

# Guide To 2022 Kansas Legislation Impacting Law Enforcement

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This document summarizes legislation impacting law enforcement passed by the 2022 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:** <https://kpoa.org/legislation>

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### UPDATED STATUTES

Available now with current changes at:

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

<http://www.kscoplaw.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

### Errata Table

Version	Date	Correction
1.0	6/2/2022	Original Document

## Criminal Law

### **Aircraft, Operating While Intoxicated**

A not very well known state law that has existed since 1982 is operation of an aircraft while intoxicated. That law had never been amended and was woefully out of date. It was updated this year. This is important to law enforcement, although rarely used, because the guidance given by federal authorities for reporting violations of operating an aircraft while intoxicated is to “Call your local law enforcement.” It is also important because federal officials do not have personnel that can respond and collect time sensitive evidence such as breath or blood tests, and without state statute we wouldn’t have the authority to do that either.

The revised law establishes the BAC level for presumption at .04% the same as commercial vehicles and the federal regulations for operating an aircraft while under the influence. It also puts into place a law enforcement process nearly the same as for DUI for requesting and testing of blood or breath, as well as the same procedures for testing for drugs. The main difference is that none of the notices required for DUI are required. Violations of operating an aircraft while intoxicated start out as misdemeanors, the same as DUI, but can escalate to felonies for repeat violations or violations while their pilots license was suspended due to a prior violation of operating an aircraft under the influence.

[HB2377 \(2022 SL Ch 80\) §1-4 and 20-22](#), Replacing KSA 3-1001 through 3-1005 and amending KSA 22-2437, 60-427, 65-1,107. [Bill Summary](#). Effective 7/1/22.

### **Burglary**

The burglary statute is amended to include the entering or remaining in any locked or secured portion of a dwelling, building, manufactured home, mobile home, or other structure without authority and with intent to commit a theft, felony, or sexually motivated crime therein. Existing law only attached burglary to entering the structure *without authority*, but if entry to the structure was authorized entering a portion of the structure *without authority* was not a burglary. The case that brought this change about involved a church which was open for prayer and meditation. Two thieves entered the open portion of the church and then forced entry to the sacristy where items were stolen. The court ruled it was theft, but not a burglary. With this change, such an act will be a burglary. You might be thinking, *wasn’t it a burglary if someone remained in a single business within a mall and committed a theft or if someone entered an open apartment building and forced entry to commit a theft from a single apartment?* The answer is: Yes, that is correct. Over the years, Kansas appellate courts had ruled a portion of a structure that was rented or leased to someone other than the building owner was considered a separate structure subject to the burglary statute.

[SB408 \(2022 SL Ch 73\) §2](#), Amending KSA 21-5807. [Bill Summary](#). Effective 7/1/22.

### **Theft of Mail**

The theft statute is amended with a new sentencing provision covering theft of “mail.” Mail is defined as “a letter, postal card, package or bag sent through the United States postal service or other delivery service, or any other article or thing contained therein.”

The intent is to cover porch piracy with a special sentencing provision for a series of crimes like has been in place for years dealing with serial shoplifting. The new provisions makes it a SL9 nonperson felony for the theft of mail with a “value of less than \$1,500 from three separate locations within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct .”

[HB2492 \(2022 SL Ch 88\) §1](#), Amending KSA 21-5801. [Bill Summary](#). Effective 7/1/22.

### **Theft or Criminal Damage to ATM**

Amends the crimes of theft and aggravated criminal damage to property to address theft or criminal damage to remote service units, defined as cash dispensing machines and automated teller machines (ATMs). The bill amends the definition of “value” to include the cost to restore the site of the theft of a remote service unit to its condition at the time immediately prior to the theft. The bill also amends the crime of aggravated criminal damage to include criminal damage to property where the damage exceeds \$5,000 and is committed with the intent to obtain currency upon a remote service unit.

[HB2492 \(2022 SL Ch 88\) §1](#), amending KSA 21-5801, [Bill Summary](#) and [SB483 \(2022 SL Ch 21\) §2](#), amending KSA 21-5813. [Bill Summary](#). Effective 7/1/22.

### **Child Abuse**

The crime of abuse of a child, KSA 21-5602, is amended making significant changes to the activity in violation of the statute. The new elements are any of the following acts to a child less than 18 years of age: 1) Knowingly torturing, cruelly beating, cruelly striking or cruelly kicking; knowingly inflicting cruel and inhuman corporal punishment; or knowingly using cruel and inhuman physical restraint, including caging or confining the child in a space not designated for human habitation or binding the child in a way that is not medically necessary; OR 2) recklessly causing great bodily harm, abusive head trauma, permanent disability or disfigurement; OR 3) knowingly causing great bodily harm, abusive head trauma, permanent disability or disfigurement; knowingly inflicting cruel and inhuman corporal punishment with a deadly weapon; or knowingly impeding the normal breathing or circulation of blood by applying pressure on the throat, neck or chest of the child or by blocking the nose or mouth of the child in a manner whereby death or great bodily harm could be inflicted.

The penalties are also changed with the crimes described in (1) above remaining a SL5 person felony for a victim who is at least 6 years of age and increased to a SL3 person felony if the victim is under the age of 6. The violations described above in (2) are a SL4 person felony and those in (3) are a SL3 person felony.

[HB2508 \(2022 SL Ch 76\) §2](#), Amending KSA 21-5602. [Bill Summary](#). Effective 7/1/22.

### **Possession Definition Revised**

The definition of “possession” in the criminal code is revised. This is a legal technical change that will have little impact on law enforcement. It strikes the duplicative definition in the drug laws (KSA 21-5701) and changes the definition in KSA 21-5111 which covers all criminal code, including the drug laws. The revision clarifies “knowingly” is the culpability level. This change was made in response to appellate court rulings.

[HB2508 \(2022 SL Ch 76\) §1 and 3](#), Amending KSA 21-5111; 21-5701. [Bill Summary](#). Effective 7/1/22.

## **Pyramid Schemes**

The revised law adds an exemption for certain promotional schemes and creates several definitions specific to this crime. The exemption applies if the participants in the plan or operation give consideration in return for the right to receive compensation based upon purchases of goods, services or intangible property for personal use, consumption or resale if the plan or operation does not cause inventory loading. New definitions are created for the terms “compensation,” “consideration,” “inventory,” “inventory loading,” “person,” and “promote.”

[HB2231 \(2022 SL Ch 32\)](#), Amending KSA 21-5838. [Bill Summary](#). Effective 7/1/22.

## **Racketeering**

The criminal RICO Act is amended to include persons engaging in identity theft or identity fraud and adding those crimes to the list of crimes constituting “racketeering activity.”

[SB300 \(2022 SL Ch 15\)](#), Amending KSA 21-6328. [Bill Summary](#). Effective 7/1/22.

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## Criminal Procedure

### **Appearance Bonds for Fail to Appear (NCIC Entry Requirement)**

A change in law allows for a court to set aside the bond forfeiture from a bond agent if the court fails to issue an arrest warrant within 14-days; the sheriff did not enter the warrant into NCIC within 14-days of the issuance of the warrant, or the defendant is incarcerated outside the state prior to the forfeiture. The requirement to enter the warrant into NCIC only applies to felony non-appearance warrants. The existing law allowing the court to order the bond agent to pay costs for returning the prisoner to your county remains in effect.

[HB2508 \(2022 SL Ch 76\) §4](#), Amending KSA 21-2807. [Bill Summary](#). Effective 7/1/22.

### **Competency**

KDADS requested significant law changes to the competency statutes to allow more competency evaluations and restoration to be completed locally. Key provisions for sheriffs include: 1) The evaluations and restoration and any related services are conducted by KDADS or KDADS contract services and not by the jail (this is meant to assure the county is not responsible for the costs); 2) the evaluation, restoration, or any related services cannot be conducted in the jail without the authorization of the sheriff (or jail administrator for the two counties where the jail is not operated by the sheriff). The intent of this is to expand the resources to complete these functions and reduce the time in jail for defendants awaiting these services. Those that require in-patient evaluation or treatment will still go to Larned for services.

[HB2508 \(2022 SL Ch 76\) §6-11](#), Amending KSA 22-3301, 22-3302, 22-3303, 22-3305, 22-3428 and 22-3429 . [Bill Summary](#). Effective 7/1/22.

### **Preliminary Hearings, Testimony by Electronic Two-Way Audio/Video Communications**

A change in criminal procedure statutes now allows testimony provided in a preliminary hearing to be provided by electronic two-way audio/video communications. It will be up to the prosecuting attorney and the courts to determine how this will be applied.

[HB2508 \(2022 SL Ch 76\) §5](#), Amending KSA 22-2902. [Bill Summary](#). Effective 7/1/22.

### **Restitution in Criminal Case**

Kansas judicial districts may contract with collection services to collect what is owed under an order of restitution in a criminal case. Garnishments are still allowed to be used.

[HB2608 \(2022 SL Ch 31\)](#), Amending KSA 20-169; 21-6604; 22-3424; 60-2310; 60-2403; and also repeals KSA 60-4301; 60-4302; 60-4303; 60-4304; 60-4305 . [Bill Summary](#). Effective 7/1/22.

### **Search Warrants**

KSA 22-2506 is amended to allow up 240 hours (10 days) from the time a search warrant is issued to serve the search warrant. The time limit had been 96 hours. This expanded time is consistent with all the other states around us and all those in the 10th circuit. One of the advantages sought was to allow more time to plan alternatives to no-knock service.

[HB2495 \(2022 SL Ch 92\) §4](#), Amending KSA 22-2506. [Bill Summary](#). Effective 7/1/22.

## **Sexually Violent Predators**

The Sexually Violent Predator statutes are amended by moving the start time for the process in DOC earlier, 2-years instead of 90-days prior to release for notice to be given to the Office of Attorney General. There is a phase-in period for this and the two-year time period will be in full effect by July 1, 2024. This is intended to reduce, and hopefully in many cases eliminate, the time these offenders are in the county jail awaiting a hearing on the civil charge of sexually violent predator. What you should see over the next two years is a tapering off of the number of these offenders going to the county jail and the reduction in time they will be in the county jail if the process isn't complete by the time of their release.

