 SL Ch 96\) §10](#), KSA 38-2391, [Bill Summary](#). Effective 7/1/23.

### **Confidential Data Exchange System**

KDOC must develop a system or contract with an entity to develop an electronic records system by July 1, 2025, to facilitate the exchange of confidential information among all parts of the juvenile justice system. Any contracted system must include a verification system operated by KDOC to verify the authenticity and validity of electronic records and specifies such electronic records have the same legal effect as paper records.

[HB2021 \(2023 SL Ch 96\) §13](#), KSA 75-52,162 [Bill Summary](#). Effective 7/1/23.

### **Community-based Graduated Sanctions for Violations of Sentence Disposition**

For certain violations of juvenile sentencing dispositions including probation, conditional release, and condition of sentence by juveniles, the court services officer or community correctional services officer is required to immediately notify the court and submit a written report showing the manner the juvenile violated such sentencing disposition. A judge may commit a juvenile, who is on probation, to detention for a probation violation upon making a finding the juvenile is demonstrating escalating use of physical violence, aggression, weapons, damage to property, or life-threatening substances. The detention period may not exceed 24 hours for the first violation, 48 hours for the second violation, and 15 days for the third or subsequent violation.

[HB2021 \(2023 SL Ch 96\) §11](#), KSA 38-2392 [Bill Summary](#). Effective 7/1/23.

### **Coordination Between DCF, KDOC, and Judicial Branch to Provide Services**

If a child, juvenile, or juvenile offender is eligible to receive services from DCF, KDOC, or the Judicial Branch, those agencies must collaborate to provide such services. The bill states that nothing in the CINC Code provisions or in the Juvenile Code precludes the eligible child from accessing services by the listed agencies or any other state agency if the child is otherwise eligible for services.

[HB2021 \(2023 SL Ch 82 §1, 2, 4, 8\)](#), New statute; KSA 38-2203, 38-2304 [Bill Summary](#). Effective 7/1/23.

### **Juvenile Crisis Intervention Centers**

DCF is finalizing regulations necessary for the operation of the Juvenile Crisis Intervention Centers. And while that is happening, the law was changed to add capabilities for those centers to also address all behavioral health crisis and not only a mental health crisis. This opens up those centers to juveniles with chronic behavioral issues and substance abuse/addiction issues.

[HB2021 \(2023 SL Ch 96 §5, 9, 12, 10\)](#), KSA 38-2231, 38-2330, 65-536, and 75-52,164 [Bill Summary](#). Effective 7/1/23.

## **Child Abuse or Neglect Investigations**

Continuing law requires, as part of any investigation of reports of child abuse or neglect, the DCF employee or the investigating law enforcement agency to visually observe the child who is the alleged victim of abuse or neglect.

New law creates a CARE (Child Abuse Review and Evaluation) referral process. This referral process is described as “a brief written review of allegations of physical abuse, emotional abuse, medical neglect or physical neglect submitted by the secretary or law enforcement agency to a child abuse medical resource center for a recommendation of such child's need for medical care that may include a CARE exam.”

This is accomplished through CARE providers identified by KDHE. The purpose of this is to assure the case is reviewed by medical personnel trained in child abuse and child neglect related examinations. The new law requires the reports on any investigation of child physical abuse or physical neglect where the alleged victim is age 5 or under the case must be referred to a CARE specialist for review. When an alleged victim of child abuse or child neglect is over age 5, the referral is optional. The details of how the referral will be made by law enforcement is not finalized, but it will likely be that law enforcement would provide the information to DCF who would then make the referral to a CARE specialist. More information will be provided as the process is finalized.

[HB2024 \(2023 SL Ch 70\) §1, 5, 6](#), New Statute; KSA 38-2202; 38-2226. [Bill Summary](#). Eff. 5/4/23.

## **Foster Care Bill of Rights**

The new law creates 22 rights provided to foster parents and kinship caregivers. The only ones directly applicable to law enforcement is the right to not be discriminated against in accordance with the Kansas act against discrimination, and federal law; and to be treated with dignity, respect and trust as a primary provider of care and support and a member of the professional team caring for a child in DCF custody.

A foster child is provided with 19 rights. None of these appear to have direct impact on law enforcement contact with a foster child.

These bill of rights may not apply to an Indian child who is a CINC.

[HB2024 \(2023 SL Ch 70\) §2](#), KSA 21-5602. [Bill Summary](#). Effective 5/4/23.

## **Newborn Infant Protection Act**

A parent or other person having lawful custody of an infant who is not more than 60 days old and who has not suffered great bodily harm as determined by a person licensed to practice medicine or surgery, an advanced practice registered nurse, or licensed physician assistant to surrender physical custody to a newborn safety device (defined in the bill) installed at a police station, sheriff's office, law enforcement center, fire station, city or county health department, hospital, ambulatory surgical center, or recuperation center. Current law provides that an infant may only be physically surrendered directly to an employee of an authorized facility.

Subsection (d) of the child abandonment statute is amended to reflect changes to the Newborn Infant Protection Act. Current law exempts the parent surrendering an infant is exempt from the child abandonment statute “if the infant has not suffered bodily harm.” That is amended to “if the infant has not suffered *great* bodily harm.”

A "newborn safety device" is a device or container designed to safely accept delivery of an infant and that is: 1) Voluntarily installed in an authorized facility that is staffed 24 hours a day by an employee of such facility, or has a dual alarm system that will dispatch first responders when all employees of the facility are unavailable; 2) Located on a structural wall in an area that is conspicuous and visible to employees of the authorized facility; 3) Equipped with an automatic lock that restricts access to the device from the outside of the authorized facility when an infant is placed inside the device; 4) Equipped with a temperature control; and 5) Equipped with an alarm system that complies with requirements established elsewhere in the bill and that is triggered by an infant being placed inside the device. The facility installing a newborn safety device must also install a dual alarm system connected to the physical location of the device, which requires weekly testing and twice-daily visual checks to ensure the system is in working order.

After an infant has been surrendered to a newborn safety device, an employee of the authorized facility where the device is located is required to take physical custody of the infant without a court order. The bill also specifies that, after an employee of the authorized facility notifies a law enforcement agency of a surrender pursuant to the bill, such agency is required to report the surrender to DCF, in addition to the requirement for the agency to deliver the infant to a facility or person designated by DCF in continuing law.

An employee of an authorized facility is required to ask the person surrendering an infant pursuant to the Act if the infant or either biological parent is a member of, or eligible for membership in, a federally recognized Indian tribe, and the identity of the tribe. An authorized facility utilizing a newborn safety device is required to provide a means for surrendering persons to provide information pertaining to tribal status. The employee taking custody of the infant after inquiring about tribal status is required to send the information to DCF, who is then required to provide such information to the court with jurisdiction over the infant. The employee is also required to reveal all personal information received from the relinquishing parent when such parent indicates the infant or parent is a tribal member (or eligible for tribal membership) or there is a reasonable suspicion that the infant has suffered great bodily harm.

The authorized facility receiving an infant pursuant to the Act is required to make available, if possible, the following information to the relinquishing parent: 1) A notice stating that 60 days after the surrender of the infant to the facility, DCF shall commence proceedings for termination of parental rights and placement of the infant for adoption; 2) A list of providers that provide counseling services on grief, pregnancy, and adoption or other placement or care regarding an infant; 3) The language of this statute, the rights of birth parents, including a questionnaire that a birth parent may use to answer questions about medical or background information of the child, including any information pertaining to tribal status; and 4) A brochure on postpartum health. The relinquishing parent is not required to accept the information provided by an authorized facility. The bill states the form and manner of the information under this section is prescribed by DCF, who is required to maintain the questionnaire described above on a public website.

It is prohibited to publicly disclose any information concerning the relinquishment of an

infant and individual involved except as otherwise required by law. The prohibition applies to medical professionals, employees, and other persons engaged in the administration or operation of: 1) An authorized facility; 2) A newborn safety device; 3) Agencies providing services for children in need of care; or 4) Any location where an infant has been surrendered under the Act.

[HB2024 \(2023 SL Ch 70\) §3, 4, 9](#), KSA 21-5605; 38-2203; 38-2282. [Bill Summary](#). Effective 5/4/23.

