

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on March 8, 2006 in Room 313-S of the Capitol.

All members were present except:

Michael Peterson- excused  
Mike Kiegerl- excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research  
Jill Wolters, Office of Revisor of Statutes  
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Loren Snell, Office of Attorney General, Division of Medicaid Fraud  
Chris Mechler, Office of Judicial Administration

Chairman O'Neal opened the hearing on **SB 451 - medicaid cards, medicaid pharmacy claim forms and criminal acts and violence.**

Loren Snell, Office of Attorney General, Division of Medicaid Fraud, explained that the purpose of the bill is to protect medicaid monies that are provided to Kansas from fraud. He touched on the following provisions in the bill:

- makes clear the prohibition for receiving illegal bribes, kickbacks and rebates
- recognizes that not all medicaid providers are natural persons
- prohibits agreements to divide or share medicaid funds obtained from the medicaid program
- prohibits trading or selling of medicaid numbers for money or other remunerations
- require a form of identification to be shown with ones medicaid card (Attachment 1)

Written testimony, in support of the bill, was provided by Senators Mike Petersen and Tim Huelskamp (Attachments 2 & 3)

The hearing on **SB 451** was closed.

The hearing on **SB 536 - medicaid reimbursement,** was opened.

No testimony was provided on the bill.

The hearing on **SB 536** was closed.

The hearing on **SB 435 - requiring a standardized risk assessment tool be used as part of a pre-sentence investigation,** was opened.

Chris Mechler, Office of Judicial Administration, explained that there has been a revision to the fiscal note. The original fiscal note estimated that the Level of Service Inventory-Revised risk assessment would be used for adult felony and misdemeanor cases and the Youth Level of Service for juvenile offenders. The bill requires assessments for adult felonies only. The fiscal note was amended to \$353,000.

Ms. Mechler requested an amendment to delete the risk assessment tool language from K.S.A. 21-4714 and places it in K.S.A. 75-5291. (Attachment 4)

The hearing on **SB 435** was closed.

The hearing on **SB 434 - extending Johnson County adult offender community supervision program until July 1, 2008,** was opened.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on March 8, 2006 in Room 313-S of the Capitol.

Written testimony, in support of the bill, was provided by the Kansas Department of Corrections (Attachment 5)

The hearing on **SB 434** was closed.

**HB 2880 - increasing the docket fees on criminal & traffic cases in district and municipal courts to fund the Kansas Law Enforcement Training Center**

Staff provided the committee with a balloon amendment that would increase the docket fee by \$10 with \$2.50 going to the Commission on Peace Officers and \$7.50 earmarked for the Kansas Law Enforcement Training Center. It also amends in the provisions of **SB 567** adding the Law Enforcement Training Act. The 320 hour training requirement is deleted with the hours being determined by the Commission. (Attachment 6)

Representative Davis made the motion to adopt the balloon. Representative Loyd seconded the motion. The motion carried.

Representative Ward made the motion to amend in the provisions of **HB 2879 - law library fund**. The motion was seconded. Staff had concerns with adopting a fee provision into a docket fee bill. With permission of the second, Representative Ward withdrew his motion.

Representative Pauls made the motion to report **HB 2880** favorably for passage, as amended. Representative Colloton seconded the motion. The motion carried.

**SB 397 - adoption of child born in a foreign county**

No interest was shown by the committee to work the bill.

**SB 432 - prosecution of juvenile traffic offenders; traffic offenses includes violation of requirement of motor vehicle liability insurance coverage**

Representative Owens made the motion to report **SB 432** favorably for passage and because of its non-controversial nature be placed on the consent calendar. Representative Pilcher-Cook seconded the motion. The motion carried.

The committee adjourned at 5:00 p.m. The next committee meeting was scheduled for 3:30 p.m. on March 9<sup>th</sup> in room 313-S.



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

PHILL KLINE  
ATTORNEY GENERAL

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March 3, 2006

House Judiciary Committee on SB 451

Dear Chairman O'neal, Members of the Committee:

Thank you for allowing me to appear today on behalf of Kansas Attorney General Phill Kline to support Senate Bill No 451 with the balloon. My name is Loren Snell. I am an Assistant Attorney General in the Medicaid Fraud and Abuse Division of the Office of Kansas Attorney General Phill Kline.

The Kansas Attorney General's Medicaid Fraud and Abuse Division was created in 1996, and is required of Kansas, as it is in each state, by the Medicare-Medicaid Anti-Fraud and Abuse Amendments (P.L. 95-142), enacted by Congress in 1977. Along with establishing the state Medicaid Fraud Control Units, Congress provided the states with incentive funding to investigate and prosecute Medicaid provider fraud, and to investigate fraud in the administration of the Medicaid program. As a representative of the Kansas Medicaid Fraud Control Unit, I appear before you to testify in support of legislation that, if passed, will provide us with yet one more tool that will aid us in fulfilling the mission envisioned for our division by Congress. A tool that Medicaid Fraud Control Units in other states already have in place and are using to their advantage in protecting their states' Medicaid dollars. Senate Bill 451 with the balloon amendment does several things that will assist our unit in preserving Medicaid funds in Kansas.

First, it makes it clear that the prohibition from receiving illegal bribes, kickbacks and rebates in the current statute applies to providers and recipients of Medicaid benefits, as well as family members of recipients. There is no reason why any person or entity involved in the Medicaid program should be allowed to receive or solicit illegal bribes, kickbacks or rebates.

This is to be distinguished from the system of refunds, discounts, co-payments, deductibles, incentives or other reductions which is allowed under current law. These refunds, discounts, and so on, are obtained by a provider in the ordinary course of business, and are appropriately reflected on the claims reports submitted to Medicaid as deductibles, co-payments or other cost or risk sharing arrangements which are part of any program operated by or pursuant to contracts with the Medicaid program. This system will not be changed by the proposed amendments set forth in SB 451.

Second, the proposed amendments recognize that not all Medicaid providers are natural persons, and thus corrects what may have been a potential gap in the protection of Medicaid dollars.

Third, new section (a)(3) in the amendments prohibits agreements to divide or share funds illegally obtained from the Medicaid program. Such agreements are a practice that the Medicaid Fraud Control Unit sees frequently. An example of this type of an agreement is where the Medicaid recipient

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Attachment # 1

and provider agree to submit claims to the Medicaid program for more services than are actually delivered by the provider, or for services that are not necessary, and then they divide or share the money paid for those undelivered or unnecessary services.

Fourth, new section (b) prohibits the trading or selling of Medicaid numbers for money or other remuneration, as well as the selling or exchanging for value of goods purchased or provided under the Medicaid program. Unfortunately, these practices are currently occurring in the Medicaid program and the Medicaid Fraud Control Unit is involved in investigating and prosecuting such cases when discovered. Examples include instances where a Medicaid recipient engages in the sale or trade of goods, such as narcotics or durable medical equipment, which has been purchased with Medicaid money. Another example involves providers who give items of value to Medicaid recipients in order to obtain those persons' Medicaid numbers. For instance, a provider may offer to forgive a debt or provide a service that is not covered by the Medicaid program in exchange for a recipient's Medicaid number. Once in possession of the Medicaid number the providers have billed the Medicaid program for goods or services that were not needed nor provided.

Finally, New Section 2(c) is needed to solve a problem that currently exists in auditing claims and investigating possible fraud or abuse. Under the current system, the Medicaid program asks that the prescribing physician's DEA number be included on claims submitted for reimbursement under the Medicaid program, however, these numbers are not required, and are therefore seldom, if ever, included on such claims. Not having the prescribing physician's unique identification number on the pharmacy claim form makes it much more time consuming and difficult, although not impossible, to audit the validity of the claim or to verify the medical necessity of the goods prescribed. For example there have been times when it would have been tremendously helpful, as part of an investigation, to track a physician's prescribing patterns to determine if they are abusing the process, and the program. In reviewing claims submitted by a pharmacist, it would be easy to determine if a specific physician was responsible for a unusually high percentage of prescriptions for a particular drug if the physician's unique identification number were included on the claims. This could be used to determine if they are somehow benefitting from prescribing a certain medication, such as oxycontin, to a recipient that does not medically require such medications but is merely using their relationship with a particular physician to support a drug habit at the State's expense.

New Section 2(c) would require that the prescribing physician's unique identification number be included on every pharmacy claim submitted to the Medicaid program for reimbursement. This is a number that every pharmacist should have at the time the prescriptions are filled. By mandating that these numbers be included on the claim forms it would significantly aid those of us whose job it is to look after and protect the integrity of the Medicaid program.

Respectfully,

OFFICE OF THE ATTORNEY GENERAL  
PHILL KLINE



Loren F. Snell  
Assistant Attorney General  
Director, Kansas Medicaid Fraud Control Unit

STATE OF KANSAS

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COMMITTEES  
ELECTIONS & LOCAL GOVERNMENT  
TRANSPORTATION  
UTILITIES  
  
JT. COMMITTEE ON  
INFORMATION TECHNOLOGY

SENATOR MIKE PETERSEN

## SB451

Mr. Chairman and members of the committee I want to thank you for letting me have the opportunity to submit written testimony today. SB451 is an attempt to deter and prevent Medicaid fraud by declaring certain acts to be crimes and providing measures to prevent people from using stolen identities to fraudulently obtain benefits.

