



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

Presented by Kansas Peace Officers Association

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

5. **Agricultural Hemp:** 1) THC Content of Hemp Products; 2) Regulation of Hemp Processors; 3) Unlawful marketing, sale, or distribution of hemp extract; 4) Transportation of hemp and hemp products; and 5) Hemp Plant Disposal
- a. Hemp products, including CBD oils and products, may contain up to 0.3% THC. Past law did not clearly address this leading to multiple interpretations. This is total content for all THC types combined. This amendment makes it clear such products can contain small amounts of THC not exceeding 0.3%. Anything over that remains a violation of the THC laws in KSA 21-5706 and KSA 65-4105 (h). Section 3 of the bill (amending KSA 2-3901).
 - b. Hemp Processors are now regulated by the State Fire Marshal, including registration and criminal history checks of registrants. Sections 2 (new statute) and 5 (amending KSA 2-3907).
 - c. Unlawful marketing, sale or distribution of any industrial hemp extract with a delta-9 THC content greater than 0.3% is added to the crime in KSA 2-3908 (b). Section 6 of the bill (amending KSA 2-3908).
 - d. Transportation of hemp or hemp products is now regulated by the State Fire Marshal. The products here are not the “final” products such as CBD oil products, but include the products created during processing of hemp prior to the final product manufacturing. Sections 5 (amending KSA 2-3907) and 6 (amending KSA 2-3908) of the bill. [Regulations are in place and available at this link.](#)
 - e. Hemp plant disposal, when required due to a high THC content, is now a joint effort between the Department of Agriculture and law enforcement. Generally nothing of significance will change. But to comply with federal law and regulations, the state law now requires the Department of Agriculture to notify local law enforcement with jurisdiction when these cases arise and for the Department of Agriculture and law enforcement to coordinate the plan for the effective destruction of the high THC content hemp. This will allow local law enforcement to understand whether the high THC content is a low level unintended result of growing variables or a very high intentionally developed content. Any expenses related to the destruction must be paid by the grower. Typically, law enforcement will not be involved in the destruction process or experiencing any significant expense. Section 1 of the bill (new statute). [HB2244 \(2021 SL Ch 76\) §1, 2, 3, 5, 6](#), New statutes and amending KSA 2-3906, 2-3907 and 2-3908. [Bill Summary](#). Effective 4/29/21.

ALSO SEE THE TWELVE THINGS EVERY LAW ENFORCEMENT OFFICER SHOULD KNOW FROM THE 2021 LEGISLATIVE SESSION.