

HOUSE BILL No. 2118

AN ACT concerning the personal and family protection act; amending K.S.A. 21-4218, 59-104, 59-2948, 59-2966, 59-2974, 59-29b48, 59-29b66 and 59-29b74 and K.S.A. 2005 Supp. 21-4203 and 21-4204 and sections 3, 4, 5, 6, 7, 8, 10, 11 and 12 of 2006 Senate Bill No. 418 and repealing the existing sections.

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

Section 1. Section 3 of 2006 Senate Bill No. 418 is hereby amended to read as follows: Sec. 3. (a) On and after January 1, 2007, the attorney general shall issue licenses to carry concealed weapons to persons qualified as provided by this act. Such licenses shall be valid throughout the state for a period of four years from the date of issuance.

(b) The license, at the option of the licensee: (1) Shall be a separate card, in a form prescribed by the attorney general, that is approximately the size of a Kansas driver's license and shall bear the licensee's signature, name, address, date of birth and driver's license number or nondriver's identification card number; or (2) shall be noted on the licensee's valid Kansas driver's license or valid Kansas nondriver's identification license or card. At all times when the licensee is in actual possession of a concealed weapon, the licensee shall carry the license to carry concealed weapons or a valid Kansas driver's license or Kansas nondriver's identification card with the license to carry a concealed weapon noted thereon, which shall constitute the license to carry a concealed weapon. On demand of a law enforcement officer, the licensee shall display the license to carry a concealed weapon and proper identification ~~unless or, if~~ such license is noted on the person's driver's license or nondriver's identification card, *shall display such driver's license or nondriver's identification card*. Verification by a law enforcement officer that a person holds a valid license to carry a concealed weapon may be accomplished by a record check using the person's ~~vehicle tag and~~ driver's license information.

~~Violation of the provisions of this subsection shall constitute a class B nonperson misdemeanor.~~

*The license of any person who violates the provisions of this subsection shall be suspended for not less than 30 days upon the first violation and shall be revoked for not less than five years upon the second or a subsequent violation.*

(c) A valid license, issued by any other state or the District of Columbia, to carry concealed weapons shall be recognized as valid in this state, but only while the holder is not a resident of Kansas, if the attorney general determines that standards for issuance of such license or permit by such state or district are equal to or greater than the standards imposed by this act. The attorney general shall maintain and publish a list of such states and district which the attorney general determines have standards equal to or greater than the standards imposed by this act.

The provisions of this subsection shall take effect and be in force from and after January 1, 2007.

Sec. 2. Section 4 of 2006 Senate Bill No. 418 is hereby amended to read as follows: Sec. 4. (a) On and after January 1, 2007, the attorney general shall issue a license pursuant to this act if the applicant:

(1) Is a resident of the county where application for licensure is made and has been a resident of the state for six months or more immediately preceding the filing of the application, *residency to be determined in accordance with K.S.A. 77-201, and amendments thereto;*

(2) is 21 years or more of age;

(3) does not suffer from a physical infirmity which prevents the safe handling of a weapon;

(4) has never been convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a felony under the laws of this state or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a felony under the laws of this state if committed by an adult;

(5) has not been, during the five years immediately preceding the date the application is submitted: (A) ~~A mentally ill person or involuntary patient, as defined in K.S.A. 59-2946, and amendments thereto;~~ (B) ~~committed for the abuse of a controlled substance;~~ (C) Convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a ~~felony or~~ misdemeanor under the provisions of the uniform controlled substances act or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a misdemeanor under such act if committed by an adult; ~~(D) committed for the abuse of alcohol;~~ (E) (B)

convicted or placed on diversion, in this or any other jurisdiction, two or more times for an act that constitutes a violation of K.S.A. 8-1567, and amendments thereto; ~~(F)~~ (C) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a domestic violence misdemeanor under any municipal ordinance or article 34 or 35 of chapter 21 of the Kansas Statutes Annotated or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a domestic violence misdemeanor under article 34 or 35 of chapter 21 of the Kansas Statutes Annotated if committed by an adult; or ~~(G)~~ (D) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a violation of section 12 of 2006 Senate Bill No. 418, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a violation of section 12 of 2006 Senate Bill No. 418, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, if committed by an adult;

(6) *has not been charged with a crime which would render the applicant, if convicted, ineligible for a license or, if so charged, final disposition of the charge has occurred and no other charges are pending which would cause the applicant to be ineligible for a license;*

~~(6)~~ (7) *has not been ordered by a court to receive treatment for mental illness pursuant to K.S.A. 59-2966, and amendments thereto, or for an alcohol or substance abuse problem pursuant to K.S.A. 59-29b66, and amendments thereto, or, if a court has ordered such treatment, has not been issued a certificate of restoration pursuant to section 12, and amendments thereto, not less than five years before the date of the application;*

(8) *desires a legal means to carry a concealed weapon for lawful self-defense;*

~~(7)~~ (9) *except as provided by subsection ~~(F)~~ (g) of section 5 of 2006 Senate Bill No. 418, and amendments thereto, presents evidence satisfactory to the attorney general that the applicant has satisfactorily completed a weapons safety and training course approved by the attorney general pursuant to subsection (b);*

~~(8)~~ (10) *has not been adjudged a disabled person under the act for obtaining a guardian or conservator, or both, or under a similar law of another state or the District of Columbia, unless the applicant was ordered restored to capacity three or more years before the date on which the application is submitted;*

