

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:36 A.M. on February 22, 2006, in Room 123-S of the Capitol.

All members were present,

David Haley arrived, 9:38 a.m.

Les Donovan arrived, 9:40 a.m.

Derek Schmidt arrived, 9:43 a.m.

Committee staff present:

Mike Heim, Kansas Legislative Research Department

Helen Pedigo, Office of Revisor of Statutes

Karen Clowers, Committee Secretary

Others attending:

See attached list.

The Chairman called for final action on **SB 445--In any civil action, excluding personal injury actions, prevailing party recovers reasonable attorney fees.**

The Chairman referred to a proposed balloon amendment from Kevin Tubbesing and Hal Hudson representing the National Federation of Independent Business (Attachment 1). The Chairman indicated the proposed amendment would change the effect of this bill to make it applicable only to civil litigation between one business and another business as business is defined in the bill.

Following discussion Senator Schmidt moved, Senator Donovan seconded, to adopt the proposed amendment as reflected in the balloon. Motion carried.

Senator Allen moved, Senator Donovan seconded, to remove language on page 1, line 26-27 defining personal injury. Motion carried.

Senator Schmidt moved, Senator Donovan seconded, to recommend SB 445 as amended favorably for passage. Motion failed.

The Chairman called for final action on **SB 458--Criminal street gang prevention act.**

Senator Betts distributed a balloon amendment and explained the proposed changes (Attachment 2). The Chairman indicated concern that the amendment would significantly change the bill and that the sponsors, supporters and the committee had not seen the amendment, had a hearing on it, or had an opportunity to study it. The Chairman asked if Senator Betts would consider proposing these changes next year or possibly amend it on the House side. Senator Betts withdrew his proposed amendment.

Senator Donovan distributed a proposed amendment provided explanation of the proposed change (Attachment 3).

Senator Donovan moved, Senator Umbarger seconded, to adopt the balloon amendment. Motion carried.

Senator Haley distributed a balloon amendment and explained the proposed changes (Attachment 4).

Senator Haley moved, Senator Umbarger seconded, to adopt the balloon amendment. Motion carried.

Senator Bruce moved, Senator Umbarger seconded, to amend page 2, line 13, to read "a criminal gang member is a person who admits to criminal street gang membership or meets 3 of the following criteria". Motion carried.

Senator Haley moved to strike all of the "Whereas" language on page 1. There was no second.

Senator Bruce moved, Senator Betts seconded, to recommend SB 458 as amended favorably for passage. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:36 A.M. on February 22, 2006, in Room 123-S of the Capitol.

The Chairman called for final action on **SB 479--Preliminary screening tests; grounds; notice.**

Senator moved, Senator Donovan seconded, to recommend SB 479 favorably for passage. Motion carried.

The Chairman called for final action on **SB 487--Establishing a statewide automated victim notification system (SAVIN).**

Senator Allen moved, Senator Goodwin seconded, to request the Criminal Justice Coordinating Council to study and report back prior to the 2007 Legislative session. Motion carried.

The Chairman called for final action on **SB 506--Persons required to register pursuant to the Kansas offender registration act; annual driver's license or identification card; residency restrictions; juvenile offenders required to register; sexually violent predators.**

The Chairman reviewed the bill and distributed a proposed amendment from the Department of Corrections (Attachment 5).

Senator Journey moved, Senator Donovan seconded, to delete Section 2. Following discussion the motion was withdrawn in favor of the proposed amendment.

Senator Journey moved, Senator Donovan seconded, to adopt the balloon amendment proposed by the Department of Corrections. Motion carried.

Senator Goodwin moved, Senator Haley seconded, to remove Sections 8, 9, and 10. Following discussion the motion was withdrawn.

Senator Journey moved, Senator Schmidt seconded to recommend **SB 506** as amended favorably for passage. Motion carried.

