



## Things from the 2024 Kansas Legislative Session Every Law Enforcement Administrator Should Know

Also review [the report on What Every Officer Should Know.](#)

### 1. **Fingerprinting of Persons Convicted of Certain Municipal Class A or B Misdemeanors**

The statute requiring fingerprinting of persons convicted of class A or B misdemeanors is amended to exempt from the requirement those convicted of municipal ordinance violations prohibited by KSA 8-235 (driving without a license or driving a class of vehicle not included in the person driver's license) and 40-3104 (driving without liability insurance).

[SB414 \(2024 SL Ch 96\) §1.](#) Amending KSA 12-4517. [Bill Summary.](#) Effective 7/1/24.

### 2. **Notice to Appear/Complaint Allowed in District Court for Certain Misdemeanors**

The law is revised to allow law enforcement to use a Notice to Appear/Complaint form for any unclassified or nonperson misdemeanor in district court. A requirement is included for a memo of agreement between the County or District Attorney and the law enforcement agency before using the NTA/Complaint form. This allows for the details of the form and the process of providing adequate reports to the County/District Attorney in cases where the NTA/Complaint form is used. The NTA must comply with the memo of agreement and existing law on the content requirements.

[SB473 \(2024 SL Ch 87\)§1–2.](#) Amending KSA 22-2202 & 22-2408. [Bill Summary.](#) Effective 7/1/24.

### 3. **Peer Support**

The term “peer support counseling session” is amended by expanding the reasons a participant may seek a counseling session to include a professional, personal, or social problem, or a difficult life event where peer counseling assistance and guidance would benefit the participant.

Under continuing law, members of law enforcement, emergency services, or the Kansas National Guard may utilize a peer support counseling session to discuss a critical incident or traumatic event. Certain information conveyed in a peer support counseling session by a participant or peer support specialist is considered privileged and may not be disclosed or be considered admissible in judicial, administrative, arbitration, or other adjudicatory proceedings. Exceptions to the privilege are not changed and include certain information related to threats of suicide or criminal acts, information relating to the abuse of persons, admission of criminal conduct, or certain information disclosed with consent.

[HB2557 \(2024 SL Ch 14\)](#) Amending KSA 60-473. [Bill Summary.](#) Effective 7/1/2024.

### 4. **KPERS: Working After Retirement**

*Contribution Rates Paid for Covered Positions; Threshold on Retirant Compensation:* Under current law, when a KPERS retirant (“retiree”) returns to work for a KPERS-affiliated employer in a covered position, the participating employer is required to pay a 30% percent “assessment” on compensation paid to the retiree that exceeds the \$25,000 threshold amount. The bill increased this threshold from \$25,000 to \$40,000 per calendar year.

[Note: In regular KPERS, participating employers are required to make contributions to KPERS for a retiree returning to work for an applicable KPERS employer. The employer pays the statutory contribution rate for the first \$40,000 of the retirant's salary and a 30% percent contribution rate (“assessment”) on earnings over the \$40,000 threshold. For regular KPERS, this is returning to work for any regular KPERS employer in a regular KPERS position.

*Earnings Limit—KP&F Members, Returning to Work with Previous Employer:* The bill increases the earnings limit from \$25,000 to \$40,000 on KP&F members who have retired and return to work for a previous employer.

NOTE: A retiree reaching the earnings limits has two options: 1) not work for an applicable employer once the limit is reached and continue receiving their retirement benefits for the remainder of the calendar year, or; continue earnings beyond the limit and lose their retirement benefits for the remainder of the calendar year.

HB2711 (2024 SL Ch 65) §9 & 11-13, Amends KSA 74-4914, 74-4937, 74-4957, & 74-49,315. Bill Summary Effective 7/1/24

## 5. **Work Comp Benefits**

A major work comp reform bill was passed with increased benefits for employees. I will list only key changes.

Lifetime maximum benefits increased:

Death: From \$300,000 to \$500,000

Permanent Total Disability: From \$155,000 to \$400,000

Temporary Total Disability: From \$130,000 to \$225,000

Permanent Partial Disability: From \$130,000 to \$225,000

Temporary Partial Disability: From \$130,000 to \$225,000

Functional Only: From \$75,000 to \$100,000

Starting 7/1/2027, these caps would be increased annually by the 5-year average of the percentage change in the state average weekly wage.

