

CHAPTER 101  
HOUSE BILL No. 2068  
(Amended by Chapter 195)

AN ACT concerning security officers appointed by the adjutant general; relating to powers as law enforcement officers; amending K.S.A. 48-204 and K.S.A. 2006 Supp. 22-2401a and 74-5602 and repealing the existing sections.

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

Section 1. K.S.A. 48-204 is hereby amended to read as follows: 48-204. (a) The adjutant general shall:

(1) Be in control of the military department of the state and subordinate only to the governor in matters pertaining to the department;

(2) have general supervision over all the subordinate military departments, to include the department of the army national guard and the department of the air national guard;

(3) perform such duties as pertain to the adjutant general's department under the regulations and usage of the army of the United States;

(4) superintend the preparation of all returns and reports required by the United States from the state;

(5) require a certificate of the military service to be furnished, in accordance with K.S.A. 73-209 and amendments thereto, to any soldier who has served in the army in any of the state military organizations; and

(6) audit and pass upon all claims of a military character against the state, and no contract of a military nature against the state shall be valid or paid until approved by the adjutant general.

(b) The adjutant general is authorized to:

(1) Adopt regulations pertaining to the preparation and rendering of reports and returns and to the care and preservation of public property as in the adjutant general's opinion the conditions demand, which regulations shall be operative and in force when promulgated in the form of general orders, circulars or circular letters;

(2) administer oaths in matters pertaining to the duties of the office as relates to: (A) Claims against the state; (B) the organization of boards of survey, courts-martial and courts of inquiry; (C) affidavits covering loss of military property belonging to the state or the United States; (D) oaths of office of officers of the Kansas national guard; (E) statements and reports required from officers pertaining to property and money accountability and expenditures; and (F) any other official military matters coming before the adjutant general; ~~and~~

(3) adopt an appropriate seal for use in the office, to be affixed to all oaths that the adjutant general administers under authority of law, and to authenticate all certificates required of the adjutant general;

(4) *appoint such officers as necessary as security officers for the protection of all national guard property and equipment, owned by or under the control of the Kansas national guard wherever located in the state of Kansas, including when transported over public roads or located on temporary national guard sites, and for the protection of persons and property associated with the national guard; and*

(5) *appoint law enforcement officers to serve under the command of the adjutant general.*

(c) (1) *Those members of the adjutant general's department who are appointed as law enforcement officers must meet the requirements of the Kansas law enforcement training act, K.S.A. 74-5601 through K.S.A. 74-5623 and amendments thereto.*

(2) *A law enforcement officer engaged in the protective functions specified in subsection (b)(4) shall possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in every county where there is located any Kansas national guard property. All persons arrested by a law enforcement officer may be turned over to the appropriate local police or county sheriff in whose jurisdiction the offense was committed to be processed in the same manner as other persons turned over to such police or sheriff or may book such arrested person at the jail in the jurisdiction of the arrest. Such law enforcement officer shall complete any required reports, arrest affidavits and other documents associated with the arrest. These reports shall be kept on file with the office of the adjutant general, unless a memorandum of agreement with the local law enforcement agency specifies otherwise.*

(3) *While on duty, security officers or law enforcement officers ap-*

pointed pursuant to subsection (b)(4) or (b)(5), as applicable, shall wear and display publicly a badge of office.

Sec. 2. K.S.A. 2006 Supp. 74-5602 is hereby amended to read as follows: 74-5602. As used in the Kansas law enforcement training act:

(a) "Training center" means the law enforcement training center within the division of continuing education of the university of Kansas, created by K.S.A. 74-5603 and amendments thereto.

(b) "Commission" means the Kansas commission on peace officers' standards and training, created by K.S.A. 74-5606 and amendments thereto.

(c) "Dean" means the dean of continuing education of the university of Kansas.

(d) "Director of police training" means the director of police training at the law enforcement training center.

(e) "Director" means the executive director of the Kansas commission on peace officers' standards and training.

(f) "Law enforcement" means the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof.

(g) "Police officer" or "law enforcement officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to, the sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff's office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858 and amendments thereto; conservation officers of the Kansas department of wildlife and parks; university police officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus police officers, as defined in K.S.A. 22-2401a, and amendments thereto; law enforcement agents of the director of alcoholic beverage control; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol police, existing under the authority of K.S.A. 75-4503 and amendments thereto; *and law enforcement officers appointed by the adjutant general pursuant to K.S.A. 48-204 and amendments thereto.* Such terms shall also include railroad policemen appointed pursuant to K.S.A. 66-524 and amendments thereto; school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222 and amendments thereto; and the director of the Kansas commission on peace officers' standards and training and any other employee of such commission designated by the director pursuant to K.S.A. 74-5603, and amendments thereto, as a law enforcement officer. Such terms shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official's elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the commissioner of juvenile justice, the secretary of corrections or the secretary of social and rehabilitation services; any deputy conservation officer of the Kansas department of wildlife and parks; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the duties of such person's office or employment. Such term shall include any officer appointed or elected on a provisional basis.

