

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on March 21, 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 180 - preliminary screening tests for alcohol consumption by minors

Representative Hutchins renewed her motion to amend in the provisions of **HB 2913** with the bill referencing K.S.A. 12-105A(a) the definition of municipalities. The second agreed. The motion carried.

Representative Ward made the motion to create a surcharge replacement fund and have the same percentage of money currently being raised by the emergency surcharge go into the fund with the remained going into the SGF. Representative Crow seconded the motion. The motion failed.

Representative Yoder made the motion to report **Substitute SB 180** favorably for passage. Representative Masterson seconded the motion. The motion carried.

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

The committee continued the discussion on the conflict between **SB 431 & SB 351**. Representative Pauls provided the committee with a balloon that would address the conflict and clarify the assessment language. (Attachment 1) It was pointed out that the balloon actually negates the intent what the City of Wichita was asking for in **SB 351**, that being the assessment being done after the sentence is imposed. They found that many times individuals who had assessments before sentencing did not come under **SB 123** and therefore was a waste of money.

It was suggested that **SB 351** be amended to read that the assessment would be done post-sentence unless the court ordered an assessment be done pre-sentence and on page 2, line 17 strike "and alcohol" and replace with "abuse". Representative Pauls moved the suggestion. Representative Hutchins seconded the motion. The motion carried.

Representative Davis made the motion to amend in the provisions of **HB 2701 - definition of drug paraphernalia**. Representative Kinzer seconded the motion. The motion carried.

Representative Davis provided the committee with a balloon amendment on **HB 2699**. (Attachment 2) Committee members were concerned with the term "recklessly". He made the motion to amend in the provisions of **HB 2699 - inherently dangerous felonies; endangering a child arson; aggravated arson; criminal use of explosives**. Representative Garcia seconded the motion. The motion carried.

Representative Kinzer made the motion to report **Substitute for SB 431** favorably for passage. Representative Watkins seconded the motion. The motion carried.

SB 506 - persons required to register pursuant to the Kansas offender registration act

Representative Kinzer provided the committee with a balloon amendment from the sub committee. (Attachment 3) It would do several things: preempts cities and counties from prohibiting, adopting, or enforcing residential restrictions; in cases where juveniles are adjudicated for a sexually violent crime the judge has the discretion to order that the juvenile register, not register, or register but the information would not be open to the public or posted on the internet; it moves the civil portions of **HB 2576** into the bill.

Representative Watkins made the motion to adopt the balloon. Representative Kinzer seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on March 21, 2006 in Room 313-S of the Capitol.

Representative Pauls made the motion to strike "first anniversary" on page 4, line 19 - 24 and replace with "shall expire every year on the date of birth of the licensee". Representative Kinzer seconded the motion. The motion carried.

Representative Crow made the motion to report SB 506 favorably for passage, as amended. Representative Kinzer seconded the motion. The motion carried.

SB 505 - electronic access to court records; exemption from fees

Representative Yoder made the motion to amend in sections 1 & 2 of SB 337 - compensation for certain judicial branch employees. Representative Loyd seconded the motion. The motion carried.

Representative Yoder made the motion to include language that the supreme court shall not impose a fee, an additional fee, or any other fee than that which is currently being charged by the county. Representative Kinzer seconded the motion. The motion carried.

Representative Kinzer made the motion to adopt the Kansas Press Associations proposed amendment to allow access to probable cause affidavits. Representative Hutchins seconded the motion. Members were concerned that this bill had hearings in another committee that didn't pass it out and that law enforcement and district attorneys are not in support of the proposal. The motion failed.

Representative Kinzer made the motion to report SB 505 favorably for passage, as amended. Representative Watkins seconded the motion. The motion carried.

SB 337 - compensation for certain judicial branch employees

Representative Loyd made the motion to provide a \$9,000 salary increase for all judges and justices. Representative Colloton seconded the motion. Committee discussion centered on the issue that the district court judges and magistrate judges have appeared before the committee several times requesting a raise and providing statistics on how their salaries compare to other surrounding states and felt that the appellate court should have to request their raise and justify it with research. Others felt that raising docket fees to support an increase in salaries was not where the money should be coming from, but rather it should come out of the SGF. The motion failed.

Representative Kinzer made the motion to have the salary increase apply to only district judges and district magistrate judges. Representative Watkins seconded the motion. The motion carried.

Representative Loyd made the motion to amend in the provisions of HB 2612 - establishing the commission on judicial performance. Representative Kiegerl seconded the motion. There was concern as to how the program would work and with the increase in docket fee. Others believed that the money would be will spent because it would inform voters of judges and their quality of work. The motion carried.

Representative Pauls made the motion to strike the \$100 expungement docket fee and redistribute the percentages. Representative Crow seconded the motion. Representative Yoder pointed out that there is currently a \$50 docket fee on expungements and that \$100 is not that much to provide for a clean record. The motion failed.

Representative Watkins made the motion to sunset the judicial evaluation piece in four years. Representative Yoder seconded the motion. The motion carried.

Representative Loyd made the motion to report SB 337 favorably for passage, as amended. Representative Kinzer seconded the motion. The motion carried.

The committee meeting adjourned at 5:45. No further meetings were scheduled at this time.

SENATE BILL No. 351

By Joint Committee on Corrections and Juvenile Justice Oversight

1-11

10 AN ACT concerning crimes, punishment and criminal procedure; relat-
11 ing to the drug abuse assessment for certain offenders; relating to
12 sentencing; amending K.S.A. 2005 Supp. 21-4714, 21-4729 and 75-
13 ~~52,144~~ and repealing the existing sections.

and

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

1 the defendant shall also be attached.

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

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

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

14 (9) For defendants who are being sentenced for a conviction of a
15 felony violation of K.S.A. 65-4160 or 65-4162, and amendments thereto,
16 and meet the requirements of K.S.A. 2005 Supp. 21-4729, and amend-
17 ments thereto, the drug and alcohol assessment as provided in K.S.A.
18 2005 Supp. 21-4729, and amendments thereto, ~~if the court so orders such~~
19 ~~assessment as a part of the presentence investigation.~~

abuse

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

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

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

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

40 (g) All presentence reports in any case in which the defendant has
41 been convicted of a felony shall be on a form approved by the Kansas
42 sentencing commission.

43 Sec. 2. K.S.A. 2005 Supp. 21-4729 is hereby amended to read as

1 follows: 21-4729. On and after November 1, 2003: (a) There is hereby
2 established a nonprison sanction of certified drug abuse treatment pro-
3 grams for certain offenders who are sentenced on or after November 1,
4 2003. Placement of offenders in certified drug abuse treatment programs
5 by the court shall be limited to placement of adult offenders, convicted
6 of a felony violation of K.S.A. 65-4160 or 65-4162, and amendments
7 thereto:

8 (1) Whose offense is classified in grid blocks 4-E, 4-F, 4-G, 4-H or
9 4-I of the sentencing guidelines grid for drug crimes and such offender
10 has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163
11 or 65-4164, and amendments thereto or any substantially similar offense
12 from another jurisdiction; or

13 (2) whose offense is classified in grid blocks 4-A, 4-B, 4-C or 4-D of
14 the sentencing guidelines grid for drug crimes and such offender has no
15 felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-
16 4164, and amendments thereto, or any substantially similar offense from
17 another jurisdiction, if such person felonies committed by the offender
18 were severity level 8, 9 or 10 or nongrid offenses of the sentencing guide-
19 lines grid for nondrug crimes and the court finds and sets forth with
20 particularity the reasons for finding that the safety of the members of the
21 public will not be jeopardized by such placement in a drug abuse treat-
22 ment program.

23 (b) (1) ~~As a part of the presentence investigation pursuant to K.S.A.~~
24 ~~21-4714, and amendments thereto, Offenders who meet the require-~~
25 ~~ments of subsection (a) shall be subject to a drug abuse assessment. Unless~~
26 ~~otherwise specifically ordered by the court, such assessment shall occur~~
27 ~~after the sentence is imposed.~~

As a part of the presentence investigation pursuant to K.S.A. 21-4714, and amendments thereto,

28 (2) ~~The drug abuse assessment shall include a statewide, mandatory,~~
29 ~~standardized risk assessment tool and an instrument validated for drug~~
30 ~~abuse treatment program placements and shall include a clinical interview~~
31 ~~with a mental health professional. Such assessment shall assign a high or~~
32 ~~low risk status to the offender and include a recommendation concerning~~
33 ~~drug abuse treatment for the offender.~~

and

34 (c) The sentencing court shall commit the offender to treatment in a
35 drug abuse treatment program until determined suitable for discharge by
36 the court but the term of treatment shall not exceed 18 months.

(2) As a part of the presentence investigation pursuant to K.S.A. 21-4714, and amendments thereto, offenders who meet the requirements of subsection (a) shall be subject to a criminal risk-need assessment, unless otherwise specifically ordered by the court. The criminal risk-need assessment shall assign a high or low risk status to the offender.

37 (d) Offenders shall be supervised by community correctional services.

38 (e) Placement of offenders under subsection (a)(2) shall be subject
39 to the departure sentencing statutes of the Kansas sentencing guidelines
40 act.

41 (f) (1) Offenders in drug abuse treatment programs shall be dis-
42 charged from such program if the offender:

43 (A) Is convicted of a new felony, ~~other than a felony conviction of~~

1 ~~K.S.A. 65-4160 or 65-4162, and amendments thereto; or~~

2 (B) has a pattern of intentional conduct that demonstrates the of-
3 fender's refusal to comply with or participate in the treatment program,
4 as established by judicial finding.

