



2024 KCDAA Summary of Legislation

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Kearney and Associates, Inc.

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Omnibus Crimes Bill

[SB 414](#) amends the crime and penalties of aggravated endangering a child; amends the crime and applies a special sentencing rule to the crime of unlawful distribution of fentanyl related controlled substances (fentanyl); removes the element of concealment and secrecy from the crime of breach of privacy; amends law in the Kansas Code of Procedure for Municipal Courts governing fingerprinting for municipal convictions; amends provisions in sentencing law regarding computation of time served; and updates terms and conditions of supervision for certain offenders.

The bill also makes technical amendments to update a statutory reference and ensure consistency in statutory phrasing.

The bill is in effect upon publication in the Kansas Register, but all provisions, with the exception of the sentence computation provisions, become effective on July 1, 2024.

Aggravated Endangering a Child

The bill amends the elements of the crime of aggravated endangering a child. The bill adds fentanyl to the list of drugs for which causing or permitting a child to be in an environment where the person knows or reasonably should know the drug is present constitutes the crime. The bill adds “or used” regarding specified environments where current law applies to storage of drug paraphernalia or toxic, or otherwise specified chemicals for manufacturing or attempting to manufacture methamphetamine or fentanyl.

Severity Level

The bill creates a new severity level 6 person felony penalty for the crime when bodily harm is inflicted upon the child.

Definitions

The bill defines “fentanyl-related controlled substance” to mean the same as in the article of the Criminal Code involving controlled substances and “methamphetamine” to mean the same as in Schedule II of the Uniform Controlled Substances Act.

Unlawful Distribution Penalties—Fentanyl

The bill amends the penalties for unlawful distribution of a controlled substance to specify a violation of the crime with respect to material containing any quantity of fentanyl to be the same as for material containing any quantity of heroin or methamphetamine.

When the drug is measured by dosage unit, the bill specifies the following penalties for fentanyl only:

- Drug severity level 4 felony for fewer than 10 doses;
- Drug severity level 3 felony for at least 10 doses but fewer than 50 doses;

- Drug severity level 2 felony for at least 50 doses but fewer than 250 doses; and
- Drug severity level 1 felony for 250 doses or more.

[Note: Continuing law defines a “dosage unit” as a discrete unit including, but not limited to, a pill, capsule, or microdot that is not distributed by weight. Continuing law also defines a “dosage unit” with respect to controlled substances in liquid form.]

Permissive Inference

The bill amends language regarding a rebuttable presumption of an intent to distribute to replace the presumption with a permissive inference. The bill adds 3.5 grams or more and 50 dosage units or more of fentanyl to the list of quantities of controlled substances that leads to such an inference.

Breach of Privacy

The bill amends the crime of breach of privacy to remove the elements of concealment and secrecy when the crime involves installing or using a device to photograph or record another person under or through their clothing, or a person who is nude or in a state of undress.

Fingerprinting for Municipal Convictions

The bill specifies that fingerprints need not be obtained from individuals convicted of violating municipal ordinances related to vehicle registration, driving without a valid driver’s license, or failing to have motor vehicle liability insurance coverage. [Note: Current law provides fingerprints must be obtained in all municipal convictions that are comparable to a class A or class B misdemeanor or assault under the Kansas Criminal Code.]

Computation of Sentences

Under continuing law, at sentencing, a judge is required to designate a date to be used when computing a defendant’s sentence, parole eligibility, and conditional release dates. The date must be designated in a journal entry after considering the time the defendant has been incarcerated while awaiting disposition of their criminal case.

The bill specifies that the defendant is entitled to have credit applied for each day spent incarcerated while awaiting disposition of their criminal case.

The bill prohibits the court from considering the following in designating a date:

- Time awarded as credit in another case when consecutive sentences are imposed on a defendant; or
- Time spent incarcerated in another jurisdiction if no hold has been issued in such jurisdiction for the case being sentenced.

Special Sentencing Rule—Fentanyl

The bill amends the special sentencing rule for the unlawful manufacturing of fentanyl to specify this rule applies to an offender convicted of unlawful distribution when the crime is classified as a drug severity level 1, 2, or 3 felony. [Note: The special sentencing rule provides a sentence of presumptive imprisonment and two times the maximum duration of the presumptive sentence term. Sentences under the special rule are not considered a departure and is not subject to appeal.]

Conditions of Supervision

The bill revises and amends conditions of supervision for persons on supervised release. For persons on supervision for probation, suspension of sentence, or assignment to community corrections, the bill authorizes the court to impose the conditions listed below. For persons on parole or postrelease supervision after being in the custody of the Kansas Department of Corrections (KDOC), the Prisoner Review Board is required to impose the following conditions:

- Obey all laws and ordinances [Note: The court is required to impose this condition under current law.];
- Inform the supervision officer of any encounters with law enforcement within 24 hours of such encounter;
- Refrain from engaging in or making threats of violence;
- Not purchase or possess any dangerous weapon, including a firearm, if the supervision is for a felony conviction;
- Report to the assigned supervision officer as directed and be truthful in all matters;
- Remain in Kansas or other areas as specified by the supervision officer;
- Inform the supervision officer of any sudden changes in residence or contact information within 24 hours of the change and reside at the approved residence;
- Not possess, use, or distribute any controlled substance unless prescribed by a licensed medical professional;
- Abstain from alcohol or substance use and from entering an establishment where sale or consumption of alcohol is the primary business;
- Comply with alcohol or substance testing as directed by the supervision officer without tampering with the specimen or test. [Note: The court is required to impose this condition under current law.];
- Participate in assessments, treatment, programs, and other directives mandated by the court or supervision officer; and

- Refrain from contacting victims unless authorized by the court as part of rehabilitation or therapy.

The bill would also direct the Office of Judicial Administration (OJA) and the KDOC to collaborate on developing appropriate documentation for conditions of supervision for probation, suspension of sentence, and community corrections.

Parole or Postrelease Supervision

The bill removes the required conditions of repaying transportation costs related to apprehension of the person for violation of a condition of release, pursuing a secondary education, and performing community service. The bill retains required conditions of supervision for persons on parole or postrelease supervision regarding payment of fees and reimbursement for services.

Searches and Reporting

Provisions regarding searches are included in the conditions for persons on probation, community corrections, parole, or postrelease supervision. The person is required to submit to searches of their person, belongings, vehicle, and property by:

- A court services officer or community correctional services officer for persons on probation or in community corrections;
- A parole or corrections officer for persons on parole or postrelease supervision, with or without a warrant or cause, although not for the sole purpose of harassment; and
- A law enforcement officer based on reasonable suspicion of probation, parole, or postrelease supervision violations or criminal activity.

The bill adds a requirement that a law enforcement officer who conducts a search under supervision terms of parole submit a written report to the person's parole officer no later than the close of business the next day after the search is conducted. The bill requires the written report to include facts leading to the search, the scope of the search, and any findings of the search. [Note: Similar requirements are found in continuing law for searches of persons on probation and in community corrections.]

Probation Conditions for Driving Under the Influence

The bill requires certain persons with a felony driving under the influence (DUI) conviction to participate in a multidisciplinary model of substance use disorder treatment.

Current law classifies DUI as a severity level 6 nonperson felony when:

- The person has a prior conviction within the past 10 years, not including periods of incarceration; or
- It is the person's fourth or subsequent conviction.

Risk and needs assessment. The bill requires, if a person convicted of a felony DUI has been granted probation, a risk assessment tool specified by the Kansas Sentencing Commission to be used to determine the person's risk and needs. The court is, then, required to determine whether community correctional services or court services will supervise the person, based upon the determined risk and needs of the person.

Multidisciplinary model of services. The bill requires a person convicted of a felony DUI under probation supervision to participate in a multidisciplinary model of services for substance abuse disorders facilitated by a care coordination agency designated by the Kansas Department for Aging and Disability Services (KDADS).

The bill requires the model of services to include assessment and, if appropriate, referral to community-based substance use disorder treatment, including recovery management and mental health counseling as needed. The bill requires members of the multidisciplinary team to include:

- The designated care coordination agency;
- The supervision officer;
- The KDADS designated treatment provider; and
- The person.

Civil Asset Forfeiture

[SB 458](#) amends several provisions of the Kansas Standard Asset Seizure and Forfeiture Act (Act).

Conduct Giving Rise to Forfeiture

The bill removes certain offenses from the list of conduct and offenses giving rise to forfeiture under the Act, regardless of whether there is a prosecution or conviction related to the offense. The bill would remove offenses related to possession of a controlled substance and other crimes associated with personal use of controlled substances.

Exemptions to Forfeiture—Proportionality Determination

The bill removes language related to the court's duty to limit the scope of a proposed forfeiture. The bill instead directs the court to determine whether the proposed forfeiture is unconstitutionally excessive pursuant to provisions created by the bill regarding forfeiture proceedings, if the court has not made this determination earlier in the proceeding.

[Note: Under prior law, if a court found the effect of the forfeiture was grossly disproportionate to the nature and severity of the owner's conduct prior to final judgment in a judicial forfeiture proceeding, it had a duty to limit the scope of the forfeiture.]

Seizure of Property—Seizing Agency Requirements and Limitations

Time Limitations

The bill reduces the time period in which the seizing agency must forward a written request for forfeiture to the appropriate county or district attorney from 45 days to 14 days.

Upon the expiration of the 14-day time limitation described above, or upon notification the county or district attorney declines the request (whichever occurs first), a local seizing agency would have 14 days to request a state law enforcement agency adopt the forfeiture or engage a private attorney to represent the local seizing agency in the forfeiture proceeding. The bill provides the same 14-day time limitation for a state seizing agency to engage an assistant attorney general, or other approved attorney, to represent the state seizing agency in the forfeiture proceeding.

If a local or state seizing agency fails to meet the time limitations described above, the bill requires the seizing agency to return the seized property to the owner or interest holder within 30 days in the same manner as provided by KSA 22-2512. [Note: KSA 22-2512 provides certain seized property, such as dangerous drugs or hazardous materials, must be destroyed or disposed of rather than returned.]The bill specifies nothing in this section will affect time limitations related to initiating or filing a forfeiture proceeding pursuant to the Act.

The bill also prevents the seizing agency from requesting, inducing, or otherwise coercing a person who asserted rights as an owner or interest holder of the property to waive, in writing, such property rights until forfeiture proceedings commence.

Federal Adoption

The bill authorizes a state or local law enforcement agency to request federal adoption of a seizure under the Act or otherwise transfer or refer seized property to a federal agency only if:

- The seizure by the agency occurs pursuant to a joint task force with federal law enforcement authorities;
- The seizure by the agency occurs pursuant to a joint investigation with federal law enforcement authorities as part of an ongoing federal investigation;
- The agency makes such request in conjunction with a request for federal authorities to adopt the criminal investigation related to the seizure;
- The property seized by the agency is subsequently seized pursuant to a federal seizure warrant, obtained from a federal court, to take custody of assets originally seized under state law;
- The property seized by the agency directly relates to a serious public safety concern; or
- The gross estimated value of the property seized by the agency is \$25,000 or more.

Commencement of Forfeiture Proceedings—Probable Cause Affidavit

The bill requires an affidavit describing probable cause supporting forfeiture to be filed in addition to the notice of pending forfeiture or judicial forfeiture action in order to commence forfeiture proceedings, and the forfeiture could proceed only after a judge has determined there is probable cause to believe the property is subject to forfeiture under the Act.

The bill requires, when notice of a pending forfeiture is mailed to an owner or interest holder, the notice to include the probable cause affidavit described above. Under prior law, an affidavit describing essential facts supporting forfeiture was required to be provided with the notice.

The bill amends law relating to the filing of liens for the forfeiture of property to allow a plaintiff's attorney to file a lien only upon the commencement of a forfeiture proceeding, rather than upon the initiation of any civil or criminal proceeding relating to conduct giving rise to forfeiture under the Act.

Notice of Claims Against Seized Property

The bill requires, after an owner or interest holder has filed a claim against property seized for forfeiture, the plaintiff's attorney to file a notice of receipt of the claim with the court, unless the claim was already filed. The filing must include a copy of the claim and documents showing the date the claim was mailed and received.

Forfeiture Proceedings

Forfeiture Proceedings, Generally

As described above, the bill requires a judge determine that probable cause supports the forfeiture proceeding at the time of commencing the action. Accordingly, the bill removes language allowing an owner or interest holder of seized property to request a probable cause hearing.

The bill states that an owner or interest holder may petition the court for determination, or reconsideration of its prior determination, that there is probable cause to support forfeiture at any time prior to final judgment.

If the court finds that there is no probable cause for forfeiture, the bill specifies that the court must order the release of the property to the custody of the applicant, as custodian for the court, or from a forfeiture lien pending the outcome of a judicial proceeding under the Act.

The bill adds provisions allowing a person whose property has been seized to petition the court to determine whether the forfeiture is unconstitutionally excessive. The plaintiff's attorney shall have the burden of establishing that the forfeiture is proportional to the seriousness of the offense giving rise to the forfeiture by clear and convincing evidence. In making this determination, the court may consider, but not shall not be limited to considering:

- The seriousness of the offense;
- The extent of participation in the offense by the person from whom the property was seized;
- The extent to which the property was used in committing the offense;
- The sentence imposed for committing the offense that gave rise to forfeiture;
- The effect of the forfeiture on the livelihood of the person from whom property was seized; and
- The fair market value of the property compared with the property owner's net worth.

The bill requires the court to automatically stay discovery against the person whose property was seized and against the seizing agency in the forfeiture proceeding during a related criminal proceeding alleging the same conduct. The court may lift the automatic stay of discovery with good cause shown, changed from upon a motion.

In Rem Proceedings—Burden of Proof

The bill amends law governing in rem forfeiture proceedings to require the plaintiff's attorney to prove by clear and convincing evidence, rather than preponderance of the evidence, that the interest in the property is subject to forfeiture. [Note: An action in rem is a legal term meaning an action filed against property.]

Judicial Disposition of Property—Fees and Costs

The bill allows a court to order a claimant who fails to establish that a substantial portion of the claimant's interest is exempt from forfeiture to pay reasonable fees, expenses, and costs to any other claimant establishing an exemption and to the seizing agency in connection with that claimant.

In addition, if a claimant prevails, and the court orders the return of at least half of the property's aggregate value, the bill requires the court to order the seizing agency to pay:

- Reasonable attorney fees and litigation costs to the claimant;
- Post-judgment interest; and
- Any interest actually paid from the date of seizure in cases involving currency, other negotiable instruments, or the proceeds of an interlocutory sale.

When there are multiple claims to the same property, the bill does not make the seizing agency liable for attorney fees and costs associated with any claim if the seizing agency:

- Promptly recognizes the claim;
- Promptly returns the claimant's interest in the property if it can be divided without difficulty and there are no competing claims to that portion of the property;
- Does not cause the claimant to incur additional costs or fees; and
- Prevails in obtaining forfeiture with respect to one or more of the other claims.

Disposition of Forfeited Property—Federal Transfer and Special Law Enforcement

Purpose

The bill amends law governing the disposition of forfeited property to allow a law enforcement agency to transfer the custody or ownership of forfeited property to any federal agency only if authorized pursuant to certain conditions created by the Act with respect to requests for federal adoption.

Under the Act, moneys in certain specified forfeiture funds may only be used for 12 special law enforcement purposes. The bill adds the payment of attorney fees, litigation costs, and interest ordered by a court to this list of purposes for which forfeiture funds may be used.

Repository and Reporting Requirements

The bill amends law pertaining to the role of the Kansas Bureau of Investigation (KBI) in reporting on law enforcement agency forfeiture activity to specify that in addition to information regarding law enforcement agencies not compliant with reporting requirements, KBI is required to provide each agency's forfeiture fund financial report that is submitted to the Kansas Asset Seizure and Forfeiture Repository to the President of the Senate, the Speaker of the House of Representatives, and the House and Senate Committees on Judiciary.

Rules of Evidence—Presumption or Inference

[House Sub. for SB 318](#) amends the Code of Evidence to specify how a statutory or common law presumption or inference against a criminal defendant is to be construed and to establish a permissive inference when a person is found to possess certain quantities of a controlled substance.

Rules of Evidence

The bill adds provisions to the Rules of Evidence regarding how presumptions or inferences operate. In criminal cases, presumptions or inferences, including those in which certain facts are evidence of another fact or of guilt, are allowable under the bill. The bill clarifies that the judge may reject any presumption or inference, and prohibits the judge from instructing the jury they must accept a fact against the defendant.

The bill permits the judge to include instructions on presumptions or inferences only if the presumption or inference is supported by the facts. When such instruction occurs, the judge is required to instruct the jury that:

- The jury is to consider all facts of the case with the presumption or inference;
- The jury may accept or reject the presumption or inference when determining whether the prosecution has met the burden of proof; and
- The burden of proof never shifts to the defendant.

Intent to Distribute—Permissive Inference

Under the possession with intent to distribute provisions of the Kansas Criminal Code, a rebuttable presumption of an intent to distribute exists if a person possesses certain quantities of controlled substances.

For purposes of court proceedings related to a case involving possession with intent to distribute, the bill replaces the “rebuttable presumption” of such intent to distribute with “an inference,” if the facts of the case support such an inference.

[Note: Black’s Law Dictionary defines the term “rebuttable presumption” to mean a legal inference or assumption that a fact exists because of the known or proven existence of some other fact or group of facts. The term “permissive inference” is defined to mean a presumption that a trier of fact is free to accept or reject from a given set of facts.]

Criminal Procedure—Notice to Appear and Appearance Bonds

[SB 473](#) amends the Kansas Code of Criminal Procedure to allow a notice to appear (NTA) to serve as a valid complaint and amends law related to appearance bonds made in district courts.

Notice to Appear

Under the bill, a NTA may serve as a valid complaint when it is signed by a law enforcement officer (LEO) and meets the following criteria:

- The NTA is issued for any unclassified misdemeanor or nonperson misdemeanor [Note: By law, an NTA must also contain the notice and address of the person detained, the crime charged, and the time and place when and where such person shall appear in court.];
- A Memorandum of Agreement (MOA) exists between the County or District Attorney of the jurisdiction where the NTA is issued and the law enforcement agency who employs the LEO signing the complaint; and
- The NTA is in compliance with the requirements of the MOA and includes the contents for a complaint as required by law.

