

Approved: 5-4-96
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on March 18, 1996 in Room 519-S of the Capitol.

All members were present except: Representative William G. Mason, Absent
Representative L. Candy Ruff, Absent

Committee staff present: Mary Galligan, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: Natalie Haag, Executive Director, State Gaming Commission

Others attending: See attached list

The Chairperson announced the minutes of March 13 and 14 had been distributed and action would be taken on them later in the meeting.

Substitute SB 410 - Implementation of Tribal State Gaming Compacts

The Chairperson stated there would be a hearing and possible final action on **Substitute SB 410** then discussion and possible final action on **HB 2885**.

Natalie Haag, Executive Director, State Gaming Commission, gave a briefing and also testified as a proponent for **Substitute SB 410**. (See Attachment #1)

The Chairperson closed the hearing on **Sub. SB 410** and asked what the committee's pleasure was.

Representative Graeber moved and Representative Gilbert seconded to move **Sub. SB 410** out favorably.

Representative Cox moved and Representative Lloyd seconded on page 2, line 43 to change "classified" to "unclassified". The motion carried.

Representative Graeber moved and Representative Lloyd seconded on page 4, line 19 after the word "court" add "or a court of competent jurisdiction". The motion carried.

Representative Cox moved and Representative Graeber seconded to move **Sub. SB 410** out of committee favorably as amended. The motion carried.

The Chairperson stated discussion on **HB 2885** would be continued.

Representative Gary Hayzlett reviewed a balloon to **HB 2885**. (See Attachment #2)

Representative Graeber moved and Representative Cox seconded a conceptual motion on Page 2, line 1 of balloon, if adopted, after "of" to add "a conviction in this or any other jurisdiction of felony in this or any other state".

Representative Smith stated that felony was not the right word.

Representative Aldritt moved and Representative Ballou moved a conceptual motion on Page 6, line 3, New Section 9, to insert "or property owner" after "employer".

Representative Ballou withdraw his second.

The Chairperson stated motion was out of order and would return to it after acting on Representative Graeber's motion.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE FEDERAL AND STATE AFFAIRS, Room 519-S
Statehouse, at 1:30 p.m. on March 18, 1996.

The Chairperson asked for a vote on Representative Graeber's amendment. The motion carried.

Representative Aldritt moved and Representative Aurand moved a conceptual motion on Page 6, line 3, New Section 9, to insert "or property owner" after "employer".

Representative Nichols moved and Representative Cox seconded a substitute motion to strike all of New Section 9. The motion carried.

Representative Franklin stated he requested this amendment in New Section 9 to address the concern of the KCCI.

Representative Standifer stated New Section 9 does not address KCCI's concern and supports Representative Nichols' amendment.

Representative Samuelson moved and Representative Aldritt seconded a conceptual motion to remove the pre-emption wherever it appeared in the bill. A Division was called for: 6 Yeas - 11 Nays. The motion failed.

Staff stated the entire first sentence in Section 12 regarding preemption could be removed.

Representative Vickery asked staff if concealed carry could be allowed on state highways?

Staff stated it is possible that concealed carry could be permitted on state highways.

Representative Adkins moved and Representative Standifer seconded to strike on Page 5, line 43, Section (h). A Division was called for: 9 Yeas - 10 Nays. The motion failed.

Representative Graeber offered a second balloon amendment proposing 3 changes. The balloon would change on page 2, line 2 from "5 years" to "10 years". On Page 6, add sub-paragraphs (n) any hospital, as defined by K.S.A. 65-425, and amendments thereto; or (o) any bank, savings and loan association or credit union, and adding an expungment section on Page 9. (See Attachment #3)

Chairperson Boston stated were still on the original balloon (Representative Hayzlett's) at this time.

The Chairperson asked for the committee's action on Representative Hayzlett's balloon.

Representative Aurand moved and Representative Graeber seconded to adopt Representative Hayzlett's balloon with conceptual amendments and removing Section 9 on Page 6. The motion carried.

The Chairperson stated that Representative Graeber's balloon would be considered.

Representative Graeber moved and Representative Cox seconded to amend on Page 2, line 2 and change "5 years" to "10 years". The motion carried.

Representative Lloyd asked if Representative Graeber's amendments could be divided.

The Chairperson stated the amendments could be divided.

The Chairperson stated time had expired and Representative Graeber's balloon would be continued at the next meeting and the amendments would be divided. The second item is on Page 6 and the third item in the expungment. There are 3 items in the balloon.

Representative Gilbert moved and Representative Standifer seconded to approve the minutes of March 13 and 14. The motion carried.

The meeting adjourned at 3:00 p.m.

The next meeting is scheduled for March 20, 1996.

FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE: March 18, 1996

NAME	REPRESENTING
Don Moler	League of KS Muni
Kim Gullett	League of KS Muni
Sandy Jones	Observer
Quinn Stewart	"
Fred Stewart	Observer
Alan Steppat	PETE MCGILL + Associates
Gaithy Peterson	Woodlands
Whitney Damon	Kansas Bar Assn.
Tom Bruno	Allen Assoc.
Gene Johnson	KS A S A P Assn
Helen Hayzlett	spouse
Amy Russell	Pat Hubbell Assoc.
Jose H. Whitel	
Ken Bohof	lc. Governmental Consulting
Shelia Dyer	Potawatomi Gaming
Elen McFinnney	Potawatomi Indians
Rose Masquest	Potawatomi
Gubia Levine	Potawatomi
Cecelia Jackson	"

FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE: May 18, 1996

NAME	REPRESENTING
Tom Burgess	Sunflower
Rebecca Rice	Ks Coalition for Gaming Equity
Eugene R Masquas	Indian Gaming ABP
Tom Conroy	ABC
Bob Wornick	Self.
Gardner Ott	Leg.
Mark Pappas	KBI
Ted Clark	KBI
Natalie Haag	State Gaming Agency

HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS
SUBSTITUTE FOR SENATE BILL 410
Testimony of Natalie G. Haag

Mr. Chairman, members of the committee, my name is Natalie Haag. I am currently serving as the executive director of the State Gaming Agency, which is responsible for monitoring compliance with the tribal-state gaming compacts.