### **Risk and Needs Assessments For CINC Exhibiting Criminogenic Behaviors**

Prior to October 1, 2023, DCF is required to identify an evidence-based risk and needs assessment to administer to children identified as exhibiting behavior that could lead to juvenile offender charges related to physical violence, aggression, damage to property, or use of life-threatening drugs during the course of a child in need of care (CINC) case. DCF is directed to collaborate with KDOC to allow identified children to participate in applicable DOC programming. The assessment is part of the child's official CINC file and cannot be admitted to evidence during the course of a proceeding under the Juvenile Code.

[HB2021 \(2023 SL Ch 96 §1, 2, 14\)](#), New Statute; KSA 75-52,164 [Bill Summary](#). Effective 7/1/23.

### **Risk and Needs Assessments For Juvenile Offenders**

DOC is directed to ensure every juvenile placed into detention: 1) Receives a standardized risk and needs assessment within 72 hours, or has appropriate updates made to such assessment if one has already been conducted; 2) Receives an updated or completed case plan within 48 hours after such assessment has been conducted or updated; and 3) Has access to behavioral health services, mental health services, and substance use treatment disorder services while in detention. DOC must also coordinate with court services, community corrections, and juvenile detention centers to provide the services described above in a timely manner, and, for a juvenile in the custody of the DCF, to coordinate with DCF to provide such services. The cost of assessments conducted or services provided to juvenile offenders may be assessed to the Kansas Department of Corrections (KDOC).

[HB2021 \(2023 SL Ch 96 §2, 8\)](#), New statute; KSA 38-2304 [Bill Summary](#). Effective 7/1/23.

## **Alcohol**

See [ABC Summary of 2023 Liquor Law Changes](#) at this link. See [local LE Agent contact info](#) at this link. [Amended Statutes Available at this Link](#) (See K.S.A. Chapter 41)

### **Charitable Raffle Prizes**

The current statute is amended to allow a charitable raffle of alcoholic liquor or cereal malt beverage conducted in accordance with [K.S.A. 75-5171](#) through 75-7188. However, no such prize shall be provided to any person under 21 years of age.

[HB2059 \(2023 SL Ch 71\) §8](#), KSA 41-104 §(a)(10). [Bill Summary](#). Effective 7/1/23.

### **Cereal Malt Beverage Sales**

The law on Sunday sales of cereal malt beverages or beer containing not more than 6% alcohol by volume for consumption on the premises is amended by removing the requirement of at least 30% of gross receipts be from sale of food.

[HB2059 \(2023 SL Ch 71\) §2](#), KSA 41-2704 §(b)(2) and (c)(4). [Bill Summary](#). Effective 5/4/23.

### **Common Consumption Area**

Existing law allowing Common Consumption Areas is amended by making the requirement to block vehicular traffic from the roadway within a common consumption area an option instead of a requirement. The statute is also amended to require signs conspicuously posted identifying the boundaries of such area in a size and manner that provides notice to persons entering or leaving the area.

[HB2059 \(2023 SL Ch 71\) §7](#), KSA 41-104 §(a)(1) and (g)(2). [Bill Summary](#). Effective 7/1/23.

### **Dogs in Microbreweries and Food Establishments**

The law is amended to allow dogs in outside and inside areas on the premises of a microbrewery also licensed as a food establishment, and in outside areas of a food establishment that is not a microbrewery, if certain conditions are met. Those conditions include: 1) a written plan by the food establishment or microbrewery; 2) dogs must be under handler control, patrons must keep dogs on a leash, but owners, managers, or employees do not have to keep their dogs on a leash; 3) Dogs are not allowed in food preparation areas or on table tops or counters; 4) dogs cannot be fed or given drink from non-disposable food establishment equipment, plates, bowls or utensils; 5) an outside area for the dogs to urinate or defecate must be designated; and 6) employees must, and guests must be advised to, wash their hands after coming in contact with a dog.

[HB2059 \(2023 SL Ch 71\) §1](#), new statute. [Bill Summary](#). Effective 5/4/23.

### **Samples**

Section 3 amends the law allowing a spirit distributor to provide samples by: 1) adding samples may be provided to persons licensed under the club and drinking establishment act and their employees; restricting the samples to only products that have not been purchased by the retailer or club and drinking establishment licensee within the previous 12 months; restricts the sample size to not more than three liters of distilled spirits.

Section 4 of the bill amends law on samples provided by a wine distributor by providing

the samples they provide cannot include products purchased by the retailer or club and drinking establishment licensee within the previous 12 months; restricts the sample size to not more than three liters of distilled spirits.

Section 5 of the bill amends law on samples provided by a beer distributor by providing the samples they provide cannot include products purchased by the retailer or club and drinking establishment licensee within the previous 12 months; restricts the sample size to not more than three gallons per bran of beer or cereal malt beverage.

[HB2059 \(2023 SL Ch 71\) §3, 4, and 5, KSA 41-306 §\(f\) and KSA 41-306a and KSA 41-307. Bill Summary.](#) Effective 5/4/23.



## Drugs

### **Certain Drug Test Strips are No Longer Paraphernalia**

The definition of “drug paraphernalia” is amended to specifically exclude “any material used or intended for use to test a substance for the presence of fentanyl, a fentanyl analog, ketamine, or gamma hydroxybutyric acid.” Ketamine and gamma hydroxybutyric acid are common date rape drugs.

[SB174 \(2023 SL Ch 94\) §2, KSA 21-5413 Bill Summary](#). Effective 7/1/23.

### **Fentanyl Drug Manufacturing Sentencing Enhancement**

The sentencing for manufacturing a fentanyl-related controlled substance is increased by making it a DSL 1 offense for the first offense. This was a DSL 2 offense for first offense.

“Fentanyl-related controlled substance” means any substance designated in K.S.A. 65-4105 (b)(1), (b)(2), (b)(4), (b)(10), (b)(11), (b)(14), (b)(15), (b)(16), (b)(20), (b)(22), (b)(23), (b)(24), (b)(37), (b)(41), (b)(45), (b)(46), (b)(47), (b)(49), (b)(57), (b)(58), (b)(59), (b)(60), (b)(61), (b)(62), (b)(73), (b)(74), (b)(78), (g)(1) or (g)(2) or 65-4107(c)(1), (c)(6), (c)(9), (c)(26), (c)(28), (c)(30), (f)(3)(A) or (f)(3)(B), or any analog thereof.”

If the sentence is for manufacturing a fentanyl-related controlled substance, the sentence is doubled and is presumed presumptive imprisonment regardless of where it falls on the sentencing grid.

[SB174 \(2023 SL Ch 94\) §3 and 6, KSA 21-5703 and 21-6805 \(h\) Bill Summary](#). Effective 7/1/23.

### **Manufacture Includes Pill Pressing**

The definition of Manufacture in the drug law is amended to include “. . .placing into pill or capsule form a controlled substance either directly or indirectly. . .” This applies to any illegal drug. Note the sentencing enhancements for manufacturing a fentanyl-related controlled substance covered in the previous section applies. If the drug is not a fentanyl-related controlled substance (or methamphetamine, as provided in continuing law) the sentencing enhancement does not apply and the crime is a DSL 2 offense for the first offense and a DSL 1 offense for a second and subsequent offense.

“Fentanyl-related controlled substance” means any substance designated in K.S.A. 65-4105 (b)(1), (b)(2), (b)(4), (b)(10), (b)(11), (b)(14), (b)(15), (b)(16), (b)(20), (b)(22), (b)(23), (b)(24), (b)(37), (b)(41), (b)(45), (b)(46), (b)(47), (b)(49), (b)(57), (b)(58), (b)(59), (b)(60), (b)(61), (b)(62), (b)(73), (b)(74), (b)(78), (g)(1) or (g)(2) or 65-4107(c)(1), (c)(6), (c)(9), (c)(26), (c)(28), (c)(30), (f)(3)(A) or (f)(3)(B), or any analog thereof.

[SB174 \(2023 SL Ch 94\) §2, KSA 21-5701 \(j\) Bill Summary](#). Effective 7/1/23.

### **Distribute or Manufacture Drugs Packaged in a Manner to be Attractive to Children**

A sentencing enhancement was enacted for the manufacturing or distribution of a controlled substance upon a finding beyond a reasonable doubt that the controlled substance involved, because of its appearance or packaging, was likely to be attractive to minors. The sentence is doubled and is presumed presumptive imprisonment regardless of where it falls on the sentencing grid.

[SB174 \(2023 SL Ch 94\) §6, KSA 21-6805 \(i\) Bill Summary](#). Effective 7/1/23.