~~(9)~~ (11) *has not been dishonorably discharged from military service;*

~~(10)~~ (12) *is a citizen of the United States;*

~~(11)~~ (13) *is not subject to a restraining order issued under the protection from abuse act, under the protection from stalking act or pursuant to K.S.A. 60-1607, 38-1542, 38-1543 or 38-1563, and amendments thereto, or any equivalent order entered in another state or jurisdiction which is entitled to full faith and credit in Kansas; and*

~~(12)~~ (14) *is not in contempt of court in a child support proceeding.*

(b) (1) The attorney general shall adopt rules and regulations establishing procedures and standards as authorized by this act for an eight-hour weapons safety and training course required by this section. Such standards shall include: (A) A requirement that trainees receive training in the safe storage of weapons, actual firing of weapons and instruction in the laws of this state governing the carrying of a concealed weapon and the use of deadly force; (B) general guidelines for courses which are compatible with the industry standard for basic firearms training for civilians; (C) qualifications of instructors; and (D) a requirement that the course be: (i) A weapons course certified or sponsored by the attorney general; or (ii) a weapons course certified or sponsored by the national rifle association or by a law enforcement agency, college, private or public institution or organization or weapons training school, if the attorney general determines that such course meets or exceeds the standards required by rules and regulations adopted by the attorney general and is taught by instructors certified by the attorney general or by the national rifle association, if the attorney general determines that the requirements for certification of instructors by such association meet or exceed the standards required by rules and regulations adopted by the attorney general. *Any person wanting to be certified by the attorney general as an instructor*

*shall submit to the attorney general an application in the form required by the attorney general and a fee not to exceed \$150.*

(2) The cost of the weapons safety and training course required by this section shall be paid by the applicant. The following shall constitute satisfactory evidence of satisfactory completion of an approved weapons safety and training course: (A) Evidence of completion of the course, in the form provided by rules and regulations adopted by the attorney general; or (B) an affidavit from the instructor, school, club, organization or group that conducted or taught such course attesting to the completion of the course by the applicant.

(c) In addition to the requirements of subsection (a), a person holding a license pursuant to this act, prior to renewal of the license provided herein, shall submit evidence satisfactory to the attorney general that the licensee has requalified by completion of an approved course given by an instructor of an approved weapons safety and training course under subsection (b).

Sec. 3. Section 5 of 2006 Senate Bill No. 418 is hereby amended to read as follows: Sec. 5. (a) The application for a license pursuant to this act shall be completed, under oath, on a form prescribed by the attorney general and shall only include:

(1) The name, address, social security number, *Kansas driver's license number or Kansas nondriver's license identification number*, place and date of birth, and occupation of the applicant;

(2) a statement that the applicant is in compliance with criteria contained within section 4 of 2006 Senate Bill No. 418, and amendments thereto;

(3) a waiver of the confidentiality of such mental health and medical records as necessary to determine the applicant's qualifications under subsection (a) ~~(5)~~ (7) of section 4 of 2006 Senate Bill No. 418, and amendments thereto;

(4) a statement that the applicant has been furnished a copy of this act and is knowledgeable of its provisions;

(5) a conspicuous warning that the application is executed under oath and that a false answer to any question, or the submission of any false document by the applicant, subjects the applicant to criminal prosecution under K.S.A. 21-3805, and amendments thereto; and

(6) a statement that the applicant desires a concealed weapon license as a means of lawful self-defense.

(b) The applicant shall submit to the sheriff of the county where the applicant resides, during any normal business hours:

(1) A completed application described in subsection (a);

(2) except as provided by subsection ~~(f)~~ (g), a nonrefundable license fee ~~not to exceed~~ of \$150, if the applicant has not previously been issued a statewide license or if the applicant's license has permanently expired, *which fee shall be in the form of two cashier checks or money orders of \$40 payable to the sheriff of the county where the applicant resides and \$110 payable to the attorney general;*

(3) a photocopy of a certificate or an affidavit or document as described in subsection (b) of section 4 of 2006 Senate Bill No. 418, and amendments thereto; and

(4) a full frontal view photograph of the applicant taken within the preceding 30 days.

(c) (1) The sheriff, upon receipt of the items listed in subsection (b) of this section or subsection (a) of section 8 of 2006 Senate Bill No. 418, and amendments thereto, shall provide for the full set of fingerprints of the applicant to be taken and forwarded to the attorney general for purposes of a criminal history records check as provided by subsection (d). In addition, the sheriff shall forward *to the attorney general* a copy of the application and ~~\$110 of the original license fee, or \$50 of the renewal license fee, the portion of the original or renewal license fee which is~~ *payable* to the attorney general. The cost of taking such fingerprints shall be included in the portion of the fee retained by the sheriff.

(2) The sheriff of the applicant's county of residence *or the chief law enforcement officer of any law enforcement agency*, at the sheriff's *or chief law enforcement officer's* discretion, may participate in the process by submitting a voluntary report to the attorney general containing readily discoverable information, corroborated through public records, which,

when combined with another enumerated factor, establishes that the applicant poses a significantly greater threat to law enforcement or the public at large than the average citizen. Any such voluntary reporting shall be made within 45 days after the date the sheriff receives the application. Any sheriff or *chief* law enforcement officer submitting a voluntary report shall not incur any civil or criminal liability as the result of the good faith submission of such report.