Requires an employer to provide reimbursement for “reasonable expenses” for overnight accommodations in cases in which the employer requires the employee to seek a medical opinion outside of their town or city of residence. Increases the per diem requirement from \$15 to \$30 to help defray the employee’s meal expenses. Retains the requirement for the employer to provide funds for transportation.

Increases the amount of medical charges an employer is liable to cover from \$500 to \$800 when an employee consults a healthcare provider for the purpose of examination, diagnosis, or treatment without prior application or approval.

Amends the benefit reduction calculations for retirement benefits under the Federal Social Security Act by only deducting 50% of the weekly equivalent amount of benefits from the employee’s permanent partial or permanent total disability benefits. However, the temporary total and temporary partial disability compensation is excluded from the deduction. This is a change from a 100% deduction rate.

Increases the minimum weekly benefit payment amount from \$25 to \$50.

Many other procedural changes are also made.

SB430 (2024 SL Ch 27), New law. Bill Summary. Effective 7/1/24.

## 6. **Civil Asset Forfeiture**

Major changes were made to the Civil Asset Forfeiture statutes. Many of the changes were court procedures, but other will affect how we conduct forfeiture activity or are things we must be aware of when making decisions to seize items for forfeiture. For the most part, the bill follows the recommendations from an intense study of the issue by a Kansas

Judicial Council committee.

### **Drug Crimes Leading to Forfeiture are Limited**

Drug crimes consisting only of simple possession, that is crimes where there is no profit to the offender are removed from the list of drug crimes that can be used as the basis for forfeiture. The crimes that can still be grounds for forfeiture are: KSA 21-5703, manufacturing controlled substances; 21-5705, cultivation or distribution of controlled substances; 21-5707, using a communication facility to facilitate manufacturing, distribution, cultivation, or possession of controlled substances; 21-5708(b), selling a prescription only drug; 21-5709(a), possessing precursors to manufacture a controlled substance; (b)(1), Manufacture, cultivate, plant, propagate, harvest, test, analyze or distribute a controlled substance; (c), use or possess with intent to use anhydrous ammonia or pressurized ammonia in a container not approved for that chemical by the Kansas Department of Agriculture; (d), purchase, receive or otherwise acquire at retail any compound, mixture or preparation containing more than 3.6 grams of pseudoephedrine base or ephedrine base in any single transaction or any compound, mixture or preparation containing more than nine grams of pseudoephedrine base or ephedrine base within any 30-day period; 21-5710, distribution of drug precursors or drug paraphernalia; 21-5713(a), distribute, possess with the intent to distribute, or manufacture with the intent to distribute any simulated controlled substance; 21-5714, to distribute or intend to distribute a noncontrolled substance that is represented as a controlled substance; 21-5716, unlawful acts involving proceeds derived from violations of KSA 21-5701 through 5717. [Section 1 subsection (b)]

### **Proportionality of Seizure for Forfeiture and Illegal Conduct**

In continuing law, seizures for forfeiture must be “proportional” to the nature and severity of the illegal conduct leading to forfeiture. The law is changed to allow the court to make this determination earlier in the legal process. Proportionality is an 8th amendment issue and has been part of Kansas forfeiture law since 1994. [Section 6]

### **Timelines to Initiate Prosecutor Review**

The time allowed to take the case to the county/district attorney for consideration of forfeiture is reduced from 45 days to 15 days. The district attorney has 14 days from the receipt of the case to act on the request for forfeiture. Upon the expiration of this 14-day time limitation on the county/district attorney, or upon notification the county or district attorney declines the request (whichever occurs first), a local seizing agency has 14 days to request a state law enforcement agency adopt the forfeiture or engage a private attorney to represent the local seizing agency in the forfeiture proceeding. The bill provides the same 14-day time limitation for a state seizing agency to engage an assistant attorney general, or other approved attorney, to represent the state seizing agency in the forfeiture proceeding. [Section 3, subsection (g) through (j)]

If the seizing agency has not engaged an attorney for the forfeiture case within the above time limits, the property seized for forfeiture shall be returned within 30 days to the owner or interest holder or as provided in KSA 22-2512. [Section 3, subsection (i)]

(3)]

#### **Requests for Waiver of Rights to Seized Property is Limited**

When property is seized for forfeiture under this act, the seizing agency shall not request, induce or otherwise coerce a person who has at any time asserted rights as an owner or interest holder of such property to waive in writing such rights in the property until forfeiture proceedings are commenced pursuant to K.S.A. 60-4109.