### **Possession Definition Change**

The definition of “possession” was repealed from the drug laws in Chapter 21, Article 57 of the Kansas Statutes. However, a definition of “possession” also is in the definition statute, KSA 21–5111 (v), that covers all criminal code statutes in Chapter 21, including Article 57. The definition in KSA 21-5111 (v) was amended in 2022 in response to case law. The definition in KSA 21-5701 (q) was left unamended and was flawed under the case law. So in 2023 they repealed the definition in KSA 21-5701, but the definition in KSA 21-5111 applies to the drug crimes as well. The definition in KSA 21-5111 (v) is: “Knowingly having joint or exclusive control over an item or knowingly keeping some item in a place where the person has some measure of access and right of control.”

[SB174 \(2023 SL Ch 94\) §2, KSA 21-5701 Bill Summary](#). Effective 7/1/23.

## Traffic Law

### **Abandoned or Disabled Vehicle Sale**

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 further amended by [SB106 \(2023 SL Ch 91\) §1](#). [Bill Summary](#). Effective 1/1/24.

### **Air Bag**

It is a class A nonperson misdemeanor to manufacture, import, distribute, sell, offer for sale, install or reinstall a device intended to replace a supplemental restraint system component if the device is: 1) A counterfeit supplemental restraint system component; 2) a nonfunctional airbag; or 3) any object in lieu of a supplemental restraint system component that was not designed in accordance with federal safety regulations for the make, model and year of the motor vehicle in which such device is or will be installed.

[HB2147 \(2023 SL Ch 52\) §2](#), New law. [Bill Summary](#). Effective 7/1/23.

### **Driver's License Suspension-Sentencing**

The mandatory sentence to confinement for the first offense of driving while suspended or revoked when the suspension or revocation is solely due to the failure to appear or failure to pay a fine is repealed. The minimum \$100 fine still applies. The mandatory sentencing to confinement remains for all other cases of driving while suspended.

[HB2216 \(2023 SL Ch 34\)](#), KSA 8-262. [Bill Summary](#). Effective 7/1/23.

### **Ground Effect Lighting**

Current law on ground effect lighting is amended by removing only allowing "neon" lights. This change is made to allow LED lighting. The core of the law remains unchanged, the bulbs or fixtures may not be visible and used for the purpose of lighting the ground beneath the vehicle.

[HB2147 \(2023 SL Ch 52\) §6](#), KSA 8-1723 (f). [Bill Summary](#). Effective 7/1/23.

### **Securing Loads**

Cotton bales are exempt from the secure load requirements if transported by the cotton producer intrastate from the place of production or storage to a market, place of storage, or place of use if: 1) The cotton bales are fully loaded from front to back in a single layer, and 2) The truck, trailer, or semitrailer is equipped with cradles plus stakes, sideboards, or side posts that are not less than 12 inches high.

[HB2160 \(2023 SL Ch 30\)](#), KSA 8-1906. [Bill Summary](#). Effective 7/1/23.

### **Registration Plates, Replacement of Embossed Plates**

The legislature has authorized the replacement of all the remaining active embossed license plates, the old metal plates with raised letters. Replacement is being planned to occur at the time of renewal during 2024. The final plate design is pending. No new fees for vehicle owners are implemented.

### **Registration Plates, Specialty**

Several more specialty plates were approved this year:

- Back the Blue. Funds go to the Kansas Chapter of Concerns of Police Survivors (COPS)
- City of Topeka license plate.
- Buffalo Soldier

[HB2346 \(2023 SL Ch 73\) §1, 2](#), New law. [Bill Summary](#). Effective 1/1/24.

[SB132 \(2023 SL Ch 60\)](#), New law. [Bill Summary](#). Effective 1/1/24.

### **Registration Plates, Specialty May be Personalized**

Beginning in 2025, specialty plates may be personalized following the same laws for other personalized tags.

[HB2346 \(2023 SL Ch 73\) §3](#), KSA 8-1,141. [Bill Summary](#). Effective 1/1/25.

### **Self Storage Facility: Sale of Abandoned Vehicle or Nonpayment of Rent**

A storage facility with a lien on a motor vehicle, watercraft, or trailer and the renter is in default for more than 60-days, may be towed from the self-service storage facility. The operator shall not be liable for any damages to the towed vehicle after a towing service takes possession of such property if such towing service has a certificate of public service from the state corporation commission, as provided by KSA 66-1330. Towing of a motor vehicle at the direction of the operator shall only be permitted if a city ordinance or county resolution of the city or county where the self-service storage facility is located authorizes the towing of vehicles by a wrecker or towing service, as provided by KSA 8-1103, and amendments thereto. The operator's lien on the motor vehicle, watercraft or trailer shall be extinguished if such property is towed from the self-service storage facility under this subsection.

[HB2042 \(2023 SL Ch 36\)](#), KSA 8-1103; 58-817. [Bill Summary](#). Effective 7/1/23.

KSA 8-1103 further amended by [SB106 \(2023 SL Ch 91\) §1](#), KSA 8-1103. [Bill Summary](#). Effective 1/1/24.

## **Offender Registration**

**No Offender Registration Laws Were Amended in the 2023 Session.**

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

### **Exceptions to Open Records Act, Extensions of Sunset**

The annual review of expiring exemptions renewed several exemptions of interest to law enforcement. The following law enforcement related exemptions were extended by the legislation.

KSA 2-3902: Criminal history information related to Industrial Hemp licensing. [Sec. 3 (r)]

KSA 66-2020: Transfer of phone contract records of victims of stalking or abuse. [Sec. 3 (r)]

KSA 74-5611a: CPOST Registry [Sec. 7]

KSA 75-7240: Cybersecurity Assessment Reports [Sec. 8]

KSA 75-7242: Information collected to effectuate the Kansas Cybersecurity Act. [Sec. 9]

[HB2395 \(2023 SL Ch 25\) §3, 7, 8, 9](#), KSA 2-3902; 66-2020; 74-5611a; 75-7,240; 75-7242. [Bill](#)

[Summary](#). Effective 7/1/23.

KSA 75-7240 and 75-7242 further amended by [SB106 \(2023 SL Ch 91\) §6, 7](#), KSA 75-7240; 75-7242.

[Bill Summary](#). Effective 1/1/24.

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## Victim Care

### **Burglary**

The burglary statute is amended by adding “domestic battery” and “violation of a protection order” to the list of intended crimes within the protected structure or vehicle. It covers “protection orders” of all types but does not include “restraining orders.” There is no change to the other elements of the crime and no changes to sentencing.

SB174 (2023 SL Ch 94) §4, KSA 21-5807 Bill Summary. Effective 7/1/23.

### **Electronic Tracking: Protection and Restraining Orders**

Statutes providing for protection or restraining orders were amended to make it clear the use of an electronic tracking system or tracking information to determine the protected person's location, movement or travel patterns of a protected person is a violation of the order. Penalties for violations are not changed. The term “electronic tracking system” is intended to encompass all devices that provide tracking data including cell phones, air tags or similar devices, or any other device designed to provide location data. The phrase “acquiring tracking information” is included to cover a person who gets someone else to actually gather the data then provide it to them. It only applies to tracking the protected person when the order is in place when the tracking is used by the defendant of the order.

SB217 (2023 SL Ch 78) §2-8, KSA 23-2224; 23-2707; 38-2243; 38-2244; 38-2255; 60-3107; 60-31a06. Bill Summary. Effective 7/1/23.

### **Protection Order Time Limits and Extensions**

The statutes on Protection from Abuse Orders and Protection From Stalking, Sexual Assault or Human Trafficking orders were amended to change the time periods the initial orders can be issued to not less than one year and not more than two years. The time period for extensions of these orders is amended to not less than one year and not more than three years.

A Protection from Abuse order may be extended for any period of not less than one year up to lifetime of the defendant if the court determines a violation of the order has occurred.

SB217 (2023 SL Ch 78) §7 and 8, KSA 60-3107 (e); 60-31a06 (b) and (c). Bill Summary. Effective 7/1/23.

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## **Mental Health Legislation**

### **Competency Evaluation and Treatment Wait Time Cost Reimbursement**

Reimburse to county jails for the cost of holding prisoners on the waiting list for competency evaluation or treatment is authorized. This includes time they are in jail pending completion of evaluation or treatment. The reimbursement rate is \$100 per day from the day KDADS is notified of the court ordered evaluation or treatment until the day they are either admitted for evaluation or treatment, or if the evaluation and treatment is completed in the jail the day evaluation or treatment is completed. Reimbursement must be requested at the end of each quarter. More information will be forthcoming from KDADS on the process to request reimbursement.

