

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on March 20, 2006 in Room 313-S of the Capitol.

All members were present except:  
Michael Peterson- excused

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

**SB 407 - courts; increasing jurors' fees**

Representative Loyd made the motion to report SB 407 favorably for passage. Representative Garcia seconded the motion. The motion carried.

**SB 352 - uniform commercial code; filing of financing statements**

Representative Kiegerl made the motion strike the italicized language on page 2, lines 1 & 2. Representative Loyd seconded the motion. The motion carried.

Representative Kiegerl made the motion to report SB 352 favorably for passage, as amended. Representative Hutchins seconded the motion. The motion carried.

**HB 2819 - time limit for transfers of certain offenders to reception & diagnostic unit**

Representative Watkins made the motion to report HB 2819 favorably for passage, and because of its non-controversial nature be placed on the consent calendar. Representative Kelley seconded the motion. The motion carried.

**SB 361 - Kansas air quality act**

Representative Kinzer made the motion to report SB 361 favorably for passage. Representative Roth seconded the motion. The motion carried.

**SB 431 - expungement of DUI ordinance violations and DUI convictions including diversions; probation**

Representative Roth made the motion to adopt the provided balloon amendment which would allow for no expungement on convictions or diversions for violation of DUI ordinances. (Attachment 1) He moved the balloon. Representative Watkins seconded the motion. The motion carried.

Representative Roth made the motion to amend in the provisions of SB 351 - drug possession sentencing, drug abuse assessment after sentencing, with language on page 3, line 43 stricken. Representative Watkins seconded the motion.

Patricia Biggs, Kansas Sentencing Commission, announced that there is a conflict with the drug abuse assessment and the pre-sentence risk assessment in the bills. After committee discussion Representative Roth withdrew his motion, with permission of the second. Chairman O'Neal announced the committee would take up the bill at tomorrow's meeting.

**SB 221 - mentally ill persons subject to involuntary commitment are not allowed to possess a firearm**

Representative Kinzer made the motion to report SB 221 favorably for passage. Representative Hutchins seconded the motion. The motion failed.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on March 20, 2006 in Room 313-S of the Capitol.

**SB 366 - departure sentence; aggravating factors include offender playing a major role as the organizer**

Representative Loyd made the motion to change "offender" to "participant". Representative Masterson seconded the motion. The motion carried.

Representative Loyd made the motion to report **SB 366** favorably for passage, as amended. Representative Kiegerl seconded the motion. The motion carried.

**SB 435 - requiring a standardized risk assessment tool to be used as part of a pre-sentence investigation**

Representative Ward made the motion to strike the contents of **SB 435** and amend in the provisions of **HB 2879 - library docket fees**. Representative Garcia seconded the motion. Representative Watkins suggested striking "and docket fee" in lines 36 & 39. With permission of the second, Representative Ward amended his motion to include the suggestion. The motion carried.

Representative Yoder was concerned about the potential nonuniformity of docket fees across the state and made the motion to have the library fee fund increased up to \$4.00. Representative Davis seconded the motion. The motion carried.

Representative Ward made the motion to report **Substitute for SB 435** favorably for passage. Representative Watkins seconded the motion. The motion carried.

**SB 180 - preliminary screening tests for alcohol consumption by minors**

Representative Yoder made the motion to strike the provisions of **SB 180** and adopt the provided balloon which would state that the Legislature, not the Supreme Court, has the authority to set docket fees. (Attachment 2) It would increase docket fees to raise \$3.7 million. The docket fees would be increased by \$9.00 to offset what is currently raised by the emergency surcharge docket fee. Representative Kinzer seconded the motion. The motion carried.

Representative Hutchins made the motion to amend in the provisions of **HB 2913 - county, city and district hospitals not required to pay docket fees or sheriff's service of process fees**. Representative Kinzer seconded the motion.

Discussion centered on if the legislature wants to list all entities who would be exempt and if so who would they be. Chairman O'Neal announced the committee would take up the bill at tomorrow's meeting.

The committee meeting adjourned at 6:45 p.m. The next meeting was scheduled for March 21, 2006.