The Dept. of Revenue has a system in place which uses multiple sources and methods to verify a persons identity when obtaining a State of Kansas ID card or drivers license. Sec.3 of this bill is a method of preventing fraud by using a readily available system that is already in place. I believe using resources that we have in place is a cost effective way to insure our Medicaid dollars go to the people who deserve them.

Thanks for your consideration,

A handwritten signature in cursive script that reads "Mike Petersen". The signature is written in dark ink and is positioned below the typed name.

Senator Mike Petersen

House Judiciary

Date 3-8-06

Attachment # 2

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STATE OF KANSAS

Senator Tim Huelskamp, Ph.D.

Committee Assignments

Elections & Local Government,  
Chairman  
Information Technology, Co-Chairman  
Kansas Legislative Education &  
Research, Past President  
Agriculture  
Medicaid Reform Task Force  
Natural Resources  
Natural Resources Legacy Alliance

Testimony by Senator Tim Huelskamp  
House Judiciary Committee – SB 451  
Wednesday, March 8, 2006

A handwritten signature in black ink, appearing to read "THH", enclosed within a large, loopy oval scribble.

Mr. Chairman and fellow committee members:

SB 451 is a multi-faceted bill designed to address a critical problem – consumer Medicaid fraud. With more than \$2 billion of Medicaid spending, much is at stake.

The genesis for my involvement in this issue traces back to the 2003 Medicaid Reform Task Force, the 2005 interim Medicaid Committee, and multiple years as chairman of the Joint Committee on Information Technology. In each of these, often discussion first centered upon provider fraud and then realized the huge potential for consumer fraud.

There are three sections in this bill. The first section attempts to address multiple consumer fraud schemes, such as misuse or transfer of the current paper Medicaid card. Senate committee amendments included language drafted together with those who investigate fraud and abuse for the state.

The second section is simple – it would require every pharmacy claim be accompanied by a prescriber's unique identification number. As the fastest growing portion of Medicaid, we must get a hold of this expenditure. Nearly 50% of all pharmacy claims do not identify the prescriber, so a real potential exists for exploitation of our drug program. By requiring this information, the ability to investigate fraud and abuse – whether by the provider, the prescriber, or the recipient – is critically enhanced.

The third section is also very simple – yet powerful. Senator Mike Petersen will next provide some exciting information about how technology can greatly diminish the fraud potential currently existing in the Medicaid program.

Thank you for the opportunity to testify on SB 451. I would appreciate your support of this critical legislation – which has the potential to save millions and millions of tax dollars. Additionally, it will ensure that the tax dollars we do spend on Medicaid are directed only to those who qualify.

House Judiciary

Date 3-8-06  
Attachment # 3



State of Kansas

## Office of Judicial Administration

Kansas Judicial Center  
301 SW 10<sup>th</sup>  
Topeka, Kansas 66612-1507

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House Judiciary  
Testimony on SB 435

March 8, 2005

Chris Mechler  
Office of Judicial Administration

Thank you for the opportunity to testify on SB 435. I am appearing on behalf of the Office of Judicial Administration. I am here today to clarify the fiscal note prepared by the Division of the Budget and to request an amendment to the bill. Attached to my testimony is the original memo submitted by Office of Judicial Administration to the Division of the Budget and a requested balloon amendment.

We would like to clarify the budget estimate for the cost of implementing SB 435 and requiring the use of the Level of Service Inventory-Revised (LSI-R). The original budget estimate was for the LSI-R for adult felony and misdemeanor cases and Youth Level of Service for juvenile offenders. SB 435 currently requires assessments for adult felony PSIs on offenders who will be available for supervision in Kansas. Our current estimate to assess adult felony offenders using the LSI-R is \$353,000, which is based on the following costs:

Item	Estimated Cost
40,000 assessment instruments (\$1.35 each)	\$ 54,000
Travel and training	\$ 100,000
Supplies and communication	\$ 2,000
Contractual services	\$ 197,000
<b>TOTAL</b>	<b>\$ 353,000</b>

The Office of Judicial Administration supports adopting the LSI-R as the risk and needs assessment tool for court services officers. This tool has been thoroughly researched throughout the United States and in Johnson County. It has proven to be an excellent predictor of an offender's risk to re-offend and of the need for services during the time the offender is under supervision. It has long been our intention to move to the LSI-R and the Youth Level of Service Inventory. The absence of funding for training, materials, and staffing has stopped these efforts.

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Attachment # 4

Testimony – SB 435  
March 8, 2006  
Page 2

The LSI-R project in Johnson County, as referenced in SB 434, uses the LSI-R for supervision, not for sentencing purposes. An LSI-R score sheet is included in the PSI along with a recommended placement to court services, community corrections, the Johnson County Residential Center, or Labette Correctional Conservation Camp. It is important to note that the success of the Johnson County LSI-R Project may not be attributable solely to the LSI-R. The wide range of resources, services, and graduated sanctions available contribute significantly to what Johnson County has been able to accomplish. The high level of cooperation between court services and community corrections enhances the staffing required to complete the assessments.

I am requesting an amendment to SB 435 and have attached a balloon amendment. The chairperson of the Kansas Sentencing Commission has had some concerns expressed to him about whether the amendatory language in Section 1(b)(10) is appropriately placed in K.S.A. 2005 21-4714. Some judges have expressed to him that the amendatory language would be more appropriately placed in K.S.A. 2005 Supp. 75-5291, which currently refers to the “standardized risk assessment tool or instrument” to be used to evaluate offenders. In that way, social factors are not introduced into the PSI and, therefore, into sentencing. The balloon amendment deletes this language from K.S.A. 2005 Supp. 21-4714 and places it in K.S.A. 2005 Supp. 75-5291.

I appreciate the opportunity to testify and am prepared to answer questions.





State of Kansas

**Office of Judicial Administration**

Kansas Judicial Center  
301 SW 10<sup>th</sup>  
Topeka, Kansas 66612-1507

(785) 296-2256

February 10, 2006

To: Duane Goossen  
Director of the Budget

From: Jerry Sloan  
Budget & Fiscal Officer

Re: SB 435

SB 435 would amend K.S.A. 2005 Supp. 21-4714 to require court services officers to include as part of a presentence investigation report a risk and needs assessment which shall include a statewide, mandatory, standardized risk assessment tool and shall measure the offender's risk of offense.

The passage of SB 435 will cost \$462,500 to implement the Level of Service Inventory (LSI-R) for offenders age 16 and older, and the Youth Level of Service (YLS) for offenders age 12-17. The cost per assessment is one dollar, and 93,500 assessments would be purchased at a cost of \$93,500. Also included in the cost are travel and training which account for \$100,000, an additional \$2,000 in supplies and communications, and \$267,000 in contractual services.

JS:bw

# PROPOSED BALLOON AMENDMENT

*As Amended by Senate Committee*

*Session of 2006*

## SENATE BILL No. 435

By Committee on Judiciary

1-24

10 AN ACT concerning sentencing; relating to presentence investigation re-  
11 ports; amending K.S.A. 2005 Supp. 21-4714 and repealing the existing  
12 section.

13  
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2005 Supp. 21-4714 is hereby amended to read as  
16 follows: 21-4714. (a) The court shall order the preparation of the pre-  
17 sentence investigation report by the court services officer as soon as pos-  
18 sible after conviction of the defendant.

19 (b) Each presentence report prepared for an offender to be sen-  
20 tenced for one or more felonies committed on or after July 1, 1993, shall  
21 be limited to the following information:

22 (1) A summary of the factual circumstances of the crime or crimes  
23 of conviction.

24 (2) If the defendant desires to do so, a summary of the defendant's  
25 version of the crime.

26 (3) When there is an identifiable victim, a victim report. The person  
27 preparing the victim report shall submit the report to the victim and  
28 request that the information be returned to be submitted as a part of the  
29 presentence investigation. To the extent possible, the report shall include  
30 a complete listing of restitution for damages suffered by the victim.

31 (4) An appropriate classification of each crime of conviction on the  
32 crime severity scale.

33 (5) A listing of prior adult convictions or juvenile adjudications for  
34 felony or misdemeanor crimes or violations of county resolutions or city  
35 ordinances comparable to any misdemeanor defined by state law. Such  
36 listing shall include an assessment of the appropriate classification of the  
37 criminal history on the criminal history scale and the source of informa-  
38 tion regarding each listed prior conviction and any available source of  
39 journal entries or other documents through which the listed convictions  
40 may be verified. If any such journal entries or other documents are ob-  
41 tained by the court services officer, they shall be attached to the pre-  
42 sentence investigation report. Any prior criminal history worksheets of  
43 the defendant shall also be attached.

1 (6) A proposed grid block classification for each crime, or crimes of  
2 conviction and the presumptive sentence for each crime, or crimes of  
3 conviction.