5 (2) Offenders who are discharged from such program shall be subject
6 to the revocation provisions of subsection (n) of K.S.A. 21-4603d, and
7 amendments thereto.

8 (g) As used in this section, "mental health professional" includes li-
9 censed social workers, licensed psychiatrists, licensed psychologists, li-
10 censed professional counselors or registered alcohol and other drug abuse
11 counselors licensed or certified as addiction counselors who have been
12 certified by the secretary of corrections to treat offenders pursuant to
13 K.S.A. 2005 Supp. 75-52,144, and amendments thereto.

14 (h) (1) *The following offenders who meet the requirements of sub-*
15 *section (a) shall not be subject to the provisions of this section and shall*
16 *be sentenced as otherwise provided by law:*

17 (A) *Offenders who are residents of another state and are returning to*
18 *such state pursuant to the interstate corrections compact or the interstate*
19 *compact for adult offender supervision; or*

20 (B) *offenders who are not lawfully present in the United States and*
21 *being detained for deportation.*

22 (2) *Such sentence shall not be considered a departure and shall not*
23 *be subject to appeal.*

24 ~~Sec. 3. K.S.A. 2005 Supp. 75-52,144 is hereby amended to read as~~
25 ~~follows: 75-52,144. (a) Drug abuse treatment programs certified in ac-~~
26 ~~cordance with subsection (b) shall provide:~~

27 (1) ~~Presentence Drug abuse assessments of any person who is con-~~
28 ~~victed of a felony violation of K.S.A. 65-4160 or 65-4162, and amendments~~
29 ~~thereto, and meets the requirements of K.S.A. 2005 Supp. 21-4720, and~~
30 ~~amendments thereto;~~

31 (2) ~~treatment of all persons who are convicted of a felony violation~~
32 ~~of K.S.A. 65-4160 or 65-4162, and amendments thereto, and meet the~~
33 ~~requirements of K.S.A. 2005 Supp. 21-4720, and amendments thereto,~~
34 ~~and whose sentence requires completion of a certified drug abuse treat-~~
35 ~~ment program, as provided in this section;~~

36 (3) ~~one or more treatment options in the continuum of services~~
37 ~~needed to reach recovery: Detoxification, rehabilitation, continuing care~~
38 ~~and aftercare, and relapse prevention;~~

39 (4) ~~treatment options to incorporate family and auxiliary support ser-~~
40 ~~vices; and~~

41 (5) ~~treatment options for alcohol abuse when indicated by the as-~~
42 ~~essment of the offender or required by the court.~~

43 (b) ~~The presentence criminal risk need assessment shall be con-~~

1 ducted by a court services officer or a community corrections officer. The
2 presentence drug abuse treatment program placement assessment shall
3 be conducted by a drug abuse treatment program certified in accordance
4 with the provisions of this subsection to provide assessment and treatment
5 services. A drug abuse treatment program shall be certified by the sec-
6 retary of corrections. The secretary may establish qualifications for the
7 certification of programs, which may include requirements for supervi-
8 sion and monitoring of clients; fee reimbursement procedures; handling
9 of conflicts of interest; delivery of services to clients unable to pay; and
10 other matters relating to quality and delivery of services by the program.
11 Drug abuse treatment may include community based and faith based
12 programs. The certification shall be for a four year period. Recertification
13 of a program shall be by the secretary. To be eligible for certification
14 under this subsection, the secretary shall determine that a drug abuse
15 treatment program: (1) Meets the qualifications established by the sec-
16 retary; (2) is capable of providing the assessments, supervision and mon-
17 itoring required under subsection (a); (3) has employed or contracted with
18 certified treatment providers; and (4) meets any other functions and du-
19 ties specified by law.

20 (c) Any treatment provider who is employed or has contracted with
21 a certified drug abuse treatment program who provides services to of-
22 fenders shall be certified by the secretary of corrections. The secretary
23 shall require education and training which shall include, but not be lim-
24 ited to, case management and cognitive behavior training. The duties of
25 providers who prepare the presentence drug abuse assessment may also
26 include appearing at sentencing and probation hearings in accordance
27 with the orders of the court, monitoring offenders in the treatment pro-
28 grams, notifying the probation department and the court of any offender
29 failing to meet the conditions of probation or referrals to treatment, ap-
30 pearing at revocation hearings as may be required and providing assis-
31 tance and data reporting and program evaluation.

32 (d) The cost for all drug abuse assessments and certified drug abuse
33 treatment programs for any person shall be paid by the Kansas sentencing
34 commission from funds appropriated for such purpose. The Kansas sen-
35 tencing commission shall contract for payment for such services with the
36 supervising agency. The sentencing court shall determine the extent, if
37 any, that such person is able to pay for such assessment and treatment.
38 Such payments shall be used by the supervising agency to offset costs to
39 the state. If such financial obligations are not met or cannot be met, the
40 sentencing court shall be notified for the purpose of collection or review
41 and further action on the offender's sentence.

42 (e) The community corrections staff shall work with the substance
43 abuse treatment staff to ensure effective supervision and monitoring of

1-6

1 the offender.

2 ~~(f) The secretary of corrections is hereby authorized to adopt rules~~
3 ~~and regulations to carry out the provisions of this section.~~

4 Sec. 4. K.S.A. 2005 Supp. 21-4714, 21-4729 and 75-52,144 are
5 hereby repealed.

and

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

HOUSE BILL No. 2699

By Committee on Judiciary

1-25

House Judiciary
Date 3-21-06
Attachment # 2

9 AN ACT concerning crimes, punishment and criminal proce
10 amending K.S.A. 21-3719 and 31-155 and K.S.A. 2005 Supp. 21-3
11 21-3608a, 21-3718 and 21-3731 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2005 Supp. 21-3436 is hereby amended to read as
15 follows: 21-3436. (a) Any of the following felonies shall be deemed an
16 inherently dangerous felony whether or not such felony is so distinct from
17 the homicide alleged to be a violation of subsection (b) of K.S.A. 21-3401,
18 and amendments thereto, as not to be an ingredient of the homicide
19 alleged to be a violation of subsection (b) of K.S.A. 21-3401, and amend-
20 ments thereto:

21 (1) Kidnapping, as defined in K.S.A. 21-3420, and amendments
22 thereto;

23 (2) aggravated kidnapping, as defined in K.S.A. 21-3421, and amend-
24 ments thereto;

25 (3) robbery, as defined in K.S.A. 21-3426, and amendments thereto;

26 (4) aggravated robbery, as defined in K.S.A. 21-3427, and amend-
27 ments thereto;

28 (5) rape, as defined in K.S.A. 21-3502, and amendments thereto;

29 (6) aggravated criminal sodomy, as defined in K.S.A. 21-3506, and
30 amendments thereto;

31 (7) abuse of a child, as defined in K.S.A. 21-3609, and amendments
32 thereto;

33 (8) felony theft under subsection (a) or (c) of K.S.A. 21-3701, and
34 amendments thereto;

35 (9) burglary, as defined in K.S.A. 21-3715, and amendments thereto;

36 (10) aggravated burglary, as defined in K.S.A. 21-3716, and amend-
37 ments thereto;

38 (11) arson, as defined in K.S.A. 21-3718, and amendments thereto;

39 (12) aggravated arson, as defined in K.S.A. 21-3719, and amendments
40 thereto;

41 (13) treason, as defined in K.S.A. 21-3801, and amendments thereto;

42 (14) any felony offense as provided in K.S.A. 65-4127a, 65-4127b or
43 65-4159 or 65-4160 through 65-4164, and amendments thereto;

- 1 (15) any felony offense as provided in K.S.A. 21-4219, and amend-
2 ments thereto;
- 3 (16) endangering the food supply as defined in K.S.A. 2005 Supp. 21-
4 4221, and amendments thereto;
- 5 (17) aggravated endangering the food supply as defined in K.S.A.
6 2005 Supp. 21-4222, and amendments thereto; or
- 7 (18) fleeing or attempting to elude a police officer, as defined in sub-
8 section (b) of K.S.A. 8-1568, and amendments thereto; or
- 9 (19) *aggravated endangering a child, as defined in K.S.A. 2005 Supp.*
10 *21-3608a, and amendments thereto.*
- 11 (b) Any of the following felonies shall be deemed an inherently dan-
12 gerous felony only when such felony is so distinct from the homicide
13 alleged to be a violation of subsection (b) of K.S.A. 21-3401, and amend-
14 ments thereto, as to not be an ingredient of the homicide alleged to be
15 a violation of subsection (b) of K.S.A. 21-3401, and amendments thereto:
- 16 (1) Murder in the first degree, as defined in subsection (a) of K.S.A.
17 21-3401, and amendments thereto;
- 18 (2) murder in the second degree, as defined in subsection (a) of
19 K.S.A. 21-3402, and amendments thereto;
- 20 (3) voluntary manslaughter, as defined in subsection (a) of K.S.A. 21-
21 3403, and amendments thereto;
- 22 (4) aggravated assault, as defined in K.S.A. 21-3410, and amendments
23 thereto;
- 24 (5) aggravated assault of a law enforcement officer, as defined in
25 K.S.A. 21-3411, and amendments thereto;
- 26 (6) aggravated battery, as defined in subsection (a)(1) of K.S.A. 21-
27 3414, and amendments thereto; or
- 28 (7) aggravated battery against a law enforcement officer, as defined
29 in K.S.A. 21-3415, and amendments thereto.
- 30 (c) This section shall be part of and supplemental to the Kansas crim-
31 inal code.
- 32 Sec. 2. K.S.A. 2005 Supp. 21-3608a is hereby amended to read as
33 follows: 21-3608a. On and after July 1, 2004: (a) Aggravated endangering
34 a child is:
- 35 (1) Intentionally ~~and~~ or recklessly causing or permitting a child under
36 the age of 18 years to be placed in a situation in which the child's life,
37 body or health is injured or endangered;
- 38 (2) *causing or* permitting such child to be in an environment where
39 a person is selling, offering for sale or having in such person's possession
40 with intent to sell, deliver, distribute, prescribe, administer, dispense,
41 manufacture or attempt to manufacture any methamphetamine as de-
42 fined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments
43 thereto; or

1 (3) *causing or* permitting such child to be in an environment where
2 drug paraphernalia or volatile, toxic or flammable chemicals are stored
3 for the purpose of manufacturing or attempting to manufacture any meth-
4 amphetamine as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107,
5 and amendments thereto.