SENATE BILL No. 431

By Senator Emler

1-23

10 AN ACT concerning expungements; relating to convictions and diver-  
11 sions; amending K.S.A. 2005 Supp. ~~8-1013, 8-1567 and 12-4516 and~~ and 21-4619  
12 ~~21-4619~~ 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. 8-1013 is hereby amended to read~~  
15 ~~as follows: 8-1013. As used in K.S.A. 8-1001 through 8-1010, 8-1011,~~  
16 ~~8-1012, 8-1014, 8-1015, 8-1016, 8-1017 and 8-1018, and amend-~~  
17 ~~ments thereto, and this section:~~

18 (a) ~~“Alcohol concentration” means the number of grams of al-~~  
19 ~~cohol per 100 milliliters of blood or per 210 liters of breath.~~

20 (b) (1) ~~“Alcohol or drug-related conviction” means any of the~~  
21 ~~following: (A) Conviction of vehicular battery or aggravated vehic-~~  
22 ~~ular homicide, if the crime is committed while committing a viola-~~  
23 ~~tion of K.S.A. 8-1567 and amendments thereto or the ordinance of~~  
24 ~~a city or resolution of a county in this state which prohibits any~~  
25 ~~acts prohibited by that statute, or conviction of a violation of K.S.A.~~  
26 ~~8-1567 and amendments thereto; (B) conviction of a violation of a~~  
27 ~~law of another state which would constitute a crime described in~~  
28 ~~subsection (b)(1)(A) if committed in this state; (C) conviction of a~~  
29 ~~violation of an ordinance of a city in this state or a resolution of a~~  
30 ~~county in this state which would constitute a crime described in~~  
31 ~~subsection (b)(1)(A), whether or not such conviction is in a court~~  
32 ~~of record; or (D) conviction of an act which was committed on a~~  
33 ~~military reservation and which would constitute a violation of~~  
34 ~~K.S.A. 8-1567, and amendments thereto, or would constitute a crime~~  
35 ~~described in subsection (b)(1)(A) if committed off a military reser-~~  
36 ~~vation in this state.~~

37 (2) ~~For the purpose of determining whether an occurrence is a~~  
38 ~~first, second or subsequent occurrence: (A) “Alcohol or drug-related~~  
39 ~~conviction” also includes entering into a diversion agreement in lieu~~  
40 ~~of further criminal proceedings on a complaint alleging commission~~  
41 ~~of a crime described in subsection (b)(1) and such agreement was~~  
42 ~~entered into during the immediately preceding 12 years, including a~~  
43

and 21-4619

By striking all on pages 2 through 8.

House Judiciary  
Date 3-20-06  
Attachment # 1

1 ~~ate of the motor vehicle driven during the violation of this section~~  
2 ~~for a period of one year. Upon revoking any license plate or tem-~~  
3 ~~porary registration certificate pursuant to this subsection, the court~~  
4 ~~shall require that such license plate or temporary registration cer-~~  
5 ~~tificate be surrendered to the court.~~

6 ~~(s) For the purpose of this section: (1) "Alcohol concentration"~~  
7 ~~means the number of grams of alcohol per 100 milliliters of blood~~  
8 ~~or per 210 liters of breath.~~

9 ~~(2) "Imprisonment" shall include any restrained environment~~  
10 ~~in which the court and law enforcement agency intend to retain~~  
11 ~~custody and control of a defendant and such environment has been~~  
12 ~~approved by the board of county commissioners or the governing~~  
13 ~~body of a city.~~

14 ~~(3) "Drug" includes toxic vapors as such term is defined in~~  
15 ~~K.S.A. 65-4165, and amendments thereto.~~

16 ~~(t) The amount of the increase in fines as specified in this section~~  
17 ~~shall be remitted by the clerk of the district court to the state trea-~~  
18 ~~surer in accordance with the provisions of K.S.A. 75-4215, and~~  
19 ~~amendments thereto. Upon receipt of remittance of the increase pro-~~  
20 ~~vided in this act, the state treasurer shall deposit the entire amount~~  
21 ~~in the state treasury and the state treasurer shall credit 50% to the~~  
22 ~~community alcoholism and intoxication programs fund and 50% to~~  
23 ~~the department of corrections alcohol and drug abuse treatment~~  
24 ~~fund, which is hereby created in the state treasury.~~

Renumber remaining sections accordingly.

25 ~~Section 13.~~ K.S.A. 2005 Supp. 12-4516 is hereby amended to read  
26 as follows: 12-4516. (a) (1) Except as provided in subsection (b) or (c),  
27 any person who has been convicted of a violation of a city ordinance of  
28 this state may petition the convicting court for the expungement of such  
29 conviction and related arrest records if three or more years have elapsed  
30 since the person:

- 31 (A) Satisfied the sentence imposed; or
- 32 (B) was discharged from probation, parole or a suspended sentence.

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

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

- 43 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-

ments thereto;

(2) a violation of K.S.A. 8-1567, and amendments thereto;

~~(3) a violation of K.S.A. 8-1567, and amendments thereto;~~

(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;

(4) (3) (4) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto;

(5) (4) (5) a violation of the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications;

(6) (5) (6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) (6) (7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;

(8) (7) (8) a violation of the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(9) (8) (9) a violation of K.S.A. 21-3405b, and amendments thereto.