Compensated Surety Qualifications

The bill adds various qualifications to law specifying the requirements for a compensated surety to secure appearance bonds in district court.

Background Check, Fingerprinting

Under the Kansas Code of Criminal Procedure (Code), the chief judge of a judicial district, or their designee, approves persons or entities to act as a compensated surety in the district court. The bill allows the chief judge to require a compensated surety to submit to a state and national criminal history record check as part of either initial or continued authorization.

Fingerprints obtained for the record check shall be used to identify the individual and to determine whether such person has a criminal history record in Kansas or any other jurisdiction. The bill allows the chief judge to submit the fingerprints to the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation for a state and national criminal history record check.

The bill allows the chief judge to use the information obtained from fingerprinting and the records check to verify the identification of the individual and to determine whether the person is qualified to act as a compensated surety in the judicial district.

Disclosure or use of any fingerprint or records check information for purposes other than those specified by the bill shall be considered a class A nonperson misdemeanor.

The bill also allows the KBI to charge a reasonable fee for conducting the records check. The applicant shall be required to pay records check fees and the fingerprinting fee.

Property Surety—Outstanding Appearance Bonds

Under the Code, a property surety executes an affidavit describing the property used to write appearance bonds. The bill specifies that limitations in law concerning total outstanding appearance bonds are calculated by considering bonds issued within Kansas.

Compensated Surety Requirements

The bill creates provisions in the Code to specify requirements of a compensated surety. Under the bill, a compensated surety shall:

- Charge a minimum appearance bond premium of 10.0 percent of the face amount of the bond;
- Only post a bond after receiving 50.0 percent of the bond premium in one of the following forms:
 - U.S. currency paid to the compensated surety prior to the execution of the bond;

- A delivered check payable to the compensated surety when delivered and promptly deposited into a bank account;
- A credit or debit card transaction if the compensated surety obtains prior authorization from the card issuer; or
- A bank or wire transfer or other electronic funds transfer including, but not limited to, peer-to-peer transfer [e.g. Cash App, PayPal, Venmo] prior to the execution of the bond; and
- Be physically present when the bond is posted and sign the bond at the jail.

The bill requires a compensated surety to enter into a premium financing agreement for the remaining portion of the bond premium (at least 50.0 percent of which was paid to have bond posted). [Note: The bill provides that the bond premium shall consist of at least 10.0 percent of the total bond amount.]

Termination or Suspension

The bill allows a chief judge to terminate or suspend a compensated surety from posting bond. These reasons may include, but are not limited to:

- Filing false statements with the court;
- Failing to charge the minimum appearance bond premium as required by the bill;
- Paying a fee or rebate, or giving or promising anything of value in order to secure a settlement, compromise, remission, or reduction of the amount of any appearance bond, forfeiture, or estreatment, or to secure or delay an appearance bond to:
 - A jailer;
 - A law enforcement officer;
 - Any person who has the power to arrest or hold a person in custody; or
 - Any public official or employee;
- Paying a fee or rebate or giving or promising anything of value other than reward payments for information relating to the apprehension of fugitives to an inmate in exchange for a business referral;
- Requiring or accepting anything of value from a principal other than the appearance bond premium, except that the compensated surety may accept collateral security or other indemnity to secure the face amount of the bond;
- Intentionally failing to promptly return collateral security to the principal when they are entitled to return of the collateral;

- Knowingly employing or otherwise compensating convicted felons (unless the conviction was expunged) for any appearance bond-related work, other than reward payments relating to apprehension of a fugitive; or
- Failing to pay any forfeiture judgment within 30 days of the filing of the journal entry of judgment.

The bill allows a chief judge to investigate claims of violations of the reasons listed above. If the chief judge finds that a violation has occurred, the compensated surety may have their authorization terminated or suspended. If terminated, the bill clarifies that the chief judge must make a record as required under the Code and provide it to the surety

Compensated Surety Continuing Education

The bill raises the limit on the annual continuing education fee charged by the Kansas Bail Agents Association from \$250 to \$300 and allows the Association to prorate course charges according to the number of hours in a particular course.

Definitions

Compensated Surety

The term “compensated surety” in the Code is amended by the bill to mean any person who or entity that is organized under Kansas law that, as surety, issues appearance bonds for compensation, posts bail for four or more persons in a calendar year, is responsible for any forfeiture, and is liable for appearance bonds written by such person’s or entity’s authorized agents. A compensated surety is either an insurance agent surety, a property surety, or a bail agent.

Under the bill, the definition is amended to add the provisions concerning posting bail for four or more persons and that a surety may be a bail agent, in addition to insurance agent surety or property surety, as found in continuing law.

Property Surety

The bill amends the definition of “property surety” to include corporations in the definition.

Appearance Bond Premium

The bill adds a definition for the term “appearance bond premium” to mean a fee charged by a compensated surety for posting an appearance bond.

Technical Amendments

The bill also makes technical amendments, including removing outdated references to compensated surety provisions established before 2017.

Organized Retail Crime; Encouraging Suicide

[Senate Sub. for HB 2144](#) establishes the crime of organized retail crime in the Kansas Criminal Code, makes organized retail crime a type of “racketeering activity” under the Kansas Racketeer Influenced and Corrupt Organization (RICO) Act, and amends law concerning Attorney General (AG) authority to prosecute crimes concurrently with county or district attorneys.

The bill also creates the crime of encouraging suicide and establish penalties for it under the Kansas Criminal Code.

Organized Retail Crime

The crime of organized retail crime will be committing one of the following acts with the intent to permanently deprive the owner of the possession, use, or benefit of the owner’s property or services:

- Acting in concert with one or more other persons to receive, purchase, sell, or possess merchandise with an aggregate retail market value of \$5,000 or more within a 12-month period, knowing or believing such merchandise to have been stolen;
- Taking merchandise with an aggregate retail market value of \$5,000 or more from 1 or more retailers within a 12-month period, as part of an organized plan to commit theft; or
- Recruiting, coordinating, organizing, supervising, directing, managing, or financing 1 or more other persons to undertake any of the above-mentioned actions.

Tiered Penalty

The bill establishes that the penalty for organized retail crime will be based upon the aggregate retail market value of the involved merchandise, as follows:

- Value of at least \$5,000 but less than \$25,000 will be a severity level 6 nonperson felony;
- Value of at least \$25,000 but less than \$100,000 will be a severity level 5 nonperson felony; and
- Value of \$100,000 or more will be a severity level 4 nonperson felony.

Venue

The bill allows for the venue for prosecution to be any venue currently available under any other provision of law or any county where at least \$1 in aggregate retail market value of merchandise is taken, received, stolen, or purchased.

Definitions

The bill defines terms used in the crime of organized retail crime, including:

- “Aggregate retail market value” means the total combined value of merchandise taken, at the price at which the merchandise would ordinarily be sold by the retailer through legitimate sale or distribution;
- “Merchandise” means chattels of any type or description regardless of the value offered for sale in or about a store;
- “Retailer” means a person or business selling, leasing, or facilitating the sale or lease of merchandise to the public or a business; and
- “Store” means a place where merchandise is sold or offered to the public for sale at retail or leased or offered to the public for lease.

Kansas Racketeer Influenced Corrupt Organization Act

The bill amends the definition of “racketeering activity” in the Kansas RICO Act to include the crime of organized retail crime.

Attorney General Concurrent Authority to Prosecute

The bill amends the AG’s authority to prosecute certain crimes concurrently with any county or district attorney. Current law provides the AG may concurrently prosecute:

- Theft;
- A violation of the Kansas RICO Act; or
- Any attempt, conspiracy, or criminal solicitation of such crimes that is part of an alleged course of criminal conduct that occurred in two or more counties.

The bill modifies this authority to specify the AG may concurrently prosecute:

- Organized retail crime and any other crime that is part of such alleged course of criminal conduct;
- Theft;
- A violation of the Kansas RICO Act; or
- Any attempt, conspiracy, or criminal solicitation of the above crimes.

Encouraging Suicide

The bill defines “encouraging suicide” as knowingly encouraging a person to commit or attempt to commit suicide when:

- Such person knows the other person has communicated a desire to commit suicide;
- Encouragement of suicide is made proximate in time to the other person committing or attempting to commit suicide; and
- Such encouragement substantially influences the other person’s decision or methods used to commit or attempt to commit suicide.

Definitions

The bill defines “attempt to commit suicide” as any physical action done by a person with the intent to commit suicide. For purposes of the new crime, the bill defines “encouraging a person to commit or attempt to commit suicide” as oral, written, or visual communication that is persuasive or intended to be persuasive and that gives advice to commit suicide, attempt to commit suicide, or develop a plan to commit suicide.

Penalties

Encouraging suicide will be a severity level 5 person felony if the other person attempts to commit suicide, and a severity level 4 person felony if the other person commits suicide.

Increased Penalties for Harming Law Enforcement Animals

[HB 2583](#) amends the crime of inflicting harm, disability, or death to certain law enforcement animals to include police horses, increase penalties for inflicting harm that results in disability or death to these animals, and specifies the restitution available for a violation of the crime.

Inflicting Harm, Disability, or Death to Certain Law Enforcement Animals

Continuing law defines inflicting harm, disability, or death to specified law enforcement and assistance dogs as knowingly, and without lawful cause or justification, poisoning, inflicting great bodily harm, permanent disability, or death. The bill adds police horses to the list of specified animals that are covered under the crime.

Continuing law provides the crime is classified as a nongrid, nonperson felony with a mandatory minimum prison sentence of 30 days and up to one year of imprisonment, and a fine \$500 to \$5,000. The bill removes a requirement that the offender have a psychological evaluation during the mandatory prison sentence and be ordered to complete an anger management program as a condition of probation when an offender is convicted of a nongrid, nonperson felony violation of the crime.

Increased Penalties for Inflicting Harm Resulting in Disability or Death

The bill provides that inflicting harm that results in disability or death of a specified animal, with the exception of assistance dogs, is classified as a severity level 4 nonperson felony, with a penalty of:

- Mandatory 90 days imprisonment;
 - A requirement that 90 days imprisonment be served before the person is eligible for release on probation, suspension, or reduction of sentence or parole;
- A minimum fine of \$10,000; and
- During the mandatory imprisonment period, completion of:
 - A psychological evaluation; and
 - Completion of an anger management program as a condition of probation.

The crime is classified as a severity level 3 nonperson felony, with the same penalty described above, when the crime is committed while:

- Fleeing or attempting to elude a police officer;
- Interfering with law enforcement;
- Escaping from custody; or
- Committing an aggravated escape from custody offense.

Restitution

The bill requires restitution ordered for the crime to include:

- Costs of veterinary medical treatment;
- Reasonable funeral and burial expenses; and
- Replacement costs of the police dog, arson dog, assistance dog, game warden dog, search and rescue dog, or police horse, to include:
 - Training costs;
 - Personnel expenses; and
 - Costs associated with boarding the animal during training.

Definitions

The bill amends the definition of “police dog”—any dog owned or employed by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders—to remove language regarding the dog’s purpose.

The bill also adds a definition of “police horse”: any horse that is owned by, or the service of which is employed by, a law enforcement agency.

Controlled Substance “Good Samaritan” Protections

[House Sub. for SB 419](#) provides immunity from prosecution for possession of a controlled substance or certain drug paraphernalia if the person seeks medical assistance while under the influence of a controlled substance or provides medical assistance to a person who is under the influence of a controlled substance and is in need of medical assistance.

Persons Eligible for Immunity

The bill prohibits a law enforcement officer from taking a person who may be eligible for immunity into custody based solely on an alleged offense of:

- Possession of a controlled substance; or
- Possession with the intent to use drug paraphernalia in order to introduce a controlled substance into the person’s body.

[Note: The bill does not provide immunity for persons who possess and intend to use drug paraphernalia to manufacture, cultivate, plant, propagate, harvest, test, analyze, or distribute a controlled substance, as specified in continuing law.]

Seeking Medical Assistance by an Individual

The bill provides immunity to persons who initiate contact with law enforcement or emergency medical services (EMS) and request medical assistance on their own behalf due to use of a controlled substance and a reasonable belief that such assistance was needed. Such person is also required to cooperate with law enforcement and EMS personnel while medical assistance is provided.

Rendering Aid or Seeking Assistance for Another

The bill makes immunity available to a person who, on behalf of a person who appeared to need medical assistance due to the use of a controlled substance:

- Renders aid; or
- Initiates contact with law enforcement or EMS and requests medical assistance for such person.

The person is also required to:

- Provide their full name and any other relevant information necessary to provide medical assistance requested by law enforcement or EMS personnel;
- Remain at the scene with the person needing medical assistance until EMS personnel and law enforcement officers arrived; and
- Cooperate with EMS personnel and law enforcement in providing medical assistance.

Persons in Need of Medical Assistance

The bill makes immunity available to the person who reasonably appears to need medical assistance due to the use of a controlled substance and who cooperates with EMS personnel and law enforcement while medical assistance is provided.

Immunity Conditions and Exceptions

Persons who otherwise qualify under the bill are immune from criminal prosecution for the crimes of possession of a controlled substance or possession with intent to use drug paraphernalia to introduce a controlled substance into the human body pursuant to the Kansas Criminal Code, or any city ordinance or county resolution for the same acts.

Intent to Distribute

If a quantity of controlled substances is found at the scene of the encounter with law enforcement that is sufficient to create a rebuttable presumption of intent to distribute, immunity from criminal prosecution or having an arrest warrant issued will not be available to persons who may otherwise qualify.

Warrants and Searches

The bill does not extend immunity to persons who seek medical assistance during the course of the execution of an arrest or search warrant or during a lawful search.

Other Evidence

The bill contains a provision indicating persons immune to prosecution under the bill can be prosecuted based on evidence obtained from an independent source.

Civil Liability

Under the bill, law enforcement agencies and officers will not be liable based on an officer's compliance or failure to comply with the bill. Furthermore, the bill extends civil liability immunity to officers who arrest persons later determined to be immune from prosecution, unless such officer's conduct was reckless or constituted intentional misconduct.

Restricted Driving Privileges for Failure to Comply With A Traffic Citation

[SB 500](#) amends law pertaining to restricted driving privileges for certain individuals who violate the misdemeanor offense of failure to comply with a traffic citation (failure to comply). The bill takes effect on January 1, 2025.

Failure to Comply with a Traffic Citation

Payment of Fines, Court Costs, and Penalties

Under continuing law, failure to appear in court in response to a traffic citation and pay fines and court costs associated with such citation constitutes failure to comply. Upon such failure, the individual has 30 days to appear and pay fines, court costs, and penalties before the driving privileges of the individual must be suspended.

The bill amends requirements that any such fines, court costs, or penalties be paid in full to instead require payment of an amount as ordered by the court.

Reinstatement Fees

The bill limits reinstatement fees assessed under continuing law following failure to comply to a single fee of \$100, replacing the current requirement that imposes a separate \$100 reinstatement fee for each charge associated with the citation with which the individual did not comply, regardless of the disposition of the charge.

Forms for Waiving or Reducing Payment of Court Costs or Fines

Under continuing law, a person who is assessed a fine or court costs for a traffic citation may petition the court to waive payment, or any portion, of the fine or costs. The bill requires the clerks of the district court and municipal court to make forms available to any person seeking to make such a motion.

Waivers and Alternatives to Restriction or Suspension

The bill requires the court to consider the following options before issuing an order to restrict or suspend an individual's driving privileges:

- Waiver or reduction of fees, fines, and court costs, allowing for payment plans of such fees, fines, and costs; and
- Alternative requirements in lieu of restriction or suspension of driving privileges, including, but not limited to, alcohol or drug treatment or community service.

The bill specifies that in considering these waivers or alternatives, the court is not required to make written findings or written payment plan orders.

Offense Look-back

The bill prohibits courts or the Division of Vehicles (Division), Kansas Department of Revenue, from considering any conviction for a failure to comply that is older than five years in determinations of suspension or restriction of driving privileges. The bill requires the Division to notify suspended or restricted individuals whose driving privileges have not been restored that they may be eligible for driving privileges pursuant to this provision.

Exclusions

Continuing law excludes illegal parking, standing, or stopping as grounds for failure to comply. The bill excludes certain additional violations not pertaining to the operation of a motor vehicle from violations for which non-compliance with the terms of a citation constitute failure to comply and provides these exclusions apply retroactively.

The bill provides a person may petition the court to determine whether a previous violation for failure to comply is excluded under the provisions of the bill. If the court determines the person committed an offense that is excluded, the court must immediately electronically notify the Division. The Division is required to terminate any restriction, suspension, or suspension action that resulted from the prior violation upon receipt of the court's notification.

[Note: Under current law, non-compliance with any traffic citation, as defined by KSA 8-2106, constitutes grounds for failure to comply.]

Restricted Driving Privileges

Automatic Restriction of Driving Privileges

The bill requires the Division to restrict, rather than suspend, the driving privileges of eligible individuals as described below, upon a violation of failure to comply and subsequent notification by the court.

The bill authorizes restoration of driving privileges to be provided upon an individual entering into an agreement with the court regarding the person's failure to comply.

Eligibility

Individuals are eligible for the automatic restricted driving privileges authorized under the bill, provided:

- The individual does not have more than three convictions for driving with a canceled, suspended, or revoked license; and
- The license of the individual is not suspended for reasons other than failure to comply.

The bill specifies drivers applying for restricted driving privileges in lieu of suspension under continuing law are eligible to apply for a restricted license if they have previously been approved for restricted driving privileges under the automatic granting of restricted driving privileges authorized by the bill.

Restricted Driving Privileges for Drivers with Revoked Licenses for Failure to Comply

The bill also authorizes a restricted driver's license for a person whose driving privileges have been revoked for driving while the person's driving privilege was canceled, suspended, or revoked only for failure to comply.

The bill removes, for drivers meeting the conditions for reinstatement under provisions of the bill, a mandatory three-year driver's license revocation for a driver whose license has been suspended solely for driving while the person's driving privilege was canceled, suspended, or revoked only for failure to comply.

Duration of Restrictions

The duration of restricted driving privileges vary depending on the circumstances in which restrictions are granted. For any driver granted restricted driving privileges pursuant to the bill, the Division is directed to restore driving privileges upon notice of a determination by the court that the individual has substantially complied with the terms of the traffic citation.

The bill defines "substantial compliance" to mean the person has followed the orders of the court involving payments of fines, court costs, and any penalties and has not failed substantially in making payments or satisfying the terms of the court order, and replaces existing references to "compliance" in the statute with "substantial compliance."