(3) All funds retained by the sheriff pursuant to the provisions of this section shall be ~~deposited in the general fund of the county and shall be budgeted to the use~~ credited to a special fund of the sheriff's office which shall be used solely for law enforcement and criminal prosecution purposes and which shall not be used as a source of revenue to meet normal operating expenses of the sheriff's office.

(d) Each applicant shall be subject to a state and national criminal history records check which conforms to applicable federal standards for the purpose of verifying the identity of the applicant and whether the applicant has been convicted of any crime that would disqualify the applicant from holding a license under this act. The attorney general is authorized to use the information obtained from the national criminal history record check to determine the applicant's eligibility for such license.

(e) Within 180 days after the date of receipt of the items listed in subsection (b), for applications received before July 1, 2007, and within 90 days after the date of receipt of the items listed in subsection (b), for applications received on or after July 1, 2007, the attorney general shall:

(1) Issue the license *and certify the issuance to the department of revenue*; or

(2) deny the application based solely on: (A) The report submitted by the sheriff *or other chief law enforcement officer* under subsection (c)(2) for good cause shown therein; or (B) the ground that the applicant fails to qualify under the criteria listed in section 4 of 2006 Senate Bill No. 418, and amendments thereto. If the attorney general denies the application, the attorney general shall notify the applicant in writing, stating the ground for denial and informing the applicant ~~of any right to the opportunity for a hearing pursuant to the Kansas administrative procedure act.~~

(f) *Each person issued a license shall pay to the department of revenue fees for the cost of the license and the photograph to be placed on the license, which shall be in amounts equal to the fees required pursuant to K.S.A. 8-243 and 8-246, and amendments thereto, for a driver's license photograph and replacement of a driver's license.*

(g) A person who is a retired law enforcement officer, as defined in K.S.A. 21-3110, and amendments thereto, shall be: (1) ~~Exempt from the Required to pay an original license fee of \$100, which fee shall be in the form of two cashier checks or money orders, \$40 payable to the sheriff of the county where the applicant resides and \$60 payable to the attorney general,~~ (2) exempt from the required completion of a weapons safety and training course if such person was certified by the Kansas law enforcement training commission not more than eight years prior to submission of the application; (3) required to pay the license renewal fee; ~~and~~ (4) *required to pay to the department of revenue the fees required by subsection (f);* and (5) required to comply with the criminal history records check requirement of this section.

Sec. 4. Section 6 of 2006 Senate Bill No. 418 is hereby amended to read as follows: Sec. 6. (a) *The attorney general shall be the official custodian of all records relating to licenses issued pursuant to the personal and family protection act.*

(b) *Except as provided by subsections (c) and (d), records relating to persons issued licenses pursuant to this act, persons applying for licenses pursuant to this act or persons who have had a license denied pursuant to this act shall be confidential and shall not be disclosed in a manner which enables identification of any such person. Any disclosure of a record in violation of this subsection is a class A misdemeanor.*

(c) *Records of a person whose license has been suspended or revoked pursuant to this act shall be subject to public inspection in accordance with the open records act.*

(d) The attorney general shall maintain an automated listing of license holders and pertinent information, and such information shall be available, upon request, at all times to all law enforcement agencies in this state, other states and the District of Columbia.

~~(b)~~ (e) Within 30 days after the changing of a permanent address, or within 30 days after having a license lost or destroyed, the licensee shall notify the attorney general of such change, loss or destruction. The attorney general, upon notice and *opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act*, may order a licensee to pay a fine of not more than \$100, or may suspend the licensee's license for not more than 180 days, for failure to notify the attorney general pursuant to the provisions of this subsection.

~~(c)~~ (f) In the event that a concealed weapon license is lost or destroyed, the license shall be automatically invalid, and the person to whom the license was issued, upon payment of \$15 to the attorney general, may obtain a duplicate, or substitute thereof, upon furnishing a notarized statement to the attorney general that such license has been lost or destroyed.

Sec. 5. Section 7 of 2006 Senate Bill No. 418 is hereby amended to read as follows: Sec. 7. (a) *In accordance with the provisions of the Kansas administrative procedure act*, the attorney general shall deny a license to any applicant for license who is ineligible under section 4 of 2006 Senate Bill No. 418, and amendments thereto, and, except as provided by subsection (b), shall ~~suspend or~~ revoke at any time the license of any person who would be ineligible under section 4 of 2006 Senate Bill No. 418, and amendments thereto, if submitting an application for a license at such time or who fails to submit evidence of completion of a weapons safety and training course as required by subsection (c) of section 4 of 2006 Senate Bill No. 418, and amendments thereto. ~~The suspension or revocation shall be subject to~~ Any review by the district court in accordance with the act for judicial review and civil enforcement of agency actions shall be in Shawnee county. The ~~suspension or~~ revocation shall remain in effect pending any appeal and shall not be stayed by the court.

(b) *The license of a person who would be ineligible pursuant to subsection (a)(6) of section 4 of 2006 Senate Bill No. 418, and amendments thereto, shall be subject to suspension and shall be reinstated upon final disposition of the charge as long as the person is otherwise eligible for a license.*

~~(b)~~ (c) The sheriff of the county where a restraining order is issued that would prohibit issuance of a license under subsection (a)~~(11)~~ (13) of section 4 of 2006 Senate Bill No. 418, and amendments thereto, shall notify the attorney general immediately upon receipt of such order. If the person subject to the restraining order holds a license issued pursuant to this act, the attorney general immediately shall revoke such license upon receipt of notice of the issuance of such order. The attorney general shall adopt rules and regulations establishing procedures which allow for 24-hour notification and revocation of a license under the circumstances described in this subsection.