The meeting adjourned at 10:33 a.m. The next scheduled meeting is February 28, 2006.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2/22/06

NAME	REPRESENTING
JEANNE Goodwin	City of Wichita
Sandy Barnett	KCSO
Julie Madu	Gov Office
Chris Mehl	OJA
Denise Johnson	WU
Mark Tomb	LKM
Fuchman	KHP
Hal Hudson	NFIB/KS
Bob Keller	JCSO
Natalie Gibson	KSC
Brenda Harmon	KSC
Roger Wurholtz	KDOC
Tim Maddin	KDOC
JEREMY S BARCLAY	KDOC
Heather Morgan	JSA
Lindsey Douglas	Hein Law Firm

SENATE BILL No. 445

By Committee on Judiciary

1-25

PROPOSED AMENDMENT
Kevin Tubbesing / Hal Hudson
February 15, 2006

Senate Judiciary
2-22-06
Attachment 1

9 AN ACT concerning civil procedure; relating to attorney fees; amending
10 K.S.A. 60-2003 and repealing the existing section; also repealing K.S.A.
11 60-2006.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) Notwithstanding any other provision of law to the
15 contrary and subject to the provisions of this section, in any civil action
16 of any nature commenced or appealed in any court in this state, the court
17 shall award reasonable attorney fees to the prevailing party as part of the
18 courts judgment and taxed as part of the costs of the action in addition
19 to any costs otherwise assessed pursuant to K.S.A. 60-2003, and amend-
20 ments thereto. Such costs and fees shall be paid by the nonprevailing
21 party or parties. If more than one party is responsible for costs and fees,
22 such costs and fees shall be equitably apportioned by the court among
23 the responsible parties.

24 (b) As used in this section:

25 (1) "Civil action" ~~shall not include a personal injury action.~~

26 (2) "Personal injury action" means any action seeking damages for
27 personal injury or death.

28 (c) The provisions of this section shall apply to civil actions based on
29 causes of action accruing on or after July 1, 2006.

30 Sec. 2. K.S.A. 60-2003 is hereby amended to read as follows: 60-
31 2003. Items which may be included in the taxation of costs are:

32 (1) The docket fee as provided for by K.S.A. 60-2001, and amend-
33 ments thereto.

34 (2) The mileage, fees, and other allowable expenses of the sheriff,
35 other officer or private process server incurred in the service of process
36 or in effecting any of the provisional remedies authorized by this chapter.

37 (3) Publisher's charges in effecting any publication of notices author-
38 ized by law.

39 (4) Statutory fees and mileage of witnesses attending court or the
40 taking of depositions used as evidence.

41 (5) Reporter's or stenographic charges for the taking of depositions
42 used as evidence.

43 (6) The postage fees incurred pursuant to K.S.A. 60-303 or subsec-

means any action where each party is a business,
including a corporation, limited liability corporation,
partnership, limited liability partnership or sole
proprietorship

SENATE BILL No. 458

By Senators Schodorf and Petersen, Betts, Bruce, Donovan, McGinn,
Wagle and Wysong

L-26

PROPOSED AMENDMENT
Senator Betts
February 9, 2006

Senate Judiciary
2-22-06
Attachment 2

10 AN ACT concerning criminal street gangs; relating to criminal activity;
11 amending K.S.A. 2005 Supp. 22-3901 and repealing the existing
12 section.

civil penalties;

13
14 WHEREAS, The legislature finds that it has the substantial govern-
15 mental interest in protecting every person, regardless of race, color, re-
16 ligious, national origin, sex, age, ancestry, or disability, from fear, intimid-
17 ation and physical harm caused by the activities of criminal street gangs
18 and their members. It is not the intent of this act to interfere with the
19 exercise of the constitutionally protected rights of freedom of expression
20 and association; and

21 WHEREAS, The legislature recognizes the constitutional right of
22 every citizen to hold and express beliefs on any lawful subject whatsoever,
23 to lawfully associate with others who share similar beliefs, to petition
24 lawfully constituted authority for a redress of perceived grievances, and
25 to participate in the electoral process; and

26 WHEREAS, The legislature finds, however, that the state is facing a
27 mounting crisis caused by criminal street gangs whose members threaten
28 and terrorize peaceful citizens and commit a multitude of crimes. These
29 criminal street gang activities, both individually and collectively, present
30 a clear and present danger; and

31 WHEREAS, The state of Kansas has a compelling interest in pre-
32 venting criminal street gang activity, and the legislature finds that the
33 provisions of this act are necessary to maintain the public order and safety;

34 Now, therefore, *Be it enacted by the Legislature of the State of Kansas:*

35 New Section 1. This act shall be known and may be cited as the
36 criminal street gang prevention act.

37 New Sec. 2. As used in this act:

38 (a) "Criminal street gang" means any organization, association or
39 group, whether formal or informal:

40 (1) Consisting of three or more persons;

41 (2) having as one of its primary activities the commission of one or
42 more person felonies, person misdemeanors, felony violations of the uni-
43 form controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments

1 follows: 22-3901. The following unlawful activities and the use of real or
2 personal property in maintaining and carrying on such activities are
3 hereby declared to be common nuisances:

4 ~~(a) Commercial gambling;~~

5 ~~(b) dealing in gambling devices;~~

6 ~~(c) possession of gambling devices;~~

7 ~~(d) promoting obscenity;~~

8 ~~(e) promoting prostitution;~~

9 ~~(f) habitually promoting prostitution;~~

10 (g) violations of any law regulating controlled substances;

11 (h) habitual violations of any law regulating the sale ~~or exchange~~ of
12 alcoholic liquor or cereal malt beverages, by any person not licensed pur-
13 suant to chapter 41 of the Kansas Statutes Annotated ~~_____~~;

14 ~~(i) habitual violations of any law regulating the sale or exchange of~~
15 ~~cigarettes or tobacco products, by any person not licensed pursuant to~~
16 ~~article 33 of chapter 79 of the Kansas Statutes Annotated;~~

17 (j) any felony committed for the benefit of, at the direction of, or in
18 association with any criminal street gang, with the specific intent to pro-
19 mote, further or assist in any criminal conduct by gang members. As used
20 in this subsection, "criminal street gang" means any organization, asso-
21 ciation or group of three or more persons, whether formal or informal:

22 (1) *Consisting of three or more persons;*

23 (2) *having as one of its primary activities the commission of one or*
24 *more person felonies ~~or~~ person misdemeanors, felony violations of the*
25 *uniform controlled substances act, K.S.A. 65-4101 et seq., and amend-*
26 *ments thereto, or the comparable juvenile offenses, which if committed*
27 *by an adult would constitute the commission of such felonies or*
28 *misdemeanors;*

29 (3) *which has a common name or common identifying sign or sym-*
30 *bol; and*

31 (4) *whose members, individually or collectively engage in or have*
32 *engaged in the commission, attempted commission, conspiracy to commit*
33 *or solicitation of two or more person felonies ~~or~~ person misdemeanors,*
34 *felony violations of the uniform controlled substances act, K.S.A. 65-4101*
35 *et seq., and amendments thereto, or the comparable juvenile offenses,*
36 *which if committed by an adult would constitute the commission of such*
37 *felonies or misdemeanors, or any substantially similar offense from an-*
38 *other jurisdiction; or*

39 (k) *use of pyrotechnics, pyrotechnic devices or pyrotechnic materials*
40 *in violation of K.S.A. 2005-Supp. 31-170, and amendments thereto.*

41 Any real property used as a place where any such activities are carried
42 on or permitted to be carried on and any effects, equipment, parapher-
43 nalia, fixtures, appliances, musical instruments or other personal property

Reletter subsections.

and

1 designed for and used on such premises in connection with such unlawful
2 activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-
3 3904, and amendments thereto.

Insert New Sec. 8 and renumber remaining sections.

4 New Sec. 8. If any provision of this act or the application thereof to
5 any person or circumstances is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect with-
7 out the invalid provision or application, and to this end the provisions of
8 this act are declared to be severable.

9 Sec. 9. K.S.A. 2005 Supp. 22-3901 is hereby repealed.

10 Sec. 10. This act shall take effect and be in force from and after its
11 publication in the statute book.

Section 8. (a) Every private building or place used by members of a criminal street gang for the commission of a pattern of criminal gang activity is a nuisance and may be the subject of an injunction or cause of action for damages as provided for in this section.

(b) Any person may file a petition for injunctive relief with the appropriate court seeking eviction from or closure of any premises used for commission of a pattern of criminal gang activity by a criminal street gang. Upon proof by the plaintiff that the premises are being used by members of a criminal street gang for the commission of a pattern of criminal gang activity, the court may order the owner of record of the premises to remove or evict the persons from the premises and order the premises sealed, prohibit further use of the premises, or enter such order as may be necessary to prohibit the premises from being used for the commission of a pattern of criminal gang activity.

(c) Any action for injunction, damages, or other relief filed pursuant to this section shall proceed according to the provisions of the Kansas code of civil procedure.