6 (b) Aggravated endangering a child is a severity level 9, person felony.

7 (c) As used in this section:

8 (1) "Manufacture" shall have the meaning ascribed to that term in
9 K.S.A. 65-4101, and amendments thereto; and

10 (2) "drug paraphernalia" shall have the meaning ascribed to that term
11 in K.S.A. 65-4150, and amendments thereto.

12 (d) This section shall be part of and supplemental to the Kansas crim-
13 inal code.

14 Sec. 3. K.S.A. 2005 Supp. 21-3718 is hereby amended to read as
15 follows: 21-3718. (a) Arson is: (1) Knowingly *or while in the commission*
16 *of a felony*, by means of fire or explosive:

17 (A) Damaging any building or property which is a dwelling in which
18 another person has any interest without the consent of such other person;

19 (B) damaging any building or property which is a dwelling with intent
20 to injure or defraud an insurer or lienholder;

21 (C) damaging any building or property which is not a dwelling in
22 which another person has any interest without the consent of such other
23 person; or

24 (D) damaging any building or property which is not a dwelling with
25 intent to injure or defraud an insurer or lienholder;

26 (2) accidentally, by means of fire or explosive as a result of manufac-
27 turing or attempting to manufacture a controlled substance in violation
28 of K.S.A. 65-4159, and amendments thereto, damaging any building or
29 property which is a dwelling; or

30 (3) accidentally, by means of fire or explosive as a result of manufac-
31 turing or attempting to manufacture a controlled substance in violation
32 of K.S.A. 65-4159, and amendments thereto, damaging any building or
33 property which is not a dwelling;

but recklessly

34 (4) *unintentionally*, by means of fire or explosive, damaging any
35 building or property which is a dwelling in which another person has any
36 interest without the consent of such person, ~~recklessly or during the com-~~
37 ~~mission of a lawful act in an unlawful manner~~; or

but recklessly

38 (5) *unintentionally*, by means of fire or explosive, damaging any
39 building or property which is not a dwelling in which another person has
40 any interest without the consent of such person, ~~recklessly or during the~~
41 ~~commission of a lawful act in an unlawful manner~~.

42 (b) (1) Arson, as described in subsection (a)(1)(A) or (a)(1)(B), is a
43 severity level 6, person felony.

1 (2) Arson, as described in subsection (a)(1)(C), (a)(1)(D) or (a)(3), is
2 a severity level 7, nonperson felony.

3 (3) Arson, as described in subsection (a)(2), is a severity level 7, per-
4 son felony.

5 (4) Arson, as described in subsection (a)(4), is a severity level 8, non-
6 person felony.

7 (5) Arson, as described in subsection (a)(5), is a severity level 9, non-
8 person felony.

9 Sec. 4. K.S.A. 21-3719 is hereby amended to read as follows: 21-
10 3719. (a) Aggravated arson is arson, as defined in K.S.A. 21-3718 and
11 amendments thereto, and:

12 (1) Committed upon a building or property in which there is a human
13 being; or

14 (2) which results in great bodily harm or disfigurement to a firefighter
15 or law enforcement officer in the course of fighting or investigating the
16 fire.

17 (b) (1) Aggravated arson as described in subsection (a)(1) resulting
18 in a substantial risk of bodily harm is a severity level 3, person felony.

19 (2) Aggravated arson as described in subsection (a)(1) resulting in no
20 substantial risk of bodily harm is a severity level 6, person felony.

21 (3) Aggravated arson as described in subsection (a)(2) is a severity
22 level 3, person felony.

23 Sec. 5. K.S.A. 2005 Supp. 21-3731 is hereby amended to read as
24 follows: 21-3731. (a) Criminal use of explosives is the:

25 (1) Possession, manufacture or transportation of commercial explo-
26 sives; chemical compounds that form explosives; a combination of chem-
27 icals, compounds or materials, including, but not limited to, the presence
28 of an acid, a base, dry ice or aluminum foil, that are placed in a container
29 for the purpose of generating a gas or gases to cause a mechanical failure,
30 rupture or bursting of the container; incendiary or explosive material,
31 liquid or solid; detonators; blasting caps; military explosive fuse assem-
32 blies; squibs; electric match or functional improvised fuse assemblies; or
33 any completed explosive devices commonly known as pipe bombs or mol-
34otov cocktails. For purposes of this section, explosives shall not include
35 class "e" fireworks, legally obtained and transferred commercial explo-
36 sives by licensed individuals and ammunition and commercially available
37 loading powders and products used as ammunition, and consumer
38 fireworks, unless such consumer fireworks are modified or assembled as
39 a device that deflagrates or explodes when used for a purpose not intended
40 by the manufacturer; or

41 (2) possession, creation or construction of a hoax explosive, destruc-
42 tive device, incendiary, radiological, biological or poison gas, bomb,
43 rocket, missile, mine, grenade, dispersal device or similar hoax device,

1 *with intent to intimidate or cause alarm to another person.*

2 (b) (1) Criminal use of explosives as defined in subsection (a)(1) is a
3 severity level 6, person felony.

4 (2) Criminal use of explosives as defined in subsection (a)(1) if: (A)
5 The possession, manufacture or transportation is intended to be used to
6 commit a crime or is delivered to another with knowledge that such other
7 intends to use such substance to commit a crime; (B) a public safety
8 officer is placed at risk to defuse such explosive; or (C) the explosive is
9 introduced into a building in which there is another human being, is a
10 severity level 5, person felony.

11 (3) *Criminal use of explosives as defined in subsection (a)(2) is a se-*
12 *verity level 8, person felony.*

13 (c) *The provisions of subsection (a)(1) shall not prohibit law enforce-*
14 *ment officials, the United States military, public safety officials, accredited*
15 *educational institutions or licensed or registered businesses, and associ-*
16 *ated personnel, engaging in legitimate public safety training, demonstra-*
17 *tions or exhibitions requiring the authorized construction or use of such*
18 *simulated devices or materials.*

19 Sec. 6. K.S.A. 31-155 is hereby amended to read as follows: 31-155.

20 (a) Except as provided in subsection (c):

21 (1) It shall be unlawful to *possess, transport, sell, or offer to sell, or*
22 ~~to possess with intent to sell or offer for sale~~ a bottle rocket; and

23 (2) it shall be unlawful to ignite, fire, set-off or otherwise use a bottle
24 rocket.

25 (b) Any person violating the provisions of subsection (a) shall be guilty
26 of an unclassified misdemeanor punishable by a fine of not more than
27 \$100.

28 (c) The provisions of this section shall not prohibit the possession or
29 transportation of bottle rockets by a manufacturer or wholesaler thereof
30 for sale outside this state if such manufacturer or wholesaler is currently
31 registered with the state fire marshal pursuant to K.S.A. 31-156, *and*
32 *amendments thereto.*

33 (d) As used in this act, "bottle rocket" means any pyrotechnic device
34 which:

35 (1) Is classified as a ~~class C~~ *1.4 consumer* explosive by the United
36 States department of transportation under 49 C.F.R. 173.100 (1977);

37 (2) is mounted on a stick or wire; and

38 (3) projects into the air when ignited, with or without reports, and
39 includes any device with the same configuration, with or without reports,
40 which may be classified as a pipe or trough rocket. "Bottle rocket" does
41 not include helicopter-type rockets.

42 Sec. 7. K.S.A. 21-3719 and 31-155 and K.S.A. 2005 Supp. 21-3436,
43 21-3608a, 21-3718 and 21-3731 are hereby repealed.

1 Sec. 8. This act shall take effect and be in force from and after its
2 publication in the Kansas register.

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2006

SENATE BILL No. 506

By Committee on Judiciary

2-3

Sub-committee report
Representative Kinzer, Chairman
Members: Representatives Loyd,
Watkins, Pauls and Crow
March 20, 2006

House Judiciary
Date 3-21-06
Attachment # 3

12 AN ACT concerning persons required to register pursuant to the Kansas
13 offender registration act; providing for an annual driver's license or
14 identification card; residency restrictions; juvenile offenders required
15 to register; sexually violent predators; amending K.S.A. 59-29a02, 59-
16 29a07 and 59-29a11 and K.S.A. 2005 Supp. 8-243, 8-247, 22-4904, 22-
17 4905 and, 22-4906 and 74-9501 and repealing the existing sections.

registration requirements;

, 22-4909

18
19 *Be it enacted by the Legislature of the State of Kansas:*

20 New Section 1. (a) Notwithstanding the provisions of K.S.A. 8-1325
21 and 8-1329, and amendments thereto, an identification card issued to an
22 offender, as defined in K.S.A. 22-4902, and amendments thereto, who is
23 required to register pursuant to the Kansas offender registration act,
24 K.S.A. 22-4901 et seq., and amendments thereto, shall expire on the first
25 birthday of the applicant following the date of original issue. Renewal of
26 any identification card issued under this section shall be made for a term
27 of one year and shall expire in a like manner as the originally issued
28 identification card, unless surrendered earlier.