Sec. 6. Section 8 of 2006 Senate Bill No. 418 is hereby amended to read as follows: Sec. 8. (a) Not less than 90 days prior to the expiration date of the license, the attorney general shall mail to the licensee a written notice of the expiration and a renewal form prescribed by the attorney general. The licensee shall renew the license on or before the expiration date by filing with the sheriff of the applicant's county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in section 4 of 2006 Senate Bill No. 418, and amendments thereto, a full frontal view photograph of the applicant taken within the preceding 30 days and a nonrefundable license renewal fee ~~not to exceed~~ of \$100 which fee shall be in the form of two cashier checks or money orders, one of \$50 payable to the sheriff of the county where the applicant resides and one of \$50 payable to the attorney general. The license shall be renewed upon receipt of the completed renewal application and appropriate payment of fees. A licensee who fails to file a renewal application on or before the expiration date of the license must pay an additional late fee of \$15.

(b) If the licensee is qualified as provided by this act, the license shall

be renewed upon receipt by the attorney general of the items listed in subsection (a).

(c) No license shall be renewed six months or more after the expiration date of the license, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure but an application for licensure and fees pursuant to section 5 of 2006 Senate Bill No. 418, and amendments thereto, shall be submitted, and a background investigation shall be conducted pursuant to the provisions of that section.

Sec. 7. Section 10 of 2006 Senate Bill No. 418 is hereby amended to read as follows: Sec. 10. (a) No license issued pursuant to this act shall authorize the licensee to carry a concealed weapon into:

- (1) Any place where an activity declared a common nuisance by K.S.A. 22-3901, and amendments thereto, is maintained;
- (2) any police, sheriff or highway patrol station;
- (3) any detention facility, prison or jail;
- (4) any courthouse;
- (5) any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in the judge's courtroom;
- (6) any polling place on the day an election is held;
- (7) any meeting of the governing body of a county, city or other political or taxing subdivision of the state, or any committee or subcommittee thereof;
- (8) on the state fairgrounds;
- (9) any state office building;
- (10) any athletic event not related to or involving firearms which is sponsored by a private or public elementary or secondary school or any private or public institution of postsecondary education;
- (11) any professional athletic event not related to or involving firearms;
- (12) any portion of a drinking establishment as defined by K.S.A. 41-2601, and amendments thereto, except that this provision shall not apply to a restaurant as defined by K.S.A. 41-2601, and amendments thereto;
- (13) any elementary or secondary school ~~building or structure used for student instruction or attendance~~, *attendance center, administrative office, services center or other facility*;
- (14) any community college, college or university facility;
- (15) any place where the carrying of firearms is prohibited by federal or state law;
- (16) any child exchange and visitation center provided for in K.S.A. 75-720, and amendments thereto;
- (17) any community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; mental health clinic organized pursuant to K.S.A. 65-211 et seq., and amendments thereto; psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto; or state psychiatric hospital, as follows: Larned state hospital, Osawatomie state hospital or Rainbow mental health facility;
- (18) any city hall;
- (19) any public library operated by the state or by a political subdivision of the state;
- (20) any day care home or group day care home, as defined in Kansas administrative regulation 28-4-113, or any preschool or childcare center, as defined in Kansas administrative regulation 28-4-420; ~~or~~
- (21) any church or temple; *or*
- (22) *any place in violation of K.S.A. 21-4218, and amendments thereto.*

(b) Violation of this section is a class A misdemeanor.

Sec. 8. Section 11 of 2006 Senate Bill No. 418 is hereby amended to read as follows: Sec. 11. (a) Nothing in this act shall be construed to prevent:

- (1) Any public or private employer from restricting or prohibiting in any manner persons licensed under this act from carrying a concealed weapon while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer; or
- (2) any entity owning or operating business premises open to the public from restricting or prohibiting in any manner persons licensed

under this act from carrying a concealed weapon while on such premises, provided that the premises are posted, ~~in a manner reasonably likely to come to the attention of persons entering the premises in accordance with rules and regulations adopted by the attorney general pursuant to this section~~, as premises where carrying a concealed weapon is prohibited; or

(3) a property owner from restricting or prohibiting in any manner persons licensed under this act from carrying a concealed weapon while on such property, provided that the premises are posted, ~~in a manner reasonably likely to come to the attention of persons entering the property in accordance with rules and regulations adopted by the attorney general pursuant to this section~~, as premises where carrying a concealed weapon is prohibited.

(b) Carrying a concealed weapon on premises in violation of any restriction or prohibition allowed by subsection (a) (1), or in violation of any restriction or prohibition allowed by subsection ~~(b) or (c)~~ (a)(2) or (a)(3) if the premises are posted as required by such subsection, is a class B misdemeanor.

(c) *The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on premises pursuant to subsections (a)(2) and (a)(3).*

Sec. 9. Section 12 of 2006 Senate Bill No. 418 is hereby amended to read as follows: Sec. 12. (a) It is a class A nonperson misdemeanor for a person licensed pursuant to this act to carry a concealed weapon while under the influence of alcohol or drugs, or both.