Substitute for Senate Bill 410 empowers the state gaming agency to complete its duties under the compacts. I will address this bill section by section to explain the reason for the proposed provisions.

Section 1 establishes the tribal gaming oversight act.

Section 2 defines the terms used within the tribal gaming oversight act.

Section 3 transfers the administration of the state gaming agency from the Department of Commerce and Housing to the Kansas Racing and Gaming Commission.

By executive order the state gaming agency was temporarily placed in the Department of Commerce and Housing. If the State fails to designate a state gaming agency, the compacts provide that the tribal gaming commission for each Native American tribe can exercise the authority of and carry out the responsibilities of the state gaming agency. Thus, tribal gaming would proceed without state oversight.

This bill establishes a permanent location for the state gaming agency with the Kansas Racing and Gaming Commission. Section 19 renames the current Racing Commission to be the Kansas Racing and Gaming Commission. Sections 20, 21, and 22 revise the parimutuel gaming act to be consistent with the name change of the commission.

To implement this gaming agency consolidation plan Substitute for Senate Bill 410 sections 3 and 4 set forth the duties of the Kansas Racing and Gaming Commission, the executive director, the director of compliance, and compliance officers for the state gaming agency. The specific duties of the state gaming agency are also outlined in Section 5 of the bill, which simply reiterates those duties found in the compacts.

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Section 4 also provides that the executive director of the state gaming agency will be appointed by the Governor subject to confirmatin by the Senate. This procedure is identical to that used to select the executive director of the Racing Commission.

Section 6 of the bill allows designated employees of the state gaming agency to be vested with law enforcement power and authority. Said employees will have the powers to make arrests and conduct searches and seizures in the enforcement of this act and the criminal laws. Section 6 also creates a duty on behalf of the KBI to conduct or assist in conducting investigations of criminal violations and violations of this act.

Granting the state gaming agency law enforcement authority will also facilitate their ability to obtain information on suspects and criminal investigations from other law enforcement agencies outside of Kansas. Pursuant to the compact the KBI has authority to assist and/or conduct investigations. This provision makes Kansas law consistent with the compacts.

Substitute for Senate Bill 410, section 7 amends the previously passed Senate Bill 495 to make the language consistent.

Section 8 of the bill creates the tribal gaming fund for administering collection of and distribution of deposits from the tribes in accordance with the compacts. It also allows the executive director and the director of accounts and reports to establish such accounts as are necessary to administer the responsibility of the state gaming agency pursuant to the compacts. Any appropriation from the state general fund for operation or expenses of the state gaming agency will be considered a loan and shall be repaid with interest.

The compacts provide that the tribes with compacts will reimburse the state for any expenses the State incurs to operate the state gaming agency or comply with other provisions of the compacts. Thus, a fund for these payments is necessary. The compact terms provide for the first payment toward the fiscal year budget to be made on September 20 of each year. Thus, the state gaming agency operates from July 1 to September 20 without any operating funds in the tribal gaming fund. The option of a loan from the general fund addresses this problem.

Section 9 makes it a class A nonperson misdemeanor for the executive director and other state gaming agency employees to have a financial interest in any tribal gaming facility or host facility for progressive jackpots. Further, section 9 makes it a misdemeanor for employees of the state gaming agency and their family members to participate in tribal gaming activities or receive any financial benefit from these activities.

Obviously, these provisions are recommended to avoid any conflict of interest within the state gaming agency.

Section 9 also makes it a crime for anyone under the age of 21 to wager or play a class III game and for anyone to allow someone under the age of 21 to wager or play a class III game. Further, section 9 creates a number of criminal violations for cheating and stealing activities exclusive to the gaming industry.

The criminal provisions create a means for the state to prosecute criminal violations associated with gaming activities. The compacts provide that the State of Kansas has concurrent criminal jurisdiction over Indians and exclusive criminal jurisdiction over non-Indians. Section 9 merely establishes the crimes the State of Kansas has an interest in preventing. These provisions will enable effective prosecution of potential criminal activity at the tribal gaming facility.

Sections 10 and 14 allow the state gaming agency access to expunged municipal and state criminal records. These records will be used to assess the qualifications of state gaming agency employees and tribal gaming operations licences. The state gaming agency is authorized to review the licensing decisions of the tribal gaming commission to ensure that the decision is in the best interest of the State of Kansas. Expunged criminal records are helpful in deciding whether a person wanting to participate in gaming or gaming regulation is trustworthy and honest.

Sections 11, 12 and 13 amend current state statutes regarding gaming to make them consistent with the compacts. These revisions do not effect the type of gaming that will be allowed under the compacts.

Section 15 allows the tribal gaming facility to serve alcohol as a Class B club without the license waiting period or membership fee.

The compacts allow the tribal gaming facilities to serve alcoholic beverages in accordance with state and federal law. Under federal law the tribal members would have to vote and pass a resolution allowing the sale of alcoholic beverages on reservation property. Under current Kansas law, the tribal gaming agency could serve alcoholic beverages as a class B club. However, to simplify the regulation of its sale and following discussions with the Attorney General's office and the attorney's for Alcohol and Beverage Control, we drafted section 15. The exact same provision was enacted for parimutuel racetracks. A similar provision is also available for hotels and RV resorts.

The tribal-state gaming compacts provide that certain documents provided to the state gaming agency will not be disclosed to the public. Section 16 amends the Kansas Open Records Act to make its language consistent with the compacts. This amendment provides additional protection from legal action to the state gaming agency when it refuses to produce the protected records to the public.

The compacts also allow the tribes to establish law enforcement agencies. The compact requires all tribal law enforcement agents to be trained at a state facility. Similarly, section 17 allows a tribal employee to attend state law enforcement training courses. This amendment reconciles the language of the statute with that of the compact.

Section 18 provides that the tribe will reimburse the law enforcement training center for the cost of training employees of the tribal law enforcement agency. This provision simply codifies the compact terms.

Section 23 requires semi-annual activity reports to the Kansas racing and gaming commission concerning inspections and investigations of bingo operations in Kansas.

Section 24 allows the racing and gaming commission to enter a closed or executive meeting to discuss matters required to be discussed in closed or executive meeting pursuant to the compacts. Thus, section 24 provides further authority for the commission's compliance with the terms of the compacts.