29 (b) Identification cards issued under this section shall be readily dis-
30 tinguishable indicating that such person is a registered offender.

31 (c) Identification cards issued under this section shall comply with all
32 other provisions of K.S.A. 8-1324 through 8-1333, and amendments
33 thereto.

34 New Sec. 2. (a) ~~It shall be unlawful for an offender to reside within~~
35 ~~2,000 feet of a licensed child care facility, registered family day care home~~
36 ~~or the real property of any school upon which is located a structure used~~
37 ~~by a unified school district or an accredited nonpublic school for student~~
38 ~~instruction or attendance or extracurricular activities of pupils enrolled in~~
39 ~~kindergarten or any grades one through 12.~~

40 (b) ~~Violation of this section is a class A nonperson misdemeanor.~~
41 (c) ~~This section shall not apply to any of the following:~~
42 (1) ~~An offender who is serving a sentence at any state correctional~~
43 ~~institution or facility, conservation camp, state security hospital, juvenile~~

3-2

1 correctional facility, community correction center or facility for detention
2 or confinement, juvenile detention facility or jail.

3 —(2) An offender who is subject to an order of commitment pursuant
4 to K.S.A. 50-20a01 et seq., and amendments thereto.

5 —(3) An offender who has established a residence prior to July 1, 2006,
6 or a school, registered family day care home or licensed child care facility
7 is newly located on or after July 1, 2006.

8 —(4) An offender who is a minor or a ward under a guardianship.

9 —(d) For purposes of this section:

10 —(1) "Offender" means a person who is an offender as defined in
11 K.S.A. 22-4902, and amendments thereto, and the criminal conviction
12 which requires the offender to register was against a victim or involved a
13 party who was less than 18 years of age.

14 —(2) "Residence" means the place where a person sleeps, which may
15 include more than one location, and may be mobile or transitory.

16 —(e) This section shall be part of and supplemental to the Kansas of-
17 fender registration act. **Cities [On and after the effective date of this**
18 **act, cities] and counties shall be prohibited from adopting any or-**
19 **dinance, resolution or regulation establishing residential restric-**
20 **tions for offenders as defined by K.S.A. 22-4902, and amendments**
21 **thereto. [The provisions of this section shall expire on June 30,**
22 **2008.] [Cities and counties may continue to enforce any ordinance,**
23 **resolution or regulation establishing residential restrictions for**
24 **such offenders in existence on the effective date of this act.]**

or enforcing

25 Sec. 3. K.S.A. 2005 Supp. 8-243 is hereby amended to read as fol-
26 lows: 8-243. (a) Upon payment of the required fee, the division shall issue
27 to every applicant qualifying under the provisions of this act the driver's
28 license as applied for by the applicant. Such license shall bear the class
29 or classes of motor vehicles which the licensee is entitled to drive, a
30 distinguishing number assigned to the licensee, the name, date of birth,
31 residence address, and a brief description of the licensee, a colored pho-
32 tograph of the licensee, a facsimile of the signature of the licensee or a
33 space upon which the licensee shall write such licensee's usual signature
34 with pen and ink immediately upon receipt of the license and the state-
35 ment provided for in subsection (b). No driver's license shall be valid
36 until it has been signed by the licensee. All drivers' licenses issued to
37 persons under the age of 21 years shall be readily distinguishable from
38 licenses issued to persons age 21 years or older. In addition, all drivers'
39 licenses issued to persons under the age of 18 years shall also be readily
40 distinguishable from licenses issued to persons age 18 years or older. On
41 and after July 1, 2004, the secretary of revenue shall implement a vertical
42 format to make drivers' licenses issued to persons under the age of 21
more readily distinguishable. Except as otherwise provided, on or after

1 July 1, 2004, no driver's license issued by the division shall be valid until
2 a colored photograph of such licensee has been taken and verified before
3 being placed on the driver's license. The secretary of revenue shall pre-
4 scribe a fee of not more than \$4 and upon payment of such fee the division
5 shall cause a colored photograph of such applicant to be placed on the
6 driver's license. Upon payment of such fee prescribed by the secretary of
7 revenue, plus payment of the fee required by K.S.A. 8-246, and amend-
8 ments thereto, for issuance of a new license, the division shall issue to
9 such licensee a new license containing a colored photograph of such li-
10 censee. A driver's license which does not contain a colored photograph
11 of the licensee as required may be issued to persons exempted from such
12 requirement. Any such license shall be valid for the purposes of the motor
13 vehicle drivers' license act and the division shall set forth upon such
14 driver's license the words "valid without photo." Any person who is out-
15 side the state and for whom the division provides for renewal of the
16 driver's license by mail is exempt from the requirement to have a colored
17 photograph of such person placed on such person's driver's license. Any
18 person belonging to a religious organization which has a basic objection
19 to having their picture taken may sign a statement to that effect and such
20 person shall then be exempt from the picture requirements of this section.

21 (b) All Kansas drivers' licenses issued to any person 16 years of age
22 or older shall contain a form which provides a statement for making a gift
23 of all or any part of the body of the licensee in accordance with the
24 uniform anatomical gift act, except as otherwise provided by this subsec-
25 tion. The statement to be effective shall be signed by the licensee in the
26 presence of two witnesses who shall sign the statement in the presence
27 of the donor. The gift becomes effective upon the death of the donor.
28 Delivery of the license during the donor's lifetime is not necessary to
29 make a valid gift. Any valid gift statement executed prior to July 1, 1994,
30 shall remain effective until invalidated. The word "Donor" shall be placed
31 on the front of a licensee's driver's license, indicating that the statement
32 for making an anatomical gift under this subsection has been executed by
33 such licensee.

34 (c) Any person who is deaf or hard of hearing may request that the
35 division issue to such person a driver's license which is readily distinguish-
36 able from drivers' licenses issued to other drivers and upon such request
37 the division shall issue such license. Drivers' licenses issued to persons
38 who are deaf or hard of hearing and under the age of 21 years shall be
39 readily distinguishable from drivers' licenses issued to persons who are
40 deaf or hard of hearing and 21 years of age or older.

41 (d) *A driver's license issued to a person required to be registered*
42 *under K.S.A. 22-4901 et seq., and amendments thereto, shall be assigned*
43 *a distinguishing number by the division which will readily indicate to law*

enforcement officers that such person is a registered offender. The division shall develop a numbering system to implement the provisions of this subsection.

Sec. 4. K.S.A. 2005 Supp. 8-247 is hereby amended to read as follows: 8-247. (a) (1) All original licenses shall expire as follows:

(1) (A) Licenses issued to persons who are at least 21 years of age, but less than 65 years of age shall expire on the sixth anniversary of the date of birth of the licensee which is nearest the date of application;

(2) (B) licenses issued to persons who are less than 21 years of age or are 65 years of age or older shall expire on the fourth anniversary of the date of birth of the licensee which is nearest the date of application;

or

(3) (C) any commercial drivers license shall expire on the fourth anniversary of the date of birth of the licensee which is nearest the date of application; or

(D) licenses issued to an offender, as defined in K.S.A. 22-4902, and amendments thereto, who is required to register pursuant to the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall expire on the first anniversary of the date of application.

(2) All renewals under : (A) paragraph (1) (A) shall expire on every sixth anniversary of the date of birth of the licensee and all renewals under paragraphs (2) and (3) ; (B) paragraph (1) (B) and (C) shall expire on every fourth anniversary of the date of birth of the licensee; and (C) paragraph (1)(D) shall expire on every first anniversary of the date of birth of the licensee. No driver's license shall expire in the same calendar year in which the original license or renewal license is issued, except that if the foregoing provisions of this section shall require the issuance of a renewal license or an original license for a period of less than six calendar months, the license issued to the applicant shall expire in accordance with the provisions of this subsection.

(b) If the driver's license of any person expires while such person is outside of the state of Kansas and on active duty in the armed forces of the United States, the license of such person shall be renewable, without examination, at any time prior to the end of the sixth month following the discharge of such person from the armed forces, or within 90 days after reestablished residence within the state, whichever time is sooner. If the driver's license of any person expires while such person is outside the United States, the division shall provide for renewal by mail.

(c) At least 30 days prior to the expiration of a person's license the division shall mail a notice of expiration or renewal application to such person at the address shown on the license. The division shall include with such notice: (1) A copy of the eyesight examination form; (2) a copy of the written examination prescribed by subsection (e); (3) a copy of the

1 Kansas driver's manual, prepared pursuant to K.S.A. 8-266b, and amend-
2 ments thereto; and (4) the written information required under subsection
3 (g).

4 (d) Every driver's license shall be renewable on or before its expira-
5 tion upon application and payment of the required fee and successful
6 completion of the examinations required by subsection (e). Application
7 for renewal of a valid driver's license shall be made to the division in
8 accordance with rules and regulations adopted by the secretary of reve-
9 nue. Such application shall contain all the requirements of subsection (b)
10 of K.S.A. 8-240, and amendments thereto. Upon satisfying the foregoing
11 requirements of this subsection, and if the division makes the findings
12 required by K.S.A. 8-235b, and amendments thereto, for the issuance of
13 an original license, the license shall be renewed without examination of
14 the applicant's driving ability. If the division finds that any of the state-
15 ments relating to revocation, suspension or refusal of licenses required
16 under subsection (b) of K.S.A. 8-240, and amendments thereto, are in
17 the affirmative, or if it finds that the license held by the applicant is not
18 a valid one, or if the applicant has failed to make application for renewal
19 of such person's license on or before the expiration date thereof, the
20 division may require the applicant to take an examination of ability to
21 exercise ordinary and reasonable control in the operation of a motor ve-
22 hicle as provided in K.S.A. 8-235d, and amendments thereto.

