As Amended by House Committee

Session of 2025

HOUSE BILL No. 2323

By Committee on Judiciary

Requested by Steve Karrer on behalf of the Kansas Insurance Department

2-7

AN ACT concerning fraudulent insurance acts; establishing procedures for a civil action instituted by the commissioner of insurance and authorizing civil penalties, restitution and other relief; providing that expunged criminal records will be disclosed in any application for licensure as an insurance producer or public adjuster if the arrest, conviction or diversion is for a fraudulent insurance act; including automobile assigned claims plans in provisions related to fraudulent insurance acts; amending K.S.A. 21-6614, 40-2,118 and 40-2,119 and repealing the existing sections.

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

New Section 1. (a) If the commissioner believes that a person has committed a fraudulent insurance act, the commissioner may bring a civil action in the district court of Shawnee county or in the district court of any county in which an alleged fraudulent insurance act occurred.

(b) In an action brought pursuant to this section, the burden of proof shall be on the commissioner to prove by a preponderance of the evidence that the person committed a fraudulent insurance act.

(c) In an action pursuant to this section, if the court finds that the person committed a fraudulent insurance act, the court may:

(1) Impose a civil penalty of up to $10,000 for each fraudulent insurance act, which shall be paid into the ~~insurance department service regulation~~ **state general** fund;

(2) order the person who engaged in the fraudulent insurance act to pay restitution to the insurer or automobile assigned claims plan to the extent of such insurer's or plan's actual pecuniary harm;

(3) order payment of reasonable expenses and investigation fees incurred by the department of insurance as a result of the fraudulent insurance act or acts, which shall be paid into the ~~department of~~ insurance **department** service regulation fund; and

(4) order such other relief as the court considers appropriate.

(d) An aggrieved insurer or automobile assigned claims plan shall not be joined as a party pursuant to K.S.A 60-219 or 60-220, and amendments thereto, in any action brought pursuant to this section.

(e) The defendant and the commissioner shall be permitted to present

the testimony of witnesses through a two-way electronic audio-video communication device in actions brought pursuant to this section.

(f) In an action pursuant to this section, a person shall not be excused from testifying, producing a record or other evidence or obeying a subpoena on the ground that the required testimony, record or other evidence, directly or indirectly, may tend to incriminate the individual or subject the person to a criminal fine, penalty or forfeiture. If the person refuses to testify, produce a record or other evidence or obey a subpoena based on the person's privilege against self-incrimination, the court may compel the testimony, the production of the record or other evidence or compliance with the subpoena. The testimony, record or other evidence compelled under such an order shall not be used, directly or indirectly, against the person in a criminal case, except in a prosecution for perjury or contempt or otherwise failing to comply with the court's order.

(g) As used in this section:

(1) "Commissioner" means the commissioner of insurance; and

(2) "fraudulent insurance act" means the same as defined in K.S.A. 40-2,118, and amendments thereto.

Sec. 2. K.S.A. 21-6614 is hereby amended to read as follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, any nongrid felony or felony ranked in severity levels 6 through 10 of the nondrug grid, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity level 5 of the drug grid may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b), (c), (d), (e) and (f), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(3) Notwithstanding the provisions of subsection (a)(1), and except as provided in subsections (b), (c), (d), (e) and (f), any person who has completed the requirements of a specialty court program established pursuant to K.S.A. 20-173, and amendments thereto, may petition the district court for the expungement of the conviction and related arrest records. The court may waive all or part of the docket fee imposed for

filing a petition pursuant to this subsection.

(b) Any person convicted of prostitution, as defined in K.S.A. 21-3512, prior to its repeal, convicted of a violation of K.S.A. 21-6419, and amendments thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

(1) One or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; and

(2) such person can prove they were acting under coercion caused by the act of another. For purposes of this subsection, "coercion" means: Threats of harm or physical restraint against any person; a scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in bodily harm or physical restraint against any person; or the abuse or threatened abuse of the legal process.

(c) Except as provided in subsections (e) and (f), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any felony ranked in severity levels 1 through 5 of the nondrug grid, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity levels 1 through 4 of the drug grid, or:

(1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its repeal, or K.S.A. 21-5406, and amendments thereto, or as prohibited by any law of another state that is in substantial conformity with that statute;

(2) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by any law of another state that is in substantial conformity with that statute;

(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state that is in substantial conformity with that statute;

(4) violating the provisions of K.S.A. 8-142 *Fifth*, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state that is in substantial conformity with that statute;

(5) any crime punishable as a felony wherein a motor vehicle was

used in the perpetration of such crime;

(6) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1603, prior to its repeal, or K.S.A. 8-1602 or 8-1604, and amendments thereto, or required by a law of another state that is in substantial conformity with those statutes;

(7) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(8) a violation of K.S.A. 21-3405b, prior to its repeal.

