

Approved: March 8, 2000

Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on February 21, 2000 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department

Jill Wolters, Office of Revisor of Statutes

Cindy O'Neal, Committee Secretary

HB 2685 - Kansas Fair Credit Reporting Act

Staff provided the committee with a balloon amendment which contained the amendments that had been requested and agreed to by all parties testifying on the bill. Except that it deleted the Colorado provisions requiring a free credit report when three inquires had been made into your account. (Attachment 1)

Representative Loyd made the motion to amend in the balloon. Representative Carmody seconded the motion. The motion carried.

Representative Gregory made the motion to amend the bill by allowing one free notification per year if it's requested. Representative Long seconded the motion. The motion carried.

Representative Kline made the motion to strike subsection (b) on page 28 so there would be no reference to remedies of the violation under the Kansas Consumer Protection Act. Representative Pauls seconded the motion. The motion failed 8-8.

Representative Carmody made the motion to report **HB 2685** favorably for passage, as amended. Representative Gregory seconded the motion. The motion carried.

HB 2905 - Service of Process

Representative Carmody made the motion to adopt technical amendments as needed by the Revisors Office. Representative Crow seconded the motion. The motion carried.

Representative Carmody made the motion to report **HB 2905** favorably for passage, as amended. Representative Gregory seconded the motion. The motion carried.

HB 2907 - Filing of Cross Appeals

Representative Loyd made the motion to report **HB 2907** favorably for passage. Representative Powell seconded the motion. The motion carried.

HB 2894 - Sexual Relations with a Teacher

The committee discussed two options it had when dealing with teachers have consensual sexual relations with a student. They could either go with the bill which would make it a felony or they could mandate that the State Board of Education revoke the teachers licenses. Some members believed that these types of cases could be charged under the rape statute, others felt that a teacher should know better and be subject to harsh penalties.

Representative Flaharty made the motion to report **HB 2894** favorably for passage. Representative Rehorn seconded the motion.

Representative Loyd made the motion to change "privates" to "private" on page 2, line 43 and delete the word "professional" on page 2, line 41. Representative Carmody seconded the motion. The motion carried.

Representative Flaharty made the motion to report **HB 2894** favorably for passage, as amended. Representative Rehorn seconded the motion. The motion carried.

CONTINUATION SHEET

HB 2683 - Collection of Information on Traffic Stops

Representative Carmody provided the committee with a balloon amendment that if adopted would be **House Substitute for HB 2683** (Attachment 2). It required the Governor and Attorney General to develop a request for proposal for an independent agency to collect information and report back to the legislature. He made the motion to move the balloon amendment. Representative Ruff seconded the motion. The motion carried.

Representative Carmody made the motion to report **House Substitute for HB 2683** favorably for passage. Representative Rehorn seconded the motion. The motion carried.

HB 2614 - Eavesdropping to include videotaping a person under or through their clothes

Representative Loyd made the motion to report **HB 2614** favorably for passage. Representative Ruff seconded the motion. The motion carried.

The committee meeting adjourned at 5:00 p.m. The next meeting was scheduled for February 22, 2000.

HOUSE BILL No. 2685

By Special Committee on Judiciary

1-20

Proposed Amendments

2/21/00

[Suggested by conferees as indicated]

House Judiciary
2-21-2000
Attachment 1

9 AN ACT concerning the Kansas fair credit reporting act; amending
10 K.S.A. 50-701, 50-702, 50-703, 50-704, 50-705, 50-706, 50-708, 50-
11 709, 50-710, 50-711, 50-714, 50-715, 50-716, 50-717, 50-718, 50-719,
12 50-720, 50-721 and 50-722 and repealing the existing sections. 50-721 and 50-722 and repealing the existing sections. 50-721 and 50-722 and repealing the existing sections.

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

15 Section 1. K.S.A. 50-701 is hereby amended to read as follows: 50-
16 701. (a) The legislature of the state of Kansas hereby finds and determines
17 that:

18 (1) The banking system is dependent upon fair and accurate credit
19 reporting. Inaccurate credit reports directly impair the efficiency of the
20 banking system, and unfair credit reporting methods undermine the pub-
21 lic confidence which is essential to the continued functioning of the bank-
22 ing system.

23 (2) An elaborate mechanism has been developed for investigating and
24 evaluating the credit worthiness, credit standing, credit capacity, char-
25 acter, and general reputation of consumers.

26 (3) Consumer reporting agencies have assumed a vital role in assem-
27 bling and evaluating consumer credit and other information on
28 consumers.

29 (4) There is a need to insure that consumer reporting agencies ex-
30 ercise their grave responsibilities with fairness, impartiality, and a respect
31 for the consumer's right to privacy.

32 (b) It is the purpose of K.S.A. 50-701 to 50-722, inclusive, and
33 amendments thereto, to require that consumer reporting agencies adopt
34 reasonable procedures for meeting the needs of commerce for consumer
35 credit, personnel, insurance, and other information in a manner which is
36 fair and equitable to the consumer, with regard to the confidentiality,
37 accuracy, relevancy, and proper utilization of such information in accord-
38 ance with the requirements of such sections of this act.

39 (c) *The provisions of the fair credit reporting act, K.S.A. 50-701 et*
40 *seq., and amendments thereto, are not intended to burden interstate com-*
41 *merce but are intended to insure accurate and full disclosure of infor-*
42 *mation and to supplement the federal fair credit reporting act, 15 U.S.C.*
43 *§ 1681 et seq.*

HOUSE BILL No. 2685

By Special Committee on Judiciary

1-20

amending the Kansas fair credit reporting act; amending K.S.A. 50-701, 50-702, 50-703, 50-704, 50-705, 50-706, 50-708, 50-709, 50-710, 50-711, 50-714, 50-715, 50-716, 50-717, 50-718, 50-719, 50-720, 50-721 and 50-722 and repealing the existing sections. 50-721 and 50-722 and repealing the existing sections.

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

Section 1. K.S.A. 50-701 is hereby amended to read as follows: 50-701. (a) The legislature of the state of Kansas hereby finds and determines that:

(1) The banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence which is essential to the continued functioning of the banking system.

(2) An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character, and general reputation of consumers.

(3) Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

(4) There is a need to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

(b) It is the purpose of K.S.A. 50-701 to 50-722, inclusive, and amendments thereto, to require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of such sections of this act.

(c) *The provisions of the fair credit reporting act, K.S.A. 50-701 et seq., and amendments thereto, are not intended to burden interstate commerce but are intended to insure accurate and full disclosure of information and to supplement the federal fair credit reporting act, 15 U.S.C. § 1681 et seq.*

1 Sec. 2. K.S.A. 50-702 is hereby amended to read as follows: 50-702.
2 ~~The following words and phrases when As used in K.S.A. 50-701 to 50-~~
3 ~~722, inclusive, and amendments thereto, shall have the meanings ascribed~~
4 ~~to them in this section.~~

5 ~~—(a) The term “person” means any individual, partnership, corpora-~~
6 ~~tion, trust, estate, cooperative, association, government or governmental~~
7 ~~subdivision or agency, or other entity.~~

8 ~~—(b) The term: (a) “Adverse action” means a denial or revocation of~~
9 ~~credit, a change in the terms of an existing credit arrangement, or a refusal~~
10 ~~to grant credit in substantially the amount or on substantially the terms~~
11 ~~requested. The term “adverse action” includes: (1) A denial or cancellation~~
12 ~~of, an increase in any charge for, or a reduction or other adverse or~~
13 ~~unfavorable change in the terms of coverage or amount of, any insurance,~~
14 ~~existing or applied for, in connection with the underwriting of insurance;~~

15 ~~(2) a denial of employment or any other decision for employment~~
16 ~~purposes that adversely affects any current or prospective employee;~~

17 ~~(3) a denial or cancellation of, an increase in any charge for, or any~~
18 ~~other adverse or unfavorable change in the terms of, any license or benefit~~
19 ~~described in subsection (a)(3)(D) of K.S.A. 50-703, and amendments~~
20 ~~thereto; [and]~~

21 ~~(4) an action taken or determination that is: (A) Made in connection~~
22 ~~with an application that was made by, or a transaction that was initiated~~
23 ~~by, any consumer, or in connection with a review of an account pursuant~~
24 ~~to subsection (a)(3)(F) of K.S.A. 50-703, and amendments thereto; and~~

25 ~~(B) adverse to the interests of the consumer.~~

26 ~~The term “adverse action” does not include a refusal to extend addi-~~
27 ~~tional credit under an existing credit arrangement where the applicant is~~
28 ~~delinquent or otherwise in default, or where such additional credit would~~
29 ~~exceed a previously established credit limit;~~

30 ~~(b) “child support obligations” means: (1) “Overdue support” which~~
31 ~~has the meaning given to such term in section 666(e) of title 42, Social~~
32 ~~Security Act, 42 U.S.C. § 666(e); and~~

33 ~~(2) “state or local child support enforcement agency” which means a~~
34 ~~state or local agency which administers a state or local program for es-~~
35 ~~tablishing and enforcing child support obligations;~~

36 ~~(c) “consumer” means an individual;~~

37 ~~(e) The term (d) “consumer report” means any written, oral, or~~
38 ~~other communication of any information by a consumer reporting agency~~
39 ~~bearing on a consumer’s credit worthiness, credit standing, credit capac-~~
40 ~~ity, character, general reputation, personal characteristics, or mode of~~
41 ~~living which is used or expected to be used or collected in whole or in~~
42 ~~part for the purpose of serving as a factor in establishing the consumer’s~~
43 ~~eligibility for credit or insurance to be used primarily for personal, family,~~

; and
(5) the same meaning as prescribed
by 15 U.S.C. § 1691(d)(6) [Ron Gaches]

1 or household purposes, or employment purposes, or other purposes au-
2 thorized under K.S.A. 50-703, *and amendments thereto*. The term does
3 not include: (1) Any report containing information solely as to transactions
4 or experiences between the consumer and the person making the report;

5 (2) *any communication of such information among persons related by*
6 *common ownership or affiliated by corporate control;*

