

2018 CRIMINAL LAW, CRIMINAL PROCEDURE, AND LE PROCEDURE ENACTED LEGISLATION

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eklumpp@cox.net

Prepared by Ed Klumpp

(785)640-1102

TOPIC

Abuse/Neglect: Mandatory Reporters

Status

Final Bill Final Brief Final Summary SessionLawChapter

Bill Section Eff Date Delayed Eff Date

Adds emergency medical personnel to the list of mandatory reporters of abuse, neglect, exploitation, or need of protective services of certain "residents" or adults. A defined in KSA 39-1430, for the purposes of reports required to go to law enforcement, "resident" means a person confined to an adult care home and "adult" is a person age 18 or over alleged to be unable to protect their own interest and who is harmed or threatened with harm, whether financial, mental or physical in nature, through action or inaction by either another individual or through their own action or inaction.

Amends

Background Investigations: Law Enforcement

Status

Final Bill Final Brief Final Summary SessionLawChapter

Bill Section Eff Date Delayed Eff Date

Creates a process for mandatory disclosure of a law enforcement officer applicant's files if the applicant has been employed by another state or local law enforcement agency or governmental agency. For these purposes, "files" is defined as all performance reviews or other files related to job performance, commendations, administrative files, grievances, previous personnel applications, personnel-related claims, disciplinary actions, internal investigation files, suspensions, investigation-related leave, documents concerning termination or other departure from employment, all complaints, and all early warning information.

Amends

Body Cam Video

Status

Final Bill Final Brief Final Summary SessionLawChapter

Bill Section Eff Date Delayed Eff Date

Amends KORA relating to LE video release by creating a 20 day maximum time to show video to certain people listed in KSA 45-254. Also clarifies both parents of a juvenile can view a video and adds "heir at law" or their attorney to view video. All other parts of the bill were deleted. The entire bill will also be referred to the Judicial Council for further review and recommendation. Most likely another bill will be introduced in the 2019 session.

Amends

Civil Process: Saturday Service

Status

Final Bill Final Brief Final Summary SessionLawChapter

Bill Section Eff Date Delayed Eff Date

Repeals the provision of law on serving of civil process making it a misdemeanor to serve civil process on Saturday. This was a law enacted in the 1800's and never amended or repealed.

Amends

TOPIC

Competency

Status **Signed** 365

Final Bill [HB2549](#) Final Brief [Supp Note](#) Final Summary [Summary](#) SessionLawChapter 81
Bill Section 1 & 2 Eff Date 7/1/2018 Delayed Eff Date

Adds "appropriate state" institution or facility to the list of places where a defendant may be committed for competency evaluation. This is in addition to the current authorization for placement in the state security hospital or any county or private institution or facility. The placement requirements are amended so they are the same for person charged with either a felony or a misdemeanor. It amends the place for commitment for competency restoration treatment by removing "the state security hospital" and replacing it with "any state institution or facility" in addition to the existing authorization for commitment to an appropriate county or private institution or facility. This is part of a plan for KDADS to expand the state competency evaluation and treatment programs to include Osawatomie State Hospital and other regional facilities they are considering implementing. It is unclear if they will continue to offer these services at Larned State Hospital or not.

Amends 22-3302, 22-3303

Counterfeiting

Status **Signed** 406

Final Bill [HB2458](#) Final Brief [CCR Brief](#) Final Summary [Summary](#) SessionLawChapter 112
Bill Section 1 Eff Date 7/1/2018 Delayed Eff Date

Creates new crime of counterfeiting which includes: 1) Making, forging, or altering any note, obligation, or security of the United States (SL7 nonperson felony for total face value of \$25,000 or more, SL8 nonperson felony for total face value less than \$25,000); 2) Distributing, or possessing with the intent to distribute, any obligation or security of the United States knowing the obligation or security has been so made, forged, or altered (same penalties as above); 3) Possessing any paper, ink, printer, press, currency plate, or other item with the intent to produce any counterfeit note, currency, obligation, or security of the United States (SL9 nonperson felony).