Otherwise, restricted driving privileges remain in effect unless otherwise rescinded, as follows:

- For drivers qualifying for automatic restriction of driving privileges prior to suspension, the lesser of:
 - 60 days from the date that the Division mails notice of restricted driving privileges; or
 - Upon the person entering into an agreement with the court regarding the person's failure to comply;
- For drivers applying for restricted driving privileges under continuing law, until the terms of the traffic citation have been substantially complied with; or
- For drivers qualifying for restricted driving privileges following license revocation, the lesser of:
 - The remainder of time the person's driving privileges are revoked; or
 - Three years from the date the restricted driving privileges were approved.

Permissible Driving Activities

The bill adds driving for the purpose of transporting children to and from school or child care, purchasing groceries or fuel, and attending religious worship services to the list of driving activities permitted when restricted driving privileges are granted for failure to comply. Permissible driving activities are the same for all circumstances in which restricted driving privileges are authorized under the bill.

Violation of Restrictions

The bill states a person operating a motor vehicle in violation of restrictions authorized under the bill is guilty of operating a vehicle in violation of restrictions, which is classified as a misdemeanor.

The bill requires the Division to rescind restricted driving privileges authorized under the bill if the person is found guilty of a violation, other than failure to comply, that results in driver's license suspension, revocation, or cancellation.

The bill also requires, for drivers qualifying for automatic restriction of driving privileges prior to suspension, the rescission of restricted driving privileges if the individual is found guilty of operating a motor vehicle in violation of restrictions, as provided for by the bill.

State Cybersecurity

[House Sub. for SB 291](#) creates and amends law concerning the administration and organization of information technology (IT) and cybersecurity services within each branch of state government.

Cybersecurity Staff Reorganization; IT Services Consolidation and Judicial Branch IT Hardware Plans; Website Domains (New Section 1)

Cybersecurity Staff Reorganization

The bill directs that, on and after July 1, 2027, all cybersecurity services for the legislative and executive branches are to be overseen by the Chief Information Technology Officer (CITO) and the Chief Information Security Officer (CISO) within each respective branch and all cybersecurity staff within each branch of state government be directed by the CITO of that branch.

IT Services Consolidation and Judicial Branch IT Hardware and Cybersecurity Program Plans

The bill requires the Information Technology Executive Council (ITEC), in consultation with cabinet agency heads, to formulate a plan to consolidate all Executive Branch IT services under the Office of Information Technology Services (OITS).

The bill requires the Judicial Branch CITO, in consultation with the Executive Branch CITO, to estimate project costs for providing IT to judicial agencies and employees, including state- and county-funded Judicial Branch district court employees. These employees are required to use state-issued hardware. The estimate must include a plan to allow each piece of IT hardware used to access Judicial Branch applications to become part of the Kansas Wide area Information Network (KanWIN), and estimate the cost to develop a cybersecurity program for all judicial districts that complies with the requirements of the National Institute of Standards and Technology Cybersecurity Framework (CSF) 2.0, as they exist on July 1, 2024.

The bill requires the ITEC and the Executive Branch CITO to present these plans to the House Committee on Legislative Modernization and the Senate Committee on Ways and Means before January 15, 2026.

Website Domains

The bill requires all branch or agency websites to be migrated to a “.gov” domain by February 1, 2025.

Establishing Judicial Branch and Legislative Branch CISOs; Changes to Executive CISO Responsibilities (New Sections 2 and 3, and Section 32)

The bill establishes CISO positions for both the judicial and legislative branches. These officers will be placed in the unclassified service under the Kansas Civil Service Act. The Judicial Branch CITO is appointed by the Judicial Administrator, subject to approval by the Chief Justice of the Kansas Supreme Court. The Legislative Branch CISO is appointed by the Legislative Coordinating Council. The responsibilities of the CISOs will include:

- Reporting to the Judicial Administrator or the Legislative Branch CITO, respectively;
- Establishing security standards and policies to safeguard the branch’s IT systems and infrastructure;
- Ensuring the confidentiality, availability, and integrity of information transacted, stored, or processed within the branch’s IT systems;
- Developing a centralized cybersecurity protocol for protecting and managing the branch’s IT assets and infrastructure;
- Detecting and responding to security incidents consistent with information security standards and policies;
- Being responsible for the cybersecurity of all branch data and information resources and, for the Legislative Branch CITO, obtaining approval from the Revisor of Statutes prior to taking any action on any matter that involves a legal issue related to IT security;
- Collaborating with the CISOs of the other branches to respond to cybersecurity incidents;

- Ensuring that all branch employees complete cybersecurity awareness training annually and revoking an employee's access to any state-issued hardware or the state network if the employee does not complete the required training;
- Reviewing all IT contracts entered into by a person or entity within the branch to make efforts to reduce the risk of security vulnerabilities within the supply chain or product and ensure they contain standard security language; and
- Coordinating with the U.S. Cybersecurity and Infrastructure Security Agency (CISA) to conduct annual audits of branch agencies for compliance with state and federal laws, rules, regulations, and branch policies. The bill requires the CISO to make such audit requests regardless of whether CISA has the capacity to perform the requested audit.

The bill also amends statutes for the Executive Branch CISO to make the position's responsibilities more consistent with the responsibilities of the Judicial Branch and Legislative Branch CISO positions and account for the creation of the new CISO positions.

Appointment of Elected Office CISOs (Sections 12–15)

The bill requires the Attorney General, Commissioner of Insurance, Secretary of State, State Treasurer, and the Director of the Kansas Bureau of Investigation each to appoint a CISO for their respective office or agency. Each CISO is responsible for establishing security standards and policies to safeguard the office or agency's IT systems and infrastructure. Cybersecurity Programs and National Institute of Standards and Technology

Cybersecurity Framework (New Sections 2–3; Sections 9, 12–15, and 32)

The bill requires all CISOs, in consultation with their respective agency heads, to develop cybersecurity programs for their respective agencies that comply with the CSF, ensuring agency achievement of specific tiers by July 1, 2028, and July 1, 2030. [Note: The CSF contains guidelines and best practices to reduce risk of a cyberattack and improve an organization's overall security posture.]

Cybersecurity Audits and Vulnerability Assessments (New Sections 2–3; Sections 10–15, 24, and 34)

The bill requires, in the event of a CISA audit failure, the appropriate CISO to report the failure to the Speaker of the House, President of the Senate, House Minority Leader, and Senate Minority Leader within 30 days, with a plan to mitigate identified security risks. Results of audits and related reports remain confidential and exempt from disclosure under the Kansas Open Records Act.

The bill also allows the CITO for each branch of government to make a request to the Adjutant General for a National Guard active duty operations group to perform vulnerability assessments of the respective branch for the purposes of enhancing branch security. The operations group is required to limit harm to the system being assessed whenever possible.

Appropriations and Compliance (New Sections 4–8)

Beginning on July 1, 2025, and annually thereafter, appropriations from the State General Fund (SGF) or any special revenue fund of any state agency for IT and cybersecurity expenditures must be appropriated as separate line items. These appropriations cannot be merged with other items of appropriation for the respective state agency.

Beginning on July 1, 2028, and annually thereafter, the Director of the Budget (Director), in consultation with relevant CITO, is directed to assess each state agency's compliance with the provisions of the bill for the previous fiscal year. If found non-compliant, the Director certifies an amount equal to 5.0 percent of the appropriated and reappropriated SGF moneys and 5.0 percent of the funds credited to and available in each special revenue fund for that agency. If a special revenue fund lacks an expenditure limitation, the Director is required to establish a limitation that is 5.0 percent less than the total amount available in that fund. The bill requires a detailed written report each year on these compliance determinations to be submitted to the Legislature prior to the regular session, outlining the amounts certified for each non-compliant state agency for the fiscal year. The Senate Committee on Ways and Means and the House Committee on Appropriations are directed to review and consider a 5.0 percent lapse and decreased expenditure limitation for non-complying agencies during budget committee hearings. The bill appropriates \$659,368 to the Judicial Branch in FY 2025.

The bill also appropriates \$15.0 million SGF in FY 2026 to the Kansas Information Security Office (KISO). For the appropriation, the bill requires the Director, in consultation with the Executive Branch CITO and CISO, to determine the five-year average of each state agency's cybersecurity service cost financed with SGF and special revenue funds and lapse the certified SGF amount and transfer appropriate special revenues to a new fund created by the bill.

The bill appropriates \$250,000 to the Adjutant General's Department for two full-time employees for the Intelligence Fusion Center for the purpose of monitoring state IT systems.

The bill also creates, and appropriates in FY 2025 and 2026, a no-limit Information Technology Security Fund within the State Treasury, for use by the KISO for receipt and expenditure of special revenue funds transferred from other state agencies for the purposes provided in the bill.

Information Technology Executive Council Changes (Sections 18, 20, 24, and 26)

The bill modifies the composition of ITEC to make the Legislative Branch CITO, Judicial Branch CITO, and the appointees of the President of the Senate, Senate Minority Leader, Speaker of the House, and House Minority Leader non-voting members, changed from voting members. The bill also adds two IT employees, appointed by the State Board of Regents (Regents), as voting members of ITEC. The Executive Branch CITO will serve as the Chairperson of ITEC.

The bill modifies ITEC's responsibilities to make clear the policies it establishes apply only to Executive Branch agencies. The bill adds to the list of responsibilities the requirement to develop a plan to consolidate all Executive Branch IT services into OITS and report on such a plan to the Legislature.

The bill removes requirements for the Judicial Branch and Legislative Branch CITO to monitor and determine whether their respective agencies are in compliance with ITEC policy, and instead requires them to monitor and comply with policies set by their respective branches or offices.

The bill requires ITEC to meet monthly instead of quarterly.

CITO Requirements (Sections 22, 24, 26, and 28)

The bill modifies requirements of the Executive Branch, Judicial Branch, and Legislative Branch CITO to add requirements to:

- Consult with appropriate legal counsel on matters pertaining to confidentiality of information, the Kansas Open Records Act, the Kansas Open Meetings Act, and any other legal issues related to IT;
- Ensure each agency has the necessary IT and cybersecurity staff embedded to fulfill its duties;
- Maintain all third-party data centers at locations within the United States or with companies that are based in the United States; and
- Create a database of all electronic devices within the branch and ensure that each device is inventoried, cataloged, and tagged within an inventory device.

The bill specifically prohibits that IT and cybersecurity staff employed by OITS within branch agencies from disclosing confidential agency information.

The bill modifies the definition of “executive branch agency” in the Kansas Cybersecurity Act to include the Judicial Council and the Kansas Public Employees Retirement System.

Additionally, the bill modifies the definitions of “business risk” and “information technology project change or overrun” to include policies or thresholds adopted by the Judicial Branch or Legislative Coordinating Council.

Agency Head Responsibilities (Section 36)

The bill removes certain requirements relating to an agency head’s responsibility to ensure the agency’s compliance with certain cybersecurity policies, but makes clear that an agency head is responsible for security of all data and IT resources under their purview, and the bill requires coordination with the respective CISO to implement security standards.

Definition Changes and Exemptions (Sections 16, 28, and 30)

The bill modifies the definition of “executive agency” in statutes governing IT in Chapter 75 of the Kansas Statutes Annotated, State Departments, Public Officers and Employees, to include the Judicial Council but not elected office agencies.

The bill also clarifies Regents institutions will be exempt from provisions relating to the delivery of cybersecurity staff reorganization, “.gov” website domain adoption, and requirements for appropriation requests and transfers.

Sunset and Re-codification

The bill sunsets all provisions of the bill, excluding those related to single-year appropriations, on July 1, 2026, and will re-codify certain statutes as they existed on June 30, 2024, where appropriate.

Child Advocate Act; Office of the Child Advocate

[SB 115](#) enacts the Child Advocate Act (Act), which establishes the Office of the Child Advocate (OCA) as an independent state agency. The bill also amends law in the Revised Kansas Code for Care of Children (CINC Code) and the Revised Kansas Juvenile Justice Code (Juvenile Code) to specify the OCA has access to certain files and records of a child subject to proceedings under these codes.

Definitions

The Act defines the following terms:

- “Child,” to mean an individual less than 18 years of age at the time such individual:
 - Is in the custody of the Secretary for Children and Families (Secretary);
 - May be alleged to be a child in need of care;
 - Is alleged to be a child in need of care; or
 - Is currently or was receiving services or treatment from the Kansas Department of Corrections (KDOC) within the previous five years; and
- “Office,” to mean the OCA and includes the Child Advocate and staff.

Establishment of Office of Child Advocate

The Child Advocate is established as the independent head of the OCA, and the bill specifies nothing in the Act may be construed to permit any governmental agency to exercise control or supervision over the Child Advocate or the OCA.

Selection and Appointment of Child Advocate

The Child Advocate is appointed by the Governor and subject to confirmation by the Senate. The bill requires the Child Advocate to be selected without regard to political affiliation and on the basis of integrity and capacity for effectively carrying out the duties of the OCA. The bill requires the Child Advocate to be an individual with extensive experience in the practice of case management, clinical services, or legal services to children and families involved in the child welfare system. The bill prohibits any former or current executive or manager of any program or agency or contracting agency subject to oversight by the OCA from being appointed as Child Advocate within 12 months of the end of such individual’s period of service within the program or agency.

The Child Advocate serves a term of five years or until a successor has been appointed and confirmed. The Child Advocate is in the unclassified service and receives an annual salary equal to that of a district court judge. The bill requires the Child Advocate to exercise independent judgment in carrying out the duties of the office.

The bill specifies the Child Advocate has general managerial control over the OCA and is required to establish the organizational structure of the OCA as appropriate to carry out the responsibilities and functions of the OCA.

The bill provides that all budgeting, purchasing, personnel, and related administrative functions of the OCA is administered under the direction and supervision of the Child Advocate.

Within the limits of appropriations, the Child Advocate may hire unclassified employees necessary to administer the OCA who serve at the pleasure of the Child Advocate. The Child Advocate may obtain the services of other professionals necessary to independently perform the functions of the OCA, including obtaining legal services from the Attorney General as provided elsewhere in statute. The Child Advocate may enter into agreements with the Secretary of Administration for the provision of personnel, facility management, and information technology services.

Purpose of the Office of Child Advocate

The bill states the purpose of the OCA is to ensure that children and families receive adequate coordination of child welfare services for child protection and care through services offered by:

- Department for Children and Families (DCF) or its contracting agencies;
- Kansas Department for Aging and Disability Services (KDADS);
- KDOC;
- Kansas Department of Health and Environment; and
- Juvenile courts. Duties and Powers of the OCA and the Child Advocate The bill requires the OCA to:
 - Receive and resolve complaints that allege that DCF or DCF's contracting agencies by act or omission have:
 - Provided inadequate protection or care of children;
 - Failed to protect the physical or mental health, safety, or welfare of any child; or
 - Failed to follow established laws, rules and regulations, or written policies.

The bill requires the Child Advocate to:

- Establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of children that adversely or may adversely affect the health, safety, and welfare of such children that relate to:
 - State agencies;
 - Service providers, including contractors and subcontractors; and
 - Any juvenile court; ● Provide DCF with a notice of availability that describes the OCA and how to contact the OCA, which DCF is required to prominently display in DCF offices and facilities receiving public moneys for the care and placement of children;
- Maintain a public website;
- Publicize and notify individuals of the OCA's services, purpose, and contact information;
- Compile, collect, and preserve a record of complaints received and processed, which may reveal concerning patterns to be addressed; and
- Recommend changes to policies, procedures, or adopted or proposed rules and regulations of any state or local agency that adversely affect or may adversely affect the health, safety, and welfare of any child.

Investigation of Complaints

The OCA is required to independently investigate complaints received if the OCA reasonably believes the complaint's allegations may be independently verified through an investigation. In conducting such investigations, the OCA is required to:

- Establish and implement procedures for investigating complaints;
- Have access to the following information related to complaints received:
 - Names and physical locations of all children in protective services, treatment, or other program under the jurisdiction of DCF or KDOC; ○ All written reports of child abuse and neglect;
 - All records as provided by the CINC and Juvenile Codes and ○ All current records required to be maintained as provided in the CINC Code and the Juvenile Code;
- Communicate privately with the following persons or entities, after consultation with treatment professionals and service providers:
 - Any child or child's siblings; and

- Anyone working the child, including the family, relatives, employees of DCF, employees of KDOC, and other persons or entities providing treatment and services;
- Have access to, including the right to inspect and copy, relevant records of a child that may be disclosed pursuant to the CINC Code and the Juvenile Code;
- Work in conjunction with:
 - Juvenile intake and assessment workers;
 - Juvenile community corrections officers;
 - Guardians ad litem; and
 - Court-appointed special advocates;
- Take statements under oath and obtain judicial enforcement of compulsory processes; and
- Subpoena materials or witnesses using procedures specified in the bill. [Note: The procedures to be followed are similar to the procedures that must be followed when subpoenas are issued in proceedings under the CINC Code.]

Complaint Resolution by the Office of Child Advocate

The bill requires the OCA to resolve complaints by:

- Establishing and implementing procedures to resolve the complaints;
- Independently reviewing the complaints and accompanying documents;
- Recommending the appropriate agency or department do one of the following:
 - Review the matter further;
 - Modify or cancel the actions;
 - Change a rule, order, or internal policy;
 - Explain the action further; or
 - Within a reasonable amount of time, provide the OCA information as to the implementation or not of the recommendation by the appropriate agency or department;
- Submitting any findings and recommendations to DCF or KDOC as appropriate;

- Making referrals of child abuse or neglect to law enforcement agencies if there is reason to believe a criminal investigation is warranted and notifying the Abuse, Neglect, and Exploitation Unit of the Office of the Attorney General; and
- Producing reports of findings of fact or conclusions of law regarding any complaint and, if appropriate, the Attorney General may file such reports in any pending CINC case on behalf of the OCA.

Child Welfare System Oversight Assistance

The bill outlines the actions the OCA may take to assist the Legislature in oversight of the child welfare system. The OCA may:

- Meet and discuss any matter in the scope of the Act with the Joint Committee on Child Welfare System Oversight in regular or executive session under applicable duties of confidentiality;
- Review relevant statutes, rules and regulations, policies, and procedures for the health, safety, and welfare of children;
- Evaluate the effectiveness of and recommend changes to procedures for reports of child abuse and neglect for child protective services, including, but not limited to, the involvement of DCF, service providers, guardians ad litem, court appointed special advocates, and law enforcement agencies; and
- Review and recommend changes to law enforcement investigative procedures for and emergency responses to reports of abuse and neglect.

