

# Kansas Statutes

Current through the 2016 Regular Session

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### Chapter 21. Crimes and Punishments

### Article 63. Crimes against the Public Safety

#### 21-6301. Criminal use of weapons.

(a) Criminal use of weapons is knowingly:

- (3) setting a spring gun;
- (4) possessing any device or attachment of any kind designed, used or intended for use in suppressing the report of any firearm;
- (5) selling, manufacturing, purchasing or possessing a shotgun with a barrel less than 18 inches in length, or any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger, whether the person knows or has reason to know the length of the barrel or that the firearm is designed or capable of discharging automatically;
- (6) possessing, manufacturing, causing to be manufactured, selling, offering for sale, lending, purchasing or giving away any cartridge which can be fired by a handgun and which has a plastic-coated bullet that has a core of less than 60% lead by weight, whether the person knows or has reason to know that the plastic-coated bullet has a core of less than 60% lead by weight;

**(7)** selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age whether the person knows or has reason to know the length of the barrel;

**(8)** selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;

**(9)** selling, giving or otherwise transferring any firearm to any person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto;

**(10)** possessing any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

**(11)** possessing any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event whether the person knows or has reason to know that such person was in or on any such property or grounds;

**(12)** refusing to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer;

**(13)** possessing any firearm by a person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto; or

**(14)** possessing a firearm with a barrel less than 12 inches long by any person less than 18 years of age.

**(b)** Criminal use of weapons as defined in:

**(1)** Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a class A nonperson misdemeanor;

**(2)** subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson felony;

**(3)** subsection (a)(10) or (a)(11) is a class B nonperson select misdemeanor;

**(4)** subsection (a)(13) is a severity level 8, nonperson felony; and

**(5)** subsection (a)(14) is a:

**(A)** Class A nonperson misdemeanor except as provided in subsection (b)(5)(B);

**(B)** severity level 8, nonperson felony upon a second or subsequent conviction.

**(c)** Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:

**(1)** Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

**(2)** wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

**(3)** members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

**(4)** the manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.

**(d)** Subsections (a)(4) and (a)(5) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. § 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

**(e)** Subsection (a)(6) shall not apply to a governmental laboratory or solid plastic bullets.

**(f)** Subsection (a)(4) shall not apply to a law enforcement officer who is:

**(1)** Assigned by the head of such officer's law enforcement agency to a tactical unit which receives specialized, regular training;

**(2)** designated by the head of such officer's law enforcement agency to possess devices described in subsection (a)(4); and

**(3)** in possession of commercially manufactured devices which are:

**(A)** Owned by the law enforcement agency;

**(B)** in such officer's possession only during specific operations; and

**(C)** approved by the bureau of alcohol, tobacco, firearms and explosives of the United States department of justice.

**(g)** Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory.

**(h)** Subsections (a)(4) and (a)(5) shall not apply to or affect any person or entity in compliance with the national firearms act, 26 U.S.C. § 5801 et seq.

**(i)** Subsection (a)(11) shall not apply to:

(1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;

(2) possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;

(3) possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student; or

(4) possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day; or

(5) possession of a concealed handgun by an individual who is not prohibited from possessing a firearm under either federal or state law.

(j) Subsections (a)(9) and (a)(13) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. 2014 Supp. 75-7c26, and amendments thereto.

(k) Subsection (a)(14) shall not apply if such person, less than 18 years of age, was:

(1) In attendance at a hunter's safety course or a firearms safety course;

(2) engaging in practice in the use of such firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located, or at another private range with permission of such person's parent or legal guardian;

(3) engaging in an organized competition involving the use of such firearm, or participating in or practicing for a performance by an organization exempt from federal income tax pursuant to § 501(c)(3) of the internal revenue code of 1986 which uses firearms as a part of such performance;

(4) hunting or trapping pursuant to a valid license issued to such person pursuant to article 9 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

(5) traveling with any such firearm in such person's possession being unloaded to or from any activity described in subsections (k)(1) through (k)(4), only if such firearm is secured, unloaded and outside the immediate access of such person;

(6) on real property under the control of such person's parent, legal guardian or grandparent and who has the permission of such parent, legal guardian or grandparent to possess such firearm; or

(7) at such person's residence and who, with the permission of such person's parent or legal guardian, possesses such firearm for the purpose of exercising the rights contained in K.S.A. 2014 Supp. 21-5222, 21-5223 or 21-5225, and amendments thereto.

#### **21-6302. Criminal carrying of a weapon.**

(a) Criminal carrying of a weapon is knowingly carrying:

(4) any pistol, revolver or other firearm concealed on one's person if such person is under 21 years of age, except when on such person's land or in such person's abode or fixed place of business; or

(5) a shotgun with a barrel less than 18 inches in length or any other firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger whether the person knows or has reason to know the length of the barrel or that the firearm is designed or capable of discharging automatically.

(b) Criminal carrying of a weapon as defined in:

(1) Subsections (a)(1), (a)(2), (a)(3) or (a)(4) is a class A nonperson misdemeanor; and

(2) subsection (a)(5) is a severity level 9, nonperson felony.

(c) Subsection (a) shall not apply to:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

(4) the manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.

(d) Subsection (a)(5) shall not apply to:

(1) Any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. § 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor;

(2) any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory.

Subsection (a)(5) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory; or

(3) any person or entity in compliance with the national firearms act, 26 U.S.C. § 5801 et seq.

#### **21-6303. Criminal distribution of firearms to a felon.**

(a) Criminal distribution of firearms to a felon is knowingly:

(1) Selling, giving or otherwise transferring any firearm to any person who, within the preceding 5 years, has been convicted of a felony, other than those specified in subsection (c), under the laws of this or any other jurisdiction or has been released from imprisonment for a felony and was not found to have been in possession of a firearm at the time of the commission of the felony;

(2) selling, giving or otherwise transferring any firearm to any person who, within the preceding 10 years, has been convicted of a felony to which this subsection applies, but was not found to have been in possession of a firearm at the time of the commission of the felony, or has been released from imprisonment for such a felony, and has not had the conviction of such felony expunged or been pardoned for such felony; or

(3) selling, giving or otherwise transferring any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction and was found to have been in possession of a firearm at the time of the commission of the felony.

(b) Criminal distribution of firearms to a felon is a class A nonperson misdemeanor.