The final two provisions of the bill repeal inconsistent laws and create an effective date for this bill.

After reviewing this bill and the compacts, the only potential clarification that I would note is at Section 5 (d) (on page 4) where the subpoena powers of the executive director are discussed. The compact discusses the state gaming agency's right to review and copy documents of the gaming facility. Subpoena power is only necessary if the tribal gaming facility refuses to cooperate in the production or disclosure of records in accordance with the compacts. Thus, the executive director's subpoena powers may need to be limited to those instances when the tribal gaming facility has refused to produce the required documents or information.

Additionally, the executive director is given the power to seek an order to compel production of documents through the "district court of any county". However, said district courts may not have jurisdiction to issue any orders. Instead, jurisdiction in certain instances will probably vest in the United States District Court. Thus, I would recommend this language be expanded to include the district court of any county or any court of competent jurisdiction.

I would urge you to support Substitute for Senate Bill 410. The provisions of this bill are written to assist the State of Kansas. Failure to enact these provisions will only hinder the State of Kansas and not Indian gaming.

HOUSE BILL No. 2885

By Representatives Hayzlett and Aurand, Ballou, Beggs, Bryant, Cornfield, Dawson, Donovan, Farmer, Horst, Howell, Hutchins, Jennison, Jones, Kejr, King, Landwehr, Lawrence, Lloyd, Mayans, Merritt, Mollenkamp, Morrison, Myers, Neufeld, O'Connor, Ott, Packer, Powell, Pugh, Shore, Snowbarger, Tanner, Toplikar, Weber and Yoh

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13 AN ACT providing for licensure to carry certain concealed weapons; pro-
14 hibiting certain acts and prescribing penalties for violations; amending
15 K.S.A. 21-4201 and repealing the existing section.

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. As used in sections 1 through 14

19 (a) "Bureau" means the Kansas bureau of investigation.

20 (b) "Weapon" means handgun, pistol or revolver.

21 New Sec. 2. (a) The bureau shall issue licenses to carry concealed
22 weapons to persons qualified as provided by this act. Such licenses shall
23 be valid throughout the state for a period of four years from the date of
24 issuance.

25 (b) The license shall be in a form, prescribed by the bureau, that is
26 approximately the size of a Kansas driver's license and shall bear the
27 licensee's signature, name, address, date of birth and driver's license num-
28 ber or nondriver's identification card number.

29 (c) The licensee must carry the license, together with a valid Kansas
30 driver's license or Kansas nondriver's identification card, at all times in
31 which the licensee is in actual possession of a concealed weapon and must
32 display both the license and proper identification upon demand by a law
33 enforcement officer. Violation of the provisions of this subsection shall
34 constitute a class B nonperson misdemeanor.

35 New Sec. 3. (a) The bureau shall issue a license pursuant to this act
36 if the applicant:

37 (1) Is a resident of the county where application for licensure is made
38 and has been a resident of the state for six months or more immediately
39 preceding the filing of the application;

40 (2) is 21 years or more of age;

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

43 (4) E is not ineligible to possess a weapon pursuant to K.S.A. 21-4204

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1 ~~and amendments thereto by virtue of having been convicted of a felony,~~
2 (5) has not been, during the five years immediately preceding the
3 date the application is submitted: (A) A mentally ill person or involuntary
4 patient, as defined in K.S.A. 59-2902 and amendments thereto; (B) an
5 alcoholic, as defined in K.S.A. 65-4003 and amendments thereto; (C) a
6 drug abuser, as defined in K.S.A. 65-5201 and amendments thereto; (D)
7 committed for the abuse of a controlled substance; (E) convicted of a
8 crime under the provisions of the uniform controlled substances act or a
9 similar law of another state, the District of Columbia or the United States
10 relating to controlled substances; (F) adjudicated a juvenile offender by
11 reason of a violation of such act or similar law; (G) committed for the
12 abuse of alcohol; or (H) convicted or placed on diversion two or more
13 times for a violation of K.S.A. 8-1567 and amendments thereto, or a sim-
14 ilar law of any city, county, other state or the District of Columbia;
15 (6) desires a legal means to carry a concealed weapon for lawful self-
16 defense;
17 (7) presents evidence satisfactory to the bureau that the applicant has
18 satisfactorily completed a weapons safety and training course approved
19 by the bureau pursuant to subsection (c);
20 (8) has not been adjudged a disabled person under the act for ob-
21 taining a guardian or conservator, or both, or under a similar law of an-
22 other state or the District of Columbia, unless the applicant was ordered
23 restored to capacity three or more years before the date on which the
24 application is submitted;
25 (9) has not been dishonorably discharged from military service;
26 (10) is not a noncitizen ~~who is in the United States illegally~~ and
27 (11) is not subject to a restraining order issued under the protection
28 from abuse act.
29 (b) The bureau shall deny a license to, and may revoke the license
30 of, any person who, during the five years immediately preceding the date
31 the application is submitted or during the term of the license, has been:
32 (A) Convicted of a crime defined in article 34 or 35 of the Kansas Statutes
33 Annotated, or a similar crime under a city ordinance, county resolution
34 or law of another jurisdiction; or (B) adjudicated a juvenile offender by
35 reason of an act which would be such a crime if committed by an adult.
36 (c) (1) The director of the bureau shall adopt rules and regulations
37 establishing procedures and standards as authorized by this act for a
38 weapons safety and training course required by this section. Such stan-
39 dards shall include: (A) A requirement that trainees receive training in
40 the actual firing of weapons and instruction in the laws of this state gov-
41 erning the carrying of a concealed weapon and the use of deadly force;
42 (B) general guidelines for courses; (C) qualifications of instructors; and
43 (D) a requirement that the course be a weapons course: (i) Certified or

has never been convicted of a felony or adjudicated a juvenile offender by reason of an act that would be a felony if committed by an adult

that is a misdemeanor

of chapter 21

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1 sponsored by the bureau or by the national rifle association; or (ii) cer-
2 tified or sponsored by a law enforcement agency, college, private or public
3 institution or organization or weapons training school and taught by in-
4 structors certified by the bureau or the national rifle association.

