



## 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.