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

~~(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 agency or diverting authority. A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

~~(d)~~ (e) (d) 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

Renumber paragraphs accordingly.

There shall be no expungement of convictions or diversions for a violation of a city ordinance which would also constitute a violation of KSA 8-1567 or 8-2,144, and amendments thereto.

(d)  
[Reletter subsections accordingly]

1 the Kansas lottery as deemed appropriate by the executive director of the  
2 Kansas lottery;

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

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

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

22 ~~—(13) the Kansas law enforcement training commission and the re-~~  
23 ~~quest is accompanied by a statement that the request is being made to~~  
24 ~~aid in determining certification eligibility as a law enforcement officer~~  
25 ~~pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or~~

26 ~~—(14) a law enforcement agency and the request is accompanied by a~~  
27 ~~statement that the request is being made to aid in determining eligibility~~  
28 ~~for employment as a law enforcement officer as defined by K.S.A. 22-~~  
29 ~~2202, and amendments thereto.~~

30 Sec. ~~3~~ **4**. K.S.A. 2005 Supp. ~~8-1013, 8-1567 and~~ 12-4516 and 21-  
31 4619 are hereby repealed.

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

Sec. 2. K.S.A. 2005 Supp. 21-4619. See attached.  
[Renumber remaining sections accordingly.]

and 21-4619

Sec. 2. 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) (3) 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) (4) 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) (5) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) (6) 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) (7) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(9) (8) 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; (20) a violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation; (21) a violation of K.S.A. 8-2,144, and amendments thereto, including any diversion for such violation; or ~~(20)~~ (22) 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 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.

PROPOSED Substitute for SENATE BILL NO. \_\_\_\_\_

By

AN ACT concerning court fees; amending K.S.A. 38-1511, 38-1613, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and K.S.A. 2005 Supp. 8-2107, 8-2110, 20-1a04, 20-362, 20-367, 23-108a, 28-170 and 28-172a and repealing the existing sections.

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

New Section 1. The fees established by legislative enactment shall be the only fee collected or moneys in the nature of a fee collected for court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Court procedures shall include docket fees, filing fees or other fees related to access to court procedures.

Sec. 2. K.S.A. 2005 Supp. 8-2107 is hereby amended to read as follows: 8-2107. (a) (1) Notwithstanding any other provisions of the uniform act regulating traffic on highways, when a person is stopped by a police officer for any of the offenses described in subsection (d) and such person is not immediately taken before a judge of the district court, the police officer may require the person stopped, subject to the provisions of subsection (c), to deposit with the officer a valid Kansas driver's license in exchange for a receipt therefor issued by such police officer, the form of which shall be approved by the division of vehicles. Such receipt shall be recognized as a valid temporary Kansas driver's license authorizing the operation of a motor vehicle by the person stopped until the date of the hearing stated on the receipt. The driver's license and a written copy of the notice to appear shall be delivered by the police officer to the court having jurisdiction of the offense charged as soon as reasonably possible. If the hearing on such charge is continued for any reason, the judge may note on the receipt the date to which such hearing has been continued and such receipt shall be recognized as a valid temporary Kansas driver's license until such date, but in no event shall such receipt be recognized as a valid Kansas driver's license for a period longer than 30 days from the date

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set for the original hearing. Any person who has deposited a driver's license with a police officer under this subsection (a) shall have such license returned upon final determination of the charge against such person.

(2) In the event the person stopped deposits a valid Kansas driver's license with the police officer and fails to appear in the district court on the date set for appearance, or any continuance thereof, and in any event within 30 days from the date set for the original hearing, the court shall forward such person's driver's license to the division of vehicles with an appropriate explanation attached thereto. Upon receipt of such person's driver's license, the division shall suspend such person's privilege to operate a motor vehicle in this state until such person appears before the court having jurisdiction of the offense charged, the court makes a final disposition thereof and notice of such disposition is given by the court to the division. No new or replacement license shall be issued to any such person until such notice of disposition has been received by the division. The provisions of K.S.A. 8-256, and amendments thereto, limiting the suspension of a license to one year, shall not apply to suspensions for failure to appear as provided in this subsection (a).

(b) No person shall apply for a replacement or new driver's license prior to the return of such person's original license which has been deposited in lieu of bond under this section. Violation of this subsection (b) is a class C misdemeanor. The division may suspend such person's driver's license for a period of not to exceed one year from the date the division receives notice of the disposition of the person's charge as provided in subsection (a).

