

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Representative Rex Crowell at
Chairperson

1:30 ~~xxx~~/p.m. on February 5, 19 85 in room 519-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Hank Avila, Legislative Research Department
Fred Carman, Office of the Revisor of Statutes
Donna Mulligan, Committee Secretary

Conferees appearing before the committee:

Mr. Phillip S. Harness, Johnson County, Kansas
Mr. Richard Byrd, Grant Oil Company and Central States Gas
Mr. Robert Anderson, Mid-Continent Oil & Gas Association
Mr. William T. Abbott, Boeing Military Airplane Company
Mr. Don Schnacke, Kansas Independent Oil & Gas Association
Mr. Chris McKenzie, League of Kansas Municipalities

The meeting was called to order by the Chairman, and the first order of business was consideration of introduction of a Committee bill to reflect the changes suggested by the Kansas Corporation Commission in HB-2019.

A motion was made by Representative Wilbert to introduce as a separate Committee bill, the language for HB-2019 suggested by the Corporation Commission. The motion was seconded by Representative Patrick. Motion passed.

The next order of business was a hearing on HB-2019.

Mr. Phillip S. Harness, County Counselor, Johnson County, testified in opposition to HB-2019. (See Attachment 1) Mr. Harness pointed out that there is nothing in the proposed legislation which states that present "private use" exception contracts are "grandfathered".

Mr. Richard Byrd, Attorney, representing the Grant Oil Company and Central States Gas, appeared in opposition to HB-2019. Mr. Byrd urged the exemption of producers and gatherers of gas from the provisions of the bill. He said that with all the gas we produce in Kansas, the Legislature should encourage the availability of cheap gas to Kansas customers.

Mr. Robert Anderson, of the Mid-Continent Oil & Gas Association, was the next conferee and presented testimony in opposition to HB-2019.

Chairman Crowell asked Mr. Anderson if he is in favor of mandatory carriage, keeping in mind the need to protect residential customers from excessive costs and also keeping in mind the need to nurture competition. Mr. Anderson stated his association is made up of pipeline companies and producing companies, and it seems to be the way the national picture is shaping up. He added he expects to see more of that kind of legislation.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~xxx~~/p.m. on February 5, 1985

Mr. William T. Abbott, of the Boeing Military Airplane Company, Wichita, Kansas, was introduced and testified concerning HB-2019.
(See Attachment 2)

Mr. Abbott said it is his understanding HB-2019 is intended to maintain the status quo as relates to Kansas Industrial Energy Supply Company (KIES), which is an association of corporate gas users that have associated together for the purpose of assuring an uninterrupted supply of natural gas at the most reasonable price. He said Boeing is one of the seven companies that own KIES.

Mr. Abbott told the Committee one of the reasons Boeing made the decision to modernize and expand their plant which employs 17,500 people, was access to a reliable long term source of reasonably priced energy. He expressed that Boeing as well as the other six companies associated with KIES, are opposed to any statutory change that would prohibit them from supplying current and future needs of any user company.

Representative Patrick asked if the language in Section 1(d) was left in, and a further limitation was added which would restrict KIES to just the seven companies currently involved, would they accept the bill. Mr. Abbott said the bill would be acceptable if they are allowed to expand to take care of current customers.

Representative Wilbert asked how KIES determines the price of gas. Mr. Abbott said it is an association and whatever the costs are they split them among members based on the gas they use.

Mr. Don Schnacke, representing the Kansas Independent Oil & Gas Association, gave testimony on HB-2019. He stated he supports the comments of Mr. Jack Byrd and Mr. Robert Anderson who testified earlier in the meeting. Mr. Schnacke indicated KIOGA is particularly interested in the role of producers and gatherers as Mr. Byrd outlined, and that they are concerned HB-2019 would discourage producers from selling Kansas gas to Kansans.

Mr. Schnacke addressed the matter of contract carriage, and said KIOGA asked several years ago that the Legislature conduct an interim study on this. He said the interim study concluded that more study was needed on contract carriage. The reason being, Kansas is not blessed with a lot of intrastate pipelines.


Mr. Chris McKenzie of the League of Kansas Municipalities was the next conferee, and expressed general support for HB-2019, contingent upon the adoption of certain amendments. (See Attachment 3)

The hearing on HB-2019 was ended.