(c) Subsection (a)(2) shall apply to a felony under K.S.A. 2013 Supp. 21-5402, 21-5403, 21-5404, 21-5405, 21-5408, subsection (b) or (d) of 21-5412, subsection (b) or (d) of 21-5413, subsection (a) or (b) of 21-5415, subsection (b) of 21-5420, 21-5503, subsection (b) of 21-5504, subsection (b) of 21-5505, and subsection (b) of 21-5807, and amendments thereto, K.S.A. 2013 Supp. 21-5705 or 21-5706, and amendments thereto, or K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a, 65-4127b or 65-4160 through 65-4165, prior to their repeal, or a crime under a law of another jurisdiction which is substantially the same as such felony.

(d) It is not a defense that the distributor did not know or have reason to know:

(1) The precise felony the recipient committed;

(2) that the recipient was in possession of a firearm at the time of the commission of the recipient's prior felony; or

(3) that the convictions for such felony have not been expunged or pardoned.

#### **21-6304. Criminal possession of a firearm by a convicted felon.**

(a) Criminal possession of a weapon by a convicted felon is possession of any weapon by a person who:

(1) Has been convicted of a person felony or a violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009, or a crime under a law of another jurisdiction which is substantially the same as such felony or violation, or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony or a violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009, and was found to have been in possession of a firearm at the time of the commission of the crime;

(2) within the preceding 5 years has been convicted of a felony, other than those specified in subsection (a)(3)(A), under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for a felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a felony, and was not found to have been in possession of a firearm at the time of the commission of the crime; or

(3) within the preceding 10 years, has been convicted of a:

(A) Felony under K.S.A. 2014 Supp. 21-5402, 21-5403, 21-5404, 21-5405, 21-5408, subsection (b) or (d) of 21-5412, subsection (b) or (d) of 21-5413, subsection (a) of 21-5415, subsection (b) of 21-5420, 21-5503, subsection (b) of 21-5504, subsection (b) of 21-5505, and subsection (b) of 21-5807, and amendments thereto; article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto; K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a, 65-4127b, 65-4159 through 65-4165 or 65-7006, prior to their repeal; an attempt, conspiracy or criminal solicitation as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2013 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of any such felony; or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for such felony, or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of such felony, was not found to have been in possession of a firearm at the time of the commission of the crime, and has not had the conviction of such crime expunged or been pardoned for such crime. The provisions of subsection (j)(2) of K.S.A. 2013 Supp. 21-6614, and amendments thereto, shall not apply to an individual who has had a conviction under this paragraph expunged; or

(B) nonperson felony under the laws of Kansas or a crime under the laws of another jurisdiction which is substantially the same as such nonperson felony, has been released from imprisonment for such nonperson felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony, and was found to have been in possession of a firearm at the time of the commission of the crime.

(b) Criminal possession of a weapon by a convicted felon is a severity level 8, nonperson felony.

(c) As used in this section:

(2) "weapon" means a firearm or a knife.

**21-6305. Aggravated weapons violation by a convicted felon.**

(a) Aggravated weapons violation by a convicted felon is a violation of any of the provisions of subsections (a)(1) through (a)(6) of K.S.A. 2013 Supp. 21-6301 or 21-6302, and amendments thereto, by a person who:

(1) Within 5 years preceding such violation has been convicted of a nonperson felony under the laws of Kansas or in any other jurisdiction which is substantially the same as such crime or has been released from imprisonment for such nonperson felony; or

(2) has been convicted of a person felony under the laws of Kansas or in any other jurisdiction which is substantially the same as such crime or has been released from imprisonment for such crime, and has not had the conviction of such crime expunged or been pardoned for such crime.

(b) (1) Aggravated weapons violation by a convicted felon is a severity level 9, nonperson felony for a violation of subsections (a)(1) through (a)(5) or subsection (a)(9) of K.S.A. 21-4201, prior to its repeal, or subsection (a)(1) through (a)(3) of K.S.A. 2013 Supp. 21-6301 or subsection (a)(1) through (a)(4) of K.S.A. 2013 Supp. 21-6302, and amendments thereto.

(2) Aggravated weapons violation by a convicted felon is a severity level 8, nonperson felony for a violation of subsections (a)(6), (a)(7) and (a)(8) of K.S.A. 21-4201, prior to its repeal, or subsection (a)(4) through (a)(6) of K.S.A. 2013 Supp. 21-6301 or subsection (a)(5) of K.S.A. 2013 Supp. 21-6302, and amendments thereto.

**21-6306. Defacing identification marks of a firearm.**

(a) Defacing identification marks of a firearm is intentionally changing, altering, removing or obliterating the name of the maker, model, manufacturer's number or other mark of identification of any firearm.

(b) Defacing identification marks of a firearm is a severity level 10, nonperson felony.

(c) Possession of any firearm upon which any such mark has been intentionally changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

**21-6308. Criminal discharge of a firearm.**

(a) Criminal discharge of a firearm is the:

(1) Reckless and unauthorized discharge of any firearm:

(A) At a dwelling, building or structure in which there is a human being whether the person discharging the firearm knows or has reason to know that there is a human being present;

(B) at a motor vehicle, aircraft, watercraft, train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock or other means of conveyance of persons or property in which there is a human being whether the person discharging the firearm knows or has reason to know that there is a human being present;

(2) reckless and unauthorized discharge of any firearm at a dwelling in which there is no human being; or

(3) discharge of any firearm:

(A) Upon any land or nonnavigable body of water of another, without having obtained permission of the owner or person in possession of such land; or

(B) upon or from any public road, public road right-of-way or railroad right-of-way except as otherwise authorized by law.

(b) Criminal discharge of a firearm as defined in:

(1) Subsection (a)(1) is a:

(A) Severity level 7, person felony except as provided in subsection (b)(1)(B) or (b)(1)(C);

(B) severity level 3, person felony if such criminal discharge results in great bodily harm to a person during the commission thereof; or

(C) severity level 5, person felony if such criminal discharge results in bodily harm to a person during the commission thereof;

(2) subsection (a)(2) is a severity level 8, person felony; and

(3) subsection (a)(3) is a class C misdemeanor.

(c) Subsection (a)(1) shall not apply if the act is a violation of K.S.A. 2014 Supp. 21-5412(d), and amendments thereto.