(c) (1) In lieu of depositing a valid Kansas driver's license with the stopping police officer as provided in subsection (a), the person stopped may elect to give bond in the amount specified in subsection (d) for the offense for which the person was stopped. When such person does not have a valid Kansas

driver's license, such person shall give such bond. Such bond shall be subject to forfeiture if the person stopped does not appear at the court and at the time specified in the written notice provided for in K.S.A. 8-2106, and amendments thereto.

(2) Such bond may be a cash bond, a bank card draft from any valid and unexpired credit card approved by the division of vehicles or superintendent of the Kansas highway patrol or a guaranteed arrest bond certificate issued by either a surety company authorized to transact such business in this state or an automobile club authorized to transact business in this state by the commissioner of insurance. If any of the approved bank card issuers redeem the bank card draft at a discounted rate, such discount shall be charged against the amount designated as the fine for the offense. If such bond is not forfeited, the amount of the bond less the discount rate shall be reimbursed to the person providing the bond by the use of a bank card draft. Any such guaranteed arrest bond certificate shall be signed by the person to whom it is issued and shall contain a printed statement that such surety company or automobile club guarantees the appearance of such person and will, in the event of failure of such person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person not to exceed an amount to be stated on such certificate.

(3) Such cash bond shall be taken in the following manner: The police officer shall furnish the person stopped a stamped envelope addressed to the judge or clerk of the court named in the written notice to appear and the person shall place in such envelope the amount of the bond, and in the presence of the police officer shall deposit the same in the United States mail. After such cash payment, the person stopped need not sign the written notice to appear, but the police officer shall note the amount of the bond mailed on the notice to appear form and shall give a copy of such form to the person. If the person stopped furnishes the police officer with a guaranteed arrest bond certificate or bank card draft, the police officer shall give

such person a receipt therefor and shall note the amount of the bond on the notice to appear form and give a copy of such form to the person stopped. Such person need not sign the written notice to appear, and the police officer shall present the notice to appear and the guaranteed arrest bond certificate or bank card draft to the court having jurisdiction of the offense charged as soon as reasonably possible.

(d) The offenses for which appearance bonds may be required as provided in subsection (c) and the amounts thereof shall be as follows:

On and after July 1, 1996:

Reckless driving.....	\$82
Driving when privilege is canceled, suspended or revoked.....	82
Failure to comply with lawful order of officer.....	57
Registration violation (registered for 12,000 pounds or less).....	52
Registration violation (registered for more than 12,000 pounds).....	92
No driver's license for the class of vehicle operated or violation of restrictions.....	52
Spilling load on highway.....	52
Transporting open container of alcoholic liquor or cereal malt beverage accessible while vehicle in motion.....	223

(e) In the event of forfeiture of any bond under this section, ~~\$54~~ \$63 of the amount forfeited shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(f) None of the provisions of this section shall be construed to conflict with the provisions of the nonresident violator compact.

(g) When a person is stopped by a police officer for any traffic infraction and the person is a resident of a state which is not a member of the nonresident violator compact, K.S.A. 8-1219 et seq., and amendments thereto, or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount specified in the uniform fine schedule in subsection (c) of K.S.A. 8-2118, and amendments thereto, plus ~~\$54~~ \$63 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(h) When a person is stopped by a police officer for failure to provide proof of financial security pursuant to K.S.A. 40-3104, and amendments thereto, and the person is a resident of another state or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount of \$54, plus ~~\$54~~ \$63 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(i) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 3. K.S.A. 2005 Supp. 8-2110 is hereby amended to read as follows: 8-2110. (a) Failure to comply with a traffic citation means failure either to (1) appear before any district or municipal court in response to a traffic citation and pay in full any fine and court costs imposed or (2) otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

(b) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the district or municipal court in which the person should have complied with the citation shall mail notice to the person that if the person does not appear in district or municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing, the division of vehicles will be notified to suspend the person's driving privileges. Upon the person's failure to comply within such 30 days, the district or municipal court shall notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation under this



subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the informing court. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension or suspension action.

(c) Except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of ~~\$50~~ \$59 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, district or municipal court costs and other penalties. The court shall remit all reinstatement fees 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 and shall credit credit \$9 of such moneys to the state general fund, and of the remaining fee, 50% of such moneys to the division of vehicles operating fund, 37.5% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and 12.5% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto.

(d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas

because of such military service. In any case of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefor. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

(e) The reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 4. K.S.A. 2005 Supp. 20-1a04 is hereby amended to read as follows: 20-1a04. The clerk of the supreme court shall remit all moneys received by or for such clerk for docket fees, and all amounts received for other purposes than those specified in K.S.A. 20-1a01, 20-1a02 or 20-1a03, and amendments thereto, unless by order of the supreme court such clerk is directed to make other disposition thereof 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 judicial branch nonjudicial salary initiative fund, a sum equal to 56% 52% of the remittances of docket fees and to the state general fund, a sum equal to ~~44%~~ 48% of the remittance of docket fees.

