

*As Amended by Senate Committee*

Session of 2007

**SENATE BILL No. 301**

By Senator Betts

2-6

10 AN ACT concerning criminal procedure; dealing with expungement;  
11 amending K.S.A. ~~2006 Supp. 12-4516 and 21-4619~~ **21-4619 and**  
12 **K.S.A. 2007 Supp. 12-4516** and repealing the existing sections; ~~also~~  
13 ~~repealing K.S.A. 2006 Supp. 21-4619e.~~

14

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

16 ~~Section 1.—K.S.A. 2006 Supp. 12-4516 is hereby amended to read as~~  
17 ~~follows: 12-4516. (a) (1) Except as provided in subsection (b) or (c), any~~  
18 ~~person who has been convicted of a violation of a city ordinance of this~~  
19 ~~state may petition the convicting court for the expungement of such con-~~  
20 ~~viction and related arrest records if three *two* or more years have elapsed~~  
21 ~~since the person:~~

22 ~~—(A)—Satisfied the sentence imposed; or~~

23 ~~—(B)—was discharged from probation, parole or a suspended sentence.~~

24 ~~—(2)—Except as provided in subsection (b) or (c), any person who has~~  
25 ~~fulfilled the terms of a diversion agreement based on a violation of a city~~  
26 ~~ordinance of this state may petition the court for the expungement of~~  
27 ~~such diversion agreement and related arrest records if three or more years~~  
28 ~~have elapsed since the terms of the diversion agreement were fulfilled.~~

29 ~~—(b)—No person may petition for expungement until five or more years~~  
30 ~~have elapsed since the person satisfied the sentence imposed or the terms~~  
31 ~~of a diversion agreement or was discharged from probation, parole, con-~~  
32 ~~ditional release or a suspended sentence, if such person was convicted of~~  
33 ~~the violation of a city ordinance which would also constitute:~~

34 ~~—(1)—Vehicular homicide, as defined by K.S.A. 21-3405, and amend-~~  
35 ~~ments thereto;~~

36 ~~—(2)—driving while the privilege to operate a motor vehicle on the public~~  
37 ~~highways of this state has been canceled, suspended or revoked, as pro-~~  
38 ~~hibited by K.S.A. 8-262, and amendments thereto;~~

39 ~~—(3)—perjury resulting from a violation of K.S.A. 8-261a, and amend-~~  
40 ~~ments thereto;~~

41 ~~—(4)—a violation of the provisions of the fifth clause of K.S.A. 8-142,~~  
42 ~~and amendments thereto, relating to fraudulent applications;~~

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

1 used in the perpetration of such crime;  
2 ~~—(6) failing to stop at the scene of an accident and perform the duties~~  
3 ~~required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;~~  
4 ~~—(7) a violation of the provisions of K.S.A. 40-3104, and amendments~~  
5 ~~thereto, relating to motor vehicle liability insurance coverage; or~~  
6 ~~—(8) a violation of K.S.A. 21-3405b, and amendments thereto.~~  
7 ~~—(c) There shall be no expungement of convictions or diversions for a~~  
8 ~~violation of a city ordinance which would also constitute a violation of~~  
9 ~~K.S.A. 8-1567 or 8-2,144, and amendments thereto.~~  
10 ~~—(d) When a petition for expungement is filed, the court shall set a~~  
11 ~~date for a hearing of such petition and shall cause notice of such hearing~~  
12 ~~to be given to the prosecuting attorney and the arresting law enforcement~~  
13 ~~agency. The petition shall state: (1) The defendant's full name;~~  
14 ~~—(2) the full name of the defendant at the time of arrest, conviction or~~  
15 ~~diversion, if different than the defendant's current name;~~  
16 ~~—(3) the defendant's sex, race and date of birth;~~  
17 ~~—(4) the crime for which the defendant was arrested, convicted or~~  
18 ~~diverted;~~  
19 ~~—(5) the date of the defendant's arrest, conviction or diversion, and~~  
20 ~~—(6) the identity of the convicting court, arresting law enforcement~~  
21 ~~agency or diverting authority. A municipal court may prescribe a fee to~~  
22 ~~be charged as costs for a person petitioning for an order of expungement~~  
23 ~~pursuant to this section. Any person who may have relevant information~~  
24 ~~about the petitioner may testify at the hearing. The court may inquire~~  
25 ~~into the background of the petitioner and shall have access to any reports~~  
26 ~~or records relating to the petitioner that are on file with the secretary of~~  
27 ~~corrections or the Kansas parole board.~~  
28 ~~—(e) At the hearing on the petition, the court shall order the peti-~~  
29 ~~tioner's arrest record, conviction or diversion expunged if the court finds~~  
30 ~~that:~~  
31 ~~—(1) The petitioner has not been convicted of a felony in the past two~~  
32 ~~years and no proceeding involving any such crime is presently pending~~  
33 ~~or being instituted against the petitioner;~~  
34 ~~—(2) the circumstances and behavior of the petitioner warrant the~~  
35 ~~expungement, and~~  
36 ~~—(3) the expungement is consistent with the public welfare.~~  
37 ~~—(f) When the court has ordered an arrest record, conviction or diver-~~  
38 ~~sion expunged, the order of expungement shall state the information re-~~  
39 ~~quired to be contained in the petition. The clerk of the court shall send~~  
40 ~~a certified copy of the order of expungement to the Kansas bureau of~~  
41 ~~investigation which shall notify the federal bureau of investigation, the~~  
42 ~~secretary of corrections and any other criminal justice agency which may~~  
43 ~~have a record of the arrest, conviction or diversion. After the order of~~

1 expungement is entered, the petitioner shall be treated as not having been  
2 arrested, convicted or diverted of the crime, except that:

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

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

8 —(A)— In any application for employment as a detective with a private  
9 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;  
10 as security personnel with a private patrol operator, as defined by K.S.A.  
11 75-7b01, and amendments thereto, or with an institution, as defined in  
12 K.S.A. 76-12a01, and amendments thereto, of the department of social  
13 and rehabilitation services;

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

16 —(C)— to aid in determining the petitioner's qualifications for employ-  
17 ment with the Kansas lottery or for work in sensitive areas within the  
18 Kansas lottery as deemed appropriate by the executive director of the  
19 Kansas lottery;

20 —(D)— to aid in determining the petitioner's qualifications for executive  
21 director of the Kansas racing commission, for employment with the com-  
22 mission or for work in sensitive areas in parimutuel racing as deemed  
23 appropriate by the executive director of the commission, or to aid in  
24 determining qualifications for licensure or renewal of licensure by the  
25 commission;

26 —(E)— upon application for a commercial driver's license under K.S.A.  
27 8-2,125 through 8-2,142, and amendments thereto;

28 —(F)— to aid in determining the petitioner's qualifications to be an em-  
29 ployee of the state gaming agency;

30 —(G)— to aid in determining the petitioner's qualifications to be an em-  
31 ployee of a tribal gaming commission or to hold a license issued pursuant  
32 to a tribal state gaming compact;

33 —(H)— in any application for registration as a broker-dealer, agent, in-  
34 vestment adviser or investment adviser representative all as defined in  
35 K.S.A. 2006 Supp. 17-12a102, and amendments thereto;

36 —(3)— the court, in the order of expungement, may specify other cir-  
37 cumstances under which the arrest, conviction or diversion is to be dis-  
38 closed; and

39 —(4)— the conviction may be disclosed in a subsequent prosecution for  
40 an offense which requires as an element of such offense a prior conviction  
41 of the type expunged; or

42 —(I)— in any application for employment as a law enforcement officer as  
43 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto.