7 (3) *any communication of other information among persons related*
8 *by common ownership or affiliated by corporate control, if it is clearly*
9 *and conspicuously disclosed to the consumer that the information may be*
10 *communicated among such persons and the consumer is given the oppor-*
11 *tunity before the time that the information is initially communicated, to*
12 *direct that such information not be communicated among such persons;*

13 (4) any authorization or approval of a specific extension of credit di-
14 rectly or indirectly by the issuer of a credit card or similar device;

15 ~~or (3)~~ (5) any report in which a person who has been requested by a
16 third party to make a specific extension of credit directly or indirectly to
17 a consumer conveys that decision with respect to such request, if the third
18 party advises the consumer of the name and address of the person to
19 whom the request was made and such person makes the disclosures to
20 the consumer required under K.S.A. 50-714-, *and amendments thereto;*
21 *or*

22 (6) *a communication described in subsection [n];* _____ (i)

23 ~~(d) The term "investigative consumer report" means a consumer re-~~
24 ~~port or portion thereof in which information on a consumer's character,~~
25 ~~general reputation, personal characteristics, or mode of living is obtained~~
26 ~~through personal interviews with neighbors, friends, or associates of the~~
27 ~~consumer reported on or with others with whom the consumer is ac-~~
28 ~~quainted or who may have knowledge concerning any such items of in-~~
29 ~~formation. However, such information shall not include specific factual~~
30 ~~information on a consumer's credit record obtained directly from a cred-~~
31 ~~itor of the consumer or from a consumer reporting agency when such~~
32 ~~information was obtained directly from a creditor of the consumer or from~~
33 ~~the consumer.~~

34 (e) ~~The term "consumer reporting agency" means any person which,~~
35 ~~for monetary fees, dues, or on a cooperative nonprofit basis, regularly~~
36 ~~engages in whole or in part in the practice of assembling or evaluating~~
37 ~~consumer credit information or other information on consumers for the~~
38 ~~purpose of furnishing consumer reports to third parties, and which uses~~
39 ~~any means or facility of interstate commerce for the purpose of preparing~~
40 ~~or furnishing consumer reports;~~

41 ~~(f) The term "file," when used in connection with information on any~~
42 ~~consumer, means all of the information on that consumer recorded and~~
43 ~~retained by a consumer reporting agency regardless of how the infor-~~

[Ron Gaches, technical]

1-2-1

1 ~~mation is stored.~~
2 ~~(g) The term~~ (f) "consumer reporting agency that compiles and
3 maintains files on consumers on a nationwide basis" means a consumer
4 reporting agency that regularly engages in the practice of assembling or
5 evaluating, and maintaining, for the purpose of furnishing consumer re-
6 ports to third parties bearing on a consumer's credit worthiness, credit
7 standing, or credit capacity, each of the following regarding consumers
8 residing nationwide: (1) Public record information; and
9 (2) credit account information from persons who furnish that infor-
10 mation regularly and in the ordinary course of business;
11 (g) "credit or insurance transaction that is not initiated by the con-
12 sumer" does not include the use of a consumer report by a person with
13 which the consumer has an account or insurance policy, for purposes of
14 (1) reviewing the account or insurance policy; or
15 (2) collecting the account;
16 (h) "employment purposes" when used in connection with a con-
17 sumer report means a report used for the purpose of evaluating a con-
18 sumer for employment, promotion, reassignment or retention as an
19 employee;.
20 ~~(h) The term~~ (i) "excluded communications" means communica-
21 tion: (1) That, except for subsection (d)(6), would be an investigative con-
22 sumer report;
23 (2) that is made to a prospective employer for the purpose of procur-
24 ing an employee for the employer, or procuring an opportunity for a
25 natural person to work for the employer;
26 (3) that is made by a person who regularly performs such
27 procurement;
28 (4) that is not used by any person for any purpose other than a pur-
29 pose described in subsection (i)(2); and
30 (5) with respect to which: (A) The consumer who is the subject of the
31 communication: (i) Consents orally or in writing to the nature and scope
32 of the communication, before the collection of any information for the
33 purpose of making the communication;
34 (ii) consents orally or in writing to the making of the communication
35 to a prospective employer, before the making of the communication; and
36 (iii) in the case of consent under subsection (i)(5)(A)(i) or (ii) given
37 orally, is provided written confirmation of that consent by the person
38 making the communication, not later than three business days after the
39 receipt of the consent by that person;
40 (B) the person who makes the communication does not, for the pur-
41 pose of making the communication, make any inquiry that if made by a
42 prospective employer of the consumer who is the subject of the commu-
43 nication would violate any applicable federal or state equal employment

1 opportunity law or regulation; and

2 (C) the person who makes the communication: (i) Discloses in writing
3 to the consumer who is the subject of the communication, not later than
4 five business days after receiving any request from the consumer for such
5 disclosure, the nature and substance of all information in the consumer's
6 file at the time of the request, except that the sources of any information
7 that is acquired solely for use in making the communication and is actually
8 used for no other purpose, need not be disclosed other than under appro-
9 priate discovery procedures in any court of competent jurisdiction in
10 which an action is brought; and

11 (ii) notifies the consumer who is the subject of the communication, in
12 writing, of the consumer's right to request the information described in
13 subsection (i)(5)(C)(i);

14 (j) "file," when used in connection with information on any consumer,
15 means all of the information on that consumer recorded and retained by
16 a consumer reporting agency regardless of how the information is stored;

17 (k) "firm offer of credit or insurance" means any offer of credit or
18 insurance to a consumer that will be honored if the consumer is deter-
19 mined, based on information in a consumer report on the consumer, to
20 meet the specific criteria used to select the consumer for the offer, except
21 that the offer may be further conditioned on one or more of the following:
22 (1) The consumer being determined, based on information in the con-
23 sumer's application for the credit or insurance, to meet specific criteria
24 bearing on credit worthiness or insurability, as applicable, that are estab-
25 lished: (A) Before selection of the consumer for the offer; and

26 (B) for the purpose of determining whether to extend credit or insur-
27 ance pursuant to the offer;

28 (2) verification: (A) That the consumer continues to meet the specific
29 criteria used to select the consumer for the offer, by using information in
30 a consumer report on the consumer, information in the consumer's ap-
31 plication for the credit or insurance, or other information bearing on the
32 credit worthiness or insurability of the consumer; or

33 (B) of the information in the consumer's application for the credit or
34 insurance, to determine that the consumer meets the specific criteria bear-
35 ing on credit worthiness or insurability; or

36 (3) the consumer furnishing any collateral that is a requirement for
37 the extension of the credit or insurance that was: (A) Established before
38 selection of the consumer for the offer of credit or insurance; and

39 (B) disclosed to the consumer in the offer of credit or insurance;

40 (l) "investigative consumer report" means a consumer report or por-
41 tion thereof in which information on a consumer's character, general rep-
42 utation, personal characteristics, or mode of living is obtained through
43 personal interviews with neighbors, friends, or associates of the consumer

1 reported on or with others with whom the consumer is acquainted or who
 2 may have knowledge concerning any such items of information. However,
 3 such information shall not include specific factual information on a con-
 4 sumer's credit record obtained directly from a creditor of the consumer
 5 or from a consumer reporting agency when such information was ob-
 6 tained directly from a creditor of the consumer or from the consumer;

7 (m) "medical information" means information or records obtained,
 8 with the consent of the individual to whom it relates, from licensed phy-
 9 sicians or medical practitioners, hospitals, clinics, or other medical or
 10 medically related facilities; and

11 (n) "person" means any individual, partnership, corporation, trust,
 12 estate, cooperative, association, government or governmental subdivision
 13 or agency, or other entity.

14 Sec. 3. K.S.A. 50-703 is hereby amended to read as follows: 50-703.

15 (a) A consumer reporting agency may furnish a consumer report under
 16 the following circumstances and no other:

17 ~~(a)~~ (1) In response to the order of a court having jurisdiction to issue
 18 such an order, or a subpoena issued in connection with criminal proceed-
 19 ings or a subpoena issued pursuant to the Kansas consumer protection
 20 act;

21 ~~(b)~~ (2) in accordance with the written instructions of the consumer
 22 to whom it relates; and

23 ~~(c)~~ (3) to a person which it has reason to believe:

24 ~~(1)~~ (A) Intends to use the information in connection with a credit
 25 transaction involving the consumer on whom the information is to be
 26 furnished and involving the extension of credit to, or review or collection
 27 of an account of, the consumer; or

28 ~~(2)~~ (B) intends to use the information for employment purposes; or

29 ~~(3)~~ (C) intends to use the information in connection with the under-
 30 writing of insurance involving the consumer; or

31 ~~(4)~~ (D) intends to use the information in connection with a deter-
 32 mination of the consumer's eligibility for a license or other benefit granted
 33 by a governmental instrumentality required by law to consider an appli-
 34 cant's financial responsibility or status; or

35 ~~(5)~~ (E) intends to use the information as a potential investor or ser-
 36 vicer, or current insurer, in connection with a valuation of, or an assess-
 37 ment of the credit or prepayment risks associated with, an existing credit
 38 obligation; or

39 (F) otherwise has a legitimate business need for the information in
 40 connection with a business transaction involving the consumer, or to
 41 review an account to determine whether the consumer continues to meet
 42 the terms of the account; ~~or~~

43 (4) in response to a request by the head of a state or local child support

(i) that is initiated by
 (ii)

[Ron Gaches]

1 enforcement agency, or a state or local government official authorized by
2 the head of such an agency, if the person making the request certifies to
3 the consumer reporting agency that: (A) The consumer report is needed
4 for the purpose of establishing an individual's capacity to make child
5 support payments or determining the appropriate level of such payments;

6 (B) the paternity of the consumer for the child to which the obligation
7 relates has been established or acknowledged by the consumer in accord-
8 ance with state laws under which the obligation arises, if required by
9 those laws;

10 (C) the person has provided at least 10 days' prior notice to the con-
11 sumer whose report is requested, by certified or registered mail to the last
12 known address of the consumer, that the report will be requested; and

13 (D) the consumer report will be kept confidential, will be used solely
14 for a purpose described in subsection (4)(A), and will not be used in
15 connection with any other civil, administrative or criminal proceeding,
16 or for any other purpose; ~~and~~

17 (5) to an agency administering a state plan for use to set an initial or
18 modified child support award

19 (b) (1) A consumer reporting agency may furnish a consumer report
20 for employment purposes only if: (A) The person who obtains such report
21 from the agency certifies to the agency that:

22 (i) The person has complied with subsection (b)(2) with respect to the
23 consumer report, and the person will comply with subsection (b)(3) with
24 respect to the consumer report if subsection (b)(3) becomes applicable;
25 and

26 (ii) information from the consumer report will not be used in violation
27 of any applicable federal or state equal employment opportunity law or
28 regulation; and

29 (B) the consumer reporting agency provides with the report, or has
30 previously provided, a summary of the consumer's rights under this title,
31 as prescribed by the federal trade commission, pursuant to 15 U.S.C. §
32 ~~609~~(c)(3).