Annual Report

The bill requires the Child Advocate, on or before the beginning of each regular Legislative Session, to submit an annual report to the Governor, Chief Justice of the Supreme Court and the Office of Judicial Administration, Secretary for Children and Families, President of the Senate, Speaker of the House of Representatives, Joint Committee on Child Welfare Oversight, House Committee on Child Welfare and Foster Care (or successor committee), Senate Committee on Judiciary (or successor committee), and any other relevant legislative committee.

The reports are required to include the following items:

- The number of complaints received by the OCA;
- The disposition of the complaints;
- The number of children involved in such complaints;
- The outcome of such complaints;
- Recommendations for changes in statute, policies, procedures, or rules and regulations

- The OCA's proposed annual budget; and
- Any other topics the OCA deems appropriate to properly perform the powers, duties, and functions provided by the Act.

Cooperation with Office of Child Advocate

The bill requires DCF and its contracting agencies, KDOC, juvenile intake and assessment workers, juvenile community corrections officers, guardians ad litem, and court appointed special advocates to cooperate with the OCA and take the following actions:

- Work diligently, promptly, and in good faith to assist the OCA in performing its powers, duties, and functions provided by the Act;
- Provide full access to and production of records and information requested by the OCA. Such access is not a violation of confidentiality if provided and produced in good faith for the purposes of the Act;
- Require employees and contractors of such department or agency to comply with requests from the OCA;
- Allow employees of such department or agency to file a complaint with or provide records or information to the OCA without supervisory approval;
- Not willfully interfere with or obstruct any of the OCA's duties; and
- Promptly meet and consult with the OCA upon request.

Confidentiality of Office of Child Advocate Files

The bill states the OCA is subject to the same state and federal statutory disclosure restrictions and confidentiality requirements applicable to the state agency or other entity providing information to the OCA, with regard to the information received from the agency or other entity.

Any files maintained by the OCA are confidential and disclosed only at the discretion of the Child Advocate, except that the identity of any complainant or child may not be disclosed by the OCA unless the complainant or child, or either's legal representative, consents in writing to such disclosure, or such disclosure is required by court order.

The bill prohibits a representative of the OCA conducting or participating in any investigation of a complaint from knowingly disclosing to any person other than the OCA, or a person authorized by the OCA, the name of any witness examined or any information obtained or given during such investigation. Such disclosure is a class A nonperson misdemeanor. However, the bill requires the OCA to disclose the final result of the investigation of a complaint with the consent of the child or the child's legal representative.

The OCA may not be required to testify in any court with respect to matters held to be confidential in this section, except as the court may deem necessary to enforce the provisions of the Act or when otherwise required by court order.

The bill states the provisions providing for confidentiality of records expire on July 1, 2029, unless the Legislature reviews and reenacts the provisions, pursuant to the Kansas Open Records Act, prior to July 1, 2029.

Immunity

The bill provides that any person who, without malice, participates in any compliant or provides information in good faith to the OCA is immune from civil liability. The bill also provides that the Child Advocate, the OCA, and any employee of the OCA is immune from civil liability, either personally or in their official capacity, for property damage or loss or personal injury that is caused by or arises out of the performance of the duties of the OCA. The bill specifies any immunity does not apply when caused by the intentional, willful, or wanton misconduct of a person.

Privilege

The bill provides any written or oral statement or communication made by the Child Advocate, the OCA, or employee of the OCA relevant to a complaint being investigated is privileged and may not be:

- Disclosed to any person or entity;
- Admissible in any civil action, administrative proceeding, or disciplinary board proceeding in this state;
- Subject to discovery, subpoena, or other means of legal compulsion for their release to any person or entity; or
- Admissible in evidence in any judicial or administrative proceeding, unless the Child Advocate is already a party to such proceeding.

Retaliation; Improper Disclosure

Any person who knowingly takes “retaliatory action,” as defined in the bill, against a child, DCF employee, an employee of contracting agencies of DCF, or KDOC employee for any communication made or information given to the OCA is guilty of a class A nonperson misdemeanor, except when an employee discloses the following:

- Information the employee knows to be false or information without regard for the truth or falsity of the information; or
- Without lawful authority, information that is confidential as provided by any other provision of law

Employees of the OCA are prohibited from knowingly disclosing false information or disclosing confidential information without legal authority.

Amendments to CINC Code and Juvenile Code

The bill amends statutes in the CINC Code and the Juvenile Code to add the OCA to the list of entities with access to official files, social files, information from agency records, information in law enforcement records, records of law enforcement officers and agencies, records of municipal courts, and records, reports, and information obtained as part of the juvenile intake and assessment process for juveniles. [Note: Such access is subject to continuing limits based on relevancy and other factors contained in these statutes.]

The bill also includes the House Committee on Child Welfare and Foster Care as a named committee that has specified access to confidential records.

Uniform Nonparent Visitation Act

[HB 2675](#) enacts the Uniform Nonparent Visitation Act (UNVA).

Definitions

The bill defines several terms used throughout UNVA, including:

- “Nonparent” means an individual, other than a parent or person acting as a parent of a child. The bill specifies the term “nonparent” includes a grandparent, sibling, or stepparent to a child;
- “Person acting as parent” means a person, other than a parent, who:
 - Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately preceding the commencement of a child custody proceeding; and
 - Has been awarded legal custody by a court or claims a right to legal custody under the laws of Kansas;
- “Consistent caretaker” means a nonparent who, without expectation of compensation, meets the following requirements:
 - Lived with the child for no less than 12 months, unless the court finds good cause to accept a shorter period;
 - Regularly exercised care of the child;
 - Made day-to-day decisions regarding the child solely or in cooperation with an individual having physical custody of the child; and
 - Established a bonded and dependent relationship with the child with the express or implied consent of a child’s parent or person acting as a parent or without the consent of a parent or person acting as a parent if no parent or person acting as a parent has been able or willing to perform parenting functions; and

- “Substantial relationship to the child” means a relationship between a nonparent and child that meets the following requirements:
 - The nonparent is an individual with a familiar relationship with the child by blood or law or formed a relationship with the child without expectation of compensation;
 - A significant emotional bond exists between the nonparent and the child from the child’s point of view; and
 - The nonparent regularly exercised care of the child and established a bonded and dependent relationship with the child with the express or implied consent of a child’s parent or person acting as a parent or without the consent of a parent or person acting as a parent if no parent or person acting as a parent has been able or willing to perform parenting functions.

Application of Uniform Nonparent Visitation Act

The UNVA applies to a proceeding commenced on or after July 1, 2024, in which a nonparent seeks visitation. The UNVA also applies to proceedings commenced before July 1, 2024, where a final order has not been entered. The bill specifies the UNVA applies when a child has been appointed a guardian or permanent custodian.

The UNVA does not apply to proceedings:

- Between nonparents, unless a parent or a person acting as a parent is a party to the proceeding;
- Pertaining to visitation with an Indian child as defined in the Indian Child Welfare Act of 1978; and
- Pertaining to a child who is subject of an ongoing proceeding under the Revised Kansas Code for Care of Children (CINC Code) or a substantially similar proceeding in another state. Proceedings to seek visitation under UNVA are not allowed for:
 - A nonparent seeking visitation solely for serving as a foster parent of the child; or
 - An individual whose parental rights concerning the child have been terminated.

The bill also bars proceedings under UNVA during the period of an order relating to visitation with a child of a deployed parent or person acting as a parent and specifies a visitation order entered before such parent or person acting as a parent was deployed remains in effect unless modified by the court.

Commencement of Proceeding Under UNVA—Jurisdiction and Notice

The bill provides that a nonparent can commence a proceeding under UNVA by filing a petition in the court having jurisdiction to determine visitation under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).

Upon commencement of a proceeding under UNVA, the nonparent must give notice in the manner described by the Kansas Code of Civil Procedure to each:

- Parent or person acting as a parent of the child who is the subject of the proceeding;
- Person having legal custody, residency, or parenting time with the child;
- Individual having court-ordered visitation with the child; and
- Attorney, guardian ad litem, or similar representative appointed to the child.

Petition for Visitation

Under UNVA, a petition for visitation by a nonparent is required to allege facts showing:

- The nonparent meets the requirements of a consistent caretaker of the child; or
- The nonparent has a substantial relationship with the child and denial of visitation would result in harm to the child.

The petition must state the relief sought and allege specific facts showing:

- The duration and nature of the relationship between the nonparent and the child, including the period, if any, the nonparent lived with the child and the care provided;
- The content of any agreement between the parties to the proceeding regarding care of the child and custody of or visitation or other contact with the child, and if there is such an agreement, it must be attached to the petition;
- A description of any previous attempt by the nonparent to obtain visitation or other contact with the child;
- The extent to which the parent or person acting as a parent is willing to permit the nonparent to have visitation or other contact with the child;
- Information about compensation or expectation of compensation provided to the nonparent in exchange for care of the child;
- Information required to establish jurisdiction of the court under the UCCJEA;
- The reason the requested visitation is in the best interest of the child, applying factors outlined in UNVA; and
- If the nonparent alleges a substantial relationship with the child, the reason denial of visitation to the nonparent would result in harm to the child.

Prima Facie Case for Visitation

If the court determines, based on the petition described above, a nonparent has not pleaded a prima facie case for visitation, the court is required to dismiss the petition.

To plead a prima facie case, the bill requires the nonparent to show:

- A denial of visitation would harm the child;
- The nonparent has been a consistent caretaker during the year immediately preceding the filing of action or has a substantial relationship with the child; and
- An order of visitation to the nonparent is in the best interest of the child.

Presumptions

The bill provides that in an initial proceeding under UNVA, there is a rebuttable presumption that a decision by a parent or person acting as a parent regarding the nonparent visitation request is in the best interest of the child. A nonparent has the burden to rebut the presumption by clear and convincing evidence of facts related to the request for visitation. The bill specifies that proof of a parent's or person acting as a parent's unfitness is not required to rebut the presumption.

The bill requires the court to presume that ordering visitation for a nonparent is not in the best interest of the child if the court finds the nonparent or an individual living with the nonparent has:

- Committed the crime of abuse of a child or abandonment or aggravated abandonment of a child;
- Committed a domestic violence offense;
- Committed a sex offense;
- Committed stalking;
- Been subject to registration requirements under the Kansas Offender Registration Act; or
- Committed a comparable offense or has been subjected to a registration requirement in another state

The bill requires the finding to be based on evidence of a conviction in a criminal proceeding or final judgment in a civil proceeding or proof by a preponderance of the evidence.

A nonparent may rebut the presumption by proving through clear and convincing evidence that ordering visitation to the nonparent will not endanger the health, safety, or welfare of the child and is in the child's best interest.

Order of Visitation

A court may order visitation to a nonparent only if the nonparent proves:

- The denial of visitation would result in harm to the child;
- The nonparent is or has been a consistent caretaker within one year of the action's initiation or has a substantial relationship with the child; and
- An order of visitation to the nonparent is in the best interest of the child as determined by the court considering the following factors:
 - Nature and extent of the relationship between the child and the parent or person acting as a parent;
 - Nature and extent of the relationship between the child and the nonparent;
 - Past or present conduct by a party or individual living with a party that poses a risk to the physical, emotional, or psychological well-being of the child;
 - Likely impact of the requested order on the relationship between the child and the parent or person acting as a parent;
 - Applicable factors considered in the determination of legal custody, residency, and parenting time of the child; and
 - Any other factor affecting the best interest of the child.

The bill allows the court to consider the views of the child, taking into account the age and maturity of the child, when making an order of visitation.

The court is required to make findings of fact and conclusions of law when issuing a final order and state the reasons for dismissal or denial.

Modification of Orders

The court may modify a final visitation order on a showing by a preponderance of the evidence that a material change in circumstance has occurred relevant to the visitation with the child and modifying the order is in the best interest of the child. On agreement of the parties, the court may modify a visitation order unless the court finds the agreement is not in the best interest of the child.

Other Court Actions Authorized Under UNVA

To the extent authorized by the Kansas Family Law Code, the bill allows the court to:

- Appoint a guardian ad litem for the child;
- Interview the child if the child is of sufficient age and maturity;

- Require the parties to participate in mediation or another form of alternative dispute resolution except that a party who is the victim of a domestic violence offense, sex offense, stalking, or other offense committed by the other party is not required to participate unless reasonable procedures are in place to protect the party from a risk of harm, harassment, or intimidation; or
- Order an evaluation, investigation, or other assessment of the child's circumstances and the effect on the child of ordering or denying the requested visitation or modifying a visitation order.

Notice of Nonparent Visitation Order to Parent

A nonparent entitled to visitation with a child under UNVA is required to give written notice to the parent or person acting as a parent if the nonparent:

- Is subject to the registration requirements of the Kansas Offender Registration Act or any comparable registration requirements of another jurisdiction;
- Has been convicted of child abuse under the Kansas Criminal Code; or
- Is residing with an individual who is known by the nonparent to be subject to registration requirements or convicted as described in the bill.

The bill requires notice to be sent by restricted mail, return receipt requested, to the last known address of the parent or person acting as a parent within 14 days following knowledge of an event described above.

Failure to give required notice is an indirect civil contempt of court punishable as provided by law. The court may order the nonparent required to give notice to pay reasonable attorney fees and any other expenses incurred by the parent or person acting as a parent as a result of failing to give notice.

The events described above may also be considered a material change of circumstances that justify modification of a prior visitation order.

Expenses of Visitation

Unless the court determines that justice and equity require otherwise, the nonparent is required to pay for the expense of facilitating visitation, including the cost of transportation, court-ordered services for the child, and costs and reasonable attorney fees, to the parent or person acting as parent.

Uniformity; Electronic Signatures in Global and National Commerce Act; Severability

In applying and construing UNVA, the bill requires consideration to be given to promoting uniformity of the law among states that enact UNVA.

The bill also specifies how UNVA interacts with the Electronic Signatures in Global and National Commerce Act.

The bill includes a severability clause stating if any provision of UNVA is held invalid, the invalidity does not effect other provisions of UNVA.

Repeal of Third-party Visitation Provisions in Kansas Family Law Code

The bill repeals four statutes concerning grandparent and stepparent visitation rights in the Kansas Family Law Code, as UNVA applies to these types of visitation proceedings.

Coercion to Obtain an Abortion

[Senate Sub. for HB 2436](#) creates the crime of coercion to obtain an abortion and creates a special sentencing rule that will apply to persons convicted of certain crimes against a victim with the intent to compel an abortion.

Coercion to Obtain an Abortion

The bill creates the crime of coercion to obtain an abortion. The crime is defined as engaging in coercion with both the knowledge a woman is pregnant and the intent to compel such woman to obtain an abortion when the woman has expressed her desire to not obtain an abortion.

Penalty

The bill classifies the offense of coercion to obtain an abortion as a nongrid person felony with a sentence of between 30 days and 1 year imprisonment and a fine of \$500 to \$5,000.

Increased Penalty

The penalty for the coercion to obtain an abortion offense will be raised to a sentence between 90 days and 1 year imprisonment and a fine between \$1,000 and \$10,000 if:

- The offense was committed by the father or putative father of the unborn child who is 18 years of age or older at the time of the offense; and
- The offense is committed against a pregnant woman who is under the age of 18.

Definitions

The bill defines the following terms:

- “Abortion” means the same as defined in public health law;
- “Coercion” means any of the following:

- Threatening to harm or physically restrain an individual or the creation or execution of any scheme, plan, or pattern intended to cause an individual to believe that failure to perform an act would result in financial harm to, or physical restraint of, an individual;
- Abusing or threatening abuse of the legal system including threats of arrest or deportation without regard to whether the individual being threatened is subject to arrest or deportation under state or federal law;
- Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document or any other actual or purported government identification document from an individual without regard to whether the documents are fraudulent or fraudulently obtained; or
- Facilitating or controlling an individual's access to a controlled substance, as defined in public health law, and amendments thereto, other than for a legitimate medical purpose;
- "Financial harm" means any of the following:
 - Any loan, promissory note, or other credit instrument that provides for interest at a rate that is prohibited by state or federal law;
 - Any employment contract or other agreement for the payment of wages that violates the Wage Payment Act;
 - Extortion as defined in the Kansas Criminal Code; or
 - Any other adverse financial consequence; and
- "Unborn child" means a living individual organism of the species Homo sapiens, in utero, at any stage of gestation from fertilization to birth.

Special Sentencing Rule

The bill creates a special sentencing rule that will apply when a trier of fact makes a finding beyond a reasonable doubt that an offender committed certain acts, enumerated by the bill, including an attempt or conspiracy of such act with knowledge that a woman is pregnant and with intent that the act will compel the woman to obtain an abortion, despite the woman having expressed a desire not to obtain an abortion.

The bill will apply the special sentencing rule to the following crimes and other offenses as defined in the statutes:

- Kidnapping;
- Interference with parental custody;
- Criminal restraint;
- Assault;
- Battery;
- Domestic battery;

- Criminal threat;
- Human trafficking;
- Stalking;
- Blackmail;
- Endangerment;
- Rape;
- Criminal sodomy;
- Sexual battery;
- Indecent liberties with a child;
- Unlawful voluntary sexual relations;
- Indecent solicitation of a child;
- Electronic solicitation;
- Sexual exploitation of a child;
- Sexual extortion;
- Endangering a child;
- Abuse of a child;
- Incest; and
- Abandonment of a child.

Enforcement of Penalty

For offenses classified in severity level 2 through 10, the bill enhances the penalty one severity level above the severity level classification assigned in law.

For offenses classified in severity level 1, the bill requires a penalty of imprisonment for life, without eligibility for probation or suspension, modification, or reduction of the sentence. Further, the bill specifies the offender will not be eligible for parole prior to serving 25 years' imprisonment and that 25 years imprisonment term could not be reduced by the application of good time credits. However, if the offender's criminal history classification means the offense would carry a penalty of presumptive imprisonment of a term to exceed 300 months, the offender will be required to serve a mandatory minimum term of the applicable number of months under the sentencing grid.