- 1 ~~—(g) Whenever a person is convicted of an ordinance violation, pleads~~  
2 ~~guilty and pays a fine for such a violation, is placed on parole or probation~~  
3 ~~or is granted a suspended sentence for such a violation, the person shall~~  
4 ~~be informed of the ability to expunge the arrest records or conviction.~~  
5 ~~Whenever a person enters into a diversion agreement, the person shall~~  
6 ~~be informed of the ability to expunge the diversion.~~
- 7 ~~—(h) Subject to the disclosures required pursuant to subsection (f), in~~  
8 ~~any application for employment, license or other civil right or privilege,~~  
9 ~~or any appearance as a witness, a person whose arrest records, conviction~~  
10 ~~or diversion of an offense has been expunged under this statute may state~~  
11 ~~that such person has never been arrested, convicted or diverted of such~~  
12 ~~offense.~~
- 13 ~~—(i) Whenever the record of any arrest, conviction or diversion has~~  
14 ~~been expunged under the provisions of this section or under the provi-~~  
15 ~~sions of any other existing or former statute, the custodian of the records~~  
16 ~~of arrest, conviction, diversion and incarceration relating to that crime~~  
17 ~~shall not disclose the existence of such records, except when requested~~  
18 ~~by:~~
- 19 ~~—(1) The person whose record was expunged;~~  
20 ~~—(2) a private detective agency or a private patrol operator, and the~~  
21 ~~request is accompanied by a statement that the request is being made in~~  
22 ~~conjunction with an application for employment with such agency or op-~~  
23 ~~erator by the person whose record has been expunged;~~  
24 ~~—(3) a court, upon a showing of a subsequent conviction of the person~~  
25 ~~whose record has been expunged;~~  
26 ~~—(4) the secretary of social and rehabilitation services, or a designee of~~  
27 ~~the secretary, for the purpose of obtaining information relating to em-~~  
28 ~~ployment in an institution, as defined in K.S.A. 76-12a01, and amend-~~  
29 ~~ments thereto, of the department of social and rehabilitation services of~~  
30 ~~any person whose record has been expunged;~~  
31 ~~—(5) a person entitled to such information pursuant to the terms of the~~  
32 ~~expungement order;~~  
33 ~~—(6) a prosecuting attorney, and such request is accompanied by a~~  
34 ~~statement that the request is being made in conjunction with a prosecu-~~  
35 ~~tion of an offense that requires a prior conviction as one of the elements~~  
36 ~~of such offense;~~  
37 ~~—(7) the supreme court, the clerk or disciplinary administrator thereof,~~  
38 ~~the state board for admission of attorneys or the state board for discipline~~  
39 ~~of attorneys, and the request is accompanied by a statement that the~~  
40 ~~request is being made in conjunction with an application for admission,~~  
41 ~~or for an order of reinstatement, to the practice of law in this state by the~~  
42 ~~person whose record has been expunged;~~  
43 ~~—(8) the Kansas lottery, and the request is accompanied by a statement~~

1 that the request is being made to aid in determining qualifications for  
2 employment with the Kansas lottery or for work in sensitive areas within  
3 the Kansas lottery as deemed appropriate by the executive director of the  
4 Kansas lottery;

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

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

17 ~~—(11) the Kansas securities commissioner, or a designee of the com-~~  
18 ~~missioner, and the request is accompanied by a statement that the request~~  
19 ~~is being made in conjunction with an application for registration as a~~  
20 ~~broker-dealer, agent, investment adviser or investment adviser represen-~~  
21 ~~tative by such agency and the application was submitted by the person~~  
22 ~~whose record has been expunged;~~

23 ~~—(12) the attorney general, and the request is accompanied by a state-~~  
24 ~~ment that the request is being made to aid in determining qualifications~~  
25 ~~for a license to carry a concealed weapon pursuant to the personal and~~  
26 ~~family protection act;~~

27 ~~—(13) the Kansas sentencing commission;~~

28 ~~—(14) the Kansas law enforcement training commission [<sup>g</sup>] and the~~  
29 ~~request is accompanied by a statement that the request is being made to~~  
30 ~~aid in determining certification eligibility as a law enforcement officer~~  
31 ~~pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or~~

32 ~~—(15) a law enforcement agency and the request is accompanied by a~~  
33 ~~statement that the request is being made to aid in determining eligibility~~  
34 ~~for employment as a law enforcement officer as defined by K.S.A. 22-~~  
35 ~~2202, and amendments thereto.~~

36 ~~—Sec. 2. K.S.A. 2006 Supp. 21-4619 is hereby amended to read as~~  
37 ~~follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),~~  
38 ~~any person convicted in this state of a traffic infraction, cigarette or to-~~  
39 ~~bacco infraction, misdemeanor or a class D or E felony, or for crimes~~  
40 ~~committed on or after July 1, 1993, nondrug crimes ranked in severity~~  
41 ~~levels 6 through 10 or any felony ranked in severity level 4 of the drug~~  
42 ~~grid, may petition the convicting court for the expungement of such con-~~  
43 ~~viction or related arrest records if three *two* or more years have elapsed~~

1 since the person: (A) Satisfied the sentence imposed; or (B) was dis-  
2 charged from probation, a community correctional services program, pa-  
3 role, postrelease supervision, conditional release or a suspended sentence.  
4 —(2)— Except as provided in subsections (b) and (c), any person who has  
5 fulfilled the terms of a diversion agreement may petition the district court  
6 for the expungement of such diversion agreement and related arrest re-  
7 cords if three or more years have elapsed since the terms of the diversion  
8 agreement were fulfilled.  
9 —(b)— Except as provided in subsection (c), no person may petition for  
10 expungement until five or more years have elapsed since the person sat-  
11 isfied the sentence imposed, the terms of a diversion agreement or was  
12 discharged from probation, a community correctional services program,  
13 parole, postrelease supervision, conditional release or a suspended sen-  
14 tence, if such person was convicted of a class A, B or C felony, or for  
15 crimes committed on or after July 1, 1993, if convicted of an off-grid  
16 felony or any nondrug crime ranked in severity levels 1 through 5 or any  
17 felony ranked in severity levels 1 through 3 of the drug grid, or:  
18 —(1)— Vehicular homicide, as defined by K.S.A. 21-3405, and amend-  
19 ments thereto, or as prohibited by any law of another state which is in  
20 substantial conformity with that statute;  
21 —(2)— driving while the privilege to operate a motor vehicle on the public  
22 highways of this state has been canceled, suspended or revoked, as pro-  
23 hibited by K.S.A. 8-262, and amendments thereto, or as prohibited by  
24 any law of another state which is in substantial conformity with that  
25 statute;  
26 —(3)— perjury resulting from a violation of K.S.A. 8-261a, and amend-  
27 ments thereto, or resulting from the violation of a law of another state  
28 which is in substantial conformity with that statute;  
29 —(4)— violating the provisions of the fifth clause of K.S.A. 8-142, and  
30 amendments thereto, relating to fraudulent applications or violating the  
31 provisions of a law of another state which is in substantial conformity with  
32 that statute;  
33 —(5)— any crime punishable as a felony wherein a motor vehicle was  
34 used in the perpetration of such crime;  
35 —(6)— failing to stop at the scene of an accident and perform the duties  
36 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto,  
37 or required by a law of another state which is in substantial conformity  
38 with those statutes;  
39 —(7)— violating the provisions of K.S.A. 40-3104, and amendments  
40 thereto, relating to motor vehicle liability insurance coverage; or  
41 —(8)— a violation of K.S.A. 21-3405b, prior to its repeal.  
42 —(c)— There shall be no expungement of convictions for the following  
43 offenses or of convictions for an attempt to commit any of the following