Mr. Chris McKenzie of the League of Kansas Municipalities presented a request for a bill draft designed to address municipal traffic citation problems. (See Attachment 4)

A motion was made by Representative Knopp to introduce this as a Committee bill. The motion was seconded by Representative Justice. Motion passed.

The meeting was adjourned at 2:30 p.m.


Rex Crowell, Chairman

GUEST LIST

COMMITTEE: Transportation

DATE: 2-5-85

PLEASE PRINT

NAME	ADDRESS	COMPANY/ORGANIZATION
Gerry Rae	Olathe	Jo Co. Co.
Phil Wanner	Olathe	" " "
Judy Anderson	Wichita	City of Wichita
Joe Hodges	Julesa	Citrus Service Oil Gas
Les Mathis	Topoka	Ks. Petroleum Council
Charles Ray	Austin	Texaco
Frank C. Byrd	Ottawa Kans	Grant Oil Co. Central State Gas
David R. Schmitt	Topoka Ks.	KIOGA
Judy Brumich	Topoka	H. A. Co. Sen. Regina
Dick Howard	Lawrence City	Richard E. Carter
Jack Glaves	Wichita Kans	" "
Bill Anderson	Mission	Water Dist #1 Jo Co
Geo Brumich	Hugoton	Stewart Co
Beryl Smith	Hugoton	Mobil
WALTER DUNN	Topoka	ESDEA
Bill Abbott	Wichita	Boeing
Ray Harrison	Wichita	Spick
John Reiff	Wichita	Copman
John E Moore	Wichita	Cesna
Ken STANTON	TOPEKA	NORTHERN N. G.
John Jordison	Council Bluffs Iowa	Peoples Nat. Gas Co
Chris McKenzie	Topoka	League of Ks. Muncip.
Shelley Smith	Wichita	SEAWSON

January 30, 1985

To: House Committee on Transportation and Utilities

From: Philip S. Harness, Johnson County Counselor, Attorney for Board of County Commissioners of Johnson County, Kansas, and Johnson County Industrial Airport Commission

Re: H.B. 2019

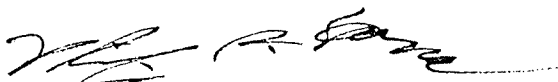
As with H.B. 2020, we also oppose H.B. 2019.

At the Industrial Airport, located near the cities of Olathe and Gardner, we presently have a contract with Grindsted Products Company, Inc., a Danish firm, which manufactures food emulsifiers, to sell that entity natural gas under the "private use" exception to K.S.A. 66-104. While H.B. 2019 purports to keep the "private use" exception to K.S.A. 66-104, it is now conditional in that it may be overridden by subsections (a) and (b) of section 1 of H.B. 2019. Under those subsections, a "private use", traditionally exempt from Kansas Corporation Commission jurisdiction will now be subject to Kansas Corporation Commission jurisdiction in the area of natural gas. This will set a rigid and unyielding standard in the state of Kansas which will effectively foreclose forever competition by local gas suppliers with public utilities.

Legislation is usually prospective in nature, rather than both prospective and retroactive. However, due to the unusual wording of H.B. 2019, I would question the legal counsel for the Committee as to whether this, in effect, is retroactive in nature since any supplier of natural gas supplies it on a daily basis. A literal reading of the proposed H.B. 2019 would indicate that, if passed, the day after it is effective, any supplier of natural gas operating under the "private use" exception must request Kansas Corporation Commission blessing. In summary, there is nothing in the legislation which states that present "private use" exception contracts are "grandfathered". As such, this bill has statewide impact.

For all those reasons, we oppose H.B. 2019.