[Note: Under continuing law, Kansas' sentencing guidelines for nondrug crimes utilize a grid containing the crime severity level (1 to 5, 1 being the highest severity level) and the offender's criminal history score (A to I, A being the highest criminal history score) to determine the presumptive sentence for an offense.]

The bill specifies the escalated sentence will not be considered a departure or subject to appeal.

Juvenile Release Programs

[House Sub. for SB 420](#) establishes criteria to permit juvenile offenders in the custody of the Secretary of Corrections (Secretary) to leave a juvenile facility for certain programming.

Continuing law authorizes the Secretary to issue leave to a juvenile placed in a correctional facility when necessary for the juvenile to obtain medical services or to reintegrate into the community when accompanied by a staff member or other designated adult.

The bill authorizes the Secretary to establish work release and educational release programs for juveniles, and it specifies a juvenile may attend such release programs outside the facility without a staff member or designated adult when:

- The juvenile meets appropriate classification as defined by Department of Corrections policies and procedures;
- The Secretary finds the juvenile meets the criteria for a release program; and
- The Secretary finds the juvenile can receive substantial benefit from educational or vocational programs that are not offered at the facility.

The bill requires the Secretary to adopt policies and procedures to ensure adequate oversight, supervision, and accountability of a juvenile attending a release program, including communication with community providers related to the juvenile.

SOUL Family Legal Permanency Option

[HB 2536](#) establishes a new legal permanency option for children 16 years of age or older who are in the custody of the Secretary for Children and Families (Secretary). The bill also amends various statutes contained in the Revised Kansas Code for Care of Children (CINC Code) to reference this new form of permanency, which is designated as “Support, Opportunity, Unity, Legal Relationships (SOUL) Family Legal Permanency” (SFLP).

Establishment of SOUL Family Legal Permanency (New Section 1)

The appointment of SOUL Family Legal Permanency (SFLP) may be made with:

- Agreement and approval of a child 16 years of age or older;
- Agreement and consent of the child’s parent unless there has been a finding of unfitness or termination of parental rights and consent is no longer required; and
- Approval of the court set forth in a court order.

The bill allows a court to order SFLP:

- After a finding of parental unfitness;
- After termination of parental rights; or
- When determined to be in the best interests of the child and the requirements of the appointment described above are met.

Parental Consent Requirements

When parental consent is required for the appointment of SFLP, the bill requires the consent to be in writing and acknowledged by a judge of a court of record or before an officer authorized by law to take acknowledgments. The bill requires that before any consent is acknowledged by a court of record, the court must advise the consenting parent of the consequences of the consent by asking five questions, as specified by the bill.

Parental consent is final when executed, unless the parent contesting consent proves by clear and convincing evidence the consent was not freely and voluntarily given. The bill specifies the burden of proving consent was not freely and voluntarily given rests with the contesting parent. The bill requires the parent to contest consent prior to the issuance of the order appointing a SFLP custodian.

The bill also specifies that when a parent has consented to SFLP based upon a belief that the child's other parent would also consent or be found unfit but the other parent does not consent, the consent is null and void.

Potential SFLP Custodian Review

Prior to making the SFLP appointment, the bill requires the Secretary to submit a report to the court containing the following determinations:

- The ability and suitability of a potential custodian to care for the child, after observing the child in the home of the custodian with whom the child will reside;
- Whether the names of any potential SFLP custodians appear on the Department for Children and Families (DCF) Child Abuse and Neglect Registry;
- Whether any potential SFLP custodians have been convicted of any crime specified in KSA 59-2132(e); and
- The consideration of the appointment of a relative or an individual with whom the child has close emotional ties, to the extent the Secretary determines the appointment to be in the best interests of the child.

Review and Approval by the Court

Prior to ordering SFLP, the bill requires the court to review and consider the Secretary's report described above and additional information provided by the Secretary related to benefits of the SFLP, including, but not limited to, financial support, medical coverage, and educational support if SFLP is established. The bill requires the court to ensure the child has access to the maximum allowable benefits available under other legal permanency options.

When appointing SFLP, the bill requires the court to consider, to the extent the court finds it in the child's best interest, appointing a relative or an individual with whom the child has close emotional ties. The bill provides if a court appoints more than one individual as SFLP custodian, the child and the individual may be unrelated.

The bill provides that upon the establishment of SFLP, the Secretary's custody ends, and the court's jurisdiction over the child continues unless the court enters an order terminating jurisdiction.

Effect of SFLP on Parental Rights

If SFLP is ordered after a judicial finding of parental unfitness without a termination of parental rights, the bill provides all parental rights transfer to the SFLP custodian, except for:

- The obligation to pay child support and medical support;
- The right to inherit from the child; and
- The right to consent to adoption of the child.

If SFLP is ordered after termination of parental rights, the bill provides the parent retains no rights or responsibilities to the child upon termination.

Rights and Responsibilities of Custodian

Pursuant to the bill, a custodian exercises all the rights and responsibilities of a parent, except the custodian may not consent to an adoption of the child or be subject to court-ordered child support or medical support for the child.

The bill also allows a custodian to share parental responsibilities with a parent of a child if the custodian believes it is in the best interests of the child, and there has not been a finding of parental unfitness or another court-ordered limitation. However, this does not relieve the custodian of legal responsibility.

The bill allows the court, upon motion of parties, interested parties, or its own motion, to impose limitations or conditions upon the rights and responsibilities of the custodian, if determined by the court to be in the best interests of the child.

Documentation Required to be Filed With the Court

The bill requires certain documents to be signed and filed with the court with respect to the appointment of a custodian:

- A document confirming the custodian's willingness to serve as custodian; and
- An order of the court appointing such custodian.

When Multiple Custodians Appointed

When more than one custodian has been appointed, the bill requires the court to designate one individual as primary custodian, with the approval of the child and the individual. This primary custodian is required to consider information provided by the child and other custodians for possible resolution in any dispute that may arise between the child and the custodian or between multiple custodians.

The bill allows the court to order alternative dispute resolution upon motion by the child or custodian if a dispute remains unresolved prior to:

- The child reaching 18 years of age;
- June 1 of the school year in which the child reached 18 years of age, if still attending high school.

In the event the court has previously terminated jurisdiction of a child's case, the bill directs that a court may reinstate the jurisdiction to consider a motion for alternative dispute resolution.

Effect of Divorce

The bill provides if custodians are married at the time of the appointment but subsequently divorce, the marriage is annulled, or the court orders separate maintenance with respect to the custodians, the court is required to make custody determinations between the custodians.

Rights of Inheritance

The bill requires the custodians to consider, and separately sign, agreements stating whether they will provide any rights of inheritance to the child and medical power of attorney for the child.

Other Supportive Individuals

The bill states a court may also recognize other individuals who testify to the court that they will provide support to the child, at the request and approval of the child and custodian. The bill specifies such individuals do not have legal obligations or rights related to the child.

Amendments to CINC Code

Definitions (Section 2)

The bill defines the term “SOUL Family Legal Permanency” to mean the appointment of one or more adults, approved by a child who is 16 years of age or older and the subject of a child in need of care (CINC) proceeding. The bill adds the establishment of SFLP as one outcome of the permanency planning process in the definition of “permanency goal.”

The bill also makes a technical amendment to add the definition of “behavioral health crisis” in this section. [Note: This is a technical amendment reconciling two versions of the statute enacted during the 2023 Legislative Session and is not new language.]

Other Provisions (Sections 3–9)

The bill adds references to SFLP in sections of the CINC Code where other types of permanency are discussed, including provisions governing: jurisdiction, contents of the CINC petition, authorized dispositions in a CINC case, permanency hearings, request for termination of parental rights and appointment of custodian, and voluntary relinquishment and appointment of custodian. [Note: Only substantive amendments are described below.]

In the section governing jurisdiction, the bill specifies that when a child has been ordered to have a SFLP custodian, the court’s jurisdiction over the child may continue until:

- The child has reached 18 years of age; or
- June 1 of the school year in which the child reached 18 years of age, if still attending high school.

In the section governing the voluntary relinquishment and appointment of a permanent custodian, the bill specifies when a parent voluntarily relinquishes his or her rights to a SFLP custodian, a parent may consent to the custodianship pursuant to provisions outlined in New Section 1 of the bill. The bill provides if the individual designated as the SFLP custodian consents to the appointment and is approved by the court, the custodian would have all the rights and responsibilities of a permanent custodian, subject to the provisions of New Section 1. The bill also requires each consent to the appointment of a SFLP custodian to be in writing and signed by either parent or legal guardian of the child.

Child Death Records—Child Death Review Board and Coroner

[HB 2629](#) amends provisions in law pertaining to the State Child Death Review Board (SCDRB or “Board”). The bill eliminates certain reporting requirements by a coroner involving the investigation and autopsy of a child death and requires the Secretary of Health and Environment to provide the SCDRB with a copy of the child’s death certificate. The bill also requires a coroner to immediately notify the parent or legal guardian that an autopsy of their child had been completed and to provide information on how to obtain the autopsy results.

The bill also increases SCDRB membership, outlines its responsibilities, allows for member compensation, addresses the disclosure and maintenance of SCDRB records, and removes the limit on the SCDRB's access to Department for Children and Families (DCF) and other social service agency records involving services provided to the child or the child's family.

Coroner's Report of a Child Death

The bill eliminates the requirement that a coroner complete and sign a nonsuspicious child death form if, after investigation and autopsy, the coroner determines the death of a child does not include any suspicious circumstances or unknown cause.

The bill also eliminates the requirement that a coroner notify the chairperson of the SCDRB within 30 days after an investigation and autopsy determines that the death of a child includes any suspicious circumstance or unknown cause. [Note: The requirement that the coroner notify the county or district attorney of the county where a child death involving any suspicious circumstance or unknown cause occurred within 24 hours of the coroner's investigation and autopsy remains in law.]

Parental Notification of Autopsy

The bill removes a requirement a coroner attempt to notify a parent or legal guardian of the results of the autopsy. Instead, once the autopsy is completed, the coroner is required to immediately notify the parent or legal guardian of its completion and provide information on how a parent or legal guardian may obtain the autopsy results.

Sudden Unexplained Infant Death Syndrome

The bill replaces the term "sudden infant death syndrome" with "sudden unexplained infant death syndrome."

Death Certificate Provided to Board

The bill requires the Secretary of Health and Environment to provide the SCDRB with a copy of the child's death certificate that meets the requirements developed by the SCDRB.

Increase in Board Membership

The bill increases the number of members appointed to the SCDRB by the State Board of Healing Arts from three members to four. The bill increases the number of members who are physicians licensed to practice medicine and surgery from two members to three and requires that two of such members specialize in pediatrics.

Board Responsibilities

The bill requires the SCDRB, when informed of a child death, to review all child deaths of:

- Kansas residents who are less than 18 years of age, regardless of where the deaths occurred; and

- Non-Kansas residents who are less than 18 years of age if the death occurred in Kansas.

Board Member Compensation

The bill allows SCDRB members to receive compensation, subsistence allowances, mileage, and expenses for attending meetings and subcommittee meetings of the SCDRB, subject to approval of the chairperson of the Board and the Attorney General.

Exceptions for Disclosure of Board Records

The bill adds the following to the list of those to whom disclosure of information acquired by and records of the SCDRB is allowed:

- Any person or entity, if the information and records being disclosed are statistics or conclusions of the SCDRB and provided for the purpose of procuring and maintaining financial grants; and
- The Governor and Legislature, if the information and records being disclosed are statistics or conclusions of the SCDRB and provided for the purpose of supplementing the SCDRB's annual report.

Board Access to Agency Records

The bill removes the limit on SCDRB's access to records of DCF or any other social service agency that provided services to the child or the child's family. Under current law, the SCDRB only has access to records if the child or the child's family received services from that agency within three years preceding the child's death.

Transmittal of Written Report

The bill removes the requirement that the SCDRB complete and transmit a copy of its written report to:

- The county or district attorney of the county in which the child's death occurred;
- The county or district attorney of the county in which the child resided if different from where the death occurred; or
- The child protective services agency of the state where the child resided if the child resided in another state.

Maintenance of Records

The bill requires the SCDRB to maintain records of all written reports concerning child deaths for at least 15 years after the date a case investigated by the Board is closed, rather than maintaining the records permanently.

Age Verification for Certain Websites

[SB 394](#) creates law requiring the use of age verification technology to permit access to internet websites containing material that is harmful to minors.

Definitions

The bill defines several terms used throughout the bill, including the following:

- “Harmful to minors” is defined in the same manner as in the crime of promotion to minors of material harmful to minors in the Criminal Code and means that quality of any description, exhibition, presentation, or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when the material or performance, taken as a whole or, with respect to a prosecution for an act described by KSA 21-6402(a)(1), that portion of the material that was actually exposed to the view of minors, having the following characteristics:
 - The average adult person applying contemporary community standards would find the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors;
 - The average adult person applying contemporary community standards would find the material or performance depicts or describes nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and
 - A reasonable person would find the material or performance lacks serious literary, scientific, educational, artistic, or political value for minors;
- “Material” means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, or video tape; and
- “Commercially reasonable method of age verification” means:
 - Any method expressly approved by the Attorney General (AG); or
 - Any method that is certified in documented international standards for age verification, as specified by the AG.

Age Verification Requirements

The bill requires any commercial entity that knowingly shares or distributes material that is harmful to minors on a website, and the material appears on 25.0 percent or more of the webpages viewed on the website in any calendar month, or that knowingly hosts the website, to verify any person who is a resident of or is located in the state that attempts to access the website is 18 years of age or older. Under the bill, it is a violation to allow access to the type of website described above without verifying the age of the user.

The bill requires the age verification to be conducted through the use of:

- A commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification; or
- Any other commercially reasonable method of age and identity verification.

Violations and Penalties

Attorney General Enforcement

The bill allows any person who is able to access a website without verifying their age to report the violation to the AG. The AG is required to investigate the violation and may bring an action to enjoin any continuing violation and impose a civil penalty on the commercial entity in violation of the bill's provisions. The penalty imposed may be in an amount between \$500 and \$10,000 for each violation and clarifies this penalty would be imposed instead of any civil penalty recoverable in an action brought by the AG in the Kansas Consumer Protection Act (KCPA). The bill specifies that each instance in which a website is accessed without proper verification constitutes a separate violation.

Kansas Consumer Protection Act

The bill states any violation pursuant to the bill is deemed an unconscionable act and practice under the KCPA. For the purposes of remedies and penalties provided by the KCPA:

- The person alleging a violation of the bill's provisions is deemed a consumer;
- The commercial entity violating the bill's provisions is deemed the supplier; and
- Proof of a consumer transaction is not required.

Private Cause of Action

The bill allows the parent or legal guardian of a minor who was able to access a website without age verification to bring a private action against the commercial entity that permitted the access. The person bringing the action may seek actual damages resulting from a minor's access to harmful material, statutory damages of no less than \$50,000, and reasonable attorney fees and costs.

Retention of Identifying Information Not Permitted

The bill prohibits any commercial entity or third party performing age verification pursuant to the bill from retaining any identifying information, as defined by the bill, of the individual after access has been granted to the website. If a commercial entity is found to have knowingly retained identifying information in violation of the bill's provision, the bill requires the commercial entity to be liable to the individual for resulting damages, including reasonable attorney fees and costs as ordered by the court.

Obligation and Liability of Internet Service Providers

The bill specifies that nothing in the bill may be construed to impose an obligation or liability on an internet service provider or the user of an interactive computer service.

Attorney Fees for Indigent Defendants

[HB 2605](#) increases the maximum hourly rate of compensation for attorneys appointed to represent indigent defendants in felony criminal cases from \$80 per hour to a minimum of \$120 per hour, with a maximum rate of \$140 per hour.

[Note: Under law, the specified hourly rate only applies to private attorneys appointed by a court to perform services for an indigent person and does not include public defenders, assistant public defenders, or contract counsel. The Board of Indigents' Defense Services has operated under appropriations proviso language providing authority and funds to pay an hourly rate of \$100 per hour in FY 2022 and \$120 per hour in FY 2023, FY 2024, and FY 2025.]

The bill also replaces a reference to the \$80 per hour rate in law that allows the chief judge of any judicial district to negotiate an hourly rate less than the maximum rate for attorneys who voluntarily accept appointments in that district with a reference to the "maximum rate."

Levi's Law Increases the Penalties for Leaving the Scene of an Accident

[HB 2665](#), known as "Levi's Law," increases the penalties for leaving the scene of an accident when the driver knew or reasonably should have known the accident resulted in injury or death.

Under continuing law, the offense of leaving the scene of an injury or fatal accident before complying with the statutory requirements is classified as a severity level 5 person felony if the person knew or should have known such injury or fatality occurred due to the accident. The bill increases the penalty to a severity level 4 person felony if one death occurred in the accident and sets a new penalty for accidents resulting in the death of more than one person at a severity level 3 person felony.

[Note: The bill was requested for introduction by a representative of Watkins Strategies on behalf of a private citizen, Jill Ward. Ms. Ward provided testimony during the hearings on the bill that her son, Levi Ward, died as the result of a fatal car accident from which the other driver fled without calling emergency services or rendering aid. The bill is named "Levi's Law" in his memory.]

District Coroner Appointment

[SB 381](#) allows the board of county commissioners in any county that is not the most populous county in the judicial district to appoint a coroner, at the county's expense, to serve as district coroner for the county.

Peer Support Counseling

[HB 2557](#) amends the definition of the term “peer support counseling session” within the Kansas Rules of Evidence.

Under law, members of law enforcement, emergency services, or the Kansas National Guard may utilize a peer support counseling session to discuss a critical incident or traumatic event.

The bill amends the term “peer support counseling session” to expand the reasons a participant may seek a counseling session to include a professional, personal, or social problem, or a difficult life event where peer counseling assistance and guidance would benefit the participant.

Certain information conveyed in a peer support counseling session by a participant or peer support specialist will be considered privileged and may not be disclosed or be considered admissible in judicial, administrative, arbitration, or other adjudicatory proceedings.

The bill extends the privilege to communications made in the counseling session regardless of:

- How the peer support specialist is contacted;
- Whether the session is conducted in a group or in private;
- Where the session is requested or conducted; or
- Whether the session was conducted electronically.

Exceptions to the privilege include certain information related to threats of suicide or criminal acts, information relating to the abuse of persons, admission of criminal conduct, or certain information disclosed with consent. [Note: The bill does not amend provisions in law concerning non-privileged disclosures made in a counseling session.]