1 offenses: ~~(1) Rape as defined in K.S.A. 21-3502, and amendments thereto;~~  
2 ~~(2) indecent liberties with a child as defined in K.S.A. 21-3503, and~~  
3 ~~amendments thereto, (3) aggravated indecent liberties with a child as~~  
4 ~~defined in K.S.A. 21-3504, and amendments thereto, (4) criminal sodomy~~  
5 ~~as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amend-~~  
6 ~~ments thereto, (5) aggravated criminal sodomy as defined in K.S.A. 21-~~  
7 ~~3506, and amendments thereto, (6) indecent solicitation of a child as~~  
8 ~~defined in K.S.A. 21-3510, and amendments thereto, (7) aggravated in-~~  
9 ~~decent solicitation of a child as defined in K.S.A. 21-3511, and amend-~~  
10 ~~ments thereto, (8) sexual exploitation of a child as defined in K.S.A. 21-~~  
11 ~~3516, and amendments thereto, (9) aggravated incest as defined in K.S.A.~~  
12 ~~21-3603, and amendments thereto, (10) endangering a child as defined~~  
13 ~~in K.S.A. 21-3608, and amendments thereto, (11) abuse of a child as~~  
14 ~~defined in K.S.A. 21-3609, and amendments thereto, (12) capital murder~~  
15 ~~as defined in K.S.A. 21-3439, and amendments thereto, (13) murder in~~  
16 ~~the first degree as defined in K.S.A. 21-3401, and amendments thereto;~~  
17 ~~(14) murder in the second degree as defined in K.S.A. 21-3402, and~~  
18 ~~amendments thereto, (15) voluntary manslaughter as defined in K.S.A.~~  
19 ~~21-3403, and amendments thereto, (16) involuntary manslaughter as de-~~  
20 ~~fined in K.S.A. 21-3404, and amendments thereto, (17) involuntary man-~~  
21 ~~slaughter while driving under the influence of alcohol or drugs as defined~~  
22 ~~in K.S.A. 2006 Supp. 21-3442, and amendments thereto, (18) sexual bat-~~  
23 ~~ttery as defined in K.S.A. 21-3517, and amendments thereto, when the~~  
24 ~~victim was less than 18 years of age at the time the crime was committed;~~  
25 ~~(19) aggravated sexual battery as defined in K.S.A. 21-3518, and amend-~~  
26 ~~ments thereto, (20) a violation of K.S.A. 8-1567, and amendments thereto;~~  
27 ~~including any diversion for such violation, (21) a violation of K.S.A. 8-~~  
28 ~~2,144, and amendments thereto, including any diversion for such viola-~~  
29 ~~tion; or (22) any conviction for any offense in effect at any time prior to~~  
30 ~~the effective date of this act, that is comparable to any offense as provided~~  
31 ~~in this subsection.~~  
32 ~~—(d)—When a petition for expungement is filed, the court shall set a~~  
33 ~~date for a hearing of such petition and shall cause notice of such hearing~~  
34 ~~to be given to the prosecuting attorney and the arresting law enforcement~~  
35 ~~agency. *Except as otherwise provided by law, a petition for expungement*~~  
36 ~~*shall be accompanied by a payment of a docket fee in the amount of \$100.*~~  
37 ~~The petition shall state: (1) The defendant's full name;~~  
38 ~~—(2)—the full name of the defendant at the time of arrest, conviction or~~  
39 ~~diversion, if different than the defendant's current name;~~  
40 ~~—(3)—the defendant's sex, race and date of birth;~~  
41 ~~—(4)—the crime for which the defendant was arrested, convicted or~~  
42 ~~diverted;~~  
43 ~~—(5)—the date of the defendant's arrest, conviction or diversion, and~~

1 ~~—(6) the identity of the convicting court, arresting law enforcement~~  
2 ~~authority or diverting authority. There shall be no docket fee for filing a~~  
3 ~~petition pursuant to this section. All petitions for expungement shall be~~  
4 ~~docketed in the original criminal action. Any person who may have rel-~~  
5 ~~evant information about the petitioner may testify at the hearing. The~~  
6 ~~court may inquire into the background of the petitioner and shall have~~  
7 ~~access to any reports or records relating to the petitioner that are on file~~  
8 ~~with the secretary of corrections or the Kansas parole board.~~  
9 ~~—(c) At the hearing on the petition, the court shall order the peti-~~  
10 ~~tioner's arrest record, conviction or diversion expunged if the court finds~~  
11 ~~that:~~  
12 ~~—(1) The petitioner has not been convicted of a felony in the past two~~  
13 ~~years and no proceeding involving any such crime is presently pending~~  
14 ~~or being instituted against the petitioner;~~  
15 ~~—(2) the circumstances and behavior of the petitioner warrant the~~  
16 ~~expungement; and~~  
17 ~~—(3) the expungement is consistent with the public welfare.~~  
18 ~~—(f) When the court has ordered an arrest record, conviction or diver-~~  
19 ~~sion expunged, the order of expungement shall state the information re-~~  
20 ~~quired to be contained in the petition. The clerk of the court shall send~~  
21 ~~a certified copy of the order of expungement to the Kansas bureau of~~  
22 ~~investigation which shall notify the federal bureau of investigation, the~~  
23 ~~secretary of corrections and any other criminal justice agency which may~~  
24 ~~have a record of the arrest, conviction or diversion. After the order of~~  
25 ~~expungement is entered, the petitioner shall be treated as not having been~~  
26 ~~arrested, convicted or diverted of the crime, except that:~~  
27 ~~—(1) Upon conviction for any subsequent crime, the conviction that~~  
28 ~~was expunged may be considered as a prior conviction in determining the~~  
29 ~~sentence to be imposed;~~  
30 ~~—(2) the petitioner shall disclose that the arrest, conviction or diversion~~  
31 ~~occurred if asked about previous arrests, convictions or diversions:~~  
32 ~~—(A) In any application for licensure as a private detective, private~~  
33 ~~detective agency, certification as a firearms trainer pursuant to K.S.A.~~  
34 ~~2006 Supp. 75-7b21, and amendments thereto, or employment as a de-~~  
35 ~~tective with a private detective agency, as defined by K.S.A. 75-7b01, and~~  
36 ~~amendments thereto, as security personnel with a private patrol operator,~~  
37 ~~as defined by K.S.A. 75-7b01, and amendments thereto; or with an insti-~~  
38 ~~tution, as defined in K.S.A. 76-12a01, and amendments thereto, of the~~  
39 ~~department of social and rehabilitation services;~~  
40 ~~—(B) in any application for admission, or for an order of reinstatement,~~  
41 ~~to the practice of law in this state;~~  
42 ~~—(C) to aid in determining the petitioner's qualifications for employ-~~  
43 ~~ment with the Kansas lottery or for work in sensitive areas within the~~