(d) The court shall not issue an injunction or assess a civil penalty against any owner of record unless that person knew or should have known or had been notified of the use of the premises for a pattern of criminal gang activity. Any injunctive relief other than that specifically authorized in subsection (f) of this section shall be limited to that which is necessary to protect the health and safety of the residents or the public or that which is necessary to prevent further criminal activity.

(e) A petition for injunction shall not be filed until thirty days after notice of the unlawful use or criminal conduct has been provided to the owner of record by mail, return receipt requested, postage prepaid, to the last known address. No injunctive relief authorized by subsection (f) of this section shall be issued in the form of a temporary restraining order.

(f) If the court has previously issued injunctive relief ordering the owner of record of the premises to close the premises or otherwise to keep the premises from being used for the commission of a pattern of criminal gang activity, the court, upon proof that the owner of record has failed to comply with the terms of the injunction and that the premises continue to be used for the commission of a pattern of criminal gang activity, may do one or more of the following:

(1) Order the premises demolished and cleared at the cost of the owner.

(2) Order the premises sold at public auction and the proceeds from the sale, less the costs of the sale and the expenses of bringing the action, delivered to the owner.

(3) Order the owner of record to pay damages to persons or local governing authorities who have been damaged or injured or have incurred expense as a result of the owner's failure to take reasonable steps or precautions to comply with the terms of any injunction issued pursuant to the provisions of this section.

(4) Assess a civil penalty not to exceed five thousand dollars against the defendant based upon the severity of the nuisance and its duration. In establishing the amount of any civil penalty, the

court shall consider all of the following factors:

(A) The actions taken by the defendant to mitigate or correct the problem at the private building or place or the reasons why no such action was taken;

(B) the failure of the plaintiff to provide notice as required by subsection (e); and

(C) any other factor deemed relevant by the court.

(g) No nonprofit or charitable organization, which is conducting its affairs with ordinary care or skill, and no governmental entity shall be enjoined pursuant to the provisions of this section.

(h) Nothing in this section shall preclude any aggrieved person from seeking any other remedy provided by law.

New Sec. 5. When a criminal street gang member is arrested for
~~defendant is charged with a second or subse-~~
~~quent violation of either section 3 or 4, and amendments thereto, or both,~~
~~and the underlying offense upon which the defendant is charged is a~~
person felony, bail shall be at least \$50,000 cash or surety, unless the
court determines on the record that the defendant is not likely to reof-
fend, an appropriate intensive pre-trial supervision program is available
and the defendant agrees to comply with the mandate of such pre-trial
supervision.

Proposed amendment
Senator Donovan
February 22, 2006

SENATE BILL No. 458

By Senators Schodorf and Petersen, Betts, Bruce, Donovan, McGinn,
Wagle and Wysong

1-26

PROPOSED AMENDMENT
SENATOR HALEY
February 15, 2006

Senate Judiciary
2-22-06
Attachment 4

10 AN ACT concerning criminal street gangs; relating to criminal activity;
11 amending K.S.A. 2005 Supp. 22-3901 and repealing the existing
12 section.

13
14 ~~[WHEREAS, The legislature finds that it has the substantial govern-~~
15 ~~mental interest in protecting every person, regardless of race, color, re-~~
16 ~~ligion, national origin, sex, age, ancestry, or disability, from fear, intimid-~~
17 ~~ation and physical harm caused by the activities of criminal street gangs~~
18 ~~and their members. It is not the intent of this act to interfere with the~~
19 ~~exercise of the constitutionally protected rights of freedom of expression~~
20 ~~and association; and~~

21 ~~WHEREAS, The legislature recognizes the constitutional right of~~
22 ~~every citizen to hold and express beliefs on any lawful subject whatsoever,~~
23 ~~to lawfully associate with others who share similar beliefs, to petition~~
24 ~~lawfully constituted authority for a redress of perceived grievances, and~~
25 ~~to participate in the electoral process; and~~

26 ~~WHEREAS, The legislature finds, however, that the state is facing a~~
27 ~~mounting crisis caused by criminal street gangs whose members threaten~~
28 ~~and terrorize peaceful citizens and commit a multitude of crimes. These~~
29 ~~criminal street gang activities, both individually and collectively, present~~
30 ~~a clear and present danger; and~~