[HB2607 \(2022 SL Ch 47\) §1-3](#), Amending KSA 59-29a02, 59-29a03, 59-29a05 . [Bill Summary](#). Effective 7/1/22.

## **Specialty Courts**

Requires the Kansas Supreme Court to adopt rules for establishment and operation of specialty court programs within the state. The bill allows the chief judge of a judicial district to establish a specialty court program in accordance with those rules. "Specialty court" is defined as a district court program that uses therapeutic or problem-solving procedures to address underlying factors that may be contributing to a person's involvement in the judicial system. Procedures may include treatment, mandatory periodic testing for prohibited drugs or other substances, community supervision, and appropriate sanctions and incentives.

Funding: Any judicial district, local government, or the Judicial Branch may directly apply for, receive, and retain funding for the operation of specialty courts. A Specialty Court Resources Fund is created within the State Treasury administered by the Judicial Administrator. All expenditures from the fund are to be for the operation of specialty court programs. The fund will include appropriations, grants, gifts, contributions, and other public or private sources that are designated for specialty court operations.

Creates a Specialty Court Funding Advisory Committee within the Judicial Branch to: Evaluate resources for assessment and treatment of people assigned to specialty courts or for the operation of specialty courts; secure grants, funds, and other property and services necessary or advantageous to facilitate the operation of specialty courts; recommend to the Judicial Administrator the allocation of resources among the various specialty courts operating within the state; and recommend legislation and rules to aid in development of specialty courts.

Program Completion: A sentence may be reduced or modified for a person successfully completing. The sentence cannot be reduced below the minimum sentence required by law. A judge may order a person who has been found guilty of a crime to participate in the specialty court program. A person who has completed the requirements of a specialty court program may petition the district court for expungement of the conviction and related arrest records.

[HB2361 \(2022 SL Ch 79\) §1, 4](#), [HB2492 \(2022 SL Ch 88\) §2](#) New and amending KSA 21-6604, 21-6614. [Bill Summary](#). Effective 7/1/22.

## **Supervision Consolidation**

A defendant sentenced under more than one case may have their supervision combined under one supervision authority. The purpose is to reduce the situations where a person is reporting to more than one case supervisor or supervisory authority. Rules are established for the courts to follow in determining who the combined supervisory authority will be.

[SB408 \(2022 SL Ch 73\) §3](#), Amending KSA 21-6610. [Bill Summary](#). Effective 7/1/22.

## Law Enforcement Procedure

### **Immigration**

No city or county can prohibit or restrict a law enforcement officer, local official or local government employee, from taking the following actions with regard to information of the citizenship or immigration status, lawful or unlawful, of an individual: (1) Communicate or cooperate with federal officials; (2) send or receive information with the United States department of homeland security; (3) obtain or maintain information; or (4) exchange information with another federal, state, or local government entity. Or to limit enforcement of federal immigration laws.

Municipal identification cards must have “Not valid for state ID” printed on their face. It adds municipal identification cards to the crime of unlawful use of an identification card, KSA 8-1327.

Clarifies existing bias based policing laws are applicable to enforcement of federal immigration law and communications with federal agencies.

HB2717 (2022 SL Ch 51), New Law. Bill Summary. Effective 7/1/22.

### **Jurisdiction of Local Law Enforcement**

The jurisdictional limitations of local law enforcement are defined in KSA 22-2401a. These amendments clean up that statute and make all the existing extensions of jurisdiction apply to all local law enforcement agencies. Those include 1) assist another law enforcement agency upon request; 2) fresh pursuit; and 3) while transporting a person in custody. Those provisions in existing law were not granted to all agencies. The amended law places those extensions into a new subsection making them applicable to all the listed agency types.

An additional extension was added for all agencies to provide an officer investigating a crime that occurred within their home jurisdiction has extended jurisdiction while investigating that crime in another jurisdiction. The law requires when this is being applied that the officer make appropriate notification and coordinate with an agency with jurisdiction where the investigation is taking place. The special jurisdiction provisions in existing law for Sedgwick and Johnson counties are not changed.

Another addition creates a limited extension of jurisdiction when an officer is outside their described jurisdiction and when an activity is observed leading the officer to reasonably suspect a person is committing, has committed or is about to commit a crime and reasonably believe that a person is in imminent danger of death or bodily injury without immediate action. For this extension of jurisdiction to apply the officer must: (1) Be in an on-duty status or traveling in a law enforcement vehicle travelling to or from work or related to a training or law enforcement function outside their jurisdiction; (2) report the activity and their actions to a law enforcement agency with jurisdiction at this location where the activity occurs; (3) remain at the location of the activity and cooperate with officers responding from the jurisdiction of occurrence; and (4) be in uniform or otherwise properly identified as a law enforcement officer.

An agency may create additional restrictions on their own officers by written policy. HB2495 (2022 SL Ch 92) §3, Amending KSA 22-2506. Bill Summary. Effective 7/1/22.

### **Property: Receipts and Reports to Courts**

The requirement to report to the court what items were seized is clarified that such report only applies to seizure of property relevant to a search warrant. This has been the practice for years. It also clarifies that this report of seized property may be submitted to the court electronically in a form and manner approved by the court. The requirement in law to provide a receipt to a person any property is seized from (with or without a search warrant) remains in effect.

[SB367 \(2022 SL Ch 23\)](#) Amending KSA 22-2512. [Bill Summary](#). Effective 7/1/2022.

### **Property: Dangerous Drugs**

A provision is added to allow law enforcement to handle evidence consisting of “dangerous drugs” the same as existing law provides for the handling of hazardous materials. This is intended to allow an agency to document the quantity of illegal drugs, retain a “representative sample” for testing, and destroy the remainder of the illegal drugs. This is aimed primarily at large quantity drug seizures and the hazards associated with highly toxic drugs such as fentanyl, but it is not limited by any stated quantity. “Dangerous drugs” is defined as anything in the drug schedules in KSA 65-4105, 65-4107, 65-4109, and 65-4111. “Representative sample” is defined as an amount large enough to contain a testable amount of substance without destroying the sample completely.” This should include enough for independent testing requested by the defendant if the court orders it.

[SB367 \(2022 SL Ch 23\)](#) Amending KSA 22-2512. [Bill Summary](#). Effective 7/1/2022.

### **Property: Return of Firearms**

The bill also remedies a problem in existing law requiring weapons to be returned to the person from whom we seized it unless the weapon is stolen, in which case we release it to the owner. The bill adds an order of persons to consider releasing a weapon to: 1) the owner if we know who the owner is; 2) a parent or guardian if the weapon is taken from a juvenile; 3) the person who the weapon is seized from. If any of those are prohibited by law from possessing the weapon, the agency is required to notify them of the prohibition determination and to retain the weapon for a minimum of 60-days. This 60-day period allows them to file a court action to challenge the agency determination they are prohibited. If the person is prohibited, a provision is added to ensure compliance with US Supreme Court case law in [Henderson vs. US](#). That ruling states that while a firearms owner may have their right to possess a firearm prohibited, they retain their ownership right of the weapon. This means we must assist them in exercising that right by placing the weapon in a safe place to retain ownership while not possessing it, or for them to sell the firearm through a firearms dealer or other legitimate method.

[SB367 \(2022 SL Ch 23\)](#) Amending KSA 22-2512. [Bill Summary](#). Effective 7/1/2022.

### **Sexual Assault Evidence Kits**

No later than January 31, 2023, every law enforcement agency must have a written policy requiring the Sexual Assault Kits to be submitted to the appropriate forensic lab for analysis. The kit must be submitted for testing within 30 business days of the collection of evidence. The labs are required to examine the evidence in all cases

submitted to them by law enforcement. The policy will also require the resulting lab reports be appropriately distributed to the proper prosecutors and investigators of the crime.

The sexual assault examination can now be performed by appropriate medical personnel at a Child Advocacy Center or any other facility licensed or operated by a physician, physician assistant, or registered nurse. The new law requires the use of a sexual assault kit either supplied by or approved by the KBI. Anonymous sexual assault kit evidence submitted directly to the KBI will now have to be retained for a minimum of 20 years.

A model policy is available on the KBI website. Note there is no exception to submitting the evidence to a forensic lab. This must be done regardless of whether the suspect is known or unknown, whether charges will be filed, or any other circumstance or conclusions from the investigation.

[HB2228 \(2022 SL Ch 40\) §2](#), New statute and amending KSA 38-227 and 65-448. [Bill Summary](#). Effective 7/1/22.

### **Wildlife and Parks Officers: Restriction on Private Property Surveillance**

Officers of the Kansas Department of Wildlife and Parks are now restricted from conducting surveillance on private property unless authorized pursuant to a lawfully issued warrant, court order or subpoena, the constitution of the United States or one of the following exceptions to the search warrant requirement: (1) Exigent circumstances; (2) consent searches; or (3) the plain view doctrine. An exception is allowed when the officer is searching for a missing person. This is not as broad a restriction as it sounds as the term “surveillance” is defined in the statute as, “the installation and use of electronic equipment or devices on private property, including, but not limited to, the installation and use of a tracking device, video camera or audio recording device, to monitor activity or collect information related to the enforcement of the laws of the state of Kansas.” The result of that definition is the restriction only applies to the installation of electronic equipment or devices.

[HB2495 \(2022 SL Ch 92\) §2](#), New law. [Bill Summary](#). Effective 7/1/22.

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## Juveniles

### **Abuse and Neglect Investigations, DCF Information Sharing**

Amendments are made in statute to clarify DCF must share with an investigating law enforcement agency all confidential information they have relating to the report being investigated. This includes: Past reports or investigations concerning such child and such child's siblings, the perpetrator or alleged perpetrator; the name and contact information of the reporter or persons alleging abuse or neglect and case managers, investigators or contracting agency employees assigned to or investigating such report. That information is to be kept confidential by the law enforcement agency except as necessary for investigation, determination of CINC status, and prosecution.