23 (e) (1) Prior to renewal of a driver's license, the applicant shall pass
24 an examination of eyesight and a written examination of ability to read
25 and understand highway signs regulating, warning and directing traffic
26 and knowledge of the traffic laws of this state. Such examination shall be
27 equivalent to the tests required for an original driver's license under
28 K.S.A. 8-235d, and amendments thereto. A driver's license examiner shall
29 administer the examinations without charge and shall report the results
30 of the examinations on a form provided by the division, which shall be
31 submitted by the applicant to the division at the time such applicant
32 applies for license renewal.

33 (2) In lieu of the examination of the applicant's eyesight by the ex-
34 aminer, the applicant may submit a report on the examination of eyesight
35 by a physician licensed to practice medicine and surgery or by a licensed
36 optometrist. The report shall be based on an examination of the appli-
37 cant's eyesight not more than three months prior to the date the report
38 is submitted, and it shall be made on a form furnished the applicant with
39 the notice of the expiration of license under subsection (c).

40 (3) In lieu of the driver's license examiner administering the written
41 examination, the applicant may complete the examination furnished with
42 the notice of the expiration of license under subsection (c) and submit
43 the completed examination to the division.

2 (4) The division shall determine whether the results of the written
3 examination and the eyesight reported are sufficient for renewal of the
4 license and, if the results of either or both of the examinations are insuf-
5 ficient, the division shall notify the applicant of such fact and return the
6 license fee. In determining the sufficiency of an applicant's eyesight, the
7 division may request an advisory opinion of the medical advisory board,
8 which is hereby authorized to render such opinions.

9 (5) An applicant who is denied a license under this subsection (e)
10 may reapply for renewal of such person's driver's license, except that if
11 such application is not made within 90 days of the date the division sent
12 notice to the applicant that the license would not be renewed, the appli-
13 cant shall proceed as if applying for an original driver's license. If the
14 applicant has been denied renewal of such person's driver's license be-
15 cause such applicant failed to pass the written examination, the applicant
16 shall pay an examination fee of \$1.50 to take the test again.

17 (6) When the division has good cause to believe that an applicant for
18 renewal of a driver's license is incompetent or otherwise not qualified to
19 operate a motor vehicle in accord with the public safety and welfare, the
20 division may require such applicant to submit to such additional exami-
21 nations as are necessary to determine that the applicant is qualified to
22 receive the license applied for. Subject to paragraph (7) of this subsection,
23 in so evaluating such qualifications, the division may request an advisory
24 opinion of the medical advisory board which is hereby authorized to ren-
25 der such opinions in addition to its duties prescribed by subsection (b) of
26 K.S.A. 8-255b, and amendments thereto. Any such applicant who is den-
27 ied the renewal of such a driver's license because of a mental or physical
28 disability shall be afforded a hearing in the manner prescribed by sub-
29 section (c) of K.S.A. 8-255, and amendments thereto.

30 (7) Seizure disorders which are controlled shall not be considered a
31 disability. In cases where such seizure disorders are not controlled, the
32 director or the medical advisory board may recommend that such person
33 be issued a driver's license to drive class C or M vehicles and restricted
34 to operating such vehicles as the division determines to be appropriate
35 to assure the safe operation of a motor vehicle by the licensee. Restricted
36 licenses issued pursuant to this paragraph shall be subject to suspension
37 or revocation. For the purpose of this paragraph, seizure disorders which
38 are controlled means that the licensee has not sustained a seizure involv-
39 ing a loss of consciousness in the waking state within six months preceding
40 the application or renewal of a driver's license and whenever a person
41 licensed to practice medicine and surgery makes a written report to the
42 division stating that the licensee's seizures are controlled. The report shall
3 be based on an examination of the applicant's medical condition not more
4 than three months prior to the date the report is submitted. Such report

1 shall be made on a form furnished to the applicant by the division. Any
2 physician who makes such report shall not be liable for any damages
3 which may be attributable to the issuance or renewal of a driver's license
4 and subsequent operation of a motor vehicle by the licensee.

5 (f) If the driver's license of any person expires while such person is
6 outside the state of Kansas, the license of such person shall be extended
7 for a period not to exceed six months and shall be renewable, without a
8 driving examination, at any time prior to the end of the sixth month fol-
9 lowing the original expiration date of such license or within 10 days after
10 such person returns to the state, whichever time is sooner.

11 (g) The division shall provide the following information in a person's
12 notice of expiration or renewal under subsection (c):

13 (1) Written information explaining the person's right to make an an-
14 atomical gift in accordance with K.S.A. 8-243, and amendments thereto,
15 and the uniform anatomical gift act;

16 (2) written information describing the organ donation registry pro-
17 gram maintained by the Kansas federally designated organ procurement
18 organization. The written information required under this paragraph shall
19 include, in a type, size and format that is conspicuous in relation to the
20 surrounding material, the address and telephone number of Kansas' fed-
21 erally designated organ procurement organization, along with an advisory
22 to call such designated organ procurement organization with questions
23 about the organ donor registry program;

24 (3) written information giving the applicant the opportunity to be
25 placed on the organ donation registry described in paragraph (2);

26 (4) inform the applicant in writing that, if the applicant indicates un-
27 der this subsection a willingness to have such applicant's name placed on
28 the organ donor registry described in paragraph (2), the division will for-
29 ward the applicant's name, gender, date of birth and most recent address
30 to the organ donation registry maintained by the Kansas federally desig-
31 nated organ procurement organization, as required by paragraph (6);

32 (5) the division may fulfill the requirements of paragraph (4) by one
33 or more of the following methods:

34 (A) Providing printed material enclosed with a mailed notice for
35 driver's license renewal; or

36 (B) providing printed material to an applicant who personally appears
37 at an examining station;

38 (6) if an applicant indicates a willingness under this subsection to have
39 such applicant's name placed on the organ donor registry, the division
40 shall within 10 days forward the applicant's name, gender, date of birth
41 and most recent address to the organ donor registry maintained by the
42 Kansas federally designated organ procurement organization. The divi-
43 sion may forward information under this subsection by mail or by elec-

2 tronic means. The division shall not maintain a record of the name or
3 address of an individual who indicates a willingness to have such person's
4 name placed on the organ donor registry after forwarding that informa-
5 tion to the organ donor registry under this subsection. Information about
6 an applicant's indication of a willingness to have such applicant's name
7 placed on the organ donor registry that is obtained by the division and
8 forwarded under this paragraph shall be confidential and not disclosed.

9 (h) *Notwithstanding any other provisions of law, any offender under*
10 *subsection (a)(1)(D) who held a valid driver's license on the effective date*
11 *of this act may continue to operate motor vehicles until the next anniver-*
12 *sary of the date of birth of such offender. Upon such date such driver's*
13 *license shall expire and the offender shall be subject to the provisions of*
14 *this section.*

15 Sec. 5. K.S.A. 2005 Supp. 22-4904 is hereby amended to read as
16 follows: 22-4904. (a) (1) Except as provided in subsection (a)(2), within
17 10 days of the offender coming into any county in which the offender
18 resides or is temporarily domiciled for more than 10 days, the offender
19 shall register with the sheriff of the county.

20 (2) Within 10 days of the offender coming into any county in which
21 the offender resides or temporarily resides for more than 10 days, any
22 offender who has provided the information and completed and signed
23 the registration form as required in K.S.A. 22-4905 and amendments
24 thereto, shall verify with the sheriff of the county that the sheriff has
25 received such offender's information and registration form.

26 (3) Upon registration with a school or educational institution, a non-
27 resident student attending such school or educational institution shall
28 register with the sheriff within 10 days of the commencement of the
29 school term.

30 (4) Upon commencement of employment, a nonresident worker shall
31 register with the sheriff within 10 days of the commencement date of
32 employment.

33 (5) For persons required to register as provided in subsections (a)(1),
34 (a)(3) and (a)(4), the sheriff shall: (A) Explain the duty to register and the
35 procedure for registration;

36 (B) obtain the information required for registration as provided in
37 K.S.A. 22-4907 and amendments thereto;

38 (C) inform the offender that the offender must give written notice of
39 any change of address within 10 days of a change in residence to the law
40 enforcement agency where last registered and the Kansas bureau of
41 investigation;

42 (D) inform the nonresident student offender that the offender must
43 give written notice to the sheriff and the Kansas bureau of investigation
44 of any change or termination of attendance at the school or educational

1 institution the offender is attending, within 10 days of such change or
2 termination;

3 (E) inform the nonresident worker offender that the offender must
4 give written notice to the sheriff and the Kansas bureau of investigation
5 of any termination of employment at the offender's place of employment,
6 within 10 days of such termination;

7 (F) inform the offender that if the offender changes residence to
8 another state, the offender must inform the law enforcement agency
9 where last registered and the Kansas bureau of investigation of such
10 change in residence and must register in the new state within 10 days of
11 such change in residence;

12 (G) inform the offender that the offender must also register in any
13 state or county where the offender is employed, carries on a vocation or
14 is a student;

15 (H) inform the offender that if the offender expects to or subse-
16 quently becomes enrolled in any institution of higher education in the
17 state of Kansas on a full-time or part-time basis or have any full-time or
18 part-time employment at an institution of higher education in the state
19 of Kansas, with or without compensation, for more than 14 days, or for
20 an aggregate period exceeding 30 days in one calendar year, the offender
21 must provide written notice to the Kansas bureau of investigation within
22 10 days upon commencement of enrollment or employment;

23 (I) inform the offender that if there is any change or termination in
24 attendance or employment at an institution of higher education, the of-
25 fender must provide written notice to the Kansas bureau of investigation
26 within 10 days of the change or termination; ~~and~~

27 (J) *inform the offender of the requirement of an annual driver's license*
28 *renewal pursuant to K.S.A. 8-247, and amendments thereto, and an an-*
29 *annual identification card renewal pursuant to section 1, and amendments*
30 *thereto; and*

31 (K) require the offender to read and sign the registration form
32 which shall include a statement that the requirements provided in this
33 subsection have been explained to the offender.