(h) "Full-time" means employment requiring at least 1,000 hours of law enforcement related work per year.

(i) "Part-time" means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of law enforcement related work per year.

(j) "Misdemeanor crime of domestic violence" means a violation of domestic battery as provided by K.S.A. 2006 Supp. 21-3412a and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element the use or attempted use of physical

force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

(k) "Auxiliary personnel" means members of organized nonsalaried groups which operate as an adjunct to a police or sheriff's department, including reserve officers, posses and search and rescue groups.

(l) "Active law enforcement certificate" means a certificate which attests to the qualification of a person to perform the duties of a law enforcement officer and which has not been suspended or revoked by action of the Kansas commission on peace officers' standards and training and has not lapsed by operation of law as provided in K.S.A. 74-5622, and amendments thereto.

Sec. 3. K.S.A. 2006 Supp. 22-2401a is hereby amended to read as follows: 22-2401a. (1) Law enforcement officers employed by consolidated county law enforcement agencies or departments and sheriffs and their deputies may exercise their powers as law enforcement officers:

(a) Anywhere within their county; and

(b) in any other place when a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person.

(2) Law enforcement officers employed by any city may exercise their powers as law enforcement officers:

(a) Anywhere within the city limits of the city employing them and outside of such city when on property owned or under the control of such city; and

(b) in any other place when a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person.

(3) (a) Law enforcement officers employed by a Native American Indian Tribe may exercise powers of law enforcement officers anywhere within the exterior limits of the reservation of the tribe employing such tribal law enforcement officer, subject to the following:

(i) The provisions of subsection (3)(a) shall be applicable only if such Native American Indian Tribe has entered into a valid and binding agreement with an insurance carrier to provide liability insurance coverage for damages assessed in state or federal court and arising from the acts, errors or omissions of such tribal law enforcement agency or officer while acting pursuant to this section. Such insurance policy shall be in an amount not less than \$500,000 for any one person and \$2,000,000 for any one occurrence for personal injury and \$1,000,000 for any one occurrence for property damage and shall carry an endorsement to provide coverage for mutual aid assistance. Such insurance policy shall be subject to verification by the attorney general. Such insurance policy shall include an endorsement providing that the insurer may not invoke tribal sovereign immunity up to the limits of the policy set forth herein.

(ii) The provisions of subsection (3)(a) shall be applicable only if such Native American Indian Tribe has filed with the county clerk a map clearly showing the boundaries of the Tribe's reservation as defined in this section.

(b) If a claim is brought against any tribal law enforcement agency or officer for acts committed by such agency or officer while acting pursuant to this section, such claim shall be subject to disposition as if the tribe was the state pursuant to the Kansas tort claims act, provided that such act shall not govern the tribe's purchase of insurance. The tribe shall waive its sovereign immunity solely to the extent necessary to permit recovery under the liability insurance, but not to exceed the policy limits.

(c) Nothing in this subsection (3) shall be construed to prohibit any agreement between any state, county or city law enforcement agency and any Native American Indian Tribe.

(d) Nothing in this subsection (3) shall be construed to affect the provision of law enforcement services outside the exterior boundaries of reservations so as to affect in any way the criteria by which the United States department of the interior makes a determination regarding placement of land into trust.

(e) Neither the state nor any political subdivision of the state shall be liable for any act or failure to act by any tribal law enforcement officer.

(4) University police officers employed by the chief executive officer

of any state educational institution or municipal university may exercise their powers as university police officers anywhere:

(a) On property owned or operated by the state educational institution or municipal university, by a board of trustees of the state educational institution, an endowment association, an athletic association, a fraternity, sorority or other student group associated with the state educational institution or municipal university;

(b) on the streets, property and highways immediately adjacent to the campus of the state educational institution or municipal university;

(c) within the city where such property as described in this subsection is located, as necessary to protect the health, safety and welfare of students and faculty of the state educational institution or municipal university, with appropriate agreement by the local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the chief executive officer of the state educational institution or municipal university involved before such agreement may take effect; and

(d) additionally, when there is reason to believe that a violation of a state law, a county resolution, or a city ordinance has occurred on property described in subsection (4)(a) or (b), such officers with appropriate notification of, and coordination with, local law enforcement agencies or departments, may investigate and arrest persons for such a violation anywhere within the city where such property, streets and highways are located. Such officers also may exercise such powers in any other place when in fresh pursuit of a person. University police officers shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located. University police officers at the university of Kansas medical center may provide emergency transportation of medical supplies and transplant organs.

(5) In addition to the areas where law enforcement officers may exercise their powers pursuant to subsection (2), law enforcement officers of any jurisdiction within Johnson or Sedgwick county may exercise their powers as law enforcement officers in any area within the respective county when executing a valid arrest warrant or search warrant, to the extent necessary to execute such warrants.