1 ~~Kansas lottery as deemed appropriate by the executive director of the~~  
2 ~~Kansas lottery;~~  
3 ~~—(D) to aid in determining the petitioner’s qualifications for executive~~  
4 ~~director of the Kansas racing commission, for employment with the com-~~  
5 ~~mission or for work in sensitive areas in parimutuel racing as deemed~~  
6 ~~appropriate by the executive director of the commission, or to aid in~~  
7 ~~determining qualifications for licensure or renewal of licensure by the~~  
8 ~~commission;~~  
9 ~~—(E) upon application for a commercial driver’s license under K.S.A.~~  
10 ~~8-2,125 through 8-2,142, and amendments thereto;~~  
11 ~~—(F) to aid in determining the petitioner’s qualifications to be an em-~~  
12 ~~ployee of the state gaming agency;~~  
13 ~~—(G) to aid in determining the petitioner’s qualifications to be an em-~~  
14 ~~ployee of a tribal gaming commission or to hold a license issued pursuant~~  
15 ~~to a tribal state gaming compact;~~  
16 ~~—(H) in any application for registration as a broker-dealer, agent, in-~~  
17 ~~vestment adviser or investment adviser representative all as defined in~~  
18 ~~K.S.A. 2006 Supp. 17-12a102, and amendments thereto, or~~  
19 ~~—(I) in any application for employment as a law enforcement officer as~~  
20 ~~defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;~~  
21 ~~—(3) the court, in the order of expungement, may specify other cir-~~  
22 ~~cumstances under which the conviction is to be disclosed;~~  
23 ~~—(4) the conviction may be disclosed in a subsequent prosecution for~~  
24 ~~an offense which requires as an element of such offense a prior conviction~~  
25 ~~of the type expunged; and~~  
26 ~~—(5) upon commitment to the custody of the secretary of corrections,~~  
27 ~~any previously expunged record in the possession of the secretary of cor-~~  
28 ~~rections may be reinstated and the expungement disregarded, and the~~  
29 ~~record continued for the purpose of the new commitment.~~  
30 ~~—(g) Whenever a person is convicted of a crime, pleads guilty and pays~~  
31 ~~a fine for a crime, is placed on parole, postrelease supervision or proba-~~  
32 ~~tion, is assigned to a community correctional services program, is granted~~  
33 ~~a suspended sentence or is released on conditional release, the person~~  
34 ~~shall be informed of the ability to expunge the arrest records or convic-~~  
35 ~~tion. Whenever a person enters into a diversion agreement, the person~~  
36 ~~shall be informed of the ability to expunge the diversion.~~  
37 ~~—(h) Subject to the disclosures required pursuant to subsection (f), in~~  
38 ~~any application for employment, license or other civil right or privilege,~~  
39 ~~or any appearance as a witness, a person whose arrest records, conviction~~  
40 ~~or diversion of a crime has been expunged under this statute may state~~  
41 ~~that such person has never been arrested, convicted or diverted of such~~  
42 ~~crime, but the expungement of a felony conviction does not relieve an~~  
43 ~~individual of complying with any state or federal law relating to the use~~

1 ~~or possession of firearms by persons convicted of a felony.~~  
2 ~~—(i) Whenever the record of any arrest, conviction or diversion has~~  
3 ~~been expunged under the provisions of this section or under the provi-~~  
4 ~~sions of any other existing or former statute, the custodian of the records~~  
5 ~~of arrest, conviction, diversion and incarceration relating to that crime~~  
6 ~~shall not disclose the existence of such records, except when requested~~  
7 ~~by:~~  
8 ~~—(1) The person whose record was expunged;~~  
9 ~~—(2) a private detective agency or a private patrol operator, and the~~  
10 ~~request is accompanied by a statement that the request is being made in~~  
11 ~~conjunction with an application for employment with such agency or op-~~  
12 ~~erator by the person whose record has been expunged;~~  
13 ~~—(3) a court, upon a showing of a subsequent conviction of the person~~  
14 ~~whose record has been expunged;~~  
15 ~~—(4) the secretary of social and rehabilitation services, or a designee of~~  
16 ~~the secretary, for the purpose of obtaining information relating to em-~~  
17 ~~ployment in an institution, as defined in K.S.A. 76-12a01, and amend-~~  
18 ~~ments thereto, of the department of social and rehabilitation services of~~  
19 ~~any person whose record has been expunged;~~  
20 ~~—(5) a person entitled to such information pursuant to the terms of the~~  
21 ~~expungement order;~~  
22 ~~—(6) a prosecuting attorney, and such request is accompanied by a~~  
23 ~~statement that the request is being made in conjunction with a prosecu-~~  
24 ~~tion of an offense that requires a prior conviction as one of the elements~~  
25 ~~of such offense;~~  
26 ~~—(7) the supreme court, the clerk or disciplinary administrator thereof,~~  
27 ~~the state board for admission of attorneys or the state board for discipline~~  
28 ~~of attorneys, and the request is accompanied by a statement that the~~  
29 ~~request is being made in conjunction with an application for admission,~~  
30 ~~or for an order of reinstatement, to the practice of law in this state by the~~  
31 ~~person whose record has been expunged;~~  
32 ~~—(8) the Kansas lottery, and the request is accompanied by a statement~~  
33 ~~that the request is being made to aid in determining qualifications for~~  
34 ~~employment with the Kansas lottery or for work in sensitive areas within~~  
35 ~~the Kansas lottery as deemed appropriate by the executive director of the~~  
36 ~~Kansas lottery;~~  
37 ~~—(9) the governor or the Kansas racing commission, or a designee of~~  
38 ~~the commission, and the request is accompanied by a statement that the~~  
39 ~~request is being made to aid in determining qualifications for executive~~  
40 ~~director of the commission, for employment with the commission, for~~  
41 ~~work in sensitive areas in parimutuel racing as deemed appropriate by~~  
42 ~~the executive director of the commission or for licensure, renewal of~~  
43 ~~licensure or continued licensure by the commission;~~

- 1 —(10) the Kansas sentencing commission;  
 2 —(11) the state gaming agency, and the request is accompanied by a  
 3 statement that the request is being made to aid in determining qualifi-  
 4 cations: (A) To be an employee of the state gaming agency, or (B) to be  
 5 an employee of a tribal gaming commission or to hold a license issued  
 6 pursuant to a tribal gaming compact;  
 7 —(12) the Kansas securities commissioner or a designee of the com-  
 8 missioner, and the request is accompanied by a statement that the request  
 9 is being made in conjunction with an application for registration as a  
 10 broker-dealer, agent, investment adviser or investment adviser represen-  
 11 tative by such agency and the application was submitted by the person  
 12 whose record has been expunged;  
 13 —(13) the Kansas law enforcement training commission *on peace offi-*  
 14 *cers' standards and training* and the request is accompanied by a state-  
 15 ment that the request is being made to aid in determining certification  
 16 eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq.,  
 17 and amendments thereto;  
 18 —(14) a law enforcement agency and the request is accompanied by a  
 19 statement that the request is being made to aid in determining eligibility  
 20 for employment as a law enforcement officer as defined by K.S.A. 22-  
 21 2202, and amendments thereto; or  
 22 —(15) the attorney general and the request is accompanied by a state-  
 23 ment that the request is being made to aid in determining qualifications  
 24 for a license to carry a concealed weapon pursuant to the personal and  
 25 family protection act.  
 26 —(j) *The docket fee collected at the time the petition for expungement*  
 27 *is filed shall be disbursed in accordance with K.S.A. 20-362, and amend-*  
 28 *ments thereto.*  
 29 —Sec. 3. K.S.A. 2006 Supp. 12-4516, 21-4619 and 21-4619e are hereby  
 30 repealed.

