



# 2018 Legislation Update

New and Amended Laws



**Kansas Juvenile Officers Association**

**July 23, 2018**

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Topeka Police Department – Retired

Legislative Liaison:

Kansas Association of Chiefs of Police

Kansas Sheriff's Association

Kansas Peace Officers' Association

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This presentation is made possible through support of the  
Kansas Sheriffs Association  
Kansas Association of Chiefs of Police  
Kansas Peace Officers Association

Additional information is available at:

[www.KsLawEnforcementInfo.com/2018-session.html](http://www.KsLawEnforcementInfo.com/2018-session.html)

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## DISCLAIMER

AND

### HOW TO USE THIS INFORMATION

*Disclaimer: The presenter is not an attorney. The intent of this presentation is not to provide legal advice. It is to provide what the presenter believes to be an accurate summary of the legislative intent of the bills as developed during participation in the legislative process.*

***Always consult your local agency's legal advisor, local prosecutor, or other attorney for legal interpretation and the requirements of new statutes.***

***Always follow your agency's direction on enforcement policies and procedures.***

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## What Didn't Pass

### Key Issues That Did Not Pass

- Elimination of Civil Asset Forfeiture
- Removing open records exemption for investigatory records
- Firearms
  - Lowering CCH age to 18
  - Restoring College/University ability to ban CCH on campus/in campus buildings
  - Bump stock ban
  - Red Flag/Extreme Risk Protection Order
  - Making possession of firearm by felon presumptive imprisonment

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## What Didn't Pass

### Key Issues That Did Not Pass

- Drugs
  - Repeal of 3<sup>rd</sup> offense drug possession special rule
  - Immunity when reporting drug overdose
  - Legalization of Marijuana
- Transferring most child abuse/neglect cases from DCF to Local LE
- Negligent driving
- Expungement and purging of arrest record upon acquittal

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## Criminal Law

### Weapons KSA 21-6301

- Unlawful possession of firearm
  - Misdemeanor DV Conviction
  - Protection Orders
  - Fugitive from Justice
  - Illegally in US
- Silencers excluded if made in KS and remain in KS
- Throwing stars only illegal to possess if intent to use against another

HB2145  
Effective:  
5/3/18  
SL Ch: 61

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### Criminal Law

#### Swatting

- Resulting in death SL1 P Felony
- Great Bodily Injury SL4 P Felony
- Injury SL6 P Felony

HB2581  
Effective:  
7/1/18  
SL Ch: 45

#### Counterfeiting

- Same as federal counterfeiting of US currency, note or obligation
- \$25k or more SL7 NP Felony
- \$25k or less SL8 NP Felony

HB2458  
Effective:  
7/1/18  
SL Ch: 112

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### Criminal Law

- Escape and Agg. Escape: Adds fail to return from authorized leave
- Unlawful Sexual Relations includes LEO engaging in consensual sex with a person age 16 or over during traffic stop, custodial interrogation, investigative interview, or while person is detained

HB2458  
Effective:  
7/1/18  
SL Ch: 112

HB2488  
Effective:  
7/1/18  
SL Ch: 104

HB2523  
Effective:  
7/1/18  
SL Ch: 92

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### Drug Laws

- Marijuana Definition Exemptions
  - Amended in both criminal and controlled substance statutes
  - Cannabidiol in CBD products
    - Must have no THC or other illegal substances in product
  - Hemp possessed as allowed by the Agricultural Hemp law
- THC possession penalties same as possession of marijuana

SB282  
Effective:  
5/24/18  
SL Ch: 101

SB263  
Effective:  
5/3/18  
SL Ch: 62

HB2458  
Effective:  
7/1/18  
SL Ch: 112

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## Drug Laws

- Drug Schedules:
  - Schedule I: added synthetic opioids, MT-45 (opioid analgesic), new synthetic cannabis
  - Schedule II: Added a fentanyl precursor
  - Schedule III: Updated list of anabolic steroids
  - Dronabinol, a THC Synthetic was moved from Schedule IV to Schedule III

**SB282**  
**Effective:**  
**5/24/18**  
**SL Ch: 101**

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## DUI

- Criminal violation for refusing evidentiary test repealed
- Statute on preliminary test unchanged
- Amendments primarily based on case law from past three years

