

2024 Legislative Update

The background of the slide is a photograph of the Kansas State Capitol building in Topeka, Kansas, taken at dusk. The building is a grand, classical-style structure with a prominent central dome and a portico with columns. The sky is a deep blue, and the building's windows are illuminated from within, casting a warm glow. In the foreground, there is a well-maintained lawn with several wooden park benches and some landscaping.

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Kansas Sentencing Commission

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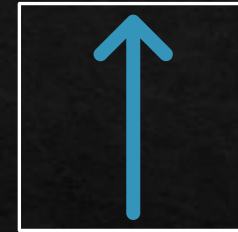
The 2024 Kansas Legislative Session



**Fentanyl and Distribution of
Controlled Substances**



Special Rules



Penalties

H Sub SB 318 - Permissive Inference Adopted in KSA 21-5705(e) and globally in KSA 60-416(b)

Inference of an intent to distribute controlled substances if such an inference is supported by the facts...



Rebuttable presumption of intent to distribute controlled substances





SB 414 – Omnibus Crime Bill

Aggravated Endangering a Child

- 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 would constitute the crime.
- 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.
- Creates new SL 6 personal felony when bodily harm is inflicted on the child.

Breach of Privacy Amended

Removes 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.



SB 414 (cont'd) Special Sentencing Rule - Drug Distribution of Fentanyl-Related Substances

- ◆ Special Rule 49 amended - **Manufacture of fentanyl related substance**- presumptive prison and double the maximum penalty (K.S.A. 21-6805(h)
 - ◆ **Applies to distribution of fentanyl when SL1F, SL2F, or SL3F**
- ◆ Rebuttable presumption of intent to distribute replaced with **permissive inference**. Adds 3.5 grams or more and 50 dosage units or more of fentanyl to the list of quantities of controlled substances that would lead to such an inference.

When measured by dosage unit, fentanyl-only penalties are drug:

- ◆ SL 4 nonperson felony for fewer than 10 doses;
- ◆ SL 3 nonperson felony for at least 10 doses but fewer than 50 doses;
- ◆ SL 2 nonperson felony for at least 50 doses but fewer than 250 doses; and
- ◆ SL 1 nonperson felony for 250 doses or more.





SB 414 – Omnibus Crime Bill (cont'd)



Municipal Courts

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. 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.

Sentencing Time Computation - *Hopkins*

At sentencing, judge required to designate date used when computing sentence, parole eligibility, and conditional release dates. The following shall not be considered by the court as time spent incarcerated pending disposition of the case:

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

Effective upon publishing in *Kansas Register*.



SB 414 (cont'd) Standardizing Conditions of Supervision



- Obey all laws and ordinances;
- 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 the 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;
- 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 also directs the Office of Judicial Administration (OJA) and KDOC to collaborate on developing appropriate documentation for conditions of supervision for probation, suspension of sentence, and community corrections.



SB 414 (cont'd)

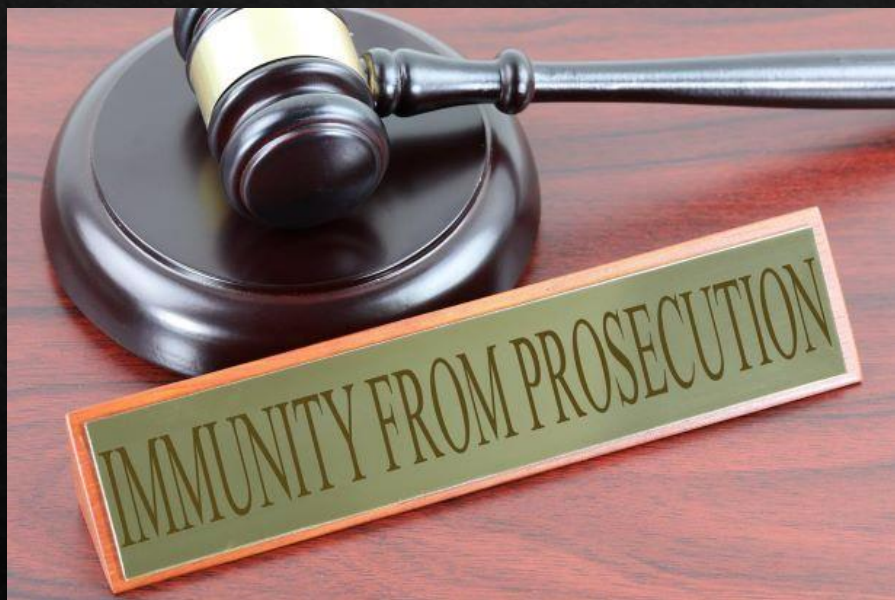


Probation and DUI

- ◇ 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 as of 2022 classifies DUI as a SL 6 nonperson felony when:
 - ◇ The person has a prior conviction within the past 10 years, not including periods of incarceration (3rd DUI); or
 - ◇ It is the person's fourth or subsequent conviction.
- ◇ Previous 2022 HB 2377 DUI legislation inadvertently deleted the ability for SB 6 treatment and funding for felony offenders.
- ◇ **Resets law to add back to include 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).