HB2495 (2022 SL Ch 92) §5-7, Amending KSA 38-2210, 38-2211, 38-2212. Bill Summary. Effective 7/1/22.

### **Abuse and Neglect: Mandatory Reporters**

Members of the board of directors of the Kansas state high school activities association and any person who is employed by or is an officer of the association are added to the list of mandatory reporters of suspected child abuse or neglect.

HB2567 (2022 SL Ch 94) §11, Amending KSA 38-2223. Bill Summary. Bill effective 5/26/22; this provision effective 7/1/22.

### **Child Abuse Criminal Law**

See details on page 2.

HB2508 (2022 SL Ch 76) §2, Amending KSA 21-5602. Bill Summary. Effective 7/1/22.

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## **Alcohol**

See [ABC Summary of 2022 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)

### **CMB License Requirements Amended**

The licensing requirement for a recipient of a CMB retailer's license to be of good character and reputation in the community in which the person resides is stricken from the requirements for a CMB license.

[SB2 \(2022 SL Ch 71\) §8](#), KSA 41-2703. [Bill Summary](#). Effective 4/28/22.

### **Farm Wineries May Also Be Issued Other Alcohol Licenses**

A public venue, club or drinking establishment liquor license may be issued to a farm winery or producer license holder regardless of any local zoning regulations or restrictions provided they are a registered agritourism operator.

[SB2 \(2022 SL Ch 71\) §3](#), KSA 41-311. [Bill Summary](#). Effective 4/28/22.

### **Sales and Delivery Between Liquor Stores and Licensees**

Extends wholesale sales and delivery to on-premises licensees. Such sales and deliveries may now be made to licensees in counties with a corner located within two miles measured along the adjacent county boundary.

[SB2 \(2022 SL Ch 71\) §2](#), KSA 41-308. [Bill Summary](#). Effective 4/28/22.

### **State Fairgrounds**

Authorizes the State fair board to set boundaries within the fairgrounds that are marked with three-dimensional barriers which will allow patrons to remove their alcoholic beverages from the temporary permit premises within these boundaries.

Authorizes the sale of spirits in addition to wine and beer. This essentially allows the sale of mixed drinks and cocktails.

[SB2 \(2022 SL Ch 71\) §5, 6, 10, 11](#), KSA 41-719; 41-1201; 79-4108; 79-41a03. [Bill Summary](#). Effective 4/28/22.

### **Temporary Permits not on State Fairgrounds**

Restricts the local city or county from charging more than a \$25 per day non-refundable fee. Requires an applicant to have filed and paid all liquor drink taxes from any previously held temporary permits before they may obtain a subsequent permit. Creates a provision for the director to reject a temporary permit application if the applicant has been granted twelve temporary permits in a calendar year. Section 6(h) (1) in the bill did not change the number of temporary permits an applicant may be issued in a calendar year. Temporary permits will remain limited to four (4) per year until this law is changed.

[SB2 \(2022 SL Ch 71\) §6](#), KSA 41-1201. [Bill Summary](#). Effective 4/28/22.

### **Wine, Domestic: Allowable Alcohol by Volume**

The allowed alcohol content in domestic wine is increased. Domestic fortified wine manufactured in Kansas may have from 16.0% ABV but to no more than 20.0% ABV. Domestic table wine may contain no more than 16.0% ABV.

[SB2 \(2022 SL Ch 71\) §1](#), KSA 41-102. [Bill Summary](#). Effective 1/1/23.

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## Drugs

### **Drug Schedule**

Adds two opiates, one opioid derivative, and one compound containing hallucinogenic substances; updates certain cannabinoid classes and adds a synthetic cannabinoid class to Schedule I (illegal substances); adds one opioid metabolite of oxycodone and oxycodone, one intravenous opioid medication for severe acute pain, and one opioid analgesic to Schedule II (pursuant to Federal scheduling changes); adds one short-acting sedation medication, an insomnia medication, an antidepressant used to treat depression and postpartum depression, and a medication for treatment of sleepiness due to narcolepsy or sleep apnea to Schedule IV (pursuant to Federal scheduling changes); adds a medication for treatment of adult seizures and a drug used to treat migraines to Schedule V (pursuant to Federal scheduling changes); deletes Epidiolex, an FDA approved drug product containing CBD from Schedule IV (pursuant to Federal scheduling changes).

The definition of marijuana is amended in both the pharmacy act and in the criminal code to exclude “drug products approved by the United States Food and Drug Administration.” This will allow the sale in Kansas, through pharmacies and normal medical prescriptions, FDA approved drugs containing THC and CBD. Several new drugs are in final approval stages. Without these changes the FDA approved prescription drugs could not be sold by pharmacies in Kansas.

[HB2540 \(2022 SL Ch 99\)](#), Amends 21-5701, 65-4101, 65-4107, 65-4111 and 65-4113 . [Bill Summary](#). Effective 6/9/22.

### **Hemp: Commercial Industrial Hemp Act**

The Industrial Hemp Research Program has ended and amendments are made to the Commercial Industrial Hemp Act. The definition of “seed research” is repealed. The named Board of Regents Institutions in the definition of “state educational Institution now includes any other college, university, technical college, or community college.

The existing Hemp Advisory Board is now part of the Commercial Industrial Hemp Program. The requirements of membership and required meetings is amended.

KDA is allowed to determine whether to require fingerprinting of persons employed by KDA to oversee or regulate industrial hemp.

The Commercial Industrial Hemp Program adds “standards for authorized seed of clone plants” to the list of topics to be included in the state plan by regulation.

[HB2559 \(2022 SL Ch 69\) §23, 24, 25, 26](#), KSA 2-3901, 2-3902, 2-3903, 2-3906. [Bill Summary](#). Effective 7/1/22.

### **Hemp: Industrial Hemp Testing Services**

The Kansas Department of Agriculture is authorized to provide industrial hemp testing services to non-licensed persons or governmental entities, including law enforcement agencies, when available testing capacity is not required for testing industrial hemp produced by licensees subject to the Commercial Industrial Hemp Act. KDA is

authorized to establish charges for these services by regulation. The new law also requires KDA to provide test results to the KBI upon request.  
HB2559 (2022 SL Ch 69) §9, New law. Bill Summary. Effective 7/1/22.

## Traffic Law

### **Autonomous Vehicles**

Autonomous vehicles will be allowed to operate on Kansas roads and highways. Autonomous vehicles are vehicles operated with automated driving systems and may or may not have a human in the vehicle to alternately take control. These vehicles are authorized in nearly every other state and in operation in several states. Without getting into the details of the operation of these vehicles, our interest is in enforcing traffic laws, investigating crashes, and dealing with other emergencies involving these vehicles. We likely will not see these being in Kansas until well into next year.

Local law enforcement is not responsible for regulating the operation and use of the vehicles, other than our normal traffic obligations of enforcing traffic laws, investigating vehicle crashes, and dealing with emergency situations involving autonomous vehicles such as fires, mechanical breakdown in roadways, etc. The Kansas Highway Patrol has responsibilities to regulate these vehicles and authority to develop administrative regulations relating to their operation. (Sec. 6)

These laws do not include the operation of small low-speed self-operating delivery vehicles not designed to operate on the roadway and generally operated on the sidewalks. Those are still not authorized for use in Kansas.

Emergency information for the vehicles is available two ways. First, each vehicle operating under these statutes must display an emergency contact number on the side of the vehicle. Officers can call this number to contact someone who should be available 24/7 to provide information necessary to deal with issues involving the vehicles. Secondly, the owner of these vehicles must supply a “law enforcement operation plan” to the Kansas Highway Patrol. The information in that plan must include 1) how to contact a fleet support specialist who must be available any time the vehicle is in operation; 2) information regarding safety considerations for first responders in dealing with a driverless-capable vehicle as the result of collision or fire; 3) how to recognize whether the driverless-capable vehicle is in autonomous mode; and 4) any additional information the manufacturer or owner deems necessary regarding hazardous conditions or public safety risk associated with the operation of the vehicle. Details on how the KHP will handle these has yet to be worked out. Presumably, the information will be available 24/7 through the KHP dispatchers.

Enforcement of Traffic Laws: Autonomous Vehicle systems must operate the vehicle in compliance of “all applicable traffic laws and motor vehicle safety laws. (Sec. 2 (c)(2) and Sec. 6) If a human operator is present and the vehicle is not operated in the autonomous mode, they are responsible for traffic violations involving the vehicle. (Sec. 2(e)) If no human operator is present, then the vehicle owner is responsible and may be cited for violations. (Sec. 12, KSA 8-2106(h)).

Investigating crashes: All laws reasonably applicable to these vehicles involving responsibilities if involved in a crash remain applicable. KDOT will develop instructions on how we enter information on crash reports involving these vehicles. (Sec. 4)

[SB313 \(2022 SL Ch 93\)](#), New law. Amending KSA 8-2106 and 8-2204. [Bill Summary](#). Effective 7/1/22.

## **Driver's Licenses: Age Restriction**

An operator of a motor vehicle age 15 (not more and not less than age 15) with an age restricted driver's license may drive between the hours of 6 AM and 9 PM directly to and from religious activities held by a religious organization. Existing law allows a 16 year old with an age restricted license this same ability during the first six months they have their license. The existing restrictions for a person under age 16 to not operate the vehicle with non-sibling passengers, or at least 16 years of age to not operate with more than one passenger less than age 18 who is not a member of the licensee's immediate family still applies.

SB446 (2022 SL Ch 68) §1, Amending KSA 8-2,101. Bill Summary. Effective 7/1/22.

## **DUI**

The DUI laws received major revisions, none directly affecting how a DUI is investigated or processed. No change in the legal advisories is anticipated. The changes are mostly administrative, sentencing, and ignition interlock related.

The oversight of the Ignition Interlock Device certification of manufacturers and service providers is transferred from the Department of Revenue to the KHP.