(6) In addition to the areas where university police officers may exercise their powers pursuant to subsection (4), university police officers may exercise the powers of law enforcement officers in any area outside their normal jurisdiction when a request for assistance has been made by law enforcement officers from the area for which assistance is requested.

(7) In addition to the areas where law enforcement officers may exercise their powers pursuant to subsection (2), law enforcement officers of any jurisdiction within Johnson county may exercise their powers as law enforcement officers in any adjoining city within Johnson county when any crime, including a traffic infraction, has been or is being committed by a person in view of the law enforcement officer. A law enforcement officer shall be considered to be exercising such officer's powers pursuant to subsection (2), when such officer is responding to the scene of a crime, even if such officer exits the city limits of the city employing the officer and further reenters the city limits of the city employing the officer to respond to such scene.

(8) Campus police officers employed by a community college or school district may exercise the power and authority of law enforcement officers anywhere:

(a) On property owned, occupied or operated by the school district or community college or at the site of a function sponsored by the school district or community college;

(b) on the streets, property and highways immediately adjacent to and coterminous with property described in subsection (8)(a);

(c) within the city or county where property described in subsection (8)(a) is located, as necessary to protect the health, safety and welfare of students and faculty of the school district or community college, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction,

scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the board of education or board of trustees involved;

(d) with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in subsection (8)(a) or (8)(b) is located, when there is reason to believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation;

(e) when in fresh pursuit of a person; and

(f) when transporting persons in custody to an appropriate facility, wherever it may be located.

(9) *TAG law enforcement officers employed by the adjutant general may exercise their powers as police officers anywhere:*

(a) *On property owned or under the control of the Kansas national guard or any component under the command of the adjutant general;*

(b) *on the streets, property and highways immediately adjacent to property owned or under the control of the Kansas national guard; within the city or county where such property as described in subsection (9)(a) or (b) is located, as necessary to protect such property; or to protect the health, safety and welfare of members of the national guard, reserve or employees of the United States department of defense, the United States department of homeland security or any branch of the United States military with appropriate agreement by the local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the adjutant general before such agreement may take effect. In addition, when there is reason to believe that a violation of a state law, a county resolution or a city ordinance has occurred on property described in subsection (9)(a) or (b), after providing appropriate notification to, and coordination with, local law enforcement agencies or departments, such officers may investigate and arrest persons for such a violation anywhere within the city or county where such property, streets and highways are located. Such officers also may exercise such powers in any other place when in fresh pursuit of a person. TAG law enforcement officers shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located.*

~~(9)~~ (10) As used in this section:

(a) “Law enforcement officer” means: (1) Any law enforcement officer as defined in K.S.A. 22-2202, and amendments thereto; or (2) any tribal law enforcement officer who is employed by a Native American Indian Tribe and has completed successfully the initial and any subsequent law enforcement training required under the Kansas law enforcement training act.

(b) “University police officer” means a police officer employed by the chief executive officer of: (1) Any state educational institution under the control and supervision of the state board of regents; or (2) a municipal university.

(c) “Campus police officer” means a school security officer designated as a campus police officer pursuant to K.S.A. 72-8222, and amendments thereto.

(d) “Fresh pursuit” means pursuit, without unnecessary delay, of a person who has committed a crime, or who is reasonably suspected of having committed a crime.

(e) “Native American Indian Tribe” means the Prairie Band Potawatomi Nation, Kickapoo Tribe in Kansas, Sac and Fox Nation of Missouri and the Iowa Tribe of Kansas and Nebraska.

(f) “Reservation” means:

(i) With respect to the Iowa Tribe of Kansas and Nebraska, the reservation established by treaties with the United States concluded May 17, 1854, and March 6, 1861;

(ii) with respect to the Kickapoo Nation, the reservation established by treaty with the United States concluded June 28, 1862;

(iii) with respect to the Prairie Band Potawatomi Nation in Kansas,

the reservation established by treaties with the United States concluded June 5, 1846, November 15, 1861, and February 27, 1867; and

(iv) with respect to the Sac and Fox Nation of Missouri in Kansas and Nebraska: (A) the reservation established by treaties with the United States concluded May 18, 1854, and March 6, 1861, and by acts of Congress of June 10, 1872 (17 Stat. 391), and August 15, 1876 (19 Stat. 208), and (B) the premises of the gaming facility established pursuant to the gaming compact entered into between such nation and the state of Kansas, and the surrounding parcel of land held in trust which lies adjacent to and east of U.S. Highway 75 and adjacent to and north of Kansas Highway 20, as identified in such compact.

(g) *“TAG law enforcement officer” means a police officer employed by the adjutant general pursuant to K.S.A. 48-204 and amendments thereto.*

~~(10)~~ (11) The provisions of subsection (3) and subsections (9)(a)(2), (9)(d) and (9)(e) shall expire on July 1, 2009.

Sec. 4. K.S.A. 48-204 and K.S.A. 2006 Supp. 22-2401a and 74-5602 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 10, 2007.

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