

CHAPTER 166
HOUSE BILL No. 2528

AN ACT concerning firearms; amending K.S.A. 59-2979 and 59-29b79 and K.S.A. 2006 Supp. 12-16,124, 75-7c04, 75-7c10, 75-7c11, 75-7c17 and 75-7c25 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2006 Supp. 12-16,124 is hereby amended to read as follows: 12-16,124. (a) No city or county shall adopt any ordinance, resolution or regulation, and no agent of any city or county shall take any administrative action, governing the purchase, transfer, ownership, storage or transporting of firearms or ammunition, or any component or combination thereof, ~~other than those expressly authorized by statute. Except as provided in subsection (b) and subsection (a) of K.S.A. 2006 Supp. 75-7c11, and amendments thereto,~~ any such ordinance, resolution or regulation adopted prior to the effective date of this 2007 act shall be null and void. ~~For purposes of this section, a statute that does not refer to firearms or ammunition, or components or combinations thereof, shall not be construed to provide express authorization.~~

~~(b) Nothing in this section shall:~~

~~(1) Prohibit a city or county from adopting any zoning measure related to firearms licensees if otherwise authorized by law to do so;~~

~~(2) 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;~~

~~(3) prohibit a city or county from regulating the manner of carrying any firearm on one's person;~~

~~(4) prohibit a city or county from regulating in any manner the carrying of any firearm in any jail, juvenile detention facility, prison, courthouse, courtroom or city hall; or~~

~~(5) prohibit a city or county from adopting an ordinance, resolution or regulation requiring a firearm transported in any air, land or water vehicle to be unloaded and encased in a container which completely encloses the firearm or any less restrictive provision governing the transporting of firearms.~~

~~(c) No person shall be prosecuted or convicted of a violation of any ordinance, resolution or regulation of a city or county which regulates the storage or transportation of a firearm if such person (1) is storing or transporting the firearm without violating any provision of the Kansas criminal code or (2) is otherwise transporting the firearm in a lawful manner.~~

~~(b) Nothing in this section shall:~~

~~(1) 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;~~

~~(2) prohibit a city or county from regulating the manner of openly carrying a loaded firearm on one's person; or in the immediate control of a person, not licensed under the personal and family protection act while on property open to the public.~~

~~(3) prohibit a city or county from regulating in any manner the carrying of any firearm in any jail, juvenile detention facility, prison, courthouse, courtroom or city hall; or~~

~~(4) prohibit a city or county from adopting an ordinance, resolution or regulation requiring a firearm transported in any air, land or water vehicle to be unloaded and encased in a container which completely encloses the firearm or any less restrictive provision governing the transporting of firearms, provided such ordinance, resolution or regulation shall not apply to persons licensed under the personal and family protection act.~~

~~(c) Except as provided in subsection (b) of this section and subsection (a) of K.S.A. 2006 Supp. 75-7c11, and amendments thereto, no person shall be prosecuted or convicted of a violation of any ordinance, resolution or regulation of a city or county which regulates the storage or transportation of a firearm if such person (1) is storing or transporting the firearm without violating any provision of the Kansas criminal code or (2) is otherwise transporting the firearm in a lawful manner.~~

~~(d) No person shall be prosecuted under any ordinance, resolution or regulation for transporting a firearm in any air, land or water vehicle~~

if the firearm is unloaded and encased in a container which completely encloses the firearm.

Sec. 2. K.S.A. 59-2979 is hereby amended to read as follows: 59-2979. (a) The district court records, and any treatment records or medical records of any patient or former patient that are in the possession of any district court or treatment facility shall be privileged and shall not be disclosed except:

(1) Upon the written consent of (A) the patient or former patient, if an adult who has no legal guardian; (B) the patient's or former patient's legal guardian, if one has been appointed; or (C) a parent, if the patient or former patient is under 18 years of age, except that a patient or former patient who is 14 or more years of age and who was voluntarily admitted upon their own application made pursuant to subsection (b)(2)(B) of K.S.A. 59-2949 and amendments thereto shall have capacity to consent to release of their records without parental consent. The head of any treatment facility who has the records may refuse to disclose portions of such records if the head of the treatment facility states in writing that such disclosure will be injurious to the welfare of the patient or former patient.