A provision is added to extend the time required to have an ignition interlock device (IID) if during the 90-days just prior to application for release from the IID requirement there have been two or more standard IID violations or any serious IID violation. The mechanism for reduced cost for an IID based on income is amended with the intent more people will comply.

The provision in law to allow a person suspended for DUI to be issued a motorized bicycle license is repealed.

Penalties for a DUI conviction are amended. Most notably, felony DUI convictions would now be sentenced under the nondrug sentencing grid as a SL6 nonperson felony and time beyond the minimum sentences prior to work release or home arrest would be served in DOC and not the county jail.

Diversions: Amendments allow diversion for an alleged alcohol related offense involving a motor vehicle accident or collision that resulted in personal injury only to the defendant. The city attorney diversion statute is amended to clarify an "alcohol related offense," as used in this statute, is a non-commercial DUI offense.

A statute prohibiting certain diversions for CDL holders is amended to prohibit a prosecuting attorney from masking or deferring imposition of judgment or allowing an individual to enter into a diversion that would prevent a commercial learner's permit or CDL holder's conviction from appearing on the Commercial Driver's License Information System (CDLIS) driver record of any violation of a state or local traffic control law that occurred in any type of motor vehicle, and this provision will apply regardless of whether the driver was convicted for an offense committed in the state where the driver is licensed or in any other state. The bill states this provision would not apply to parking, vehicle weight, or vehicle defect violations.

HB2377 (2022 SL Ch 80) §5-16 & 18-19; HB2492 (2022 SL Ch 88) §2, Amending a large number of statutes. Bill Summary. Effective 7/1/22.

## **Electric Assisted Bicycles**

“Electric-assisted bicycle” continues to mean a bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The motor limitations require a motor using less than 750 watts and meeting the requirements of one of three classes: (1) A class 1 e-bike has a motor that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of 20 mph; (2) A class 2 e-bike is propelled exclusively by a motor and is not capable of providing assistance when the bicycle reaches 20 mph; or (3) A class 3 e-bike has a motor assisting only when the rider is pedaling and ceases to provide assistance when the bicycle reaches 28 mph. Existing laws are amended to exclude electric-assisted bicycles from the Uniform Act Regulating Traffic on the Highways, also from vehicle registration and the definitions of “all-terrain vehicle,” “electric assisted scooter,” “motor vehicle,” “motorcycle,” and “motorized bicycle.” It is not considered to be a motor vehicle. Existing laws on operation of a bicycle apply.

Operation of a class 3 electric assisted bicycle by a person younger than 16 is prohibited but states a person younger than 16 can ride as a passenger if the e-bike is designed to accommodate passengers.

An “electronic bicycle” manufactured or sold after 1/1/23 must have a permanently affixed label in a prominent location containing the classification number, top assisted speed, and motor wattage. Tampering or altering the label is prohibited unless it is changed due to change in classification after modification.

A city may adopt an ordinance to govern the operation of electric assisted bicycles on streets, highways, and sidewalks under its jurisdiction. A city, county, or state agency having jurisdiction over bicycle or multi-use paths, trails, trail network may restrict or prohibit the operation of electric assisted bicycles or certain classes of electric assisted bicycles on those paths.

[SB101 \(2022 SL Ch 43\)](#), KSA 8-126; 8-128; 8-1402a; 8-1437; 8-1438; 8-1439a; 8-1489; 8-1498; 8-1592b; 8-2401; 32-701. [Bill Summary](#). Effective 7/1/22.

## **Registration Plates: Disabled Veteran Plates**

License plates available to a veteran with a disability, or a person responsible for transporting a veteran with a disability, may be issued with and without the international symbol of access to physically disabled persons. The bill prohibits a disabled veteran distinctive license plate from being printed with the international symbol of access unless the veteran meets the definition of “person with a disability” in existing law specifying eligibility for accessible parking. A vehicle with the symbol may be parked in a handicap accessible parking area, but a vehicle displaying a disabled veterans tag without the symbol may not.

[HB2476 \(2022 SL Ch 57\) §6](#), New law. [Bill Summary](#). Effective 7/1/22.

## **Registration Plates: Specialty Plates**

New plates added this year: Down Syndrome; Silver Star; Bronze Medal; KDWP (KS Department of Wildlife and Parks); Daughters of the American Revolution; and City of Hutchinson.

[SB506 \(2022 SL Ch 25\)](#), KSA 8-161. [Bill Summary](#). and [HB2476 \(2022 SL Ch 57\)](#), New law. [Bill Summary](#). Effective 7/1/22.

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## **Offender Registration**

### **Breach of Privacy, Certain Offenses, Requirement to Register**

Convictions for Breach of Privacy, KSA 21-6101, now will require offender registration for 15 years as a sex offender. These only include violations of subsections (a)(6), (a)(7), or (a)(8) and only adult convicts of these additional crimes. Those violations are: (a)(6) installing or using a concealed camcorder, motion picture camera or photographic camera of any type to secretly videotape, film, photograph or record, by electronic or other means, another identifiable person under or through the clothing being worn by that other person or another identifiable person who is nude or in a state of undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to invade the privacy of that other person, under circumstances in which that other person has a reasonable expectation of privacy; (a)(7) disseminating or permitting the dissemination of any videotape, photograph, film or image obtained in violation of subsection (a)(6); or (a)(8) disseminating any videotape, photograph, film or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity and under circumstances in which such identifiable person had a reasonable expectation of privacy, with the intent to harass, threaten or intimidate such identifiable person, and such identifiable person did not consent to such dissemination. It is not clear whether this will apply retroactively to past convictions.

SB366 (2022 SL Ch 83) §2, 3, Amending KSA 22-4902, 22-4906. Bill Summary. Effective 5/12/22.

### **Drug Registration: Early Release from Registration Requirements**

Offenders required to register as a drug offender have a process to request removal from the registration requirements after being in compliance of the offender registration laws for 5 years. Time of incarceration for any charge is not included to account for the five years. The offender cannot be released from the registration requirements if they have been convicted of any felony, except violations of the Offender Registration Act, in the five years preceding the petition for relief or if there are pending felony charges. The court must find the offender's circumstances, behavior and treatment history demonstrate the offender is sufficiently rehabilitated to warrant relief and the registration of the offender is no longer necessary to promote public safety. If the petition is denied, the offender cannot reapply for 3 years. If the request is granted the KBI and the local agency registering the offender must be notified by the court within 14-days of issuance of the order.

SB366 (2022 SL Ch 83) §1, 4, Amending KSA 21-6614; 22-4908. Bill Summary. Effective 5/12/22.

### **Internet Trading of Child Pornography, Requirement to Register and Added to Definition of “Sexually Violent Crime.”**

A conviction for KSA 21-5514, Internet Trading of Child Pornography or Aggravated Internet Trading of Child Pornography, requires registration for 25 years as a sex offender. The registration period is lifetime if the victim was less than 14 years of age. It also adds this crime to the definition of a “sexually violent crime” as used in the Kansas Offender Registration Act.

SB366 (2022 SL Ch 83) §2, 3, Amending KSA 22-4902; 22-4906. Bill Summary. Effective 5/12/22.

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

### **Existing Exceptions Extended**

Several sunset provisions from various Kansas Open Records Act (KORA) were extended indefinitely. Only one of those is of interest to law enforcement:

- KSA 22-4620, concerning release of electronic recordings of felony custodial interrogations.

HB2109 (2022 SL Ch 62) §3, Amending KSA 22-2902. Bill Summary. Effective 7/1/22.

### **License Plate Reader Data**

License plate reader data is added as a KORA exemption. This covers not only the data from the license tags but also the location information of the license plate reader device. It also clarifies any requests related to license plate readers must be directed to the agency owning, leasing or operating the devices, not the owner of the property where it is located (as in KDOT).

SB434 (2022 SL Ch 48), Amending KSA 45-217; 45-220; 45-221. Bill Summary. Effective 7/1/22.

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## Victim Care

### **Victim Compensation: Crime Scene Cleanup**

The state Victim Compensation laws provide for victims of certain crimes to be reimbursed crime scene cleanup costs by application through the Office of Attorney General. This bill increased the maximum of crime scene cleanup reimbursement to \$2500. It also amends the definition of “crime scene cleanup” to include replacement of materials that were removed because such materials were biohazardous or were damaged as part of evidence collection.

[HB2574 \(2022 SL Ch 13\) §1](#), Amending KSA 74-7301. [Bill Summary](#). Effective 7/1/22.

### **Victim Compensation: Mental Health Counseling**

Restores to the list of victims who may be awarded compensation for mental health counseling certain victims removed from eligibility in 2021: victims who are required to testify in a sexually violent predator commitment, are notified that DNA testing of a sexual assault kit or other evidence has revealed a DNA profile of a suspected offender who victimized the victim, or are notified of the identification of a suspected offender who victimized the victim, if such claims are made within two years of the testimony or notification, respectively.

[HB2574 \(2022 SL Ch 13\) §1](#), Amending KSA 74-7301. [Bill Summary](#). Effective 7/1/22.

### **Restitution**

See details on [page 5](#). No direct effect on restitution allowances, but changes the collection methods.

### **Sexual Assault Evidence Kits**

Anonymous sexual assault evidence kits are used to collect evidence by medical personnel from sexual assault victims who do not wish to make a police report. These kits are submitted by the medical facility directly to the KBI where they are stored. The victim may later make a police report. The kits are not examined by the KBI unless a police report is later filed.

See page 8 for more details.

[HB2228 \(2022 SL Ch 40\) §2, 3](#), amending KSA 38-2227 and 65-448. [Bill Summary](#). Effective 7/1/22.

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## **Mental Health Legislation**

### **988 Suicide Prevention and Mental Health Crisis Hotline**

Funding was approved for the 988 suicide hotline. The operational authorization was also passed. The Hotline will: 1) Receive all calls initiated by a service user dialing 988 from service providers; 2) deploy crisis services, including mobile crisis teams, according to KDADS guidelines; 3) coordinate access to crisis stabilization services or other local resources as appropriate according to KDADS guidelines; 4) provide referrals and follow-ups according to KDADS guidelines; 5) meet training requirements established by NSPL and KDADS; and 6) work with the VA to route calls from self-designated veterans for the provision of Veterans Crisis Line services.