31 **Section 1. K.S.A. 2007 Supp. 12-4516 is hereby amended to**  
 32 **read as follows: 12-4516. (a) (1) Except as provided in subsection**  
 33 **(b) or (c), any person who has been convicted of a violation of a**  
 34 **city ordinance of this state may petition the convicting court for the**  
 35 **expungement of such conviction and related arrest records if three**  
 36 **two or more years have elapsed since the person:**  
 37 **(A) Satisfied the sentence imposed; or**  
 38 **(B) was discharged from probation, parole or a suspended**  
 39 **sentence.**  
 40 **(2) Except as provided in subsection (b) or (c), any person who**  
 41 **has fulfilled the terms of a diversion agreement based on a violation**  
 42 **of a city ordinance of this state may petition the court for the**  
 43 **expungement of such diversion agreement and related arrest re-**

1 *ords if three or more years have elapsed since the terms of the*  
2 *diversion agreement were fulfilled.*

3 *(b) No person may petition for expungement until five or more*  
4 *years have elapsed since the person satisfied the sentence imposed*  
5 *or the terms of a diversion agreement or was discharged from pro-*  
6 *bation, parole, conditional release or a suspended sentence, if such*  
7 *person was convicted of the violation of a city ordinance which*  
8 *would also constitute:*

9 *(1) Vehicular homicide, as defined by K.S.A. 21-3405, and*  
10 *amendments thereto;*

11 *(2) driving while the privilege to operate a motor vehicle on the*  
12 *public highways of this state has been canceled, suspended or re-*  
13 *voked, as prohibited by K.S.A. 8-262, and amendments thereto;*

14 *(3) perjury resulting from a violation of K.S.A. 8-261a, and*  
15 *amendments thereto;*

16 *(4) a violation of the provisions of the fifth clause of K.S.A. 8-*  
17 *142, and amendments thereto, relating to fraudulent applications;*

18 *(5) any crime punishable as a felony wherein a motor vehicle*  
19 *was used in the perpetration of such crime;*

20 *(6) failing to stop at the scene of an accident and perform the*  
21 *duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amend-*  
22 *ments thereto;*

23 *(7) a violation of the provisions of K.S.A. 40-3104, and amend-*  
24 *ments thereto, relating to motor vehicle liability insurance cover-*  
25 *age; or*

26 *(8) a violation of K.S.A. 21-3405b, and amendments thereto.*

27 *(c) There shall be no expungement of convictions or diversions*  
28 *for a violation of a city ordinance which would also constitute a*  
29 *violation of K.S.A. 8-1567 or 8-2,144, and amendments thereto.*

30 *(d) When a petition for expungement is filed, the court shall set*  
31 *a date for a hearing of such petition and shall cause notice of such*  
32 *hearing to be given to the prosecuting attorney and the arresting*  
33 *law enforcement agency. The petition shall state: (1) The defend-*  
34 *ant's full name;*

35 *(2) the full name of the defendant at the time of arrest, convic-*  
36 *tion or diversion, if different than the defendant's current name;*

37 *(3) the defendant's sex, race and date of birth;*

38 *(4) the crime for which the defendant was arrested, convicted*  
39 *or diverted;*

40 *(5) the date of the defendant's arrest, conviction or diversion;*  
41 *and*

42 *(6) the identity of the convicting court, arresting law enforce-*  
43 *ment agency or diverting authority. A municipal court may pre-*

1 *scribe a fee to be charged as costs for a person petitioning for an*  
2 *order of expungement pursuant to this section. Any person who may*  
3 *have relevant information about the petitioner may testify at the*  
4 *hearing. The court may inquire into the background of the peti-*  
5 *tioner and shall have access to any reports or records relating to*  
6 *the petitioner that are on file with the secretary of corrections or*  
7 *the Kansas parole board.*

8 *(e) At the hearing on the petition, the court shall order the pe-*  
9 *titioner's arrest record, conviction or diversion expunged if the*  
10 *court finds that:*

11 *(1) The petitioner has not been convicted of a felony in the past*  
12 *two years and no proceeding involving any such crime is presently*  
13 *pending or being instituted against the petitioner;*

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

16 *(3) the expungement is consistent with the public welfare.*

17 *(f) When the court has ordered an arrest record, conviction or*  
18 *diversion expunged, the order of expungement shall state the infor-*  
19 *mation required to be contained in the petition. The clerk of the*  
20 *court shall send a certified copy of the order of expungement to the*  
21 *Kansas bureau of investigation which shall notify the federal bu-*  
22 *reau of investigation, the secretary of corrections and any other*  
23 *criminal justice agency which may have a record of the arrest, con-*  
24 *viction or diversion. After the order of expungement is entered, the*  
25 *petitioner shall be treated as not having been arrested, convicted*  
26 *or diverted of the crime, except that:*

27 *(1) Upon conviction for any subsequent crime, the conviction*  
28 *that was expunged may be considered as a prior conviction in de-*  
29 *termining the sentence to be imposed;*

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

33 *(A) In any application for employment as a detective with a pri-*  
34 *vate detective agency, as defined by K.S.A. 75-7b01, and amend-*  
35 *ments thereto; as security personnel with a private patrol operator,*  
36 *as defined by K.S.A. 75-7b01, and amendments thereto; or with an*  
37 *institution, as defined in K.S.A. 76-12a01, and amendments thereto,*  
38 *of the department of social and rehabilitation services;*

39 *(B) in any application for admission, or for an order of rein-*  
40 *statement, to the practice of law in this state;*

41 *(C) to aid in determining the petitioner's qualifications for em-*  
42 *ployment with the Kansas lottery or for work in sensitive areas*  
43 *within the Kansas lottery as deemed appropriate by the executive*

- 1 *director of the Kansas lottery;*  
2 *(D) to aid in determining the petitioner’s qualifications for ex-*  
3 *ecutive director of the Kansas racing and gaming commission, for*  
4 *employment with the commission or for work in sensitive areas in*  
5 *parimutuel racing as deemed appropriate by the executive director*  
6 *of the commission, or to aid in determining qualifications for licen-*  
7 *sure or renewal of licensure by the commission;*  
8 *(E) to aid in determining the petitioner’s qualifications for the*  
9 *following under the Kansas expanded lottery act: (i) Lottery gaming*  
10 *facility manager or prospective manager, racetrack gaming facility*  
11 *manager or prospective manager, licensee or certificate holder; or*  
12 *(ii) an officer, director, employee, owner, agent or contractor*  
13 *thereof;*  
14 *(F) upon application for a commercial driver’s license under*  
15 *K.S.A. 8-2,125 through 8-2,142, and amendments thereto;*  
16 *(G) to aid in determining the petitioner’s qualifications to be an*  
17 *employee of the state gaming agency;*  
18 *(H) to aid in determining the petitioner’s qualifications to be an*  
19 *employee of a tribal gaming commission or to hold a license issued*  
20 *pursuant to a tribal-state gaming compact;*  
21 *(I) in any application for registration as a broker-dealer, agent,*  
22 *investment adviser or investment adviser representative all as de-*  
23 *fined in K.S.A. 17-12a102, and amendments thereto; or*  
24 *(J) in any application for employment as a law enforcement of-*  
25 *ficer, as defined in K.S.A. 22-2202 or 74-5602, and amendments*  
26 *thereto;*  
27 *(3) the court, in the order of expungement, may specify other*  
28 *circumstances under which the arrest, conviction or diversion is to*  
29 *be disclosed; and*  
30 *(4) the conviction may be disclosed in a subsequent prosecution*  
31 *for an offense which requires as an element of such offense a prior*  
32 *conviction of the type expunged.*  
33 *(g) Whenever a person is convicted of an ordinance violation,*  
34 *pleads guilty and pays a fine for such a violation, is placed on parole*  
35 *or probation or is granted a suspended sentence for such a violation,*  
36 *the person shall be informed of the ability to expunge the arrest*  
37 *records or conviction. Whenever a person enters into a diversion*  
38 *agreement, the person shall be informed of the ability to expunge*  
39 *the diversion.*  
40 *(h) Subject to the disclosures required pursuant to subsection*  
41 *(f), in any application for employment, license or other civil right*  
42 *or privilege, or any appearance as a witness, a person whose arrest*  
43 *records, conviction or diversion of an offense has been expunged*