4 (7) If the proposed grid block classification is a grid block which pre-  
5 sumes imprisonment, the presumptive prison term range and the pre-  
6 sumptive duration of postprison supervision as it relates to the crime  
7 severity scale.

8 (8) If the proposed grid block classification does not presume prison,  
9 the presumptive prison term range and the presumptive duration of the  
10 nonprison sanction as it relates to the crime severity scale and the court  
11 services officer's professional assessment as to recommendations for con-  
12 ditions to be mandated as part of the nonprison sanction.

13 (9) For defendants who are being sentenced for a conviction of a  
14 felony violation of K.S.A. 65-4160 or 65-4162, and amendments thereto,  
15 and meet the requirements of K.S.A. 2005 Supp. 21-4729, and amend-  
16 ments thereto, the drug and alcohol assessment as provided in K.S.A.  
17 2005 Supp. 21-4729, and amendments thereto.

18 ~~(10) *On and after July 1, 2007, for offenders who are expected*~~  
19 ~~*to be subject to supervision in Kansas, a risk and needs assessment*~~  
20 ~~*which shall include a state-wide, mandatory, standardized risk assessment*~~  
21 ~~*tool and shall measure the offender's risk of reoffense. Such risk assess-*~~  
22 ~~*ment tool shall be specified by the Kansas sentencing commission.*~~

23 (c) The presentence report will become part of the court record and  
24 shall be accessible to the public, except that the official version, defend-  
25 ant's version and the victim's statement, any psychological reports, *risk*  
26 *and needs assessments* and drug and alcohol reports and assessments shall  
27 be accessible only to the parties, the sentencing judge, the department  
28 of corrections, and if requested, the Kansas sentencing commission. If  
29 the offender is committed to the custody of the secretary of corrections,  
30 the report shall be sent to the secretary and, in accordance with K.S.A.  
31 75-5220 and amendments thereto to the warden of the state correctional  
32 institution to which the defendant is conveyed.

33 (d) The criminal history worksheet will not substitute as a present-  
34 ence report.

35 (e) The presentence report will not include optional report compo-  
36 nents, which would be subject to the discretion of the sentencing court  
37 in each district except for psychological reports and drug and alcohol  
38 reports.

39 (f) The court can take judicial notice in a subsequent felony proceed-  
40 ing of an earlier presentence report criminal history worksheet prepared  
41 for a prior sentencing of the defendant for a felony committed on or after  
42 July 1, 1993.

43 (g) All presentence reports in any case in which the defendant has

1 been convicted of a felony shall be on a form approved by the Kansas  
2 sentencing commission.

3 ~~Sec. 2.~~ K.S.A. 2005 Supp. 21-4714 is hereby repealed.

4 ~~Sec. 3.~~ This act shall take effect and be in force from and after its  
5 publication in the statute book.

75-5291

Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

Article 52.--DEPARTMENT OF CORRECTIONS

~~75-5291. Community correctional services; grants to counties; placement of offenders; limitations; community corrections advisory committee, membership and duties.~~ Section 2. K.S.A. 2005 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a) (1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the criminogenic needs of felony offenders including, but not limited to, adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52,127 and amendments thereto.

(2) Except as otherwise provided, placement of offenders in community correctional services programs by the court shall be limited to placement of adult offenders, convicted of a felony offense:

(A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In addition, the court may place in a community correctional services program adult offenders, convicted of a felony offense, whose offense is classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes;

(B) whose severity level and criminal history score designate a presumptive prison sentence on either sentencing guidelines grid but receive a nonprison sentence as a result of departure;

(C) all offenders convicted of an offense which satisfies the definition of offender pursuant to K.S.A. 22-4902, and amendments thereto, and which is classified as a severity level 7 or higher offense and who receive a nonprison sentence, regardless of the manner in which the sentence is imposed;

(D) any offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in the offender being required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections;

(E) ~~any offender~~ On and after July 1, 2007, for offenders who are expected to be subject to supervision in Kansas who is are determined to be "high risk or needs, or both" by the use of a statewide, mandatory, standardized risk assessment tool or instrument ~~validated for community correctional placements~~ which shall be specified by the Kansas Sentencing Commission;

(F) placed in community correctional services programs as a condition of supervision following the successful completion of a conservation camp program; or

(G) who has been sentenced to community corrections supervision pursuant to K.S.A. 2004 Supp. 21-4729, and amendments thereto.

(3) Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before July 1, 2006, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this section shall expire on July 1, 2006.

(4) Nothing in this act shall prohibit a community correctional services program from providing services to juvenile offenders upon approval by the local community corrections advisory board. Grants from community corrections funds administered by the secretary of corrections shall not be expended for such services.

(5) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established, as provided in K.S.A. 22-3716, and amendments thereto, to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(b) (1) In order to establish a mechanism for community correctional services to participate in the department of corrections annual budget planning process, the secretary of corrections shall establish a community corrections advisory committee to identify new or enhanced correctional or treatment interventions designed to divert offenders from prison.

(2) The secretary shall appoint one member from the southeast community corrections region, one member from the northeast community corrections region, one member from the central community corrections region and one member from the western community corrections region. The deputy secretary of community and field services shall designate two members from the state at large. The secretary shall have final appointment approval of the members designated by the deputy secretary. The committee shall reflect the diversity of community correctional services with respect to geographical location and average daily population of offenders under supervision.

(3) Each member shall be appointed for a term of three years and such terms shall be staggered as determined by the secretary. Members shall be eligible for reappointment.

(4) The committee, in collaboration with the deputy secretary of community and field services or the deputy secretary's designee, shall routinely examine and report to the secretary on the following issues:

- (A) Efficiencies in the delivery of field supervision services;
- (B) effectiveness and enhancement of existing interventions;
- (C) identification of new interventions; and
- (D) statewide performance indicators.

(5) The committee's report concerning enhanced or new interventions shall address:

- (A) Goals and measurable objectives;
- (B) projected costs;
- (C) the impact on public safety; and
- (D) the evaluation process.

(6) The committee shall submit its report to the secretary annually on or before July 15 in order for the enhanced or new interventions to be considered for inclusion within the department of corrections budget request for community correctional services or in the department's enhanced services budget request for the subsequent fiscal year.

History: L. 1978, ch. 364, § 2; L. 1980, ch. 288, § 1; L. 1982, ch. 182, § 144; L. 1989, ch. 92, § 31; L. 1997, ch. 179, § 6; L. 1998, ch. 153, § 1; L. 2000, ch. 182, § 11; L. 2002, ch. 177, § 2; L. 2003, ch. 135, § 8; L. 2004, ch. 160, § 1; July 1.

## 75-5291

### Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

#### Article 52.--DEPARTMENT OF CORRECTIONS

~~75-5291. Community correctional services; grants to counties; placement of offenders, limitations; community corrections advisory committee, membership and duties.~~ Section 2. K.S.A. 2005 Supp. 75-5291 is hereby amended to read as follows: 75-5291.

(a) (1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the criminogenic needs of felony offenders including, but not limited to, adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52, 127 and amendments thereto.

(2) Except as otherwise provided, placement of offenders in community correctional services programs by the court shall be limited to placement of adult offenders, convicted of a felony offense:

(A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In addition, the court may place in a community correctional services program adult offenders, convicted of a felony offense, whose offense is classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes;

(B) whose severity level and criminal history score designate a presumptive prison sentence on either sentencing guidelines grid but receive a nonprison sentence as a result of departure;

(C) all offenders convicted of an offense which satisfies the definition of offender pursuant to K.S.A. 22-4902, and amendments thereto, and which is classified as a severity level 7 or higher offense and who receive a nonprison sentence, regardless of the manner in which the sentence is imposed;

(D) any offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in the offender being required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections;

(E) ~~any offender~~ *On and after July 1, 2007, for offenders who are expected to be subject to supervision in Kansas who is are determined to be "high risk or needs, or both" by the use of a statewide, mandatory, standardized risk assessment tool or instrument validated for community correctional placements which shall be specified by the Kansas Sentencing Commission;*

(F) placed in community correctional services programs as a condition of supervision following the successful completion of a conservation camp program; or

(G) who has been sentenced to community corrections supervision pursuant to K.S.A. 2004 Supp. 21-4729, and amendments thereto.

(3) Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before July 1, 2006, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this section shall expire on July 1, 2006.

(4) Nothing in this act shall prohibit a community correctional services program from providing services to juvenile offenders upon approval by the local community corrections advisory board. Grants from community corrections funds administered by the secretary of corrections shall not be expended for such services.

(5) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established, as provided in K.S.A. 22-3716, and amendments thereto, to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(b) (1) In order to establish a mechanism for community correctional services to participate in the department of corrections annual budget planning process, the secretary of corrections shall establish a community corrections advisory committee to identify new or enhanced correctional or treatment interventions designed to divert offenders from prison.

(2) The secretary shall appoint one member from the southeast community corrections region, one member from the northeast community corrections region, one member from the central community corrections region and one member from the western community corrections region. The deputy secretary of community and field services shall designate two members from the state at large. The secretary shall have final appointment approval of the members designated by the deputy secretary. The committee shall reflect the diversity of community correctional services with respect to geographical location and average daily population of offenders under supervision.

