

## **Crimes and Criminal Procedure—Appeals of Municipal Court and District Magistrate Judgments; Search Warrants; Reporting of Pornographic Materials Seized or Documented as Evidence; Sub. for HB 2017**

**Sub. for HB 2017** amends provisions of the Kansas Code of Criminal Procedure concerning appeals of municipal court and district magistrate judgments, search warrants, and reporting of pornographic materials seized or documented as evidence.

### ***Municipal Court and District Magistrate Judgments***

The bill amends the law concerning appeals to the district court of municipal court judgments and judgments of a district magistrate judge to provide that these appeals can be filed only after the sentence has been imposed. Further, the bill provides no appeal can be taken more than 14 days after the sentence is imposed.

### ***Search Warrants***

Previously, all search warrants were required to be supported by facts sufficient to show probable cause that a crime has been or is being committed. The bill allows for a warrant to be issued based on probable cause that a crime is about to be committed and makes other technical amendments applicable to all search warrants. Further, the bill adds language specific to search warrants for tracking devices, allowing a magistrate to issue a search warrant for the installation, maintenance, and use of a tracking device. The warrant authorizes use of the device to track and collect tracking data relating to a person or property for a specified time period, but no more than 30 days from installation. The bill defines “tracking device” and “tracking data.”

For good cause shown, the warrant can authorize retrieval of tracking data recorded during the specified time period within a reasonable time after the warrant expires, and the magistrate can authorize one or more extensions of the warrant of no more than 30 days each. The bill provides warrants for tracking devices are valid during the specified time period, regardless of whether the subject person or property leaves the issuing jurisdiction and, if issued by a district judge, may be executed anywhere in the state.

The bill requires the law enforcement officer executing a warrant for a tracking device to complete installation within 15 days from the date the device is issued and to record on the warrant the exact date and time the device was installed and the entire period during which it was used. The bill also requires the deactivation and removal of the device as soon as practicable after the warrant expires. If removal is not possible, the bill requires deactivation and an explanation on the search warrant return of why removal was not completed. Reactivation is prohibited without an additional warrant or extension of the original warrant, and a deactivated tracking device can be accessed after the expiration of the warrant only for the purpose of collecting or retrieving tracking data obtained during the specified time period.

The bill provides affidavits or sworn testimony in support of a search warrant for a tracking device are not available for examination without a written court order unless requested

by the defendant or the defendant's counsel. Additionally, the warrants are sealed by the court and no copy left or served except as discovery in a criminal prosecution.

### ***Reporting of Pornographic Materials Seized or Documented as Evidence***

The bill creates a new section of law requiring the Kansas Bureau of Investigation (KBI) to work with the Attorney General and state and local law enforcement to develop a data reporting process enabling at least an annual report of the number of sexually violent crimes reported and the number of such crimes where pornographic materials are seized or documented as evidence. The report is used solely for statistical purposes. The bill requires this process to be in place within one year of the implementation of a capable central repository. Upon the implementation of a capable central repository, the KBI must make the necessary changes to the Kansas Standard Offense Report and the Kansas Incident Based Reporting System (KIBRS) Handbook and promulgate rules and regulations concerning training of law enforcement to implement these provisions. The bill provides that it cannot be construed to expand the scope of an officer's search. The bill also defines "nudity," "pornographic materials," "sexually explicit conduct," and "sexually violent crime."