Amends New

TOPIC

CPOST: Confidentiality of Records

Status

Final Bill Final Brief Final Summary SessionLawChapter
Bill Section Eff Date Delayed Eff Date

Implements the proposal from the Judicial Council that defines the Central Registry of CPOST and provides for confidentiality rules similar to other regulatory boards. The registry is defined to include all records received or created by the commission pursuant to this statute and all records related to violations of the Kansas law enforcement training act, including records of complaints received or maintained by the commission. All registry records are confidential but may be disclosed as follows. Records other than investigatory files shall be released: To an agency that certifies, appoints or elects law enforcement officers; to the subject of the information (but the commission may redact identification of any other person who is the subject or source of the information); in any administrative proceeding conducted by the commission under the Kansas Administrative Procedure Act, or an appeal of an order of the commission entered in a proceeding, or to a party in such proceeding or that party's attorney; to a municipal, state or federal licensing, regulatory or enforcement agency with jurisdiction over acts or conduct similar to these constituting grounds for action under this act; and to the director of police training when such disclosure is relevant to the director's authority. Records may be disclosed to any person 1) if they contain only: A law enforcement officer's name; the law enforcement officer's current or past law enforcement employer(s) and dates of employment with each employer; a summary of the training completed by the officer as reported to the commission; and the status of the officer's certification; and 2) statewide summary data without personally identifiable information. All KORA exceptions may be applied. Files may also be disclosed as provided in the Kansas Administrative Procedures Act.

Amends

CPOST: Domestic Violence Definition

Status

Final Bill Final Brief Final Summary SessionLawChapter
Bill Section Eff Date Delayed Eff Date

The definition of "misdemeanor crime of domestic violence" in the Kansas law enforcement training act is changed to match the definition in criminal law.

Amends

DUI: Involuntary Manslaughter

Status

Final Bill Final Brief Final Summary SessionLawChapter
Bill Section Eff Date Delayed Eff Date

A person who is DUI and involved in a fatality accident while their DL is suspended or restricted for a DUI related event violates the involuntary manslaughter statute. If involved in a crash resulting in serious bodily harm while under the same DL sanctions they violate the aggravated battery statute. Records for these violations may not be expunged, even for juveniles. These violations also are included in future DUI convictions in determining 3rd or subsequent conviction penalty enhancements.

Amends

TOPIC

Elder Abuse or Mistreatment: Inherently Dangerous Felony

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Adds the crimes of Mistreatment of a Dependent Adult and Mistreatment of an Elder Person to the definition of Inherently Dangerous Felony as used in First Degree Murder.

Amends

Elder Abuse or Mistreatment: New Elements; Amended Sentencing

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Adds violation of the act of Obtaining a Guardian or a Conservator to the violation of Mistreatment of a Dependent Adult with a severity level based on dollar loss. Adds infliction of physical injury, unreasonable confinement, or unreasonable punishment to the crime of Mistreatment of an Elder Person as a SL5 person felony.

Amends

Escape

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Amends the crimes of escape and agg. escape by adding failing to return from an authorized leave granted by a custodial official authorized to grant such leave.

Amends

Federal Officers, Assault/Battery

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Includes federal law enforcement officers in the definition of law enforcement officers under the statute on assault and the statute on battery. "Federal Law Enforcement Officer" is defined as any LEO employed by the US Government whose duties permit making an arrest and being armed.

Amends

Forfeiture, Civil Asset

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Amends the Civil Asset Forfeiture statutes by requiring centralized reporting of forfeiture actions and expenditures and requires a probable cause affidavit by officer initiating forfeiture action. Adopts the current federal expenditure rules for forfeiture funds. Also amends several legal procedures involved in the civil asset forfeiture process. Retains current civil standards without criminal conviction and forfeited fund distribution.

Amends

Juror contact limitations in Civil Cases

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Immediately following discharge of the jury the defendant, the defendant’s attorney or representative, the plaintiff, or the plaintiff’s attorney or representative are allowed to discuss the jury deliberations or verdict with a member of the jury only if the juror consents to the discussion. If a discussion occurs at any time other than immediately following the discharge of the jury, prior to discussing the jury deliberations or verdict with a member of a jury, the contacting party must inform the juror of the identity of the case, the party in the case that the person represents, the subject of the interview, the absolute right of the juror to discuss or not discuss the deliberations or verdict in the case with the person, and the juror’s right to review and have a copy of any declaration filed with the court. Any unreasonable contact with a juror by the parties without the juror’s consent are required to be immediately reported to the trial court. Any violation shall be considered a violation of a lawful court order, which may be punished as contempt of court.