Very truly yours,


Philip S. Harness
County Counselor
(913) 782-5000

PSH/csn

2/5/85
Attach. 1

TESTIMONY OF WILLIAM T. ABBOTT
PUBLIC AFFAIRS MANAGER
BOEING MILITARY AIRPLANE COMPANY

H. B. 2019

House Committee on Transportation
February 5, 1985

I am appearing today to register our concerns about some of the testimony that has been presented on H. B. 2019 that would involve our company. It is our understanding that Section D, new Section I of H. B. 2019 is intended to maintain the status quo as relates to Kansas Industrial Energy Supply Company. Boeing is one of seven companies that own the Kansas Industrial Energy Supply Company. This is an association of corporate gas users that have associated themselves together for the purpose of assuring ourselves of an uninterrupted supply of natural gas at the most reasonable price to operate our plants. The other companies in the association are: Beech Aircraft Corporation, Cessna Aircraft Company, The Coleman Company, Dubuque Packing Company, Excel Corporation and Gates Learjet. This association evolved in 1976 when these companies were notified by their gas supplier that they could not be guaranteed gas to operate their plants. We were on interruptable contracts and we had to develop alternate sources of energy. Boeing rehabilitated some of our outdated furnaces to burn coal and used fuel oil and propane during periods of curtailment. In those days we had fuel oil and propane stored in almost any available space in the state of Kansas.

KIES was not formed to compete in the purchase of natural gas with any supply company at that time, but was formed solely for the purpose of guaranteeing that gas was available to operate our facility. We have no plan and it is not our intention to expand service to any users other than the seven companies who currently comprise KIES. KIES owns a gathering system, a compression station and purchases gas from independent operators and suppliers under long term contracts.

Our interpretation of the language in Section D of H. B. 2019 assures that we can continue to operate our gas system outside the jurisdiction of the Kansas Corporation Commission.

In my discussion with Counsel from the Kansas Corporation Commission as recent as 10 days ago, I was advised that the Commission was not interested in including us under their umbrella. We also appeared before the interim committee last summer. However, just prior to your meeting on Thursday of last week I received a copy of the testimony of the Corporation Commission and I learned at that time that they were recommending that Section D be deleted and that we be put under the umbrella of the KCC. Our business is airplanes and aerospace. We do not want to get into a competitive gas business; however, we have been involved with KIES for the last nine years in supplying our facilities with natural gas and would like to continue on our present basis and we see no reason why the Corporation Commission should be involved in setting rates of gas that we provide ourselves.

The Boeing Military Airplane Company operates a plant in Wichita that covers approximately 9,000,000 square feet of covered area and employs approximately 17,500 people. When we made the decision to modernize and expand the plant in 1978, one of the factors was our ability to have access to a reliable long term source of reasonably priced energy. Since we made the decision to spend over

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Attach. 2

\$700 million in capital improvements at the Wichita plant, Our employment has increased from 6,000 to the present level of 17,500. Our requirements for gas have increased accordingly.

Although most of my comments have related to conditions at Boeing, the other six companies associated with KIES have the same concerns that I have expressed and join Boeing in opposition to any statute change that would prohibit us from supply current and future needs of any user company.

Mr. Chairman, I respectfully request that if this committee passes H. B. 2019 consideration be given to the concerns I have outlined to allow us to continue to operate and expand our facility to meet the requirements of our user companies.

Thank you.



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL / 12 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: House Committee on Transportation
FROM: Chris McKenzie, Attorney/Director of Research *cm*
DATE: January 30, 1985
SUBJECT: HB 2019

By action of its Committee on Water and Environmental Policy, the League of Kansas Municipalities wishes to express its general support for HB 2019 contingent upon the adoption of certain amendments suggested below. HB 2019 would accomplish a number of important objectives:

- (1) ensuring that distributors of natural gas, including municipal gas utilities, that wish to supply natural gas to customers within territory certificated for natural gas supply distribution by any public utility receive the approval of the Corporation Commission, thereby eliminating the potential for "cream-skimming"; and
- (2) ensuring an orderly process for the franchising of natural gas distributors in newly annexed areas of cities.

Although the League supports these general objectives of HB 2019, we do have certain reservations about the bill which we request be addressed in amendment form:

1. Subsection (b) of New Section 1 authorizes the KCC to approve the rates charged for gas supplies extended to already certificated areas. Consistent with K.S.A. 66-104 and 66-1,174 (part of the Retail Electric Suppliers Act), we must oppose any proposal to grant the KCC authority to regulate the rates of municipal gas utilities, except in that area extending more than three miles beyond its corporate limits. As HB 2019 is currently written, municipal gas utilities would be treated as other gas utilities, requiring Commission approval of rates and those other items mentioned in subsection (b) of New Section 1, including rates. As in K.S.A. 66-1,174, we recommend that the Commission have jurisdiction to grant authority to a municipal utility to provide service outside its corporate limits (i.e., "the right to serve"), but that the Commission have no jurisdiction over the rates of a municipal gas utility until service is extended to territory extending more than three miles beyond the city's corporate limits. In order to accomplish this objective it may be desirable to avoid amending K.S.A. 66-104 as provided in Section 2, and include a new section similar in language to K.S.A. 66-1,174.