31 ~~WHEREAS, The state of Kansas has a compelling interest in pre-~~
32 ~~venting criminal street gang activity, and the legislature finds that the~~
33 ~~provisions of this act are necessary to maintain the public order and safety;~~

34 ~~Now, therefore,]Be it enacted by the Legislature of the State of Kansas:~~
35 ~~New Section 1. This act shall be known and may be cited as the~~
36 ~~criminal street gang prevention act.~~

37 ~~New Sec. 2. As used in this act:~~

38 ~~(a) "Criminal street gang" means any organization, association or~~
39 ~~group, whether formal or informal:~~

40 ~~(1) Consisting of three or more persons;~~

41 ~~(2) having as one of its primary activities the commission of one or~~
42 ~~more person felonies, person misdemeanors, felony violations of the uni-~~
43 ~~form controlled substances act, K.S.A. 65-4101 et seq., and amendments~~

Proposed amendment
Department of Corrections
February 22, 2006

Session of 2006

SENATE BILL No. 506

By Committee on Judiciary

2-3

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

15
16 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

31 ~~New Sec. 2. (a) It shall be unlawful for an offender to reside within~~
32 ~~2,000 feet of a licensed child care facility, registered family day care home~~
33 ~~or the real property of any school upon which is located a structure used~~
34 ~~by a unified school district or an accredited nonpublic school for student~~
35 ~~instruction or attendance or extracurricular activities of pupils enrolled in~~
36 ~~kindergarten or any grades one through 12.~~

37 ~~(b) Violation of this section is a class A nonperson misdemeanor.~~

38 ~~(c) This section shall not apply to any of the following:~~

39 ~~(1) An offender who is serving a sentence at any state correctional~~
40 ~~institution or facility, conservation camp, state security hospital, juvenile~~
41 ~~correctional facility, community correction center or facility for detention~~
42 ~~or confinement, juvenile detention facility or jail.~~

43 ~~(2) An offender who is subject to an order of commitment pursuant~~

[Note Section 2 is identical to Sec 1
of SB 478]

Section 2. K.S.A. 2005 Supp. 74-9501 is hereby amended to read as follows: 74-9501. (a) There is hereby established the Kansas criminal justice coordinating council. (b) The council shall consist of the governor or designee, the chief justice of the supreme court or designee, the attorney general or designee, the secretary of corrections, the superintendent of the highway patrol, the commissioner of juvenile justice and the director of the Kansas bureau of investigation. (c) The governor shall designate staff to the Kansas criminal justice coordinating council. The staff shall attend all meetings of the council, be responsible for keeping a record of council meetings, prepare reports of the council and perform such other duties as directed by the council. (d) The council shall elect a chairperson and vice-chairperson from among the members of the council. (e) The council shall: (1) Appoint a standing local government advisory group to consult and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, a member of a city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses; (2) define and analyze issues and processes in the criminal justice system, identify alternative solutions and make recommendations for improvements; (3) perform such criminal justice studies or tasks as requested by the governor, the attorney general, the legislature or the chief justice, as deemed appropriate or feasible by the council; (4) oversee development and management of a criminal justice database including assuming the designation and functions of the state statistical analysis center currently assigned to the Kansas bureau of investigation pursuant to K.S.A. 75-712a and amendments thereto. All criminal justice agencies as defined in subsection (c) of K.S.A. 22-4701 and

1 to K.S.A. 59-29a01 et seq., and amendments thereto.

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

5 ~~(4) An offender who is a minor or a ward under a guardianship.~~

6 ~~(d) For purposes of this section:~~

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

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

13 ~~(e) This section shall be part of and supplemental to the Kansas of-~~
 14 ~~fender registration act.~~