5 (2) The cost of the weapons safety and training course required by
6 this section shall be paid by the applicant. The following shall constitute
7 satisfactory evidence of satisfactory completion of an approved weapons
8 safety and training course: (A) A photocopy of a certificate of completion
9 of the course; (B) an affidavit from the instructor, school, club, organi-
10 zation or group that conducted or taught such course attesting to the
11 completion of the course by the applicant; or (C) a copy of any document
12 which shows completion of the course.

13 (d) In addition to the requirements of subsection (a), a person holding
14 a license pursuant to this act, prior to renewal of the license provided for
15 herein, must submit evidence satisfactory to the bureau that the licensee
16 has requalified on an approved course given by an instructor of an ap-
17 proved weapons safety and training course under subsection (c)(1).

18 New Sec. 4. (a) The application for a license pursuant to this act shall
19 be completed, under oath, on a form prescribed by the bureau and shall
20 only include:

21 (1) The name, address, place and date of birth, race and occupation
22 of the applicant;

23 (2) a statement that the applicant is in compliance with criteria con-
24 tained within section 3;

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

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

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

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

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

36 (2) a nonrefundable license fee not to exceed \$125, if the applicant
37 has not previously been issued a statewide license ~~or a nonrefundable~~
38 ~~license fee not to exceed \$100, for renewal of a statewide license;~~

39 (3) a full set of fingerprints of the applicant administered by a law
40 enforcement agency of this state;

41 (4) a photocopy of a certificate or an affidavit or document as de-
42 scribed in subsection (c) of section 3; and

43 (5) a full frontal view photograph of the applicant taken within the

or if the applicant's statewide license has permanently expired

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1 preceding 30 days.

2 (c) (1) The sheriff, upon receipt of the items listed in subsection (b),
3 shall provide for the full set of fingerprints of the applicant to be proc-
4 essed for any criminal justice information and shall forward a copy of the
5 application and \$100 of the original license fee, or \$80 of the renewal
6 license fee, to the bureau. The cost of processing such fingerprints shall
7 be included in the portion of the fee retained by the sheriff.

8 (2) The sheriff of the applicant's county of residence, at the sheriff's
9 discretion, may participate in the process by submitting a voluntary report
10 to the bureau containing any readily discoverable prior information that
11 the sheriff has reason to believe may be pertinent to the licensing of any
12 applicant. Any such voluntary reporting shall be made within 45 days after
13 the date the sheriff receives the application. A sheriff submitting a vol-
14 untary report shall not incur any civil or criminal liability as the result of
15 the good faith submission of such report.

16 (3) All funds received by the sheriff pursuant to the provisions of this
17 section shall be deposited in the general fund of the county and shall be
18 budgeted to the use of the sheriff's office.

19 (d) The bureau, within 90 days after the date of receipt of the items
20 listed in subsection (b), shall

21 (1) Issue the license; or

22 (2) deny the application based solely on the ground that the applicant
23 fails to qualify under the criteria listed in section 3. If the bureau denies
24 the application, the bureau shall notify the applicant in writing, stating
25 the ground for denial and informing the applicant of any right to a hearing
26 pursuant to the Kansas administrative procedure act.

27 (e) Any law enforcement officer, as defined by K.S.A. 21-3110 and
28 amendments thereto, shall be exempt from the fees and background in-
29 vestigation required by this section for a period of one year subsequent
30 to the date of retirement of such officer as a law enforcement officer.

31 New Sec. 5. (a) The bureau shall maintain an automated listing of
32 licenseholders and pertinent information, and such information shall be
33 available, upon request, at all times to all law enforcement agencies in
34 this state.

35 (b) Within 30 days after the changing of a permanent address, or
36 within 30 days after having a license lost or destroyed, the licensee shall
37 notify the bureau of such change, loss or destruction. The bureau, upon
38 notice and hearing, may order a licensee to pay a fine of not more than
39 \$100, or may suspend the licensee's license for not more than 180 days,
40 for failure to notify the bureau pursuant to the provisions of this subsec-
41 tion.

42 (c) In the event that a concealed weapon license is lost or destroyed,
43 the license shall be automatically invalid, and the person to whom the

of this section or subsection (a) of section 7

: (A) The report submitted by the sheriff
under subsection (c)(2); or (B)

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1 license was issued, upon payment of \$15 to the bureau, may obtain a
2 duplicate, or substitute thereof, upon furnishing a notarized statement to
3 the bureau that such license has been lost or destroyed.

4 New Sec. 6. The bureau shall suspend or revoke at any time, after
5 notice and an opportunity for hearing in accordance with the Kansas
6 administrative procedure act, the license of any person who would be
7 ineligible under section 2 if submitting an application for a license at such
8 time or who fails to submit evidence of requalification as required by
9 subsection (d) of section 3.

10 New Sec. 7. (a) Not less than 90 days prior to the expiration date of
11 the license, the bureau shall mail to the licensee a written notice of the
12 expiration and a renewal form prescribed by the bureau. The licensee
13 must renew the license on or before the expiration date by filing with the
14 ~~bureau~~ the renewal form, a notarized affidavit stating that the licensee
15 remains qualified pursuant to the criteria specified in section 3, a com-
16 pleted fingerprint card, ~~and the required renewal fee and fingerprint~~
17 ~~processing fee. The license shall be renewed upon receipt of the com-~~
18 ~~pleted renewal application, fingerprint card and appropriate payment of~~
19 ~~fee.~~ A licensee who fails to file a renewal application on or before the
20 expiration date of the license must pay an additional late fee of \$15

sheriff of the licensee's county of residence

a full frontal view photograph of the applicant
taken within the preceding 30 days and a nonre-
fundable license renewal fee not to exceed \$10

21 (b) No license shall be renewed six months or more after the expi-
22 ration date of the license, and such license shall be deemed to be per-
23 manently expired. A person whose license has been permanently expired
24 may reapply for licensure but an application for licensure and fees pur-
25 suant to section 4 must be submitted, and a background investigation
26 shall be conducted pursuant to the provisions of that section.

If the licensee is qualified as provided by
this act, the license shall be renewed upon
receipt by the bureau of the items listed in
subsection (a).