[SB228 \(2023 SL Ch 83\) §1](#), New statute . [Bill Summary](#). Effective 7/1/23.

### **Involuntary Commitment Wait Time Cost Reimbursement**

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.

### **State Hospitals**

The addition of a new 50-bed State Hospital is moving closer to reality. In May, \$25M was allocated to Sedgwick County from SPARK funds for building the facility. The facility will be operated by KDADS. This adds to the \$5M approved from state funds last year to start design and planning for the facility. Sedgwick County reports they have already released an RFP for architectural services.

This is great news for all counties in Kansas. It will take a couple of years to get the new hospital up and running. But this funding almost assures it will become a reality. When it does, it will serve several counties in the south central Kansas area around Wichita. The current plan is for 25 beds for competency and 25 beds for emergency commitments. That will result in a significant load being transferred from both Larned and Osawatomie State Hospitals which should result in decreased wait times for all counties. Perhaps even eliminate the wait times we are now experiencing for emergency commitments. Still a long road ahead before it becomes reality, but progress we haven't seen in over a decade.

In other developments shining some hope on reduced wait times, KDADS is moving forward with regulations needed for the Crisis Intervention Centers to become a reality. These Centers would operate primarily in the most populated counties by local agencies and have the ability to hold persons on emergency commitment for up to 72 hours. This would divert these cases from the state hospitals in many cases resulting in lower demand for state hospital bed space and reducing wait times for counties that do not have a Crisis

Intervention Centers. As side benefit to this process is the patient will be engaging with local mental health resources through the commitment period, creating a better continuity of care.

### **Juvenile Crisis Intervention Centers**

Along the same lines as the wait for regulations for the adult Crisis Intervention Centers, but unrelated to the emergency commitment wait times, DCF is finalizing regulations to necessary for the operation of the Juvenile Crisis Intervention Centers. And while that is happening, the law was changed to add capabilities for those centers to also address all behavioral health crisis and not just mental health crisis. This opens up those centers to juveniles with chronic behavioral issues and substance abuse/addiction issues.

[HB2021 \(2023 SL Ch 96\)](#), §6, 9, 12, 14. KSA 38-2243, 38-2330, 65-536, and 75-52,164 [Bill Summary](#). Effective 7/1/23.

## Employee Benefits

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

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 \(2023 SL Ch 46\) §2-4](#) KSA 74-4986f, 74-4986p and 74-4986r. [Bill Summary](#). Effective 4/27/23.

### **KP&F for Law Enforcement Officers of Kansas Wildlife and Parks**

The law enforcement officers of the Kansas Department of Wildlife and Parks will finally be allowed to be members of the Kansas Police and Fire Retirement System.

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

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## Other Legislation

### **Abortion: Born-Alive Infants Protection Act**

The bill creates the Born-Alive Infants Protection Act. It creates new law concerning a child who is alive after an abortion. The new law requires life saving measures to be undertaken. It creates several new criminal violations: 1) Section 4 Requires a health care provider present at the time of an abortion to a child who is born alive to care for the child as they would any other child born alive at the same gestation period, and to assure the child is immediately transported to a hospital. A violation is a SL10 nonperson felony for knowingly or recklessly violating this new law. Intentionally performing or attempting to perform an overt act that kills the child is a SL1 person felony. These penalties do not apply to the mother of the child.

Section 4 also creates a crime for any health care worker who has knowledge of a violation of the above new crime to fail to report the crime to local law enforcement. A violation is a SL10 nonperson felony for knowingly or recklessly violating this new law.

Section 10 of the bill amends K.S.A. 65-445 by adding attempted abortions to the law requiring certain reports to be filed with KDHE. The statute already required reporting of completed abortions and existing law makes failure to make these reports a class A nonperson misdemeanor.

[HB2313 \(2023 SL Ch 85\) §1-10](#), New Law. [Bill Summary](#). Effective 7/1/23.

### **Cigarettes**

The minimum age to possess, purchase cigarettes, electronic cigarettes, or tobacco products is changed in section 3 of the bill to 21 years of age. The violation is a smoking infraction with a fine of \$25. The penalty is found in section 4 of the bill amending KSA 79-3322 § (d). The only change from existing law is the change of age.

In section 4, the selling, furnishing, or distributing cigarettes, electronic cigarettes, or tobacco products to a person under the age of 21 years is a class B misdemeanor with a penalty of a minimum \$200 fine. The penalty is in section 4 subsection (c) of the bill. That same penalty also applies to the crime of buying any cigarettes or tobacco product for any person under the age of 21. The only change from existing law is the change of age.

Tobacco products is defines in KSA 79-3301 as cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products do not include cigarettes. [SB2269 \(2023 SL Ch 18\) §3, 4, 5](#), KSA 79-3321; 79-3322; 79-3391. [Bill Summary](#). Effective 7/1/23.

### **Cybersecurity Incident Reporting**

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.

### **Memorial Highways for Fallen Officers**

I-435 in Johnson county from its junction with Shawnee Mission Parkway then north on I-435 to its junction with Holliday Drive is designated as the Officer Donald Burton Gamblin Jr memorial highway. Officer Gamblin was a Shawnee PD officer killed by a drunk driver in July 1991 while conducting a traffic stop on I-435.

[HB2298 \(2023 SL Ch 72\)](#), New statute. [Bill Summary](#). Effective 7/1/23.

### **Scrap Metal Act**

The Scrap Metal Act was set to sunset July 1, 2023. The sunset was extended to July 1, 2028. The Act was also amended by adding catalytic converters to the definition to make it clear catalytic converters are covered in the act. Catalytic converters are also defined in the act as, “a device installed in the exhaust system of a motor vehicle that uses a catalyst to convert pollutant gases into less harmful gases.” The law was also amended to prohibit scrap metal dealers from purchasing any by-product or dust containing platinum, palladium or rhodium, or a catalytic converter that has: 1) A defaced identification mark or owner-applied paint or identification number; or 2) been intentionally altered by removing or obliterating the make, model or manufacturer's number. These restrictions will still allow legitimate auto repair businesses to sell such catalytic converters they replace to scrap dealers.

[HB2326 \(2023 SL Ch 31\)](#), KSA 50-6,109, 50-6,111 and 50-6,112d. [Bill Summary](#). Effective 7/1/23.

### **Sex Defined**

Anywhere in the Kansas statutes or administrative regulations where the term “sex” is used “with respect to the application of the individual’s biological sex,” the following applies: 1) An individual's "sex" means such individual's biological sex, either male or female, at birth; 2) a "female" is an individual whose biological reproductive system is developed to produce ova, and a "male" is an individual whose biological reproductive system is developed to fertilize the ova of a female; 3) the terms "woman" and "girl" refer to human females, and the terms "man" and "boy" refer to human males; 4) the term



"mother" means a parent of the female sex, and the term "father" means a parent of the male sex; 5) with respect to biological sex, the term "equal" does not mean "same" or "identical"; 6) with respect to biological sex, separate accommodations are not inherently unequal; and 7) an individual born with a medically verifiable diagnosis of "disorder/ differences in sex development" shall be provided legal protections and accommodations afforded under the Americans with disabilities act and applicable Kansas statutes.

The bill also provides laws and rules and regulations that distinguish between the sexes are subject to intermediate constitutional scrutiny. Intermediate constitutional scrutiny forbids unfair discrimination against similarly situated male and female individuals but allows the law to distinguish between the sexes where such distinctions are substantially related to important governmental objectives. Notwithstanding any provision of state law to the contrary, distinctions between the sexes with respect to athletics, prisons or other detention facilities, domestic violence shelters, rape crisis centers, locker rooms, restrooms and other areas where biology, safety or privacy are implicated that result in separate accommodations are substantially related to the important governmental objectives of protecting the health, safety and privacy of individuals in such circumstances. The bill also specifies that when collecting accurate crime data, each individual shall be identified as either male or female at birth.

It is believed this statute applies to and replaces the language in SB228, section 4, amending KSA 19-1903 relating to separation of sexes in jails.

SB180 (2023 SL Ch 84), New statute. Bill Summary. Effective 7/1/23.