Fingerprinting; Criminal History Record Information

[SB 491](#) creates and amends law to standardize language pertaining to criminal history and record check fingerprinting requirements for all requesting entities and identify what criminal history records may be released to various agencies for the purpose of verifying a person’s identity, criminal history, qualifications, and fitness for employment.

The bill makes conforming amendments in several statutes to reflect the standard language created in the new sections and adds definitions in the applicable statutes as necessary to define who is required to be fingerprinted as provided in the new sections of the bill.

The bill specifies that fingerprints and criminal history record information is confidential and defines the penalties associated with unauthorized disclosure.

[Note: The bill does not substantively change fingerprinting requirements or the types of criminal records that may be released as already required by statute, with the exception of records released to the Board of Emergency Medical Services, as noted in New Section 2 of the bill.]

Fingerprinting Requirements and Criminal History Records for Criminal Justice Agencies (New Section 1)

The bill requires a criminal justice agency, as defined by the Kansas Code of Criminal Procedure, to require an applicant for criminal justice employment to be fingerprinted and have such fingerprints submitted to the state database maintained by the Kansas Bureau of Investigation (KBI) and the federal database maintained by the Federal Bureau of Investigation (FBI). Fingerprints submitted may be used to identify the applicant and determine whether the applicant has a record of criminal history in Kansas or another jurisdiction.

The criminal justice agency may use information obtained through fingerprinting for the purposes of verifying a person's identity and determining the person's qualifications and fitness to be employed or to maintain employment.

The bill requires the KBI to release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, and juvenile diversions to:

- A city clerk for the position of chief of police;
- A county election officer for a candidate for sheriff;
- The Governor for an appointment to the position of Kansas Highway Patrol (KHP) Superintendent; and
- A state, county, city, university, railroad, tribal, Horsethief Reservoir Benefit District, or school law enforcement agency for admitting applicants for certification by the Kansas Commission on Peace Officers' Standards and Training.

In addition to the records described above, the bill requires the KBI to certify any adult conviction record of a chief of police or candidate for sheriff to the Attorney General (AG).

Fingerprinting Requirements and Criminal History Records for Other Governmental Agencies (New Section 2)

The bill identifies other governmental agencies that may require a person to be fingerprinted in the manner described above and authorizes such agencies to use information obtained through fingerprinting for the purposes of verifying a person's identity and determining the person's qualifications and fitness to:

- Be issued or maintain employment, licensure, registration, certification, or a permit;
- Act as an agent of a licensee;

- Hold ownership of a licensee; or
- Serve as a director or officer of a licensee.

With respect to fingerprint-based record checks authorized pursuant to this section, the bill requires state and local law enforcement agencies to assist with taking fingerprints of individuals and requires any public body to recess into a closed or executive session to receive and discuss criminal history information obtained. The bill also specifies the KBI may charge agencies a reasonable fee for conducting a criminal history record check. [Note: Current law specifies a dollar amount to be charged as a fee in certain statutes.]

The bill requires the KBI to release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, juvenile diversions, and juvenile expunged records to:

- The Kansas Department for Aging and Disability Services (KDADS) or the Kansas Department for Children and Families for participation in a program administered for the placement, safety, protection, or treatment of vulnerable children or adults.

The bill requires KBI to release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records and juvenile expunged records to:

- The Kansas Racing and Gaming Commission (KRGC) for candidates for employment or licensure; and
- The State Lottery for candidates for employment.

The bill requires the KBI to release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, and juvenile diversions to:

- The AG for applicants for a license to carry a concealed handgun;
- The Department of Administration for candidates for sensitive employees with unescorted physical access to state-operated or contracted data centers, telecommunications facilities, or other security-sensitive areas; and
- The Emergency Medical Services Board (EMS Board) for applicants for an emergency medical service provider certificate. [Note: Under current law, the EMS Board is allowed to receive information related to only adult convictions and juvenile adjudications.]

The bill requires the KBI to release criminal history record information related to adult convictions, adult non-convictions, adult diversions, and adult expunged records to:

- The AG for private detective applicants;
- The AG for certification to train private detectives in the handling of firearms and lawful use of force;

- The Kansas Commission on Peace Officers' Standards and Training for applicants for certification under the Kansas Law Enforcement Training Act;
- The State Gaming Agency for candidates for employment or licensure; and
- The Supreme Court and State Board of Law Examiners for applicants to practice law.

The bill requires the KBI to release criminal history record information related to adult convictions, adult non-convictions, adult diversions, and juvenile adjudications to:

- The Athletic Commission within the Department of Commerce for candidates for the boxing commission; and
- The Secretary of Health and Environment for employees at a child care facility.

The bill requires the KBI to release criminal history record information related to adult convictions and juvenile adjudications to:

- KDADS for applicants for employment as disability services providers;
- The Secretary for Aging and Disability Services for applicants for employment at an adult care home; and
- The Secretary for Aging and Disability Services for applicants for employment with a home health agency.

The bill requires the KBI to release criminal history record information related to adult convictions and non-convictions to:

- The AG for appointees of the Governor to positions subject to confirmation by the Senate and judicial appointees;
- Appointing authorities for non-gubernatorial appointees;
- The Behavioral Sciences Regulatory Board (BSRB) for applicants for a license, registration, permit or certificate issued by the BSRB;
- The Board of Examiners in Optometry for applicants for an optometry license;
- The State Board of Healing Arts (KSBHA) for applicants for any license, registration, permit or certificate issued by the KSBHA;
- The KSBHA for applicants to be a physical therapist or physical therapy assistant;
- The Board of Nursing for applicants for licensure as a professional nurse, practical nurse, or mental health technician;
- The Board of Pharmacy for persons seeking a license, registration, permit or certificate issued by the Board of Pharmacy;

- The Division of Vehicles, Department of Revenue, for applicants for a license to drive a commercial motor vehicle;
- The Insurance Commissioner for applicants for licensure as an insurance agent;
- The Insurance Commissioner for applicants for a public adjuster license;
- The Real Estate Commission for applicants for licensure to act as a broker or salesperson; and
- The State Lottery for a vendor to whom a major procurement contract is to be awarded.

The bill requires the KBI to release criminal history record information related to adult convictions to:

- The AG for applicants for licensure as a bail enforcement agent;
- The State Banking Board for any officer, director, or organizer of a proposed fiduciary financial institution;
- The Bank Commissioner for:
 - An applicant for a license issued under the Kansas Money Transmitter Act;
 - An applicant for employment as a new executive officer or director with a money transmitter company;
 - A proposed officer, director, or shareholder of a trust company related to a change of control application;
 - Applicants for a license to engage in mortgage business or registration to conduct mortgage business in the state as a loan originator;
 - Members of a co-partnership or association and certain officers or directors of a corporation under the Uniform Consumer Credit Code; and
 - Applicants for licensure under the Kansas Credit Services Organization Act;
- The Kansas Commission for the Deaf and Hard of Hearing (Commission) for:
 - The Executive Director of the Commission;
 - Interpreters; and
 - Communication access service providers;
- The Kansas Commission on Veterans Affairs Office (KCVAO) for candidates for certain types of employment within the KCVAO;
- The Department of Agriculture for:

- Hemp employees;
- Licensure as a hemp producer; and
- Hemp destruction employees;
- The Department of Credit Unions for candidates for employment;
- The Department of Health and Environment (KDHE) for:
 - Employees in the Office of Vital Statistics; and
 - Employees in the Office of Laboratory Services;
- The Department of Revenue for employees and contractors with access to federal tax information;
- The Division of Alcoholic Beverage Control, Department of Revenue, for nonresident applicants for licensure;
- The Division of Vehicles for employees authorized to manufacture, produce, or issue drivers' licenses and identification cards;
- The head of an Executive Branch agency for employees or contractors whose duties include collection, maintenance, or access to personal information;
- The Legislative Division of Post Audit for employees or contractors of the Division;
- The members of a Senate standing committee for appointees to the Kansas Public Employees Retirement Systems Board of Trustees;
- Municipalities for an applicant for merchant or security police;
- The Office of the State Fire Marshal for applicants for registration as a hemp processor;
- The Real Estate Appraisal Board for:
 - Licensure under the Certified and Licensed Real Property Appraisers Act; and
 - Applicants for licensure under the Appraisal Management Company Registration Act.

Disclosure; Violations

The bill specifies that fingerprints and criminal history record information received pursuant to New Section 1, New Section 2, and New Section 3 is confidential and not subject to disclosure pursuant to the Kansas Open Records Act until July 1, 2029, unless the Legislature reviews and reenacts the exemption prior to that date.

Disclosure or use of criminal history information for any purpose other than the purposes established in New Section 1 or New Section 2 is a class A nonperson misdemeanor and constitutes grounds for removal from office.

Name-based Criminal History Record Checks (New Section 3)

The bill also allows specified governmental agencies, identified below, to require a name-based criminal history record check of a person from the state database maintained by the KBI for the purposes of determining whether the person has a criminal record in Kansas that prohibits the person from employment, licensure, registration, or obtaining a permit. The bill requires the KBI to release criminal history record information related to adult convictions and non-convictions to:

- The KSBHA for determining qualifications for licensure by the KSBHA; and
- The State Lottery for the purpose of awarding major contracts.

The bill requires the KBI to release criminal history record information related to adult convictions to:

- The AG for applicants for roofing contractor registration;
- The Board of Nursing for applicants for nurse and mental health technician licensure;
- The Governor and the Senate for appointees:
 - As Executive Director of the KRGC;
 - As members of the KRGC; and
 - An Executive Director of the State Gaming Agency;
- The Joint Committee on Kansas Security for committee staff members of the Office of Revisor of Statutes and the Kansas Legislative Research Department;
- KDADS for:
 - Applicants for an adult care home operator license; or
 - Applicants for licensure as an adult care home administrator;

Technical Amendments (Sections 4–103)

The bill makes conforming amendments to various statutes that authorize fingerprinting and criminal history record checks to reflect the language created in the new sections of the bill. The bill adds definitions in certain statutes to clarify who may be fingerprinted and removes language regarding specific fees that may be charged for criminal history records.

Crime Victims Compensation

[HB 2781](#) amends law regarding compensation from the Crime Victims Compensation Board (Board) to be awarded to victims of certain criminal conduct. The bill also increases the amount that can be transferred from the Crime Victims Compensation Fund (CVCF) to the Crime Victims Assistance Fund (CVAF) each fiscal year.

Victim Compensation

The bill expands compensation beyond mental health counseling for certain crime victims by removing a set of requirements concerning compensation for mental health counseling. Additionally, the bill allows the Board to award compensation when the Board determines failing to compensate the victim would be a severe injustice.

The bill revises the compensation award process by allowing the Board to consider the totality of the circumstances based on five factors in continuing law and, the bill adds, consider other factors as deemed appropriate by the Board in making their determination.

The bill increases the maximum weekly compensation from \$400 to \$800. The bill adds compensation for work loss for a victim of human trafficking or aggravated human trafficking in an amount not less than \$350 per week and not more than \$800 per week.

Reporting Criminally Injurious Conduct

The bill allows compensation claims to be awarded if the victim obtains a forensic medical examination within seven days of the occurrence of criminally injurious conduct. The bill authorizes the Board to award compensation if it finds there was good cause for failure to obtain an examination within that time limit.

Under continuing law, persons under the age of 16 who were the victims of certain sexual or human trafficking crimes must file an application for compensation within 2 years of reporting the incident to law enforcement. For persons who are victims of certain sexually violent crimes, the bill establishes various application deadlines of within either two years or ten years of a specific event.

The bill changes the reporting requirement for claims by persons for any other criminally injurious conduct to require application within five years of the injury or death upon which the claim is based. In instances where more than one deadline would apply to a victim (such as a victim of a sexually violent crime), the bill allows the victim to file by the longest time limitation that applies.

Increased Transfer to the Crime Victims Assistance Fund

The bill increases the authorized transfer amount from the CVCF to the CVAF from \$300,000 to \$500,000 each fiscal year.

Cause of Death Certification

[HB 2358](#) modifies the Uniform Vital Statistics Act provisions concerning who could certify a cause of death.

Cause of Death Certifier

The bill specifies that a cause of death certifier could certify the cause of death of a deceased person. The bill defines “cause of death certifier” to mean:

- A person licensed to practice medicine and surgery by the State Board of Healing Arts (Board);
- A physician assistant licensed by the Board;
- An advanced practice registered nurse licensed by the Board of Nursing;
- District coroner;
- Deputy coroner; or
- Special deputy coroner.

Technical and Conforming Amendments

The bill makes technical and conforming amendments to implement the bill’s provisions, including replacing references to medical certifications regarding the death of person by specifying the certification as a “cause of death” certification.

Pensions and Investments—Countries of Concern Divestment Act; Working After Retirement; Lump-sum Death Benefit; Alternative Investments Cap

[HB 2711](#) creates the Countries of Concern Divestment Act, which will require statemanaged funds’ divestment from investments with countries of concern and prohibit investments and deposits with a bank or company domiciled in a country of concern and indemnify statemanaged funds with respect to actions taken in compliance with the Act; amends the Kansas Public Employees Retirement System (KPERS or Retirement System) working-after-retirement provisions and increases the lump-sum death benefit for a KPERS retiree; and amends law governing the KPERS Trust Fund and investment standards to increase a statutory limitation (“cap”) on alternative investments, from 15.0 percent to 25.0 percent, placed on the KPERS Board of Trustees (KPERS Board).

The provisions of the Countries of Concern Divestment Act will expire on July 1, 2029.

Technical Changes

The bill makes technical updates to remove working-after-retirement exceptions that expired January 1, 2018.

Countries of Concern Divestment Act (New Sections 1–7)

The bill creates the Countries of Concern Divestment Act. The Act requires statemanaged funds' divestment from investments with countries of concern and prohibit investments and deposits with a bank or company domiciled in a country of concern, and also indemnifies state-managed funds with respect to actions taken in compliance with the Act.

Designation of Act and Definitions (New Sections 1–2)

The bill establishes several definitions under the Act, including:

- “Company” to mean any:
 - For-profit corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, trust, association, sole proprietorship, or other organization, including any:
 - Subsidiary of such company, a majority ownership interest of which is held by such company;
 - Parent company that holds a majority ownership of such company; and
 - Other affiliate or business association of such company whose primary purpose is to make a profit; or
 - Nonprofit organization;
- “Country of concern” to mean the following:
 - People’s Republic of China, including the Hong Kong special administrative region;
 - Republic of Cuba;
 - Islamic Republic of Iran;
 - Democratic People’s Republic of Korea;
 - Russian Federation; and
 - Bolivarian Republic of Venezuela.

The bill would specify that “country of concern” does not include the Republic of China (Taiwan).

- “Covered transaction” will be defined the same as in 31 CFR § 800.213, as in effect on July 1, 2024 [Note: 31 CFR Part 800 includes regulations pertaining to certain investments in the United States by foreign persons; it was promulgated by the U.S. Department of the Treasury, Office of Investment Security.];

“Covered transaction” as defined in the federal Code means:

- A covered control transaction;
- A covered investment;
- A change in the rights that a foreign person has with respect to a U.S. business in which the foreign person has an investment, if that change could result in a covered control transaction or a covered investment; or
- Any other transaction, transfer, agreement, or arrangement, the structure of which is designed or intended to evade or circumvent the application of Section 721 of Title VII of the Defense Production Act of 1950, 50 USC 4565.

[Note: According to summary information published in the Federal Register, the final rule (31 CFR Part 802; 85 FR 3112) established regulations to implement the provisions relating to real estate transactions in Section 721 of the Defense Production Act of 1950, as amended by the Foreign Investment Risk Review Modernization Act (FIRRMA) of 2018. This rule sets forth the scope of, and process and procedures relating to, the national security review by the Committee on Foreign Investment in the United States (CFIUS) of certain transactions involving the purchase or lease by, or concession to, a foreign person of certain real estate in the United States. FIRRMA also broadened authorities of the President and CFIUS to address national security concerns arising from certain non-controlling investments, including the review of certain transactions.]

- “Covered control transaction” will be defined the same as in 31 CFR § 800.210, as in effect on July 1, 2024; “Covered control transaction” as defined in the Code of Federal Regulations means any transaction that is proposed or pending after August 23, 1988, by or with any foreign person that could result in foreign control of any U.S. business, including such a transaction carried out through a joint venture;

- “Domicile” to mean the country where:

- A company is organized;
- A company completes a substantial portion of its business; or
- A majority of a company’s ownership interest is held;

- “Person” to mean an individual;

- “Person owned or controlled by or subject to the jurisdiction or direction of a country of concern” to mean any:

- Person, wherever located, who is a citizen of a nation-state controlled by a country of concern, unless such person is a lawful permanent resident of the United States; or
- Corporation, partnership, association, or other organization organized under the laws of a nation-state controlled by a country of concern;
- “State agency” to mean any department, authority, bureau, division, office, or other governmental agency of this state; and
- “State-managed fund” to mean:
 - The Kansas Public Employees Retirement Fund managed by the Board of Trustees of the Kansas Public Employees Retirement System (KPERS) in accordance with provisions governing the management and investment of the fund; and
 - The Pooled Money Investment Portfolio managed by the Pooled Money Investment Board in accordance with Article 42 of Chapter 75 of the Kansas Statutes Annotated (addresses state moneys); and
 - Any other fund that is sponsored or managed by a state agency.

State-managed Fund—Sale, Redemption, Divestment, or Withdrawal of Publicly Traded Securities (New Section 3)

The bill requires, notwithstanding the provisions of law governing the Kansas Public Employees Retirement Fund and management and investment of this Trust Fund designated to the KPERS Board (KSA 74-4921) or any other statute to the contrary, a state-managed fund to sell, redeem, divest, or withdraw all publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern in accordance with this schedule:

- At least 50 percent of such assets must be removed from the state-managed fund’s assets under management not later than July 1, 2025, or one year from the date the definition of “country of concern” is amended to include such country of concern if amended after July 1, 2024, unless the state-managed fund determines that a later date is more prudent based on a good faith exercise of the state-managed fund’s fiduciary discretion and subject to the requirements created pursuant to the January 1, 2026, deadline (described below); and
- 100 percent of such assets must be removed from the state-managed fund’s assets under management no later than January 1, 2026, or one year from the date the definition section of the Act is amended to include such country of country if amended after July 1, 2024.