(d) Subsection (a)(3) shall not apply to any of the following:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United States or the national guard while in the performance of their official duty;

(4) watchmen, while actually engaged in the performance of the duties of their employment;

(5) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(6) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;

(7) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto; or

(8) the United States attorney for the district of Kansas, the attorney general, or any district attorney or county attorney, while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant United States attorney if authorized by the United States attorney for the district of Kansas and while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant attorney general if authorized by the attorney general and while actually engaged in the duties of their employment or any activities incidental to such duties; or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed and while actually engaged in the duties of their employment or any activities incidental to such duties.

**21-6308a. Unlawful discharge of a firearm in a city.**

- (a) Unlawful discharge of a firearm is the reckless discharge of a firearm within or into the corporate limits of any city.
- (b) This section shall not apply to the discharge of any firearm within or into the corporate limits of any city if:
- (1) The firearm is discharged in the lawful defense of one's person, another person or one's property;
  - (2) the firearm is discharged at a private or public shooting range;
  - (3) the firearm is discharged to lawfully take wildlife unless prohibited by the department of wildlife, parks and tourism or the governing body of the city;
  - (4) the firearm is discharged by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas department of wildlife, parks and tourism;
  - (5) the firearm is discharged by special permit of the chief of police or by the sheriff when the city has no police department;
  - (6) the firearm is discharged using blanks; or
  - (7) the firearm is discharged in lawful self-defense or defense of another person against an animal attack.
- (c) A violation of subsection (a) shall be a class B nonperson misdemeanor.

**21-6309. Unlawful possession of firearms on certain government property.**

- (a) It shall be unlawful to possess, with no requirement of a culpable mental state, a firearm:
- (1) Within any building located within the capitol complex;
  - (2) within the governor's residence;
  - (3) on the grounds of or in any building on the grounds of the governor's residence;
  - (4) within any other state-owned or leased building if the secretary of administration has so designated by rules and regulations and conspicuously placed signs clearly stating that firearms are prohibited within such building; or
  - (5) within any county courthouse, unless, by county resolution, the board of county commissioners authorize the possession of a firearm within such courthouse.
- (b) Violation of this section is a class A misdemeanor.
- (c) This section shall not apply to:
- (1) A commissioned law enforcement officer;
  - (2) a full-time salaried law enforcement officer of another state or the federal government who is carrying out official duties while in this state;
  - (3) any person summoned by any such officer to assist in making arrests or preserving the peace while actually engaged in assisting such officer; or
  - (4) a member of the military of this state or the United States engaged in the performance of duties.
- (d) It is not a violation of this section for:
- (1) The governor, the governor's immediate family, or specifically authorized guest of the governor to possess a firearm within the governor's residence or on the grounds of or in any building on the grounds of the governor's residence;
  - (2) the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a firearm within any county courthouse and court-related facility, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district
  - (3) law enforcement officers, as that term is defined in K.S.A. 2014 Supp. 75-7c22, and amendments thereto, who satisfy the requirements of either K.S.A. 2014 Supp. 75-7c22(a) or (b), and amendments thereto, to possess a firearm; or
  - (4) an individual to possess a concealed handgun provided such individual is not prohibited from possessing a firearm under either federal or state law.
- (e) Notwithstanding the provisions of this section, any county may elect by passage of a resolution that the provisions of subsection (d)(2) shall not apply to such county's courthouse or court-related facilities if such:
- (1) Buildings have adequate security measures to ensure that no weapons are permitted to be carried into such buildings;
  - (2) county also has a policy or regulation requiring all law enforcement officers to secure and store such officer's firearm upon entering the courthouse or court-related facility. Such policy or regulation may provide that it does not apply to court security or sheriff's office personnel for such county; and

(3) buildings have a sign conspicuously posted at each entryway into such building stating that the provisions of subsection (d)(2) do not apply to such building.

(f) As used in this section:

(1) "Adequate security measures" shall have the same meaning as the term is defined in K.S.A. 2014 Supp. 75-7c20, and amendments thereto;

(2) "possession" means having joint or exclusive control over a firearm or having a firearm in a place where the person has some measure of access and right of control; and

(3) "capitol complex" means the same as in K.S.A. 75-4514, and amendments thereto.

(g) For the purposes of subsections (a)(1), (a)(4) and (a)(5), "building" and "courthouse" shall not include any structure, or any area of any structure, designated for the parking of motor vehicles.

#### **21-6310. Unlawful endangerment.**

(a) Unlawful endangerment is knowingly protecting or attempting to protect the manufacture or cultivation of a controlled substance by creating, setting up, building, erecting or using any device or weapon which:

(1) Causes great bodily harm;

(2) causes bodily harm; or

(3) is intended to cause bodily harm to another person.

(b) Unlawful endangerment as defined in:

(1) Subsection (a)(1) is a severity level 5, person felony;

(2) subsection (a)(2) is a severity level 7, person felony; and

(3) subsection (a)(3) is a severity level 8, nonperson felony.

(c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for battery.

(d) As used in this section, "manufacture" and "cultivation" mean the same as in K.S.A. 2013 Supp. 21-5701, and amendments thereto.

#### **21-6332 Possession of a firearm under the influence.**

(a) Possession of a firearm under the influence is knowingly possessing or carrying a loaded firearm on or about such person, or within such person's immediate access and control while in a vehicle, while under the influence of alcohol or drugs, or both, to such a degree as to render such person incapable of safely operating a firearm.

(b) Possession of a firearm under the influence is a class A nonperson misdemeanor.

(c) This section shall not apply to:

(1) A person who possesses or carries a firearm while in such person's own dwelling or place of business or on land owned or possessed by such person; or

(2) the transitory possession or use of a firearm during an act committed in self-defense or in defense of another person or any other act committed if legally justified or excused, provided such possession or use lasts no longer than is immediately necessary.

(d) If probable cause exists for a law enforcement officer to believe a person is in possession of a firearm under the influence of alcohol or drugs, or both, such law enforcement officer shall request such person submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The selection of the test or tests shall be made by the officer.