### **Statute of Limitations for Civil Actions Against Government Bodies Related to Sex Crimes Against Children**

The requirement in KSA 12-105b subsection (d) to provide prior notice to the governing body when filing a lawsuit against a municipality or an employee of a municipality is not required when the action is based on damages arising from childhood sexual assault. Also, an exemption from liability in KSA 75-6104 subsection (a) does not apply if a government employee commits a childhood sexual assault on any public property intended or permitted to be used as a park, playground or open area for recreational purposes, or for actions involving childhood sexual abuse arising from a provided juvenile justice program. The failure of a governmental entity to adopt or enforce a policy, regulation, or law related to childhood sexual abuse and failure to exercise reasonable discretion in the supervision of a governmental employee who commits a childhood sexual abuse crime may be considered by the trier of fact in a childhood sexual assault claim.

Any claim for recovery of damages against a governmental entity arising from childhood sexual abuse is not subject to provisions in the Kansas Tort Claims Act limiting liability to \$500,000 for claims arising out of a single occurrence. Childhood sexual abuse claims against a governmental entity also are not subject to the general prohibition on punitive or exemplary damages or awards for pre-judgment interest in claims within the scope of the Kansas Tort Claims Act.

The statute of limitations is amended for civil action related to childhood sexual abuse crimes to no more than 13 years after the victim turns 18 years of age, or no more than 3

years after the date of a criminal conviction for a childhood sexual abuse crime, whichever is later.

For civil actions, “Childhood Sexual Abuse” is defined as psychological injury or illness, with or without accompanied physical injury and any of the following crimes committed against a person who is under the age of 18 at the time of the offense: KSA 21-5503 (rape); KSA 21-5506 (indecent liberties with a child); KSA 21-21-5504(a)(3) or (4) (criminal sodomy). KSA 21-3509 (enticement of a child); KSA 21-5508 (indecent solicitation of a child); KSA 21-5510 (sexual exploitation of a child); KSA 21-5505(b) (aggravated sexual battery); KSA 21-5604(b) (aggravated incest); KSA 21-5426(b) (aggravated human trafficking, if committed for the purpose of sexual gratification of the another); KSA 21-5514 (internet trading in child pornography); or KSA 21-6422 (commercial sexual exploitation of a child). Prior statutes on those crimes also apply.

HB2127 (2023 SL Ch 28) §1, 3, and 4. KSA 12-105; 60-523; 75-6104. Bill Summary. Effective 7/1/23.

**NOTE: The Reconciliation bill, SB106 also amends the following existing statutes:**

- KSA 2022 Supp. 21-6614 in section 2; and repeals KSA 21-6614d and 21-6614i
- KSA 65-4101 in section 5

SB106 (2023 SL Ch 91) §2, 5. KSA 21-6614; 65-4101 Bill Summary. Effective 7/1/23.

## Jails Amendments to Chapter 19, Article 19

SB228 (2023 SL Ch 83), Bill Summary. Effective 7/1/23

Throughout the bill, where appropriate, the reference to “sheriff” was changed to “sheriff or keeper of the jail.” That change was made to clarify responsibilities in counties where the jail is not under a sheriff.

### Section 1 (new statute): Competency Cost Reimbursement

Creates a state reimbursement to county jails for the cost of holding prisoners on the waiting list for competency evaluation or treatment. This includes time they are in the jail pending completion of evaluation of treatment. The reimbursement rate is \$100 per day from the day KDADS is notified of the court ordered evaluation or treatment until the day they are either admitted for evaluation or treatment or, if the evaluation and treatment is completed in the jail, the day evaluation or treatment is completed. The jails must request reimbursement at the end of each quarter. More information on the reimbursement process will be forthcoming from KDADS.

### Section 2 (KSA 19-1901): Requirement to Have Jail

Prior law required every county to have a county jail. We currently have 10 counties that contract with an adjacent county for jail services. This statute was amended to allow such agreements.

NOTE: KSA 19-1902 had been previously repealed.

### Section 3 (KSA 19-1903): Separation of Sexes

The meaningful change here is in subsection (a)(2). The change sought was to delete the exemption allowing a married couple to be in the same “room.” That was deleted, however, the legislature added the definition of “sex” in subsection (b), saying the determination of sex when separating “each sex, female and male” must be made by their birth sex. Also that a "female" is an individual whose biological reproductive system is developed to produce ova, and a "male" is an individual whose biological reproductive system is developed to fertilize the ova of a female. It appears a different provision, passed in SB180, defining the term “sex” anywhere it appears in statute will override this language in SB228.

SB180 provides the following: Anywhere in the Kansas statutes or administrative regulations where the term “sex” is used “with respect to the application of the individual’s biological sex,” the following applies: 1) An individual's "sex" means such individual's biological sex, either male or female, at birth; 2) a "female" is an individual whose biological reproductive system is developed to produce ova, and a "male" is an individual whose biological reproductive system is developed to fertilize the ova of a female; 3) the terms "woman" and "girl" refer to human females, and the terms "man" and "boy" refer to human males; 4) the term "mother" means a parent of the female sex, and the term "father" means a parent of the male sex; 5) with respect to biological

sex, the term "equal" does not mean "same" or "identical"; 6) with respect to biological sex, separate accommodations are not inherently unequal; and 7) an individual born with a medically verifiable diagnosis of "disorder/differences in sex development" shall be provided legal protections and accommodations afforded under the Americans with disabilities act and applicable Kansas statutes.

The bill also provides laws and rules and regulations that distinguish between the sexes are subject to intermediate constitutional scrutiny. Intermediate constitutional scrutiny forbids unfair discrimination against similarly situated male and female individuals but allows the law to distinguish between the sexes where such distinctions are substantially related to important governmental objectives. Notwithstanding any provision of state law to the contrary, distinctions between the sexes with respect to athletics, prisons or other detention facilities, domestic violence shelters, rape crisis centers, locker rooms, restrooms and other areas where biology, safety or privacy are implicated that result in separate accommodations are substantially related to the important governmental objectives of protecting the health, safety and privacy of individuals in such circumstances.

The bill also specifies that when collecting accurate crime data, each individual shall be identified as either male or female at birth.

SB180 (2023 SL Ch 84), New statute. Bill Summary. Effective 7/1/23.

#### Section 4 (KSA 19-1904): Jail Calendar

This section is about the "Jail Calendar" or record of prisoners. The changes update wording with no substantive change to the requirements.

#### Section 5 (KSA 19-1905): Jail Calendar

This section further describes actions the sheriff must take with the "Calendar." It is mostly updating language, but it does remove the requirement to physically deliver a hard copy of the calendar to the court. This allows for allowing the court electronic access or the delivery of an electronic copy. Removes a penalty provision from the statute.

NOTE: KSA 19-1906 (Bibles and Minister Access); KSA 19-1907 and 19-1908 (Intoxicating Liquors) are repealed. KSA 19-1909 (Cost of Keeping Civil Prisoner) remains unchanged. It had been amended a few years ago.

#### Section 6 (KSA 19-1910): Jail Funding and Medical Costs

Minor wording cleanup. No substantive changes.

#### Section 7 (KSA 19-1911): Process Records and Return

Wording cleanup in subsection (a). Subsection (b) is what was in KSA 19-1912 with language modifications. Subsection (c) is what was in KSA 19-1913 with language modifications. No substantive change from current practice. KSA 19-1912 and 19-1913 were repealed.

NOTE: KSA 19-1914 and 19-1915 (Escape of Prisoner Held On Civil Process) are repealed.

Section 8 (KSA 19-1916): Court May Send Prisoners to Nearest County

Current law allowed a court to assign a prisoner to another "nearest" county "with a sufficient jail" when the committing county did not have a "sufficient jail." The provision was mute on who makes the determination of if the jail is "sufficient." The new provision clarifies it is the "sheriff or keeper of the jail" that makes that determination. It also specifies the sheriff of the county ordering commitment is responsible for transportation of the prisoner.

Section 9 (KSA 19-1917): Safekeeping of Fugitive From Another State or Territory

Language cleanup, no substantive changes.

NOTE: KSA 19-1918 was previously repealed. KSA 19-1919 (Treatment of prisoners; juvenile prisoners; visits of parents and friends) remains unchanged; KSA 19-1920 through 19-1922 were previously repealed. KSA 19-1923 (Jails in certain areas other than county seat; cooperation by city); KSA 19-1924 (Sale of old jail or jailer's residence; procedure; construction of new jail); KSA 19-1925 (Same; appraisalment) remain unchanged. KSA 19-1926 was previously transferred to another location in the statutes.

Section 10 (KSA 19-1927): Abandoned jail and site; sale; conveyance to historical society.