(2) Upon the sole consent of the head of the treatment facility who has the records if the head of the treatment facility makes a written determination that such disclosure is necessary for the treatment of the patient or former patient.

(3) To any state or national accreditation agency or for a scholarly study, but the head of the treatment facility shall require, before such disclosure is made, a pledge from any state or national accreditation agency or scholarly investigator that such agency or investigator will not disclose the name of any patient or former patient to any person not otherwise authorized by law to receive such information.

(4) Upon the order of any court of record after a determination has been made by the court issuing the order that such records are necessary for the conduct of proceedings before the court and are otherwise admissible as evidence.

(5) In proceedings under this act, upon the oral or written request of any attorney representing the patient, or former patient.

(6) To appropriate administrative or professional staff of the department of corrections whenever patients have been administratively transferred to the state security hospital or other state psychiatric hospitals pursuant to the provisions of K.S.A. 75-5209 and amendments thereto. The patient's or former patient's consent shall not be necessary to release information to the department of corrections.

(7) *To the state central repository at the Kansas bureau of investigation for use only in determining eligibility to purchase and possess firearms or qualifications for licensure pursuant to the personal and family protection act.*

~~(7)~~ (8) As otherwise provided for in this act.

(b) To the extent the provisions of K.S.A. 65-5601 through 65-5605, inclusive, and amendments thereto are applicable to treatment records or medical records of any patient or former patient, the provisions of K.S.A. 65-5601 through 65-5605, inclusive, and amendments thereto shall control the disposition of information contained in such records.

(c) Willful violation of this section is a class C misdemeanor.

Sec. 3. K.S.A. 59-29b79 is hereby amended to read as follows: 59-29b79. (a) The district court records, and any treatment records or medical records of any patient or former patient that are in the possession of any district court or treatment facility shall be privileged and shall not be disclosed except:

(1) Upon the written consent of (A) the patient or former patient, if an adult who has no legal guardian; (B) the patient's or former patient's legal guardian, if one has been appointed; or (C) a parent, if the patient or former patient is under 18 years of age, except that a patient or former patient who is 14 or more years of age and who was voluntarily admitted upon their own application made pursuant to subsection (b)(2)(B) of K.S.A. 59-29b49 and amendments thereto shall have capacity to consent to release of their records without parental consent. The head of any treatment facility who has the records may refuse to disclose portions of such records if the head of the treatment facility states in writing that such disclosure will be injurious to the welfare of the patient or former patient.

(2) Upon the sole consent of the head of the treatment facility who has the records if the head of the treatment facility makes a written determination that such disclosure is necessary for the treatment of the patient or former patient.

(3) To any state or national accreditation agency or for a scholarly study, but the head of the treatment facility shall require, before such disclosure is made, a pledge from any state or national accreditation agency or scholarly investigator that such agency or investigator will not disclose the name of any patient or former patient to any person not otherwise authorized by law to receive such information.

(4) Upon the order of any court of record after a determination has been made by the court issuing the order that such records are necessary for the conduct of proceedings before the court and are otherwise admissible as evidence.

(5) In proceedings under this act, upon the oral or written request of any attorney representing the patient, or former patient.

(6) *To the state central repository at the Kansas bureau of investigation for use only in determining eligibility to purchase and possess firearms or qualifications for licensure pursuant to the personal and family protection act.*

~~(6)~~ (7) As otherwise provided for in this act.

(b) To the extent the provisions of K.S.A. 65-5601 through 65-5605, inclusive, and amendments thereto, are applicable to treatment records or medical records of any patient or former patient, the provisions of K.S.A. 65-5601 through 65-5605, inclusive, and amendments thereto, shall control the disposition of information contained in such records.

(c) Willful violation of this section is a class C misdemeanor.