(3) Each member shall be appointed for a term of three years and such terms shall be staggered as determined by the secretary. Members shall be eligible for reappointment.

(4) The committee, in collaboration with the deputy secretary of community and field services or the deputy secretary's designee, shall routinely examine and report to the secretary on the following issues:

- (A) Efficiencies in the delivery of field supervision services;
  - (B) effectiveness and enhancement of existing interventions;
  - (C) identification of new interventions; and
  - (D) statewide performance indicators.
- (5) The committee's report concerning enhanced or new interventions shall address:
- (A) Goals and measurable objectives;
  - (B) projected costs;
  - (C) the impact on public safety; and
  - (D) the evaluation process.

(6) The committee shall submit its report to the secretary annually on or before July 15 in order for the enhanced or new interventions to be considered for inclusion within the department of corrections budget request for community correctional services or in the department's enhanced services budget request for the subsequent fiscal year.

**History:** L. 1978, ch. 364, § 2; L. 1980, ch. 288, § 1; L. 1982, ch. 182, § 144; L. 1989, ch. 92, § 31; L. 1997, ch. 179, § 6; L. 1998, ch. 153, § 1; L. 2000, ch. 182, § 11; L. 2002, ch. 177, § 2; L. 2003, ch. 135, § 8; L. 2004, ch. 160, § 1; July 1.



# KANSAS

KANSAS DEPARTMENT OF CORRECTIONS  
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on SB 434  
to  
The House Judiciary Committee

By Roger Werholtz  
Secretary  
Kansas Department of Corrections

March 8, 2006

The Department of Corrections supports SB 434. SB 434 extends to July 1, 2008 the pilot program for community corrections placements administered by the District Court of Johnson County. The pilot program places offenders under community corrections supervision based upon a risk assessment. The data collected from the experience of Johnson County's allocation of community correction supervision resources will enable the Kansas Sentencing Commission to make recommendations regarding an effective and efficient use of community corrections supervision on a statewide basis.

SB 434 was passed by the Senate by a vote of 40 – 0. The department urges favorable consideration of SB 434.



# HOUSE BILL No. 2880

By Committee on Judiciary

2-10

Proposed amendment  
Representative O'Neal  
March 7, 2006

House Judiciary  
Date 3-8-06  
Attachment # 10

act; relating to the Kansas commission on peace officers' standards and training

, 21-4619, 22-4604,

K.S.A. 12-1,120, 74-5603, 74-5604a, 74-5606, 74-5607a, 74-5608a, 74-5611, 74-5616, 74-5617, 74-5619 and 74-5620

, 74-5602, 74-5605, 74-5607 and 74-5611a

\$11.50

\$2.50 to the Kansas commission on peace officers' standards and training fund established by KSA 74-5619, and amendments thereto,

the Kansas commission on peace officers' standards and training fund,

9 AN ACT concerning the Kansas law enforcement training center; relating to docket fees; amending K.S.A. 2005 Supp. 12-4117, 20-362 and 28-172a and repealing the existing sections.

13 *Be it enacted by the Legislature of the State of Kansas:*  
14 Section 1. K.S.A. 2005 Supp. 12-4117 is hereby amended to read as follows: 12-4117. (a) In each case filed in municipal court charging a crime other than a nonmoving traffic violation, where there is a finding of guilty or a plea of guilty, a plea of no contest, forfeiture of bond or a diversion, 18 a sum in an amount of ~~\$9~~ \$19 shall be assessed and such assessment shall be credited as follows:

20 One dollar to the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, ~~\$4~~ \$14 to the law enforcement training center fund established pursuant to K.S.A. 74-5619, and amendments thereto, \$2 to the juvenile detention facilities fund established pursuant to K.S.A. 79-4803, and amendments thereto, to be expended for operational costs of facilities for the detention of juveniles, \$.50 to the protection from abuse fund established pursuant to K.S.A. 74-7325, and amendments thereto, \$.50 to the crime victims assistance fund established pursuant to K.S.A. 74-7334, and amendments thereto and \$1 to the trauma fund established pursuant to K.S.A. 2005 Supp. 75-5670, and amendments thereto.

31 (b) The judge or clerk of the municipal court shall remit the appropriate assessments received pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the local law enforcement training reimbursement fund, the law enforcement training center fund, the juvenile detention facilities fund, the crime victims assistance fund and the trauma fund as provided in this section.

39 (c) For the purpose of determining the amount to be assessed according to this section, if more than one complaint is filed in the municipal court against one individual arising out of the same incident, all such complaints shall be considered as one case.

43 Sec. 2. K.S.A. 2005 Supp. 20-362 is hereby amended to read as fol-

1 lows: 20-362. The clerk of the district court shall remit all revenues re-  
2 ceived from docket fees as follows:

3 (a) At least monthly to the county treasurer, for deposit in the county  
4 treasury and credit to the county general fund:

5 (1) A sum equal to \$10 for each docket fee paid pursuant to K.S.A.  
6 60-2001 and 60-3005, and amendments thereto, during the preceding  
7 calendar month;

8 (2) a sum equal to \$10 for each ~~\$36.50~~ \$46 or ~~\$61.50~~ \$76 docket fee  
9 paid pursuant to K.S.A. 61-4001, or K.S.A. 61-2704 or 61-2709, and  
10 amendments thereto; and

11 (3) a sum equal to \$5 for each ~~\$19.50~~ \$26 docket fee paid pursuant  
12 to K.S.A. 61-4001 or K.S.A. 61-2704, and amendments thereto, during  
13 the preceding calendar month.

14 (b) At least monthly to the board of trustees of the county law library  
15 fund, for deposit in the fund, a sum equal to the library fees paid during  
16 the preceding calendar month for cases filed in the county.

17 (c) At least monthly to the county treasurer, for deposit in the county  
18 treasury and credit to the prosecuting attorneys' training fund, a sum  
19 equal to \$1 for each docket fee paid pursuant to K.S.A. 28-172a, and  
20 amendments thereto, during the preceding calendar month for cases filed  
21 in the county and for each fee paid pursuant to subsection (c) of K.S.A.  
22 28-170, and amendments thereto, during the preceding calendar month  
23 for cases filed in the county.

24 (d) To the state treasurer, in accordance with the provisions of K.S.A.  
25 75-4215, and amendments thereto, for deposit in the state treasury and  
26 credit to the indigents' defense services fund, a sum equal to \$.50 for  
27 each docket fee paid pursuant to K.S.A. 28-172a and subsection (d) of  
28 K.S.A. 28-170, and amendments thereto, during the preceding calendar  
29 month.

30 (e) To the state treasurer, in accordance with the provisions of K.S.A.  
31 75-4215, and amendments thereto, for deposit in the state treasury and  
32 credit to the law enforcement training center fund a sum equal to ~~\$9~~ \$15  
33 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments  
34 thereto, during the preceding calendar month.

35 (f) To the state treasurer, in accordance with the provisions of K.S.A.  
36 75-4215, and amendments thereto, for deposit in the state treasury and  
37 distribution according to K.S.A. 20-367, and amendments thereto, a sum  
38 equal to the balance which remains from all docket fees paid during the  
39 preceding calendar month after deduction of the amounts specified in  
40 subsections (a), (b), (c), (d) and (e).

41 Sec. 3. K.S.A. 2005 Supp. 28-172a is hereby amended to read as  
42 follows: 28-172a. (a) Except as otherwise provided in this section, when-  
43 ever the prosecuting witness or defendant is adjudged to pay the costs in

1 a criminal proceeding in any county, a docket fee shall be taxed as follows:

2	Murder or manslaughter.....	<del>\$164.50</del> \$170.50
3	Other felony.....	<del>147.00</del> 153.00
4	Misdemeanor.....	<del>112.00</del> 118.00
5	Forfeited recognizance.....	<del>62.50</del> 68.50
6	Appeals from other courts.....	<del>62.50</del> 68.50

62.50

7 (b) (1) Except as provided in paragraph (2), in actions involving the  
8 violation of any of the laws of this state regulating traffic on highways  
9 (including those listed in subsection (c) of K.S.A. 8-2118, and amend-  
10 ments thereto), a cigarette or tobacco infraction, any act declared a crime  
11 pursuant to the statutes contained in chapter 32 of Kansas Statutes An-  
12 notated and amendments thereto or any act declared a crime pursuant  
13 to the statutes contained in article 8 of chapter 82a of the Kansas Statutes  
14 Annotated, and amendments thereto, whenever the prosecuting witness  
15 or defendant is adjudged to pay the costs in the action, a docket fee of  
16 ~~\$55~~ \$61 shall be charged. When an action is disposed of under subsections  
17 (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 79-3393, and  
18 amendments thereto, whether by mail or in person, the docket fee to be  
19 paid as court costs shall be ~~\$55~~ \$61.