(e) (1) If a law enforcement officer requests a person to submit to a test of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by:

(A) A person licensed to practice medicine and surgery, licensed as a physician's assistant, or a person acting under the direction of any such licensed person;

(B) a registered nurse or a licensed practical nurse;

(C) any qualified medical technician, including, but not limited to, an emergency medical technician-intermediate, mobile intensive care technician, an emergency medical technician-intermediate/defibrillator, an advanced emergency medical technician or a paramedic, as those terms are defined in K.S.A. 65-6112, and amendments thereto, authorized by medical protocol; or

(D) a phlebotomist.

(2) A law enforcement officer may direct a medical professional described in this subsection to draw a sample of blood from a person if the person has given consent or upon meeting the requirements of subsection (d).

(f) (1) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of possession of a firearm under the influence of alcohol or drugs, or both.

(2) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(3) In any criminal prosecution for a violation of this section, if the court finds that a person refused to submit to testing when requested pursuant to this section, the county or district attorney, upon petition to the court, may recover on behalf of the state, in addition to the criminal penalties provided in this section, a civil penalty not exceeding \$1,000 for each violation.

(g) If a person who holds a valid license to carry a concealed handgun issued pursuant to K.S.A. 2013 Supp. 75-7c01 et seq., and amendments thereto, is convicted of a violation of this section, such person's license to carry a concealed

handgun shall be revoked for a minimum of 1 year for a first offense and 3 years for a second or subsequent offense.

**(h)** In any criminal prosecution for possession of a firearm under the influence of alcohol or drugs, or both, evidence of the concentration of alcohol or drugs in the defendant's blood, urine, breath or other bodily substance may be admitted and shall give rise to the following:

**(1)** If the alcohol concentration is less than .08, that fact may be considered with other competent evidence to determine if the defendant was under the influence of alcohol or drugs, or both.

**(2)** If the alcohol concentration is .08 or more, it shall be prima facie evidence that the defendant was under the influence of alcohol.

**(3)** If there was present in the defendant's bodily substance any narcotic, hypnotic, somnifacient, stimulating or other drug which has the capacity to render the defendant incapacitated, that fact may be considered to determine if the defendant was under the influence of alcohol or drugs, or both.

**(i)** The provisions of subsection (h) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol or drugs, or both.

**(j)** Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.

## **Chapter 75. State Departments; Public Officers and Employees**

### **Article 7c. Firearms – Concealed Firearms**

(Select statutes – see K.S.A. 75-7c01, et seq. for exhaustive list)

**75-7c01. Personal and family protection act; citation of act.** K.S.A. 75-7c01 through 75-7c23, and amendments thereto, shall be known and may be cited as the personal and family protection act.

**75-7c02. Definitions.** As used in the personal and family protection act:

**(a) “Attorney general”** means the attorney general of the state of Kansas.

**(b) “Handgun”** means a “firearm,” as defined in K.S.A. 75-7b01, and amendments thereto.

**(c) “Athletic event”** means athletic instruction, practice or competition held at any location and including any number of athletes.

**(d) “Dependent”** means a resident of the household of an active duty member of any branch of the armed forces of the United States who depends in whole or in substantial part upon the member for financial support.

**75-7c03. License to carry concealed handgun; issuance; form**

**(a)** The attorney general shall issue licenses to carry concealed handguns to persons who comply with the application and training requirements of this act and who are not disqualified under K.S.A. 75-7c04, and amendments thereto. Such licenses shall be valid throughout the state for a period of 4 years from the date of issuance. The availability of licenses to carry concealed handguns under this act shall not be construed to impose a general prohibition on the carrying of handguns without such license, whether carried openly or concealed, or loaded or unloaded.

**(b)** The license shall be a separate card, in a form prescribed by the attorney general, that is approximately the size of a Kansas driver's license and shall bear the licensee's signature, name, address, date of birth and driver's license number or nondriver's identification card number except that the attorney general shall assign a unique number for military applicants or their dependents described in K.S.A. 75-7c05(a)(1)(B), and amendments thereto.

**75-7c04. Same; disqualifications; handgun safety and training course; training requirements for license in other jurisdictions, list**

**(a)** The attorney general shall not issue a license pursuant to this act if the applicant:

**(1)** Is not a resident of the county where application for licensure is made or is not a resident of the state;

**(2)** is prohibited from shipping, transporting, possessing or receiving a firearm or ammunition under 18 U.S.C. § 922(g) or (n), and amendments thereto, or K.S.A. 21-4204, prior to its repeal, or K.S.A. 21-6301(a)(10) through (a)(13) or K.S.A. 21-6304(a)(1) through (a)(3), and amendments thereto; or

**(3)** is less than 21 years of age.

**(b)(1)** The attorney general shall adopt rules and regulations establishing procedures and standards as authorized by this act for an 8-hour handgun safety and training course required by this section. Such standards shall include:

**(A)** A requirement that trainees receive training in the safe storage of handguns, actual firing of handguns and instruction in the laws of this state governing the carrying of concealed handguns and the use of deadly force;

**(B)** general guidelines for courses which are compatible with the industry standard for basic handgun training for civilians;

**(C)** qualifications of instructors; and

**(D)** a requirement that the course be:

**(i)** A handgun course certified or sponsored by the attorney general; or

**(ii)** a handgun course certified or sponsored by the national rifle association or by a law enforcement agency, college, private or public institution or organization or handgun training school, if the attorney general determines that such course meets or exceeds the standards required by rules and regulations adopted by the attorney general and is taught by instructors certified by the attorney general or by the national rifle association, if the attorney general determines

that the requirements for certification of instructors by such association meet or exceed the standards required by rules and regulations adopted by the attorney general. Any person wanting to be certified by the attorney general as an instructor shall submit to the attorney general an application in the form required by the attorney general and a fee not to exceed \$150.

(2) The cost of the handgun safety and training course required by this section shall be paid by the applicant. The following shall constitute satisfactory evidence of satisfactory completion of an approved handgun safety and training course:

(A) Evidence of completion of a course that satisfies the requirements of subsection (b)(1), in the form provided by rules and regulations adopted by the attorney general;

(B) an affidavit from the instructor, school, club, organization or group that conducted or taught such course attesting to the completion of the course by the applicant;

(C) evidence of completion of a course offered in another jurisdiction which is determined by the attorney general to have training requirements that are equal to or greater than those required by this act; or

(D) a determination by the attorney general pursuant to subsection (c).