33 (2) (A) Except as provided in subsection (b)(2)(B), a person may not
34 procure a consumer report, or cause a consumer report to be procured,
35 for employment purposes with respect to any consumer, unless:

36 (i) A clear and conspicuous disclosure has been made in writing to
37 the consumer at any time before the report is procured or caused to be
38 procured, in a document that consists solely of the disclosure, that a con-
39 sumer report may be obtained for employment purposes; and the con-
40 sumer has authorized in writing, which authorization may be made on
41 the document referred to in clause (i), the procurement of the report by
42 that person;

43 (B) if a consumer described in subsection (b)(2)(C) applies for em-

; and
(b) national security investigations
in accordance with 15 USC. §1681b(b)(4)
[Ron Gaches]

1681g [Sen. Clark, technical]

(ii)

1 ployment by mail, telephone, computer or other similar means, at any
2 time before a consumer report is procured or caused to be procured in
3 connection with that application:

4 (i) The person who procures the consumer report on the consumer
5 for employment purposes shall provide to the consumer, by oral, written
6 or electronic means, notice that a consumer report may be obtained for
7 employment purposes, and a summary of the consumer's rights pursuant
8 to subsection (a)(3) of K.S.A. 50-714, and amendments thereto;

9 (ii) the consumer shall have consented, orally, in writing, or electron-
10 ically to the procurement of the report by that person;

11 (C) subsection (b)(2)(B) shall apply to a person procuring a consumer
12 report on a consumer in connection with the consumer's application for
13 employment only if, as of the time at which the person procures the report
14 or causes the report to be procured, the only interaction between the
15 consumer and the person in connection with that employment application
16 has been by mail, telephone, computer, or other similar means.

17 (3) (A) Except as provided in subsection (b)(3)(B), in using a con-
18 sumer report for employment purposes, before taking any adverse action
19 based in whole or in part on the report, the person intending to take such
20 adverse action shall provide to the consumer to whom the report relates:

21 (i) A copy of the report; and
22 (ii) a description in writing of the rights of the consumer under this
23 title, as prescribed by the federal trade commission pursuant to 15 U.S.C.
24 § ~~609~~(c)(3).

1681g

25 (B) (i) If a consumer described in subsection (b)(3)(C) applies for
26 employment by mail, telephone, computer or other similar means, and if
27 a person who has procured a consumer report on the consumer for em-
28 ployment purposes takes adverse action on the employment application
29 based in whole or in part on the report, then the person must provide to
30 the consumer to ~~whom~~ the report relates, in lieu of the notices required
31 under subsection (b)(3)(A) and pursuant to subsection (a) of K.S.A. 50-
32 714, and amendments thereto, within three business days of taking such
33 adverse action, an oral, written or electronic notification:

whom

34 (a) That adverse action has been taken based in whole or in part on
35 a consumer report received from a consumer reporting agency;

36 (b) of the name, address and telephone number of the consumer re-
37 porting agency that furnished the consumer report, including a toll-free
38 telephone number established by the agency if the agency compiles and
39 maintains files on consumers on a nationwide basis;

40 (c) that the consumer reporting agency did not make the decision to
41 take the adverse action and is unable to provide to the consumer the
42 specific reasons why the adverse action was taken; and

43 (d) that the consumer, upon providing proper identification, may re-

[Sen. Clark, technical]

1 quest a free copy of a report and may dispute with the consumer reporting
 2 agency the accuracy or completeness of any information in a report; and
 3 (ii) if, under subsection (b)(3)(B)(i), the consumer requests a copy of
 4 a consumer report from the person who procured the report, then, within
 5 three business days of receiving the consumer's request, together with
 6 proper identification, the person must send or provide to the consumer a
 7 copy of a report and a copy of the consumer's rights as prescribed by the
 8 federal trade commission, pursuant to 15 U.S.C. § ~~609~~(c)(3).

1681g

[Sen. Clark, technical]

9 (C) Subsection (b)(3)(B) shall apply to a person procuring a consumer
 10 report on a consumer in connection with the consumer's application for
 11 employment only if, as of the time at which the person procures the report
 12 or causes the report to be procured, the only interaction between the
 13 consumer and the person in connection with that employment application
 14 has been by mail, telephone, computer, or other similar means.

15 (c) (1) A consumer reporting agency may furnish a consumer report
 16 relating to any consumer pursuant to subsections (a)(3)(A) or (C) in con-
 17 nection with any credit or insurance transaction that is not initiated by
 18 the consumer only if:

19 (A) The consumer authorized the agency to provide such report to
 20 such person; or

21 (B) (i) the transaction consists of a firm offer of credit or insurance;

22 (ii) the consumer reporting agency has complied with subsection (d);
 23 and

24 (iii) there is not in effect an election by the consumer, made in ac-
 25 cordance with subsection (d), to have the consumer's name and address
 26 excluded from lists of names provided by the agency pursuant to this
 27 paragraph.

28 (2) A person may receive pursuant to subsection (c)(1)(B) only:

29 (A) The name and address of a consumer;

30 (B) an identifier that is not unique to the consumer and that is used
 31 by the person solely for the purpose of verifying the identity of the con-
 32 sumer; and

33 (C) other information pertaining to a consumer that does not identify
 34 the relationship or experience of the consumer with respect to a particular
 35 creditor or other entity.

36 (3) Except as provided by subsection (a)(5) of K.S.A. 50-708, and
 37 amendments thereto, a consumer reporting agency shall not furnish to
 38 any person a record of inquiries in connection with a credit or insurance
 39 transaction that is not initiated by a consumer.

40 (d) (1) A consumer may elect to have the consumer's name and ad-
 41 dress excluded from any list provided by a consumer reporting agency
 42 under subsection (c)(1)(B) in connection with a credit or insurance trans-
 43 action that is not initiated by the consumer, by notifying the agency in

- 1 accordance with subsection (d)(2) that the consumer does not consent to
2 any use of a consumer report relating to the consumer in connection with
3 any credit or insurance transaction that is not initiated by the consumer.
- 4 (2) A consumer shall notify a consumer reporting agency under sub-
5 section (d)(1):
- 6 (A) Through the notification system maintained by the agency under
7 subsection (d)(5); or
- 8 (B) by submitting to the agency a signed notice of election form issued
9 by the agency for purposes of this subparagraph.
- 10 (3) Upon receipt of notification of the election of a consumer under
11 subsection (d)(1) through the notification system maintained by the
12 agency under subsection (d)(5), a consumer reporting agency shall:
- 13 (A) Inform the consumer that the election is effective only for the two-
14 year period following the election if the consumer does not submit to the
15 agency a signed notice of election form issued by the agency for purposes
16 of subsection (d)(2)(B); and
- 17 (B) provide to the consumer a notice of election form, if requested by
18 the consumer, not later than five business days after receipt of the noti-
19 fication of the election through the system established under subsection
20 (d)(5), in the case of a request made at the time the consumer provides
21 notification through the system.
- 22 (4) An election of a consumer under subsection (d)(1):
- 23 (A) Shall be effective with respect to a consumer reporting agency
24 beginning five business days after the date on which the consumer notifies
25 the agency in accordance with subsection (d)(2);
- 26 (B) shall be effective with respect to a consumer reporting agency:
- 27 (i) Subject to subsection (d)(4)(C), during the two-year period begin-
28 ning five business days after the date on which the consumer notifies the
29 agency of the election, in the case of an election for which a consumer
30 notifies the agency only in accordance with subsection (d)(2)(A); or
- 31 (ii) until the consumer notifies the agency under subsection (d)(4)(C),
32 in the case of an election for which a consumer notifies the agency in
33 accordance with subsection (d)(2)(B);
- 34 (C) shall not be effective after the date on which the consumer notifies
35 the agency, through the notification system established by the agency
36 under subsection (d)(5), that the election is no longer effective; and
- 37 (D) shall be effective with respect to each affiliate of the agency.
- 38 (5) (A) Each consumer reporting agency that, under subsection
39 (c)(1)(B), furnishes a consumer report in connection with a credit or in-
40 surance transaction that is not initiated by a consumer, shall:
- 41 (i) Establish and maintain a notification system, including a toll-free
42 telephone number, which permits any consumer whose consumer report
43 is maintained by the agency to notify the agency, with appropriate iden-

1 tification, of the consumer's election to have the consumer's name and
2 address excluded from any such list of names and addresses provided by
3 the agency for such a transaction; and

4 (ii) publish by not later than 365 days after the date of enactment of
5 the consumer credit reporting reform act of 1996, and not less than an-
6 nually thereafter, in a publication of general circulation in the area served
7 by the agency:

8 (a) A notification that information in consumer files maintained by
9 the agency may be used in connection with such transactions; and

10 (b) the address and toll-free telephone number for consumers to use
11 to notify the agency of the consumer's election under subsection
12 (d)(5)(A)(ii)(a).

13 (B) Establishment and maintenance of a notification system, includ-
14 ing a toll-free telephone number and publication by a consumer reporting
15 agency on the agency's own behalf and on behalf of any of its affiliates in
16 accordance with this paragraph is deemed to be in compliance with this
17 paragraph by each of those affiliates.