Amends

Juror contact limitations in Criminal Cases

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Statutory procedures and limitations concerning contact with jurors in criminal cases and advising jurors of the right to discuss deliberations with certain people and under certain conditions after completion of a trial in a criminal action. If the prosecutor or defense attorney or their representative, or the defendant contacts a juror other than immediately following the discharge of the jury they must inform the juror of the specific case they want to discuss, the party they represent, the subject of the interview, the jurors right to discuss or to not discuss the deliberations or conduct of the jury, and the juror's right to review and have a copy of any declaration filed with the court. Unreasonable contact must be immediately reported to the court. Violations are subject to contempt of court. The statute does not prohibit the court from discussing the deliberations or verdict for any lawful purpose, nor law enforcement from for the purpose of investigating juror misconduct. Law enforcement must use caution if asked by a prosecutor to contact a juror.

Amends

Open Records: Review of exceptions

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Legislative review of exceptions to disclosure of public records. All those of direct concern to law enforcement are renewed, including: KSA 45-221(a)(53), concerning records disclosing name or contact information for any concealed carry licensee applicant for a license; KSA 65-6832 and KSA 65-6834, concerning protected health information; KSA 75-7c06, concerning records relating to concealed carry licenses; and KSA 75-7c20, concerning security plans adopted to exempt a state or municipal building from law stating the carrying of a concealed handgun shall not be prohibited in any public area of any state or municipal building.

Amends

Open Records: SSN Redaction

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Requiring redaction of ENTIRE social security number in documents available for public inspection and copying. If the information was disclosed in violation, the agency must notify the individual and offer credit monitoring services at no charge for one year and inform them they may place a security freeze on their credit report at no charge, and provide information necessary for the person to enroll for services.

Amends

Sales Suppression Devices

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Creates a new a SL7 nonperson felony for unlawful acts involving automated sales suppression devices. These devices consist of a computer software program on a memory device that when connected to an electronic cash register and other point-of-sale system falsifies the electronic records to avert sales tax collection.

Amends

Scrap Metal

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Extends the delayed enforcement of scrap metal laws passed in 2016 by one year to 1/1/2020.

Amends

Sexual Relations, Unlawful: LEO

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Adds law enforcement officers to the list of persons included in the Unlawful Sexual Relations statute. This would include voluntary sexual relations between an officer and a person " with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person 16 years or older who is interacting with such law enforcement officer during the course of a traffic stop, a custodial interrogation, an interview in connection with an investigation, or while the law enforcement officer has such person detained."

Amends

Sexually Violent Predator: Transitional Release

Status

Final Bill Final Brief Final Summary SessionLawChapter
 Bill Section Eff Date Delayed Eff Date

Makes amendments to the Sexually Violent Predator Act. The definition of "sexually violent offender" is amended to add a new element: "who has serious difficulty in controlling such person's dangerous behavior." New definitions are added relating to the release process for the terms "conditional release," "conditional release monitor," and " progress review panel." Certain provisions regarding conditional release were changed including removing the statutory limit of 16 SVP in conditional release in any one county. Several procedural changes were also made. This is further action following a Judicial Council recommendation in 2016.

Amends

TOPIC

Sheriff Qualifications

Status

Final Bill Final Brief Final Summary SessionLawChapter
Bill Section Eff Date Delayed Eff Date

Amends sheriff qualification by changing lifetime disqualification for misdemeanor alcohol, gambling or drug offense from lifetime to the 5 years prior to the date of election or appointment. Also changed other qualification provisions bringing them back into compliance with the Training Act. The method of determining high school equivalency for home schooling was also amended in this statute and in the Training Act.

Amends

Stay of Criminal Case

Status

Final Bill Final Brief Final Summary SessionLawChapter
Bill Section Eff Date Delayed Eff Date

Criminal cases may be stayed during state appeal of writ of habeas corpus relief.

Amends

Swatting

Status

Final Bill Final Brief Final Summary SessionLawChapter
Bill Section Eff Date Delayed Eff Date

Increases penalties for swatting events when death or great bodily injury occurs by amending the false alarm statute. The crime when resulting in injury is a SL6 person felony; great bodily harm is a SL4 person felony; and a SL1 person felony if death occurs. It also changes the phrase "giving a false alarm" to "making an unlawful request for emergency service assistance;" replaces "making a call in any manner" to "request" emergency service assistance; and changes the word "police" to "law enforcement."

Amends

More Legislative Information Available at www.KsLawEnforcementInfo/2018-session.html