34 (6) Such sheriff, within three days of receipt of the initial registration
35 shall forward this information to the Kansas bureau of investigation.

36 (7) Notwithstanding any other provision of law, if a diversionary
37 agreement or probation order, either adult or juvenile, or a juvenile of-
38 fender sentencing order, requires registration under the Kansas offender
39 registration act then all provisions of that act shall apply, except that the
'0 term of registration shall be controlled by such diversionary agreement,
1 probation order or juvenile offender sentencing order.

42 (b) (1) If any person required to register as provided in this act
43 changes the address of the person's residence, the offender, within 10

days, shall inform in writing the Kansas bureau of investigation of the new address.

(2) After receipt of the change of address, the Kansas bureau of investigation shall forward this information to the law enforcement agency having jurisdiction of the new place of residence within 10 days of such receipt of the change of address.

(c) For any person required to register as provided in this act, every 90 days after the person's initial registration date during the period the person is required to register, the following applies:

(1) The Kansas bureau of investigation shall mail a nonforwardable verification form to the last reported address of the person.

(2) The person shall mail the verification form to the Kansas bureau of investigation within 10 days after receipt of the form.

(3) The verification form shall be signed by the person and shall provide the following information, as applicable, to the Kansas bureau of investigation: (A) Whether the person still resides at the address last reported; (B) whether the person still attends the school or educational institution last reported; (C) whether the person is still employed at the place of employment last reported; and (D) whether the person's vehicle registration information is the same as last reported.

(4) If the person fails to mail the verification form to the Kansas bureau of investigation within 10 days after receipt of the form, the person shall be in violation of the Kansas offender registration act.

(5) Nothing contained in this section shall be construed to alleviate any person required to register as provided in this act from meeting the requirements prescribed in subsections (a)(1), (a)(2) and (b)(1).

Sec. 6. K.S.A. 2005 Supp. 22-4905 is hereby amended to read as follows: 22-4905. (a) (1) Any offender, who is discharged or paroled from a prison, hospital or other institution or facility involving a violation of any crime or confinement as provided in subsection (a), (b), (d) or (f) of K.S.A. 22-4902 and amendments thereto, prior to discharge, parole or release, shall be informed by the staff of the facility in which the offender was confined of the duty to register as provided in this act.

(2) (A) The staff of the facility shall: (i) Explain the duty to register and the procedure for registration;

(ii) obtain the information required for registration as provided in K.S.A. 22-4907 and amendments thereto;

(iii) inform the offender that the offender must give written notice of any change of address within 10 days of a change in residence to the law enforcement agency where last registered and the Kansas bureau of investigation;

(iv) inform the offender that if the offender changes residence to another state, the offender must inform the law enforcement agency

(d) Any person who is required to register under this act shall report in person each year during the month of the person's birthday and during the sixth months following the person's birthday to the sheriff's office in the county in which the person resides or is otherwise located. The sheriff's office may determine the appropriate times and days for reporting by the person, consistent with this subsection. If any information reported by the person has changed and has not otherwise been updated, the person shall report those changes.

(e) Every person who is required to register under this act shall submit to the taking of an updated photograph by the sheriff's office on each occasion when the person reports to the sheriff's office in the county in which the person resides or is otherwise located.

(f) Every person who is required to register under this act shall remit payment to the sheriff in the amount of \$20 on each occasion when the person reports to the sheriff's office in the county in which the person resides or is otherwise located.

1 where last registered and the Kansas bureau of investigation of such
2 change in residence and must register in the new state within 10 days of
3 such change in residence;

4 (v) inform the offender that the offender must also register in any
5 state or county where the offender is employed, carries on a vocation or
6 is a student;

7 (vi) inform the offender that if the offender expects to or subse-
8 quently becomes enrolled in any institution of higher education in the
9 state of Kansas on a full-time or part-time basis or have any full-time or
10 part-time employment at an institution of higher education in the state
11 of Kansas, with or without compensation, for more than 14 days or an
12 aggregate period exceeding 30 days in one calendar year, the offender
13 must provide written notice to the Kansas bureau of investigation within
14 10 days upon commencement of enrollment or employment;

15 (vii) inform the offender that if there is any change or termination in
16 attendance or employment, at an institution of higher education, the of-
17 fender must provide written notice to the Kansas bureau of investigation
18 within 10 days of the change or termination; ~~and~~

19 *(viii) inform the offender of the requirement of an annual driver's*
20 *license renewal pursuant to K.S.A. 8-247, and amendments thereto, and*
21 *an annual identification card renewal pursuant to section 1, and amend-*
22 *ments thereto; and*

23 ~~(viii)~~ (ix) require the offender to read and sign the registration form
24 which shall include a statement that the requirements provided in this
25 subsection have been explained to the offender.

26 (B) The staff of the facility shall give one copy of the form to the
27 person, within three days, and shall send two copies of the form provided
28 by subsection (2)(A)(v) to the Kansas bureau of investigation, which shall
29 then forward one copy to the law enforcement agency having jurisdiction
30 where the person expects to reside upon discharge, parole or release. The
31 Kansas bureau of investigation must immediately ensure that such infor-
32 mation is entered in the state law enforcement record system. The Kansas
33 bureau of investigation shall transmit such conviction data and finger-
34 prints to the federal bureau of investigation.

35 (b) (1) Any offender who is released on probation, receives a sus-
36 pended sentence, sentenced to community corrections or released on
37 postrelease supervision because of the commission of any crime as pro-
38 vided in subsection (a), (b) or (d) of K.S.A. 22-4902 and amendments
39 thereto, prior to release, shall be informed of the offenders duty to reg-
40 ister as provided in this act by the court in which the offender is convicted.

41 (2) (A) The court shall: (i) Explain the duty to register and the pro-
42 cedure for registration;

43 (ii) obtain the information required for registration as provided in

K.S.A. 22-4907 and amendments thereto;

(iii) inform the offender that the offender must give written notice of any change of address within 10 days of a change in residence to the law enforcement agency where last registered and the Kansas bureau of investigation;

(iv) inform the offender that if the offender changes residence to another state, the offender must inform the law enforcement agency where last registered and the Kansas bureau of investigation of such change in residence and must register in the new state within 10 days of such change in residence;

(v) inform the offender that the offender must also register in any state or county where the offender is employed, carries on a vocation or is a student;

(vi) inform the offender that if the offender expects to or subsequently becomes enrolled in any institution of higher education in the state of Kansas on a full-time or part-time basis or have any full-time or part-time employment at an institution of higher education in the state of Kansas, with or without compensation, for more than 14 days or for an aggregate period exceeding 30 days in one calendar year, the offender must provide written notice to the Kansas bureau of investigation within 10 days upon commencement of enrollment or employment;

(vii) inform the offender that if there is any change or termination in attendance or employment at an institution of higher education, the offender must provide written notice to the Kansas bureau of investigation within 10 days of the change or termination; ~~and~~

(viii) inform the offender of the requirement of an annual driver's license renewal pursuant to K.S.A. 8-247, and amendments thereto, and an annual identification card renewal pursuant to section 1, and amendments thereto; and

~~(viii)~~ (ix) require the offender to read and sign the registration form which shall include a statement that the requirements provided in this subsection have been explained to the offender.

(B) The court shall give one copy of the form to the person and, within three days, shall send two copies of the form provided by subsection (2)(A)(v) to the Kansas bureau of investigation which shall then forward one copy to the law enforcement agency having jurisdiction where the person expects to reside upon release. The Kansas bureau of investigation must immediately ensure that such information is entered in the state law enforcement record system. The Kansas bureau of investigation shall transmit such conviction data and fingerprints to the federal bureau of investigation.

Sec. 7. K.S.A. 2005 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) ~~Any person required to register as provided in this~~

Except as provided in subsection (d),

1 act shall be required to register: (1) Upon the first conviction of a sexually
 2 violent crime as defined in subsection (c) of K.S.A. 22-4902, and amend-
 3 ments thereto, any offense as defined in subsection (a) of K.S.A. 22-4902,
 4 and amendments thereto, or any offense as defined in subsection (d) of
 5 K.S.A. 22-4902, and amendments thereto, if not confined, for a period of
 6 10 years after conviction, or, if confined, for a period of 10 years after
 7 paroled, discharged or released, whichever date is most recent. The ten-
 8 year period shall not apply to any person while the person is incarcerated
 9 in any jail or correctional facility. The ten-year registration requirement
 10 does not include any time period when any person who is required to
 11 register under this act knowingly or willfully fails to comply with the
 12 registration requirement; or (2) upon a second or subsequent conviction
 13 for such person's lifetime.