18 (6) Each consumer reporting agency that compiles and maintains files
19 on consumers on a nationwide basis shall establish and maintain a noti-
20 fication system for purposes of subsection (d)(5) jointly with other such
21 consumer reporting agencies.

22 (e) A person shall not use or obtain a consumer report for any purpose
23 unless:

24 (1) The consumer report is obtained for a purpose for which the con-
25 sumer report is authorized to be furnished under this section; and

26 (2) the purpose is certified in accordance with K.S.A. 50-706, and
27 amendments thereto by a prospective user of the report through a general
28 or specific certification.

29 (f) A consumer reporting agency shall not furnish for employment
30 purposes, or in connection with a credit or insurance transaction, a con-
31 sumer report that contains medical information about a consumer, unless
32 the consumer consents to the furnishing of the report.

33 Sec. 4. K.S.A. 50-704 is hereby amended to read as follows: 50-704.

34 (a) Except as authorized under subsection (b) of this section, no consumer
35 reporting agency may make any consumer report containing any of the
36 following items of information:

37 (1) Bankruptcies which, from date of adjudication of the most recent
38 bankruptcy Cases under title 11 of the United States code or under the
39 bankruptcy act that, from the date of entry of the order for relief or the
40 date of adjudication, as the case may be, antedate the report by more
41 than fourteen (14) 10 years;

42 (2) civil suits and, civil judgments and records of arrest which, from
43 date of entry, antedate the report by more than seven (7) years or until

1 the governing statute of limitations has expired, whichever is the longer
2 period;

3 (3) paid tax liens which, from date of payment, antedate the report
4 by more than seven (7) years;

5 (4) accounts placed for collection or charged to profit and loss which
6 antedate the report by more than seven (7) years; and

7 (5) ~~records of arrest, indictment, or conviction of crime which, from~~
8 ~~date of disposition, release, or parole, antedate the report by more than~~
9 ~~seven (7) years, and~~

10 ~~—(6) any other adverse item of information other than records of con-~~
11 ~~victions of crimes which antedates the report by more than seven (7)~~
12 ~~years.~~

13 (b) The provisions of subsection (a) of this section are not applicable
14 in the case of any consumer credit report to be used in connection with

15 (1) a credit transaction involving, or which may reasonably be ex-
16 pected to involve, a principal amount of ~~fifty thousand dollars (\$50,000)~~
17 ~~\$150,000~~ or more;

18 (2) the underwriting of life insurance involving, or which may rea-
19 sonably be expected to involve, a face amount of ~~fifty thousand dollars~~
20 ~~(\$50,000)~~ ~~\$150,000~~ or more; or

21 (3) the employment of any individual at an annual salary which
22 equals, or which may reasonably be expected to equal ~~twenty thousand~~
23 ~~dollars (\$20,000)~~ ~~\$75,000~~, or more.

24 (c) *The seven-year period referred to in subsection (a) shall begin,*
25 *with respect to any delinquent account that is placed for collection, in-*
26 *ternally or by referral to a third party, whichever is earlier, charged to*
27 *profit and loss, or subjected to any similar action, upon the expiration of*
28 *the 180-day period beginning on the date of the commencement of the*
29 *delinquency which immediately preceded the collection activity, charge*
30 *to profit and loss, or similar action.*

31 (d) *Any consumer reporting agency that furnishes a consumer report*
32 *that contains information regarding any case involving the consumer that*
33 *arises under title 11, United States code, shall include in the report an*
34 *identification of the chapter of such title 11 under which such case arises*
35 *if provided by the source of the information. If any case arising or filed*
36 *under title 11, United States code, is withdrawn by the consumer before*
37 *a final judgment, the consumer reporting agency shall include in the re-*
38 *port that such case or filing was withdrawn upon receipt of documenta-*
39 *tion certifying such withdrawal.*

40 (e) *If a consumer reporting agency is notified pursuant to subsection*
41 *(a)(6) of K.S.A. 50-722, and amendments thereto that a credit account of*
42 *a consumer was voluntarily closed by the consumer, the agency shall*
43 *indicate that fact in any consumer report that includes information related*

1 to the account.

2 (f) If a consumer reporting agency is notified pursuant to subsection
3 (a)(5) of K.S.A. 50-722, and amendments thereto that information regard-
4 ing a consumer who was furnished to the agency is disputed by the con-
5 sumer, the agency shall indicate that fact in each consumer report that
6 includes the disputed information.

7 Sec. 5. K.S.A. 50-705 is hereby amended to read as follows: 50-705.

8 (a) A person may not procure or cause to be prepared an investigative
9 consumer report on any consumer unless:

10 (1) It is clearly and accurately disclosed to the consumer that an in-
11 vestigative consumer report including information as to the consumer's
12 character, general reputation, personal characteristics, and mode of living,
13 whichever are applicable, may be made, and such disclosure:

14 (A) Is made in a writing mailed, or otherwise delivered, to the con-
15 sumer, not later than three days after the date on which the report was
16 first requested; and

17 (B) includes a statement informing the consumer of the right to re-
18 quest the additional disclosures provided for under subsection (b) of this
19 section; or

20 ~~(2) the report is to be used for employment purposes for which the~~
21 ~~consumer has not specifically applied and the written summary of the~~
22 ~~rights of the consumer prepared by the federal trade commission pursuant~~
23 ~~to 15 U.S.C. § 609 (c)(3); and~~

24 (2) the person certifies or has certified to the consumer reporting
25 agency that:

26 (A) The person has made the disclosures to the consumer required by
27 subsection (a)(1); and

28 (B) the person will comply with subsection (b).

29 (b) Any person who procures or causes to be prepared an investiga-
30 tive consumer report on any consumer shall, upon written request made
31 by the consumer within a reasonable period of time after the receipt by
32 him or her the consumer of the disclosure required by subsection (a) (1)
33 of this section, shall make a complete and accurate disclosure of the na-
34 ture and scope of the investigation requested. This disclosure shall be
35 made in a writing and mailed, or otherwise delivered, to the consumer
36 not later than five (5) days after the date on which the request for such
37 disclosure was received from the consumer or such report was first re-
38 quested, whichever is the later.

39 (c) No person may be held liable for any violation of subsection (a)
40 or (b) of this section if that person shows by a preponderance of the
41 evidence that at the time of the violation the person maintained reason-
42 able procedures to assure compliance with subsection (a) or (b).

43 (d) (1) A consumer reporting agency shall not prepare or furnish an

1 *investigative consumer report unless the agency has received a certifica-*
2 *tion under subsection (a)(2) from the person who requested the report.*

3 (2) *A consumer reporting agency shall not make an inquiry for the*
4 *purpose of preparing an investigative consumer report on a consumer for*
5 *employment purposes if the making of the inquiry by an employer or*
6 *prospective employer or the consumer would violate any applicable fed-*
7 *eral or state equal employment opportunity law or regulation.*

8 (3) *Except as otherwise provided by K.S.A. 50-712, and amendments*
9 *thereto a consumer reporting agency shall not furnish an investigative*
10 *consumer report that includes information that is a matter of public rec-*
11 *ord and that relates to an arrest, indictment, conviction, civil judicial*
12 *action, tax lien or outstanding judgment, unless the agency has verified*
13 *the accuracy of the information during the 30-day period ending on the*
14 *date on which the report is furnished.*

15 (4) *A consumer reporting agency shall not prepare or furnish an in-*
16 *vestigative consumer report on a consumer that contains information that*
17 *is adverse to the interest of the consumer and that is obtained through a*
18 *personal interview with a neighbor, friend, or associate of the consumer*
19 *or with another person with whom the consumer is acquainted or who*
20 *has knowledge of such item of information, unless:*

21 (A) *The agency has followed reasonable procedures to obtain confir-*
22 *mation of the information, from an additional source that has independent*
23 *and direct knowledge of the information; or*

24 (B) *the person interviewed is the best possible source of the*
25 *information.*

26 Sec. 6. K.S.A. 50-706 is hereby amended to read as follows: 50-706.

27 (a) *Every consumer reporting agency shall maintain reasonable proce-*
28 *dures designed to avoid violations of K.S.A. 50-704, and amendments*
29 *thereto and to limit the furnishing of consumer reports to the purposes*
30 *listed under K.S.A. 50-703, and amendments thereto. These procedures*
31 *shall require that prospective users of the information identify them-*
32 *selves, certify the purposes for which the information is sought, and cer-*
33 *tify that the information will be used for no other purpose. Every con-*
34 *sumer reporting agency shall make a reasonable effort to verify the*
35 *identity of a new prospective user and the uses certified by such pro-*
36 *spective user prior to furnishing such user a consumer report. No con-*
37 *sumer reporting agency may furnish a consumer report to any person if*
38 *it has reasonable grounds for believing that the consumer report will not*
39 *be used for a purpose listed in K.S.A. 50-703, and amendments thereto.*

40 (b) *Whenever a consumer reporting agency prepares a consumer re-*
41 *port it shall follow reasonable procedures to assure maximum possible*
42 *accuracy of the information concerning the individual about whom the*
43 *report relates.*

