

Kansas Personal & Family Protection Act
K.S.A. 75-7c01 et seq.

2009 Amendments: HB 2308 & SB 19

HB 2308

ACTIVE DUTY MILITARY RESIDING IN KANSAS

In 2009, the Kansas Legislature amended the Kansas Personal and Family Protection Act (KPFPA) to assist active duty military personnel in obtaining a Kansas concealed carry license (CCH) without surrendering their non-resident driver's licenses. In 2007, with the changes brought about by the implementation of Real ID, it became more difficult to obtain a CCH if you were in the military and didn't have a Kansas driver's license. State laws pertaining to active duty military allow them to retain their original state of residency while stationed in another state and still have "resident" status in the state they were stationed in; for example, a Texas soldier stationed at Fort Riley, KS could maintain a Texas driver's license while stationed in Kansas and still enjoy the benefits of Kansas residency. However, with the Real ID laws in place, the Kansas Department of Revenue was not allowed to issue that soldier a Kansas Driver's License, ID card or CCH license unless they chose to forfeit their Texas identification.

State Representative Melanie Meier (Leavenworth) introduced HB 2308 which sought to create an allowance in the KPFPA to allow active duty military to get a CCH in Kansas and still maintain their out-of-state identification cards. With the passage of HB 2308 active duty military personnel will now be able to apply for a Kansas CCH license and maintain their out-of-state identification cards. Active duty military will need to submit their non-resident driver's license number and military identification number with their application for licensure. Once approved by the Attorney General, the Department of Revenue will generate a Kansas identification number for that individual which will allow them to obtain the CCH license.

OTHER CHANGES INSTALLED WITH HB 2308

Elimination of the CCH notation on a driver's license

The Attorney General sought to eliminate the option of placing the CCH license notation on a person's driver's license (DL) rather than obtaining a separate license card. The decision to eliminate this option was the result of recurring issues arising when a CCH license holder needed to renew a DL. Since both licenses renew at different times, the CCH license holder was often inconvenienced by multiple notifications and approvals. After July 1, 2009, individual's getting their CCH for the first time will not be able to have the notation placed on their DL, they will only be able to get a separate CCH card. For those who already have the CCH notation on their DL, when it comes time to renew their license or seek to have their DL reissued for any reason, they will simply have to get the separate card at that point.

Expunged criminal history records and firearms prohibitions

Some clean up language was also installed under the new "expungement" provisions of K.S.A. 75-7c04. In 2008, the Legislature amended the KPFPFA to allow individuals with expunged felonies to obtain a CCH if a certain time period had elapsed. Although it was never a major issue to contend with, the Attorney General wanted to make certain that the law was clear with regard to an individual's ability to obtain a CCH if they had an expunged felony criminal history. Kansas law states that, even if you have certain crimes expunged from your criminal history, it is still unlawful to possess firearms for a certain time frame. *See*, K.S.A. 21-4204. There are certain felonies which are expungeable, but that could subject the individual to the firearms possession prohibitions of K.S.A. 21-4204.

The major concern of the Attorney General were those individuals who are forever prohibited from possessing a firearm; this occurs where a person was convicted of a person felony (or any violation of the uniform controlled substances act) AND they were found in possession of a firearm at the time of the offense. For example, a person who was convicted of an aggravated assault (person felony) where they had pointed a gun at another person (found in possession of a firearm at the time of the offense) would be forever prohibited from possessing firearms under Kansas (and Federal) law. There was some statutory language which needed to be cleared up so that this point was fully conveyed – the Attorney General cannot license a person to carry a concealed firearm if they are not lawfully allowed to possess firearms. If you believe that you have been convicted of a felony and you were in possession of a firearm at the time of the felony, you could be under the permanent firearm prohibition of 21-4204 (at a minimum, you would be subject to a 10 year prohibition) – please consult a lawyer as you may be in violation of the law for even possessing firearms.

Mental defectives and attempted suicide

Additional changes made to the licensing requirements were an applicant/licensee cannot have been “adjudicated as a mental defective” or “committed to a mental institution”- these are terms that stem from federal firearms law and will also be defined (identically) under K.S.A. 75-7c04. There was also an addition made which states that, within 5 years of application, no applicant can have attempted suicide (this is not restricted to suicide attempt by firearm).

SB 19

COUNTY COURTHOUSE EXEMPTION FOR COUNTY ATTORNEYS, DISTRICT ATTORNEYS, ATTORNEY GENERAL, U.S. ATTORNEY AND THEIR ASSISTANT ATTORNEYS

SB 19 gives the United States Attorney, Kansas Attorney General, any County or District Attorney, or any Assistant Attorney for any of those four agencies an opportunity to become licensed to carry concealed weapons (“carry”), defined by K.S.A. 75-7c02 into county courthouses or court related facilities. However, the conditions enumerated below shall apply.

1. The ability to carry into county court facilities is generally conditioned upon: (a) completing the necessary training for a Kansas CCH license and submitting an application to the attorney general; (b) receiving additional firearms training from the Kansas Law Enforcement Training Center; and (c) receiving approval from the prosecutor’s respective agency head.
2. The authority to carry into county court facilities shall be subject to the discretion of each county commission through the newly amended provisions of K.S.A. 21-4218 - which outlines the requirements necessary for a county commission to opt out of allowing prosecutor carry into their county court facilities. L. 2009, ch. 92, § 3.
3. Irrespective of a county commission’s decision to allow concealed weapons into county court facilities, the authority to carry concealed weapons into any **courtroom** shall still be subject to the discretion of the chief judge of the judicial district. L. 2009, ch. 92, § 3.