

HOUSE BILL No. 2329

AN ACT concerning law enforcement; relating to the capitol area security patrol; amending K.S.A. 74-2105, 74-2106, 74-2107, 75-4503a, 75-4504 and 75-4509 and K.S.A. 2005 Supp. 74-4978j, 74-5602, 75-4503, 75-4506, 75-4508 and 75-4510a and repealing the existing sections.

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

Section 1. K.S.A. 74-2105 is hereby amended to read as follows: 74-2105. (a) (1) The principal function of the Kansas highway patrol shall be enforcement of the traffic and other laws of this state relating to highways, vehicles and drivers of vehicles except as otherwise provided in this subsection (a). The superintendent and members of the highway patrol in performing their duties under this act shall wear badges and uniforms of office. The superintendent may designate members to perform security duties for public officials and other duties as directed by the superintendent. The superintendent may perform duties under this act whether or not wearing a badge and uniform. Such members may serve without uniform and without open display of badges. Officers and employees of the bureau of emergency medical services shall not wear badges and uniforms of office.

(2) The superintendent or the superintendent's designee shall designate the mode of transportation deemed necessary for the purpose of providing security for the governor and the governor's family.

(3) Subject to approval by the federal aviation administration of an exemption from applicable federal aviation administration regulations, when the governor elects to travel by state-owned vehicle or aircraft for political or personal business and the superintendent has not deemed such transportation necessary for the security of the governor or the governor's family, the governor may use such vehicle or aircraft and reimburse the state of Kansas for its use in an amount determined by the secretary of administration.

(b) In addition to the duties otherwise prescribed by law, the superintendent of the highway patrol shall supervise and manage the capitol ~~area security patrol~~ police. In the supervision and management of the duties of the capitol ~~area security patrol~~ police in and around the state capitol building, the superintendent of the highway patrol shall advise with the legislative coordinating council.

(c) In addition to other duties, the superintendent of the highway patrol shall provide budgeting, purchasing and related management functions for the bureau of emergency medical services of the Kansas highway patrol as may be provided by law and shall perform other functions and duties pertaining to emergency medical services as may be specified by law.

Sec. 2. K.S.A. 74-2106 is hereby amended to read as follows: 74-2106. The superintendent of the Kansas highway patrol shall issue orders to the members of the highway patrol and the capitol ~~area security patrol~~ police specifying duty assignments and limitations upon the duties of the members of the highway patrol and capitol ~~area security patrol~~ police consistent with the intent of this act and the act of which this section is amendatory.

Sec. 3. K.S.A. 74-2107 is hereby amended to read as follows: 74-2107. The superintendent of the state highway patrol is hereby authorized and empowered to make all necessary rules and regulations for the conduct of the members of the state highway patrol and the capitol ~~area security patrol~~ police not otherwise prescribed by law.

Sec. 4. K.S.A. 2005 Supp. 74-4978j is hereby amended to read as follows: 74-4978j. (a) (1) Notwithstanding the provisions of K.S.A. 74-4971 and amendments thereto, on or after the effective date of this act, the Kansas highway patrol shall affiliate with the Kansas police and firemen's retirement system established under the provisions of K.S.A. 74-4951 *et seq.* and amendments thereto pursuant to the provisions of this act for membership in the system of members of the capitol ~~area security patrol~~ police who have successfully completed the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center and are certified pursuant to the provisions of K.S.A. 74-5607a, and amendments thereto. For purposes of such affiliation for membership in the system of members of the capitol ~~area security patrol~~ police, the Kansas highway patrol shall be considered a new participating employer. The Kansas highway patrol shall make application

for affiliation with such system in the manner provided by K.S.A. 74-4954 and amendments thereto, to be effective on July 1 next following application. The Kansas highway patrol shall affiliate for membership in the system of such members of the capitol ~~area security patrol~~ *police* for participating service credit.

(2) The Kansas highway patrol shall appropriate and pay a sum sufficient to satisfy any obligations as certified by the board of trustees of the retirement system and the employer contributions of the Kansas highway patrol shall be as provided in subsection (1) of K.S.A. 74-4967 and amendments thereto.