Sec. 5. K.S.A. 2005 Supp. 20-362 is hereby amended to read as follows: 20-362. The clerk of the district court shall remit all revenues received from docket fees as follows:

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

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

(2) a sum equal to \$10 for each ~~\$36.50~~ \$55 or ~~\$61.50~~ \$85 docket fee paid pursuant to K.S.A. 61-4001, or K.S.A. 61-2704 or 61-2709, and amendments thereto; and

(3) a sum equal to \$5 for each ~~\$19.50~~ \$35 docket fee paid pursuant to K.S.A. 61-4001 or K.S.A. 61-2704, and amendments thereto, during the preceding calendar month.

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

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

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

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

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

Sec. 6. K.S.A. 2005 Supp. 20-367 is hereby amended to read as follows: 20-367. Of the remittance of the balance of docket fees received by the state treasurer from clerks of the district court pursuant to subsection (f) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit to the access to justice fund, a sum equal to ~~5.90%~~ 4.92% of the remittances of docket fees; to the juvenile detention facilities fund, a sum equal to ~~3.27%~~ 2.73% of the remittances of docket fees; to the judicial branch education fund, the state treasurer shall deposit and credit a sum equal to ~~2.52%~~ 2.10% of the remittances of docket fees; to the crime victims assistance fund, the state treasurer shall deposit and credit a sum equal to ~~.67%~~ .56% of the remittances of the docket fees; to the protection from abuse fund, the state treasurer shall deposit and credit a sum equal to ~~3.22%~~ 2.68% of the remittances of the docket fees; to the judiciary technology fund, the state treasurer shall deposit and credit a sum equal to ~~5.10%~~ 4.25% of the remittances of docket fees; to the dispute resolution fund, the state treasurer shall deposit and credit a sum equal to ~~.41%~~ .34% of the remittances of docket fees; to the Kansas juvenile delinquency prevention trust fund, the state treasurer shall deposit and credit a sum equal to ~~1.49%~~ 1.24% of the remittances of docket fees; to the permanent families account in the family and children investment fund, the state treasurer shall deposit and credit a sum equal to ~~.25%~~ .21% of the remittances of docket fees; to the trauma fund, a sum equal to ~~1.77%~~ 1.48% of the remittance of docket fees; to the judicial council fund, a sum equal to ~~1.33%~~ 1.11% of the remittance of docket fees; and to the

judicial branch nonjudicial salary initiative fund, the state treasurer shall deposit and credit a sum equal to ~~21.41%~~ 17.85% of the remittance of docket fees. The balance remaining of the remittances of docket fees shall be deposited and credited to the state general fund.

Sec. 7. K.S.A. 2005 Supp. 23-108a is hereby amended to read as follows: 23-108a. (a) The judge or clerk of the district court shall collect from the applicant for a marriage license a fee of \$50.

(b) The clerk of the court shall remit all fees prescribed by 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. Of each remittance, the state treasurer shall credit 46% to the protection from abuse fund, 17.92% to the family and children trust account of the family and children investment fund created by K.S.A. 38-1808, and amendments thereto, 20% to the crime victims assistance fund created by K.S.A. 74-7334, and amendments thereto, and the remainder to the state general fund.

(c) The marriage license fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for a marriage license. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 8. K.S.A. 2005 Supp. 28-170 is hereby amended to read as follows: 28-170. (a) The docket fee prescribed by K.S.A. 60-2001 and amendments thereto and the fees for service of process, shall be the only costs assessed for services of the clerk of the district court and the sheriff in any case filed under chapter 60 or chapter 61 of the Kansas Statutes Annotated, and amendments thereto, except that no fee shall be charged for an action filed under K.S.A. 60-3101 et seq., and under K.S.A. 60-31a01 et seq., and amendments thereto. For services in other matters in which no other fee is prescribed by statute, the

following fees shall be charged and collected by the clerk. Only one fee shall be charged for each bond, lien or judgment:

- 1. For filing, entering and releasing a bond, mechanic's lien, notice of intent to perform, personal property tax judgment or any judgment on which execution process cannot be issued ..... \$5 \$14
- 2. For filing, entering and releasing a judgment of a court of this state on which execution or other process can be issued ..... ±5  
\$24
- 3. For a certificate, or for copying or certifying any paper or writ, such fee as shall be prescribed by the district court.