- 1 (c) A consumer reporting agency may not prohibit a user of a con-
2 sumer report furnished by the agency on a consumer from disclosing the
3 contents of the report to the consumer, if adverse action against the con-
4 sumer has been taken by the user based in whole or in part on the report.
- 5 (d) (1) A consumer reporting agency shall provide a notice of such
6 person's responsibilities under this title to any person:
- 7 (A) Who regularly and in the ordinary course of business furnishes
8 information to the agency with respect to any consumer; or
9 (B) to whom a consumer report is provided by the agency;
- 10 (2) a consumer reporting agency shall be in compliance with this sub-
11 section if it provides a notice under subsection (d)(1) that is substantially
12 similar to the federal trade commission prescription under 15 U.S.C. §
13 607 (d)(2).
- 14 (e) (1) A person may not procure a consumer report for purposes of
15 reselling the report, or any information in the report, unless the person
16 discloses to the consumer reporting agency that originally furnishes the
17 report:
- 18 (A) The identity of the end-user of the report or information; and
19 (B) each permissible purpose under K.S.A. 50-703, and amendments
20 thereto for which the report is furnished to the end-user of the report or
21 information.
- 22 (2) A person who procures a consumer report for purposes of reselling
23 the report or any information in the report shall:
- 24 (A) Establish and comply with reasonable procedures designed to en-
25 sure that the report or information is resold by the person only for a
26 purpose for which the report may be furnished under K.S.A. 50-703, and
27 amendments thereto including by requiring that each person to which the
28 report or information is resold and that resells or provides the report or
29 information to any other person:
- 30 (i) Identifies each end-user of the resold report or information;
31 (ii) certifies each purpose for which the report or information will be
32 used; and
33 (iii) certifies that the report or information will be used for no other
34 purpose; and
35 (B) before reselling the report, make reasonable efforts to verify the
36 indentifications and certifications made under subsection (e)(2)(A).
- 37 (3) Notwithstanding the provisions of subsection (e)(1) or (2), a per-
38 son who procures a consumer report for purposes of reselling the report
39 or any information in the report shall not disclose the identity of the end-
40 user of the report under subsection (e)(1) or (2) if:
- 41 (A) The end-user is an agency or department of the United States
42 government which procures the report from the person for purposes of
43 determining the eligibility of the consumer concerned to receive access or

1 continued access to classified information; and

2 (B) the agency or department certifies in writing to the person re-
3 selling the report that nondisclosure is necessary to protect classified in-
4 formation or the safety of persons employed by or contracting with, or
5 undergoing investigation for work or contracting with the agency or
6 department.

7 Sec. 7. K.S.A. 50-708 is hereby amended to read as follows: 50-708.

8 (a) Every consumer reporting agency shall, upon request and proper iden-
9 tification of any consumer, and subject to the provisions of K.S.A. 50-709,
10 and amendments thereto, clearly and accurately disclose to the consumer:

11 (1) ~~The nature and substance of all information (except medical in-~~
12 ~~formation) in its files on the consumer at the time of the request. All~~
13 ~~information in the consumer's file at the time of the request, except that~~
14 ~~nothing in this subsection shall be construed to require a consumer re-~~
15 ~~porting agency to disclose to a consumer any information concerning~~
16 ~~credit scores or any other risk scores or predictors relating to the~~
17 ~~consumer;~~

18 (2) the sources of the information, except that the sources of infor-
19 mation acquired solely for use in preparing an investigative consumer
20 report and actually used for no other purpose need not be disclosed;
21 *Provided, That*. In the event an action is brought under the provisions of
22 K.S.A. 50-701 to 50-722, inclusive, and amendments thereto, such sources
23 shall be available to the plaintiff under appropriate discovery procedures
24 in the court in which the action is brought;

25 (3) ~~The recipients of any consumer report on the consumer which it~~
26 ~~has furnished identification of each person, including each end-user iden-~~
27 ~~tified under subsection (e)(1) of K.S.A. 50-706, and amendments thereto,~~
28 ~~that have procured a consumer report:~~

29 (A) For employment purposes within the two-year period preceding
30 the request, and;

31 (B) for any other purpose within the ~~six-month~~ one-year period pre-
32 ceding the request;

33 (C) an identification of a person under subsection (a)(3)(A) shall in-
34 clude the name of the person or, if applicable, the trade name, written in
35 full, under which such person conducts business and the address and
36 telephone number of the person;

37 (D) subsection (a)(3)(A) does not apply if:

38 (i) The end-user is an agency or department of the United States gov-
39 ernment that procures the report from the person for purposes of deter-
40 mining the eligibility of the consumer to whom the report relates to receive
41 access or continued access to classified information; and

42 (ii) the head of the agency or department makes a written finding as
43 prescribed under 15 U.S.C. § 1681b (4)(A);

1 (4) the dates, original payees, and amounts of any checks upon which
2 is based any adverse characterization of the consumer, included in the file
3 at the time of the disclosure; and

4 (5) a record of all inquiries received by the agency during the one-
5 year period preceding the request that identified the consumer in con-
6 nection with a credit or insurance transaction that was not initiated by
7 the consumer.

8 (b) ~~(1) A consumer reporting agency shall notify a consumer, by let-
9 ter sent by first-class mail, that the consumer reporting agency will pro-
10 vide the consumer with a disclosure copy of the consumer's file at no
11 charge and a toll-free telephone number to call to request such copy, when
12 one of the following events occurs within a 12-month period:~~

13 (A) The consumer reporting agency has received three credit inquiries
14 pertaining to the consumer; or

15 (B) the consumer reporting agency has received a report that would
16 add adverse action to a consumer's file.

17 (2) A consumer reporting agency need only send one letter to a con-
18 sumer per 12-month period pursuant to subsection (b)(1) even if more
19 than one such event occurs in that period.

20 (3) Any letter mailed to a consumer pursuant to subsection (b) shall
21 not contain any identifying information particular to that consumer in-
22 cluding, but not limited to social security number, place of employment,
23 date of birth or mother's maiden name.

24 (4) Any letter mailed to a consumer pursuant to subsection (b) may
25 be a form letter, except that each letter shall advise the consumer of the
26 number and type of events that occurred relating to the consumer that
27 initiated the letter.

28 ~~(b) (c)~~ The requirements of subsection (a) respecting the disclosure
29 of sources of information and the recipients of consumer reports do not
30 apply to information received or consumer reports furnished prior to the
31 effective date of this act except to the extent that the matter involved is
32 contained in the files of the consumer reporting agency on that date.

33 Sec. 8. K.S.A. 50-709 is hereby amended to read as follows: 50-709.

34 (a) ~~A consumer reporting agency shall make the disclosures required un-
35 der K.S.A. 50-708 during normal business hours and on reasonable notice.~~

36 ~~(b) The disclosures required under K.S.A. 50-708 shall be made to
37 the consumer~~

38 ~~(1) in person if the consumer appears in person and furnishes proper
39 identification, or~~

40 ~~(2) by telephone if the consumer has made a written request, with
41 proper identification, for telephone disclosure and the toll charge, if any,
42 for the telephone call is prepaid by or charged directly to the consumer.~~

43 (1) A consumer reporting agency shall require, as a condition of making

[Ron Gaches, Associated Credit Bureaus;
Mike Stewart, Trans Union; Marlee
Bertholf, KCCI; George Barbee,
KS Association of Financial Services]

1 *the disclosures required under K.S.A. 50-708, and amendments thereto*
2 *that the consumer furnish proper identification.*

3 (2) *Except as provided in subsection (b), the disclosures required to*
4 *be made under K.S.A. 50-708, and amendments thereto, shall be provided*
5 *under that section in writing.*

6 (b) (1) *If authorized by a consumer, a consumer reporting agency*
7 *may make the disclosures required under K.S.A. 50-708, and amendments*
8 *thereto:*

9 (A) *Other than in writing; and*

10 (B) *in such form as may be:*

11 (i) *Specified by the consumer in accordance with subsection (b)(2);*
12 *and*

13 (ii) *available from the agency.*

14 (2) *A consumer may specify pursuant to subsection (b)(1) that disclo-*
15 *sures under K.S.A. 50-708, and amendments thereto, shall be made:*

16 (A) *In person, upon the appearance of the consumer at the place of*
17 *business of the consumer reporting agency where disclosures are regularly*
18 *provided, during normal business hours, and on reasonable notice;*

19 (B) *by telephone, if the consumer has made a written request for*
20 *disclosure by telephone;*

21 (C) *by electronic means, if available from the agency; or*

22 (D) *by any other reasonable means that is available from the agency.*

23 (c) *Any consumer reporting agency shall provide trained personnel*
24 *to explain to the consumer any information furnished to ~~him or her~~ the*
25 *consumer pursuant to K.S.A. 50-708, and amendments thereto.*

26 (d) *The consumer shall be permitted to be accompanied by one other*
27 *person of ~~his or her~~ the consumer's choosing, who shall furnish reasonable*
28 *identification. A consumer reporting agency may require the consumer*
29 *to furnish a written statement granting permission to the consumer re-*
30 *porting agency to discuss the consumer's file in such person's presence.*

31 (e) *Except as provided in K.S.A. 50-715 and 50-716, and amendments*
32 *thereto, no consumer may bring any action or proceeding in the nature*
33 *of defamation, invasion of privacy, or negligence with respect to the re-*
34 *porting of information against any consumer reporting agency, any user*
35 *of information, or any person who furnishes information to a consumer*
36 *reporting agency, based on information disclosed pursuant to K.S.A. 50-*
37 *708, 50-709 or 50-714, and amendments thereto, or based on information*
38 *disclosed by a user of a consumer report to or for a consumer against*
39 *whom the user has taken adverse action, based in whole or in part on the*
40 *report, except as to false information furnished with malice or willful*
41 *intent to injure such consumer.*

42 Sec. 9. K.S.A. 50-710 is hereby amended to read as follows: 50-710.

43 (a) If the completeness or accuracy of any item of information contained

1 in ~~his or her~~ a consumer's file at a consumer reporting agency is disputed
2 by a consumer, and such dispute is directly conveyed to the consumer
3 reporting agency by the consumer, the consumer reporting agency shall
4 ~~within a reasonable period of time~~ reinvestigate *free of charge* and record
5 the current status of ~~that the disputed~~ information ~~unless it has reasonable~~
6 ~~grounds to believe that the dispute by the consumer is frivolous or irrel-~~
7 ~~evant or delete the item from the file in accordance with subsection (f)~~
8 ~~before the end of the 30-day period beginning on the date on which the~~
9 ~~agency receives the notice of the dispute from the consumer.~~ If after such
10 reinvestigation such information is found to be inaccurate or can no
11 longer be verified, the consumer reporting agency shall promptly delete
12 such information. ~~The presence of contradictory information in the con-~~
13 ~~sumer's file does not in and of itself constitute reasonable grounds for~~
14 ~~believing the dispute is frivolous or irrelevant.~~

15 ~~—(b) Recordation of current status and/or deletion of disputed infor-~~
16 ~~mation shall be completed by the consumer reporting agency before the~~
17 ~~end of the 30-day period beginning on the date on which the agency~~
18 ~~receives the notice of the dispute from the consumer.~~

19 (b) The 30-day period described in subsection (a) may be extended
20 for not more than 15 additional days if the consumer reporting agency
21 receives information from the consumer during that 30-day period that
22 is relevant to reinvestigation. No extension shall apply to any reinvesti-
23 gation in which, during the 30-day period, the information that is the
24 subject of the reinvestigation is found to be inaccurate or incomplete or
25 the consumer reporting agency determines that the information cannot
26 be verified.