20 (2) In actions involving the violation of a moving traffic violation under  
21 K.S.A. 8-2118, and amendments thereto, as defined by rules and  
22 regulations adopted under K.S.A. 8-249, and amendments thereto, when-  
23 ever the prosecuting witness or defendant is adjudged to pay the costs in  
24 the action, a docket fee of ~~\$55~~ \$61 shall be charged. When an action is  
25 disposed of under subsection (a) and (b) of K.S.A. 8-2118, and amend-  
26 ments thereto, whether by mail or in person, the docket fee to be paid  
27 as court costs shall be ~~\$55~~ \$61.

28 (c) If a conviction is on more than one count, the docket fee shall be  
29 the highest one applicable to any one of the counts. The prosecuting  
30 witness or defendant, if assessed the costs, shall pay only one fee. Multiple  
31 defendants shall each pay one fee.

32 (d) Statutory charges for law library funds, the law enforcement train-  
33 ing center fund, the prosecuting attorneys' training fund, the juvenile  
34 detention facilities fund, the judicial branch education fund, the emer-  
35 gency medical services operating fund and the judiciary technology fund  
36 shall be paid from the docket fee; the family violence and child abuse and  
37 neglect assistance and prevention fund fee shall be paid from criminal  
38 proceedings docket fees. All other fees and expenses to be assessed as  
39 additional court costs shall be approved by the court, unless specifically  
40 fixed by statute. Additional fees shall include, but are not limited to, fees  
41 for Kansas bureau of investigation forensic or laboratory analyses, fees for  
42 detention facility processing pursuant to K.S.A. 12-16,119, and amend-  
43 ments thereto, fees for the sexual assault evidence collection kit, fees for

1 conducting an examination of a sexual assault victim, fees for service of  
2 process outside the state, witness fees, fees for transcripts and deposi-  
3 tions, costs from other courts, doctors' fees and examination and evalu-  
4 ation fees. No sheriff in this state shall charge any district court of this  
5 state a fee or mileage for serving any paper or process.

6 (e) In each case charging a violation of the laws relating to parking  
7 of motor vehicles on the statehouse grounds or other state-owned or  
8 operated property in Shawnee county, Kansas, as specified in K.S.A. 75-  
9 4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and  
10 amendments thereto, the clerk shall tax a fee of \$2 which shall constitute  
11 the entire costs in the case, except that witness fees, mileage and expenses  
12 incurred in serving a warrant shall be in addition to the fee. Appearance  
13 bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amend-  
14 ments thereto, shall be \$3, unless a warrant is issued. The judge may  
15 order the bond forfeited upon the defendant's failure to appear, and \$2  
16 of any bond so forfeited shall be regarded as court costs.

Insert the attached sections 4 through 21.  
Renumber remaining sections accordingly.

, 74-5602, 74-5605, 74-5607 and 74-5611a

K.S.A. 12-1,120, 74-5603, 74-5604a, 74-5606, 74-5607a, 74-5608a,  
74-5611, 74-  
5616, 74-5617, 74-5619 and 74-5620

17 Sec. 4. ~~K.S.A. 2005 Supp. 12-4117, 20-362 and 28-172a~~ are hereby  
18 repealed.

19 Sec. 5. This act shall take effect and be in force from and after its  
20 publication in the statute book.

, 21-2619, 22-4604,

Sec. 4. K.S.A. 12-1,120 is hereby amended to read as follows: 12-1,120. (a) ~~Before January 1, 1988, Each person holding office as chief of police of any city in this state on the effective date of this act shall be fingerprinted as provided by this section.~~

(b) Before assuming the office of chief of police of any city in this state, a person shall be fingerprinted as provided by this section.

(c) Fingerprinting pursuant to this section shall be done by the law enforcement agency of the city in the presence of the city clerk. The city clerk shall forthwith forward the fingerprints to the Kansas bureau of investigation for a search of state and national fingerprint files to determine whether the person qualifies for admission to the law enforcement training center pursuant to subsection ~~(c)~~ (a)(3) of K.S.A. 74-5605 and amendments thereto. The Kansas bureau of investigation shall certify any conviction record of the person, or lack thereof, found as a result of such search to the city clerk and, if such a record is found, to the attorney general.

(d) Fingerprints taken and submitted pursuant to this section shall be on forms approved by the attorney general.

(e) The cost of a search of fingerprint files pursuant to this section shall be paid by the person being fingerprinted.

Sec. 5. K.S.A. 2005 Supp. 21-4619 is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b) and (c), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Except as provided in subsection (c), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, or:

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

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

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

(4) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting

from the violation of a law of another state which is in substantial conformity with that statute;

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

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

(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes;

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

(9) a violation of K.S.A. 21-3405b, prior to its repeal.

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516, and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603, and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in the first degree as defined in K.S.A. 21-3401, and amendments thereto; (14) murder in the second degree as defined in K.S.A. 21-3402, and amendments thereto; (15) voluntary manslaughter as defined in K.S.A. 21-3403, and amendments thereto; (16) involuntary manslaughter as defined in K.S.A. 21-3404, and amendments thereto; (17) involuntary manslaughter while driving under the influence of alcohol or drugs as defined in K.S.A. 2005 Supp. 21-3442, and amendments thereto; (18) sexual battery as defined in K.S.A. 21-3517, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed; (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amendments thereto; or (20) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

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

(2) the full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

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

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

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

(6) the identity of the convicting court, arresting law enforcement authority or diverting authority.

There shall be no docket fee for filing a petition pursuant to this section. All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant

information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

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

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

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

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

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

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

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

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2005 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

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

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

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

(F) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

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

(H) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 2005 Supp. 17-12a102, and amendments thereto; or

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

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

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

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

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

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

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

(1) The person whose record was expunged;

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

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

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

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

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

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

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



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

(10) the Kansas sentencing commission;

(11) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(12) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(13) the Kansas ~~law enforcement training~~ commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

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

Sec. 6. K.S.A. 2005 Supp. 22-4604 is hereby amended to read as follows: 22-4604. (a) The governor, with the assistance of the attorney general and the Kansas ~~law enforcement training~~ commission on peace officers' standards and training, shall develop a request for a proposal for a system to collect and report statistics relating to the race, ethnicity, gender, age and residency by county and state 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, gender, age and residency by county and state 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, gender, age or residency by county or state; and

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

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

(d) The governor, with the assistance of the attorney 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.

(e) 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:

(1) An evaluation of the study;

(2) 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

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

Sec. 7. K.S.A. 2005 Supp. 74-5602 is hereby amended to read as follows: 74-5602. As used in the Kansas law enforcement training act:

(a) "Training center" means the law enforcement training center within the division of continuing education of the university of Kansas, created by K.S.A. 74-5603 and amendments thereto.

(b) "Commission" means the Kansas law enforcement training commission on peace officers' standards and training, created by K.S.A. 74-5606 and amendments thereto.

(c) "Dean" means the dean of ~~the division of~~ continuing education of the university of Kansas.

(d) "Director," ~~as created in K.S.A. 74-5603 and amendments thereto, of police training~~ means the director of police training at the law enforcement training center.

(e) "Director" means the executive director of the Kansas commission on peace officers' standards and training.

(f) "Law enforcement" means the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof.

(f) (g) "Police officer" or "law enforcement officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to, the sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff's office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858 and amendments thereto; conservation officers of the Kansas department of wildlife and parks; university police officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus police officers, as defined in K.S.A. 22-2401a, and amendments thereto; law enforcement agents of the director of alcoholic beverage control; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol area security guards, existing under the authority of K.S.A. 75-4503 and amendments thereto. Such terms shall also include railroad policemen appointed pursuant to K.S.A. 66-524 and amendments thereto; ~~and school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222 and amendments thereto; and the director of the Kansas commission on peace officers' standards and training and any other employee of such commission designated by the director pursuant to K.S.A. 74-5603, and amendments thereto, as a law enforcement officer.~~ Such terms shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official's elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee

of the commissioner of juvenile justice, the secretary of corrections or the secretary of social and rehabilitation services; any deputy conservation officer of the Kansas department of wildlife and parks; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the duties of such person's office or employment. Such term shall include any officer appointed or elected on a provisional basis.

(g) (h) "Full-time" means employment requiring at least 1,000 hours of law enforcement related work per year.

(h) (i) "Part-time" means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of law enforcement related work per year.

(i) (j) "Misdemeanor crime of domestic violence" means a violation of domestic battery as provided by K.S.A. 2005 Supp. 21-3412a and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

(j) (k) "Auxiliary personnel" means members of organized nonsalaried groups which operate as an adjunct to a police or sheriff's department, including reserve officers, posses and search and rescue groups.

(k) (l) "Active law enforcement certificate" means a certificate which attests to the qualification of a person to perform the duties of a law enforcement officer and which has not been suspended or revoked by action of the Kansas commission on peace officers' standards and training and has not lapsed by operation of law as provided in K.S.A. 74-5622, and amendments thereto.

Sec. 8. K.S.A. 74-5603 is hereby amended to read as follows: 74-5603. (a) There is hereby created within ~~the division of~~ continuing education of the university of Kansas a law enforcement training center, to be located at the former site of the U. S. naval air station in Reno county. The purpose and function of such training center shall be the promotion and development of improved law enforcement personnel and procedures throughout the state, and the training center shall offer to qualified applicants, as defined in K.S.A. 74-5605 and amendments thereto, such programs and courses of instruction designed to fulfill this end. No person shall enroll in a basic course of instruction at the Kansas law enforcement training center unless the person holds a provisional law enforcement certificate.