(b) *In any criminal prosecution for carrying a concealed weapon while under the influence of alcohol or drugs, or both, evidence of the concentration of alcohol or drugs in the defendant's blood, urine, breath or other bodily substance may be admitted and shall give rise to the following:*

(1) *If the alcohol concentration is less than .08, that fact may be considered with other competent evidence to determine if the defendant was under the influence of alcohol, or both alcohol and drugs.*

(2) *If the alcohol concentration is .08 or more, it shall be prima facie evidence that the defendant was under the influence of alcohol.*

(3) *If there was present in the defendant's bodily substance any narcotic, hypnotic, somnifacient, stimulating or other drug which has the capacity to render the defendant incapacitated, that fact may be considered to determine if the defendant was under the influence of drugs, or both alcohol and drugs.*

(c) *The provisions of subsection (b) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol or drugs, or both.*

(d) *Any person licensed pursuant to this act is deemed to have given consent to submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The testing deemed consented to under this subsection shall include all quantitative and qualitative tests for alcohol and drugs. A law enforcement officer shall request a person to submit to a test or tests deemed consented to under this subsection if such person is arrested or otherwise taken into custody for any offense involving carrying of a concealed weapon while under the influence of alcohol or drugs, or both, in violation of this section and the arresting officer has reasonable grounds to believe that prior to arrest the person was carrying a concealed weapon under the influence of alcohol or drugs, or both. The test or tests shall be administered in the manner provided by for administration of tests for alcohol or drugs pursuant to K.S.A. 8-1001, and amendments thereto, and the person performing or assisting in the performance of any such test and the law enforcement officer requesting any such test shall be immune from civil and criminal liability to the same extent as in the case of tests performed pursuant to that statute.*

(e) *Before a test or tests are administered under this section, the person shall be given oral and written notice that:*

(1) *Kansas law requires the person to submit to and complete one or more tests of breath, blood or urine to determine if the person is under the influence of alcohol or drugs, or both;*

(2) *the opportunity to consent to or refuse a test is not a constitutional right;*

(3) *there is no constitutional right to consult with an attorney regarding whether to submit to testing;*

(4) *if the person refuses to submit to and complete any test of breath, blood or urine hereafter requested by a law enforcement officer, the person's license to carry a concealed weapon will be revoked for a minimum of three years; and*

(5) *after the completion of the testing, the person has the right to consult with an attorney and may secure additional testing, which, if desired, should be done as soon as possible and is customarily available from medical care facilities and physicians.*

(f) *After giving the foregoing information, a law enforcement officer shall request the person to submit to testing. The selection of the test or tests shall be made by the officer. If the person refuses to submit to and complete a test as requested pursuant to this section, additional testing shall not be given unless the law enforcement officer has probable cause to believe that the person while under the influence of alcohol or drugs, or both, was carrying a concealed weapon used in killing or seriously injuring another person. If the test results show a blood or breath alcohol concentration of .08 or greater, the person's license to carry a concealed weapon shall be subject to suspension or revocation pursuant to this act.*

(g) *The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of carrying a concealed weapon while under the influence of alcohol or drugs, or both.*

(h) *Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.*

(i) (1) *If the person refuses to submit to testing when requested pursuant to this section, the person's weapon and license shall be seized by the law enforcement officer and the person's license shall be forwarded to the attorney general, together with the officer's certification of the following: (A) There existed reasonable grounds to believe the person was carrying a concealed weapon while under the influence of alcohol or drugs, or both, and a statement of such grounds; (B) the person had been placed under arrest or was in custody; (C) a law enforcement officer had presented the person with the oral and written notice required by this section; and (D) the person refused to submit to and complete a test as requested by a law enforcement officer.*

(2) *If the person fails a test administered pursuant to this section, the person's weapon and license shall be seized by the law enforcement officer and the person's license shall be forwarded to the attorney general, together with the officer's certification of the following: (A) There existed reasonable grounds to believe the person was carrying a concealed weapon while under the influence of alcohol or drugs, or both; (B) the person had been placed under arrest or was in custody; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; and (D) the result of the test showed that the person had an alcohol concentration of .08 or greater in such person's blood or breath.*

(3) *With regard to failure of a breath test, in addition to those matters required to be certified under subsection (h)(2), the law enforcement officer shall certify that: (A) The testing equipment used was certified by the Kansas department of health and environment; (B) the testing procedures used were in accordance with the requirements set out by the Kansas department of health and environment; and (C) the person who operated the testing equipment was certified by the Kansas department of health and environment to operate such equipment.*

(4) *For purposes of this subsection, certification shall be complete upon signing, and no additional acts of oath, affirmation, acknowledgment or proof of execution shall be required. The signed certification or a copy or photostatic reproduction thereof shall be admissible in evidence in all proceedings brought pursuant to this act, and receipt of any such certification, copy or reproduction shall accord the department authority to proceed as set forth herein. Any person who signs a certification submitted to the attorney general knowing it contains a false statement is guilty of a class B nonperson misdemeanor.*



(5) *Upon receipt of a certification in accordance with this section, the attorney general shall revoke the person's license for three years.*

(j) *It shall not be a defense that the person did not understand the written or oral notice required by this section.*

(k) *No test results shall be suppressed because of technical irregularities in the consent or notice required pursuant to this act.*

(l) *Nothing in this section shall be construed to limit the admissibility at any trial of alcohol or drug concentration testing results obtained pursuant to a search warrant.*