*2/5/85
Attach. 3*

President: Peggy Blackman, Mayor, Marion • Vice Presidents: Ed Eilert, Mayor, Overland Park • Past President: Jack Alexander, Commissioner, Topeka • Directors: Robert C. Brown, Commissioner, Wichita • John L. Carder, Mayor, Iola • Richard B. Chesney, City Manager, El Dorado • Constance M. Conyac, Commissioner, Stockton • Robert Creighton, Mayor, Atwood • Irene B. French, Mayor, Merriam • Donald L. Hamilton, City Clerk/Administrator, Mankato • Carl D. Holmes, Mayor, Plains • John E. Reardon, Mayor, Kansas City • David Retter, City Attorney, Concordia • Melly K. Schmidt, Mayor, Hays • Deane P. Wiley, City Manager, Garden City • Executive Director: E.A. Mosher

2. At the request of the League and Kansas Municipal Utilities, Inc., the Special Committee on Transportation and Utilities agreed to include subsection (c) of New Section 1. This language is virtually identical to the language contained in K.S.A. 66-1,176, part of the Electric Retail Suppliers Act, and is designed to provide an orderly process for the franchising of natural gas utility service in territory newly annexed by a city. We continue to support the inclusion of this subsection, however, we are aware that certain problems of interpretation may occur with the last sentence of this subsection contained in lines 51 through 55. Since the bill does not provide for the certification by the Commission of single certified territories, we are not sure what that term means as it is used in line 53 of the bill. We understand the Commission staff have similar concern about the meaning of this sentence, and we would be happy to work with the legislative staff and Commission staff in clarifying its meaning.

We appreciate the opportunity to comment on HB 2019. We respectfully request favorable consideration of our suggested amendments. Please let us know if we can provide any further information.



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: House Committee on Transportation
FROM: Chris McKenzie, Attorney/Director of Research
DATE: February 5, 1985
SUBJECT: Requested Legislation Concerning Municipal Traffic Laws

The League respectfully requests Committee introduction of the attached bill to clear up a number of questions that have arisen concerning the application of 1984 SB 490 to the prosecution of municipal traffic offenses in municipal courts. Briefly, SB 490 did not make amendments to certain provisions of the Municipal Court Procedure Act in order to ensure compatibility between municipal and district courts in the prosecution of individuals for commission of traffic infractions. In addition, Section 2 of the attached draft bill would deal with a problem that has developed since the issuance of Attorney General Opinion 84-43. In that opinion, the Attorney General concluded that since K.S.A. 8-2110 did not explicitly mention municipal courts, that it only authorized district courts to request the Division of Vehicles to suspend the license of a violator who fails to appear in court. As a result of this opinion, the Division of Vehicles has understandably refused to accept requests for license suspensions from municipal courts. Section 3 of the bill would amend K.S.A. 12-4212, concerning the arrest power of municipal law enforcement officers, to allow municipal police to arrest an individual who was charged with a traffic infraction but who refuses to give a written promise to appear. A number of city prosecutors have contacted the League to inform us that the absence of this language poses serious potential problems with the enforcement of municipal traffic laws.

Other proposed changes contained in Sections 4 and 5 are designed to ensure compatibility between the changes contained in 1984 SB 490 and those provisions of state law applicable to municipal courts. We would appreciate the Committee's introduction of this bill and the scheduling of it for hearings in the near future.

2/5/85
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Attach. 4

By Committee on Transportation

AN ACT concerning regulation of traffic; relating to the procedure for enforcement of municipal traffic laws; relating to ordinance traffic infractions; amending K.S.A. 12-4516, and K.S.A. 1984 Supp. 8-2110, 12-4212, and 12-4305, and repealing the existing sections.