(d) (1) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a first violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation.

(2) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a second or subsequent violation of K.S.A. 8-1567, and amendments thereto.

(3) Except as provided further, the provisions of this subsection shall apply to all violations committed on or after July 1, 2006. The provisions of subsection (d)(2) shall not apply to violations committed on or after July 1, 2014, but prior to July 1, 2015.

(e) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto;

(2) indecent liberties with a child or aggravated indecent liberties with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal, or K.S.A. 21-5506, and amendments thereto;

(3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 21-5504(a)(3) or (a)(4), and amendments thereto;

(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 21-5504, and amendments thereto;

(5) indecent solicitation of a child or aggravated indecent solicitation of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 21-5508, and amendments thereto;

(6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto;

(7) internet trading in child pornography or aggravated internet trading in child pornography, as defined in K.S.A. 21-5514, and amendments thereto;

(8) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 21-5604, and amendments thereto;

(9) endangering a child or aggravated endangering a child, as defined in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 21-5601, and amendments thereto;

(10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 21-5602, and amendments thereto;

(11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto;

(12) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments thereto;

(13) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 21-5403, and amendments thereto;

(14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and amendments thereto;

(15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 21-5405, and amendments thereto;

(16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 21-5505, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 21-5505, and amendments thereto;

(18) a violation of K.S.A. 8-2,144, and amendments thereto, including any diversion for such violation; or

(19) any conviction for any offense in effect at any time prior to July 1, 2011, that is comparable to any offense as provided in this subsection.

(f) Except as provided in K.S.A. 22-4908, and amendments thereto, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(g) (1) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecutor and the arresting law enforcement agency. The petition shall state the:

(A) Defendant's full name;

(B) full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

(C) defendant's sex, race and date of birth;

(D) crime for which the defendant was arrested, convicted or diverted;

(E) date of the defendant's arrest, conviction or diversion; and

(F) identity of the convicting court, arresting law enforcement authority or diverting authority.

(2) Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of $176. On and after July 1, 2019, through June 30, 2025, the supreme court may impose a charge, not to exceed $19 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

(3) All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the prisoner review board.

(h) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) (A) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner if the petition is filed under subsection (a)(1) or (a)(2); or

(B) no proceeding involving a felony is presently pending or being instituted against the petitioner if the petition is filed under subsection (a)(3);

(2) the circumstances and behavior of the petitioner warrant the expungement;

(3) the expungement is consistent with the public welfare; and

(4) with respect to petitions seeking expungement of a felony conviction, possession of a firearm by the petitioner is not likely to pose a threat to the safety of the public.

(i) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation that shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency that may have a record of the arrest, conviction or diversion. If the case was appealed from municipal court, the clerk of the district court shall send a certified copy of the order of expungement to the municipal court. The

municipal court shall order the case expunged once the certified copy of the order of expungement is received. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing and gaming commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

(F) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(G) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(H) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(I) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in

K.S.A. 17-12a102, and amendments thereto;

(J) in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; ~~or~~

(K) to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A. 2024 Supp. 50-6,141, and amendments thereto*; or*

(L) in any application for licensure as an insurance producer or public adjuster, as defined in K.S.A. 40-4901 and 40-5501, and amendments thereto, and the arrest, conviction or diversion is for one or more instances of a fraudulent insurance act, as defined in K.S.A. 40-2,118, and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense that requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(j) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

(k) (1) Subject to the disclosures required pursuant to subsection (i), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime.

(2) A person whose arrest record, conviction or diversion of a crime that resulted in such person being prohibited by state or federal law from possessing a firearm has been expunged under this statute shall be deemed to have had such person's right to keep and bear arms fully restored. This restoration of rights shall include, but not be limited to, the right to use, transport, receive, purchase, transfer and possess firearms. The provisions of this paragraph shall apply to all orders of expungement, including any orders issued prior to July 1, 2021.

(l) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions

of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecutor, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers

and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the Kansas sentencing commission;

(12) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(13) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(14) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto;

(16) (A) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A. 2024 Supp. 50-6,141, and amendments thereto; or

(B) the attorney general for any other purpose authorized by law, except that an expungement record shall not be the basis for denial of a license to carry a concealed handgun under the personal and family protection act; ~~or~~

(17) the Kansas bureau of investigation, for the purpose of completing a person's criminal history record information within the central repository, in accordance with K.S.A. 22-4701 et seq., and amendments thereto*; or*

(18) the Kansas insurance commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for licensure as an insurance producer or public adjuster, as defined in K.S.A 40-4901 and 40-5501, and amendments thereto, and the arrest, conviction or diversion is for one or more instances of a fraudulent insurance act, as defined in K.S.A. 40-2,118, and amendments thereto.