27 (c) (1) Before the expiration of the five-business-day period begin-
28 ning on the date on which a consumer reporting agency receives notice
29 of a dispute from any consumer in accordance with subsection (a), the
30 agency shall provide notification of the dispute to any person who pro-
31 vided any item of information in dispute, at the address and in the manner
32 established with the person. The notice shall include all relevant infor-
33 mation regarding the dispute that the agency has received from the
34 consumer.

35 (2) The consumer reporting agency shall promptly provide to the per-
36 son who provided the information in dispute all relevant information re-
37 garding the dispute that is received by the agency from the consumer
38 after the period referred to in subsection (c)(1) and before the end of the
39 period referred to in subsection (a)(1).

40 (d) (1) Notwithstanding subsection (a), a consumer reporting agency
41 may terminate a reinvestigation of information disputed by a consumer
42 if the agency reasonably determines that the dispute by the consumer is
43 frivolous or irrelevant, including by reason of a failure by a consumer to

- 1 provide sufficient information to investigate the disputed information.
- 2 (2) Upon making any determination that a dispute is frivolous or ir-
3 relevant, pursuant to subsection (d)(1), a consumer reporting agency shall
4 notify the consumer of such determination not later than five business
5 days after making such determination, by mail or, if authorized by the
6 consumer for that purpose, by any other means available to the agency.
- 7 (3) A notice under subsection (d)(2) shall include:
- 8 (i) The reasons for the determination that the dispute is frivolous or
9 irrelevant; and
- 10 (ii) identification of any information required to investigate the dis-
11 puted information, which may consist of a standardized form describing
12 the general nature of such information.
- 13 (e) In conducting any reinvestigation under subsection (a) with re-
14 spect to disputed information in the file of any consumer, the consumer
15 reporting agency shall review and consider all relevant information sub-
16 mitted by the consumer during the 30-day period beginning on the date
17 on which the agency receives the notice of the dispute from the consumer
18 with respect to such disputed information.
- 19 (f) (1) If, after any reinvestigation under subsection (a) of any infor-
20 mation disputed by a consumer, an item of the information is found to be
21 inaccurate or incomplete or cannot be verified, the consumer reporting
22 agency shall promptly delete that item of information from the consumer's
23 file or modify that item of information, as appropriate, based upon the
24 results of the reinvestigation.
- 25 (2) (A) If any information is deleted from a consumer's file pursuant
26 to subsection (f)(1), the information may not be reinserted in the file by
27 the consumer reporting agency unless the person who furnishes the in-
28 formation certifies that the information is complete and accurate.
- 29 (B) If any information that has been deleted from a consumer's file
30 pursuant to subsection (f)(1) is reinserted in the file, the consumer re-
31 porting agency shall notify the consumer of the reinsertion in writing not
32 later than five business days after the reinsertion or, if authorized by the
33 consumer for that purpose, by any other means available to the agency.
- 34 (C) As part of, or in addition to, this notice a consumer reporting
35 agency shall provide to a consumer in writing not later than five business
36 days after the date of the reinsertion:
- 37 (i) A statement that the disputed information has been reinserted;
- 38 (ii) the business name and address of any furnisher of information
39 contacted and the telephone number of such furnisher, if reasonably avail-
40 able, or of any furnisher of information that contacted the consumer re-
41 porting agency, in connection with the reinsertion of such information;
42 and
- 43 (iii) a notice that the consumer has the right to add a statement to

1 *the consumer's file disputing the accuracy or completeness of the disputed*
2 *information.*

3 (3) *A consumer reporting agency shall maintain reasonable proce-*
4 *dures designed to prevent the reappearance in a consumer's file, and in*
5 *consumer reports on the consumer, of information that is deleted pursuant*
6 *to this paragraph, other than information that is reinserted in accordance*
7 *with subsection (f)(2).*

8 (4) *Any consumer reporting agency that compiles and maintains files*
9 *on consumers on a nationwide basis shall implement an automated system*
10 *through which furnishers of information to that consumer reporting*
11 *agency may report the results of a reinvestigation that finds incomplete*
12 *or inaccurate information in a consumer's file to other such consumer*
13 *reporting agencies.*

14 (g) (1) *A consumer reporting agency shall provide written notice to*
15 *a consumer of the results of a reinvestigation under this subsection not*
16 *later than five business days after the completion of the reinvestigation,*
17 *by mail or, if authorized by the consumer for that purpose, by other means*
18 *available to the agency. As part of, or in addition to, such notice, a con-*
19 *sumer reporting agency shall provide to a consumer in writing before the*
20 *expiration of the five-day period:*

21 (A) *A statement that the reinvestigation is completed;*

22 (B) *a consumer report that is based upon the consumer's file as that*
23 *file is revised as a result of the reinvestigation;*

24 (C) *a notice that, if requested by the consumer, a description of the*
25 *procedure used to determine the accuracy and completeness of the infor-*
26 *mation shall be provided to the consumer by the agency, including the*
27 *business name and address of any furnisher of information contacted in*
28 *connection with such information and the telephone number of such fur-*
29 *nisher, if reasonably available;*

30 (D) *a notice that the consumer has the right to add a statement to the*
31 *consumer's file disputing the accuracy or completeness of the information;*
32 *and*

33 (E) *a notice that the consumer has the right to request under subsec-*
34 *tion (l) that the consumer reporting agency furnish notifications under*
35 *that subsection.*

36 (h) *A consumer reporting agency shall provide to a consumer a de-*
37 *scription referred to in subsection (g)(1)(C) by not later than 15 days after*
38 *receiving a request from the consumer for that description.*

39 (i) *If a dispute regarding an item of information in a consumer's file*
40 *at a consumer reporting agency is resolved in accordance with subsection*
41 *(f)(1) by the deletion of the disputed information by not later than three*
42 *business days after the date on which the agency receives notice of the*
43 *dispute from the consumer in accordance with subsection (a), then the*

1 agency shall not be required to comply with subsection (c), (g) and (h)
2 with respect to that dispute if the agency:

3 (1) Provides prompt notice of the deletion to the consumer by
4 telephone;

5 (2) includes in that notice, or in a written notice that accompanies a
6 confirmation and consumer report provided in accordance with subsec-
7 tion (i)(3), a statement of the consumer's right to request under subsection
8 (l) that the agency furnish notifications under that subsection; and

9 (3) provides written confirmation of the deletion and a copy of a con-
10 sumer report on the consumer that is based on the consumer's file after
11 the deletion, not later than five business days after making the deletion.

12 (j) If the reinvestigation does not resolve the dispute, the consumer
13 may file a brief statement setting forth the nature of the dispute. The
14 consumer reporting agency may limit such statements to not more than
15 one hundred words if it provides the consumer with assistance in writing
16 a clear summary of the dispute.

17 (e) (k) Whenever a statement of dispute is filed, unless there is rea-
18 sonable grounds to believe that it is frivolous or irrelevant, the consumer
19 reporting agency shall, in any subsequent consumer report containing the
20 information in question, clearly note that it is disputed by the consumer
21 and provide either the consumer's statement or a clear and accurate cod-
22 ification or summary thereof.

23 (d) (l) Following any deletion of information which is found to be
24 inaccurate or whose accuracy can no longer be verified or any notation
25 as to disputed information, the consumer reporting agency shall, at the
26 request of the consumer, furnish notification that the item has been de-
27 leted or the statement, codification or summary pursuant to subsection
28 (b) or (e) of this section (j) or (k) to any person specifically designated by
29 the consumer who has within two years prior thereto received a consumer
30 report for employment purposes, or within six months prior thereto re-
31 ceived a consumer report for any other purpose, which contained the
32 deleted or disputed information. The consumer reporting agency shall
33 clearly and conspicuously disclose to the consumer his or her such con-
34 sumer's rights to make such a request. Such disclosure shall be made at
35 or prior to the time the information is deleted or the consumer's state-
36 ment regarding the disputed information is received.

37 Sec. 10. K.S.A. 50-711 is hereby amended to read as follows: 50-711.

38 (a) (1) Except as provided in subsections (b), (c) ~~and (d)~~ and ~~(e)~~ a consumer
39 reporting agency may impose a reasonable charge on a consumer for
40 making a disclosure to the consumer pursuant to K.S.A. 50-708, and
41 amendments thereto, which charge:

42 (A) Shall not exceed \$5; and

43 (B) shall be indicated to the consumer before furnishing such

and

the amount allowed under 15 U.S.C.
§ 1681 (a) [Ron Gaches]

1 information.

2 (2) Except as otherwise provided by this section, a consumer report-
3 ing agency may impose a reasonable charge on a consumer for furnishing,
4 following a reinvestigation, a statement, codification, or summary to a
5 person designated by the consumer under that section after the 30-day
6 period beginning on the date of notification of the consumer with respect
7 to the reinvestigation, which charge:

8 (A) Shall not exceed the charge that the agency would impose on each
9 designated recipient for a consumer report; and

10 (B) shall be indicated to the consumer before furnishing such
11 information.