Removal of assets with prohibition; prohibited acquiring of securities and investing or making a deposit in a bank. If a country of concern takes action to prohibit or restrict the selling, redeeming, divesting, or withdrawing of publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern beyond the scheduled removal dates provided in the bill, the bill will require the state-managed fund to remove 100 percent of those assets from the state-managed fund's assets no later than one year from the date that such action is ended by such country of concern.

The bill prohibits a state-managed fund from knowingly acquiring securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern. State-managed funds are also prohibited from investing or making a deposit in any bank that is domiciled in a country of concern.

State-managed Fund—Divestiture (New Section 4)

The bill requires, notwithstanding the provisions of law governing KPERS and directing management and investment of the Trust Fund by the KPERS Board or any other statute to the contrary, state-managed funds to divest from any indirect holdings in actively or passively managed investment funds containing publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction of a country of concern. The state managed fund will be permitted to submit letters to the managers of each investment fund containing publicly traded securities of any country of concern requesting that they remove such publicly traded securities from the fund or create a similar actively or passively managed fund with indirect holding devoid of any such publicly traded securities. If a manager creates a similar fund with substantially the same management fees and same level of investment risk and anticipated return, the bill authorizes the state-managed fund to replace all applicable investments with investments in the similar fund in a time frame consistent with prudent fiduciary standards but no later than the 450th day after the fund is created. If a manager does not create a similar fund, the bill will require the state-managed fund to divest from its indirect holding in actively or passively managed investment funds.

Exception and prohibition, real estate or private equity investment commitments.

The bill states that the provisions of this act do not apply to any real estate or private equity investment commitment made by a state-managed fund prior to July 1, 2024, or to a real estate or private equity investment commitment made by a state-managed fund prior to the date either established by the bill or later amended to include a country of concern. The bill will also prohibit, on and after July 1, 2024, a state-managed fund from making any new real estate or private equity investment commitment in a person owned or controlled by or subject to the jurisdiction of a country of concern.

Reporting to the Legislature; KPERS Reporting to Joint Committee (New Section 5)

The bill requires, no later than the first day of the regular session of the Legislature, each state-managed fund to file an annual report with the Legislature. KPERS will also be required to file a report with the Joint Committee on Pensions, Investments and Benefits that:

- Identifies all securities sold, redeemed, divested, or withdrawn in compliance with requirements of the bill;

- Identifies amendments to the definitions section created under this bill to add or remove a country of concern after the later of July 1, 2024, or the last date such information was reported; and
- Summarizes any changes made under provisions pertaining to state-managed fund divestiture from any direct or indirect holdings in actively or passively managed funds containing publicly traded securities of any country of concern (as provided in section 4 provisions regarding divestiture).

Cause of Action (New Section 6)

The bill provides that in a cause of action based on action, inaction, decision, divestment, report, or other determination made or taken in compliance with the Act, without regard to whether the person performed services for compensation, the State shall:

- Indemnify and hold harmless for actual damages, court costs, and attorney fees adjudged against members of a state-managed fund or any other of its officers related to the act or omission on which the damages are based; and
- Defend the state-managed fund and any of its current and former employees.

Expiration of the Act (New Section 7)

The provisions of the Act will expire on July 1, 2029.

On or after July 1, 2028, but prior to July 15, 2028, KPERS will be required to notify the Speaker of the House of Representatives, the President of the Senate, and the chairperson of the Joint Committee on Pensions, Investments and Benefits that this act is scheduled to expire on July 1, 2029.

Working After Retirement; Lump-sum Death Benefit (Sections 8–9; 11–15)

The bill amends the KPERS working-after-retirement provisions and increase the lump sum death benefit for a KPERS retiree.

Amendments to working-after-retirement provisions would:

- Add a new category of positions exempt from working-after-retirement employer contributions;
- Increase a retirant threshold amount from \$25,000 to \$40,000 for the specified 30.0 percent employer contribution; and
- Increase the earnings limit from \$25,000 to \$40,000 for retired Kansas Police and Firemen's Retirement System (KP&F) members returning to employment with a previous employer.

The bill also makes a clarifying amendment to law governing Retirement System membership waiting periods for the entities exempted from working-after-retirement rules in the bill.

Exemption from Working-after-retirement Rules; Membership Waiting Period

The bill creates a new category of positions exempt from working-after-retirement employer contributions by adding licensed nurses and direct support workers at a KPERS affiliated community developmental disability organization (CDDO) or a community service provider affiliated with a CDDO to the list of exempted positions.

[Note: If exempted from the requirements, the participating employer (CDDO) would not have to enroll retirees into KPERS or report compensation to the Retirement System. The participating employer would not make contributions to KPERS. However, retirees would still be required to serve their 60- or 180-day waiting period, as applicable before returning to covered employment, provided there is no prearranged agreement for employment.]

The bill also makes a clarifying amendment to law governing Retirement System membership waiting periods to provide the waiting period applies to the KPERS-affiliated CDDOs or a community service provider affiliated with a CDDO.

Contribution Rates Paid for Covered Positions; Threshold on Retirant Compensation

Under current law, when a KPERS retirant (“retiree”) returns to work for a KPERS affiliated employer in a covered position, the participating employer is required to pay a 30.0 percent “assessment” on compensation paid to the retiree that exceeds the \$25,000 threshold amount. The bill would increase this threshold from \$25,000 to \$40,000 per calendar year.

[Note: Participating employers are required to make contributions to KPERS to help finance the Retirement System. The working-after-retirement law requires employers to pay the statutory contribution rate for the first \$25,000 of the retirant’s salary and a 30.0 percent contribution rate (“assessment”) on earnings over the \$25,000 threshold.]

Earnings Limit—KP&F Members, Returning to Work with Previous Employer

The bill increases from \$25,000 to \$40,000 the earnings limit on KP&F members who have retired and return to work for a previous employer.

Lump-sum Death Benefit for KPERS Retirees

The bill also increases the lump-sum death benefit for a KPERS retiree from \$4,000 to \$6,000, beginning on July 1, 2024.

KPERS Board of Trustees; Statutory Cap on Alternative Investments (Section 10)

The bill amends law governing the Trust Fund and investment standards to increase a cap on alternative investments, from 15.0 percent to 25.0 percent, placed on the KPERS Board.

Under current law, enacted in 2012, the investment of alternative assets by the Board is limited to 15.0 percent of the total investment assets of the fund as a percentage of the Retirement System’s total investments. “Alternative investment” is defined in trust fund law to include a broad group of investments that are not one of the traditional asset types of public equities, fixed income, cash, or real estate (e.g., private equity, private credit, hedge funds, infrastructure, and commodities).

State Budget—Omnibus Appropriations

[HB 2551](#) contains selected expenditure and funding adjustments in FY 2024 through FY 2027. The bill supplements appropriations included in SB 28 (appropriations for state agencies other than the Kansas State Department of Education), House Sub. for SB 387 (appropriations for the Kansas State Department of Education), and SB 438 (relating to the Kansas Blueprint for Literacy).

FY 2025:

- \$3.0 million SGF for domestic violence prevention grants;

Kansas Air and Army National Guard and Kansas Code of Military Justice Update; State Judge Advocate

[SB 292](#) creates law to authorize the appointment of a State Judge Advocate by the Adjutant General; creates and amends law related to death and disability benefits provided to Kansas Air and Army National Guard (Guard) members; and amends law throughout Chapter 48 of the Kansas Statutes Annotated to modernize statutory language, remove outdated statutes, and remove references to trial by court-martial.

The bill updates the Kansas Code of Military Justice (KCMJ). The bill consolidates language from various provisions of Chapter 48 of the Kansas Statutes Annotated into new sections of law and repeals those sections that have been consolidated or otherwise removed. The bill updates language in the remaining sections of the KCMJ to comply with the Uniform Code of Military Justice (UCMJ) and to modernize statutory phrasing. The bill also removes all references to, and sections concerning, trial by court-martial.

[Note: Three statutes contained in the KCMJ are not amended or repealed by the bill: KSA 48-3002, concerning who may be subject to the provisions of the KCMJ; KSA 48-3004, concerning convictions of lesser included offenses; and KSA 48-3113, providing the citation of the act.]

State Judge Advocate

The bill directs the Adjutant General, with the approval of the Governor, to appoint an officer of the state military forces as State Judge Advocate with the rank of colonel. The Adjutant General is also authorized to appoint as many assistants to the State Judge Advocate as deemed necessary. The bill requires appointees for the State Judge Advocate and appointees for assistants to the State Judge Advocate to meet the definition of “judge advocate” provided in continuing law.

If the Governor approves, the Adjutant General is authorized to promote a State Judge Advocate to the rank of brigadier general, provided that the State Judge Advocate has:

- Held the rank of colonel for at least 10 years; and
- Served 20 years or more of combined service in the Guard and the U.S. military forces.

Death and Disability Benefits

Annual Adjustments

The bill adds provisions requiring the Military Disability Board (Board), beginning July 1, 2025, to adjust the statutory amount of death and disability benefits provided to Guard members every subsequent July 1 based on that year's Consumer Price Index for All Urban Consumers (CPI-U) percentage increase. [Note: The CPI-U, published by the U.S. Bureau of Labor Statistics, is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services and is based on the spending patterns of urban consumers.]

The bill amends law governing the Board to clarify it is required to meet at least annually to determine percentages for death and disability compensation. The bill also requires Board members be paid a per diem and permitted other allowances.

Monthly Benefit Increases

The bill increases the monthly benefit awarded to Guard members with a 100 percent disability who are on state active duty to \$850 plus 12.5 percent of their monthly basic pay, changed from \$120 plus 12.5 percent of the member's monthly basic pay.

The bill also increases the monthly benefit for a surviving spouse of an eligible deceased member in the same manner as previously described. The bill increases monthly benefit amounts to surviving children of an eligible deceased member as follows:

- One child: \$545 (has been \$77);
- Two children: \$390 per child (has been \$55);
- Three children: \$340 per child (has been \$48);
- More than three children: For each child, an amount determined by dividing the sum of \$1,020 (has been \$144), plus the product of \$198 (has been \$28) times the number of children in excess of three, by the total number of children entitled to compensation.

Authority of Adjutant General to Appoint Assistant Adjutants General

The bill amends provisions concerning the appointment of Assistant Adjutants General to permit the Adjutant General to assign the number of Assistant Adjutants General, as authorized by the National Guard Bureau, who will serve at the pleasure of, and perform duties as assigned by, the Adjutant General. [Note: Current law provides the Adjutant General may appoint two Assistant Adjutants General.]

Under the bill, Assistant Adjutants General hold military rank as authorized and approved by the National Guard Bureau, and are required to have served at least five years as commissioned officers in the Guard at the time of their appointment. The bill requires the Adjutant General to designate one Assistant Adjutant General as the Senior Assistant Adjutant General, who will perform the Adjutant General's duties when the Adjutant General is absent or unable, or when such senior assistant is expressly directed to perform such duties.

The bill removes language pertaining to the Adjutant General's authority over state, federal, and public property, including the state arsenal. The bill also removes authority for the Adjutant General to appoint a finance and disbursing officer.

U.S. Property and Disbursing Officer

The bill replaces provisions outlining the duties of the finance and disbursing officer to instead provide for a U.S. Property and Disbursing Officer (Officer), whose position is to be appointed or assigned pursuant to federal National Guard regulations. The bill requires such Officer (and assistants, as necessary) to secure, receive, disburse, issue, record, and account for all federal funds and military property granted or loaned by the United States to Kansas for use by the Guard. The Officer performs additional duties and exercises power and authority as are assigned by the Adjutant General, or as vested in the Officer by federal regulation.

The bill further specifies that federal funds will be used to pay the salary of the Officer and the salaries of other employees necessary for the discharge of these duties. When such federal funds are not available, state funds will be used.

Uniforms, Arms, and Equipment

The bill removes the requirement that commissioned officers provide themselves with suitable uniforms and other equipment. The bill also removes the provision that non-commissioned officers be provided with uniforms and other equipment free of charge.

Failure to Obey Lawful Orders

The bill clarifies that officers and enlisted persons must obey lawful orders issued by commanding officers. The bill removes penalties for officers and enlisted persons who do not faithfully perform their duties.

Establishment and Use of Armories

The bill removes outdated references to meetings of the Grand Army of the Republic, the Spanish-American War Veterans, and their auxiliary organizations.

Compensation of Guard Members after July 1, 1943

The bill removes a pay schedule providing for specific amounts of compensation for various ranks after July 1, 1943, to instead provide such members will receive appropriate compensation as established by policy, guidance, or regulation.

Trial by Court-martial

The bill removes all references to trial by court-martial in statutes governing the Guard.

Technical Amendments

The bill makes technical amendments in Chapter 48 of the Kansas Statutes Annotated to modernize language and ensure consistency in statutory phrasing. The bill also amends law concerning qualifications for service to exclude individuals punitively, rather than dishonorably, discharged from naval, air, or space military components of states or territories, Puerto Rico, or the District of Columbia.

Prohibition on Confinement with Enemy Prisoners

The bill prohibits the confinement of a member of the state military forces with foreign or domestic enemy prisoners or other foreign nationals who are not members of the Armed Forces.

Appeal of Nonjudicial Punishment

The bill outlines the appeal procedure when a person punished under the KCMJ considers the findings unsupported by the evidence or the punishment unjust or disproportionate to the offense.

The bill specifies, if the punishment relates to apprehension, a person is entitled to one appeal, but is not be entitled to any appeal under this section.

Trial by Civilian Court

The bill states disciplinary punishment for an act or omission under the KCMJ does not bar a trial by a civilian court for a serious crime or offense related to the same act or omission. Any disciplinary punishment under the KCMJ could be considered during a civilian trial and will be required to be considered in sentencing if the accused is found guilty.

Prohibited Sexual Activity

The bill outlines what constitutes prohibited sexual activity under the KCMJ. "Prohibited sexual activity" will mean, as specified in military regulations, inappropriate physical intimacy under circumstances described in such regulations. Such activity will be punished if occurring between:

- An officer in a training leadership position, as defined by the bill, and a specially protected junior member of the Armed Forces, as defined by the bill;

- A military recruiter, as defined by the bill, and an applicant for military service;
- A military recruiter and a specially protected junior member of the Armed Forces who is enlisted under a delayed entry program; or
- A military cadre and specially protected junior member of the Armed Forces who is enlisted under a delayed entry program.

The bill specifies consent will not be a defense for any conduct prohibited by the KCMJ pursuant to this section.

Sexual Harassment

The bill outlines what constitutes sexual harassment under the KCMJ. A person subject to the KCMJ will be punished if:

- Such person made sexual advances, demands, or requests for sexual favors or knowingly engaged in other conduct of a sexual nature;
- Such conduct was unwelcome; and
- Under the circumstances, such conduct:
 - Causes a reasonable person to believe, and such person did believe, that submission to such conduct will be made either explicitly or implicitly a term or condition of a person's job, pay, career, or entitlements;
 - Causes a reasonable person to believe, and such person did believe, that submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting such person's job, pay, career, benefits, or entitlements; or
 - Is so severe, repetitive, or pervasive that a reasonable person perceives, and such person did perceive, an intimidating, hostile, or offensive work environment.

Conduct of Sentinel or Lookout

The bill directs punishment against a sentinel or lookout who is drunk, sleeps, or leaves while on post before being regularly relieved. Similarly, any sentinel or lookout who loiters or wrongfully sits down while on post will be punished under the KCMJ. The bill also provides that any person subject to the KCMJ who, knowing that another person is a sentinel or lookout, behaves in a wrongful and disrespectful manner toward a sentinel or lookout who is on duty will be punished.

Fraudulent Conduct

Adulteration of Public Records

The bill directs punishment against a person subject to the KCMJ if such person alters, conceals, removes, mutilates, obliterates, or destroys a public record or takes a public record with the intent to do the same.

Making False Writings

The bill directs punishment against a person subject to the KCMJ if such person intentionally falsely makes or alters any signature or writing that would, if genuine, impose a legal liability on another or changes their legal rights or liability. The bill also imposes punishment on a person who knows a writing is false and utters, offers, issues, or transfers the writing.

Impersonations

The bill directs punishment against a person subject to the KCMJ if such person willfully, or with intent to defraud, impersonates:

- An officer, noncommissioned officer, or petty officer;
- An agent of superior authority of one of the Armed Forces or state military forces;
or
- A government official.

The bill states that if a person impersonates a government official by committing an act that exercises or asserts the authority of the office of the official being impersonated, such person will be punished under the KCMJ, even if they did not have intent to defraud.

Unauthorized Wearing of Decorations

A person subject to the KCMJ will be punished if such person wears an insignia, decoration, badge, ribbon, device, or lapel button upon the person's uniforms or civilian clothing when the person is not authorized to wear such decorations.

Mail Tampering

The bill directs punishment against a person subject to the KCMJ if such person wrongfully takes any mail before such mail is delivered to or received by the addressee, with the intent to obstruct the correspondence or to pry into the business secrets of any person or organization. A person will also be punished for wrongfully opening, destroying, or stealing mail before such mail is delivered to or received by the addressee.

Vehicle Accidents Resulting in Personal Injury or Property Damage

A person subject to the KCMJ who is involved in a vehicle accident causing personal injury or property damage will be punished under the KCMJ if such person:

- Is the driver of a vehicle that is involved in an accident that results in a personal injury or property damage; and
- Wrongfully leaves the scene of the accident without providing assistance to an injured person, personal identification to others involved in the accident, or personal identification to appropriate authorities.

A person will also be punished under the KCMJ if such person:

- Is a passenger in a vehicle that is involved in an accident that results in personal injury or property damage;
- Is the superior commissioned or noncommissioned officer of the driver or commander of the vehicle; and
- Wrongfully and unlawfully orders, causes, or permits the driver to leave the scene of the accident without providing assistance to an injured person, personal identification to others involved in the accident, or personal identification to appropriate authorities.

Violent Conduct

The bill directs punishment against a person subject to the KCMJ when such person displays any conduct involving violence toward others, as follows.

Discharge or Brandishment of a Firearm

The bill directs punishment against a person subject to the KCMJ if such person willfully and wrongfully discharges or brandishes a firearm under any circumstance that endangers a human life or causes a reasonable person to be apprehensive of the potential endangerment of human life.