(c) The attorney general may:

(1) Create a list of concealed carry handgun licenses or permits issued by other jurisdictions which the attorney general finds have training requirements that are equal to or greater than those of this state; and

(2) review each application received pursuant to K.S.A. 75-7c05, and amendments thereto, to determine if the applicant's previous training qualifications were equal to or greater than those of this state.

(d) For the purposes of this section:

(1) "Equal to or greater than" means the applicant's prior training meets or exceeds the training established in this section by having required, at a minimum, the applicant to:

(A) Receive instruction on the laws of self-defense; and

(B) demonstrate training and competency in the safe handling, storage and actual firing of handguns.

(2) "Jurisdiction" means another state or the District of Columbia.

(3) "License or permit" means a concealed carry handgun license or permit from another jurisdiction which has not expired and, except for any residency requirement of the issuing jurisdiction, is currently in good standing...

**75-7c10. Same; restrictions on carrying concealed handgun; exceptions; liabilities; employees permitted to carry; penalties for violations; sign requirements**

(a) The carrying of a concealed handgun shall not be prohibited in any building unless such building is conspicuously posted in accordance with rules and regulations adopted by the attorney general.

(b) Nothing in this act shall be construed to prevent any private employer from restricting or prohibiting by personnel policies persons from carrying a concealed handgun while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer, except that no employer may prohibit possession of a handgun in a private means of conveyance, even if parked on the employer's premises.

(c)(1) Any private entity which provides adequate security measures in a private building and which conspicuously posts signage in accordance with this section prohibiting the carrying of a concealed handgun in such building shall not be liable for any wrongful act or omission relating to actions of persons carrying a concealed handgun concerning acts or omissions regarding such handguns.

(2) Any private entity which does not provide adequate security measures in a private building and which allows the carrying of a concealed handgun shall not be liable for any wrongful act or omission relating to actions of persons carrying a concealed handgun concerning acts or omissions regarding such handguns.

(3) Nothing in this act shall be deemed to increase the liability of any private entity where liability would have existed under the personal and family protection act prior to the effective date of this act.

(d) The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may permit any employee, who is legally qualified, to carry a concealed handgun in any building of such institution, if the employee meets such institution's own policy requirements regardless of whether such building is conspicuously posted in accordance with the provisions of this section:

(1) A unified school district;

(2) a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto;

(3) a state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;

(4) a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;

(5) a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; or

(6) an indigent mental care clinic, as defined by K.S.A. 65-7402, and amendments thereto.

(e) No public employer shall restrict or otherwise prohibit by personnel policies any employee, who is legally qualified, from carrying any concealed handgun while engaged in the duties of such employee's employment outside of such employer's place of business, including while in a means of conveyance.

(f)(1) It shall be a violation of this section to carry a concealed handgun in violation of any restriction or prohibition allowed by subsection (a) or (b) if the building is posted in accordance with rules and regulations adopted by the attorney general pursuant to subsection (j). Any person who violates this section shall not be subject to a criminal penalty but may be subject to denial to such premises or removal from such premises.

(2) Notwithstanding the provisions of subsection (a) or (b), it is not a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a handgun within any of the buildings described in subsection (a) or (b), subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district.

(3) Notwithstanding the provisions of subsection (a) or (b), it is not a violation of this section for a law enforcement officer, as that term is defined in K.S.A. 75-7c22, and amendments thereto, who satisfies the requirements of either K.S.A. 75-7c22(a) or (b), and amendments thereto, to possess a handgun within any of the buildings described in subsection (a) or (b), subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district.

(g) The provisions of this section shall not apply to the carrying of a concealed handgun in the state capitol.

(h) For the purposes of this section:

(1) "Adequate security measures" shall have the same meaning as the term is defined in K.S.A. 75-7c20, and amendments thereto;

(2) "building" shall not include any structure, or any area of any structure, designated for the parking of motor vehicles; and

(3) "public employer" means the state and any municipality as those terms are defined in K.S.A. 75-6102, and amendments thereto, except the term "public employer" shall not include school districts.

(i) Nothing in this act shall be construed to authorize the carrying or possession of a handgun where prohibited by federal law.

(j) The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on a building where carrying a concealed handgun is prohibited pursuant to subsections (a) and (b). Such regulations shall prescribe, at a minimum, that:

(1) The signs be posted at all exterior entrances to the prohibited buildings;

(2) the signs be posted at eye level of adults using the entrance and not more than 12 inches to the right or left of such entrance;

(3) the signs not be obstructed or altered in any way; and

(4) signs which become illegible for any reason be immediately replaced.

#### **75-7c20. Concealed handguns in public buildings and areas; when prohibited; authorization for restricted access entrances; public buildings and areas exempted; definitions**

(a) The carrying of a concealed handgun shall not be prohibited in any public area of any state or municipal building unless such public area has adequate security measures to ensure that no weapons are permitted to be carried into such public area and the public area is conspicuously posted with either permanent or temporary signage approved by the governing body, or the chief administrative officer, if no governing body exists, in accordance with K.S.A. 75-7c10, and amendments thereto.

(b) The carrying of a concealed handgun shall not be prohibited throughout any state or municipal building in its entirety unless such building has adequate security measures at all public access entrances to ensure that no weapons are permitted to be carried into such building and the building is conspicuously posted in accordance with K.S.A. 75-7c10, and amendments thereto.

(c) No state agency or municipality shall prohibit an employee from carrying a concealed handgun at the employee's work place unless the building has adequate security measures at all public access entrances to ensure that no weapons are permitted to be carried into such building and the building is conspicuously posted in accordance with K.S.A. 75-7c10, and amendments thereto.

(d)(1) It shall not be a violation of the personal and family protection act for a person to carry a concealed handgun into a state or municipal building, or any public area thereof, so long as that person has authority to enter through a restricted access entrance into such building, or public area thereof, which provides adequate security measures at all public access entrances and the building, or public area thereof, is conspicuously posted in accordance with K.S.A. 75-7c10, and amendments thereto.

(2) Any person, who is not an employee of the state or a municipality and is not otherwise authorized to enter a state or municipal building through a restricted access entrance, shall be authorized to enter through a restricted access entrance, provided such person:

(A) Is authorized by the chief law enforcement officer, governing body, or the chief administrative officer, if no governing body exists, to enter such state or municipal building through a restricted access entrance;

(B) is issued an identification card by the chief law enforcement officer, governing body, or the chief administrative officer, if no governing body exists, which includes such person's photograph, name and any other identifying information deemed necessary by the issuing entity, and which states on the identification card that such person is authorized to enter such building through a restricted access entrance; and

(C) executes an affidavit or other notarized statement that such person acknowledges that certain firearms and weapons may be prohibited in such building and that violating any such regulations may result in the revocation of such person's authority to enter such building through a restricted access entrance.