12 (b) ~~A consumer reporting agency shall make all disclosures pursuant
13 to subsection (d) of K.S.A. 50-708, and amendments thereto, and furnish
14 all consumer reports pursuant to subsection (d) of K.S.A. 50-710(d), and
15 amendments thereto, without charge to the consumer if, within thirty (30)
16 60 days after receipt by such consumer of a notification pursuant to K.S.A.
17 50-714, and amendments thereto, or notification from a debt collection
18 agency affiliated with such consumer reporting agency stating that the
19 consumer's credit rating may be or has been adversely affected, the con-
20 sumer makes a request under K.S.A. 50-708 or subsection (g) or (l) of 50-
21 710(d), and amendments thereto. Otherwise, the consumer reporting
22 agency may impose a reasonable charge on the consumer for making
23 disclosure to such consumer pursuant to K.S.A. 50-708, the charge for
24 which shall be indicated to the consumer prior to making disclosure, and
25 for furnishing notifications, statements, summaries, or codifications to
26 persons designated by the consumer pursuant to K.S.A. 50-710(d), the
27 charge for which shall be indicated to the consumer prior to furnishing
28 such information and shall not exceed the charge that the consumer re-
29 porting agency would impose on each designated recipient for a consumer
30 report except that no charge may be made for notifying such persons of
31 the deletion of information which is found to be inaccurate or which can
32 no longer be verified.~~

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33 (c) Upon the request of the consumer, a consumer reporting agency
34 shall make all disclosures pursuant to K.S.A. 50-708, and amendments
35 thereto, once during any 12-month period without charge to that con-
36 sumer if the consumer certifies in writing that the consumer:

37 (1) Is unemployed and intends to apply for employment in the 60-
38 day period beginning on the date on which the certification is made;

39 (2) is a recipient of public welfare assistance, or

40 (3) has reason to believe that the file on the consumer at the agency
41 contains inaccurate information due to fraud.

42 ~~(d) A consumer reporting agency shall not impose any charge on a
43 consumer for providing any notification required by this act or making~~

(c)

1 any disclosure required by this act, except as authorized by subsection
2 (a).

3 ~~(e) Each consumer reporting agency, upon request of a consumer,~~
4 ~~shall provide the consumer with one disclosure copy of the consumer's~~
5 ~~file per year at no charge whether or not the consumer has made the~~
6 ~~request, in response to the notification required in subsection (b)(1) of~~
7 ~~K.S.A. 50-708. If the consumer requests more than one disclosure copy of~~
8 ~~the consumer's file per year pursuant to this subsection, the consumer~~
9 ~~reporting agency may charge the consumer up to \$8 for each additional~~
10 ~~disclosure copy.~~

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11 Sec. 11. K.S.A. 50-714 is hereby amended to read as follows: 50-714.

12 (a) ~~Whenever credit or insurance for personal, family or household pur-~~
13 ~~poses, or employment involving a consumer is denied or the charge for~~
14 ~~such credit or insurance is increased either wholly or partly because of~~
15 ~~information contained in a consumer report from a consumer reporting~~
16 ~~agency, the user of the consumer report shall so advise the consumer~~
17 ~~against whom such adverse action has been taken and supply the name~~
18 ~~and address of the consumer reporting agency making the report. If any~~
19 ~~person takes any adverse action with respect to any consumer that is based~~
20 ~~in whole or in part on any information contained in a consumer report,~~
21 ~~the person shall:~~

22 (1) Provide oral, written or electronic notice of the adverse action to
23 the consumer;

24 (2) provide to the consumer orally, in writing, or electronically:

25 (A) The name, address, and telephone number of the consumer re-
26 porting agency including a toll-free telephone number established by the
27 agency if the agency compiles and maintains files on consumers on a
28 nationwide basis, that furnished the report to the person; and

29 (B) a statement that the consumer reporting agency did not make the
30 decision to take the adverse action and is unable to provide the consumer
31 the specific reasons why the adverse action was taken; and

32 (3) provide to the consumer an oral, written, or electronic notice of
33 the consumer's right:

34 (A) To obtain, pursuant to K.S.A. 50-711, and amendments thereto,
35 a free copy of a consumer report on the consumer from the consumer
36 reporting agency, which notice shall include an indication of the 60-day
37 period under that section for obtaining such a copy; and

38 (B) to dispute, pursuant to K.S.A. 50-710, and amendments thereto,
39 with a consumer reporting agency the accuracy or completeness of any
40 information in a consumer report furnished by the agency.

41 (b) Whenever credit for personal, family, or household purposes in-
42 volving a consumer is denied or the charge for such credit is increased
43 either wholly or partly because of information obtained from a person

1-25

1 other than a consumer reporting agency bearing upon the consumer's
 2 credit worthiness, credit standing, credit capacity, character, general rep-
 3 utation, personal characteristics, or mode of living, the user of such in-
 4 formation shall, within a reasonable period of time, upon the consumer's
 5 written request for the reasons for such adverse action received within
 6 ~~sixty (60)~~ 60 days after learning of such adverse action, disclose the nature
 7 of the information to the consumer. The user of such information shall
 8 clearly and accurately disclose to the consumer the right to make such
 9 written request at the time such adverse action is communicated to the
 10 consumer.

11 ~~(c) No person shall be held liable for any violation of this section if~~
 12 ~~the person shows by a preponderance of the evidence that at the time of~~
 13 ~~the alleged violation he or she maintained reasonable procedures to as-~~
 14 ~~sure compliance with the provisions of subsections (a) and (b). If a person~~
 15 ~~takes an adverse action, as defined by subsection (k)(1) of K.S.A. 50-702,~~
 16 ~~and amendments thereto, taken in connection with a transaction initiated~~
 17 ~~by the consumer, or any adverse action, as defined by subsection (k)(2)(a)~~
 18 ~~and (b) of K.S.A. 50-702, and amendments thereto, with respect to a~~
 19 ~~consumer, based in whole or in part on information described in subsec-~~
 20 ~~tion (d), the person shall:~~

21 (1) Notify the consumer of the action, including a statement that the
 22 consumer may obtain the information in accordance with subsection (2);
 23 and

24 (2) upon a written request from the consumer received within 60 days
 25 after transmittal of the notice required by subsection (1), disclose to the
 26 consumer the nature of the information upon which the action is based
 27 by not later than 30 days after receipt of the request.

28 (d) Information described in subsection (c), except as provided in sub-
 29 section (3), is information that:

30 (1) Is furnished to the person taking the action by a person related
 31 by common ownership or affiliated by common corporate control to the
 32 person taking the action; and

33 (2) bears on the credit worthiness, credit standing, credit capacity,
 34 character, general reputation, personal characteristics, or mode of living
 35 of the consumer; and

36 (3) does not include information solely as to transactions or experi-
 37 ences between the consumer and the person furnishing the information,
 38 or information contained within a consumer report.

39 (e) Any person who uses a consumer report on any consumer in con-
 40 nection with any credit or insurance transaction that is not initiated by
 41 the consumer, that is provided to that person pursuant to subsection
 42 (c)(1)(B) of K.S.A. 50-703, and amendments thereto, shall include the
 43 address and toll-free telephone number of the appropriate notification

1 system established pursuant to subsection (d) of K.S.A. 50-703, and
2 amendments thereto, and shall provide with each written solicitation
3 made to the consumer regarding the transaction a clear and conspicuous
4 statement that:

5 (1) Information contained in the consumer's consumer report was
6 used in connection with the transaction;

7 (2) the consumer received the offer of credit or insurance because the
8 consumer satisfied the criteria for credit worthiness or insurability under
9 which the consumer was selected for the offer;

10 (3) if applicable, the credit or insurance may not be extended if, after
11 the consumer responds to the offer, the consumer does not meet the cri-
12 teria used to select the consumer for the offer or any applicable criteria
13 bearing on credit worthiness or insurability or does not furnish any re-
14 quired collateral; and

15 (4) the consumer has a right to prohibit information contained in the
16 consumer's file with any consumer reporting agency from being used in
17 connection with any credit or insurance transaction that is not initiated
18 by the consumer, and may exercise such right by notifying a notification
19 system established pursuant to subsection (d) of K.S.A. 50-703, and
20 amendments thereto.

21 (f) A person who makes an offer of credit or insurance to a consumer
22 under a credit or insurance transaction described in subsection (f) shall
23 maintain on file the criteria used to select the consumer to receive the
24 offer, all criteria bearing on credit worthiness or insurability, as appli-
25 cable, that are the basis for determining whether or not to extend credit
26 or insurance pursuant to the offer, and any requirement for the furnishing
27 of collateral as a condition of the extension of credit or insurance, until
28 the expiration of the three-year period beginning on the date on which
29 the offer is made to the consumer.

30 (g) This section is not intended to affect the authority of any federal
31 or state agency to enforce a prohibition against unfair or deceptive acts
32 or practices, including the making of false or misleading statements in
33 connection with a credit or insurance transaction that is not initiated by
34 the consumer.

35 Sec. 12. K.S.A. 50-715 is hereby amended to read as follows: 50-715.

36 (a) ~~Any consumer reporting agency or user of information which person~~
37 ~~who willfully fails to comply with any requirement imposed under K.S.A.~~
38 ~~50-701 to 50-722, inclusive, and amendments thereto, with respect to any~~
39 ~~consumer is liable to that consumer in an amount equal to the sum of:~~

40 (a) (1) Any actual damages sustained by the consumer as a result of
41 the failure, or damages of not less than \$100 and not more than \$1,000;

42 (b) (2) such amount of punitive damages as the court may allow; and

43 (c) (3) in the case of liability of a natural person for obtaining a

1 consumer report under false pretenses or knowingly without a permissible
2 purpose actual damages sustained by the consumer as a result of the
3 failure or \$1,000, whichever is greater; and

4 (4) in the case of any successful action to enforce any liability under
5 this section, the costs of the action together with reasonable attorney's
6 attorney fees as determined by the court.

7 (b) Any person who obtains a consumer report from a consumer re-
8 porting agency under false pretenses or knowingly without a permissible
9 purpose shall be liable to the consumer reporting agency for actual dam-
10 ages sustained by the consumer reporting agency or \$1,000, whichever is
11 greater.

12 (c) Upon a finding by the court that an unsuccessful pleading, motion,
13 or other paper filed in connection with an action under this section was
14 filed in bad faith or for purposes of harassment, the court shall award to
15 the prevailing party attorney fees reasonable in relation to the work ex-
16 pended in responding to the pleading, motion, or other paper.