Current law only allowed for only two options for the county to dispose of jail property no longer used as a jail: 1) sell the abandoned or no longer used for the jail, or 2) convey it to the Kansas Historical Society to be maintained as a historical site. It was amended to also allow the County Commission to demolish or repurpose the building or use the land for other purposes.

NOTE: KSA 19-1928 and 19-1928a (deed and use of funds derived from sale) remains unchanged.

Section 11 (KSA 19-1929): Commitment of prisoners in city jails or jails in other counties in counties not having a sufficient jail.

Current law only has provisions for utilizing city jails. The statute is amended to allow the use of city or county jails. It also specifies the sheriff of the county ordering commitment is responsible for transportation of the prisoner.

Section 12 (KSA 19-1930): Requirements to Accept Certain Prisoners

Pre-booking medical screening of prisoners was addressed with a provision modeled after Missouri law. The key provisions are:

- 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" 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) a 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" means 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" means 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 bill requires the responsibility for custody during the screening is with the arresting agency.
- The cost of the screening lies first with the person in custody and 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).

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.

The following statutes remain in effect and were not amended:

- 19-1931 Jail facilities in certain counties; issuance of bonds; election; debt limitations inapplicable.
- 19-1932 Same; authority of board not limited; means of site acquisition.
- 19-1933 Chase county jail; transfer of property from public building commission; duties of county commissioners.
- 19-1934 Same; financing of jail; bonds.
- 19-1935 Death of prisoner in custody of city or county; investigation by Kansas bureau of investigation.

## 2023 Legislative Session Major Law Changes

(All laws are effective July 1, 2023, unless indicated otherwise)

<p>Alcohol, Common Consumption Areas Effective 7/1/23 <a href="#">HB2059 §7</a></p>	<p>Existing law allowing Common Consumption Areas is amended by making the requirement to block vehicular traffic from the roadway within a common consumption area an option instead of a requirement. The statute is also amended to require signs conspicuously posted identifying the boundaries of such area in a size and manner that provides notice to persons entering or leaving the area.</p>
<p>Burglary Effective 7/1/23 <a href="#">SB174 §4</a></p>	<p>The burglary statute is amended by adding “domestic battery” and “violation of a protection order” to the list of intended crimes within the protected structure or vehicle. It covers “protection orders” of all types but does not include “restraining orders.” There is no change to the other elements of the crime and no changes to sentencing.</p>
<p>Catalytic Converter Effective 7/1/23 <a href="#">HB2326</a></p>	<p>The Scrap Metal Act was amended by adding catalytic converters to the definition to make it clear catalytic converters are covered in the act. Catalytic converters are also defined in the act as, “a device installed in the exhaust system of a motor vehicle that uses a catalyst to convert pollutant gases into less harmful gases.” The law was also amended to prohibit scrap metal dealers from purchasing any by-product or dust containing platinum, palladium or rhodium, or a catalytic converter that has: 1) A defaced identification mark or owner-applied paint or identification number; or 2) been intentionally altered by removing or obliterating the make, model or manufacturer's number. These restrictions will still allow legitimate auto repair businesses to sell such catalytic converters they replace to scrap dealers.</p>
<p>Child Abuse or Neglect Investigations Effective 5/41/23 <a href="#">HB2024 §1, 5, 6</a></p>	<p>Continuing law requires, as part of any investigation of reports of child abuse or neglect, the DCF employee or the investigating law enforcement agency to visually observe the child who is the alleged victim of abuse or neglect.</p> <p>New law creates a CARE (Child Abuse Review and Evaluation) referral process. This referral process is described as “a brief written review of allegations of physical abuse, emotional abuse, medical neglect or physical neglect submitted by the secretary or law enforcement agency to a child abuse medical resource center for a recommendation of such child's need for medical care that may include a CARE exam.”</p> <p>This is accomplished through CARE providers identified by KDHE. The purpose of this is to assure the case is reviewed by medical personnel trained in child abuse and child neglect related examinations. The new law requires the reports on any investigation of child physical abuse or physical neglect where the alleged victim is age 5 or under the case must be referred to a CARE specialist for review. When an alleged victim of child abuse or child neglect is over age 5, the referral is optional. The details of how the referral will be made by law enforcement is not finalized, but it will likely be that law enforcement would provide the information to DCF who would then make the referral to a CARE specialist. More information will be provided as the process is finalized.</p>

<p>Childhood Sexual Abuse</p> <p>Effective 7/1/23</p> <p><a href="#">HB2127 §2</a></p>	<p>The statute of limitations is removed for criminal charges related to childhood sexual abuse. This includes any of the following crimes committed against a person who is under the age of 18 at the time of the offense: KSA 21-5506 (indecent liberties with a child); KSA 21-21-5504(a)(3) or (4) (criminal sodomy). KSA 21-3509 (enticement of a child); KSA 21-5508 (indecent solicitation of a child); KSA 21-5510 (sexual exploitation of a child); KSA 21-5505(b) (aggravated sexual battery); KSA 21-5604(b) (aggravated incest); KSA 21-5426(b) (aggravated human trafficking, if committed for the purpose of sexual gratification of the another); KSA 21-5514 (internet trading in child pornography); or KSA 21-6422 (commercial sexual exploitation of a child). Prior statutes on those crimes also apply.</p>
<p>Cigarettes and Tobacco Products</p> <p>Effective 7/1/23</p> <p><a href="#">HB2269 §3, 4, 5</a></p>	<p>The minimum age to possess, purchase cigarettes, electronic cigarettes, or tobacco products is changed in section 3 of the bill to 21 years of age. The violation is a smoking infraction with a fine of \$25. The penalty is found in section 4 of the bill amending KSA 79-3322 § (d). The only change from existing law is the change of age.</p> <p>In section 4, the selling, furnishing, or distributing cigarettes, electronic cigarettes, or tobacco products to a person under the age of 21 years is a class B misdemeanor with a penalty of a minimum \$200 fine. The penalty is in section 4 subsection (c) of the bill. That same penalty also applies to the crime of buying any cigarettes or tobacco product for any person under the age of 21. The only change from existing law is the change of age.</p> <p>Tobacco products is defines in KSA 79-3301 as cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products do not include cigarettes.</p>
<p>Drugs, Packaging Enticing to Child</p> <p>Effective 7/1/23</p> <p><a href="#">SB174 §2</a></p>	<p>The definition of “possession” was repealed from the drug laws in Chapter 21, Article 57 of the Kansas Statutes. However, a definition of “possession” also is in the definition statute, KSA 21–5111 (v), that covers all criminal code statutes in Chapter 21, including Article 57. The definition in KSA 21-5111 (v) was amended in 2022 in response to case law. The definition in KSA 21-5701 (q) was left unamended and was flawed under the case law. So in 2023 they repealed the definition in KSA 21-5701, but the definition in KSA 21-5111 applies to the drug crimes as well. The definition in KSA 21-5111 (v) is: “Knowingly having joint or exclusive control over an item or knowingly keeping some item in a place where the person has some measure of access and right of control.”</p>