(b) The fees for entries, certificates and other papers required in naturalization cases shall be those prescribed by the federal government and, when collected, shall be disbursed as prescribed by the federal government. The clerk of the court shall remit to the state treasurer at least monthly all moneys received from fees prescribed by subsection (a) or (b) or received for any services performed which may be required by law. The state treasurer shall deposit the remittance in the state treasury and credit the entire amount to the state general fund.

(c) In actions pursuant to the Kansas code for care of children (K.S.A. 38-1501 et seq. and amendments thereto), the Kansas juvenile justice code (K.S.A. 38-1601 et seq. and amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001 et seq. and amendments thereto), the act for treatment of drug abuse (K.S.A. 65-5201 et seq. and amendments thereto) or the care and treatment act for mentally ill persons (K.S.A. 59-2945 et seq. and amendments thereto), the clerk shall charge an additional fee of \$1 which shall be deducted from the docket fee and credited to the prosecuting attorneys' training fund as provided in K.S.A. 28-170a and amendments thereto.

(d) In actions pursuant to the Kansas code for care of children (K.S.A. 38-1501 et seq. and amendments thereto), the Kansas juvenile justice code (K.S.A. 38-1601 et seq. and amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001 et seq. and amendments thereto), the act for treatment of drug abuse (K.S.A. 65-5201 et seq. and amendments thereto) or the care and treatment act for mentally ill persons (K.S.A. 59-2945

et seq. and amendments thereto), the clerk shall charge an additional fee of \$.50 which shall be deducted from the docket fee and credited to the indigents' defense services fund as provided in K.S.A. 28-172b and amendments thereto.

(e) The bond, lien or judgment fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such bond, lien or judgment. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 9. K.S.A. 2005 Supp. 28-172a is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows:

Murder or manslaughter.....	<del>\$164.50</del>	173.50
Other felony.....	<del>147.00</del>	156.00
Misdemeanor.....	<del>112.00</del>	121.00
Forfeited recognizance.....	<del>62.50</del>	71.50
Appeals from other courts.....	<del>62.50</del>	71.50

(b) (1) Except as provided in paragraph (2), in actions involving the violation of any of the laws of this state regulating traffic on highways (including those listed in subsection (c) of K.S.A. 8-2118, and amendments thereto), a cigarette or tobacco infraction, any act declared a crime pursuant to the statutes contained in chapter 32 of Kansas Statutes Annotated and amendments thereto or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, a docket fee of \$55 \$64 shall be charged. When an action is disposed of under subsections (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 79-3393, and amendments thereto, whether by mail or in person, the docket fee to be paid as court costs shall be \$55 \$64.

(2) In actions involving the violation of a moving traffic violation under K.S.A. 8-2118, and amendments thereto, as defined

by rules and regulations adopted under K.S.A. 8-249, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, a docket fee of \$55 \$64 shall be charged. When an action is disposed of under subsection (a) and (b) of K.S.A. 8-2118, and amendments thereto, whether by mail or in person, the docket fee to be paid as court costs shall be \$55 \$64.

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

(d) Statutory charges for law library funds, the law enforcement training center fund, the prosecuting attorneys' training fund, the juvenile detention facilities fund, the judicial branch education fund, the emergency medical services operating fund and the judiciary technology fund shall be paid from the docket fee; the family violence and child abuse and neglect assistance and prevention fund fee shall be paid from criminal proceedings docket fees. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, fees for detention facility processing pursuant to K.S.A. 12-16,119, and amendments thereto, fees for the sexual assault evidence collection kit, fees for conducting an examination of a sexual assault victim, fees for service of process outside the state, witness fees, fees for transcripts and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as



specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

(f) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 10. K.S.A. 38-1511 is hereby amended to read as follows: 38-1511. (a) Docket fee. The docket fee for proceedings under this code, if one is assessed as provided in this section, shall be \$25 ~~\$34~~. The docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Only one docket fee shall be assessed in each case.

(b) Expenses. The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) Assessment of docket fee and expenses. (1) Docket fee. The docket fee may be assessed or waived by the court conducting the initial dispositional hearing and may be assessed against the complaining witness or person initiating the proceedings or an interested party, other than the state, a political subdivision of the state, an agency of the state or of a political

subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) Expenses. Expenses may be assessed against the complaining witness or person initiating the proceedings or an interested party, other than the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state. When expenses are recovered from a party against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery. If it appears to the court in any proceedings under this code that expenses were unreasonably incurred at the request of any party the court may assess that portion of the expenses against the party.

(d) Cases in which venue is transferred. If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court's share of the total expenses owed to both counties. The expenses of the sending county shall not be an obligation of the receiving county except to the extent that the sending county's proportion of the expenses is collected by the receiving court. All amounts collected shall first be applied toward payment of the docket fee.