H Sub 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 needs medical assistance.



S Sub for HB 2047

- ◇ Class A nonperson misdemeanor;
- ◇ SL 9 nonperson felony, if property damaged or destroyed is valued at more than \$1,000 but less than \$25,000; or
- ◇ SL 7 nonperson felony, if property damaged or destroyed is valued at more than \$25,000.

Farm Animal and Field Crop and Research Facilities Protection Act





S Sub HB 2144 - Encouraging Suicide

- New crime of “encouraging suicide” is 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.

Penalties

- SL 5 person felony if the other person **attempts** to commit suicide, and
- SL 4 person felony if the other person **commits** suicide.

S Sub HB 2144 (cont'd) – Organized Retail Crime

- ◆ A new crime of organized retail crime is established, making organized retail crime a type of “racketeering activity” under the Kansas Racketeer Influenced and Corrupt Organization (RICO) Act.

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 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.



S Sub HB 2144 (cont'd) – Organized Retail Crime

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- ◆ Penalties – aggregate retail value
 - ◆ SL 6 nonperson felony if at least \$5,000 but less than \$25,000;
 - ◆ SL 5 nonperson felony if at least \$25,000 but less than \$100,000; and
 - ◆ SL4 nonperson felony if \$100,000 or more.



It also amends the law concerning the Attorney General's authority to prosecute crimes concurrently with county or district attorneys for theft, RICO or attempt, conspiracy, or solicitation of those in two or more counties. Organized retail crime is now added to this list.



S Sub for HB 2436- Coercion to Obtain Abortion and Compelling An Abortion (Special Rules)

- ◆ New crime of **coercion to obtain an abortion** is engaging in coercion with knowledge that a woman is pregnant and with the intent to compel such woman to obtain an abortion when such woman has expressed her desire to not obtain an abortion.
- ◆ Penalties
 - ◆ Nongrid person felony. Offender shall be sentenced to not less than 30 days nor more than one year's imprisonment and fined not less than \$500 nor more than \$5,000; or
 - ◆ Nongrid person felony if committed by the father or the putative father, who is 18 years of age or older at the time of the violation, of the unborn child of a pregnant woman and such pregnant woman is less than 18 years of age at the time of the violation. Offender shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$10,000.
 - ◆ Special sentencing rule of **Coercion to Obtain Abortion. (Special Rule 54)**
- ◆ Special sentencing rule of **Compelled Abortion Related To Certain Acts is created (Special Rule 53)**
- ◆ KSA 21-6804(bb)(1) creates an enhanced sentence if certain crimes listed are determined to be committed by the trier of fact beyond a reasonable doubt and to commit any such act with knowledge that a woman is pregnant and with the intent that such act will compel such woman to obtain an abortion when such woman has expressed her desire to not obtain an abortion.
- ◆ Penalties enhanced
 - ◆ If SL 2-10, one severity level above appropriate level of the offense;
 - ◆ If SL 1, enhanced to a life sentence with mandatory minimum of 25 years, unless offender's sentence, due to criminal history, exceeds 300 months. In that instance, offender required to serve the mandatory term equal to SL 1, criminal history A or B sentence.





HB 2583

- ◇ KSA 21-6416 amended to include police horse.
- ◇ Special Rule 21 now includes police horse
- ◇ Penalties increased
 - ◇ SL 4 nonperson felony if disability or death to a police dog, arson dog, assistance dog, game warden dog, search and rescue dog or police horse
 - ◇ SL 3 nonperson felony if death or disability to same animals but **during the commission of fleeing or attempting to elude a police officer as described in K.S.A. 8- 1568, interference with law enforcement as described in K.S.A. 21-5904, or escape from custody or aggravated escape from custody as described in K.S.A. 21- 5911.**
 - ◇ As a condition of any probation granted under this subsection, the person shall serve at least 90 days of imprisonment, be required to pay a fine of at least \$10,000, and the person shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the mandatory sentence of 90 days.
 - ◇ Special restitution assessed for vet costs and funeral expenses.

Harming or Killing Certain Dogs/Police Horse and Penalty Increase





Leaving the Scene of an Accident Increase in Penalties for KSA 8-1602

HB 2665

“Levi’s Law”

- ◇ SL 4 person felony if result is death of any person if the driver knew or reasonably should have known that such accident resulted in injury or death
- ◇ SL 3 person felony if result is death of any person if the driver knew or reasonably should have known that such accident resulted in injury or death to **more than one person.**

Thank you

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Commission

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