
Kansas Peace Officers Association

Legislative Update

The First Adjournment of the 2005 Legislative Session has passed and the veto session is just around the corner. Although the Kansas Supreme Court's decision in Marsh generated a lot of talk of legislative intervention on the issue of the death penalty, the Legislature chose to let the judicial system sort itself out by not acting on any of the death penalty bills. SB 6 relating to abolition of the death penalty failed to gain recommendation for passage in the Committee of the Whole and the bill was withdrawn from the calendar. SB 28, or the Marsh fix as it is better known, was withdrawn from the calendar by the Committee of the Whole and rereferred to the Senate Judiciary.

Depending on the decision by the Supreme Court regarding School Finance, the Senate may still act on SCR 1606 which proposes to amend the Constitution of the State of Kansas to allow for Senate confirmation of Supreme Court Appointees. The Committee Report has been adopted as amended by the Senate Judiciary, but never brought to a vote by the Senate. Furthermore, HCR 5012 proposes to amend sections 5 and 8 of article 3 of the Constitution of the State of Kansas providing for the election of Justices of the Supreme Court.

In a major victory for law enforcement agencies against the growing number of Meth Labs in Kansas, the Legislature passed the Sheriff Matt Samuels Chemical Control Act. The passage of the bill was attributed to a successful collaborative effort of Law enforcement agencies to rid Kansas of the devastating effects of Meth. Tragically, while the Law enforcement community was in the midst of passing this important legislation, Sheriff Mat Samuels lost his life at the hands of a Meth addict. The Bill was appropriately named in his honor and signed by the Governor in Wichita.

The following is a brief summary and status of the major bills that have passed the House and Senate affecting the Kansas Peace Officers Association:

Senate

SR 1820 requests the United States Supreme Court to grant certiorari and reverse the Kansas Supreme Court's ruling in State v. Marsh. The resolution was adopted by the Senate with 38 Yeas and 1 Nay.

House Substitute for **SB 24** amends the city annexation law dealing with unilateral annexation to expand the scope of review that a court may make

of these decisions and to require cities to consider 16 different factors when annexing land unilaterally. The bill would give any city whose boundary line is located within one-half mile of the land being annexed and any owner of land annexed to the city (the latter provision is current law) the ability to challenge the annexation in district court. The bill would require the court, when a unilateral annexation is challenged, to determine whether the annexation is reasonable and the effect

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the annexation would have on future growth of any city challenging the annexation. The conference committee report was adopted in the House 86 to 37 and in the Senate 39 to 0. The bill was approved by the Governor.

SB 27 enacts the Sheriff Matt Samuels Chemical Control Act which would make over-the-counter medications containing ephedrine or pseudo-ephedrine a schedule V drug (excluding liquid and gel caps). The Bill would require a pharmacist or clerk supervised by a pharmacist to dispense the drugs and would limit the sale to 4 or less packages. The bill was approved by the Governor.

SB 39 would provide that fees charged by a county sheriff for services, such as service of process and procuring witnesses in court, for the same court case may be paid by a single check, money order, or other form of payment at the discretion of the person making the payment. The bill has been approved by the Governor.

House substitute for **SB 77** removes the class A misdemeanor crime for racial and other profiling from the introduced bill. The substitute narrows the definition of routine investigatory stop by eliminating pedestrian stops and limiting the definition to traffic stops. House sub for SB 77 prohibits the use of race, ethnicity, national origin, gender or religious dress of an individual or group to be the sole factor in determining the existence of probable cause to take into custody or to arrest an individual or in constituting a reasonable suspicion that an offense has been or is being committed so as to justify the racial

profiling. The bill also requires all law enforcement agencies to adopt a written policy to preempt racial profiling. Each law enforcement agency shall compile an annual report of all complaints of racial profiling received and shall submit the report on or before January 31 to the office of the Attorney General for review. The Kansas Human Rights Commission will also be given authority to investigate complaints of racial profiling and make recommendations for a civil cause of action. The bill has been approved by the Governor.

SB 82 would expand the rape shield criminal procedure law to cover any court proceeding. The bill also adds the crime of unlawful voluntary sexual relations. The bill was approved by the Governor.

SB 147 would extend the Kansas statute of limitations for the majority of felony and misdemeanor crimes from the current two-year limit to a five-year limit. The bill was enrolled and presented to the Governor.

SB 148 amends a law dealing with driving under the influence of alcohol or drugs (DUI) and driver's licenses. The bill deletes a provision of the law which limits counting DUI diversion agreements, test refusals, test failures, or alcohol or drug-related convictions for purposes of revoking a person's driver's license to those entered into during the immediately preceding five years. There is no five-year limitation in regard to counting prior DUI offenses for purposes of sentencing under the criminal DUI proceeding. The bill was approved by the Governor.

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SB 161 provides immunity from civil liability for governmental entities, private not-for-profit corporations, charitable or social service organizations and their employees, for actions of adult offenders and juvenile offenders who injure others and who have been sentenced to perform community service work by the court for these entities. The bill also provides immunity for claims of injured offenders against these entities. Civil immunity would not apply for actions constituting willful or wanton misconduct or intentional tortious conduct or for damages arising out of the operation of a motor vehicle. The bill was approved by the Governor.