1 *under this statute may state that such person has never been ar-*  
2 *rested, convicted or diverted of such offense.*

3 *(i) Whenever the record of any arrest, conviction or diversion*  
4 *has been expunged under the provisions of this section or under the*  
5 *provisions of any other existing or former statute, the custodian of*  
6 *the records of arrest, conviction, diversion and incarceration relat-*  
7 *ing to that crime shall not disclose the existence of such records,*  
8 *except when requested by:*

9 *(1) The person whose record was expunged;*

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

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

16 *(4) the secretary of social and rehabilitation services, or a des-*  
17 *ignee of the secretary, for the purpose of obtaining information re-*  
18 *lating to employment in an institution, as defined in K.S.A. 76-*  
19 *12a01, and amendments thereto, of the department of social and*  
20 *rehabilitation services of any person whose record has been*  
21 *expunged;*

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

24 *(6) a prosecuting attorney, and such request is accompanied by*  
25 *a statement that the request is being made in conjunction with a*  
26 *prosecution of an offense that requires a prior conviction as one of*  
27 *the elements of such offense;*

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

35 *(8) the Kansas lottery, and the request is accompanied by a*  
36 *statement that the request is being made to aid in determining qual-*  
37 *ifications for employment with the Kansas lottery or for work in*  
38 *sensitive areas within the Kansas lottery as deemed appropriate by*  
39 *the executive director of the Kansas lottery;*

40 *(9) the governor or the Kansas racing and gaming commission,*  
41 *or a designee of the commission, and the request is accompanied by*  
42 *a statement that the request is being made to aid in determining*  
43 *qualifications for executive director of the commission, for employ-*

- 1 *ment with the commission, for work in sensitive areas in parimutuel*  
2 *racing as deemed appropriate by the executive director of the com-*  
3 *mission or for licensure, renewal of licensure or continued licensure*  
4 *by the commission;*
- 5 (10) *the Kansas racing and gaming commission, or a designee*  
6 *of the commission, and the request is accompanied by a statement*  
7 *that the request is being made to aid in determining qualifications*  
8 *of the following under the Kansas expanded lottery act: (A) Lottery*  
9 *gaming facility managers and prospective managers, racetrack*  
10 *gaming facility managers and prospective managers, licensees and*  
11 *certificate holders; and (B) their officers, directors, employees, own-*  
12 *ers, agents and contractors;*
- 13 (11) *the state gaming agency, and the request is accompanied*  
14 *by a statement that the request is being made to aid in determining*  
15 *qualifications: (A) To be an employee of the state gaming agency;*  
16 *or (B) to be an employee of a tribal gaming commission or to hold*  
17 *a license issued pursuant to a tribal-state gaming compact;*
- 18 (12) *the Kansas securities commissioner, or a designee of the*  
19 *commissioner, and the request is accompanied by a statement that*  
20 *the request is being made in conjunction with an application for*  
21 *registration as a broker-dealer, agent, investment adviser or invest-*  
22 *ment adviser representative by such agency and the application was*  
23 *submitted by the person whose record has been expunged;*
- 24 (13) *the attorney general, and the request is accompanied by a*  
25 *statement that the request is being made to aid in determining qual-*  
26 *ifications for a license to carry a concealed weapon pursuant to the*  
27 *personal and family protection act;*
- 28 (14) *the Kansas sentencing commission;*
- 29 (15) *the Kansas commission on peace officers' standards and*  
30 *training and the request is accompanied by a statement that the*  
31 *request is being made to aid in determining certification eligibility*  
32 *as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and*  
33 *amendments thereto; or*
- 34 (16) *a law enforcement agency and the request is accompanied*  
35 *by a statement that the request is being made to aid in determining*  
36 *eligibility for employment as a law enforcement officer as defined*  
37 *by K.S.A. 22-2202, and amendments thereto.*
- 38 **Sec. 2.** *K.S.A. 21-4619 is hereby amended to read as follows:*  
39 *21-4619. (a) (1) Except as provided in subsections (b) and (c), any*  
40 *person convicted in this state of a traffic infraction, cigarette or*  
41 *tobacco infraction, misdemeanor or a class D or E felony, or for*  
42 *crimes committed on or after July 1, 1993, nondrug crimes ranked*  
43 *in severity levels 6 through 10 or any felony ranked in severity level*



- 1 *4 of the drug grid, may petition the convicting court for the expunge-*  
2 *ment of such conviction or related arrest records if ~~three~~ two or more*  
3 *years have elapsed since the person: (A) Satisfied the sentence im-*  
4 *posed; or (B) was discharged from probation, a community correc-*  
5 *tional services program, parole, postrelease supervision, condi-*  
6 *tional release or a suspended sentence.*
- 7 (2) *Except as provided in subsections (b) and (c), any person*  
8 *who has fulfilled the terms of a diversion agreement may petition*  
9 *the district court for the expungement of such diversion agreement*  
10 *and related arrest records if three or more years have elapsed since*  
11 *the terms of the diversion agreement were fulfilled.*
- 12 (b) *Except as provided in subsection (c), no person may petition*  
13 *for expungement until five or more years have elapsed since the*  
14 *person satisfied the sentence imposed, the terms of a diversion*  
15 *agreement or was discharged from probation, a community correc-*  
16 *tional services program, parole, postrelease supervision, condi-*  
17 *tional release or a suspended sentence, if such person was convicted*  
18 *of a class A, B or C felony, or for crimes committed on or after July*  
19 *1, 1993, if convicted of an off-grid felony or any nondrug crime*  
20 *ranked in severity levels 1 through 5 or any felony ranked in sever-*  
21 *ity levels 1 through 3 of the drug grid, or:*
- 22 (1) *Vehicular homicide, as defined by K.S.A. 21-3405, and*  
23 *amendments thereto, or as prohibited by any law of another state*  
24 *which is in substantial conformity with that statute;*
- 25 (2) *driving while the privilege to operate a motor vehicle on the*  
26 *public highways of this state has been canceled, suspended or re-*  
27 *voked, as prohibited by K.S.A. 8-262, and amendments thereto, or*  
28 *as prohibited by any law of another state which is in substantial*  
29 *conformity with that statute;*
- 30 (3) *perjury resulting from a violation of K.S.A. 8-261a, and*  
31 *amendments thereto, or resulting from the violation of a law of an-*  
32 *other state which is in substantial conformity with that statute;*
- 33 (4) *violating the provisions of the fifth clause of K.S.A. 8-142,*  
34 *and amendments thereto, relating to fraudulent applications or vi-*  
35 *olating the provisions of a law of another state which is in substan-*  
36 *tial conformity with that statute;*
- 37 (5) *any crime punishable as a felony wherein a motor vehicle*  
38 *was used in the perpetration of such crime;*
- 39 (6) *failing to stop at the scene of an accident and perform the*  
40 *duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amend-*  
41 *ments thereto, or required by a law of another state which is in*  
42 *substantial conformity with those statutes;*
- 43 (7) *violating the provisions of K.S.A. 40-3104, and amendments*