[SB19 \(2022 SL Ch 100\)](#), Creates new law . [Bill Summary](#). Effective 7/1/22.

### **Competency**

See details on [page 5](#).

[HB2508 \(2022 SL Ch 76\) §6-11](#), Amending KSA 22-3301, 22-3302, 22-3303, 22-3305, 22-3428 and 22-3429 . [Bill Summary](#). Effective 7/1/22.

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

- ◆ \$15 million for startup funding for 50 bed regional state hospital beds in south-central Kansas for voluntary, involuntary, and competency. These funds cannot be released until an interim committee approves a plan for such a facility and the expenditure is further approved by the State Finance Council.

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## Employee Benefits

### **Educational Benefits for Disabled Officers and their Spouses and Dependents**

The provisions passed last year creating educational benefits for disabled officers and the dependents of officers disabled in the line of duty were amended to define “accident,” “covered person,” “fees,” “injured or disabled,” “injury,” “intentional act of violence,” “nature of employment,” “public safety employee,” and “repetitive trauma.” These terms were not defined in the original bill and were necessary to clarify the intent of the law.

It is also now called the “Kansas Hero’s Scholarship Act.”

[HB2567 \(2022 SL Ch 94\) §34](#), New law. [Bill Summary](#)

### **KP&F: Purchase of Past Service Time**

The existing KPERS laws had more restrictive provisions for purchasing past service time for KP&F members than regular KPERS members had. The law was amended to provide the same provisions in both plans. The main change allows KP&F members to purchase past service time for service with other Kansas government agencies where their retirement benefits were forfeited either by lack of vesting or by choice. For example, if you were employed at another agency not under a KPERS plan, you can purchase that time of employment to be included in your years of service calculation in a KPERS plan you are currently a member of. This also applies to previous time in a KPERS plan that you have forfeited the benefits from due to not vesting or by choice, if you are a current KPERS member. The cost of such a purchase is computed for each individual case and is the total cost to the KPERS system computed by the actuary.

[HB2481 \(2022 SL Ch 28\)](#), New law. [Bill Summary](#). Effective 7/1/22.

### **KPERS: Unfunded Actuarial Liability**

The legislature continued their practice of the past few years to place extra funding into the KPERS system to make up for many years of underpayments. This year they have approved shifting \$1.125 billion into the fund. This makes the overall KPERS funded ratio above 80%, the first time in many years we have been at that bench mark.

On May 20, the KPERS Board lowered the expected investment return assumption downward by 0.75%. This will increase the unfunded liability by \$1.8B, reducing the funded ratio to well under the 80% goal that the \$1.125B payment to the fund achieved. This change also will likely result in a recalculation of the employer contribution rate, and raising the employer contribution rates.

[SB421 \(2022 SL Ch 90\)](#), New law. [Bill Summary](#). Effective 5/19/22.

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## **Other Legislation**

### **KHP Aircraft**

The 2022 Legislature approved significant funding for upgrading KHP aircraft. Funding was approved to purchase one new helicopter with FLIR and one fixed wing aircraft with FLIR. Two new FLIR units will also be purchased to replace outdated systems on existing aircraft.

### **Rap-Back for Employment Fingerprint Records Checks**

Legislation was passed to allow fingerprints for employment application records checks to be retained by the KBI for the purpose of utilizing the rap-back feature. This will reduce the need for those employees to repeatedly have new fingerprints taken periodically for license renewals or verification of status.

[HB2495 \(2022 SL Ch 92\) §1](#), New Law. [Bill Summary](#). Effective 7/1/22.

### **Sheriff Preservation Constitutional Amendment**

The resolution to add a constitutional amendment to require each county (Riley County Exempted) to have an elected sheriff was passed. The question will be on the November ballot. Since the KSA is a non-profit organization and does not have a Political Action Committee, they cannot fund a campaign to support this amendment. It is up to each sheriff to communicate with their constituents on this vote and encourage them to vote “Yes” for the amendment.

[HCR5022](#) Will be on November statewide ballot [Summary](#).

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## 2022 Legislative Session Major Law Changes

(All laws are effective July 1, 2022, unless indicated otherwise)

<p>Appearance Bonds, Waiver of Forfeiture  Effective 7/1/22  <u>HB2508 §4</u></p>	<p>Sheriffs are required to enter all felony failure to appear warrants into NCIC unless the warrant is served within 14 days of issuance of the warrant. The court must be notified if that is not done. Forfeiture of the bond will be set aside if: 1) The NCIC entry is not done; 2) the court fails to issue a warrant within 14 days of the forfeiture; 3) the person is in custody somewhere in the US at the time of forfeiture; or 4) the defendant is arrested outside the state and extradition is not sought. Existing law is unchanged allowing the court to require the surety to pay the cost of transporting the defendant back to the county.</p>
<p>ATM Machines: Theft and Criminal Damage  Effective 7/1/22  <u>HB2492 §1</u>  <u>SB483 §2</u></p>	<p>The theft statute, KSA 21-5801, was amended to provide the theft loss value includes the cost of restoring the site of a “remote service unit” (basically an ATM) to its condition prior to the theft. This is similar to the rule for theft loss calculations for the theft of scrap metal.</p> <p>The aggravated criminal damage to property statute, KSA 21-5813, is amended to include damage in excess of \$5,000 to a “remote service unit” with intent to obtain the cash from the machine. Again, similar to the scrap metal provisions.</p>
<p>Burglary  Effective 7/1/22  <u>SB408 §2</u></p>	<p>The burglary statute was amended to clarify that even if the perpetrator enters a “structure” <u>with</u> authorization, if they enter into a secure portion of that structure <u>without</u> authority with intent to commit a theft, felony, or sexually motivated crime it is a burglary. Past court rulings have interpreted the law as requiring the entry into the <u>structure</u> had to be without authority, with the exception they created in case law for the portions of structure leased or rented by a person or entity other than the building owner. For example, a person entering a mall with authority but breaking into a closed business within the mall was a burglary. But a person entering an area of a church with authority then forcing entry to a locked room to commit a theft was not.</p>
<p>Child Abuse  Effective 7/1/22  <u>HB2508 §2</u></p>	<p>The bill amends the elements of the crime of abuse of a child to include any of the following acts against a child under 18 years of age: 1) Knowingly torturing, cruelly beating, cruelly striking, or cruelly kicking (a severity level 5 person felony if the child is at least 6 years of age but less than 18 years of age and a severity level 3 person felony if the child is under 6 years of age); 2) Knowingly inflicting cruel and inhuman corporal punishment or knowingly using cruel and inhuman physical restraint, including caging or confining the child in a space not designated for human habitation or binding the child in a way that is not medically necessary (a severity level 5 person felony if the child is at least 6 years of age but less than 18 years of age and a severity level 3 person felony if the child is under 6 years of age); 3) Recklessly causing great bodily harm, abusive head trauma, permanent disability, or disfigurement (a severity level 4 person felony); 4) Knowingly causing great bodily harm, abusive head trauma, permanent disability, or disfigurement (a severity level 3 person felony); Knowingly inflicting cruel and inhuman corporal punishment with a deadly weapon (a severity level 3 person felony); or 5) Knowingly impeding the normal breathing or circulation of the blood by applying pressure on the throat, neck, or chest of the child or by blocking the nose or mouth of the child in a manner whereby death or great bodily harm may be inflicted (a severity level 3 person felony).</p>

<p>Child Abuse and Neglect Investigations: Sharing on information by DCF</p> <p>Effective 7/1/22</p> <p><a href="#">HB2299</a> §5-7</p>	<p>The statutes on sharing information between law enforcement and DCF during investigations of child abuse or neglect crimes are clarified to include all records that DCF maintains. The key amendment is in KSA 38-2212, adding a new subsection (e) placing the statutory rules for DCF sharing information with law enforcement in one place. That new section states:</p> <p><i>(e) Law enforcement access. The secretary shall disclose confidential agency records of a child alleged or adjudicated to be a child in need of care, as described in K.S.A. 38-2209, and amendments thereto, to the law enforcement agency investigating the alleged or substantiated report or investigation of abuse or neglect, regardless of the disposition of such report or investigation. Such records shall include, but not be limited to, any information regarding such report or investigation, records of past reports or investigations concerning such child and such child's siblings and the perpetrator or alleged perpetrator and the name and contact information of the reporter or persons alleging abuse or neglect and case managers, investigators or contracting agency employees assigned to or investigating such report. Such records shall only be used for the purposes of investigating the alleged or substantiated report or investigation of abuse or neglect.</i></p> <p>The intent is to stop DCF from sending redacted reports to law enforcement and to assure law enforcement is supplied with all relative information in any case under investigation alleging child abuse or neglect. To further clarify this, amendments were made in KSA 38-2210 and 38-2211 referencing the new subsection and specifically adding “an investigating law enforcement agency” to the various lists of who can access different types of DCF information.</p>
<p>Competency</p> <p>Effective 7/1/22</p> <p><a href="#">HB2508</a> §6-11</p>	<p>The competency laws are amended to allow a court to order evaluation or treatment for competency at any appropriate state, county, or private institution or facility. It defines “appropriate state, county, or private institution or facility” (appropriate facility) to mean a facility with sufficient resources, staffing, and space to conduct the evaluation or restoration treatment of the defendant. The bill clarifies the evaluation or treatment is not performed <u>by</u> the jail but may be performed <u>at</u> a jail only if the administrative head or law enforcement official in charge of the jail or correctional facility agrees and the facility has the appropriate physical and care capabilities for such evaluation and treatment. It further clarifies the services are provided by: 1) The state security hospital or its agent or a state hospital or its agent; 2) A qualified mental health professional, as defined in the Care and Treatment Act for Mentally Ill Persons, who is qualified by training and expertise to conduct competency restoration treatment; 3) An individual who is qualified by training and experience to conduct competency evaluations and restoration treatment and is licensed by the Behavioral Sciences Regulatory Board; or 4) A physician who is qualified by training and experience to conduct competency evaluations and restoration treatment and is licensed by the State Board of Healing Arts.</p> <p>Forced medication cannot be performed at a jail unless the administrative head or law enforcement official in charge of the jail or correctional facility agrees and the facility has the appropriate physical and care capabilities.</p>