SB 195 changes current law relative to the Department of Revenue's disposition of firearms seized in conjunction with various tax warrants. The bill authorizes confiscated and forfeited weapons by law enforcement agencies to be sold to a properly registered licensed federal firearms dealer for cash or traded to a federal firearms dealer for new or used firearms or accessories for use by the seizing agency (the proceeds of such sale would be credited to the asset and forfeiture fund of the seizing agency). The bill also requires the Kansas Law Enforcement Training Commission to adopt rules and regulations to ensure law enforcement officers are adequately trained. Such rules and regulations would include the establishment of a course for active and qualified retired law enforcement officers in order to carry a firearm pursuant to federal law. Finally, the bill prohibits cities and counties from adopting laws governing the purchase, transfer, ownership, storage or transportation of a firearm unless the laws are equal to or less

restrictive than state law. The bill was approved by the Governor.

SB 256 provides an individual income tax exemption beginning in tax year 2005 for recruitment, sign-up, or retention bonuses received by taxpayers who are or were members of the U.S. armed forces, including the Kansas Army and Air National Guard. The bill similarly would exempt educational and student loan repayments received by taxpayers as incentives related to their service in the U.S. armed forces, including the Kansas Guard. The bill was approved by the Governor.

HOUSE

HB 2072 creates a tuition waiver for any individual who was a resident of Kansas upon entering the military service and who became a prisoner of war after January 1, 1960. HB 2072 would also create a tuition waiver for the dependents or spouses of military personnel who died on or after September 11, 2001, as a result of military service. Both tuition waivers would be available for ten semesters at any public institution of higher education in the state. The bill was approved by the Governor.

HB 2087 creates vital records fraud by furnishing false information to obtain vital records and counterfeiting vital records (but exempts minor related offenses such as: fake ID for tobacco, alcohol, or porn). The bill also creates identity fraud involving furnishing false information to obtain identification documents, counterfeiting, or trafficking

in identification documents. The Bill was approved by the Governor.

HB 2128 would authorize the Secretary of Social and Rehabilitation Services (SRS) to receive from the Kansas Bureau of Investigation (KBI) criminal history records in order to evaluate the qualifications of job applicants or employees connected with any program administered by the Secretary for the purpose of placement, safety, protection, or treatment of vulnerable children or adults. The bill was approved by the Governor.

Substitute for **HB 2142** establishes the date of accident in cases where the accident occurs as a result of a series of events, repetitive use, cumulative traumas or microtraumas. The date of accident shall be the date the authorized physician takes the employee off work due to the condition or restricts the employee from performing the work which is the cause of the condition. In the event the worker is not taken off work or restricted as above described, then the date of injury shall be the earliest of the following dates: (1) The date upon which the employee gives written notice to the employer of the injury; or (2) the date the condition is diagnosed as work related, provided such fact is communicated in writing to the injured worker. In cases where none of the above criteria are met, then the date of accident shall be determined by the administrative law judge based on all the evidence and circumstances; and in no event shall the date of accident be the date of, or the day before the regular hearing. The bill was approved by the Governor.

HB 2180 amends the KSA 21-3404 to include fleeing or attempting to elude a police officer as an inherently dangerous felony. The bill was approved by the Governor.

HB 2268 enacts the Uniform Interstate Enforcement of Protection Orders Act. The bill provides for the enforcement of a protection order issued in Kansas, as well as a protection order issued from another state, i.e., a foreign order. The bill provides that any individual may, but is not required, to register a foreign protection order in this state. To register a foreign protection order, an individual must present a certified copy of the order to the sheriff in the county where the protection order will be enforced. The sheriff is required to contact the issuing jurisdiction to verify the order and request that the jurisdiction enter the order, if it has not already been entered, into the National Criminal Information Center and other appropriate databases. A fee will not be charged for the registration of a foreign protection order. No sheriff's department accepting or registering a foreign protection order may notify or require notification of the party against whom the protection order was filed unless the individual protected by the protection order requests that the sheriff's department do so and the respondent has not already been notified of the filing or registration. The bill provides for immunity from civil and criminal liability for governmental officials when the act was done in good faith to comply with the Act. The bill applies to all protective orders issued both before and after July 1, 2005. The bill was approved by the Governor.

HB 2327 provides the Commissioner of the Juvenile Justice Authority with the statutory authority, similar to the Department of Corrections, to obtain a court order to have an offender's blood tested for infectious diseases when staff at a juvenile correctional facility has been exposed to that offender's body fluids. The bill has been approved by the Governor.

HB 2385 would change the requirements regarding stolen property in criminal proceedings by admitting photographic evidence of the stolen property and by deleting certain procedures required under current law such as a written description of the property, the property owner's name, the location of the property at the time it was taken, the name of the investigating officer, the name of the photographer, and the date the photograph was made. Deletion of the current law requirements that accompany the photographs will be allowed as long as other foundational requirements are met. The bill was approved by the Governor.

HB 2387 changes investigation procedures used when an inmate dies and amends procedures regarding the payment and reimbursement of medical costs for prisoners. An investigation of the circumstances of a prisoner's death by the Kansas Bureau of Investigation (KBI) will not be required when the death is determined to be natural by a qualified autopsy, preliminary autopsy report or death certificate or the inmate or juvenile was regularly attended by a licensed physician. The bill directs the State to pay for the cost of medical care and treatment of a prisoner who is injured and determined to have no other

resources while in the custody of a law enforcement officer employed by the State. The bill allows the State to seek reimbursement of these expenditures from prisoners. If the prisoner is covered by health insurance, the State may require the prisoner or the health care provider to file a claim in accordance with the contract. The bill was approved by the Governor.

HB 2418 would amend the law regarding criminal release prior to trial to increase the cost of the bond supervision fee from the current \$5 to \$10 per week. The bill was approved by the Governor.

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