[Section 3, subsection (p)]

#### **Federal Adoption of Forfeiture Case (New Requirements)**

A state or local law enforcement agency would be allowed to request federal adoption of a seizure under the Act or otherwise transfer or refer seized property to a federal agency only if:

- Seizure by the agency occurs pursuant to a joint task force with federal law enforcement authorities;
- Seizure by the agency occurs pursuant to a joint investigation with federal law enforcement authorities as part of an ongoing federal investigation;
- Agency makes such request in conjunction with a request for federal authorities to adopt the criminal investigation related to the seizure;
- Property seized by the agency is subsequently seized pursuant to a federal seizure warrant, obtained from a federal court, to take custody of assets originally seized under state law;
- Property seized by the agency directly relates to a serious public safety concern; or
- Gross estimated value of the property seized by the agency is \$25,000 or more.

[Section 3, subsection (m)]

#### **Probable Cause Affidavit (New Requirement)**

Law enforcement is required to file an affidavit describing probable cause supporting forfeiture with the court in addition to the notice of pending forfeiture or judicial forfeiture action in order to commence forfeiture proceedings, and the forfeiture could proceed only after a judge has determined there is probable cause to believe the property is subject to forfeiture under the Act.

A copy of this probable cause affidavit must be included with the required notice of a pending forfeiture mailed to an owner or interest holder. This replaces existing law requiring the notice to include an affidavit describing essential facts supporting forfeiture.

[Section 4, subsection (a)(1)(A)]

#### **Notice of Claim Against Seized Property**

If an owner or interest holder files a claim against property seized for forfeiture, the plaintiff's attorney must file a notice of receipt of the claim with the court, unless the claim was already filed. The filing must include a copy of the claim and documents showing the date the claim was mailed and received. [Section 5, subsection (a)(2)]

#### **Authorized Use of Forfeiture Funds**

Only change in the authorized use of forfeiture funds is the addition of paying attorney

fees of the defendant, if assessed by the court, from the forfeiture funds. [Section 9, subsection (e)(2)]

### **Changes in Court Proceedings**

There are numerous changes to be made in court proceedings. I will not try to cover them all here but only the ones directly impacting the law enforcement agency.

### **Burden of Proof**

The burden of proof in a forfeiture proceeding is by “clear and convincing evidence,” in place of by the “preponderance of evidence.” [Section 6, subsection (g)(2) and Section 7, subsection (h)]

### **Assignment of Attorney Fees**

New law provides that if less than half the value of property seized for forfeiture is ordered forfeited, the defendant’s attorney fees must be paid by the agency seizing the items. These costs can be paid from forfeiture funds, but if inadequate forfeiture funds exist, the agency must pay the fees from other funds. The bottom line for this is agencies will be wise to carefully consider the strength of the forfeiture case as it pertains to each item seized prior to filing the case in court. There is no good faith exception included. [Section 8, subsection (f)(2) and Section 9, subsection (e)(2)]

SB458 (2024 SL Ch 83). Amending KSA 60-4104, 60-4106, 60-4107, 60-4109, 60-4111, 60-4112, 60-4113, 60-4116, 60-4117 and 60-4127. Bill Summary. Effective 7/1/24.

## **NOTE ON MANDATORY FORFEITURE REPORTS TO THE KBI:**

Continuing law requires all forfeiture transactions to be reported to the KBI. Ongoing case reporting is required to be submitted within 60 days after final disposition of the case. The annual report, due no later than January 31, is required of every state or local law enforcement agency in the state including a zero report if you have no forfeiture activity during the prior calendar year. For more information, see the KBI website at: <https://kasfr.kbi.ks.gov/>.

Failure to file these reports will result in the agency’s inability to file any forfeiture case until proper reporting is completed. A report of agencies not in compliance with report requirements must be submitted by the KBI to the legislature as part of their annual report to the legislature.