(c)

27 ~~(c) A person who knowingly files false information pursuant to this~~
28 ~~section shall be subject to criminal prosecution under K.S.A. 21-3805 and~~
29 ~~amendments thereto.~~

30 New Sec. 8. No license issued pursuant to this section shall authorize
31 the licensee to carry a concealed weapon into:

New Sec. 8. The application form for an
original license and for a renewal license
shall include, in a conspicuous place, the
following: "WARNING: A false statement on
this application may subject the applicant to
prosecution for the crime of perjury (K.S.A.
21-3805)."

32 (a) Any place where an activity declared a common nuisance by
33 K.S.A. 22-3901 and amendments thereto is maintained;

34 (b) any police, sheriff or highway patrol station;

35 (c) any detention facility, prison or jail;

36 (d) any courthouse;

37 (e) any courtroom, except that nothing in this section would preclude
38 a judge from carrying a concealed weapon or determining who will carry

39 a concealed weapon in the judge's courtroom;

40 (f) any polling place;

41 (g) any meeting of the governing body of a county, city or other sub-
42 division,

43 (h) any meeting of the legislature or a committee thereof.

Renumber sections accordingly

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- 1 (i) any school, community college, college, university or professional
- 2 athletic event not related to firearms;
- 3 (j) any portion of an establishment licensed to dispense alcoholic liqu-
- 4 or or cereal malt beverage for consumption on the premises, which
- 5 portion of the establishment is primarily devoted to such purpose;
- 6 (k) any elementary or secondary school facility;
- 7 (l) any community college, college or university facility; or
- 8 (m) any place where the carrying of firearms is prohibited by federal
- 9 law.

10 New Sec. 9. It is a class A nonperson misdemeanor for a person
 11 licensed pursuant to this act to carry a concealed weapon while under the
 12 influence of alcohol or drugs, or both.

13 New Sec. 10 (a) All moneys received by the bureau pursuant to this
 14 act shall be remitted to the state treasurer who shall deposit the entire
 15 amount in the state treasury and credit it to the concealed weapon licen-
 16 sure fund, which is hereby created in the state treasury.

17 (b) Moneys in the concealed weapon licensure fund shall be used
 18 only ~~to pay the expenses of administering this act~~

19 (c) On or before the 10th day of each month, the director of accounts
 20 and reports shall transfer from the state general fund to the concealed
 21 weapon licensure fund the amount of money certified by the pooled
 22 money investment board in accordance with this subsection. Prior to the
 23 10th day of each month, the pooled money investment board shall certify
 24 to the director of accounts and reports the amount of money equal to the
 25 proportionate amount of all the interest credited to the state general fund
 26 for the preceding month, pursuant to K.S.A. 75-4210a and amendments
 27 thereto, that is attributable to moneys in the concealed weapon licensure
 28 fund. Such amount of money shall be determined by the pooled money
 29 investment board based on: (1) The average daily balance of moneys in
 30 the concealed weapon licensure fund during the preceding month as cer-
 31 tified to the board by the director of accounts and reports; and (2) the
 32 average interest rate on repurchase agreements of less than 30 days' du-
 33 ration entered into by the pooled money investment board for that period
 34 On or before the fifth day of each month, the director of accounts and
 35 reports shall certify to the pooled money investment board the average
 36 daily balance of moneys in the concealed weapon licensure fund during
 37 the preceding month.

38 (d) All expenditures from the concealed weapon licensure fund shall
 39 be made in accordance with appropriation acts upon warrants of the di-
 40 rector of accounts and reports issued pursuant to vouchers approved by
 41 the director of the bureau for the purposes set forth in this section.

42 New Sec. 11. (a) The director of the bureau shall adopt such rule
 43 and regulations as necessary to administer the provisions of this act.

New Sec. 9. Nothing in this act shall construed to prevent or otherwise limit the right of a public or private employer to prohibit persons, including persons licensed under this act, from carrying a concealed weapon on the premises of the employer.

Renumber sections accordingly

for: (1) Payment of the expenses of administration of this act; and (2) transfers to the county law enforcement equipment fund and the forensic laboratory and materials fee fund as provided by subsection (e)

Insert attached and renumber sections accordingly

(e) The director of the bureau shall certify to the director of accounts and reports each month beginning with the month that moneys are first credited to the concealed weapons licensure fund the amount of moneys in such fund needed to administer this act. On or before the 15th day of each month after moneys are first credited to the concealed weapons licensure fund, the director of accounts and reports shall transfer moneys in the concealed weapons licensure fund as follows: (1) Of the amount in excess of the amount certified by the director of the bureau, 20% shall be credited to the county law enforcement equipment fund; and (2) the remaining 80% shall be credited to a separate account in the forensic laboratory and materials fee fund cited in K.S.A. 28-176 and amendments thereto, to be used solely to assist city and county law enforcement agencies to obtain prompt laboratory services from the bureau. Moneys credited to the forensic laboratory and materials fee fund as provided by this subsection shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

New Sec. 12. (a) There is hereby created in the state treasury the county law enforcement equipment fund.

(b) Moneys in the county law enforcement equipment fund shall be used only to fund grants to sheriffs' departments for purchases of law enforcement equipment other than motor vehicles. Such grants shall be administered by the director of the bureau. Such grants shall be based on applications submitted by sheriffs' departments that demonstrate the need for the equipment for which the grant is sought and substantiate that grant moneys will not be used to supplant existing funding of the recipient sheriff's department.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the county law enforcement equipment fund the amount of money certified by the pooled money investment board in accordance with this subsection. Prior to the 10th day of each month, the pooled money investment board shall certify to the director of accounts and reports the amount of money equal to the proportionate amount of all the interest credited to the state general fund for the preceding month, pursuant to K.S.A. 75-4210a and amendments thereto, that is attributable to moneys in the county law enforcement equipment fund. Such amount of money shall be determined by the pooled money investment board based on: (1) The average daily balance of moneys in the county law enforcement equipment fund during the preceding month as certified to the board by the director of accounts and reports; and (2) the average interest rate on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board for that period. On or before the fifth day of each month, the director of accounts and reports shall certify to the pooled money investment board the average daily balance of moneys in the county law enforcement equipment fund during the preceding month.