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

New Section 1. (a) When a person is charged with an ordinance traffic infraction, the notice to appear shall provide a place where the person may make a written entry of appearance, waive the right to a trial and plead guilty or no contest. The notice to appear shall provide a space in which the law enforcement officer, except as provided in subsection (b), shall enter the appropriate fine specified in the fine schedule established by the municipal judge in accordance with K.S.A. 1984 Supp. 12-4305, and amendments thereto. Either the notice to appear or a separate form provided to the person by the law enforcement officer shall provide an explanation of the person's right to appear and right to trial, the person's right to pay the appropriate fine prior to the appearance date, and that failure to either pay such fine or appear at the specified time may result in the suspension of the person's driver's license or issuance of a warrant for the person's arrest. The law enforcement officer shall provide the person with the address of the municipal court to which the written entry of appearance, waiver of trial, plea of guilty or no contest and payment of fine shall be mailed.

(b) In lieu of the law enforcement officer entering the appropriate fine for an ordinance traffic infraction, the officer may provide the person charged with an ordinance traffic infraction with a copy of the fine schedule established by the municipal judge

in accordance with K.S.A. 1984 Supp. 12-4305, and amendments thereto.

Sec. 2. K.S.A. 1984 Supp. 8-2110 is hereby amended to read as follows:

8-2110. Failure to comply with traffic citation; misdemeanor; suspension of driver's license. (a) Failure to comply with a traffic citation means failure either to (1) appear at court in response to a traffic citation and pay in full any fine and court costs imposed or (2) otherwise comply with a traffic citation as provided in K.S.A. 1984 Supp. 8-2118. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

(b) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the court in which the person should have complied with the citation shall inform the division of vehicles of the failure to comply.

Upon receipt of a report of a failure to comply with a traffic citation under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished the informing court. Upon such compliance the informing court shall notify the division of vehicles and the suspension or suspension action shall be terminated.

History: L. 1974, ch. 33, § 8-2110; L. 1982, ch. 46, § 6; L. 1984, ch. 39, § 25; Jan. 1, 1985.

Sec. 3. K.S.A. 12-4212 is hereby amended to read as follows:

12-4212. Arrest by law enforcement officer; when authorized. (a) A law enforcement officer may arrest a person under any of the following circumstances:

(1) The officer has a warrant commanding that the person be arrested.

(2) A warrant for the person's arrest has been issued by a municipal court in this state.

(3) The officer has probable cause to believe that the person is committing or has committed a violation of an ordinance and that the person has intentionally inflicted bodily harm to another person.

(4) The law enforcement officer detained the person pursuant to subsection (c) or (d) of K.S.A. 12-4211 and amendments thereto and:

(A) The person refuses to give a written promise to appear in court when served with a notice to appear;

(B) the person is unable to provide identification of self by presenting a valid driver's license or other identification giving equivalent information to the law enforcement officer;

(C) the person is not a resident of the state of Kansas; or

(D) the law enforcement officer has probable cause to believe that the person may cause injury to self or others or may damage property unless immediately arrested.

(b) A law enforcement officer may not arrest a person who is charged only with committing an ordinance traffic infraction unless the person charged has received service of a notice to appear and has failed to appear for the ordinance traffic infraction.

[refused to give a written promise to appear or has

History: L. 1973, ch. 61, § 12-4212; L. 1984, ch. 127, § 1; L. 1984, ch. 39, § 29; Jan. 1, 1985.

Sec. 4. K.S.A. 12-4305 is hereby amended to read as follows:

12-4305. Schedule of fines to be established; payment of fines upon plea of guilty or no contest. The municipal judge shall establish a schedule of fines which shall be imposed for municipal ordinance violations that are classified as ordinance traffic infractions. Also, the municipal judge may establish a schedule of fines which shall be imposed for the violation of certain other ordinances. Such fines shall be imposed upon a voluntary entry of appearance and upon a plea of guilty or no contest to a complaint alleging such violation. Any fine so established shall be within the minimum and maximum allowable fines established by ordinance for such offenses by the governing body. The following traffic violations are specifically excluded from any schedule of fines:

(a) Reckless driving;

(b) driving while under the influence of intoxicating liquor or drugs;

(c) driving without a valid license issued or on a suspended or revoked license;

or
(d) offenses arising from a motor vehicle collision or accident;