The chief law enforcement officer, governing body, or the chief administrative officer, if no governing body exists, shall develop criteria for approval of individuals subject to this paragraph to enter the state or municipal building through a restricted access entrance. Such criteria may include the requirement that the individual submit to a state and national criminal history records check before issuance and renewal of such authorization and pay a fee to cover the costs of such background checks. An individual who has been issued a concealed carry permit by the state of Kansas shall not be required to submit to another state and national criminal records check before issuance and renewal of such authorization. Notwithstanding any authorization granted under this paragraph, an individual may be subjected to additional security screening measures upon reasonable suspicion or in circumstances where heightened security measures are warranted. Such authorization does not permit the individual to carry a concealed weapon into a public building, which has adequate security measures, as defined by this act, and which is conspicuously posted in accordance with K.S.A. 75-7c10, and amendments thereto.

**(e)** A state agency or municipality which provides adequate security measures in a state or municipal building and which conspicuously posts signage in accordance with K.S.A. 75-7c10, and amendments thereto, prohibiting the carrying of a concealed handgun in such building shall not be liable for any wrongful act or omission relating to actions of persons carrying a concealed handgun concerning acts or omissions regarding such handguns.

**(f)** A state agency or municipality which does not provide adequate security measures in a state or municipal building and which allows the carrying of a concealed handgun shall not be liable for any wrongful act or omission relating to actions of persons carrying a concealed handgun concerning acts or omissions regarding such handguns.

**(g)** Nothing in this act shall limit the ability of a corrections facility, a jail facility or a law enforcement agency to prohibit the carrying of a handgun or other firearm concealed or unconcealed by any person into any secure area of a building located on such premises, except those areas of such building outside of a secure area and readily accessible to the public shall be subject to the provisions of subsection (a).

**(h)** Nothing in this section shall limit the ability of the chief judge of each judicial district to prohibit the carrying of a concealed handgun by any person into courtrooms or ancillary courtrooms within the district provided the public area has adequate security measures to ensure that no weapons are permitted to be carried into such public area and the public area is conspicuously posted in accordance with K.S.A. 75-7c10, and amendments thereto.

**(i)** The governing body or the chief administrative officer, if no governing body exists, of a state or municipal building, may exempt the building, or any public area thereof, from this section until July 1, 2017, by adopting a resolution, or drafting a letter, listing the legal description of such building, listing the reasons for such exemption, and including the following statement: "A security plan has been developed for the building being exempted which supplies adequate security to the occupants of the building and merits the prohibition of the carrying of a concealed handgun." A copy of the security plan for the building shall be maintained on file and shall be made available, upon request, to the Kansas attorney general and the law enforcement agency of local jurisdiction. Notice of this exemption, together with the resolution adopted or the letter drafted, shall be sent to the Kansas attorney general and to the law enforcement agency of local jurisdiction. The security plan shall not be subject to disclosure under the Kansas open records act.

**(j)** The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may exempt any building of such institution, or any public area thereof, from this section until July 1, 2017, by stating the reasons for such exemption and sending notice of such exemption to the Kansas attorney general:

- (1)** A state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;
- (2)** a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;
- (3)** a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto;
- (4)** an indigent mental care clinic, as defined by K.S.A. 65-7402, and amendments thereto; or
- (5)** a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto, including any buildings located on the grounds of such institution and any buildings leased by such institution.

**(k)** The provisions of this section shall not apply to any building located on the grounds of the Kansas state school for the deaf or the Kansas state school for the blind.

**(l)** Nothing in this section shall be construed to prohibit any law enforcement officer, as defined in K.S.A. 75-7c22, and amendments thereto, who satisfies the requirements of either K.S.A. 75-7c22(a) or (b), and amendments thereto, from carrying a concealed handgun into any state or municipal building, or any public area thereof, in accordance with the provisions of K.S.A. 75-7c22, and amendments thereto, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district.

**(m)** For purposes of this section:

**(1)** "Adequate security measures" means the use of electronic equipment and armed personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, or any public area thereof, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building or public area by members of the public. Adequate security measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options may be provided at public entrances.

**(2)** "Authorized personnel" means employees of a state agency or municipality and any person granted authorization pursuant to subsection (d)(2), who are authorized to enter a state or municipal building through a restricted access entrance.

(3) The terms “municipality” and “municipal” are interchangeable and have the same meaning as the term “municipality” is defined in K.S.A. 75-6102, and amendments thereto, but does not include school districts.

(4) “Public area” means any portion of a state or municipal building that is open to and accessible by the public or which is otherwise designated as a public area by the governing body or the chief administrative officer, if no governing body exists, of such building.

(5) “Restricted access entrance” means an entrance that is restricted to the public and requires a key, keycard, code, or similar device to allow entry to authorized personnel.

(6) “State” means the same as the term is defined in K.S.A. 75-6102, and amendments thereto.

(7)(A) “State or municipal building” means a building owned or leased by such public entity. It does not include a building owned by the state or a municipality which is leased by a private entity whether for profit or not-for-profit or a building held in title by the state or a municipality solely for reasons of revenue bond financing.

(B) The term “state and municipal building” shall not include the state capitol.

(8) “Weapon” means a weapon described in K.S.A. 21-6301, and amendments thereto, except the term “weapon” shall not include any cutting instrument that has a sharpened or pointed blade.

(n) This section shall be a part of and supplemental to the personal and family protection act.

#### **75-7c24. Restrictions on carrying unconcealed firearms; exceptions; penalties; sign requirements**

(a) Provided that the building is conspicuously posted in accordance with rules and regulations adopted by the attorney general as a building where carrying an unconcealed firearm is prohibited, it shall be unlawful to carry an unconcealed firearm into such building.

(b) Nothing in this section shall be construed to prohibit a law enforcement officer, as defined in K.S.A. 22-2202, and amendments thereto, from acting within the scope of such officer’s duties.