Sec. 11. K.S.A. 38-1613 is hereby amended to read as follows: 38-1613. (a) Docket fee. The docket fee for proceedings under this code, if one is assessed as provided by this section, shall be \$25 ~~\$34~~. The docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established

by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Only one docket fee shall be assessed in each case.

(b) Expenses. The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) Assessment of docket fee and expenses. (1) Docket fee. The docket fee may be assessed or waived by the court conducting the initial sentencing hearing and may be assessed against the complaining witness, the person initiating the prosecution, the juvenile offender or the parent of the juvenile offender. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) Waiver and assessment. Expenses may be waived or assessed against the complaining witness, the person initiating the prosecution, the juvenile offender or a parent of the juvenile offender. When expenses are recovered from a party against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery.

(3) Prohibited assessment. Docket fees or expenses shall not be assessed against the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state.

(d) Cases in which venue is transferred. If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court's share of the total expenses owed to both counties. The expenses of the sending county shall not be an obligation of the receiving county except

to the extent that the sending county's proportion of the expenses is collected by the receiving court. All amounts collected shall first be applied toward payment of the docket fee.

Sec. 12. K.S.A. 59-104 is hereby amended to read as follows:  
 59-104. (a) Docket fee. (1) Except as otherwise provided by law, no case shall be filed or docketed in the district court under the provisions of chapter 59 of the Kansas Statutes Annotated or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated without payment of an appropriate docket fee as follows:

Treatment of mentally ill.....	\$25.50	\$34.50
Treatment of alcoholism or drug abuse.....	25.50	34.50
Determination of descent of property.....	40.50	49.50
Termination of life estate.....	39.50	48.50
Termination of joint tenancy.....	39.50	48.50
Refusal to grant letters of administration.....	39.50	48.50
Adoption.....	39.50	48.50
Filing a will and affidavit under K.S.A. 59-618a..	39.50	48.50
Guardianship.....	60.50	69.50
Conservatorship.....	60.50	69.50
Trusteeship.....	60.50	69.50
Combined guardianship and conservatorship.....	60.50	69.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto.....	14.50	23.50
Decrees in probate from another state.....	99.50	108.50
Probate of an estate or of a will.....	100.50	109.50
Civil commitment under K.S.A. 59-29a01 et seq.....	24.50	33.50

(2) The docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

(b) Poverty affidavit in lieu of docket fee and exemptions. The provisions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and amendments thereto, shall apply to probate docket fees prescribed by this section.

(c) Disposition of docket fee. Statutory charges for the law library and for the prosecuting attorneys' training fund shall be paid from the docket fee. The remainder of the docket fee shall be paid to the state treasurer in accordance with K.S.A. 20-362, and amendments thereto.

(d) Additional court costs. Other fees and expenses to be

assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, transcripts and publication of legal notice, executor or administrator fees, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 13. K.S.A. 60-1621 is hereby amended to read as follows: 60-1621. (a) No post-decree motion petitioning for a change in legal custody, residency, visitation rights or parenting time, or for a modification of child support shall be filed or docketed in the district court without payment of a docket fee in the amount of ~~\$21~~ \$30 to the clerk of the district court.

(b) A poverty affidavit may be filed in lieu of a docket fee as established in K.S.A. 60-2001, and amendments thereto.

(c) The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with subsection (f) of K.S.A. 20-362, and amendments thereto.

(d) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 14. K.S.A. 60-2001 is hereby amended to read as follows: 60-2001. (a) Docket fee. Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of ~~\$106~~ \$115 to the clerk of the district court. The docket fee established in this subsection shall be the only fee

collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

(b) Poverty affidavit in lieu of docket fee. (1) Effect. In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in (A) the six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) Form of affidavit. The affidavit provided for in this subsection shall be in the following form and attached to the petition:

State of Kansas, \_\_\_\_\_ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) Disposition of fees. The docket fees and the fees for service of process shall be the only costs assessed in each case

for services of the clerk of the district court and the sheriff. For every person to be served by the sheriff, the persons requesting service of process shall provide proper payment to the clerk and the clerk of the district court shall forward the service of process fee to the sheriff in accordance with K.S.A. 28-110, and amendments thereto. The service of process fee, if paid by check or money order, shall be made payable to the sheriff. Such service of process fee shall be submitted by the sheriff at least monthly to the county treasurer for deposit in the county treasury and credited to the county general fund. The docket fee shall be disbursed in accordance with K.S.A. 20-362 and amendments thereto.

(d) Additional court costs. Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any mileage for serving any papers or process.