[alcohol
canceled,
fleeing or attempting to elude a
police officer; or

The municipal judge may authorize the clerk of the municipal court or some other

(e) offenses comparable to those proscribed by K.S.A. 8-1602 and 8-1603 and 1984 Supp. 8-1604, and amendments thereto.

person to accept such voluntary appearance by mail or in person, plea of guilty or no contest and payment of the fine imposed by the schedule. Payment may be made by mail or in person and may be by personal check. The complaint shall not have been complied with if a check is not honored for any reason, or the fine is not paid in full prior to the time specified in the notice to appear. When a person charged with an ordinance traffic infraction or other ordinance violation on a schedule of fines makes payment by mail without executing a written waiver of right to trial and plea of guilty or no contest, the payment shall be deemed such an appearance, waiver of right to trial and plea of no contest.

The schedule of fines and persons authorized to accept such pleas shall be conspicuously displayed in the office where such voluntary appearance, plea of guilty and payment of fine occurs.

History: L. 1973, ch. 61, § 12-4305; L. 1984, ch. 39, § 30; Jan. 1, 1985.

Sec. 5. K.S.A. 12-4516 is hereby amended to read as follows:

12-4516. Expungement of certain convictions. (a) Except as provided in subsection (b), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction if three or more years have elapsed since the person: (1) Satisfied the sentence imposed; or (2) was discharged from probation, parole or a suspended sentence.

(b) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, parole or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute: (1) Vehicular homicide, as defined by K.S.A. 21-3405;

(2) driving while under the influence of intoxicating liquor or drugs, as prohibited by K.S.A. 8-1567; [alcohol and amendments thereto]

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been cancelled, suspended or revoked, as prohibited by K.S.A. 8-262; [and amendments thereto]

(4) perjury resulting from a violation of K.S.A. 8-261a; [and amendments thereto]

(5) a violation of the provisions of the fifth clause of K.S.A. 8-142, relating to fraudulent applications; [and amendments thereto]

(6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604; [and amendments thereto

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

(c) When a petition for expungement is filed, the court shall set a date for a hearing thereon and shall give notice thereof to the prosecuting attorney. The petition shall state: (1) The defendant's full name; (2) the full name of the defendant at the time of arrest and conviction, if different than the defendant's current name; (3) the defendant's sex, race, and date of birth; (4) the crime for which the defendant was convicted; (5) the date of the defendant's conviction; and (6) the identity of the convicting court. A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas adult authority.

(d) At the hearing on the petition, the court shall order the petitioner's conviction expunged if the court finds:

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

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

(3) that the expungement is consistent with the public welfare.

(e) When the court has ordered a conviction expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the federal bureau of investigation, the Kansas bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the conviction. After the order of expungement is entered, the petitioner shall be treated as not having been convicted of the crime, except that:

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

(2) the petitioner shall disclose that the conviction occurred if asked about previous convictions (A) in any application for employment as a detective with a private detective agency, as defined by K.S.A. 1982- [1984

Supp. 75-7b01; as security personnel with a [and amendments thereto

private patrol operator, as defined by K.S.A. ~~1982~~ Supp. 75-7b01, with a criminal justice agency, as defined by K.S.A. 22-4701, or with an institution as defined in K.S.A. ~~1982~~ Supp. 76-12a01/ of the department of social and rehabilitation services; or (B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

[1984
and amendments thereto
and amendments thereto
and amendments thereto

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

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

(f) Whenever a person is convicted of an ordinance violation, pleads guilty and pays a fine for such a violation or is placed on parole or probation or is given a suspended sentence for such a violation, the person shall be informed of the ability to expunge the conviction.

(g) Subject to the disclosures required pursuant to subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose conviction of an offense has been expunged under this statute may state that such person has never been convicted of such offense.

(h) Whenever the record of any conviction has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

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

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

(4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. ~~1982~~ Supp. 76-12a01, of the department of social and rehabilitation services of any person whose record has been expunged;

[and amendments thereto

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

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

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

History: L. 1978, ch. 120, § 27; L. 1980, ch. 102, § 1; L. 1981, ch. 158, § 1; L. 1982, ch. 139, § 1; July 1.

Sec. 6. K.S.A. 12-4516, and K.S.A. 1984 Supp. 8-2110, 12-4212, and 12-4305 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.