Sec. 4. K.S.A. 2006 Supp. 75-7c04 is hereby amended to read as follows: 75-7c04. (a) On and after January 1, 2007, the attorney general shall issue a license pursuant to this act if the applicant:

(1) Is a resident of the county where application for licensure is made and has been a resident of the state for six months or more immediately preceding the filing of the application, residency to be determined in accordance with K.S.A. 77-201, and amendments thereto;

(2) is 21 years or more of age;

(3) does not suffer from a physical infirmity which prevents the safe handling of a weapon;

(4) has never been convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a felony under the laws of this state or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a felony under the laws of this state if committed by an adult;

(5) *has never been convicted, in this or any other jurisdiction, for an act that constitutes a misdemeanor crime of domestic violence, as defined by 18 U.S.C. 921(a)(33)(A) or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a misdemeanor crime of domestic violence under 18 U.S.C. 921(a)(33)(A) if committed by an adult;*

~~(5)~~ (6) has not been, during the five years immediately preceding the date the application is submitted: (A) Convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a misdemeanor under the provisions of the uniform controlled substances act or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a misdemeanor under such act if committed by an adult; (B) convicted or placed on diversion, in this or any other jurisdiction, two or more times for an act that constitutes a violation of K.S.A. 8-1567, and amendments thereto; (C) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a domestic violence misdemeanor under any municipal ordinance or article 34 or 35 of chapter 21 of the Kansas Statutes Annotated or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a domestic violence misdemeanor under article 34 or 35 of chapter 21 of the Kansas Statutes Annotated if committed by an adult; or (D) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a violation of K.S.A. 2006 Supp. 75-7c12, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a violation of K.S.A. 2006 Supp. 75-7c12, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and

amendments thereto, if committed by an adult;

~~(6)~~ (7) has not been charged with a crime which would render the applicant, if convicted, ineligible for a license or, if so charged, final disposition of the charge has occurred and no other charges are pending which would cause the applicant to be ineligible for a license;

~~(7)~~ (8) has not been ordered by a court to receive treatment for mental illness pursuant to K.S.A. 59-2966, and amendments thereto, or for an alcohol or substance abuse problem pursuant to K.S.A. 59-29b66, and amendments thereto, or, if a court has ordered such treatment, has not been issued a certificate of restoration pursuant to K.S.A. 2006 Supp. 75-7c26, and amendments thereto, not less than five years before the date of the application;

~~(8)~~ (9) desires a legal means to carry a concealed weapon for lawful self-defense;

~~(9)~~ (10) except as provided by subsection (g) of K.S.A. 2006 Supp. 75-7c05, and amendments thereto, presents evidence satisfactory to the attorney general that the applicant has satisfactorily completed a weapons safety and training course approved by the attorney general pursuant to subsection (b);

~~(10)~~ (11) has not been adjudged a disabled person under the act for obtaining a guardian or conservator, or both, or under a similar law of another state or the District of Columbia, unless the applicant was ordered restored to capacity three or more years before the date on which the application is submitted;

~~(11)~~ (12) has not been dishonorably discharged from military service;

~~(12)~~ (13) is a citizen of the United States;

~~(13)~~ (14) is not subject to a restraining order issued under the protection from abuse act, under the protection from stalking act or pursuant to K.S.A. 60-1607, ~~38-1542, 38-1543 or 38-1563~~ 38-2242, 38-2243 or 38-2255, and amendments thereto, or any equivalent order entered in another state or jurisdiction which is entitled to full faith and credit in Kansas; and

~~(14)~~ (15) is not in contempt of court in a child support proceeding.

(b) (1) The attorney general shall adopt rules and regulations establishing procedures and standards as authorized by this act for an eight-hour weapons safety and training course required by this section. Such standards shall include: (A) A requirement that trainees receive training in the safe storage of weapons, actual firing of weapons and instruction in the laws of this state governing the carrying of a concealed weapon and the use of deadly force; (B) general guidelines for courses which are compatible with the industry standard for basic firearms training for civilians; (C) qualifications of instructors; and (D) a requirement that the course be: (i) A weapons course certified or sponsored by the attorney general; or (ii) a weapons course certified or sponsored by the national rifle association or by a law enforcement agency, college, private or public institution or organization or weapons 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 weapons 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 weapons safety and training course: (A) Evidence of completion of the course, in the form provided by rules and regulations adopted by the attorney general; or (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) In addition to the requirements of subsection (a), a person holding a license pursuant to this act, prior to renewal of the license provided herein, shall submit evidence satisfactory to the attorney general that the licensee has requalified by completion of an approved course given by an instructor of an approved weapons safety and training course under subsection (b).

