



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.