14 (b) Upon the first conviction, liability for registration terminates, if
 15 not confined, at the expiration of 10 years from the date of conviction,
 16 or, if confined, at the expiration of 10 years from the date of parole,
 17 discharge or release, whichever date is most recent. The ten-year period
 18 shall not apply to any person while the person is incarcerated in any jail
 19 or correctional facility. The ten-year registration requirement does not
 20 include any time period when any person who is required to register
 21 under this act knowingly or willfully fails to comply with the registration
 22 requirement. Liability for registration does not terminate if the convicted
 23 offender again becomes liable to register as provided by this act during
 24 that period.

25 (c) Any person who has been convicted of an aggravated offense shall
 26 be required to register for such person's lifetime. ~~The provisions of this~~
 27 ~~subsection shall expire on June 30, 2009.~~

28 (d) Any person who has been declared a sexually violent predator
 29 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall reg-
 30 ister for such person's lifetime.

31 (e) Any nonresident worker shall register for the duration of such
 32 person's employment. The provisions of this subsection are in addition to
 33 subsections (a) and (b).

34 (f) Any nonresident student shall register for the duration of such
 35 person's attendance at a school or educational institution as provided in
 36 this act. The provisions of this subsection are in addition to subsections
 37 (a) and (b).

38 (g) (1) Notwithstanding any other provisions of this section ~~and ex-~~
 39 ~~cept as provided in paragraph (2),~~ a person who is adjudicated as a ju-
 40 venile offender for an act which if committed by an adult would constitute
 41 the commission of a sexually violent crime set forth in subsection (c) of
 42 K.S.A. 22-4902, and amendments thereto, shall be required to register
 43 until such person reaches 18 years of age, at the expiration of five years

(d) Any person who has been convicted of any of the following offenses shall be required to register for such person's lifetime:
 (1) Aggravated trafficking, as defined in K.S.A. 2005 Supp. 21-3447, and amendments thereto, if the victim is less than 14 years of age;
 (2) rape, as defined in subsection (a)(2) of K.S.A. 2005 Supp. 21-3502, and amendments thereto;
 (3) aggravated indecent liberties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto;
 (4) aggravated criminal sodomy, as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto;
 (5) promoting prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if the prostitute is less than 14 years of age; or
 (6) sexual exploitation of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments thereto.
 [reletter the remaining subsections accordingly]

and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, and amendments thereto,

from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. The five-year period shall not apply to any person while that person is incarcerated in any jail, juvenile facility or correctional facility. The five-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement.

(2) ~~A judge may relieve such juvenile offender of the duty to register pursuant to this subsection if the judge, on the record, finds substantial and compelling reasons therefor. If such juvenile offender violates a condition of release during the term of the conditional release, the judge may require the juvenile offender to register pursuant to paragraph (1).~~

(3) Liability for registration does not terminate if the adjudicated offender again becomes liable to register as provided by this act during the required period.

Sec. 8. K.S.A. 59-29a02 is hereby amended to read as follows: 59-29a02. As used in this act:

(a) "Sexually violent predator" means any person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in repeat acts of sexual violence.

(b) "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to commit sexually violent offenses in a degree constituting such person a menace to the health and safety of others.

(c) "Likely to engage in repeat acts of sexual violence" means the person's propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others.

(d) "Sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(e) "Sexually violent offense" means:

- (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) and (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;

(A) A person who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, and amendments thereto, may, by the court:

- (i) Be required to register pursuant to the provisions of paragraph (1);
- (ii) not be required to register

; or

(iii) be required to register with the sheriff pursuant to K.S.A. 22-4904, and amendments thereto, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto.

(B)

(i) Any person moving to the state of Kansas who has been convicted in another state, and who was required to register under that state's laws, shall register for the same length of time required by that state or Kansas, whichever length of time is longer.

Sec. 8. K.S.A. 2005 SUp. 22-4909 is hereby amended to read as follows: 22-4909. (a) Except as prohibited by subsection (h) of K.S.A. 22-4906, and amendments thereto, the statements or any other information required by this act shall be open to inspection by the public at the sheriff's office, at the headquarters of the Kansas bureau of investigation and on any internet website sponsored or created by a sheriff's department or the Kansas bureau of investigation that contains such statements or information, and specifically are subject to the provisions of the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except that the name, address, telephone number, or any other information which specifically and individually identifies the victim of any offender required to register as provided in this act shall not be disclosed other than to law enforcement agencies.

(b) Any information posted on an internet website sponsored or created by a sheriff's office or the Kansas bureau of investigation shall identify, in a prominent manner, whether an offender is or is not a sex offender.

(c) The state department of education shall annually notify any school upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any grades one through 12 of the Kansas bureau of investigation internet website and any internet website containing information on the Kansas offender registration sponsored or created by the sheriff of the county in which the school is located for the purposes of locating offenders who reside near such school.

(d) The secretary of health and environment shall annually notify any licensed child care facility of the Kansas bureau of investigation internet website and any internet website containing information on the Kansas offender registration sponsored or created by the sheriff of the county in which the facility is located for the purposes of locating offenders who reside near such facility.

(e) Such notification required in subsections (c) and (d) shall include information that the sheriff of the county where such school or child care facility is located is available to the school and child care facilities to assist in using the registry and providing additional information on the registered offenders.

[renumber remaining sections accordingly]

- 1 (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-
2 3511 and amendments thereto;
- 3 (8) sexual exploitation of a child as defined in K.S.A. 21-3516 and
4 amendments thereto;
- 5 (9) aggravated sexual battery as defined in K.S.A. 21-3518 and
6 amendments thereto;
- 7 (10) aggravated incest as defined in K.S.A. 21-3603 and amendments
8 thereto;
- 9 (11) any conviction for a felony offense in effect at any time prior to
10 the effective date of this act, that is comparable to a sexually violent
11 offense as defined in subparagraphs (1) through (11) or any federal or
12 other state conviction for a felony offense that under the laws of this state
13 would be a sexually violent offense as defined in this section;
- 14 (12) an attempt, conspiracy or criminal solicitation, as defined in
15 K.S.A. 21-3301, 21-3302 and 21-3303, and amendments thereto, of a
16 sexually violent offense as defined in this subsection; or
- 17 (13) any act which either at the time of sentencing for the offense or
18 subsequently during civil commitment proceedings pursuant to this act,
19 has been determined beyond a reasonable doubt to have been sexually
20 motivated.
- 21 (f) “Agency with jurisdiction” means that agency which releases upon
22 lawful order or authority a person serving a sentence or term of confine-
23 ment and includes the department of corrections, the department of so-
24 cial and rehabilitation services and the Kansas parole board.
- 25 (g) “Person” means an individual who is a potential or actual subject
26 of proceedings under this act.
- 27 (h) “Treatment staff” means the persons, agencies or firms employed
28 by or contracted with the secretary to provide treatment, supervision or
29 other services at the sexually violent predator facility.
- 30 (i) “Transitional release” means any halfway house, work release, *sex-*
31 *ually violent predator treatment facility* or other placement designed to
32 assist the person’s adjustment and reintegration into the community once
33 released from commitment.
- 34 (j) “Secretary” means the secretary of the department of social and
35 rehabilitation services.
- 36 Sec. 9. K.S.A. 59-29a07 is hereby amended to read as follows: 59-
37 29a07. (a) The court or jury shall determine whether, beyond a reasonable
38 doubt, the person is a sexually violent predator. If such determination
39 that the person is a sexually violent predator is made by a jury, such
40 determination shall be by unanimous verdict of such jury. Such deter-
41 mination may be appealed. If the court or jury determines that the person
42 is a sexually violent predator, the person shall be committed to the custody
43 of the secretary of social and rehabilitation services for control, care and

1 treatment until such time as the person's mental abnormality or person-
2 ality disorder has so changed that the person is safe to be at large. Such
3 control, care and treatment shall be provided at a facility operated by the
4 department of social and rehabilitation services.

5 (b) At all times, persons committed for control, care and treatment
6 by the department of social and rehabilitation services pursuant to K.S.A.
7 59-29a01 *et seq.*, and amendments thereto, shall be kept in a secure fa-
8 cility and such persons shall be segregated at all times from any other
9 patient under the supervision of the secretary of social and rehabilitation
10 services and commencing June 1, 1995, such persons committed pursuant
11 to K.S.A. 59-29a01 *et seq.*, and amendments thereto, shall be kept in a
12 facility or building separate from any other patient under the supervision
13 of the secretary. *The provisions of this subsection shall apply to any fa-*
14 *cility or building utilized in any transitional release program or condi-*
15 *tional release program.*

16 (c) The department of social and rehabilitation services is authorized
17 to enter into an interagency agreement with the department of correc-
18 tions for the confinement of such persons. Such persons who are in the
19 confinement of the secretary of corrections pursuant to an interagency
20 agreement shall be housed and managed separately from offenders in the
21 custody of the secretary of corrections, and except for occasional instances
22 of supervised incidental contact, shall be segregated from such offenders.