(b) The dean, upon consultation with and approval of the commission, shall appoint a director of police training. The dean shall also appoint such additional personnel as deemed necessary to carry out the law enforcement training programs of the training center. Such personnel, whether administrative, instructional or research, shall be in the unclassified service under the Kansas civil service act.

(b) (c) The director of police training shall be responsible for the administration of the training center and for the operation of the programs thereunder. The director of police training shall

be responsible for determining the curriculum of the program, subject to such changes and modification as are directed by the law enforcement training commission. In consultation with the law enforcement training commission, the director of police training may prescribe a code of conduct applicable to all trainees at the Kansas law enforcement training center. Upon consultation with and approval of the law enforcement training commission, the director is authorized to adopt such rules and regulations as are necessary for the effective operation of the law enforcement training program.

~~(c) The dean, upon consultation with and the approval of the commission, shall appoint a director of police training. The dean shall also appoint such additional personnel as is deemed necessary to carry out the law enforcement training programs of the training center, and such personnel, whether administrative, instructional or research, shall be in the unclassified service under the Kansas civil service act.~~

(d) Kansas commission on peace officers' standards and training shall appoint a director who shall be in the unclassified service under the Kansas civil service act.

(1) The director shall serve at the pleasure of the Kansas commission on peace officers' standards and training and shall be subject to removal by vote of 3/4 of the entire commission membership.

(2) The director shall enter into contracts necessary to administer the provisions of the Kansas law enforcement training act.

(3) The director may appoint employees, agents and consultants as the director considers necessary and prescribe their duties.

(4) The director shall be a law enforcement officer. The director may designate any other employee of the Kansas commission on peace officers' standards and training as a law enforcement officer. The director and any employee designated as a law enforcement officer by the director shall possess all powers and privileges which are now or may hereafter be given to an agent of the Kansas bureau of investigation and may exercise such powers and privileges throughout the state.

Sec. 9. K.S.A. 74-5604a is hereby amended to read as follows: 74-5604a. (a) The director of police training may establish a program for periodically extending the law enforcement training and instruction of the training center throughout the state on a regional basis. The director also shall of police training also may certify annually the training schools of state and local law enforcement agencies providing a course of law enforcement training for full-time police officers or law enforcement officers of not less than 320 hours of instruction, and whose when such training programs also satisfy the qualifications and standards promulgated by the director of police training after approval of the commission and when such programs satisfy a demonstrated training need not met by existing programs. The director of police training shall establish a course in basic law enforcement training of not less than 80 hours for part-time police officers or law enforcement officers, approved by the commission, to be provided at the training center and certified state and local law enforcement training schools. In addition, after the general election of each election year and prior to January 1 of the next succeeding year, and at such other times as the director of police training deems necessary, the director of police training shall commence a training course for persons elected to the office of sheriff at the preceding general election.

(b) The director of police training shall conduct a pretraining evaluation of applicants for admission to the course for law enforcement officers conducted by the training center or to any certified state or local law enforcement training school to assure that each applicant is qualified to serve as a law enforcement officer. The director of police training shall adopt minimum standards,

which shall receive prior approval by the commission, to be considered in the pretraining evaluation. The director of police training shall advise the city, county or state agency, railroad, school district or community college authorizing the applicant to attend the training center or certified state or local law enforcement training school of the results of the pretraining evaluation. The director of police training, with approval of the commission, may reject an applicant to the training center who does not meet the minimum pretraining standards.

Sec. 10. K.S.A. 2005 Supp. 74-5605 is hereby amended to read as follows: 74-5605. (a) Every applicant for admission to a course for police officers or law enforcement officers conducted by the training center certification shall be an employee of a state, county or city law enforcement agency, a municipal university police officer, a railroad policeman appointed pursuant to K.S.A. 66-524, and amendments thereto; an employee of the tribal law enforcement agency of an Indian nation that has entered into a tribal-state gaming compact with this state; or a school security officer designated as a school law enforcement officer pursuant to K.S.A. 72-8222, and amendments thereto. Prior to admission to a course conducted at the training center or at a certified state or local law enforcement agency, the applicant shall furnish to the director of police training a statement from the applicant's appointing authority or agency head certifying the applicant's fulfillment of the following requirements. The applicant:

- (1) Is a United States citizen;
- (2) has been fingerprinted and a search of local, state and national fingerprint files has been made to determine whether the applicant has a criminal record;
- (3) has not been convicted, does not have an expunged conviction, and on and after July 1, 1995, has not been placed on diversion by any state or the federal government for a crime which is a felony or its equivalent under the uniform code of military justice;
- (4) has not been convicted, does not have an expunged conviction, has not been placed on diversion by any state or the federal government for a misdemeanor crime of domestic violence or its equivalent under the uniform code of military justice, when such misdemeanor crime of domestic violence was committed on or after the effective date of this act;
- (5) is the holder of a high-school diploma or furnishes evidence of successful completion of an examination indicating an equivalent achievement;
- (6) is of good moral character;
- (7) has completed a psychological test approved by the commission;
- (8) is free of any physical or mental condition which might adversely affect the applicant's performance of a police officer's or law enforcement officer's duties; and
- (9) is at least 21 years of age.

(b) ~~The provisions of paragraph (1) of subsection (a) shall not apply to a Canadian citizen with prior law enforcement experience who resides in Stevens county. This subsection shall expire on July 1, 2006.~~

~~(c) The provisions of paragraph (1) of subsection (a) shall not apply to a citizen of the United Kingdom with prior law enforcement experience who resides in Finney county. This subsection shall expire on July 1, 2007.~~

Sec. 11. K.S.A. 74-5606 is hereby amended to read as follows: 74-5606. (a) There is hereby created the Kansas ~~law enforcement training~~ commission on peace officers' standards and training which shall consist of 12 members which shall include:

(1) The superintendent of the Kansas highway patrol, or the superintendent's designee;  
(2) the director of the Kansas bureau of investigation, or the director's designee;  
(3) a sheriff of a county having a population of 50,000 or more, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas sheriffs' association;

(4) a sheriff of a county having a population of less than 50,000 and more than 10,000, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas sheriffs' association;

(5) a sheriff of a county having a population of 10,000 or less, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas sheriffs' association;

(6) a chief of police of a city of the first class, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas association of chiefs of police;

(7) a chief of police of a city of the second class, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas association of chiefs of police;

(8) a chief of police of a city of the third class, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas association of chiefs of police;

(9) a training officer from a certified state or local law enforcement training school, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas peace officers association;

(10) a full-time, commissioned law enforcement officer employed by either a state, county or city agency, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the fraternal order of police;

(11) a county or district attorney, or an assistant county or district attorney, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the county and district attorneys' association; and

(12) a member representing the public at large who is not associated with law enforcement, selected by the governor to serve as chairperson.

(b) Each person initially appointed to a position described in subsection (a)(6), (a)(7), (a)(8), (a)(9) or (a)(12) shall serve for a two-year term and thereafter the term of members appointed to such positions shall be four years. Each person appointed to a position described in subsection (a)(3), (a)(4), (a)(5), (a)(10) or (a)(11) shall serve for a four-year term. A person appointed to a position on the commission shall resign such position upon vacating the office or position which qualified such person to be appointed as a member of the commission in that position. Vacancies in any position shall be filled in the same manner as original appointments.

(c) Membership on the commission shall not constitute holding a public office, and members of the commission shall not be required to take and file oaths of office before serving on the commission and shall not be required to be bonded. No member of the commission shall be disqualified from holding any public office or employment by reason of the member's appointment to or membership on the commission and no such member shall forfeit any such office or employment by reason of the member's appointment under this section, notwithstanding the provision of any law or ordinance. Membership of members employed by a city or county shall be

deemed for all purposes a duty of the member's employment by such city or county.

Sec. 12. K.S.A. 2005 Supp. 74-5607 is hereby amended to read as follows: 74-5607. (a) In addition to other powers and duties prescribed by law, the commission shall adopt, in accordance with the provisions of K.S.A. 77-415 et seq., and amendments thereto, rules and regulations necessary to carry out the provisions of subsection (c) of K.S.A. 74-5616, and amendments thereto, and such other rules and regulations as necessary to administer this act. The commission may also adopt such rules of procedure as are necessary for conducting the business of the commission.

(b) In all matters pending before the commission, the commission shall have the power to:

(1) Administer oaths and take testimony;

(2) issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. In case of the failure of any person to comply with any subpoena issued on behalf of the commission, or on the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, the district court of any county, on application of a member of the commission, may require compliance by proceedings for contempt, as in the case of failure to comply with a subpoena issued from such court or a refusal to testify in such court. Each witness who appears before the commission by its order or subpoena, other than a state officer or employee, shall receive for such attendance the fees and mileage provided for witnesses in civil cases in courts of record which shall be audited and paid upon presentation of proper vouchers sworn to by such witnesses and approved by the chairperson of the commission or by a person or persons designated by the chairperson;

(3) enter into contracts necessary to administer the provisions of this act and the certification of law enforcement officers; and

(4) assess the costs of such matters pending before the commission under this section against the governmental entity employing the police officer or law enforcement officer.