15 Sec. 3. K.S.A. 2005 Supp. 8-243 is hereby amended to read as fol-
 16 lows: 8-243. (a) Upon payment of the required fee, the division shall issue
 17 to every applicant qualifying under the provisions of this act the driver's
 18 license as applied for by the applicant. Such license shall bear the class
 19 or classes of motor vehicles which the licensee is entitled to drive, a
 20 distinguishing number assigned to the licensee, the name, date of birth,
 21 residence address, and a brief description of the licensee, a colored pho-
 22 tograph of the licensee, a facsimile of the signature of the licensee or a
 23 space upon which the licensee shall write such licensee's usual signature
 24 with pen and ink immediately upon receipt of the license and the state-
 25 ment provided for in subsection (b). No driver's license shall be valid
 26 until it has been signed by the licensee. All drivers' licenses issued to
 27 persons under the age of 21 years shall be readily distinguishable from
 28 licenses issued to persons age 21 years or older. In addition, all drivers'
 29 licenses issued to persons under the age of 18 years shall also be readily
 30 distinguishable from licenses issued to persons age 18 years or older. On
 31 and after July 1, 2004, the secretary of revenue shall implement a vertical
 32 format to make drivers' licenses issued to persons under the age of 21
 33 more readily distinguishable. Except as otherwise provided, on or after
 34 July 1, 2004, no driver's license issued by the division shall be valid until
 35 a colored photograph of such licensee has been taken and verified before
 36 being placed on the driver's license. The secretary of revenue shall pre-
 37 scribe a fee of not more than \$4 and upon payment of such fee the division
 38 shall cause a colored photograph of such applicant to be placed on the
 39 driver's license. Upon payment of such fee prescribed by the secretary of
 40 revenue, plus payment of the fee required by K.S.A. 8-246, and amend-
 41 ments thereto, for issuance of a new license, the division shall issue to
 42 such licensee a new license containing a colored photograph of such li-
 43 censee. A driver's license which does not contain a colored photograph

amendments thereto and the juvenile justice authority shall provide any data or information, including juvenile offender information which is requested by the council, in a form and manner established by the council, in order to facilitate the development and management of the criminal justice council database; (5) develop and oversee reporting of all criminal justice federal funding available to the state or local units of government including assuming the designation and functions of administering the United States bureau of justice assistance grants; (6) form such task groups as necessary and appoint individuals who appropriately represent law enforcement, the judiciary, legal profession, state, local, or federal government, the public, or other professions or groups as determined by the council, to represent the various aspects of the issue being analyzed or studied, when analyzing criminal justice issues and performing criminal justice studies. Members of the legislature may be appointed ex officio members to such task groups. A member of the council shall serve as the chairperson of each task group appointed by the council. The council may appoint other members of the council to any task group formed by the council; and—(7) review reports submitted by each task group named by the council and shall submit the report with the council's recommendations pertaining thereto 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.; and (8) (A) *Establish the sex offender policy board to consult and advise the council concerning issues and policies pertaining to the treatment, sentencing, rehabilitation, reintegration and supervision of sex offenders. (B) The sex offender policy board shall consist of the secretary of corrections, the commissioner of juvenile justice, the secretary of social and rehabilitation services, the director of the Kansas bureau of investigation and the chief justice of the supreme court or the chief justice's designee and two persons*

[Balloon insert continued on next page]

1 of the licensee as required may be issued to persons exempted from such
 2 requirement. Any such license shall be valid for the purposes of the motor
 3 vehicle drivers' license act and the division shall set forth upon such
 4 driver's license the words "valid without photo." Any person who is out-
 5 side the state and for whom the division provides for renewal of the
 6 driver's license by mail is exempt from the requirement to have a colored
 7 photograph of such person placed on such person's driver's license. Any
 8 person belonging to a religious organization which has a basic objection
 9 to having their picture taken may sign a statement to that effect and such
 10 person shall then be exempt from the picture requirements of this section.

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

24 (c) Any person who is deaf or hard of hearing may request that the
 25 division issue to such person a driver's license which is readily distinguish-
 26 able from drivers' licenses issued to other drivers and upon such request
 27 the division shall issue such license. Drivers' licenses issued to persons
 28 who are deaf or hard of hearing and under the age of 21 years shall be
 29 readily distinguishable from drivers' licenses issued to persons who are
 30 deaf or hard of hearing and 21 years of age or older.

31 (d) *A driver's license issued to a person required to be registered*
 32 *under K.S.A. 22-4901 et seq., and amendments thereto, shall be assigned*
 33 *a distinguishing number by the division which will readily indicate to law*
 34 *enforcement officers that such person is a registered offender. The division*
 35 *shall develop a numbering system to implement the provisions of this*
 36 *subsection.*

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

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

42 (2) (B) licenses issued to persons who are less than 21 years of age
 43 or are 65 years of age or older shall expire on the fourth anniversary of

appointed by the criminal justice
 coordinating council. Of the persons
 appointed by the criminal justice
 coordinating 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.

