

KANSAS OFFICE of
REVISOR of STATUTES

LEGISLATURE of THE STATE of KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Chairman Brunk
Members of the House Committee on Federal and State Affairs

From: Jason B. Long, Senior Assistant Revisor

Date: January 28, 2015

Subject: HB 2074 – Regulating firearm possession.

House Bill No. 2074 makes two substantive amendments to the laws regulating the possession of firearms in the State of Kansas. First, the bill amends K.S.A. 2014 Supp. 75-7c04 with respect to who is eligible to obtain a concealed carry license under the Personal and Family Protection Act (Act). Prior to the enactment of 2014 HB 2578 last session, this statute prohibited individuals from obtaining a concealed carry license for so long as they were prohibited from possessing a firearm under federal or state law. Once an individual had their possession rights reinstated that individual could apply for and obtain a concealed carry license. In 2014 HB 2578, subsection (a)(3) was added to prohibit individuals convicted of certain crimes from ever being eligible to obtain a concealed carry license. Section 1 of HB 2074 undoes last year's amendment and restores the eligibility criteria to the language prior to the enactment of HB 2578.

Second, HB 2074 repeals K.S.A. 2014 Supp. 21-6309, a copy of which is attached to this memorandum. K.S.A. 2014 Supp. 21-6309 makes it a crime to possess a firearm in certain government buildings, such as the Governor's residence, buildings located within the Capitol complex, and other state or county-owned buildings. While subsection (e) provides an exemption for individual possessing a concealed handgun in accordance with the Personal and Family Protection Act, this exemption does not apply to individuals possessing a handgun in violation of that Act. Under 2014 HB 2578, the Act was amended to remove the criminal penalty for violations of the Act. This means that under current law an individual possessing a concealed handgun in a government building that is covered by K.S.A. 21-6309 and where concealed firearms are prohibited could still be prosecuted for a criminal violation of K.S.A. 21-

KANSAS OFFICE *of*
REVISOR *of* STATUTES
LEGISLATURE *of* THE STATE *of* KANSAS

6309 despite the Act making such a violation a civil matter. HB 2074 would correct this issue by repealing K.S.A. 2014 Supp. 21-6309, thereby eliminating the possible criminal prosecution.

If enacted, HB 2074 would become effective on July 1, 2015.

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 the:

(1) 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) 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. The provisions of this paragraph shall not apply to any person not in compliance with K.S.A. 2014 Supp. 75-7c19, and amendments thereto; or

(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 subsection (a) or (b) of K.S.A. 2014 Supp. 75-7c22, and amendments thereto, to possess a firearm.

(e) It is not a violation of this section for a person to possess a handgun as authorized under the personal and family protection act.

(f) 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.

(g) 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.

(h) 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.

History: L. 2010, ch. 136, § 194; L. 2011, ch. 91, § 35; L. 2013, ch. 105, § 5; L. 2014, ch. 134, § 3; July 1.

Revisor's Note:

Section was also amended by L. 2011, ch. 30, § 54, but that version was repealed by L. 2011, ch. 91, § 41.