(m) *Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.*

Sec. 10. K.S.A. 21-4218 is hereby amended to read as follows: 21-4218. (a) Possession of a firearm on the grounds of or in the state capitol building, within the governor's residence, on the grounds of or in any building on the grounds of the governor's residence, within the state office building at 915 Harrison known as the Docking state office building, within the state office building at 900 Jackson known as the Landon state office building, within the Kansas judicial center at 301 West 10th, 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, and within any county courthouse, unless, by county resolution, the board of county commissioners authorize the possession of a firearm within such courthouse, is possession of a firearm by a person other than a commissioned law enforcement officer, a full-time salaried law enforcement officer of another state or the federal government who is carrying out official duties while in this state, any person summoned by any such officer to assist in making arrests or preserving the peace while actually engaged in assisting such officer or a member of the military of this state or the United States engaged in the performance of duties who brings a firearm into, or possesses a firearm within, the state capitol building, any state legislative office, any office of the governor or office of other state government elected official, any hearing room in which any committee of the state legislature or either house thereof is conducting a hearing, the governor's residence, on the grounds of or in any building on the grounds of the governor's residence or the Landon state office building, Docking state office building, Kansas judicial center, county courthouses unless otherwise allowed, or any other state-owned or leased building, so designated.

(b) It is not a violation of this section for the governor, the governor's immediate family, or specifically authorized guests 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.

(c) Violation of subsection (a) is a class ~~B nonperson select misdemeanor~~ *A misdemeanor*.

(d) This section shall be part of and supplemental to the Kansas criminal code.

New Sec. 11. (a) On or before September 1, 2006, every district court shall review all files dated on or after July 1, 1998, concerning mentally ill persons subject to involuntary commitment for care and treatment as defined in K.S.A. 59-2946, and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto.

(b) If the court ordered treatment pursuant to K.S.A. 59-2966 or 59-29b66, and amendments thereto, the clerk of the court shall report such order to the Kansas bureau of investigation.

(c) A copy of such orders shall be delivered by the clerk of the court to the Kansas bureau of investigation on or before September 1, 2006. The Kansas bureau of investigation shall immediately enter the order into the national criminal information center and other appropriate databases.

(d) The Kansas bureau of investigation shall ensure the accuracy of the entries and the court shall ensure the validity of the orders.

(e) Upon a finding that the mentally ill person is a danger to self or others, the court shall notify the mentally ill person subject to involuntary commitment for care and treatment that it is a violation of the law to

possess a firearm. Upon a finding that a proposed patient is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment, the court shall notify the person that it is a violation of the law to possess a firearm. Upon release, the state hospital shall notify the patient that it is a violation of the law for the patient to possess a firearm and provide information to the patient regarding the restoration procedure.

New Sec. 12. On and after July 1, 2007, (a) a person who has been discharged pursuant to K.S.A. 59-2973 or 59-29b73, and amendments thereto, may file a petition in the court where treatment was ordered pursuant to K.S.A. 59-2966 or 59-29b66, and amendments thereto, for the restoration of the ability to legally possess a firearm.

(b) Notice of the filing of such petition shall be served on the petitioner who originally filed the action pursuant to K.S.A. 59-2952, 59-2957, 59-29b52 or 59-29b57, and amendments thereto, or the petitioner's attorney and the county or district attorney as appropriate.

(c) If the court finds the person is no longer likely to cause harm to such person's self or others, the court shall issue a certificate of restoration to the person. Such restoration shall have the effect of restoring the person's ability to legally possess a firearm, and the certification of restoration shall so state.

(d) The certificate of registration issued pursuant to this section shall only apply to the possession of a firearm for the purposes of an alleged violation of subsection (a)(7) of K.S.A. 21-4204, and amendments thereto.

Sec. 13. On and after January 1, 2007, K.S.A. 2005 Supp. 21-4203 is hereby amended to read as follows: 21-4203. (a) Criminal disposal of firearms is knowingly:

(1) selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age;

(2) selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;

(3) selling, giving or otherwise transferring any firearm to any person who, within the preceding five years, has been convicted of a felony, other than those specified in subsection (b), under the laws of this or any other jurisdiction or has been released from imprisonment for a felony and was found not to have been in possession of a firearm at the time of the commission of the offense;

(4) selling, giving or otherwise transferring any firearm to any person who, within the preceding 10 years, has been convicted of a felony to which this subsection applies, but was not found to have been in the possession of a firearm at the time of the commission of the offense, or has been released from imprisonment for such a crime, and has not had the conviction of such crime expunged or been pardoned for such crime;

~~or~~

(5) selling, giving or otherwise transferring any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction and was found to have been in possession of a firearm at the time of the commission of the offense; *or*

(6) *selling, giving or otherwise transferring any firearm to any person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto, and such person has not received a certificate of restoration pursuant to section 12, and amendments thereto.*

(b) Subsection (a)(4) shall apply to a felony under K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a or 65-4127b, or 65-4160 through 65-4164 or K.S.A. 2005 Supp. 21-3442, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as such felony.

(c) Criminal disposal of firearms is a class A nonperson misdemeanor.