<p>Drugs, Manufacturing Containing Fentanyl Effective 7/1/23 <u>SB174 §3 &amp; 6</u></p>	<p>The sentencing for manufacturing a fentanyl-related controlled substance is increased by making it a DSL 1 offense for the first offense. This was a DSL 2 offense for first offense. "Fentanyl-related controlled substance" means any substance designated in K.S.A. 65-4105(b)(1), (b)(2), (b)(4), (b)(10), (b)(11), (b)(14), (b)(15), (b)(16), (b)(20), (b)(22), (b)(23), (b)(24), (b)(37), (b)(41), (b)(45), (b)(46), (b)(47), (b)(49), (b)(57), (b)(58), (b)(59), (b)(60), (b)(61), (b)(62), (b)(73), (b)(74), (b)(78), (g)(1) or (g)(2) or 65-4107(c)(1), (c)(6), (c)(9), (c)(26), (c)(28), (c)(30), (f)(3)(A) or (f)(3)(B), or any analog thereof."</p> <p>If the sentence is for manufacturing a fentanyl-related controlled substance, the sentence is doubled and is presumed presumptive imprisonment regardless of where it falls on the sentencing grid.</p>
<p>Drugs, Placing Into Capsules or Tablets Effective 7/1/23 <u>SB174 §2</u></p>	<p>The definition of Manufacture in the drug law is amended to include ". . .placing into pill or capsule form a controlled substance either directly or indirectly. . ." This applies to any illegal drug. Note the sentencing enhancements for manufacturing a fentanyl-related controlled substance covered in the previous section applies. If the drug is not a fentanyl-related controlled substance (or methamphetamine, as provided in continuing law) the sentencing enhancement does not apply and the crime is a DSL 2 offense for the first offense and a DSL 1 offense for a second and subsequent offense.</p> <p>"Fentanyl-related controlled substance" means any substance designated in K.S.A. 65-4105(b)(1), (b)(2), (b)(4), (b)(10), (b)(11), (b)(14), (b)(15), (b)(16), (b)(20), (b)(22), (b)(23), (b)(24), (b)(37), (b)(41), (b)(45), (b)(46), (b)(47), (b)(49), (b)(57), (b)(58), (b)(59), (b)(60), (b)(61), (b)(62), (b)(73), (b)(74), (b)(78), (g)(1) or (g)(2) or 65-4107(c)(1), (c)(6), (c)(9), (c)(26), (c)(28), (c)(30), (f)(3)(A) or (f)(3)(B), or any analog thereof.</p>
<p>Drugs, Test Strips Effective 7/1/23 <u>SB174 §2</u></p>	<p>The definition of "drug paraphernalia" is amended to specifically exclude "any material used or intended for use to test a substance for the presence of fentanyl, a fentanyl analog, ketamine, or gamma hydroxybutyric acid." Ketamine and gamma hydroxybutyric acid are common date rape drugs.</p>
<p>Firearms, Criminal Discharge Effective 7/1/23 <u>HB2010 §2 &amp; 3</u></p>	<p>The crime of criminal discharge of a firearm is amended to include when the firearm is discharged at a vehicle in which there is a person present regardless of whether the person discharging the firearm knows or has reason to know that there is a human being present.</p> <p>A special sentencing rule is created for convictions of criminal discharge of a firearm involving the reckless and unauthorized discharge of a firearm at a dwelling, building, structure, or motor vehicle. Application of the special rule requires a finding by the trier of fact that the offender knew or reasonably should have known a person was present at the locations listed above. When the person present is 14 years of age or older, the length of sentence is as provided on the sentencing grid plus 60 months. When the person present is less than 14 years of age, the sentence is as provided on the sentencing grid plus 120 months. The sentence must be served consecutive for any other sentence and must be presumed imprisonment regardless of where the</p>

<p>Firearm, Felon in Possession</p> <p>Effective 7/1/23</p> <p><a href="#">HB2010 §3</a></p>	<p>A special sentencing rule is created for convictions of felon in possession of a firearm when 1) The conviction of the felony leading to the prohibition to possess the firearm was as not a juvenile adjudication; 2) The weapon the offender possessed during such violation was a firearm; and 3) such firearm was used by the offender during the commission of any violent felony. In such cases, the sentence for felon in possession of a firearm must be served consecutive to any other sentence and must be presumed imprisonment regardless of where the sentence falls on the sentencing grid.</p> <p>For the purposes of this provision, violent felony is defined as: Capital murder or first - or second-degree murder; voluntary manslaughter; kidnapping, when the crime involves holding a person for ransom or as a shield or hostage, or aggravated kidnapping; Aggravated assault, when committed with a deadly weapon, or aggravated assault of a law enforcement officer, when committed with a deadly weapon; aggravated battery, when the conduct causes great bodily harm or disfigurement, or when the conduct causes bodily harm that could cause great bodily harm, disfigurement or death or aggravated battery against a law enforcement officer, unless the conduct involves bodily harm caused with a motor vehicle; mistreatment of a dependent adult or mistreatment of an elder person, when the conduct involves infliction of physical injury or unreasonable confinement or punishment; rape; aggravated criminal sodomy; abuse of a child, unless the acts constituting the crime are committed recklessly; any felony offense under statutes prohibiting the unlawful manufacturing, cultivation, or distribution of controlled substances; treason; criminal discharge of a firearm in the presence of another human being; fleeing or attempting to elude a police officer; any felony that includes the domestic violence designation, as determined by the trier of fact.</p>
<p>Human Smuggling</p> <p>Effective 7/1/23</p> <p><a href="#">HB2350</a></p>	<p>A new crime of human smuggling is created. Human smuggling is defined as “intentionally transporting, harboring or concealing an individual into or within Kansas when the person: (A) Knows, or should have known, that the individual is entering into or remaining in the United States illegally; (B) benefits financially or receives anything of value; and (C) knows, or should have known, that the individual being smuggled is likely to be exploited for the financial gain of another.”</p> <p>Aggravated human smuggling is defined as “human smuggling that: (A) Is committed using a deadly weapon or by threat of use of a deadly weapon; (B) causes bodily harm, great bodily harm or disfigurement to the individual being smuggled; or (C) causes the individual being smuggled to become a victim of a sex offense described in article 55 of chapter 21 of the Kansas Statutes, or human trafficking as defined in K.S.A. 21-5426, or causes the person to commit selling sexual relations as defined in K.S.A. 21-6419.”</p> <p>Human smuggling is a SL5 person felony. Aggravated human smuggling is a SL3 person felony.</p>

<p>Interference With Law Enforcement</p> <p>Effective 7/1/23</p> <p><a href="#">SB174 §5</a></p>	<p>The statute on Interference with Law Enforcement is amended to create a higher penalty for fleeing from an officer other than by operating a motor vehicle. This change was made to address the higher risk to the public, to the officer, and to the offender when fleeing from officers on foot. The language would include other sorts of fleeing such as on a bicycle or other device. The sentencing enhancement requires two things to occur: 1) the officer must have reason to detain the offender as provided in KSA 22-2402 (reasonable belief the person is committing, has committed or is about to commit a crime); and 2) the officer gives the person visual or audible signal to stop.</p> <p>The penalty increase is when the person is fleeing from a circumstance involving a felony. It raises the penalty from a SL9 nonperson felony to a SL 7 nonperson felony. It is a SL5 nonperson felony if the person discharges or uses as firearm while fleeing. There is no change in the penalty if the person is fleeing from a circumstance involving a misdemeanor crime or civil case.</p>
<p>Jails</p> <p>Effective 7/1/23</p> <p><a href="#">SB228</a></p>	<p>Revisions of most of Chapter 19, Article 19 of the statutes which hadn't been revised since the early 1900's. Most important amendments are:</p> <ol style="list-style-type: none"> <li>1. Changes to KSA 19-1903 dealing with separation of sexes is in section 3 of the bill (page 2) found at the link to the left.</li> <li>2. Changes to KSA 19-1930 dealing with pre-booking medical clearances and when they are required are in section 12 of the bill (page 4-7) found at the link to the left.</li> </ol> <p>See full description in <a href="#">Appendix A</a></p>
<p>KP&amp;F, DROP</p> <p>Effective 4/27/23</p> <p><a href="#">HB2196 §2 &amp; 3</a></p>	<p>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&amp;F employer and each employee who is a KP&amp;F member eligible to retire.</p> <p>This option allows the KP&amp;F employer and KP&amp;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.</p>

<p>Tracking Devices, Stalking, Protection or Restraining Orders</p> <p>Effective 7/1/23</p> <p><u>SB217 §1-8</u></p>	<p>The stalking statute is amended by adding the “utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns” by the offender to the list of acts that can be used to show a “course of conduct.” There is no change to the penalties or the core elements of the crime.</p> <p>Statutes providing for protection or restraining orders were amended to make it clear the use of an electronic tracking system or tracking information to determine the protected person's location, movement or travel patterns of a protected person is a violation of the order. Penalties for violations are not changed. The term “electronic tracking system” is intended to encompass all devices that provide tracking data including cell phones, air tags or similar devices, or any other device designed to provide location data. The phrase “acquiring tracking information” is included to cover a person who gets someone else to actually gather the data then provide it to them. It only applies to tracking the protected person when the order is in place when the tracking is used by the defendant of the order.</p>
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## Ten Things from the 2023 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.kscoplaw.com/thelawpage.htm>.

Statutes on the state website are not updated until sometime in the fall when the amended statutes are officially published.

### 1. **Child Abuse and Neglect Investigations**

New law creates a CARE (Child Abuse Review and Evaluation) referral process. This referral process is described as “a brief written review of allegations of physical abuse, emotional abuse, medical neglect or physical neglect submitted by the secretary or law enforcement agency to a child abuse medical resource center for a recommendation of such child's need for medical care that may include a CARE exam.”