(m) (1) The provisions of subsection (l)(17) shall apply to records

created prior to, on and after July 1, 2011.

(2) Upon the issuance of an order of expungement that resulted in the restoration of a person's right to keep and bear arms, the Kansas bureau of investigation shall report to the federal bureau of investigation that such expunged record be withdrawn from the national instant criminal background check system. The Kansas bureau of investigation shall include such order of expungement in the person's criminal history record for purposes of documenting the restoration of such person's right to keep and bear arms.

Sec. 3. K.S.A. 40-2,118 is hereby amended to read as follows: 40-2,118. (a) For purposes of this act*,* a "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, *or the Kansas automobile assigned claims plan,* any written, electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication or statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance *or automobile assigned claims plan* that such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto.

(b) An insurer *or automobile assigned claims plan* that has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed shall provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may require.

(c) Any other person who has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed may provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may request.

(d) (1) Each insurer *and automobile assigned claims plan* shall have antifraud initiatives reasonably calculated to detect fraudulent insurance acts. Antifraud initiatives may include fraud investigators, who may be insurer employees or independent contractors and an antifraud plan submitted to the commissioner not later than July 1, 2007. Each insurer *and automobile assigned claims plan* that submits an antifraud plan shall notify the commissioner of any material change in the information contained in the antifraud plan within 30 days after such change occurs. Such insurer *or automobile assigned claims plan* shall submit to the

commissioner in writing the amended antifraud plan.

(2) Any antifraud plan, or any amendment thereof, submitted to the commissioner for informational purposes only shall be confidential and not be a public record and shall not be subject to discovery or subpoena in a civil action unless following an in camera review, the court determines that the antifraud plan is relevant and otherwise admissible under the rules of evidence set forth in article 4 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

(e) Except as otherwise specifically provided in K.S.A. 44-5,125, and amendments thereto, and K.S.A. 21-5812(a), and amendments thereto, a fraudulent insurance act shall constitute a severity level 6, nonperson felony if the amount involved is $25,000 or more; a severity level 7, nonperson felony if the amount involved is at least $5,000 but less than $25,000; a severity level 8, nonperson felony if the amount involved is at least $1,000 but less than $5,000; and a class C nonperson misdemeanor if the amount involved is less than $1,000. Any combination of fraudulent acts as defined in subsection (a) that occur in a period of six consecutive months and that involve $25,000 or more shall have a presumptive sentence of imprisonment regardless of its location on the sentencing grid block.

(f) In addition to any other penalty, a person who violates this statute shall be ordered to make restitution to the insurer or any other person or entity for any financial loss sustained as a result of such violation. An insurer shall not be required to provide coverage or pay any claim involving a fraudulent insurance act.

(g) For the purposes of this section:

(1) "Amount involved" means the greater of: (A) The actual pecuniary harm resulting from the fraudulent insurance act; (B) the pecuniary harm that was intended to result from the fraudulent insurance act; or (C) the intended pecuniary harm that would have been impossible or unlikely to occur, such as in a government sting operation or a fraud in which the claim for payment or other benefit pursuant to an insurance policy exceeded the allowed value. The aggregate dollar amount of the fraudulent claims submitted to the insurance company shall constitute prima facie evidence of the amount of intended loss and is sufficient to establish the aggregate amount involved in the fraudulent insurance act, if not rebutted; and

(2) "pecuniary harm" means harm that is monetary or that otherwise is readily measurable in money, and does not include emotional distress, harm to reputation or other non-economic harm.

(h) This act shall apply to all insurance applications, ratings, claims and other benefits made pursuant to any insurance policy *or automobile assigned claims plan*.

Sec. 4. K.S.A. 40-2,119 is hereby amended to read as follows: 40-2,119. In the absence of fraud, bad faith or malice, no person ~~or,~~ insurer *or automobile assigned claims plan* shall be subject to civil liability for libel, slander or any other relevant cause of action:

(a) For filing reports or furnishing other information required by chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or required by the commissioner under the authority granted in chapter 40 of the Kansas Statutes Annotated, and amendments thereto;

(b) for any information relating to suspected fraudulent insurance acts furnished to or received from law enforcement officials, their agents and employees;

(c) for any information relating to suspected fraudulent insurance acts furnished to or received from other persons subject to the provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto;

(d) for any such information furnished in reports to the insurance department, regulatory agencies of any other state, the national association of insurance commissioners or any organization established to detect and prevent fraudulent insurance acts, their agents, employees or designees; or

(e) for the publication of any report or bulletin related to the official activities of the insurance department by the commissioner or any employee of the insurance department. Nothing herein is intended to abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person.

Sec. 5. K.S.A. 21-6614, 40-2,118 and 40-2,119 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.