<p>Driver's License, Age Restriction Effective 7/1/22 <u>SB446 §1</u></p>	<p>A 15 year old with an age restricted driver's license may drive on a direct route to and from a religious activity held by a religious organization between 6 AM and 9 PM.</p>
<p>DUI Effective 7/1/22 <u>HB2377 §5-16 &amp; 18-19</u> <u>HB2492 §2</u></p>	<p>Significant amendments are made to the DUI laws, most are procedural affecting administrative, reporting, and sentencing requirements. 3rd offense DUI and 4th or subsequent DUI is moved from a non-grid felony to an on-grid SL6 nonperson felony. Time served for felony DUI, except minimum sentences prior to probation, work-release, or house arrest, are transferred from the county jail to DOC.</p>
<p>Immigration: Prohibiting Sanctuary Cities or Counties Effective 7/1/22 <u>HB2717</u></p>	<p>No city or county can prohibit or restrict a law enforcement officer, local official or local government employee, from taking the following actions with regard to information of the citizenship or immigration status, lawful or unlawful, of an individual: (1) Communicate or cooperate with federal officials; (2) send or receive information with the United States Department of Homeland Security; (3) obtain or maintain information; or (4) exchange information with another federal, state, or local government entity. It also prohibits limiting enforcement of federal immigration laws.</p> <p>Municipal identification cards must have "Not valid for state ID" printed on their face. It adds municipal identification cards to the crime of unlawful use of an identification card, KSA 8-1327.</p> <p>Clarifies existing bias based policing laws are applicable to enforcement of federal immigration law and communications with federal agencies.</p>
<p>Law Enforcement Jurisdiction Effective 7/1/22 <u>HB2299 §3 &amp; 8</u></p>	<p>KSA 22-2401a, the law on law enforcement jurisdiction, generally has three situations where local law enforcement is allowed jurisdiction (or authority to exercise the powers of a law enforcement officers). However, those three situations were not evenly applied to each of the law enforcement agency types. To fix this, those terms were removed from each of the specific agency provisions and placed in subsection (h) (1) through (3) so they apply equally to all types of agencies. Those are 1) assisting another law enforcement agency on request; 2) in fresh pursuit; and 3) when transporting persons in custody.</p> <p>In addition to those situations, the bill adds a provision to cover an officer who is outside their jurisdiction investigating a crime occurring in their jurisdiction. In this situation the officer must notify the agency with jurisdiction of the location the investigation will take place and coordinate with that agency. This notification is to support officer safety and safety of the person contacted.</p> <p>The bill also adds a provision to cover officers who are on-duty or travelling in a law enforcement vehicle and is either in uniform or otherwise properly identified as a law enforcement officer. It applies while going to or from work, or travelling for a law enforcement function and if the officer reasonably suspects a person is committing, has committed or is about to commit a crime and reasonably believes that a person is in imminent danger of death or bodily injury without immediate action. In acting under these conditions the officer is required to notify the agency with jurisdiction and remain at the location until officers with jurisdiction arrives. Any agency can impose further restrictions on their own officers by written policy.</p>

<p>License Plate Readers: Open Records Exception</p> <p>Effective 7/1/22</p> <p><a href="#">SB434</a></p>	<p>The Kansas Open Records Act is amended to exempt license plate reader data from release upon an open records request. It also exempts the location information about where license plate readers are deployed.</p> <p>This amendment is intended to address the concerns of KDOT and allow for agencies to enter into agreements with KDOT to place license plate readers on state or federal highways.</p>
<p>Property Disposition</p> <p>Effective 7/1/22</p> <p><a href="#">SB367</a></p>	<p>The statute on disposition of seized property, KSA 22-2512 is amended to clean up several different issues in existing law.</p> <p>The requirement to report to the court what items were seized is clarified that such report only applies to seizure of property relevant to a search warrant. This has been the practice for years. It also clarifies that this report of seized property <u>may</u> be submitted to the court electronically in a form and manner approved by the court. The existing law to provide a receipt to a person any property is seized from (with or without a search warrant) remains in effect.</p> <p>A provision is added to allow law enforcement to handle evidence consisting of “dangerous drugs” the same as existing law provides for the handling of hazardous materials. This is intended to allow an agency to document the quantity of illegal drugs, retain a “representative sample” for testing, and destroy the remainder of the illegal drugs. This is aimed primarily at large quantity drug seizures, but it is not limited by any stated quantity. “Dangerous drugs” is defined as anything in the drug schedules in KSA 65-4105, 65-4107, 65-4109, and 65-4111. “Representative sample” is defined as an amount large enough to contain a testable amount of substance without destroying the sample completely.” <u>This should include enough for independent testing requested by the defendant if the court orders it.</u></p> <p>The bill also remedies a problem in existing law requiring weapons to be returned to the person from whom we seized it unless the weapon is stolen, in which case we release it to the owner. The bill adds an order of persons to release a weapon to: 1) the owner if we know who the owner is; 2) a parent or guardian if the weapon is taken from a juvenile; 3) the person who the weapon is seized from. If any of those are prohibited by law from possessing the weapon, the agency is required to notify them of the prohibition determination and to retain the weapon for a minimum of 60-days. This 60-day period allows them to file a court action to challenge the agency determination they are prohibited. If the person is prohibited, a provision is added to ensure compliance with US Supreme Court case law in <u>Henderson vs. US</u>, ruling that while a firearms owner may have their right to <u>possess</u> a firearm prohibited, they retain their <u>ownership</u> right of the weapon. This means we must assist them in exercising that ownership right by placing the weapon in a safe place to retain ownership while not possessing it, or for them to sell the firearm through a firearms dealer or other legitimate method. Law enforcement should not arbitrarily destroy or sell a weapon seized under these conditions without consent of the owner.</p>
<p>Search Warrants</p> <p>Effective 7/1/22</p> <p><a href="#">HB2299 §4</a></p>	<p>The search warrant statute, KSA 22-2506, is amended to allow 240 hours (10 days) from the time the judge issues a search warrant for it to be served. This is consistent with the majority of states and with all of the surrounding states and all of the states in the 10th Circuit. The idea is to provide more time for law enforcement to find safer alternatives for service and minimize the need for no-knock entry.</p>

<p>Sexual Assault Kit Procedures</p> <p>Effective 7/1/22</p> <p><a href="#">HB2228</a></p>	<p>New law was created to require every law enforcement agency to have a written policy in place by January 31, 2023, ensuring all sexual assault evidence kits are submitted to a forensic laboratory within 30 business days of collection and include a procedure to ensure the examination results are received by the investigating officer upon the completion of the examination. This is meant to be sure all sexual assault kits are submitted to the KBI, regardless of the investigator’s or prosecutor’s belief of necessity and to address a problem sometimes occurring in large agencies where the lab report is received and placed into a file without the knowledge of the investigator. The law requires each law enforcement agency to collaborate with the prosecutor in the development of policy. There is a model policy available at: <a href="https://www.kansas.gov/kbi/saki.shtml">https://www.kansas.gov/kbi/saki.shtml</a>.</p> <p>The law also is changed to allow qualified medical personnel in a Child Advocacy Center or a facility licensed or operated by a physician, physician assistant, or registered nurse to conduct the exams. It also requires the sexual assault kit used is one supplied by or approved by the KBI.</p> <p>The unreported (anonymous) kits submitted directly to the KBI will be retained by the KBI for a minimum of 20 years.</p>
<p>Sexually Violent Predator Process</p> <p>Effective 7/1/22</p> <p><a href="#">HB2607</a> §1-3</p>	<p>The process of determining of whether a sex offender is a sexually violent predator is amended. The amendments do not change the steps in the process, but moves the start of the process earlier while they are still in DOC. Currently that time frame for DOC to notify the Office of the Attorney General that the offender may meet the sexually violent predator criteria is 90 days prior to anticipated release. The amendments will move that to two years prior to anticipated release. This will allow much of the court process to take place while the offender is still in DOC. This will reduce, and in some cases eliminate, those offenders having lengthy stays in the county jail. The sheriff will still be responsible for transporting the offender from DOC to court hearings. This change is phased in over two years to allow DOC to make a more orderly transition.</p>
<p>Theft (Porch Piracy)</p> <p>Effective 7/1/22</p> <p><a href="#">HB2492</a> §1</p>	<p>The theft statute is amended to make it a SL9 nonperson felony to steal packages from where they are delivered if there are three or more locations victimized by the thief within a 72 hours period and the value of each theft is less than \$1500.</p>
<p>Victim Support: Victim Compensation</p> <p>Effective 7/1/22</p> <p><a href="#">HB2574</a> §5-7</p>	<p>The Victim Compensation allowed expenses statute, KSA 74-7301, was amended to increase the maximum amount of compensation for a funeral from \$5,000 to \$7,500; and for crime scene cleanup from \$1,000 to \$2,500. The clean up provision is also amended to include the cost of “materials that were removed because such materials were biohazardous or were damaged as part of evidence collection.”</p> <p>An amendment to the Victim Compensation for mental health counseling adds compensation to a victim testifying in a sexually violent predator commitment or a victim who is notified of that DNA testing has identified the offender.</p>

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## Ten Things from the 2022 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.kscoplax.com/thelawpage.htm>.