Simple Assault

The bill directs punishment against a person guilty of simple assault under the KCMJ if such person, who is subject to the KCMJ:

- Attempts to do bodily harm to another person;
- Offers to do bodily harm to another person; or
- Does bodily harm to another person.

For the purposes of this section, “another person” means a cadet, trainee, or recruit of the state military forces, the U.S. Armed Forces, or the state military forces of another state.

Domestic Violence

The bill directs punishment against a person who:

- Commits a violent offense against a spouse, intimate partner, or immediate family member of such person;
- Commits an offense under the KCMJ against any person or any property, including animals, with the intent to threaten or intimidate a spouse, intimate partner, or immediate family member of such person;
- Violates a protection order, with the intent to threaten or intimidate a spouse, intimate partner, or immediate family member of such person; or
- Violates a protection order, with the intent to commit a violent offense against a spouse, intimate partner, or immediate family member of such person.

Threats of Violence

The bill directs punishment against a person who communicates a threat to injure the person, property, or reputation of another.

The bill also specifies a person will be punished if such person communicates a threat, or maliciously communicates a false threat, to injure the person, property, or reputation of another by use of:

- An explosive;
- A weapon of mass destruction;
- A biological or chemical agent, substance, or weapon; or
- A hazardous material.

The bill defines “false threat” to mean a threat that, at the time it is communicated, is known to be untrue by the person communicating the threat.

Distribution of Intimate Visual Images or Sexually Explicit Conduct

The bill outlines when a person will be guilty of wrongful distribution of intimate visual images or visual images of sexually explicit conduct (images). The bill states a person subject to the KCMJ will be punished if such person:

- Knowingly and wrongfully broadcasts or distributes an image involving a person who:
 - Is at least 18 years of age at the time the image was created;
 - Is identifiable from the image or from information displayed in connection with the image; and

- Does not explicitly consent to the broadcast or distribution of the image;
- Knows or reasonably should have known that the image was made under circumstances in which the person depicted in the image retained a reasonable expectation of privacy regarding any broadcast or distribution of the image;
- Knows or reasonably should have known that the broadcast or distribution of the image is likely to:
 - Cause harm, harassment, intimidation, emotional distress, or financial loss for the person depicted in the image; or
 - Harm substantially the depicted person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relations; or
- Engaged in conduct that had a reasonably direct connection to a military mission or military environment.

The bill also defines certain terms for purposes of the section.

Perjury and Obstruction of Justice

Inducing False Testimony Under Oath

The bill directs punishment against a person subject to the KCMJ if such person induces another person to take an oath and falsely testify, depose, or make a statement upon such oath. In order for a person to be punished for this conduct:

- The oath will have to be administered as required by law, and by a person that has the authority to do so;
- Upon taking such oath, the other person willfully makes or attests to a false statement that is material to the proceedings; and
- When the statement is made or attested to, the person subject to the KCMJ and the person induced into such conduct do not believe such statement is true.

Obstruction of Justice

The bill directs punishment against a person subject to the KCMJ if such person engages in conduct intending to influence, impede, or otherwise obstruct the due administration of justice.

Duty to Report Offense

The bill directs punishment against a person subject to the KCMJ if such person:

- Knows another person has committed a serious offense; and

- Wrongfully conceals the commission of the offense and fails to make the commission of the offense known to civilian or military authorities as soon as possible.

Duty to Cooperate with Judicial Proceedings

The bill directs punishment against a person subject to the KCMJ if such person wrongfully refuses to qualify as a witness or wrongfully refuses to answer a question after having been directed to do so by a presiding authority in certain judicial proceedings, as specified by the bill.

Search and Seizure

The bill directs punishment against a person subject to the KCMJ if such person knows that one or more persons authorized to make searches and seizures are seizing, about to seize, or are endeavoring to seize property and then destroys, removes, or otherwise disposes of the property with the intent to prevent the seizure of such property.

Obstruction of Pending Administrative Action

The bill directs punishment against a person subject to the KCMJ if such person has reason to believe that an adverse administrative action is pending against any person subject to the KCMJ and either:

- Intentionally acts to influence, impede, or obstruct the conduct of the proceeding;
or
- Acts to obstruct the due administration of justice.

Bribery

The bill directs punishment against a person subject to the KCMJ if such person occupies an official position or has official duties and wrongfully asks for, accepts, or receives something of value with the intent to have the person's decision or action influenced regarding an official matter in which the State of Kansas or the United States is interested.

The bill directs punishment against a person subject to the KCMJ if such person wrongfully promises, offers, or gives something of value to a person who occupies an official position or has official duties and intends to influence the decisions or actions of the person regarding an official matter in which the State of Kansas or the United States is interested. ‘

The bill directs punishment against a person subject to the KCMJ if such person occupies an official position or has official duties and wrongfully asks for, accepts, or receives something of value as compensation for or in recognition of services rendered or to be rendered by the person regarding an official matter in which the State of Kansas or the United States is interested.

The bill directs punishment against a person subject to the KCMJ if such person promises, offers, or gives something of value to a person who occupies an official position or who has official duties as compensation for or in recognition of services rendered by such person regarding an official matter in which the State of Kansas or the United States is interested.

Credit Card Fraud

The bill directs punishment against a person subject to the KCMJ if such person, with the knowing intent to defraud and obtain money, property, services, or something of value, uses:

- A stolen credit card, debit card, or other access device;
- A revoked, canceled, or otherwise invalid credit card, debit card, or other access device; or
- A credit card, debit card, or other access device without the authorization of a person whose authorization is required for such use.

The bill defines the terms “access device” and “credit card” for the purposes of this section.

Extortion

The bill directs punishment against a person subject to the KCMJ if such person communicates threats to another person with the intention to obtain something of value or any acquittance, advantage, or immunity.

Breach of Privacy; Forcible Pandering; Indecent Exposure

The bill directs punishment against a person subject to the KCMJ if such person, without legal justification or lawful authorization:

- Knowingly and wrongfully views the private area of another person without the other person’s consent and when that other person has a reasonable expectation of privacy;
- Knowingly photographs, videotapes, films, or records by any means the private area of another person without that other person’s consent and when that other person has a reasonable expectation of privacy; or
- Knowingly broadcasts or distributes any such recording that the person knew or reasonably should have known was made under circumstances described above.

If a person subject to the KCMJ compels another person to engage in an act of prostitution with any person, the person subject to the KCMJ will be guilty of forcible pandering.

If a person subject to the KCMJ intentionally exposes, in an indecent manner, the genitalia, anus, buttocks, or female areola or nipple, the person will be guilty of indecent exposure.

The bill defines related terms for the purposes of the section.

Retaliation

The bill directs punishment against a person subject to the KCMJ if such person takes or threatens to take an adverse personnel action or withholds or threatens to withhold a favorable personnel action, with the intent to:

- Retaliate against any person for reporting or planning to report a criminal or military offense;
- Retaliate against any person making or planning to make a protected communication; or
- Discourage any person from reporting or planning to report a criminal or military offense.

The bill defines related terms as used in this section.

Application of Other Military Regulations and Instructions

The bill states certain military regulations and instructions could be used to effectuate the purpose and provisions of the KCMJ to the extent they are consistent with the KCMJ.

Administrative Action

The bill states nothing in the KCMJ precludes an administrative action against a person subject to the KCMJ for an offense, military or nonmilitary, as allowed by law or regulation.

Severability

The bill provides that the provisions of the KCMJ are severable, meaning if any portion of the KCMJ were to be held unconstitutional or invalid, such invalidity would not affect other portions of the KCMJ that could be given effect without the invalid portion or application, and the applicability of such other portions of the KCMJ would remain valid and enforceable.

Willful Disobedience

The bill directs punishment against a person subject to the KCMJ if such person willfully disobeys a lawful command of such person's superior commissioned officer.

Amendments to KCMJ

The bill makes various amendments to sections of law in the KCMJ reflecting the reorganization, consolidation, and modernization of language in the new sections created by the bill. [Note: Only substantive changes have been included in this Summary.]

The bill also removes all references to, and sections concerning, trial by court-martial. [Note: The bill replaces certain references to trial by court-martial with references to punishment at the direction of a commanding officer. Sections in which this would be the only change are not included in this Summary.]

Definitions

The bill substantively updates several definitions used in the KCMJ, for terms including “state military forces,” “commanding officer,” “state active duty,” “duty status other than state active duty,” “enemy,” and “state judge advocate.” The bill also removes the definitions of “military court,” “military judge,” “record,” and “convening authority” from this section and adds definitions of “cadet,” “classified information,” “day,” “military offenses,” “national security,” “commissioned officer,” “pay,” “open hearing,” “open proceeding,” and “UCMJ.”

Persons Subject to the Code

The bill enumerates the circumstances in which a person may be subject to the KCMJ, and provides further direction determining whether subject-matter jurisdiction exists under the KCMJ. Current law provides that the KCMJ applies to all members of the state military forces who are not under a call or order of the President.

Territorial Applicability

The bill clarifies that the KCMJ applies to all times and places when a person subject to the KCMJ is in a duty status. The bill also states jurisdiction under the KCMJ will not preclude or limit any applicable civilian jurisdiction, with the exception of double jeopardy.

Judge Advocates

The bill removes provisions concerning the appointment and qualifications of judge advocates, and removes provisions providing for assistant judge advocates. The bill also directs that judge advocates make frequent inspections in the field under the supervision of the appropriate Administration of Military Justice.

Apprehension

The bill specifies that no person authorized under the KCMJ to apprehend persons subject to the KCMJ, nor any place authorized to confine or house such apprehended persons, could require payment of any fee, nor charge for receiving, apprehending, confining, restraining, holding, or otherwise housing a person except as otherwise provided by law.

Nonjudicial Punishment

The bill makes several clarifying amendments to the types of disciplinary punishments that may be imposed on persons subject to the KCMJ. The bill specifies that any person subject to a nonjudicial punishment has a right to be physically present during any hearing conducted. The bill also requires that, when a finding of guilt is made and punishment imposed under this section, a written record be made that includes all testimonial evidence and supporting documentation.

Statutes of Limitations

The bill adds an exception to the general statute of limitations concerning a person's liability for committing an offense when the commission of the offense is not immediately known and not readily discoverable. When such is the case, the statute of limitations will be two years from the date of discovery.

The bill also excludes periods of time in which an accused is absent without authority or fleeing from justice from the period of limitation described above.

The bill specifies that when the United States is at war or the President has declared a national emergency, the applicable statute of limitations will be tolled until three years after the termination of hostilities or national emergency when the offense involves fraud or attempted fraud or in connection with a contract, subcontract, or purchase order involving the war.

Cruel and Unusual Punishment

The bill specifies that punishment by flogging, branding, marking, or tattooing the body is cruel and unusual punishment and is prohibited under the KCMJ.

Maximum Punishment

The bill specifies the maximum fine that may be assessed pursuant to a punishment under the KCMJ could not exceed \$2,500.

Missing Movement

The bill adds to the prohibition against missing a movement of a ship, aircraft, or unit to include wrongfully and intentionally jumping into the water from a vessel that is in use by the U.S. Armed Forces or state military forces as an action that may be punished under the KCMJ.

Contempt Toward Officials

The bill expands the list of persons that a person subject to the KCMJ could be punished for using contemptuous words against. Such additions include a secretary of a military department, the Secretary of Homeland Security, the Legislature, or the legislature of any other state.

Improper Conduct with a Prisoner

The bill adds unlawfully drinking any alcoholic beverage with a prisoner as conduct that is punished under the KCMJ.

False Official Statements

The bill specifies punishment will be imposed when any person subject to the KCMJ takes a proper oath and, upon taking such oath, makes or subscribes to a statement that, at the time the oath was administered, the person did not believe to be true.

Wrongful Use of Controlled Substances

The bill specifies that a person subject to the KCMJ will be punished if such person wrongfully possesses, in such person's blood or urine, metabolites of a prohibited substance specified in the section.

Perjury

The bill provides that a person subject to the KCMJ will be punished if such person testifies to any false statement material to the issue or matter of inquiry in any declaration, certificate, verification, or statement.

Disorders and Neglects

The bill specifies that simple assault could be punished under the KCMJ rather than reserved to civil courts.

Authority to Administer Oaths and Act as Notary

The bill amends the list of persons authorized to administer oaths and act as notaries, removing references to judge advocates and specifying such persons who are so authorized under the section will be designated by military regulation or statute.

Complaints of Wrongs

The bill clarifies procedure when any member of the state military forces believes such member was wronged. The bill specifies the complaint will be forwarded to the first general in the member's chain of command, who will be required to investigate and take proper measure for redressing the wrong and send a statement of the complaint to the Adjutant General. The bill specifies that this procedure may not be used when:

- Review is provided specifically by the KCMJ;
- The matter has been taken under the recommendation by an administrative board and where such complainant was afforded the rights of a respondent; or
- Policy, regulation, or instruction specifically authorizes an administrative appeal or similar redress for the matter.

Redress of Injuries to Property

The bill amends a provision governing redress for property damage when an offender cannot be ascertained but the organization to which an offender belongs is known. In this instance, the bill allows damages to be assessed on a proportional basis, using the number of individuals of the organization who were present at the scene when damages were inflicted.

Payment of Fines; Disposition; Confinement for Failure to Pay

The bill updates language concerning the collection of fines under the KCMJ to reflect the removal of punishment by court-martial and specify the manner in which such fines may be paid.

Immunity for Action of Military Courts

The bill removes references to military courts and instead specifies all persons acting under the KCMJ, whether a member of the military or a civilian, have immunity from personal liability for any act or omission related to such person's duties under the KCMJ.

Uniformity

The bill requires information accompanying each punitive article of the UCMJ to be used in the defining and charging of any offense under the KCMJ, to the extent the UCMJ is consistent.

The bill also states the decisions of the various military branch appeals courts will not be binding on proceedings under the KCMJ, but could be used for guidance in determining guilt or punishment of any member of the state military forces subject to the KCMJ.

Use of Body Camera or Other Audio or Video Recording Device by State Fire Marshal and Marshal's Representatives

[HB 2784](#) The bill prohibits the Marshal and the Marshal's representatives from wearing or operating a body camera or other audio or video recording device during an on-site inspection in a licensed care facility or community-based locations where individuals with intellectual and developmental disabilities (I/DD) receive habilitation services.

Definitions Regarding Inspections of Facilities by State Fire Marshal

The bill defines these terms:

- "Body camera" means a device that is worn by a law enforcement officer that electronically records audio or video of such officer's activities; and
- "Licensed care facility" means child care facilities and adult care homes and include the following types of facilities:

- Child care facility, as defined in KSA 65-503, which includes the following:
 - A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children in the custody of the Secretary for Children and Families who are placed with a prospective adoptive family or who are related to the person by blood, marriage, or legal adoption;
 - Children's home, orphanage, maternity home, day care facility, or other facility of a type determined by the Secretary of Health and Environment to require regulation;
 - Child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or
 - Any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the State;

- Qualified residential treatment program, which includes a program designated by the Secretary for Children and Families as a qualified residential treatment program pursuant to federal law;

- Psychiatric residential treatment facility, which includes any non-hospital facility with a provider agreement with the licensing agency to provide the inpatient services for individuals under the age of 21 who will receive highly structured, intensive treatment for which the licensee meets the requirements as set forth by regulations created and adopted by the Secretary for Children and Families;

- Secure facility, which means a facility, other than a staff secure facility or juvenile detention facility, that is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or that relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents. No secure facility is in a city or county jail;

- Shelter facility, which means any public or private facility or home, other than a juvenile detention facility or staff secure facility, that may be used in accordance with the Revised Kansas Code for Care of Children for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer-term care under a dispositional order;

- Youth residential facility, which means any home, foster home, or structure that provides 24-hour-a-day care for children and that is licensed by the Kansas Department of Health and Environment;

- Any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home, and adult day care facility, all of which are classifications of adult care homes and are required to be licensed by the Secretary for Aging and Disability Services;
- Medical care facilities, which includes hospitals, ambulatory surgical centers, or recuperation centers; and
- Hospice facilities that are certified to participate in the Medicare program under 42 CFR § 418.1 et seq.

Kansas Purple Alert Plan

[HB 2531](#) establishes the Kansas Purple Alert Plan (Purple Alert Plan). The bill requires the Purple Alert Plan to be established and implemented by the Office of the Attorney General in collaboration with the Kansas Bureau of Investigation, Kansas Highway Patrol, local law enforcement agencies, and other public and private agencies and organizations.

Under the Purple Alert Plan, public notice of a missing individual may be promptly broadcast and a search timely undertaken with the cooperation of local law enforcement, news media, and the general public in order to locate the individual in time to avoid serious harm or death. The Purple Alert Plan applies to individuals:

- Who are 18 years of age or older;
- Who have been diagnosed with an intellectual disability;
- Whose whereabouts are unknown;
- Who are believed to be in imminent danger of serious bodily injury or death because of their disability; and
- Who are believed to be unable to return to safety without assistance.

Mental Health—Court-ordered Treatment and Custody

[HB 2353](#) amends provisions in the Care and Treatment Act for Mentally Ill Persons (Act) to extend the time period a person may be held for treatment and to add conditions for which continued treatment may be ordered.

Time Extensions

A court may, under certain circumstances, issue an ex parte emergency custody order set to expire at 5:00 p.m. the third day, changed from the second day, the court is open after the issuance.

The bill also extends the deadline for setting a hearing in response to a request for a temporary custody order or an emergency custody order that resulted from noncompliance with a patient's outpatient treatment order.

Finally, the bill extends the period of time for which a court may order continued involuntary treatment of a person in an initial order from a maximum of three months to a maximum of six months.

Outpatient Treatment Orders

Continuing law allows a court to order outpatient treatment in lieu of involuntary inpatient care and treatment if the court makes certain findings. The bill amends those findings to be that the patient:

- Will meet the criteria for required inpatient care in the near future and is only likely to attend outpatient treatment under a court order; or
- If left untreated, is likely to experience worsening symptoms caused by mental illness that would lead to the need for inpatient care and has previously refused mental health services in the community, due to their mental illness.

Additionally, continuing law allows a court order to state specific outpatient conditions to be followed by the patient, including directives and treatment required by the treating outpatient facility. The bill requires such directive and treatment plans to be provided to the court in writing within ten business days after the order for outpatient treatment is issued. Failure to provide such information to the court shall not be considered grounds for dismissal of the order unless the failure was made in bad faith.

End of Report