(c) Members of the ~~law enforcement training~~ commission attending meetings of the commission, or attending a subcommittee meeting authorized by the commission, shall be paid amounts provided for in subsection (e) of K.S.A. 75-3223, and amendments thereto. The director ~~and the chairperson of the commission~~ shall be responsible for approving all expense vouchers of members.

(d) The commission shall meet at least once each year at the training center and may hold ~~special~~ other meetings whenever they are called by the chairperson.

(e) The commission shall adopt the rules and regulations that are necessary to ensure that law enforcement officers are adequately trained and to enforce the provisions of this act. Such rules and regulations shall include, but are not limited to, the establishment of a course of fire as a standard qualification for active law enforcement officers to carry firearms that may also be used for qualified retired officers to carry firearms pursuant to federal law. The director shall provide qualification opportunities for qualified retired officers at least twice a year at the times and places the director determines to be necessary. The training center shall charge and collect a fee from retired state, local and federal officers for the qualification opportunities, but these fees shall be limited to the actual costs of presenting the standard qualifications course.

Sec. 13. K.S.A. 74-5607a is hereby amended to read as follows: 74-5607a. (a) ~~No person~~

~~shall receive a permanent appointment~~ The commission shall not issue a certification as a full-time police officer or law enforcement officer; unless such officer has been awarded a certificate attesting to satisfactory completion of a full-time officer basic course of ~~not less than 320 hours~~ of accredited instruction at the training center or at a certified state or local law enforcement training school or has been awarded such a certificate for not less than the number of hours of instruction required by the Kansas law enforcement training act at the time such certificate was issued or received a permanent appointment as a full-time police officer or law enforcement officer prior to July 1, 1969, or was appointed a railroad policeman pursuant to K.S.A. 66-524, and amendments thereto, on or before January 1, 1982. No person shall receive a permanent appointment certification as a part-time police officer or law enforcement officer; unless such officer has been awarded a certificate attesting to the satisfactory completion of ~~the basic course of not less than 80 hours of accredited~~ a part-time officer basic course of instruction in law enforcement at the training center or at a certified state or local law enforcement training school.

(b) Beginning the second year after certification, every full-time police officer or law enforcement officer shall complete annually 40 hours of law enforcement education or training in subjects relating directly to law enforcement. Failure to complete such training shall be grounds for suspension from work without pay until such training is completed. The director with the approval of the commission shall adopt rules and regulations regarding such education or training. Every city, county and state agency shall ~~annually~~ send to the director certified reports of the completion of such education or training. The director shall maintain a record of the reports in the central registry.

(c) Subject to the provisions of subsection (d):

(1) Any person who is appointed or elected as a police officer or law enforcement officer and who does not hold a certificate as required by subsection (a) may be ~~elected or appointed as an officer on a provisional basis for a period of not more than one year. Any person appointed as a police officer or law enforcement officer on a provisional basis who does not receive the certificate required under subsection (a) within one year following the date of the person's original election or appointment shall forfeit such office or position at the end of such one-year period. Any person appointed as a police officer or law enforcement officer on a provisional basis who does not receive the certificate required under subsection (a) within one year following such original appointment shall not be reappointed as a police officer or law enforcement officer on a provisional basis within one year following the date on which such person last served as a police officer or law enforcement officer issued a provisional certificate for a period of one year. The director may extend the one-year period for the provisional certificate if in the director's determination the extension would not constitute an intentional avoidance of the requirements of subsection (a). If a person's provisional certificate expires or is revoked, the person shall not be issued another provisional certificate within one year of the expiration or revocation. A provisional certificate shall be revoked upon dismissal from any basic training program authorized by K.S.A. 74-5604a, and amendments thereto. A provisional certificate may be revoked upon voluntary withdrawal from any basic training program authorized by K.S.A. 74-5604a, and amendments thereto.~~

(2) Any police officer or law enforcement officer who does not complete the education or training required by subsection (b) by the date such education or training is required to have been completed shall be subject to revocation or suspension of certification and loss of the officer's office or position.

(d) ~~The director may extend the one-year time period for the 320-hour basic-reciprocity school or 80-hour part-time school and may extend, waive or modify the annual continuing education~~



requirement, when it is shown that the failure to comply with the requirements of subsection (a) or (b) was not due to the intentional avoidance of the law.

Sec. 14. K.S.A. 74-5608a is hereby amended to read as follows: 74-5608a. (a) The director may, in the exercise of discretion, award a certificate ~~attesting to the satisfactory completion of a basic course of instruction~~ to any person who has been duly certified under the laws of another state or territory if, in the opinion of the director, the requirements for certification in such other jurisdiction equal or exceed the qualifications required to complete satisfactorily the basic course of instruction at the training center.

(b) The director may waive any number of the hours or courses required to complete the basic course of instruction at the training center, ~~80-hour~~ part-time school, reciprocity school or for the hours required for annual continuing education for any person who, in the opinion of the director, has received sufficient training or experience that such hours of instruction at the training center would be, unless waived, unduly burdensome or duplicitous.

Sec. 15. K.S.A. 74-5611 is hereby amended to read as follows: 74-5611. The director of ~~the law enforcement academy~~ police training shall annually report to the attorney general of the state of Kansas the names of all persons who attended ~~said academy~~ law enforcement training center during each training year.

Sec. 16. K.S.A. 2005 Supp. 74-5611a is hereby amended to read as follows: 74-5611a. (a) The ~~director~~ commission shall establish and maintain a central registry of all Kansas police officers or law enforcement officers. The purpose of the registry is to be a resource for all agencies who appoint or elect police or law enforcement officers to use when reviewing employment applications of such officers. The registry shall be made available only to those agencies who appoint or elect police or law enforcement officers.

(b) The director shall provide forms for registration and shall refuse any registration not submitted on such form in full detail.

(c) Within 30 days of appointment, election or termination, every city, county and state agency, every school district and every community college shall submit the name of any person appointed or elected to or terminated from the position of police officer or law enforcement officer within its jurisdiction.

(d) Upon termination, the agency head shall include a report explaining the circumstances under which the officer resigned or was terminated. Such termination report shall be available to the terminated officer and any law enforcement agency to which the terminated officer later applies for a position as a police officer or law enforcement officer. The terminated officer may submit a written statement in response to the termination and any such statement shall be included in the registry file concerning such officer. The director shall adopt a format for the termination report.

(e) The agency, agency head and any officer or employee of the agency shall be absolutely immune from civil liability:

(1) For the report made in accordance with subsection (d); and

(2) when responding in writing to a written request concerning a current or former officer from a prospective law enforcement agency of that officer for the report made in accordance with subsection (d) and for the disclosure of such report.

Sec. 17. K.S.A. 74-5616 is hereby amended to read as follows: 74-5616. (a) ~~To be eligible for permanent appointment as a police officer or law enforcement officer, a person must first be certified to perform the function of law enforcement by the Kansas law enforcement training commission~~ No person shall be appointed as a full-time law enforcement officer unless the person holds a full-time active law enforcement certificate or a provisional law enforcement certificate. No person shall be appointed as a part-time officer unless the person holds a full-time active law enforcement certificate, a part-time active law enforcement certificate or a provisional certificate. The commission's certification shall be awarded to persons who:

(1) ~~Are at least 21 years of age, have successfully completed or satisfied the training requirements specified by subsection (a) of K.S.A. 74-5607a and amendments thereto and meet the requirements of K.S.A. 74-5605 and amendments thereto;~~ (2) Received a permanent appointment as a police officer or law enforcement officer prior to July 1, 1969; or (3)

(2) hold a permanent appointment as a police officer or law enforcement officer on July 1, 1983.

(b) The commission may suspend, revoke, reprimand, censure or deny the certification of a police officer or law enforcement officer who:

(1) Fails to meet the requirements of K.S.A. 74-5605 or 74-5607a, and amendments thereto, or has met such requirements by falsifying documents or failing to disclose information required for certification;

(2) fails to meet and maintain the minimum standards for certification adopted by the commission;

(3) provides false information or otherwise fails to cooperate in a commission investigation to determine a person's suitability for law enforcement certification;

(4) fails to complete the annual continuing education required by K.S.A. 74-5607a, and amendments thereto, and implementing rules and regulations or otherwise fails to comply with the requirements of this act; or

(5) fails to maintain the requirements for initial certification as set forth in K.S.A. 74-5605, and amendments thereto, and any implementing rules and regulations.

(c) The commission shall immediately institute proceedings to revoke the certification of any police officer or law enforcement officer convicted of, or on or after July 1, 1995, diverted for a felony under the laws of this state, another state or the United States or of its equivalent under the uniform code of military justice or convicted of or diverted for a misdemeanor crime of domestic violence under the laws of this state, another state or the United States or of its equivalent under the uniform code of military justice, when such misdemeanor crime of domestic violence was committed on or after the effective date of this act.