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

### 1. **Burglary**

The burglary statute is amended to include entering or remaining in any locked or secured portion of a dwelling, building, manufactured home, mobile home, or other structure without authority and with intent to commit a theft, felony, or sexually motivated crime therein. Existing law only attached burglary to entering the *structure without authority*, but if entry to the structure was authorized, entering a portion of the structure *without authority* was not a burglary. The case that brought this change about involved a church which was open for prayer and meditation. Two thieves entered the open portion of the church and then forced entry to the sacristy where items were stolen. The court ruled it was theft, but not burglary. With this change, such an act will be a burglary. You might be thinking, *wasn't it a burglary if someone remained or entered into a single business within a mall and committed a theft or if someone entered an open apartment building and forced entry to commit a theft from a single apartment?* The answer is: Yes, that is correct. Over the years, Kansas appellate courts had ruled a portion of a structure that was rented or leased to someone other than the building owner was considered a separate structure subject to the burglary statute.

[SB408 \(2022 SL Ch 73\) §2](#), Amending KSA 21-5807. [Bill Summary](#). Effective 7/1/22.

### 2. **Theft**

*Porch Pirates:* The theft statute is amended with a new sentencing provision covering theft of "mail." Mail is defined as "a letter, postal card, package or bag sent through the United States postal service or other delivery service, or any other article or thing contained therein." The intent is to cover porch piracy with a special sentencing provision for a series of crimes like has been in place for years dealing with serial shoplifting. The new provisions makes it a SL9 nonperson felony for the theft of mail with a "value of less than \$1,500 from three separate locations within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct."

[HB2492 \(2022 SL Ch 88\) §1](#), Amending KSA 21-5801. [Bill Summary](#). Effective 7/1/22.

*ATM Machines:* Amends the crimes of theft and aggravated criminal damage to property to address theft or criminal damage to remote service units, defined as cash dispensing machines and automated teller machines (ATMs). The bill amends the definition of "value" to include the cost to restore the site of the theft involving a remote service unit to its condition at the time immediately prior to the theft. The bill also amends the crime of aggravated criminal damage to include criminal damage to property where the damage exceeds \$5,000 and is committed with the intent to obtain currency upon a remote service unit.

[HB2492 \(2022 SL Ch 88\) §1](#), amending KSA 21-5801, [Bill Summary](#) and [SB483 \(2022 SL Ch 21\) §2](#), amending KSA 21-5813. [Bill Summary](#). Effective 7/1/22.

### 3. **Child Abuse and Neglect Crime Elements**

The crime of abuse of a child, KSA 21-5602, is amended making significant changes to the activity in violation of the statute. The new elements are any of the following acts to a child less than 18 years of age: 1) Knowingly torturing, cruelly beating, cruelly striking or cruelly kicking; knowingly inflicting cruel and inhuman corporal punishment; or knowingly using cruel and inhuman physical restraint, including caging or confining the child in a space not designated for human habitation or binding the child in a way that is not medically necessary; OR 2) recklessly causing great bodily harm, abusive head trauma, permanent disability or disfigurement; OR 3) knowingly causing great bodily harm, abusive head trauma, permanent disability or disfigurement; knowingly inflicting cruel and inhuman corporal punishment with a deadly weapon; or knowingly impeding the normal breathing or circulation of blood by applying pressure on the throat, neck or chest of the child or by blocking the nose or mouth of the child in a manner whereby death or great bodily harm could be inflicted.

The penalties are also changed with the crimes described in (1) above remaining a SL5 person felony for a victim who is at least 6 years of age and increased to a SL3 person felony if the victim is under the age of 6. The violations described above in (2) are a SL4 person felony and those in (3) are a SL3 person felony.

[HB2508 \(2022 SL Ch 76\) §2](#), Amending KSA 21-5602. [Bill Summary](#). Effective 7/1/22.

### 4. **Age Restricted Driver's License**

KSA 8-2,101 is amended to allow a motor vehicle operator age 15 (not more and not less than age 15) with an age restricted driver's license to drive between the hours of 6 AM and 9 PM directly to and from religious activities held by a religious organization. An existing provision allowing this for a 16 year old with an age restricted license remains in effect.

[SB446 \(2022 SL Ch 68\) §1](#), Amending KSA 8-2,101. [Bill Summary](#). Effective 7/1/22.

### 5. **Service of Search Warrants**

KSA 22-2506 is amended to allow up 240 hours (10 days) from the time a search warrant is issued to serve the search warrant. The time limit had been 96 hours. This expanded time is consistent with all the other states around us and all those in the 10th circuit. One of the advantages sought was to allow more time to plan alternatives to no-knock service.

[HB2495 \(2022 SL Ch 92\) §4](#), Amending KSA 22-2506. [Bill Summary](#). Effective 7/1/22.

### 6. **Sexual Assault Evidence**

No later than 1/31/23, every law enforcement agency must have a written policy requiring Sexual Assault Kits collected in relation to a report of a sexual assault be submitted to the appropriate forensic lab for examination. The kit must be submitted to the lab within 30 business days of collection. The labs are required to examine the evidence in all cases submitted by law enforcement. The policy must also require the resulting lab reports be appropriately distributed to the proper prosecutors and investigators of the crime. The sexual assault examination can now be performed by appropriate medical personnel at a Child Advocacy Center or any other facility licensed or operated by a physician, physician assistant, or registered nurse. The new law requires the use of a sexual assault kit either supplied by or approved by the KBI. Anonymous sexual assault kit evidence submitted directly to the KBI will now have to be retained for a minimum of 20 years.

Note there is no exception to submitting the evidence to a forensic lab. This must be done regardless of whether the suspect is known or unknown, whether charges will be filed, or any other circumstance or conclusions from the investigation.

HB2228 (2022 SL Ch 40) §2, New statute & amending KSA 38-227 and 65-448. Bill Summary. Effective 7/1/22.

## 7. **DUI**

The DUI laws received major revisions but none directly affect law enforcement operations or how a DUI is investigated, processed, or provided legal advisories. The changes are mostly administrative, sentencing, and ignition interlock related. 3rd offense DUI and 4th or subsequent DUI is moved from a non-grid felony to an on-grid SL6 nonperson felony.

HB2377 (2022 SL Ch 80) §5-16 & 18-19, HB2492 (2022 SL Ch 88) §2, Amending a large number of statutes. Bill Summary. Effective 7/1/22.

## 8. **Law Enforcement Jurisdiction**

The jurisdictional limitations of local law enforcement are defined in KSA 22-2401a. These amendments clean up that statute and make all of the existing extensions of jurisdiction apply to all local law enforcement agencies. Those include 1) assist another law enforcement agency upon request; 2) fresh pursuit; and 3) while transporting a person in custody. Those provisions in existing law were not granted to all agencies. To fix this, those terms were removed from each of the specific agency provisions and placed in subsection (h) (1) through (3) so they apply equally to all types of agencies.

An additional extension was added for all agency types providing an officer investigating a crime that occurred within their home jurisdiction has extended jurisdiction while investigating that crime in another jurisdiction. The law requires when this is being applied that the officer make appropriate notification and coordinate with an agency with jurisdiction where the investigation is taking place. The special jurisdiction provisions in existing law for Sedgwick and Johnson counties are not changed.

Another addition creates a limited extension of jurisdiction when an officer is outside their described jurisdiction and when an activity is observed leading the officer to reasonably suspect a person is committing, has committed or is about to commit a crime and reasonably believe that a person is in imminent danger of death or bodily injury without immediate action. For this extension of jurisdiction to apply the officer must: (1) Be in an on-duty status, traveling in a law enforcement vehicle to or from work or traveling to a training or law enforcement function outside their jurisdiction; (2) be in uniform or otherwise properly identified as a law enforcement officer; (3) report the activity and their actions to a law enforcement agency with jurisdiction at this location where the activity occurs; and (4) remain at the location of the activity and cooperate with officers responding from the jurisdiction of occurrence. An agency may create additional restrictions on their own officers by written policy.

HB2495 (2022 SL Ch 92) §3, Amending KSA 22-2401a. Bill Summary. Effective 7/1/22.

## 9. **Child Abuse or Neglect Investigations; Information Sharing by DCF**

The statutes on sharing information between law enforcement and DCF during investigations of child abuse or neglect crimes are clarified to include all records that DCF maintains. The key amendment is in KSA 38-2212, adding a new subsection (e) placing the

statutory rules for DCF sharing information with law enforcement in one place. That new section states:

*(e) Law enforcement access. The secretary shall disclose confidential agency records of a child alleged or adjudicated to be a child in need of care, as described in K.S.A. 38-2209, and amendments thereto, to the law enforcement agency investigating the alleged or substantiated report or investigation of abuse or neglect, regardless of the disposition of such report or investigation. Such records shall include, but not be limited to, any information regarding such report or investigation, records of past reports or investigations concerning such child and such child's siblings and the perpetrator or alleged perpetrator and the name and contact information of the reporter or persons alleging abuse or neglect and case managers, investigators or contracting agency employees assigned to or investigating such report. Such records shall only be used for the purposes of investigating the alleged or substantiated report or investigation of abuse or neglect.*

The intent is to stop DCF from sending redacted reports to law enforcement and to assure law enforcement is supplied with all relative information in any case under investigation alleging child abuse or neglect. To further clarify this, amendments were made in KSA 38-2210 and 38-2211 referencing the new subsection and specifically adding “an investigating law enforcement agency” to the various lists of who can access different types of DCF information.

Amendments are made in statute to clarify DCF must share with an investigating law enforcement agency all confidential information they have relating to the report being investigated. This includes: Past reports or investigations concerning such child and such child's siblings, the perpetrator or alleged perpetrator; the name and contact information of the reporter or persons alleging abuse or neglect and case managers, investigators or contracting agency employees assigned to or investigating such report. That information is only to be kept confidential by the law enforcement agency except as necessary for investigation, determination of CINC status, and prosecution.

HB2495 (2022 SL Ch 92) §5-7, Amending KSA 38-2210, 38-2211, 38-2212. Bill Summary. Effective 7/1/22.

#### **10. KPERS: Purchase of Past Service Time**

The existing KPERS laws had more restrictive provisions for purchasing past service time for KP&F members than regular KPERS members had. The law was amended to provide the same provisions in both plans. The main change allows KP&F members to purchase past service time for service with other Kansas government agencies where their retirement benefits were forfeited either by lack of vesting or by choice. For example, if you were employed at another agency not under a KPERS plan, you can purchase that time of employment to be included in your years of service calculation in a KPERS plan you are currently a member of. This also applies to previous time in a KPERS plan that you have forfeited the benefits from due to not vesting or by choice, if you are a current KPERS member. The cost of such a purchase is computed for each individual case and is the total cost to the KPERS system computed by the actuary.