Sec. 14. On and after January 1, 2007, K.S.A. 2005 Supp. 21-4204 is hereby amended to read as follows: 21-4204. (a) Criminal possession of a firearm is:

(1) Possession of any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(2) possession of any firearm by a person who has been convicted of a person felony or a violation of any provision of the uniform controlled substances act under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony or violation, or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony or a violation of any provision of the uniform controlled substances act, and was found to have been in possession of a firearm at the time of the commission of the offense;

(3) possession of any firearm by a person who, within the preceding five years has been convicted of a felony, other than those specified in subsection (a)(4)(A), under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for a felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a felony, and was found not to have been in possession of a firearm at the time of the commission of the offense;

(4) possession of any firearm by a person who, within the preceding 10 years, has been convicted of: (A) A felony under K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a or 65-4127b, or 65-4160 through 65-4164 or K.S.A. 2005 Supp. 21-3442, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for such felony, or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of such felony, was found not to have been in possession of a firearm at the time of the commission of the offense, and has not had the conviction of such crime expunged or been pardoned for such crime; or (B) a nonperson felony under the laws of Kansas or a crime under the laws of another jurisdiction which is substantially the same as such nonperson felony, has been released from imprisonment for such nonperson felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony, and was found to have been in possession of a firearm at the time of the commission of the offense;

(5) possession of any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades 1 through 12 or at any regularly scheduled school sponsored activity or event; ~~or~~

(6) refusal to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer; *or*

(7) *possession of any firearm by a person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto.*

(b) Subsection (a)(5) shall not apply to:

(1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;

(2) any possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;

(3) possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student; or

(4) possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day.

(c) *Subsection (a)(7) shall not apply to a person who has received a certificate of restoration pursuant to section 12, and amendments thereto.*

(d) Violation of subsection (a)(1) or (a)(5) is a class B nonperson select misdemeanor; violation of subsection (a)(2), (a)(3) ~~or~~, (a)(4) *or (a)(7)* is a severity level 8, nonperson felony; violation of subsection (a)(6) is a class A nonperson misdemeanor.

Sec. 15 On and after July 1, 2007, K.S.A. 59-2948 is hereby amended to read as follows: 59-2948. (a) The fact that a person may have voluntarily accepted any form of psychiatric treatment, or become subject to a court order entered under authority of this act, shall not be construed to mean that such person shall have lost any civil right they otherwise would have as a resident or citizen, any property right or their legal capacity, except as may be specified within any court order or as otherwise limited by the provisions of this act or the reasonable rules and regulations which the head of a treatment facility may for good cause find necessary to make for the orderly operations of that facility. No person held in custody under the provisions of this act shall be denied the right to apply for a writ of habeas corpus.

(b) There shall be no implication or presumption that a patient within the terms of this act is for that reason alone a person in need of a guardian or a conservator as provided for in K.S.A. 59-3050 through 59-3095, and amendments thereto.

(c) *A person who is a mentally ill person subject to involuntary commitment for care and treatment as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto, shall be subject to K.S.A. 21-4204, and amendments thereto.*

Sec. 16. On and after July 1, 2007, K.S.A. 59-2966 is hereby amended to read as follows: 59-2966. (a) Upon the completion of the trial, if the court or jury finds by clear and convincing evidence that the proposed patient is a mentally ill person subject to involuntary commitment for care and treatment under this act, the court shall order treatment for such person for a specified period of time not to exceed three months from the date of the trial at a treatment facility, except that the court shall not order treatment at a state psychiatric hospital, unless a written statement from a qualified mental health professional authorizing such treatment at a state psychiatric hospital has been filed with the court. *Whenever an involuntary patient is ordered to receive treatment, the clerk of the district court shall send a copy of the order to the Kansas bureau of investigation within five days after receipt of the order. The Kansas bureau of investigation shall immediately enter the order into the national criminal information center and other appropriate databases.* An order for treatment in a treatment facility other than a state psychiatric hospital shall be conditioned upon the consent of the head of that treatment facility to accepting the patient. In the event no other appropriate treatment facility has agreed to provide treatment for the patient, and no qualified mental health professional has authorized treatment at a state psychiatric hospital, the participating mental health center for the county in which the patient resides shall be given responsibility for providing or securing treatment for the patient or if no county of residence can be determined for the patient, then the participating mental health center for the county in which the patient was taken into custody or in which the petition was filed shall be given responsibility for providing or securing treatment for the patient.

(b) A copy of the order for treatment shall be provided to the head of the treatment facility.

(c) When the court orders treatment, it shall retain jurisdiction to modify, change or terminate such order, unless venue has been changed pursuant to K.S.A. 59-2971 and amendments thereto and then the receiving court shall have continuing jurisdiction.

(d) If the court finds from the evidence that the proposed patient has not been shown to be a mentally ill person subject to involuntary com-

mitment for care and treatment under this act the court shall release the person and terminate the proceedings.