(d) All expenditures from the county law enforcement equipment fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the bureau for the purposes set forth in this section.

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1 (b) On or before January 1 of each year, the director of the bureau
2 shall submit a statistical report to the governor, president of the senate,
3 the senate leader, the speaker of the house of representatives and the
4 house minority leader indicating the number of licenses issued, revoked,
5 suspended and denied during the preceding fiscal year.

6 New Sec. 12. The legislature finds as a matter of public policy and
7 fact that it is necessary to provide statewide uniform standards for issuing
8 licenses to carry concealed weapons for self-defense and finds it necessary
9 to occupy the field of requisition of the bearing of concealed weapons for
10 self-defense to ensure that no honest, law-abiding person who qualifies
11 under the provisions of this [section] is subjectively or arbitrarily denied
12 the person's rights. The legislature does not delegate to the bureau the
13 authority to regulate or restrict the issuing of licenses provided for in this
14 act, beyond those provisions of this act pertaining to licensing and train-
15 ing. Subjective or arbitrary actions or rules and regulations which encum-
16 ber the issuing process by placing burdens on the applicant beyond those
17 sworn statements and specified documents detailed in this act or which
18 create restrictions beyond those specified in this act are in conflict with
19 the intent of this act and are prohibited. This act shall be liberally con-
20 strued to carry out the constitutional right to bear arms for self-defense.
21 This section is supplemental and additional to existing rights to bear arms
22 and nothing in this section shall impair or diminish such rights.

act

23 New Sec. 13. If any provision of this act or the application thereof
24 to any person or circumstance is held invalid, the invalidity shall not affect
25 other provisions or applications of the act which can be given effect with-
26 out the invalid provision or application. To this end the provisions of this
27 act are severable.

28 Sec. 14. K.S.A. 21-4201 is hereby amended to read as follows: 21-
29 4201. (a) Criminal use of weapons is knowingly:

30 (1) Selling, manufacturing, purchasing, possessing or carrying any
31 bludgeon, sandclub, metal knuckles or throwing star, or any knife, com-
32 monly referred to as a switch-blade, which has a blade that opens auto-
33 matically by hand pressure applied to a button, spring or other device in
34 the handle of the knife, or any knife having a blade that opens or falls or
35 is ejected into position by the force of gravity or by an outward, downward
36 or centrifugal thrust or movement;

37 (2) carrying concealed on one's person, or possessing with intent to
38 use the same unlawfully against another, a dagger, dirk, billy, blackjack,
39 slung shot, dangerous knife, straight-edged razor, stiletto or any other
40 dangerous or deadly weapon or instrument of like character, except that
41 an ordinary pocket knife with no blade more than four inches in length
42 shall not be construed to be a dangerous knife, or a dangerous or deadly
43 weapon or instrument;

1 (3) carrying on one's person or in any land, water or air vehicle, with
2 intent to use the same unlawfully, a tear gas or smoke bomb or projector
3 or any object containing a noxious liquid, gas or substance;

4 (4) carrying any pistol, revolver or other firearm concealed on one's
5 person except when on the person's land or in the person's abode or fixed
6 place of business;

7 (5) setting a spring gun;

8 (6) possessing any device or attachment of any kind designed, used
9 or intended for use in silencing the report of any firearm;

10 (7) selling, manufacturing, purchasing, possessing or carrying a shot-
11 gun with a barrel less than 18 inches in length or any other firearm de-
12 signed to discharge or capable of discharging automatically more than
13 once by a single function of the trigger;

14 (8) possessing, manufacturing, causing to be manufactured, selling,
15 offering for sale, lending, purchasing or giving away any cartridge which
16 can be fired by a handgun and which has a plastic-coated bullet that has
17 a core of less than 60% lead by weight; or

18 (9) possessing or transporting any incendiary or explosive material,
19 liquid, solid or mixture, equipped with a fuse, wick or any other detonat-
20 ing device, commonly known as a molotov cocktail or a pipe bomb.

21 (b) Subsections (a)(1), (2), (3), (4) and (7) shall not apply to or affect
22 any of the following:

23 (1) Law enforcement officers, or any person summoned by any such
24 officers to assist in making arrests or preserving the peace while actually
25 engaged in assisting such officer;

26 (2) wardens, superintendents, directors, security personnel and keep-
27 ers of prisons, penitentiaries, jails and other institutions for the detention
28 of persons accused or convicted of crime, while acting within the scope
29 of their authority;

30 (3) members of the armed services or reserve forces of the United
31 States or the Kansas national guard while in the performance of their
32 official duty; or

33 (4) manufacture of, transportation to, or sale of weapons to a person
34 authorized under subsections (b)(1), (2) and (3) to possess such weapons.

35 (c) Subsection (a)(4) shall not apply to or affect the following:

36 (1) Watchmen, while actually engaged in the performance of the du-
37 ties of their employment;

38 (2) licensed hunters or fishermen, while engaged in hunting or fish-
39 ing;

40 (3) private detectives licensed by the state to carry the firearm in-
41 volved, while actually engaged in the duties of their employment;

42 (4) detectives or special agents regularly employed by railroad com-
43 panies or other corporations to perform full-time security or investigative

2-10

1 service, while actually engaged in the duties of their employment; or
2 (5) the state fire marshal, the state fire marshal's deputies or any
3 member of a fire department authorized to carry a firearm pursuant to
4 K.S.A. 31-157 and amendments thereto, while engaged in an investigation
5 in which such fire marshal, deputy or member is authorized to carry a
6 firearm pursuant to K.S.A. 31-157 and amendments thereto.

7 (d) Subsections (a)(1), (6) and (7) shall not apply to any person who
8 sells, purchases, possesses or carries a firearm, device or attachment
9 which has been rendered unserviceable by steel weld in the chamber and
10 marriage weld of the barrel to the receiver and which has been registered
11 in the national firearms registration and transfer record in compliance
12 with 26 U.S.C. 5841 *et seq.* in the name of such person and, if such person
13 transfers such firearm, device or attachment to another person, has been
14 so registered in the transferee's name by the transferor.