- 1 *thereto, relating to motor vehicle liability insurance coverage; or*  
2 *(8) a violation of K.S.A. 21-3405b, prior to its repeal.*  
3 *(c) There shall be no expungement of convictions for the follow-*  
4 *ing offenses or of convictions for an attempt to commit any of the*  
5 *following offenses: (1) Rape as defined in K.S.A. 21-3502, and*  
6 *amendments thereto; (2) indecent liberties with a child as defined*  
7 *in K.S.A. 21-3503, and amendments thereto; (3) aggravated inde-*  
8 *cent liberties with a child as defined in K.S.A. 21-3504, and amend-*  
9 *ments thereto; (4) criminal sodomy as defined in subsection (a)(2)*  
10 *or (a)(3) of K.S.A. 21-3505, and amendments thereto; (5) aggravated*  
11 *criminal sodomy as defined in K.S.A. 21-3506, and amendments*  
12 *thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-*  
13 *3510, and amendments thereto; (7) aggravated indecent solicitation*  
14 *of a child as defined in K.S.A. 21-3511, and amendments thereto;*  
15 *(8) sexual exploitation of a child as defined in K.S.A. 21-3516, and*  
16 *amendments thereto; (9) aggravated incest as defined in K.S.A. 21-*  
17 *3603, and amendments thereto; (10) endangering a child as defined*  
18 *in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child*  
19 *as defined in K.S.A. 21-3609, and amendments thereto; (12) capital*  
20 *murder as defined in K.S.A. 21-3439, and amendments thereto; (13)*  
21 *murder in the first degree as defined in K.S.A. 21-3401, and amend-*  
22 *ments thereto; (14) murder in the second degree as defined in K.S.A.*  
23 *21-3402, and amendments thereto; (15) voluntary manslaughter as*  
24 *defined in K.S.A. 21-3403, and amendments thereto; (16) involun-*  
25 *tary manslaughter as defined in K.S.A. 21-3404, and amendments*  
26 *thereto; (17) involuntary manslaughter while driving under the in-*  
27 *fluence of alcohol or drugs as defined in K.S.A. 21-3442, and amend-*  
28 *ments thereto; (18) sexual battery as defined in K.S.A. 21-3517, and*  
29 *amendments thereto, when the victim was less than 18 years of age*  
30 *at the time the crime was committed; (19) aggravated sexual battery*  
31 *as defined in K.S.A. 21-3518, and amendments thereto; (20) a vio-*  
32 *lation of K.S.A. 8-1567, and amendments thereto, including any di-*  
33 *version for such violation; (21) a violation of K.S.A. 8-2,144, and*  
34 *amendments thereto, including any diversion for such violation; or*  
35 *(22) any conviction for any offense in effect at any time prior to the*  
36 *effective date of this act, that is comparable to any offense as pro-*  
37 *vided in this subsection.*  
38 *(d) When a petition for expungement is filed, the court shall set*  
39 *a date for a hearing of such petition and shall cause notice of such*  
40 *hearing to be given to the prosecuting attorney and the arresting*  
41 *law enforcement agency. The petition shall state: (1) The defend-*  
42 *ant's full name;*  
43 *(2) the full name of the defendant at the time of arrest, convic-*

1 *tion or diversion, if different than the defendant's current name;*  
2 *(3) the defendant's sex, race and date of birth;*  
3 *(4) the crime for which the defendant was arrested, convicted*  
4 *or diverted;*  
5 *(5) the date of the defendant's arrest, conviction or diversion;*  
6 *and*  
7 *(6) the identity of the convicting court, arresting law enforce-*  
8 *ment authority or diverting authority. There shall be no docket fee*  
9 *for filing a petition pursuant to this section. All petitions for*  
10 *expungement shall be docketed in the original criminal action. Any*  
11 *person who may have relevant information about the petitioner may*  
12 *testify at the hearing. The court may inquire into the background*  
13 *of the petitioner and shall have access to any reports or records*  
14 *relating to the petitioner that are on file with the secretary of cor-*  
15 *rections or the Kansas parole board.*  
16 *(e) At the hearing on the petition, the court shall order the pe-*  
17 *titioner's arrest record, conviction or diversion expunged if the*  
18 *court finds that:*  
19 *(1) The petitioner has not been convicted of a felony in the past*  
20 *two years and no proceeding involving any such crime is presently*  
21 *pending or being instituted against the petitioner;*  
22 *(2) the circumstances and behavior of the petitioner warrant the*  
23 *expungement; and*  
24 *(3) the expungement is consistent with the public welfare.*  
25 *(f) When the court has ordered an arrest record, conviction or*  
26 *diversion expunged, the order of expungement shall state the infor-*  
27 *mation required to be contained in the petition. The clerk of the*  
28 *court shall send a certified copy of the order of expungement to the*  
29 *Kansas bureau of investigation which shall notify the federal bu-*  
30 *reau of investigation, the secretary of corrections and any other*  
31 *criminal justice agency which may have a record of the arrest, con-*  
32 *viction or diversion. After the order of expungement is entered, the*  
33 *petitioner shall be treated as not having been arrested, convicted*  
34 *or diverted of the crime, except that:*  
35 *(1) Upon conviction for any subsequent crime, the conviction*  
36 *that was expunged may be considered as a prior conviction in de-*  
37 *termining the sentence to be imposed;*  
38 *(2) the petitioner shall disclose that the arrest, conviction or*  
39 *diversion occurred if asked about previous arrests, convictions or*  
40 *diversions:*  
41 *(A) In any application for licensure as a private detective, pri-*  
42 *vate detective agency, certification as a firearms trainer pursuant*  
43 *to K.S.A. 2007 Supp. 75-7b21, and amendments thereto, or employ-*