23 (d) If any person while committed to the custody of the secretary
24 pursuant to K.S.A. 59-29a01 *et seq.*, and amendments thereto, shall be
25 taken into custody by any law enforcement officer as defined in K.S.A.
26 21-3110 and amendments thereto pursuant to any parole revocation pro-
27 ceeding or any arrest or conviction for a criminal offense of any nature,
28 upon the person's release from the custody of any law enforcement of-
29 ficer, the person shall be returned to the custody of the secretary for
30 further treatment pursuant to K.S.A. 59-29a01 *et seq.*, and amendments
31 thereto. During any such period of time a person is not in the actual
32 custody or supervision of the secretary, the secretary shall be excused
33 from the provisions of K.S.A. 59-29a08 and amendments thereto, with
34 regard to providing that person an annual examination, annual notice and
35 annual report to the court, except that the secretary shall give notice to
36 the court as soon as reasonably possible after the taking of the person
37 into custody that the person is no longer in treatment pursuant to K.S.A.
38 59-29a01 *et seq.*, and amendments thereto, and notice to the court when
39 the person is returned to the custody of the secretary for further
40 treatment.

41 (e) If the court or jury is not satisfied beyond a reasonable doubt that
42 the person is a sexually violent predator, the court shall direct the person's
3 release.

1 (f) Upon a mistrial, the court shall direct that the person be held at
2 an appropriate secure facility, including, but not limited to, a county jail,
3 until another trial is conducted. Any subsequent trial following a mistrial
4 shall be held within 90 days of the previous trial, unless such subsequent
5 trial is continued as provided in K.S.A. 59-29a06 and amendments
6 thereto.

7 (g) If the person charged with a sexually violent offense has been
8 found incompetent to stand trial, and is about to be released pursuant to
9 K.S.A. 22-3305 and amendments thereto, and such person's commitment
10 is sought pursuant to subsection (a), the court shall first hear evidence
11 and determine whether the person did commit the act or acts charged.
12 The hearing on this issue must comply with all the procedures specified
13 in this section. In addition, the rules of evidence applicable in criminal
14 cases shall apply, and all constitutional rights available to defendants at
15 criminal trials, other than the right not to be tried while incompetent,
16 shall apply. After hearing evidence on this issue, the court shall make
17 specific findings on whether the person did commit the act or acts
18 charged, the extent to which the person's incompetence or developmental
19 disability affected the outcome of the hearing, including its effect on the
20 person's ability to consult with and assist counsel and to testify on such
21 person's own behalf, the extent to which the evidence could be recon-
22 structed without the assistance of the person and the strength of the
23 prosecution's case. If after the conclusion of the hearing on this issue, the
24 court finds, beyond a reasonable doubt, that the person did commit the
25 act or acts charged, the court shall enter a final order, appealable by the
26 person, on that issue, and may proceed to consider whether the person
27 should be committed pursuant to this section.

28 Sec. 10. K.S.A. 59-29a11 is hereby amended to read as follows: 59-
29 29a11. (a) Nothing in this act shall prohibit a person from filing a petition
30 for transitional release, conditional release or final discharge pursuant to
31 this act. However, if a person has previously filed a petition for transitional
32 release, conditional release or final discharge without the secretary of the
33 department of social and rehabilitation services approval and the court
34 determined either upon review of the petition or following a hearing, that
35 the petitioner's petition was frivolous or that the petitioner's condition
36 had not so changed that the person was safe to be at large, then the court
37 shall deny the subsequent petition unless the petition contains facts upon
38 which a court could find the condition of the petitioner had so changed
39 that a hearing was warranted. Upon receipt of a first or subsequent pe-
40 tition from committed persons without the secretary's approval, the court
41 shall endeavor whenever possible to review the petition and determine if
42 the petition is based upon frivolous grounds and if so shall deny the pe-
43 tition without a hearing.

1 (b) No transitional release or conditional release facility or building
2 shall be located within 2,000 feet of a licensed child care facility, registered
3 family day care home, an established place of worship, any residence in
4 which a child under 18 years of age resides, or the real property of any
5 school upon which is located a structure used by a unified school district
6 or an accredited nonpublic school for student instruction or attendance
7 or extracurricular activities of pupils enrolled in kindergarten or any
8 grades one through 12. This subsection shall not apply to any state cor-
9 rectional institution or facility.

10 (c) Transitional release or conditional release facilities or buildings
11 shall be subject to all regulations applicable to other property and build-
12 ings located in the zone or area that are imposed by any municipality
13 through zoning ordinance, resolution or regulation, such municipality's
14 building regulatory codes, subdivision regulations or other nondiscrimi-
15 natory regulations.

16 **Sec. 11. K.S.A. 2005 Supp. 74-9501 is hereby amended to read**
17 **as follows: 74-9501. (a) There is hereby established the Kansas**
18 **criminal justice coordinating council.**

19 (b) The council shall consist of the governor or designee, the
20 chief justice of the supreme court or designee, the attorney general
21 or designee, the secretary of corrections, the superintendent of the
22 highway patrol, the commissioner of juvenile justice and the direc-
23 tor of the Kansas bureau of investigation.

24 (c) The governor shall designate staff to the Kansas criminal
25 justice coordinating council. The staff shall attend all meetings of
26 the council, be responsible for keeping a record of council meetings,
27 prepare reports of the council and perform such other duties as
28 directed by the council.

29 (d) The council shall elect a chairperson and vice-chairperson
30 from among the members of the council.

31 (e) The council shall:

32 (1) Appoint a standing local government advisory group to con-
33 sult and advise the council concerning local government criminal
34 justice issues and the impact of state criminal justice policy and
35 decisions on local units of government. The advisory group shall
36 consist of a sheriff, chief of police, county or district attorney, a
37 member of a city governing body and a county commissioner. Ap-
38 pointees to such advisory group shall serve without compensation
39 or reimbursement for travel and subsistence or any other expenses;

40 (2) define and analyze issues and processes in the criminal jus-
41 tice system, identify alternative solutions and make recommenda-
42 tions for improvements;

3 (3) perform such criminal justice studies or tasks as requested

1 *by the governor, the attorney general, the legislature or the chief*
2 *justice, as deemed appropriate or feasible by the council;*

3 (4) *oversee development and management of a criminal justice*
4 *database including assuming the designation and functions of the*
5 *state statistical analysis center currently assigned to the Kansas bu-*
6 *reau of investigation pursuant to K.S.A. 75-712a and amendments*
7 *thereto. All criminal justice agencies as defined in subsection (c) of*
8 *K.S.A. 22-4701 and amendments thereto and the juvenile justice*
9 *authority shall provide any data or information, including juvenile*
10 *offender information which is requested by the council, in a form*
11 *and manner established by the council, in order to facilitate the*
12 *development and management of the criminal justice council*
13 *database;*

14 (5) *develop and oversee reporting of all criminal justice federal*
15 *funding available to the state or local units of government including*
16 *assuming the designation and functions of administering the United*
17 *States bureau of justice assistance grants;*

18 (6) *form such task groups as necessary and appoint individuals*
19 *who appropriately represent law enforcement, the judiciary, legal*
20 *profession, state, local, or federal government, the public, or other*
21 *professions or groups as determined by the council, to represent the*
22 *various aspects of the issue being analyzed or studied, when ana-*
23 *lyzing criminal justice issues and performing criminal justice stud-*
24 *ies. Members of the legislature may be appointed ex officio members*
25 *to such task groups. A member of the council shall serve as the*
26 *chairperson of each task group appointed by the council. The coun-*
27 *cil may appoint other members of the council to any task group*
28 *formed by the council; and*

29 (7) *review reports submitted by each task group named by the*
30 *council and shall submit the report with the council's recommen-*
31 *dations pertaining thereto to the governor, the attorney general, the*
32 *chief justice of the supreme court, the chief clerk of the house of*
33 *representatives and the secretary of the senate; and*

34 (8) (A) *Establish the sex offender policy board to consult and advise*
35 *the council concerning issues and policies pertaining to the treatment,*
36 *sentencing, rehabilitation, reintegration and supervision of sex offenders.*

37 (B) *The sex offender policy board shall consist of the secretary of*
38 *corrections, the commissioner of juvenile justice, the secretary of social*
39 *and rehabilitation services, the director of the Kansas bureau of investi-*
40 *gation and the chief justice of the supreme court or the chief justice's*
41 *designee and two persons appointed by the criminal justice coordinating*
42 *council. Of the persons appointed by the criminal justice coordinating*
43 *council, one shall be a mental health service provider and the other shall*

be engaged in the provision of services involving child welfare or crime victims.

(C) Each member of the board shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, except that the public members of the board shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on board activities. No per diem compensation shall be paid under this subsection to salaried state, county or city officers or employees.

(D) The sex offender policy board shall elect a chairperson from its membership and shall meet upon the call of its chairperson as necessary to carry out its duties.

(E) Each appointed member of the sex offender policy board shall be appointed for a term of two years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each member shall continue in office until a successor is appointed and qualifies. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term.

(F) The board shall submit its reports to the criminal justice coordinating council and to the governor, the attorney general, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate.

(i) The board shall submit a report regarding public notification pertaining to sex offenders, restrictions on the residence of released sex offenders, utilization of electronic monitoring, and the management of juvenile sex offenders by the first day of the 2007 legislative session.

(ii) The board shall submit a report regarding treatment and supervision standards for sex offenders, suitability of lifetime release supervision and safety education and prevention strategies for the public by the first day of the 2008 legislative session.

(iii) The board shall submit reports regarding any other studies, issues or policy recommendations as completed.

[(G) The sex offender policy board established pursuant to subsection (e)(8) of this section shall expire on June 30, 2008.]

Sec. ~~11~~ **12**. K.S.A. 59-29a02, 59-29a07 and 59-29a11 and K.S.A. 2005 Supp. 8-243, 8-247, 22-4904, 22-4905 and, 22-4906 **and 74-9501**, 22-4909 are hereby repealed.

Sec. ~~12~~ **13**. This act shall take effect and be in force from and after its publication in the statute book [*Kansas register*].