Sec. 17. On and after July 1, 2007, K.S.A. 59-2974 is hereby amended to read as follows: 59-2974. The head of the treatment facility shall notify, in writing, the patient, the patient’s attorney, the petitioner or the petitioner’s attorney, the county or district attorney as appropriate, and the district court which has jurisdiction over the patient of the patient’s discharge pursuant to K.S.A. 59-2973 and amendments thereto. When a notice of discharge is received, the court shall file the same which shall terminate the proceedings, unless there has been issued a superseding inpatient or outpatient treatment order not being discharged by the notice. *Whenever a person who is involuntarily committed to a state psychiatric hospital is released by order of the court or termination of the case, the court shall review the case upon request of the patient, and may order the issuance of the certificate of restoration pursuant to section 12, and amendments thereto. If the court issues such release or termination and certificate, the court shall order the clerk of the district court to report the release or termination of the case and the certificate of restoration to the Kansas bureau of investigation within five days after the order.*

Sec. 18. On and after July 1, 2007, K.S.A. 59-104 is hereby amended to read as follows: 59-104. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court under the provisions of chapter 59 of the Kansas Statutes Annotated or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated without payment of an appropriate docket fee as follows:

Treatment of mentally ill .....	<del>\$25.50</del> 50.00
Treatment of alcoholism or drug abuse.....	25.50
Determination of descent of property .....	40.50
Termination of life estate.....	39.50
Termination of joint tenancy .....	39.50
Refusal to grant letters of administration .....	39.50
Adoption.....	39.50
Filing a will and affidavit under K.S.A. 59-618a.....	39.50
Guardianship .....	60.50
Conservatorship.....	60.50
Trusteeship.....	60.50
Combined guardianship and conservatorship.....	60.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto.....	14.50
Decrees in probate from another state .....	99.50
Probate of an estate or of a will .....	100.50
Civil commitment under K.S.A. 59-29a01 et seq.....	24.50

(b) *Poverty affidavit in lieu of docket fee and exemptions.* The provisions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and amendments thereto, shall apply to probate docket fees prescribed by this section.

(c) *Disposition of docket fee.* Statutory charges for the law library and for the prosecuting attorneys’ training fund shall be paid from the docket fee. The remainder of the docket fee shall be paid to the state treasurer in accordance with K.S.A. 20-362, and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, transcripts and publication of legal notice, executor or administrator fees, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 19. On and after July 1, 2007, K.S.A. 59-29b48 is hereby amended to read as follows: 59-29b48. (a) The fact that a person may have voluntarily accepted any form of treatment for an alcohol or substance abuse problem, or become subject to a court order entered under authority of this act, shall not be construed to mean that such person shall have lost any civil right they otherwise would have as a resident or citizen, any property right or their legal capacity, except as may be specified within any court order or as otherwise limited by the provisions of this act or the reasonable rules and regulations which the head of a treatment

facility may for good cause find necessary to make for the orderly operations of that facility. No person held in custody under the provisions of this act shall be denied the right to apply for a writ of habeas corpus.

(b) There shall be no implication or presumption that a patient within the terms of this act is for that reason alone a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.

(c) *A person who is a mentally ill person subject to involuntary commitment for care and treatment as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto, shall be subject to K.S.A. 21-4204, and amendment thereto.*

Sec. 20. On and after July 1, 2007, K.S.A. 59-29b66 is hereby amended to read as follows: 59-29b66. (a) Upon the completion of the trial, if the court or jury finds by clear and convincing evidence that the proposed patient is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act, the court shall order treatment for such person for a specified period of time not to exceed three months from the date of the trial at a treatment facility. *Whenever an involuntary patient is ordered to receive treatment, the clerk of the district court shall send a copy of the order to the Kansas bureau of investigation within five days after receipt of the order. The Kansas bureau of investigation shall immediately enter the order into the national criminal information center and other appropriate databases.* An order for treatment in a treatment facility shall be conditioned upon the consent of the head of that treatment facility to accepting the patient. In the event no appropriate treatment facility has agreed to provide treatment for the patient, then the secretary of social and rehabilitation services shall be given responsibility for providing or securing treatment for the patient.

(b) A copy of the order for treatment shall be provided to the head of the treatment facility.

(c) When the court orders treatment, it shall retain jurisdiction to modify, change or terminate such order, unless venue has been changed pursuant to K.S.A. 59-29b71 and amendments thereto and then the receiving court shall have continuing jurisdiction.

(d) If the court finds from the evidence that the proposed patient has not been shown to be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act, the court shall release the person and terminate the proceedings.

Sec. 21. On and after July 1, 2007, K.S.A. 59-29b74 is hereby amended to read as follows: 59-29b74. The head of the treatment facility shall notify, in writing, the patient, the patient's attorney, the petitioner or the petitioner's attorney, the county or district attorney as appropriate, and the district court which has jurisdiction over the patient of the patient's discharge pursuant to K.S.A. 59-29b73 and amendments thereto. When a notice of discharge is received, the court shall file the same which shall terminate the proceedings, unless there has been issued a superseding inpatient or outpatient treatment order not being discharged by the notice. *Whenever a person who is involuntarily committed to a state psychiatric hospital is released by order of the court of termination of the case, the court shall review the case upon request of the patient, and may order the issuance of the certificate of restoration pursuant to section 12, and amendments thereto. If the court issues such release or termination and certificate, the court shall order the clerk of the district court to report the release or termination of the case and the certificate of restoration to the Kansas bureau of investigation within five days after the order*

Sec. 22. K.S.A. 21-4218, and sections 3, 4, 5, 6, 7, 8, 10, 11 and 12 of 2006 Senate Bill No. 418 are hereby repealed.

Sec. 23. On and after January 1, 2007, K.S.A. 2005 Supp. 21-4203 and 21-4204 are hereby repealed.

Sec. 24. On and after July 1, 2007, K.S.A. 59-104, 59-2948, 59-2966, 59-2974, 59-29b48, 59-29b66 and 59-29b74 are hereby repealed.

Sec. 25. 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

\_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*