This is accomplished through CARE providers identified by KDHE. The purpose of this is to assure the case is reviewed by medical personnel trained in child abuse and child neglect related examinations. The new law requires the reports on any investigation of child physical abuse or physical neglect where the alleged victim is age 5 or under the case must be referred to a CARE specialist for review. When an alleged victim of child abuse or child neglect is over age 5, the referral is optional. The details of how the referral will be made by law enforcement is not finalized, but it will likely be that law enforcement would provide the information to DCF who would then make the referral to a CARE specialist. More information will be provided as the process is finalized.

[HB2024 \(2023 SL Ch 70\) §1, 5, 6, New Statute; KSA 38-2202; 38-2226. Bill Summary. Eff. 5/4/23.](#)

### 2. **Interference with Law Enforcement**

The statute on Interference with Law Enforcement is amended to create a higher penalty for fleeing from an officer other than by operating a motor vehicle. This change was made to address the higher risk to the public, to the officer, and to the offender when fleeing from officers on foot. The language would include other sorts of fleeing such as on a bicycle or other device. The sentencing enhancement requires two things to occur: 1) the officer must have reason to detain the offender as provided in KSA 22-2402 (reasonable belief the person is committing, has committed or is about to commit a crime); and 2) the officer gives the person visual or audible signal to stop.

The penalty increase is when the person is fleeing from a circumstance involving a felony. It raises the penalty from a SL9 nonperson felony to a SL 7 nonperson felony. It is a SL5 nonperson felony if the person discharges or uses as firearm while fleeing. There is no change in the penalty if the person is fleeing from a circumstance involving a misdemeanor crime or civil case.

[SB174 \(2023 SL Ch 94\) §5, KSA 21-5904 Bill Summary. Effective 7/1/23.](#)

### 3. **Burglary**

The burglary statute is amended by adding “domestic battery” and “violation of a protection order” to the list of intended crimes within the protected structure or vehicle. It covers “protection orders” of all types but does not include “restraining orders.” There is no change to the other elements of the crime and no changes to sentencing.

[SB174 \(2023 SL Ch 94\) §4, KSA 21-5807 Bill Summary. Effective 7/1/23.](#)

#### **4. Criminal Discharge of a Firearm**

The crime of criminal discharge of a firearm is amended to include when the firearm is discharged at a vehicle in which there is a person present regardless of whether the person discharging the firearm knows or has reason to know that there is a human being present.

A special sentencing rule is created for convictions of criminal discharge of a firearm involving the reckless and unauthorized discharge of a firearm at a dwelling, building, structure, or motor vehicle. Application of the special rule requires a finding by the trier of fact that the offender knew or reasonably should have known a person was present at the locations listed above.

When the person present is 14 years of age or older, the length of sentence is as provided on the sentencing grid plus 60 months. When the person present is less than 14 years of age, the sentence is as provided on the sentencing grid plus 120 months. The sentence must be served consecutive to any other sentence and must be presumed imprisonment regardless of where the sentence falls on the sentencing grid.

[HB2010 \(2023 SL Ch 93\)](#) §2 and 3, KSA 21-6308; 21-6804(aa). [Bill Summary](#). Effective 7/1/23.

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

A special sentencing rule is created for convictions of felon in possession of a firearm when 1) The conviction of the felony leading to the prohibition to possess the firearm was as not a juvenile adjudication; 2) The weapon the offender possessed during such violation was a firearm; and 3) such firearm was used by the offender during the commission of any violent felony. In such cases, the sentence for felon in possession of a firearm must be served consecutive for any other sentence and must be presumed imprisonment regardless of where the sentence falls on the sentencing grid.

For the purposes of this provision, violent felony is defined as: Capital murder or first- or second-degree murder; voluntary manslaughter; kidnapping, when the crime involves holding a person for ransom or as a shield or hostage, or aggravated kidnapping; Aggravated assault, when committed with a deadly weapon, or aggravated assault of a law enforcement officer, when committed with a deadly weapon; aggravated battery, when the conduct causes great bodily harm or disfigurement, or when the conduct causes bodily harm that could cause great bodily harm, disfigurement or death or aggravated battery against a law enforcement officer, unless the conduct involves bodily harm caused with a motor vehicle; mistreatment of a dependent adult or mistreatment of an elder person, when the conduct involves infliction of physical injury or unreasonable confinement or punishment; rape; aggravated criminal sodomy; abuse of a child, unless the acts constituting the crime are committed recklessly; any felony offense under statutes prohibiting the unlawful manufacturing, cultivation, or distribution of controlled substances; treason; criminal discharge of a firearm in the presence of another human being; fleeing or attempting to elude a police officer; any felony that includes the domestic violence designation, as determined by the trier of fact.

[HB2010 \(2023 SL Ch 93\)](#) §3, KSA 21-6804(z). [Bill Summary](#). Effective 7/1/23.

#### **6. 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) a 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 by 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).

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 \(2023 SL Ch 83\) §12](#) KSA 19-1930. [Bill Summary](#). Effective 7/1/23.

## **7. Electronic Tracking Devices to Violate Stalking Crimes or Protection/Restraining Orders**

The stalking statute is amended by adding the “utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns” by the offender to the list of acts that can be used to show a “course of conduct.”

There is no change to the penalties or the core elements of the crime.

[SB217 \(2023 SL Ch 78\) §1](#), KSA 21-5427. [Bill Summary](#). Effective 7/1/23.

Statutes providing for protection or restraining orders were amended to make it clear the use of an electronic tracking system or tracking information to determine the protected person's location, movement or travel patterns of a protected person is a violation of the order.

Penalties for violations are not changed. The term “electronic tracking system” is intended to encompass all devices that provide tracking data including cell phones, air tags or similar

devices, or any other device designed to provide location data. The phrase “acquiring tracking information” is included to cover a person who gets someone else to actually gather the data then provide it to them.

SB217 (2023 SL Ch 78) §2-8, KSA 23-2224; 23-2707; 38-2243; 38-2244; 38-2255; 60-3107; 60-31a06. Bill Summary. Effective 7/1/23.

#### 8. **Drug Test Strips**

The definition of “drug paraphernalia” is amended to specifically exclude “any material used or intended for use to test a substance for the presence of fentanyl, a fentanyl analog, ketamine, or gamma hydroxybutyric acid.” Ketamine and gamma hydroxybutyric acid are common date rape drugs.

SB174 (2023 SL Ch 94) §2, KSA 21-5413 Bill Summary. Effective 7/1/23.

#### 9. **Human Smuggling**

A new crime of human smuggling is defined as “intentionally transporting, harboring or concealing an individual into or within Kansas when the person: (A) Knows, or should have known, that the individual is entering into or remaining in the United States illegally; (B) benefits financially or receives anything of value; and (C) knows, or should have known, that the individual being smuggled is likely to be exploited for the financial gain of another.”

Aggravated human smuggling is defined as “human smuggling that: (A) Is committed using a deadly weapon or by threat of use of a deadly weapon; (B) causes bodily harm, great bodily harm or disfigurement to the individual being smuggled; or (C) causes the individual being smuggled to become a victim of a sex offense described in article 55 of chapter 21 of the Kansas Statutes, or human trafficking as defined in K.S.A. 21-5426, or causes the person to commit selling sexual relations as defined in K.S.A. 21-6419.”

Human smuggling is a SL5 person felony. Aggravated human smuggling is a SL3 person felony. HB2350 (2023 SL Ch 89), New statute Bill Summary. Effective 7/1/23.

#### 10. **Child Sexual Assault Statute of Limitations**

The statute of limitations is removed for criminal charges related to childhood sexual abuse.

For criminal prosecution, “Childhood Sexual Abuse” is defined as any of the following crimes committed against a person who is under the age of 18 at the time of the offense: KSA 21-5506 (indecent liberties with a child); KSA 21-21-5504(a)(3) or (4) (criminal sodomy). KSA 21-3509 (enticement of a child); KSA 21-5508 (indecent solicitation of a child); KSA 21-5510 (sexual exploitation of a child); KSA 21-5505(b) (aggravated sexual battery); KSA 21-5604(b) (aggravated incest); KSA 21-5426(b) (aggravated human trafficking, if committed for the purpose of sexual gratification of the another); KSA 21-5514 (internet trading in child pornography); or KSA 21-6422 (commercial sexual exploitation of a child). Prior statutes on those crimes also apply.

HB2127 (2023 SL Ch 28) §2, KSA 21-5107. Bill Summary. Effective 7/1/23.





## 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.

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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.

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