(d) The procedure for the public or private censure, reprimand, probation, suspension, revocation and denial of certification of a person as a police officer or law enforcement officer or an applicant for certification shall be in accordance with the Kansas administrative procedure act.

(e) Any action of the commission pursuant to subsection (d) is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. Upon request of the commission, the attorney general shall prosecute or defend any action for review on behalf of the state, but the county or district attorney of the county where the police or law enforcement officer has been employed as such shall appear and prosecute or defend such action upon request of the attorney general or commission. The commission may elect to retain the services of a private attorney to appear and prosecute or defend any action on behalf of the commission.

Sec. 18. K.S.A. 74-5617 is hereby amended to read as follows: 74-5617. (a) Every candidate for permanent appointment to a position as a police officer or law enforcement officer shall ~~meet the minimum training criteria specified in K.S.A. 74-5605 and amendments thereto and shall have attained 21 years of age~~ hold permanent or provisional certification.

(b) For the purpose of determining the eligibility of an individual for certification under this act, the commission may require the submission of training and education records, and experience history, medical history, medical examination reports and records, and interview appraisal forms.

(c) Law enforcement agencies in Kansas shall be responsible for their agency's observance of the hiring requirements of this section.

(d) ~~No law enforcement agency head or other appointing authority shall knowingly permit the hiring of any person in violation of the requirements of this act, or knowingly permit the continued employment of any person as a law enforcement officer after receiving written notice from the commission that the person has had such person's certification revoked as provided for under this act~~ does not hold an active law enforcement certificate. No law enforcement agency head or other appointing authority shall knowingly permit any auxiliary personnel who have been convicted of a felony offense under the laws of Kansas or any other jurisdiction access to law enforcement records or communication systems that are restricted under state or federal law or appoint as ~~a reserve officer~~ auxiliary personnel any person who does not meet the requirements of K.S.A. 74-5605 and amendments thereto. Any violation of the requirements of this act shall be deemed to constitute misconduct in office and shall subject the agency head or appointing authority to:

(1) Removal from office pursuant to K.S.A. 60-1205 and amendments thereto; or (2) a civil penalty in a sum set by the court of not to exceed \$500 for each occurrence of noncompliance in an action brought in the district court ~~by the attorney general or by the county or district attorney~~, which penalty shall be paid to the state treasurer for deposit in the state treasury and credit to the ~~state general fund, if the action is brought by the attorney general, or paid to the county treasurer for deposit in the county treasury and credit to the county general fund, if the action is brought by the county or district attorney~~ Kansas commission on peace officers' standards and training fund.

(e) Whenever in the judgment of the commission any person has engaged in any acts or practices which constitute a violation of this act, or any rules and regulations of the commission, the commission may make application to the district court, without giving bond, for civil enforcement of this act or rules and regulations in accordance with the act for judicial review and civil enforcement of agency actions. The district or county attorney of any county shall at the request of the commission render such legal assistance as necessary in carrying out the provisions of this act. Upon the request of the commission, the district or county attorney of the proper county shall institute in the name of the state or commission proceedings for appropriate relief, whether mandatory, injunctive or declaratory, preliminary or final, temporary or permanent, equitable or legal, against any person regarding whom a complaint has been made charging such person with the violation of any provision of this act.

(f) The commission shall make such inquiry as necessary to determine compliance with the requirements of this section and the rules and regulations adopted under it.

(g) It shall be the responsibility of the agency head to ensure that every police officer or law enforcement officer under their supervision has the opportunity to receive the mandatory training as prescribed in K.S.A. 74-5604a and amendments thereto.

Sec. 19. K.S.A. 74-5619 is hereby amended to read as follows: 74-5619. (a) (1) There is

hereby created in the state treasury the law enforcement training center fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose and in the manner prescribed by law, ~~including the expenditures for the operation of the Kansas law enforcement training commission to carry out its powers and duties as mandated by law.~~

(b) (2) All moneys received for assessments as provided pursuant to K.S.A. 74-5607, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the law enforcement training center fund.

(b) There is hereby created in the state treasury the Kansas commission on peace officers' standards and training fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose of the operation of the commission to carry out its powers and duties as mandated by law. The director may apply for and receive public or private grants, gifts and donations of money for the commission. All moneys received from grants, gifts and donations shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas commission on peace officers' standards and training fund.

(c) This section shall be part of and supplemental to the Kansas law enforcement training act.

Sec. 20. K.S.A. 74-5620 is hereby amended to read as follows: 74-5620. (a) There is hereby created in the state treasury the local law enforcement training reimbursement fund. All expenditures from the local law enforcement training fund shall: (a) Be distributed to municipalities which participated in local law enforcement training programs, certified by the ~~law enforcement training commission~~, which existed prior to January 1, 1992, in accordance with a distribution formula developed by the commission; (b) not exceed more than 100% of the actual training costs incurred by the municipality in participating in the local law enforcement training program; and (c) be distributed for basic law enforcement training and not be for any type of continuing law enforcement training education programs. No money shall be expended from this fund prior to January 1, 1993. Such distribution formula shall provide that distribution be based on the number of individuals trained and the cost per individual trained of each such municipality. Any such distributions shall be reviewed on a year-to-year basis and adjusted accordingly pursuant to the criteria specified in this section. The ~~law enforcement training~~ commission shall conduct a review of all local law enforcement training programs in which municipalities receiving expenditures pursuant to this act are participating and shall require that all such law enforcement training programs report their costs in a standardized format prescribed by the commission.

(b) This section shall be part of and supplemental to the Kansas law enforcement training act.

New Sec. 21. (a) (1) Notwithstanding the provisions of K.S.A. 74-4971, and amendments thereto, on or after the effective date of this act, the Kansas commission on peace officers' standards and training shall affiliate with the Kansas police and firemen's retirement system established under the provisions of K.S.A. 74-4951 et seq., and amendments thereto, pursuant to the provisions of this act for membership in the system of members of the staff of the Kansas commission on peace

officers' standards and training who have been designated as law enforcement officers by the executive director pursuant to K.S.A. 74-5603, and amendments thereto, and successfully completed the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center or are certified pursuant to the provisions of K.S.A. 74-5607a, and amendments thereto. For purposes of such affiliation for membership in the system of such members, the Kansas commission on peace officers' standards and training shall be considered a new participating employer. The Kansas commission on peace officers' standards and training shall make application for affiliation with such system in the manner provided by K.S.A. 74-4954, and amendments thereto, to be effective on July 1 next following application. The Kansas commission on peace officers' standards and training shall affiliate for membership in the system of such members for participating service credit.

(2) The Kansas commission on peace officers' standards and training shall pay a sum sufficient to satisfy any obligations as certified by the board of trustees of the retirement system and the employer contributions of the Kansas commission on peace officers' standards and training shall be as provided in subsection (1) of K.S.A. 74-4967, and amendments thereto.

(b) (1) Each such member of the staff employed by the Kansas commission on peace officers' standards and training on the date of affiliation, may become a member of the Kansas police and firemen's retirement system on the first day of the payroll period of such member, coinciding with or following the entry date of the Kansas commission on peace officers' standards and training as provided in this section, only by filing with the board of trustees of the system, on or before the entry date of the Kansas commission on peace officers' standards and training as provided in this section, a written election to become a member of the system. Failure to file such written election shall be presumed to be an election not to become a member of the system. Such election, whether to become or not to become a member, shall be irrevocable.

(2) Each such member of the staff of the Kansas commission on peace officers' standards and training who is on an authorized leave of absence or is in the military service on the entry date of the Kansas commission on peace officers' standards and training as provided in this section may become a member of the Kansas police and firemen's retirement system on the first day of the first payroll period of such member, coinciding with such member's return to active employment and payroll of the Kansas commission on peace officers' standards and training, only by filing with the board of trustees of the system within 10 days after such return to active employment a written election to become a member of the system. Failure to file such written election shall be presumed to be an election not to become a member of the system. Such election, whether to become a member or not to become a member, shall be irrevocable.

(c) Each such member who is employed as a member of the staff of the Kansas commission on peace officers' standards and training on or after the entry date of the Kansas commission on peace officers' standards and training into the Kansas police and firemen's retirement system as provided in this section shall become a member of the Kansas police and firemen's retirement system on the first day of such employment.

(d) If the Kansas commission on peace officers' standards and training affiliates as provided in this act, the Kansas commission on peace officers' standards and training and each member of the staff who elects to become a member shall be subject to the provisions of K.S.A. 74-4951 et seq., and amendments thereto, as applicable.

(e) The division of the budget of the department of administration and the governor shall include in the budget and in the budget request for appropriations for personnel services the amount

required to satisfy the employer's obligation under this act as certified by the board of trustees of the system, and shall present the same to the legislature for allowance and appropriations.

(f) The determination of retirement, death or disability benefits shall be computed upon the basis of "credited service" as used in K.S.A. 74-4951 et seq., and amendments thereto, but shall include only participating service with the person's participating employer, commencing on and after the effective date of affiliation by the participating employer with the Kansas police and firemen's retirement system.