15 (e) Subsection (a)(8) shall not apply to a governmental laboratory or
16 solid plastic bullets.

17 (f) *Subsection (a)(4) shall not apply to any person carrying a con-*
18 *cealed weapon as authorized by sections 1 through 12.*

19 (g) It shall be a defense that the defendant is within an exemption.

20 ~~(g)~~ (h) Violation of subsections (a)(1) through (a)(5) or subsection
21 (a)(9) is a class A nonperson misdemeanor. Violation of subsection (a)(6),
22 (a)(7) or (a)(8) is a severity level 9, nonperson felony.

23 ~~(h)~~ (i) As used in this section, "throwing star" means any instrument,
24 without handles, consisting of a metal plate having three or more radiating
25 points with one or more sharp edges and designed in the shape of a
26 polygon, trefoil, cross, star, diamond or other geometric shape, manufac-
27 tured for use as a weapon for throwing.

28 Sec. 15. K.S.A. 21-4201 is hereby repealed.

29 Sec. 16. This act shall take effect and be in force from and after its
30 publication in the statute book.

HOUSE BILL No. 2885

Fed. State
3-18-96
Atch #3

By Representatives Haylett and Aurand, Ballou, Beggs, Bryant, Cornfield, Dawson, Donovan, Farmer, Horst, Howell, Hutchins, Jennison, Jones, Kejr, King, Landwehr, Lawrence, Lloyd, Mayans, Merritt, Mollenkamp, Morrison, Myers, Neufeld, O'Connor, Ott, Packer, Powell, Pugh, Shore, Snowbarger, Tanner, Toplikar, Weber and Yoh

2-5

13 AN ACT providing for licensure to carry certain concealed weapons; pro-
14 hibiting certain acts and prescribing penalties for violations; amending
15 K.S.A. 21-4201 ~~and repealing the existing section.~~

and 21-4619 and repealing the existing section:

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. As used in sections 1 through 12:

19 (a) "Bureau" means the Kansas bureau of investigation.

20 (b) "Weapon" means handgun, pistol or revolver.

21 New Sec. 2. (a) The bureau shall issue licenses to carry concealed
22 weapons to persons qualified as provided by this act. Such licenses shall
23 be valid throughout the state for a period of four years from the date of
24 issuance.

25 (b) The license shall be in a form, prescribed by the bureau, that is
26 approximately the size of a Kansas driver's license and shall bear the
27 licensee's signature, name, address, date of birth and driver's license num-
28 ber or nondriver's identification card number.

29 (c) The licensee must carry the license, together with a valid Kansas
30 driver's license or Kansas nondriver's identification card, at all times in
31 which the licensee is in actual possession of a concealed weapon and must
32 display both the license and proper identification upon demand by a law
33 enforcement officer. Violation of the provisions of this subsection shall
34 constitute a class B nonperson misdemeanor.

35 New Sec. 3. (a) The bureau shall issue a license pursuant to this act
36 if the applicant:

37 (1) Is a resident of the county where application for licensure is made
38 and has been a resident of the state for six months or more immediately
39 preceding the filing of the application;

40 (2) is 21 years or more of age;

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

43 (4) ~~is not ineligible to possess a weapon pursuant to K.S.A. 21-4204~~

2
3

1 ~~and amendments thereto by virtue of having been convicted of a felony;~~
2 (5) has not been, during the ~~five~~ years immediately preceding the
3 date the application is submitted: (A) A mentally ill person or involuntary
4 patient, as defined in K.S.A. 59-2902 and amendments thereto; (B) an
5 alcoholic, as defined in K.S.A. 65-4003 and amendments thereto; (C) a
6 drug abuser, as defined in K.S.A. 65-5201 and amendments thereto; (D)
7 committed for the abuse of a controlled substance; (E) convicted of a
8 ~~crime under the provisions of the uniform controlled substances act or a~~
9 similar law of another state, the District of Columbia or the United States
10 relating to controlled substances; (F) adjudicated a juvenile offender by
11 reason of a violation of such act or similar law; (G) committed for the
12 abuse of alcohol; or (H) convicted or placed on diversion two or more
13 times for a violation of K.S.A. 8-1567 and amendments thereto, or a sim-
14 ilar law of any city, county, other state or the District of Columbia;
15 (6) desires a legal means to carry a concealed weapon for lawful self-
16 defense;
17 (7) presents evidence satisfactory to the bureau that the applicant has
18 satisfactorily completed a weapons safety and training course approved
19 by the bureau pursuant to subsection (c);
20 (8) has not been adjudged a disabled person under the act for ob-
21 taining a guardian or conservator, or both, or under a similar law of an-
22 other state or the District of Columbia, unless the applicant was ordered
23 restored to capacity three or more years before the date on which the
24 application is submitted;
25 (9) has not been dishonorably discharged from military service;
26 (10) is not a noncitizen who is in the United States illegally; and
27 (11) is not subject to a restraining order issued under the protection
28 from abuse act.
29 (b) The bureau shall deny a license to, and may revoke the license
30 of, any person who, during the five years immediately preceding the date
31 the application is submitted or during the term of the license, has been:
32 (A) Convicted of a crime defined in article 34 or 35 of the Kansas Statutes
33 Annotated, or a similar crime under a city ordinance, county resolution
34 or law of another jurisdiction; or (B) adjudicated a juvenile offender by
35 reason of an act which would be such a crime if committed by an adult.
36 (c) (1) The director of the bureau shall adopt rules and regulations
37 establishing procedures and standards as authorized by this act for a
38 weapons safety and training course required by this section. Such stan-
39 dards shall include: (A) A requirement that trainees receive training in
40 the actual firing of weapons and instruction in the laws of this state gov-
41 erning the carrying of a concealed weapon and the use of deadly force;
42 (B) general guidelines for courses; (C) qualifications of instructors; and
43 (D) a requirement that the course be a weapons course: (i) Certified or

has never been convicted of a felony or adjudicated a juvenile offender by reason of an act that would be a felony if committed by an adult

10

that is a misdemeanor

3.3

1 (i) any school, community college, college, university or professional
2 athletic event not related to firearms;

3 (j) any portion of an establishment licensed to dispense alcoholic liq-
4 uor or cereal malt beverage for consumption on the premises, which
5 portion of the establishment is primarily devoted to such purpose;

6 (k) any elementary or secondary school facility;

7 (l) any community college, college or university facility; ~~or~~

8 (m) any place where the carrying of firearms is prohibited by federal
9 law.