HB2481 (2022 SL Ch 28), New law. Bill Summary. Effective 7/1/22.



## Things from the 2022 Kansas Legislative Session Every Law Enforcement Administrator Should Know

### 1. Law Enforcement Jurisdiction (Written Policy Optional)

KSA 22-2401a, the law on law enforcement jurisdiction, generally has three situations where local law enforcement is allowed jurisdiction (or authority to exercise the powers of a law enforcement officers) outside of their home jurisdiction. However, those three situations were not evenly applied to each agency types. To fix this, those terms were removed from each specific agency provisions and placed in subsection (h) (1) through (3) so they apply equally to all types of agencies. Those are 1) assisting another law enforcement agency on request; 2) in fresh pursuit; and 3) when transporting persons in custody.

In addition to those situations, the bill adds a provision to cover an officer who is outside their jurisdiction investigating a crime occurring in their jurisdiction. In this situation the officer must notify and coordinate with the agency of jurisdiction where the investigation will take place.

The bill also adds a provision to cover officers who are on-duty or travelling in a law enforcement vehicle, going to or from work or travelling for a law enforcement function, and the officer is in uniform or otherwise properly identified as a law enforcement officer. When meeting those conditions jurisdiction is provided if they 1) reasonably suspect a person is committing, has committed or is about to commit a crime, and 2) reasonably believes that a person is in imminent danger of death or bodily injury without immediate action. The officer is required to notify the agency with jurisdiction, remain at the location until officers from an agency with jurisdiction arrives, and cooperate with those officers in investigating the event.

There is no change to the special provision for Johnson and Sedgwick counties, or in the special requirements for agreements between agencies already in existing law.

Any agency can impose further restrictions on their own officers by written policy.  
[HB2299 \(2022 SL Ch 78\) §3 & 8](#) Amending KSA 22-2401a; 72-6146. [Bill Summary](#). Effective 7/1/2022.

### 2. Sexual Assault Kits (Written Policy Required)

New law was created to require every law enforcement agency to have a written policy in place by January 31, 2023, ensuring all sexual assault evidence kits are submitted to a forensic laboratory within 30 business days of collection and include a procedure to ensure the examination results are received by the investigating officer and appropriate prosecutor upon the completion of the examination. This is meant to be sure all sexual assault kits are submitted for examination, regardless of the investigator's or prosecutor's belief of necessity and to address a problem sometimes occurring in large agencies where the lab report is received and placed into a file without the knowledge of the investigator or prosecutor. The law requires each law enforcement agency to collaborate with the prosecutor in the development of policy. There is a model policy available at: <https://www.kansas.gov/kbi/saki.shtml>. The law also is changed to allow qualified medical personnel in a Child Advocacy Center or a facility licensed or operated by a physician, physician assistant, or registered nurse to conduct the exams. It also requires the sexual assault kit used is one supplied by or approved by the KBI. The unreported (anonymous) kits submitted directly to the KBI will be retained by the KBI for a minimum of 20 years.

[HB2228 \(2022 SL Ch 40\)](#) New and Amending KSA 38-2227; 65-448. [Bill Summary](#). Effective 7/1/2022.

**3. Immigration: Prohibiting Sanctuary Cities or Counties (Certain Policy Prohibited)**

No city or county can prohibit or restrict a law enforcement officer, local official or local government employee, from taking the following actions with regard to information of the citizenship or immigration status, lawful or unlawful, of an individual: (1) Communicate or cooperate with federal officials; (2) send or receive information with the United States department of homeland security; (3) obtain or maintain information; or (4) exchange information with another federal, state, or local government entity. Or to limit enforcement of federal immigration laws.

Municipal identification cards must have “Not valid for state ID” printed on their face. It adds municipal identification cards to the crime of unlawful use of an identification card, KSA 8-1327.

Clarifies existing bias based policing laws are applicable to enforcement of federal immigration law and communications with federal agencies.

[HB2717 \(2022 SL Ch51\)](#) New Statutes. [Bill Summary](#). Effective 7/1/2022.

**4. Child Abuse Criminal Law Change (Policy/Training Considerations)**

The statute on child abuse, KSA 21-5602, was amended to make “knowingly impeding the normal breathing or circulation of the blood by applying pressure on the throat, neck or chest of the child or by blocking the nose or mouth of the child in a manner whereby death or great bodily harm could be inflicted” a SL3 person felony. It also includes, “Recklessly causing great bodily harm, abusive head trauma, permanent disability, or disfigurement (a severity level 4 person felony). You might want to discuss this with your legal advisor and/or prosecutor relating to how that might impact an officer’s use of force in handling a resisting/assaultive juvenile and whether training or policy changes need to be made.

[HB2508 \(2022 SL Ch 76\) §2](#), Amending KSA 21-5602. [Bill Summary](#). Effective 7/1/22.

**5. Information Sharing by DCF and Confidentiality of Information (Policy Recommended)**

Amendments are made in statute to clarify DCF must share with an investigating law enforcement agency all confidential information they have relating to the report being investigated. This includes: Past reports or investigations concerning such child and such child's siblings, the perpetrator or alleged perpetrator; the name and contact information of the reporter or persons alleging abuse or neglect and case managers, and investigators or contracting agency employees assigned to or investigating such report. That information is to be kept confidential by law enforcement except as necessary for investigation, determination of CINC status, and prosecution.

You should consider policy and training in this area to assure the agency maintains the confidentiality within the confines of the needs of the investigation and as necessary within the criminal justice system.

[HB2495 \(2022 SL Ch 92\) §5-7](#), Amending KSA 38-2210, 38-2211, 38-2212. [Bill Summary](#). Effective 7/1/22.

**6. Victim Compensation for Crime Scene Cleanup (Required Victim Information)**

The state Victim Compensation laws provide victims of certain crimes may be reimbursed for crime scene cleanup costs by application through the Office of Attorney General. This bill increased the maximum of crime scene cleanup reimbursement to \$2500. It also

amends the definition of “crime scene cleanup” to include replacement of materials that were removed because such materials were biohazardous or were damaged as part of evidence collection. You might consider implementing this information into what is provided in your crime victim notifications required by [KSA 19-4808](#).

[HB2574 \(2022 SL Ch 13\) §1](#), Amending KSA 74-7301. [Bill Summary](#). Effective 7/1/22.

**7. License Plate Readers: Open Records Exception (Records Retention Schedule)**

The Kansas Open Records Act is amended to exempt license plate reader data from release upon an open records request. It also exempts the location information about where license plate readers are deployed. This amendment is intended to address the concerns of KDOT and allow for agencies to enter into agreements with KDOT to place license plate readers on state or federal highways.

Record retention is not addressed in the bill. However as a reminder, your agency should have a records retention schedule as required in [KSA 45-403](#) and you should make sure you have license plate reader data on that schedule.

[SB434 \(2022 SL Ch 48\)](#) Amending KSA 45-217; 45-220; 45-221. [Bill Summary](#). Effective 7/1/2022.

**8. Preliminary Hearings, Testimony by Electronic Two-Way Audio/Video Communications**

A change in criminal procedure statutes now allows testimony in a preliminary hearing to be provided by electronic two-way audio/video communications. It will be up to the prosecuting attorney and the courts to determine how this will be applied. If you are interested in utilizing this for your officers, you might want to have a discussion with your county/district attorney and Chief Judge of your Judicial District.

[HB2508 \(2022 SL Ch 76\) §5](#), Amending KSA 22-2902. [Bill Summary](#). Effective 7/1/22.

**9. Property Disposition, Release of Weapon and Destruction of Certain Drug Evidence**

The statute on disposition of seized property, KSA 22-2512 is amended to clean up several different issues in existing law.

The requirement to report to the court what items were seized is clarified that such report only applies to seizure of property relevant to a search warrant. This has been the practice for years. It also clarifies that this report of seized property may be submitted to the court electronically in a form and manner approved by the court. The requirement in law to provide a receipt to a person any property is seized from (with or without a search warrant) remains in effect.

A provision is added to allow law enforcement to handle evidence consisting of “dangerous drugs” the same as existing law provides for the handling of hazardous materials. This is intended to allow an agency to document the quantity of illegal drugs, retain a “representative sample” for testing, and destroy the remainder of the illegal drugs. This is aimed primarily at large quantity drug seizures and the hazards associated with highly toxic drugs such as fentanyl, but it is not limited by any stated quantity. “Dangerous drugs” is defined as anything in the drug schedules in KSA 65-4105, 65-4107, 65-4109, and 65-4111. “Representative sample” is defined as an amount large enough to contain a testable amount of substance without destroying the sample completely.” This should include enough for independent testing requested by the defendant if the court orders it. You might want to discuss this with your prosecutors.

The bill also remedies a problem in existing law requiring weapons to be returned to the person from whom we seized it unless the weapon is stolen, in which case we release it to the owner. The bill adds an order of persons to consider releasing a weapon to: 1) the owner if we know who the owner is; 2) a parent or guardian if the weapon is taken from a juvenile; 3) the person who the weapon is seized from. If any of those are prohibited by law from possessing the weapon, the agency is required to notify them of the prohibition determination and to retain the weapon for a minimum of 60-days. This 60-day period allows them to file a court action to challenge the agency determination they are prohibited. If the person is prohibited, a provision is added to ensure compliance with US Supreme Court case law in Henderson vs. US. That ruling states that while a firearms owner may have their right to possess a firearm prohibited, they retain their ownership right of the weapon. This means we must assist them in exercising that right by placing the weapon in a safe place to retain ownership while not possessing it, or for them to sell the firearm through a firearms dealer or other legitimate method.

SB367 (2022 SL Ch 23) Amending KSA 22-2512. Bill Summary. Effective 7/1/2022.