(b) (1) Each such member of the capitol ~~area security patrol~~ *police* employed by the Kansas highway patrol on the date of affiliation, may become a member of the Kansas police and firemen's retirement system on the first day of the payroll period of such member, coinciding with or following the entry date of the Kansas highway patrol as provided in this section, only by filing with the board of trustees of the system, on or before the entry date of the Kansas highway patrol as provided in this section, a written election to become a member of the system. Failure to file such written election shall be presumed to be an election not to become a member of the system. Such election, whether to become or not to become a member, shall be irrevocable.

(2) Each such member of the capitol ~~area security patrol~~ *police* who is on an authorized leave of absence or is in the military service on the entry date of the Kansas highway patrol as provided in this section may become a member of the Kansas police and firemen's retirement system on the first day of the first payroll period of such member, coinciding with such member's return to active employment and payroll of the Kansas highway patrol, only by filing with the board of trustees of the system within 10 days after such return to active employment a written election to become a member of the system. Failure to file such written election shall be presumed to be an election not to become a member of the system. Such election, whether to become a member or not to become a member, shall be irrevocable.

(c) Every such person who is employed as a member of the capitol ~~area security patrol~~ *police* on or after the entry date of the Kansas highway patrol into the Kansas police and firemen's retirement system as provided in this section shall become a member of the Kansas police and firemen's retirement system on the first day of such employment.

(d) If the Kansas highway patrol affiliates as provided in this act and each such member of the capitol ~~area security patrol~~ *police* who elects to become a member as provided in this act, the Kansas highway patrol and each such member shall be subject to the provisions of K.S.A. 74-4951 *et seq.* and amendments thereto as applicable.

(e) The division of the budget and the governor shall include in the budget and in the budget request for appropriations for personnel services the amount required to satisfy the employer's obligation under this act as certified by the board of trustees of the system, and shall present the same to the legislature for allowance and appropriations.

(f) The determination of retirement, death or disability benefits shall be computed upon the basis of "credited service" as used in K.S.A. 74-4951 *et seq.*, and amendments thereto, but shall include only participating service with the person's participating employer, commencing on and after the effective date of affiliation by the participating employer with the Kansas police and fireman's retirement system.

Sec. 5. K.S.A. 2005 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 law enforcement training commission, created by K.S.A. 74-5606, and amendments thereto.

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

(d) "Director," as created in K.S.A. 74-5603, and amendments thereto, means the director of police training at the law enforcement training center.

(e) "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.

(f) “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 area security guards~~ *police*, existing under the authority of K.S.A. 75-4503, and amendments thereto. Such terms shall also include railroad policemen appointed pursuant to K.S.A. 66-524, and amendments thereto; and school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222, and amendments thereto. 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.

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

(h) “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.

(i) “Misdemeanor crime of domestic violence” means a violation of domestic battery as provided by K.S.A. 2005 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.

(j) “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.

Sec. 6. K.S.A. 2005 Supp. 75-4503 is hereby amended to read as follows: 75-4503. (a) There is hereby created the ~~capitol area security patrol~~ *police* which shall be under the supervision and management of the superintendent of the highway patrol.

(b) Members of the ~~capitol area security patrol~~ *police* shall have statewide law enforcement powers and authority anywhere within this state irrespective of county lines.

(c) All persons arrested by a member of the ~~capitol area security patrol~~ *police* shall be turned over to the sheriff of the county in which the arrest occurs, to be dealt with in the same manner as other persons turned over to such sheriff, except in cases of violation of the ordinances

of the city of Topeka, any such person may be turned over to the police department of the city of Topeka to be dealt with by it in the same manner as other persons arrested by police officers of the Topeka police department.

Sec. 7. K.S.A. 75-4503a is hereby amended to read as follows: 75-4503a. Effective July 1, 1976, officers and employees who were engaged immediately prior to said date in the performance of powers, duties and functions of the capitol ~~area security patrol police~~, and who, in the opinion of the superintendent of the highway patrol are necessary to perform the powers, duties, and functions of the capitol ~~area security patrol police~~ shall become officers and employees thereof under the provisions of K.S.A. 75-4503, *and amendments thereto*, and shall retain all retirement benefits and all rights of civil service which such officer or employee had before July 1, 1976, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions of personnel in the classified civil service shall be in accordance with civil service laws and rules and regulations. The superintendent of the highway patrol for the capitol ~~area security patrol police~~ shall succeed to all property and records which were used for, or pertain to, the performance of the powers, duties, and functions of the capitol ~~area security patrol police~~. Any conflict as to the proper disposition of such property or records arising under this section, and resulting from the transfer of all or part of the powers, duties, and functions of the capitol ~~area security patrol police~~ shall be determined by the governor, whose decision shall be final.

