

Second Quarter Newsletter

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Welcome New Research Analyst!

KSSC is pleased to announce that Jason Lamprecht has been hired as the new Research Analyst for the agency. He comes to the agency after a 25-year career with the U.S. Department of Agriculture's National Ag Statistics Service (NASS). He enjoys working with numbers and has a particular passion for presenting data and statistics in graphical form for presentation to his audience and data users. Jason received his bachelor's degree in Mathematics, Statistics, and Actuarial Science from the University of Nebraska - Kearney and a Master's of Science in Biometry from the University of Nebraska - Lincoln. Jason may be reached at jason.lamprecht@ks.gov or (785) 296-0923. Learn more about Jason [here](#).



KSSC welcomes Grazielle Gifford as the new Administrative Specialist for the KSSC. She was born and raised in Brazil and received a law degree and a degree in Social Juridical Sciences from the University of Taubaté in São Paulo, Brazil. In Brazil, she had five years of experience working in business law representing Volkswagen of Brazil.

She moved to the United States in 2014 and worked with the Kroger Company for five years before joining the KSSC. In March 2021, she became a U.S. citizen. In her spare time, Grazielle enjoys time with her five-year-old daughter Kylie, traveling, learning about new cultures, gardening, and reading. Grazielle may be reached at grazielle.gifford@ks.gov or (785) 296-0923.

KSSC Adopts Placement Criteria for Probation, Diversion and SB 123

Placement criteria and trainings can be found [here](#).



The 2021 Legislative Changes to the KSGA and Related Criminal Law

In the 2021 Legislative Session, several statutory changes were passed that will affect criminal law practice, including changes in criminal penalties, the addition of new crimes, and changes to crimes that already exist. Click [here](#) to read the KSSC 2021 Legislative Summary.



Preorder your 2021 DRM and updated laminates [HERE](#).

APPELLATE UPDATE*

- The Kansas Supreme Court recently held that, "...the KSGA provisions authorizing the court to make criminal history findings for purposes of imposing a sentence do not violate section 5 because such judicial findings do not impair the traditional functions of the jury in Kansas criminal proceedings." *State v. Albano*, No. 120,767, 2021 WL 2171172 at *12 (Kan. May 28, 2021).
- In a case where the defendant who was convicted of lewd and lascivious behavior was sentenced to an extended 60-month postrelease-supervision term, the Court of Appeals found that the extension violated the defendant's constitutional rights under *Apprendi* because the judge made the finding that the defendant committed a sexually violent offense instead of submitting that fact to the jury. See *State v. Letterman*, No. 122,118, 2021 WL 2171614 at *5 (Kan. App. May 28, 2021). However, the Court of Appeals found the error to be harmless because based on the evidence presented, the only way the jury could have convicted the defendant of lewd and lascivious behavior was to have found beyond a reasonable doubt that his conduct was sexually motivated within the meaning of K.S.A. 2020 Supp. 22-3717(d)(6). See *Id.* at 7.
- The Court of Appeals recently declined the State's request to take judicial notice of the complaint from a defendant's prior terroristic threat adjudication to determine whether the adjudication for terroristic threat was based on the intentional or reckless version of the statute. See *State v. Rankin*, No. 122,818, 2021 WL 1704407 at *4 (Kan. App. April 30, 2021). Instead, the case was remanded to district court to make this determination and to resentence the defendant if the State is unable to show that his juvenile adjudication for terroristic threat was based on the intentional version of the statute. See *id.*
- The Court of Appeals recently held that when two or more cases are consolidated for trial because all the charges could have been brought in one charging document, and the defendant is convicted of multiple charges at trial, the defendant shall receive the benefit of the double rule in K.S.A. 2020 Supp. 21-6819(b)(4) regardless of whether the convictions arise from multiple counts within a single information, complaint, or indictment. *State v. Dixon*, No. 120,587, 2021 WL 1945156 at *25 (Kan. App. May 14, 2021).
- Where a defendant was convicted of failure to register for a person felony when the offense was classified as a nonperson felony, the Court of Appeals found that the later reclassification as a person felony due to a statutory change was error because post-KSGA Kansas convictions should be classified based on the classification in effect at the time of the prior conviction. See *State v. Terrell*, 488 P.3d 520 (Kan. App. April 9, 2021). The court stated that the instruction in *Keel* is not controlling because *Keel* addressed the scoring of pre-KSGA convictions, not changes in how a post-KSGA conviction should be scored if the person/nonperson designation for scoring purposes is modified from a nonperson to a person designation after the prior conviction. See *Id.*
- The Court of Appeals recently found that a defendant's misdemeanor convictions (no proof of insurance and illegal tag), while not scoreable on criminal history on their own, precluded decay of his earlier juvenile adjudications under K.S.A. 2017 Supp. 21-6810(d)(5)(B) because those misdemeanors were committed within the five years after the date of the prior juvenile adjudications. See *State v. Jones*, No. 122,756, 2021 WL 2386044 at *5 (Kan. App. June 11, 2021)(unpublished opinion).

*This is not an exhaustive list of all cases affecting sentencing. To review all recent cases, click [here](#).