(c) It shall be a violation of this section to carry an unconcealed firearm if the building is posted in accordance with rules and regulations adopted by the attorney general pursuant to subsection (d). Any person who violates this section shall not be subject to a criminal penalty but may be subject to denial to such premises or removal from such premises.

(d)(1) The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on a building where carrying an unconcealed firearm is prohibited pursuant to subsection (a). Such regulations shall prescribe, at a minimum, that:

(A) The signs be posted at all exterior entrances to the prohibited buildings;

(B) the signs be posted at eye level of adults using the entrance and not more than 12 inches to the right or left of such entrance;

(C) the signs not be obstructed or altered in any way;

(D) signs which become illegible for any reason be immediately replaced; and

(E) except as provided in paragraph (2), signs shall include the following, which shall be printed in large, conspicuous print: “The open carrying of firearms in this building is prohibited.”

(2) Such rules and regulations shall provide that the same signage used to prohibit the carrying of concealed handguns under K.S.A. 75-7c01 et seq., and amendments thereto, may be used to also prohibit the carrying of unconcealed firearms.

#### **75-7c25. Orders of involuntary commitment for treatment of mental illness or alcohol or substance abuse; entry in certain databases; possession of firearms prohibited, when**

(a) After July 1, 2007, all orders of involuntary commitment for care and treatment pursuant to K.S.A. 59-2966 or 59-29b66, and amendments thereto, and any orders of termination of discharge shall be immediately forwarded to the Kansas bureau of investigation for entry into the appropriate state and federal databases.

(b) Upon a finding that the mentally ill person is a danger to self or others, the court shall notify the mentally ill person subject to involuntary commitment for care and treatment that it is a violation of the law to possess a firearm. Upon a finding that a proposed patient is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment, the court shall notify the person that it is a violation of the law to possess a firearm. Upon release, the state hospital shall notify the patient that it is a violation of the law for the patient to possess a firearm and provide information to the patient regarding the restoration procedure.

#### **75-7c26. Discharge of person involuntarily committed for treatment for mental illness or alcohol or substance abuse; restoration of ability to legally possess firearm, when.**

(a) a person who has been discharged pursuant to K.S.A. 59-2973 or 59-29b73, and amendments thereto, may file a petition in the court where treatment was ordered pursuant to K.S.A. 59-2966 or 59-29b66, and amendments thereto, for the restoration of the ability to legally possess a firearm.

(b) Notice of the filing of such petition shall be served on the petitioner who originally filed the action pursuant to K.S.A. 59-2952, 59-2957, 59-29b52 or 59-29b57, and amendments thereto, or the petitioner’s attorney and the county or district attorney as appropriate.

(c) If the court finds the person is no longer likely to cause harm to such person’s self or others, the court shall issue a certificate of restoration to the person. Such restoration shall have the effect of restoring the person’s ability to legally possess a firearm, and the certification of restoration shall so state.

**(d)** The certificate of registration issued pursuant to this section shall only apply to the possession of a firearm for the purposes of an alleged violation of subsection (a)(7) of K.S.A. 21-4204, prior to its repeal, or subsection (a)(13) of K.S.A. 21-6301, and amendments thereto.

**75-7c27. Petition for relief of firearm prohibitions; procedure**

**(a)** An individual who has been adjudicated as a mentally ill person subject to involuntary commitment for care and treatment, or who is prohibited from shipping, transporting, possessing or receiving firearms or ammunition by subsection (d)(4) or (g)(4) of 18 U.S.C. § 922, may petition for relief of disabilities for the purpose of firearm prohibitions imposed under state and federal laws.

**(b)** A petitioner shall submit such petition to a court of competent jurisdiction within this state.

**(c)** The court may only consider petitions for relief due to mental health adjudications or commitments that occurred within the state.

**(d)** The court shall consider the petition for relief, in accordance with the principles of due process. Such petitioner shall submit, and such court shall receive and consider:

**(1)** The circumstances regarding the firearm disability imposed by federal law;

**(2)** such petitioner's mental health records;

**(3)** such petitioner's criminal history records; and

**(4)** such petitioner's reputation, developed through character witness statements, testimony or other character evidence.

**(e)** The court shall grant relief only if such court determines there is clear and convincing evidence that:

**(1)** The petitioner will not be likely to act in a manner dangerous to public safety; and

**(2)** granting such relief would not be contrary to the public interest.

**(f)** If the court denies the petition for relief, the petitioner may petition a court of proper jurisdiction for a de novo judicial review of the court's decision to deny such petition.

**(g)** Documentation of a granted petition shall be submitted to the Kansas bureau of investigation. The Kansas bureau of investigation shall immediately cause such order to be entered into the appropriate state and federal databases.

**(h)** As used in this section:

**(1)** "Mentally ill person subject to involuntary commitment for care and treatment" has the same meaning as defined in K.S.A. 59-2946, and amendments thereto.

**(2)** "Due process" requires that:

**(A)** The petitioner shall have the opportunity to submit such petitioner's own evidence to the court;

**(B)** an independent decision maker, other than the individual who gathered the evidence for the court acting on the application, shall review such evidence; and

**(C)** a record of the proceedings shall be created and maintained for review.

**City of Topeka Code of Ordinances  
Chapter 9.40 – Offenses Against Public Safety**

**9.40.005 Unlawful carrying.**

**(a)** It shall be unlawful for any person, except those persons exempted under K.S.A. 21-4201(b), as amended, or security personnel authorized by the city manager, to carry any firearm in any of the following buildings or facilities owned and operated by the city:

Blaisdell Family Aquatic Center

Central Park Community Center

Creative Play Day Care Center

Crestview Community Center

Crestview Community Pool

Cyrus K. Holliday Building

Garfield Community Center

Garfield Community Pool

Helen Hocker Center for Performing Arts

Hillcrest Community Center

Hillcrest Community Pool

Oakland Community Center

Oakland Community Pool

Rice Community Center

Topeka Zoological Park

Topeka/Shawnee County Law Enforcement Center

Topeka City Council Chambers

Topeka City Hall

Topeka Fire Headquarters

Topeka Fire Station #1

Topeka Fire Station #2

Topeka Fire Station #3

Topeka Fire Station #4  
Topeka Fire Station #5  
Topeka Fire Station #6  
Topeka Fire Station #7  
Topeka Fire Station #8  
Topeka Fire Station #9  
Topeka Fire Station #10  
Topeka Fire Station #11  
Topeka Fire Station #12  
Topeka Municipal Court