10 New Sec. 9. It is a class A nonperson misdemeanor for a person
11 licensed pursuant to this act to carry a concealed weapon while under the
12 influence of alcohol or drugs, or both.

13 New Sec. 10. (a) All moneys received by the bureau pursuant to this
14 act shall be remitted to the state treasurer who shall deposit the entire
15 amount in the state treasury and credit it to the concealed weapon licen-
16 sure fund, which is hereby created in the state treasury.

17 (b) Moneys in the concealed weapon licensure fund shall be used
18 only to pay the expenses of administering this act.

19 (c) On or before the 10th day of each month, the director of accounts
20 and reports shall transfer from the state general fund to the concealed
21 weapon licensure fund the amount of money certified by the pooled
22 money investment board in accordance with this subsection. Prior to the
23 10th day of each month, the pooled money investment board shall certify
24 to the director of accounts and reports the amount of money equal to the
25 proportionate amount of all the interest credited to the state general fund
26 for the preceding month, pursuant to K.S.A. 75-4210a and amendments
27 thereto, that is attributable to moneys in the concealed weapon licensure
28 fund. Such amount of money shall be determined by the pooled money
29 investment board based on: (1) The average daily balance of moneys in
30 the concealed weapon licensure fund during the preceding month as cer-
31 tified to the board by the director of accounts and reports; and (2) the
32 average interest rate on repurchase agreements of less than 30 days' du-
33 ration entered into by the pooled money investment board for that period.
34 On or before the fifth day of each month, the director of accounts and
35 reports shall certify to the pooled money investment board the average
36 daily balance of moneys in the concealed weapon licensure fund during
37 the preceding month.

38 (d) All expenditures from the concealed weapon licensure fund shall
39 be made in accordance with appropriation acts upon warrants of the di-
40 rector of accounts and reports issued pursuant to vouchers approved by
41 the director of the bureau for the purposes set forth in this section.

42 New Sec. 11. (a) The director of the bureau shall adopt such rules
43 and regulations as necessary to administer the provisions of this act.

;	(n) any hospital, as defined by K.S.A. 65-425, and amendments thereto; or
	(o) any bank, savings and loan association or credit union

1 service, while actually engaged in the duties of their employment; or
 2 (5) the state fire marshal, the state fire marshal's deputies or any
 3 member of a fire department authorized to carry a firearm pursuant to
 4 K.S.A. 31-157 and amendments thereto, while engaged in an investigation
 5 in which such fire marshal, deputy or member is authorized to carry a
 6 firearm pursuant to K.S.A. 31-157 and amendments thereto.

7 (d) Subsections (a)(1), (6) and (7) shall not apply to any person who
 8 sells, purchases, possesses or carries a firearm, device or attachment
 9 which has been rendered unserviceable by steel weld in the chamber and
 10 marriage weld of the barrel to the receiver and which has been registered
 11 in the national firearms registration and transfer record in compliance
 12 with 26 U.S.C. 5841 *et seq.* in the name of such person and, if such person
 13 transfers such firearm, device or attachment to another person, has been
 14 so registered in the transferee's name by the transferor.

15 (e) Subsection (a)(8) shall not apply to a governmental laboratory or
 16 solid plastic bullets.

17 (f) *Subsection (a)(4) shall not apply to any person carrying a con-*
 18 *cealed weapon as authorized by sections 1 through 12.*

19 (g) It shall be a defense that the defendant is within an exemption.

20 (g) (h) Violation of subsections (a)(1) through (a)(5) or subsection
 21 (a)(9) is a class A nonperson misdemeanor. Violation of subsection (a)(6),
 22 (a)(7) or (a)(8) is a severity level 9, nonperson felony.

23 (h) (i) As used in this section, "throwing star" means any instrument,
 24 without handles, consisting of a metal plate having three or more radiating
 25 points with one or more sharp edges and designed in the shape of a
 26 polygon, trefoil, cross, star, diamond or other geometric shape, manufac-
 27 tured for use as a weapon for throwing.

28 Sec. 15. K.S.A. 21-4201 ~~is~~ hereby repealed.

29 Sec. 16. This act shall take effect and be in force from and after its
 30 publication in the statute book.

Insert attached and renumber remaining sections:

and 21-4619 are

Sec. 14. K.S.A. 21-4619 is hereby amended to read as follows: 21-4619. (a) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, 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, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(b) Except as provided in subsection (c), 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, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, or:

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

(2) a violation of K.S.A. 8-1567 and amendments thereto, or a violation of any law of another state, which declares to be unlawful the acts prohibited by that statute;

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

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

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

(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, or required by a law of another state which is in substantial conformity with those statutes;

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

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

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in subsection (a)(2) of K.S.A. 21-3502 and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto; (3) aggravated indecent liberties with a

child as defined in K.S.A. 21-3504 and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505 and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510 and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511 and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516 and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603 and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608 and amendments thereto; (11) abuse of a child as defined in K.S.A. 21-3609 and amendments thereto; or (12) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

(d) 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. There shall be no docket fee for filing a petition pursuant to this section. All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

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

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

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

(f) 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 Kansas bureau of investigation which shall notify the federal 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. 75-7b01 and amendments thereto; as security personnel with a private patrol operator, as

defined by K.S.A. 75-7b01 and amendments thereto; with a criminal justice agency, as defined by K.S.A. 22-4701 and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services; (B) in any application for admission, or for an order of reinstatement, to the practice of law in this state; (C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery; (D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission; or (E) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto; or (F) upon application for a license or renewal of a license to carry a concealed weapon pursuant to sections 1 through 12;

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

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

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

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

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

(i) 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. 76-12a01 and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

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

(6) a 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;

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

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

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

(10) the Kansas sentencing commission; or

(11) the Kansas bureau of investigation and the request is accompanied by a statement that the request is being made in conjunction with an application for a license or renewal of a license to carry a concealed weapon pursuant to sections 1 through 12.

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