- 1 *ment as a detective with a private detective agency, as defined by*  
2 *K.S.A. 75-7b01, and amendments thereto; as security personnel with*  
3 *a private patrol operator, as defined by K.S.A. 75-7b01, and amend-*  
4 *ments thereto; or with an institution, as defined in K.S.A. 76-12a01,*  
5 *and amendments thereto, of the department of social and rehabili-*  
6 *tation services;*
- 7 *(B) in any application for admission, or for an order of rein-*  
8 *statement, to the practice of law in this state;*
- 9 *(C) to aid in determining the petitioner's qualifications for em-*  
10 *ployment with the Kansas lottery or for work in sensitive areas*  
11 *within the Kansas lottery as deemed appropriate by the executive*  
12 *director of the Kansas lottery;*
- 13 *(D) to aid in determining the petitioner's qualifications for ex-*  
14 *ecutive director of the Kansas racing and gaming commission, for*  
15 *employment with the commission or for work in sensitive areas in*  
16 *parimutuel racing as deemed appropriate by the executive director*  
17 *of the commission, or to aid in determining qualifications for licen-*  
18 *sure or renewal of licensure by the commission;*
- 19 *(E) to aid in determining the petitioner's qualifications for the*  
20 *following under the Kansas expanded lottery act: (i) Lottery gaming*  
21 *facility manager or prospective manager, racetrack gaming facility*  
22 *manager or prospective manager, licensee or certificate holder; or*  
23 *(ii) an officer, director, employee, owner, agent or contractor*  
24 *thereof;*
- 25 *(F) upon application for a commercial driver's license under*  
26 *K.S.A. 8-2,125 through 8-2,142, and amendments thereto;*
- 27 *(G) to aid in determining the petitioner's qualifications to be an*  
28 *employee of the state gaming agency;*
- 29 *(H) to aid in determining the petitioner's qualifications to be an*  
30 *employee of a tribal gaming commission or to hold a license issued*  
31 *pursuant to a tribal-state gaming compact;*
- 32 *(I) in any application for registration as a broker-dealer, agent,*  
33 *investment adviser or investment adviser representative all as de-*  
34 *defined in K.S.A. 17-12a102, and amendments thereto; or*
- 35 *(J) in any application for employment as a law enforcement of-*  
36 *ficer as defined in K.S.A. 22-2202 or 74-5602, and amendments*  
37 *thereto;*
- 38 *(3) the court, in the order of expungement, may specify other*  
39 *circumstances under which the conviction is to be disclosed;*
- 40 *(4) the conviction may be disclosed in a subsequent prosecution*  
41 *for an offense which requires as an element of such offense a prior*  
42 *conviction of the type expunged; and*
- 43 *(5) upon commitment to the custody of the secretary of correc-*

1 *tions, any previously expunged record in the possession of the sec-*  
2 *retary of corrections may be reinstated and the expungement dis-*  
3 *regarded, and the record continued for the purpose of the new*  
4 *commitment.*

5 *(g) Whenever a person is convicted of a crime, pleads guilty and*  
6 *pays a fine for a crime, is placed on parole, postrelease supervision*  
7 *or probation, is assigned to a community correctional services pro-*  
8 *gram, is granted a suspended sentence or is released on conditional*  
9 *release, the person shall be informed of the ability to expunge the*  
10 *arrest records or conviction. Whenever a person enters into a di-*  
11 *version agreement, the person shall be informed of the ability to*  
12 *expunge the diversion.*

13 *(h) Subject to the disclosures required pursuant to subsection*  
14 *(f), in any application for employment, license or other civil right*  
15 *or privilege, or any appearance as a witness, a person whose arrest*  
16 *records, conviction or diversion of a crime has been expunged under*  
17 *this statute may state that such person has never been arrested,*  
18 *convicted or diverted of such crime, but the expungement of a felony*  
19 *conviction does not relieve an individual of complying with any*  
20 *state or federal law relating to the use or possession of firearms by*  
21 *persons convicted of a felony.*

22 *(i) Whenever the record of any arrest, conviction or diversion*  
23 *has been expunged under the provisions of this section or under the*  
24 *provisions of any other existing or former statute, the custodian of*  
25 *the records of arrest, conviction, diversion and incarceration relat-*  
26 *ing to that crime shall not disclose the existence of such records,*  
27 *except when requested by:*

- 28 *(1) The person whose record was expunged;*
- 29 *(2) a private detective agency or a private patrol operator, and*  
30 *the request is accompanied by a statement that the request is being*  
31 *made in conjunction with an application for employment with such*  
32 *agency or operator by the person whose record has been expunged;*
- 33 *(3) a court, upon a showing of a subsequent conviction of the*  
34 *person whose record has been expunged;*
- 35 *(4) the secretary of social and rehabilitation services, or a des-*  
36 *ignee of the secretary, for the purpose of obtaining information re-*  
37 *lating to employment in an institution, as defined in K.S.A. 76-*  
38 *12a01, and amendments thereto, of the department of social and*  
39 *rehabilitation services of any person whose record has been*  
40 *expunged;*
- 41 *(5) a person entitled to such information pursuant to the terms*  
42 *of the expungement order;*
- 43 *(6) a prosecuting attorney, and such request is accompanied by*

- 1 *a statement that the request is being made in conjunction with a*  
2 *prosecution of an offense that requires a prior conviction as one of*  
3 *the elements of such offense;*
- 4 (7) *the supreme court, the clerk or disciplinary administrator*  
5 *thereof, the state board for admission of attorneys or the state board*  
6 *for discipline of attorneys, and the request is accompanied by a*  
7 *statement that the request is being made in conjunction with an*  
8 *application for admission, or for an order of reinstatement, to the*  
9 *practice of law in this state by the person whose record has been*  
10 *expunged;*
- 11 (8) *the Kansas lottery, and the request is accompanied by a*  
12 *statement that the request is being made to aid in determining qual-*  
13 *ifications for employment with the Kansas lottery or for work in*  
14 *sensitive areas within the Kansas lottery as deemed appropriate by*  
15 *the executive director of the Kansas lottery;*
- 16 (9) *the governor or the Kansas racing and gaming commission,*  
17 *or a designee of the commission, and the request is accompanied by*  
18 *a statement that the request is being made to aid in determining*  
19 *qualifications for executive director of the commission, for employ-*  
20 *ment with the commission, for work in sensitive areas in parimutuel*  
21 *racing as deemed appropriate by the executive director of the com-*  
22 *mission or for licensure, renewal of licensure or continued licensure*  
23 *by the commission;*
- 24 (10) *the Kansas racing and gaming commission, or a designee*  
25 *of the commission, and the request is accompanied by a statement*  
26 *that the request is being made to aid in determining qualifications*  
27 *of the following under the Kansas expanded lottery act: (A) Lottery*  
28 *gaming facility managers and prospective managers, racetrack*  
29 *gaming facility managers and prospective managers, licensees and*  
30 *certificate holders; and (B) their officers, directors, employees, own-*  
31 *ers, agents and contractors;*
- 32 (11) *the Kansas sentencing commission;*
- 33 (12) *the state gaming agency, and the request is accompanied*  
34 *by a statement that the request is being made to aid in determining*  
35 *qualifications: (A) To be an employee of the state gaming agency;*  
36 *or (B) to be an employee of a tribal gaming commission or to hold*  
37 *a license issued pursuant to a tribal-gaming compact;*
- 38 (13) *the Kansas securities commissioner or a designee of the*  
39 *commissioner, and the request is accompanied by a statement that*  
40 *the request is being made in conjunction with an application for*  
41 *registration as a broker-dealer, agent, investment adviser or invest-*  
42 *ment adviser representative by such agency and the application was*  
43 *submitted by the person whose record has been expunged;*

- 1     ***(14) the Kansas commission on peace officers' standards and***  
2 ***training and the request is accompanied by a statement that the***  
3 ***request is being made to aid in determining certification eligibility***  
4 ***as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and***  
5 ***amendments thereto;***
- 6     ***(15) a law enforcement agency and the request is accompanied***  
7 ***by a statement that the request is being made to aid in determining***  
8 ***eligibility for employment as a law enforcement officer as defined***  
9 ***by K.S.A. 22-2202, and amendments thereto; or***
- 10     ***(16) the attorney general and the request is accompanied by a***  
11 ***statement that the request is being made to aid in determining qual-***  
12 ***ifications for a license to carry a concealed weapon pursuant to the***  
13 ***personal and family protection act.***
- 14     ***Sec. 3. K.S.A. 21-4619 and K.S.A. 2007 Supp. 12-4516 are***  
15 ***hereby repealed.***
- 16     ***Sec. 4. This act shall take effect and be in force from and after its***  
17 ***publication in the statute book.***