**SB374**  
**Effective:**  
**7/1/18**  
**SL Ch: 106**

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## DUI

- DUI with child in car (8-1567)
  - Driver 18+ yoa
  - Child under age 18
- Vehicle operated by person under 21 with alcohol and/or drugs in system remains in place (8-1001):
  - Requires PC of age and alcohol/drug in system, AND
    - arrested for a DUI offense; or
    - involved in motor vehicle accident

**SB374**  
**Effective:**  
**7/1/18**  
**SL Ch: 106**

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## Alcohol Laws

- Hours of Sale
  - Venues, clubs, drinking establishments sales, serving, and mixing prohibited from 2 AM to 6 AM
  - Farm wineries, winery outlets, microbreweries, and microdistilleries hours of sale on Sundays for off-premise consumption changed to 6 AM to Midnight
  - Strong beer sales in certain cities opting for other hours on Sunday same as hours for CMB

**HB2470**  
Effective:  
5/24/18  
SL Ch: 99

**HB2502**  
Effective:  
7/1/18  
SL Ch: 8

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## Alcohol Laws

- Candy with alcohol regulated by ABC
  - Definition of “alcoholic liquor” amended to include “alcoholic candy”
  - Manufacturing if more than 0.5% alcohol by weight
  - Retail sale if more than 1% alcohol by weight

**HB2470**  
Effective:  
5/24/18  
SL Ch: 99

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## Juveniles

- Case Length Limits
  - Time while juvenile has absconded from supervision does not apply to case limits
  - If juvenile fails to appear for dispositional hearing time until juvenile brought before court for disposition is not applied to case limits

**HB2454**  
Effective:  
7/1/18  
SL Ch: 52

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## Juveniles

- **Detention Hearings**
  - Juvenile may waive 14-day detention hearing
  - Audio/Video appearance allowed at any detention hearing
  - If juvenile in detention, sentencing hearing must be no later than 45-days after adjudication.

HB2454  
Effective:  
7/1/18  
SL Ch: 52

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## Juveniles

### Juvenile Crisis Intervention Act

- Establishes authority to operate local Juvenile Crisis Intervention Centers.
- Does not require jurisdictions or CMHC to establish one.
- For short-term (up to 30 days) mental health treatment of a juvenile suffering from a mental health crisis and is deemed to be likely to cause harm to self or others
- May not be located in a jail or juvenile detention facility

SB179  
Effective:  
7/1/18  
SL Ch: 107

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## Juveniles

### Juvenile Crisis Intervention Act

- **Admission requires**
  - Community Mental Health Center written authorization;
  - Determination by Juvenile Crisis Intervention Center the juvenile is in need of treatment and is likely to cause harm to self or others, and;
  - No other appropriate alternative treatment is available and accessible at the time of admission

SB179  
Effective:  
7/1/18  
SL Ch: 107

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## Juveniles

- **CINC Custody by Law Enforcement**
  - Required if officer has reason to believe child is having mental health crisis and is likely to cause harm to self or others (KSA 38-2231).
  - The child may not be placed in a juvenile detention center or other secure facility.

SB179  
Effective:  
7/1/18  
SL Ch: 107

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## Juveniles

### New placement option for juvenile offender in mental crisis

- Juvenile Crisis Intervention Center
  - Must not score high enough on risk assessment for detention
  - Must have CMHC Center and Crisis Center approval
- All other existing options remain

SB179  
Effective:  
7/1/18  
SL Ch: 107

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## Juveniles

### Newborn Infant Protection Act

- Maximum Infant Age Changed from 45 days to 60 days
- Infants delivered to a non-medical facility must arrange for immediate transportation to a medical facility
- Medical care facilities required to provide standard of care treatment

SB179  
Effective:  
7/1/18  
SL Ch: 107

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### Juveniles

#### Newborn Infant Protection Act

- Immunity from criminal, civil and administrative liability for facilities and employees receiving child, provided:
  - No negligent or intentional acts or omission of acts
- Extends to medical facility and employees receiving child from another receiving facility

SB179  
Effective:  
7/1/18  
SL Ch: 107

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### Juveniles

#### Newborn Infant Protection Act

- Immunity from criminal and civil liability for relinquishing parent, provided infant was:
  - Delivered safely to physical custody of an employee of a listed facility
  - No more than 60 days old when delivered to a listed facility
  - Not abused or neglected by the relinquishing parent prior to delivering the child to a listed facility.