Sec. 5. K.S.A. 2006 Supp. 75-7c10 is hereby amended to read as follows: 75-7c10. (a) *Provided that the premises are conspicuously posted in accordance with rules and regulations adopted by the attorney general as premises where carrying a concealed weapon is prohibited*, no license issued pursuant to this act shall authorize the licensee to carry a concealed weapon into:

(1) Any place where an activity declared a common nuisance by K.S.A. 22-3901, and amendments thereto, is maintained;

(2) any police, sheriff or highway patrol station;

(3) any detention facility, prison or jail;

(4) any courthouse;

(5) any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in the judge's courtroom;

(6) any polling place on the day an election is held;

(7) any meeting of the governing body of a county, city or other political or taxing subdivision of the state, or any committee or subcommittee thereof;

(8) on the state fairgrounds;

(9) any state office building;

(10) any athletic event not related to or involving firearms which is sponsored by a private or public elementary or secondary school or any private or public institution of postsecondary education;

(11) any professional athletic event not related to or involving firearms;

(12) any portion of a drinking establishment as defined by K.S.A. 41-2601, and amendments thereto, except that this provision shall not apply to a restaurant as defined by K.S.A. 41-2601, and amendments thereto;

(13) any elementary or secondary school, attendance center, administrative office, services center or other facility;

(14) any community college, college or university facility;

(15) any place where the carrying of firearms is prohibited by federal or state law;

(16) any child exchange and visitation center provided for in K.S.A. 75-720, and amendments thereto;

(17) any community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; mental health clinic organized pursuant to K.S.A. 65-211 et seq., and amendments thereto; psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto; or state psychiatric hospital, as follows: Larned state hospital, Osawatomie state hospital or Rainbow mental health facility;

(18) any city hall;

(19) any public library operated by the state or by a political subdivision of the state;

(20) any day care home or group day care home, as defined in Kansas administrative regulation 28-4-113, or any preschool or childcare center, as defined in Kansas administrative regulation 28-4-420;

(21) any church or temple; or

(22) any place in violation of K.S.A. 21-4218, and amendments thereto.

(b) Violation of this section is a class A misdemeanor.

Sec. 6. K.S.A. 2006 Supp. 75-7c11 is hereby amended to read as follows: 75-7c11. (a) Nothing in this act shall be construed to prevent:

~~(1) Any public or private employer from restricting or prohibiting in any manner persons licensed under this act from carrying a concealed weapon while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer; or~~

(1) *Any public or private employer from restricting or prohibiting by personnel policies persons licensed under this act from carrying a concealed weapon 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 firearm in a private means of conveyance, even if parked on the employer's premises; or*

(2) any ~~entity owning or operating business premises open to the public private business or city, county or political subdivision~~ from restricting or prohibiting ~~in any manner~~ persons licensed under this act from carrying a concealed weapon ~~while on such premises~~ *within a building or buildings of such entity*, provided that the premises are posted, in accordance with rules and regulations adopted by the attorney general

pursuant to this section, as premises where carrying a concealed weapon is prohibited; or

~~(3) a property owner from restricting or prohibiting in any manner persons licensed under this act from carrying a concealed weapon while on such property, provided that the premises are posted, in accordance with rules and regulations adopted by the attorney general pursuant to this section, as premises where carrying a concealed weapon is prohibited.~~

(b) Carrying a concealed weapon on premises in violation of any restriction or prohibition allowed by subsection (a) ~~(1), or in violation of any restriction or prohibition allowed by subsection (a)(2) or (a)(3)~~, if the premises are posted ~~as required by such subsection~~ in accordance with rules and regulations adopted by the attorney general, is a class B misdemeanor.