17 Sec. 13. K.S.A. 50-716 is hereby amended to read as follows: 50-716.

18 (a) Any consumer reporting agency or user of information which person
19 who is negligent in failing to comply with any requirement imposed under
20 K.S.A. 50-701 to 50-722, inclusive, and amendments thereto, with respect
21 to any consumer is liable to that consumer in an amount equal to the sum
22 of:

23 ~~(a)~~ (1) Any actual damages sustained by the consumer as a result of
24 the failure;

25 ~~(b)~~ (2) in the case of any successful action to enforce any liability
26 under this section, the costs of the action together with reasonable attor-
27 ney's attorney fees as determined by the court.

28 (b) On a finding by the court that an unsuccessful pleading, motion,
29 or other paper filed in connection with an action under this section was
30 filed in bad faith or for purposes of harassment, the court shall award to
31 the prevailing party attorney fees reasonable in relation to the work ex-
32 pended in responding to the pleading, motion, or other paper.

33 Sec. 14. K.S.A. 50-717 is hereby amended to read as follows: 50-717.

34 An action to enforce any liability created under the provisions of K.S.A.
35 50-701 to 50-722, inclusive, and sections 19 and 20, and amendments
36 thereto, may be brought in the district court of the county in which the
37 controversy arose or any other court of competent jurisdiction, within two
38 years from the date on which the liability arises, except that where a
39 defendant has materially and willfully misrepresented any information
40 required under the provisions of such sections of this act to be disclosed
41 to an individual and the information so misrepresented is material to the
42 establishment of the defendant's liability to that individual under such
43 provisions of this act, the action may be brought at any time within two

1 years after discovery by the individual of the misrepresentation.

2 Sec. 15. K.S.A. 50-718 is hereby amended to read as follows: 50-718.
3 Any person who knowingly and willfully obtains information on a con-
4 sumer from a consumer reporting agency under false pretenses ~~shall be~~
5 ~~deemed is guilty of a class A misdemeanor severity level 7, person felony~~
6 and upon conviction thereof shall be punished in the manner provided
7 by law.

8 Sec. 16. K.S.A. 50-719 is hereby amended to read as follows: 50-719.
9 Any officer or employee of a consumer reporting agency who knowingly
10 and willfully provides information concerning an individual from the
11 agency's files to a person not authorized to receive that information ~~shall~~
12 ~~be deemed is guilty of a class A misdemeanor severity level 7, person~~
13 ~~felony~~ and upon conviction thereof shall be punished in the manner pro-
14 vided by law.

15 Sec. 17. K.S.A. 50-720 is hereby amended to read as follows: 50-720.
16 Any person violating any of the provisions of K.S.A. 50-701 to ~~50-719~~ 50-
17 722, inclusive, *and sections 19 and 20*, and amendments thereto, for
18 which penalties are not otherwise ~~hereinbefore~~ provided ~~shall be deemed~~
19 ~~is guilty of a class C misdemeanor and upon conviction thereof shall be~~
20 punished in the manner provided by law.

21 Sec. 18. K.S.A. 50-721 is hereby amended to read as follows: 50-721.
22 (a) ~~The consumer credit commissioner~~ *attorney general* is hereby au-
23 thorized to enforce the provisions of K.S.A. 50-701 to ~~50-720~~ 50-722,
24 inclusive, *and sections 19 and 20*, and amendments thereto, and for such
25 purpose is hereby authorized to adopt such rules and regulations as may
26 be necessary for the proper administration and enforcement of the pro-
27 visions of such sections of this act.

28 (b) ~~[A violation of this act shall be deemed an unconscionable act or~~
29 ~~practice under the Kansas consumer protection act.~~

[Ron Gaches]

30 ~~(c)~~ The attorney general is hereby authorized to investigate violations
31 of this act and obtain remedies for violations as provided by the Kansas
32 consumer protection act, K.S.A. 50-623 et seq., and amendments thereto.

33 New Sec. 19. Notwithstanding any other provision of this act, a con-
34 sumer reporting agency shall include in any consumer report furnished
35 by the agency in accordance with K.S.A. 50-703, and amendments
36 thereto, any information on the failure of the consumer to pay overdue
37 support which antedates the report by seven years or less, and is provided:

- 38 (a) To the consumer reporting agency by a state or local child support
39 enforcement agency; or
- 40 (b) to the consumer reporting agency and verified by any local, state,
41 or federal government agency.

42 New Sec. 20. (a) (1) A person shall not furnish any information re-
43 lating to a consumer to any consumer reporting agency if the person

1-29

1 knows or consciously avoids knowing that the information is inaccurate.

2 (2) A person shall not furnish information relating to a consumer to
3 any consumer reporting agency if:

4 (A) The person has been notified by the consumer, at the address
5 specified by the person for such notices, that specific information is in-
6 accurate; and

7 (B) the information is, in fact, inaccurate.

8 (3) A person who clearly and conspicuously specifies to the consumer
9 an address for notices referred to in subsection (2) shall not be subject
10 to subsection (1); however, nothing in subsection (2) shall require a per-
11 son to specify such an address.

12 (4) A person who: (A) Regularly and in the ordinary course of busi-
13 ness furnishes information to one or more consumer reporting agencies
14 about the person's transactions or experiences with any consumer; and

15 (B) has furnished to a consumer reporting agency information that
16 the person determines is not complete or accurate, shall promptly notify
17 the consumer reporting agency of that determination and provide to the
18 agency any corrections to that information, or any additional information,
19 that is necessary to make the information provided by the person to the
20 agency complete and accurate, and shall not thereafter furnish to the
21 agency any of the information that remains not complete or accurate.

22 (5) If the completeness or accuracy of any information furnished by
23 any person to any consumer reporting agency is disputed to such person
24 by a consumer, the person may not furnish the information to any con-
25 sumer reporting agency without notice that such information is disputed
26 by the consumer.

27 (6) A person who regularly and in the ordinary course of business
28 furnishes information to a consumer reporting agency regarding a con-
29 sumer who has a credit account with that person shall notify the agency
30 of the voluntary closure of the account by the consumer, in information
31 regularly furnished for the period in which the account is closed.

32 (7) A person who furnishes information to a consumer reporting
33 agency regarding a delinquent account being placed for collection,
34 charged to profit or loss, or subjected to any similar action, not later than
35 90 days after furnishing the information, shall notify the agency of the
36 month and year of the commencement of the delinquency that immedi-
37 ately preceded the action.

38 (b) (1) After receiving notice of a dispute pursuant to subsection (c)
39 of K.S.A. 50-710, and amendments thereto, with regard to the complete-
40 ness or accuracy of any information provided by a person to a consumer
41 reporting agency, the person shall:

42 (A) Conduct an investigation with respect to the disputed
43 information;

1 (B) review all relevant information provided by the consumer re-
2 porting agency pursuant to subsection (c) of K.S.A. 50-710, and amend-
3 ments thereto;

4 (C) report the results of the investigation to the consumer reporting
5 agency; and

6 (D) if the investigation finds that the information is incomplete or
7 inaccurate, report those results to all other consumer reporting agencies
8 to which the person furnished the information and that compile and main-
9 tain files on consumers on a nationwide basis.

10 (2) A person shall complete all investigations, reviews, and reports
11 required under subsection (b)(1) regarding information provided by the
12 person to a consumer reporting agency, before the expiration of the pe-
13 riod under K.S.A. 50-710, and amendments thereto, within which the
14 consumer reporting agency is required to complete actions required by
15 that section regarding that information.

16 Sec. 21. K.S.A. 50-722 is hereby amended to read as follows: 50-722.
17 K.S.A. 50-701 to 50-722, inclusive, *and sections 19 and 20*, and amend-
18 ments thereto, may be cited as the fair credit reporting act.

19 Sec. 22. K.S.A. 50-701, 50-702, 50-703, 50-704, 50-705, 50-706, 50-
20 708, 50-709, 50-710, 50-711, 50-714, 50-715, 50-716, 50-717, 50-718, 50-
21 719, 50-720, 50-721 and 50-722 are hereby repealed.

22 Sec. 23. This act shall take effect and be in force from and after its
23 publication in the statute book.

PROPOSED Substitute for HOUSE BILL NO. 2683

By Committee on Judiciary

AN ACT concerning the collection and reporting of statistics relating to race, ethnicity and gender for law enforcement activities.

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

Section 1. (a) The governor, with the assistance of the attorney general and the Kansas law enforcement training commission, shall develop a request for a proposal for a system to collect and report statistics relating to the race, ethnicity and gender of those who come in contact with law enforcement activities.

(b) Proposals submitted pursuant to the request shall contain, at a minimum:

(1) A system to collect data on a statistically significant sample of those persons who:

- (A) Are arrested;
- (B) while operating a motor vehicle, are stopped by a law enforcement officer; and
- (C) while a pedestrian, are stopped by a law enforcement officer;

(2) which contains the race, ethnicity and gender of such persons;

(3) which has a schedule and plan of implementation, including training;

(4) other factors which may be relevant to law enforcement officers in stopping or arresting individuals;

(5) civilian complaints received by law enforcement agencies alleging bias based on race, ethnicity or gender; and

(6) a survey of policies of law enforcement agencies relating to the investigation of complaints based on alleged race, ethnicity or gender bias.

(c) Data acquired pursuant to this proposal shall not contain any information that may reveal the identity of any individual.

Sec. 2. The governor, with the assistance of the attorney

(b) civilian complaints received by law enforcement agencies alleging bias based on race, ethnicity or gender; and

(6) a survey of policies of law enforcement agencies relating to the investigation of complaints based on alleged

general, shall select the most comprehensive proposal and implement such proposal, subject to the availability of any grant or grants for such purpose from the United States department of justice or any other governmental or private agency.

Sec. 3. The results of such study shall be submitted to the governor and attorney general within 90 days after conclusion of such study. The governor shall submit the study to the legislature with one or more of the following:

(a) An evaluation of the study;

(b) an implementation plan to expand the data collection and reporting system to other law enforcement agencies and whether such system should be made permanent; and

(c) recommendations to improve law enforcement training and operations to address racial, ethnic or gender bias.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.