SB179  
Effective:  
7/1/18  
SL Ch: 107

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### Juveniles

#### Newborn Infant Protection Act

- Defines “Relinquishing Parent” and “Non-Relinquishing Parent”
- Relinquishing parent implies:
  - Voluntary relinquishment of parental rights
  - To allowing adoption of the infant
- Non-relinquishing parent has 30 days after receiving notice to seek preserving their parental rights.

SB179  
Effective:  
7/1/18  
SL Ch: 107

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## Law Enforcement Procedure

### Criminal Assets Forfeiture

- Retains civil forfeiture
- Forfeited funds distribution unchanged
- Requires seizing officer to complete PC affidavit
- Adopts federal expenditure rules
- Centralized data reporting

**HB2549**  
**Effective:**  
**7/1/18**  
**SL Ch: 26**

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## Law Enforcement Procedure

- Body Cam/Car Cam Video
  - Persons who are allowed to view video
    - Subject of video
    - Both parents of juvenile
    - When death occurs heir at law
    - Attorney for any of the above
  - For required viewing when requested by listed persons within 20 days
  - Judicial Council will study over interim

**SB336**  
**Effective:**  
**7/1/18**  
**SL Ch: 87**

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## Law Enforcement Procedure

- Policy must be in place by July 1, 2018
  - Eye witness identification
  - Recording of certain interrogations

**From**  
**Legislation**  
**passed in**  
**prior years**

Model Policies Are Available at:  
[www.kcdaa.org/KCDAA-Best-Practices-&-Policies](http://www.kcdaa.org/KCDAA-Best-Practices-&-Policies)

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### Protecting Victims

- Protection orders available for victims of human trafficking, agg human trafficking, commercial exploitation of child, or selling sexual relations
- If juvenile, can be requested by
  - Family member
  - Household member
  - Court appointed custodian or guardian
  - County/District Attorney
  - Attorney General

SB281  
 Effective:  
 7/1/18  
 SL Ch: 110

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### Protecting Victims

- Protection from stalking or sexual assault orders for juvenile victims can be requested by
  - Family member
  - Household member
  - Court appointed custodian or guardian

SB281  
 Effective:  
 7/1/18  
 SL Ch: 110

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### Protecting Victims

- Protection from abuse orders for juvenile victims can be requested by
  - Family member
  - Household member
  - Court appointed custodian or guardian

SB281  
 Effective:  
 7/1/18  
 SL Ch: 110

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### Protecting Victims

- **Protection orders and cell phone accounts**
  - Orders can include the transfer of current phone numbers of petitioner and/or the petitioner’s children to the petitioner
  - Applies to Protection from Abuse, or Protection from Stalking, Sexual Assault, or Human Trafficking

HB2524  
Effective:  
7/1/18  
SL Ch: 37

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### Protecting Victims

- **Identity theft: Credit report freeze**
  - Consumer reporting agencies are prohibited from charging a fee for security freeze services
  - A child under age 16 security freezes may be requested by guardian or conservator with no charge
  - Applies to everyone, not just identity theft victims
- **Wrongfully convicted compensation**

HB2580  
Effective:  
7/1/18  
SL Ch: 44

HB2477  
Effective:  
4/26/18  
SL Ch: 108

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### Rescue of Person or Animal from Vehicle

- **No criminal or civil liability for damage to vehicle if reasonable**
- **Person must**
  - Notify law enforcement or 911
  - Remain with rescued person until law enforcement arrives

HB2477  
Effective:  
4/26/18  
SL Ch: 55

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## SUMMARY

More details will be published on my website at <http://www.KsLawEnforcementInfo.com/2018-session.html>

Watch for the final session summary document  
**Guide to 2018 Legislation**

And

More detailed summaries of major legislation

And

Frequently Asked Questions

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## Contact Information



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QUESTIONS?

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