**(b)** Nothing in this section shall prohibit a person from carrying a loaded firearm on the person's land, in the person's abode or in the person's fixed place of business. (Ord. 19479 § 1, 10-19-10)

#### **9.40.020 Replica or facsimile firearms.**

**(a)** Definitions. As used in this section:

**"Replica"** or **"facsimile"** means "imitation firearm," as defined in K.S.A. 12-16115, and means a replica of a firearm which is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. The term "imitation firearm" does not include:

**(1)** A nonfiring collector's replica of an antique firearm which was designed prior to 1898, is historically significant and is offered for sale in conjunction with a wall plaque or presentation case;

**(2)** A nonfiring collector's replica of a firearm which was designed after 1898, is historically significant, was issued as a commemorative by a nonprofit organization and is offered for sale in conjunction with a wall plaque or presentation case; or

**(3)** A pneumatic, spring, spring-air or compressed-gas powered nonpowdered gun that is commonly called an air gun and is designed to discharge BBs, pellets or paint balls.

#### **9.40.045 Possession of firearm during commission of certain misdemeanors.**

**(a)** Definitions.

**(1)** **"Firearm"** shall mean any weapon designed or having the capacity to propel a projectile by force of an explosion or combustion.

**(2)** **"Possess"** shall mean to have on one's person or within the person's immediate control.

**(b)** It shall be unlawful to possess a firearm during the commission or attempted commission of any of the following misdemeanors: battery, battery against a law enforcement officer, sexual battery, assault, assault of a law enforcement officer, unlawful restraint, violation of a protective order, stalking, theft, criminal trespass, disorderly conduct, endangerment, and possession of controlled substances prohibited by Chapter 9.50 TMC.

**(c)** Any person who violates subsection (b) of this section within the corporate limits of the city shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$2,500, or by imprisonment not to exceed 1 year, or both such fine and imprisonment. (Ord. 19782 § 1, 12-18-12.)

### **City of Wichita Code Title 5 – Public Safety and Morals Chapter 5.88. Weapons**

#### **§ Sec. 5.88.010 Unlawful use of weapons.**

**(1)** Unlawful use of a weapon is knowingly:

**(c)** Drawing a pistol, revolver or any other deadly weapon upon any person;

**(2)** Subsection (1)(c) of this subsection shall not apply to or affect any of the following:

**(a)** Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

**(b)** Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of a crime, while acting within the scope of their authority;

**(c)** Members of the Armed Services or Reserve Forces of the United States or the Kansas National Guard while in the performance of their official duty; or

**(d)** Individuals employed as security officers by the City of Wichita, who are authorized by the Chief of Police, with the approval of the City Manager, to carry firearms, while acting within the scope of their authority as a security officer for the City of Wichita.

**(e)** Historical re-enactors and actors when engaged in performances and demonstrations. Provided, however, this subsection shall only apply to those performances and demonstrations which have been approved in advance in writing by the City Manager or his designee.

**(3)** Any person who violates any of the provisions of this section within the corporate limits of the City shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$2,500 or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

**(4)** In addition to the penalty for violation of any of the provisions of this section, it shall be the duty of the Municipal Court Judge in the discretion of the court:

(a) To order any weapon or firearm seized in connection with such violation to be forfeited to the City and the same shall be disposed of by the Chief of Police as set forth below whenever the weapon is no longer needed for evidence;

(b) The Chief of Police may dispose of any forfeited weapon by:

(i) Forfeiting the weapon or firearm to the Wichita Police Department for use within the Police Department, for sale to a properly licensed federal firearms dealer or for trading to a properly licensed federal firearms dealer by the Police Department for other new or used firearms or accessories for the Police Department's use;

(ii) Forfeiting the weapon or firearm to the Kansas Bureau of Investigation for law enforcement, testing, comparison or destruction by the Kansas Bureau of Investigation Forensic Laboratory;

(iii) Forfeiting the weapon or firearm to the Sedgwick County Regional Forensic Science Center for testing, comparison or other forensic purposes; or

(iv) Selling the weapon or firearm at public auction.

If weapons are sold as authorized above, the proceeds from any such sale shall be credited to the asset seizure and forfeiture fund of the Wichita Police Department. All transactions involving weapons disposed of under this subsection must have the prior approval of the City Manager. All sales of weapons are subject to review by the City council.

(c) Any weapon which cannot be forfeited or sold pursuant to subsection (b), due to the condition of the weapon, and any weapon which was used in the commission of a felony as described in K.S.A. 21-5401, 21-5402, 21-5403, 21-5404 and 21-5405 and amendments thereto, shall be destroyed.

(d) If a weapon is seized from an individual and the individual is not convicted of or adjudicated as a juvenile offender for the violation for which the weapon is seized, then within 30 days after the declining of charges or conclusion of prosecution of the case against the individual, including any period of appeal, the Wichita Police Department shall verify that the weapon is not stolen and upon such verification, shall notify the person from whom it was seized that the weapon may be retrieved. Such notification shall include the location where such weapon may be retrieved.

(e) Any stolen weapon confiscated in connection with any violation of this code shall be returned to the person entitled to possession, if known, when the same is no longer needed for evidence. All other weapons shall be disposed of as provided in subsection (6)(b) of this section.

**§ Sec. 5.88.020 Unlawful discharge of a firearm, air rifles, pellet guns and BB guns.**

(1) It is unlawful for any person to recklessly discharge or fire any gun, pistol, air rifle, pellet gun, BB gun or any other firearm within the corporate limits of the City.

(2) This section shall not apply to the discharge of any firearm if:

(a) The firearm is discharged at a private or public shooting range which has been approved by the Chief of Police;

(b) The firearm is discharged in the lawful defense of one's person, another person or one's property;

(c) The firearm is discharged by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas Department of Wildlife, Parks and Tourism;

(d) The firearm is discharged using blanks; or

(e) The firearm is discharged in lawful self-defense or defense of another person against an animal attack.

(3) Any person who violates any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$500 or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

(4) In addition to the penalty for the violation of this section, it shall be the duty of the Municipal Court Judge to order any weapon seized in connection with such violation to be forfeited to the City and the same shall be disposed of by the Chief of Police.