Sec. 15. K.S.A. 60-2203a is hereby amended to read as follows: 60-2203a. (a) After the commencement of any action in any district court of this state, or the courts of the United States in the state of Kansas or in any action now pending heretofore commenced in ~~said~~ such courts, which does not involve title to real estate, any party to ~~said~~ such action may give notice in any other county of the state of the pendency of the action by filing for record with the clerk of the district court of such other county a verified statement setting forth the parties to the action, the nature of the action, the court in which it is pending, and the relief sought, which shall impart notice of the pendency of the action and shall result in the same

lien rights as if the action were pending in that county. The lien shall be effective from the time the statement is filed, but not to exceed four ~~(4)~~ months prior to the entry of judgment except as provided in subsection (c). The party filing such notice shall within ~~thirty-(30)~~ 30 days after any satisfaction of the judgment entered in such action, or any other final disposition thereof, cause to be filed with such clerk of the district court a notice that all claims in such action are released, ~~and if he or she~~. If the party filing fails or neglects to do so after reasonable demand by any party in interest, he--or she such party shall be liable in damages in the same amounts and manner as is provided by law for failure of a mortgagee to enter satisfaction of a mortgage. Upon the filing of such a notice of the pendency of an action the clerk shall charge a fee of ~~five dollars-(5)~~ \$14 and shall enter and index the action in the same manner as for the filing of an original action. Upon the filing of a notice of release, the notice shall likewise be entered on the docket. The fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the court procedure. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

(b) Any notice of the type provided for in subsection (a) which was filed on or after January 10, 1977, and prior to the effective date of this act shall be deemed to impart notice of the pendency of the action in the same manner as if the provisions of subsection (a) were in force and effect on and after January 10, 1977.

(c) Notwithstanding the foregoing provisions of this section, the filing of a notice of the pendency of an action pursuant to subsection (a) shall create no lien rights against the property of an employee of the state or a municipality prior to the date judgment is rendered if the pleadings in the pending action allege a negligent or wrongful act or omission of the employee while acting within the scope of ~~his--or-her~~ such



employee's employment, regardless of whether or not it is alleged in the alternative that the employee was acting outside of ~~his-or-her~~ such employee's employment. A judgment against an employee shall become a lien upon such employee's property in the county where notice is filed pursuant to subsection (a) when the judgment is rendered only if it is found that (1) the employee's negligent or wrongful act or omission occurred when the employee was acting outside the scope of ~~his--or-her~~ such employee's employment or (2) the employee's conduct which gave rise to the judgment was because of actual fraud or actual malice of the employee. In such cases the lien shall not be effective prior to the date judgment was rendered. As used in this subsection (c), "employee" shall have the meaning ascribed to such term in K.S.A. 75-6102, and amendments thereto.

Sec. 16. K.S.A. 61-2704 is hereby amended to read as follows: 61-2704. (a) An action seeking the recovery of a small claim shall be considered to have been commenced at the time a person files a written statement of the person's small claim with the clerk of the court if, within 90 days after the small claim is filed, service of process is obtained or the first publication is made for service by publication. Otherwise, the action is deemed commenced at the time of service of process or first publication. An entry of appearance shall have the same effect as service.

(b) Upon the filing of a plaintiff's small claim, the clerk of the court shall require from the plaintiff a docket fee of \$26 ~~\$35~~, if the claim does not exceed \$500; or ~~\$46~~ \$55, if the claim exceeds \$500; unless for good cause shown the judge waives the fee. The docket fee shall be the only costs required in an action seeking recovery of a small claim. No person may file more than 10 small claims under this act in the same court during any calendar year.

(c) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of

the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 17. K.S.A. 61-4001 is hereby amended to read as follows: 61-4001. (a) Docket fee. No case shall be filed or docketed pursuant to the code of civil procedure for limited actions without the payment of a docket fee in the amount of \$26 ~~\$35~~, if the amount in controversy or claimed does not exceed \$500; ~~\$46~~ ~~\$55~~, if the amount in controversy or claimed exceeds \$500 but does not exceed \$5,000; or ~~\$76~~ ~~\$85~~, if the amount in controversy or claimed exceeds \$5,000. If judgment is rendered for the plaintiff, the court also may enter judgment for the plaintiff for the amount of the docket fee paid by the plaintiff.

(b) Poverty affidavit; additional court costs. The provisions of subsections (b), (c) and (d) of K.S.A. 60-2001, and amendments thereto, shall be applicable to lawsuits brought under the code of civil procedure for limited actions.

(c) The docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 18. K.S.A. 38-1511, 38-1613, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and K.S.A. 2005 Supp. 8-2107, 8-2110, 20-1a04, 20-362, 20-367, 23-108a, 28-170 and 28-172a are hereby repealed.

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