(c) The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on premises ~~pursuant to subsections (a)(2) and (a)(3) where carrying a concealed weapon is prohibited pursuant to subsection (a) of K.S.A. 2006 Supp. 75-7c10 and paragraph (2) of subsection (a) of K.S.A. 2006 Supp. 75-7c11 and amendments thereto.~~

Sec. 7. K.S.A. 2006 Supp. 75-7c17 is hereby amended to read as follows: 75-7c17. (a) The legislature finds as a matter of public policy and fact that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed weapons for self-defense and finds it necessary to occupy the field of regulation of the bearing of concealed weapons for self-defense to ensure that no honest, law-abiding person who qualifies under the provisions of this act is subjectively or arbitrarily denied the person's rights. ~~Any city ordinance or county resolution~~ *No city, county or other political subdivision of this state shall regulate, restrict or prohibit the carrying of concealed weapons by persons licensed under this act except as provided in subsections (a)(1) and (a)(2) of K.S.A. 2006 Supp. 75-7c11, and amendments thereto. Any existing or future law, ordinance, rule, regulation or resolution enacted by any city, county or other political subdivision of this state that regulates, restricts or prohibits the carrying of concealed weapons by persons licensed under this act except as provided in subsections (a)(1) and (a)(2) of K.S.A. 2006 Supp. 75-7c11, and amendments thereto, shall not be applicable to any person licensed in accordance with the provisions of this act be null and void.*

(b) Prosecution of any person licensed under the personal and family protection act, and amendments thereto, for violating any restrictions on licensees will be done through the district court.

~~(b)~~ (c) The legislature does not delegate to the attorney general the authority to regulate or restrict the issuing of licenses provided for in this act, beyond those provisions of this act pertaining to licensing and training. Subjective or arbitrary actions or rules and regulations which encumber the issuing process by placing burdens on the applicant beyond those sworn statements and specified documents detailed in this act or which create restrictions beyond those specified in this act are in conflict with the intent of this act and are prohibited.

~~(c)~~ (d) This act shall be liberally construed. This act is supplemental and additional to existing constitutional rights to bear arms and nothing in this act shall impair or diminish such rights.

Sec. 8. K.S.A. 2006 Supp. 75-7c25 is hereby amended to read as follows: 75-7c25. (a) On or before ~~September 1, 2006~~ *July 1, 2007*, every district court shall review all files dated on or after July 1, 1998, concerning mentally ill persons 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.

(b) If the court ordered treatment pursuant to K.S.A. 59-2966 or 59-29b66, and amendments thereto, the clerk of the court shall report such order *and all available information identifying the patient including, but not limited to, birth, gender and race*, to the Kansas bureau of investigation.

(c) A copy of such orders shall be delivered by the clerk of the court to the Kansas bureau of investigation on or before ~~September 1, 2006~~ *July 1, 2007*. The Kansas bureau of investigation shall immediately ~~enter the order~~ *cause the order to be entered* into the ~~national criminal information center and other~~ appropriate *state and federal* databases.

(d) The Kansas bureau of investigation shall ensure the accuracy of the entries and the court shall ensure the validity of the orders.

(e) 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.

(e) (f) 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.

Sec. 9. K.S.A. 59-2979 and 59-29b79 and K.S.A. 2006 Supp. 12-16,124, 75-7c04, 75-7c10, 75-7c11, 75-7c17 and 75-7c25 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the Kansas register.

CERTIFICATE

In accordance with K.S.A. 45-304, it is certified that **House Bill 2528**, AN ACT enacting the concerning firearms; amending K.S.A. 59-2979 and 59-29b79 and K.S.A. 2006 Supp. 12-16,124, 75-7c04, 75-7c10, 75-7c11, 75-7c17 and 75-7c25 and repealing the existing sections, was not approved by the Governor on April 13, 2007; was returned by her with her objections and approved on April 26, 2007 by two-thirds of the members elected to the House of Representatives notwithstanding the objections of the governor; was reconsidered by the Senate and was approved on April 27, 2007, by two-thirds of the members elected to the Senate, notwithstanding the objections, the bill did pass and shall become law.

This certificate is made this 27th day of April 2007 by the Secretary of the Senate and the President of the Senate and the Chief Clerk and Speaker of the House of Representatives.

PAT SAVILLE

*Secretary of the Senate of
the State of Kansas*

STEPHEN R. MORRIS

*President of the Senate of
the State of Kansas*

JANET E. JONES

*Chief Clerk of the House of
Representatives of the State of Kansas*

MELVIN NEUFELD

*Speaker of the House of
Representatives of the State of Kansas*

Governor's veto overridden (see Messages from the Governor)

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