Sec. 8. K.S.A. 75-4504 is hereby amended to read as follows: 75-4504. The superintendent of the highway patrol shall prescribe the style, material and the color of uniforms and the design of badges and the state shall furnish a uniform and badge of office to be worn by all members of the capitol ~~area security patrol police~~.

Sec. 9. K.S.A. 2005 Supp. 75-4506 is hereby amended to read as follows: 75-4506. No motor vehicle, whether privately or publicly owned, may be parked upon parking lots, facilities or drives of any state owned or operated property or building in Shawnee county, Kansas, except as authorized under rules and regulations adopted by the secretary of administration as provided in K.S.A. 75-3706, and amendments thereto, or; in the case of the statehouse grounds, in accordance with signs posted by the capitol ~~area security patrol police~~. Such rules and regulations may fix and provide for collection of rents, charges or fees and administrative fines and procedures for violation of such rules and regulations to be imposed in connection with and for the use of the parking facilities so owned and operated, and the secretary of administration may enter into any contract or contracts therefor with any state officer or employee or with any board, commission, agency or instrumentality of the state of Kansas. The secretary of administration may design and issue parking permits or other forms of authorization to facilitate the best use of any such parking lots, facilities or drives. Parking permits to park on the statehouse grounds shall be designed and issued in accordance with rules or instructions of the legislative coordinating council. Notwithstanding the foregoing provisions of this section, the secretary of administration shall provide not less than 140 parking spaces to meet the needs of the legislative branch and whenever the legislative coordinating council shall determine that additional parking spaces are necessary the secretary of administration shall provide such number of additional parking spaces as may be specified by the legislative coordinating council.

Sec. 10. K.S.A. 2005 Supp. 75-4508 is hereby amended to read as follows: 75-4508. (a) Except as provided in subsection (b), any person who shall violate any of the provisions of K.S.A. 75-4505, 75-4506 or 75-4507, and amendments thereto, or any rule or regulation made thereunder shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$25 or by imprisonment in the county jail for not more than 30 days or by both such fine and imprisonment.

(b) (1) The secretary of administration is authorized to adopt rules and regulations establishing administrative fines for parking violations in areas where a fee for parking is assessed, except that this subsection shall not apply to parking on the statehouse grounds. Persons paying any such fine shall not be subject to prosecution pursuant to subsection (a) relating to such offense. The secretary of administration shall assign responsibility

for enforcement of parking violations under this subsection to the capitol ~~area security patrol~~ *police*, the department of administration or other personnel designated by the secretary.

(2) Any administrative fines received under this subsection (b) shall be remitted by the secretary of administration to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 11. K.S.A. 75-4509 is hereby amended to read as follows: 75-4509. Except in cases of violation of the ordinances of the city of Topeka, all prosecutions commenced for any violation by a person arrested by a member of the capitol ~~area security patrol~~ *police* shall be brought in the district court of Shawnee county and said court shall proceed in any such case in the same manner as it would in any other criminal matter over which it has jurisdiction. All prosecutions for violations of ordinances of the city of Topeka, shall be prosecuted in the municipal court of Topeka by the city attorney of Topeka.

Sec. 12. K.S.A. 2005 Supp. 75-4510a is hereby amended to read as follows: 75-4510a. Unlawful statehouse parking is parking a vehicle within the statehouse grounds bounded by 8th street, 10th street, Jackson street and Harrison street in the city of Topeka, Kansas:

(a) Contrary to any sign posted by the capitol ~~area security patrol~~ *police*;

(b) contrary to any order of an officer of the capitol ~~area security patrol~~ *police*; or

(c) without a permit issued under authority of the legislative coordinating council, except for guests in parking spaces posted for guests, emergency vehicles and delivery or maintenance vehicles on authorized business.

Any person found guilty of unlawful statehouse parking shall pay a fine in accordance with K.S.A. 8-2118, and amendments thereto.

Sec. 13. K.S.A. 74-2105, 74-2106, 74-2107, 75-4503a, 75-4504 and 75-4509 and K.S.A. 2005 Supp. 74-4978j, 74-5602, 75-4503, 75-4506, 75-4508 and 75-4510a are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.