1 the date of birth of the licensee which is nearest the date of application;
2 or

3 ~~(C)~~ (C) any commercial drivers license shall expire on the fourth an-
4 niversary of the date of birth of the licensee which is nearest the date of
5 application; or

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

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

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

29 (c) At least 30 days prior to the expiration of a person's license the
30 division shall mail a notice of expiration or renewal application to such
31 person at the address shown on the license. The division shall include
32 with such notice: (1) A copy of the eyesight examination form; (2) a copy
33 of the written examination prescribed by subsection (e); (3) a copy of the
34 Kansas driver's manual, prepared pursuant to K.S.A. 8-266b, and amend-
35 ments thereto; and (4) the written information required under subsection
36 (g).

37 (d) Every driver's license shall be renewable on or before its expira-
38 tion upon application and payment of the required fee and successful
39 completion of the examinations required by subsection (e). Application
40 for renewal of a valid driver's license shall be made to the division in
41 accordance with rules and regulations adopted by the secretary of reve-
42 nue. Such application shall contain all the requirements of subsection (b)
43 of K.S.A. 8-240, and amendments thereto. Upon satisfying the foregoing

1 requirements of this subsection, and if the division makes the findings
2 required by K.S.A. 8-235b, and amendments thereto, for the issuance of
3 an original license, the license shall be renewed without examination of
4 the applicant's driving ability. If the division finds that any of the state-
5 ments relating to revocation, suspension or refusal of licenses required
6 under subsection (b) of K.S.A. 8-240, and amendments thereto, are in
7 the affirmative, or if it finds that the license held by the applicant is not
8 a valid one, or if the applicant has failed to make application for renewal
9 of such person's license on or before the expiration date thereof, the
10 division may require the applicant to take an examination of ability to
11 exercise ordinary and reasonable control in the operation of a motor ve-
12 hicle as provided in K.S.A. 8-235d, and amendments thereto.

13 (e) (1) Prior to renewal of a driver's license, the applicant shall pass
14 an examination of eyesight and a written examination of ability to read
15 and understand highway signs regulating, warning and directing traffic
16 and knowledge of the traffic laws of this state. Such examination shall be
17 equivalent to the tests required for an original driver's license under
18 K.S.A. 8-235d, and amendments thereto. A driver's license examiner shall
19 administer the examinations without charge and shall report the results
20 of the examinations on a form provided by the division, which shall be
21 submitted by the applicant to the division at the time such applicant
22 applies for license renewal.

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

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

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

41 (5) An applicant who is denied a license under this subsection (e)
42 may reapply for renewal of such person's driver's license, except that if
43 such application is not made within 90 days of the date the division sent

1 notice to the applicant that the license would not be renewed, the appli-
2 cant shall proceed as if applying for an original driver's license. If the
3 applicant has been denied renewal of such person's driver's license be-
4 cause such applicant failed to pass the written examination, the applicant
5 shall pay an examination fee of \$1.50 to take the test again.

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

19 (7) Seizure disorders which are controlled shall not be considered a
20 disability. In cases where such seizure disorders are not controlled, the
21 director or the medical advisory board may recommend that such person
22 be issued a driver's license to drive class C or M vehicles and restricted
23 to operating such vehicles as the division determines to be appropriate
24 to assure the safe operation of a motor vehicle by the licensee. Restricted
25 licenses issued pursuant to this paragraph shall be subject to suspension
26 or revocation. For the purpose of this paragraph, seizure disorders which
27 are controlled means that the licensee has not sustained a seizure involv-
28 ing a loss of consciousness in the waking state within six months preceding
29 the application or renewal of a driver's license and whenever a person
30 licensed to practice medicine and surgery makes a written report to the
31 division stating that the licensee's seizures are controlled. The report shall
32 be based on an examination of the applicant's medical condition not more
33 than three months prior to the date the report is submitted. Such report
34 shall be made on a form furnished to the applicant by the division. Any
35 physician who makes such report shall not be liable for any damages
36 which may be attributable to the issuance or renewal of a driver's license
37 and subsequent operation of a motor vehicle by the licensee.

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

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

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

6 (2) written information describing the organ donation registry pro-
7 gram maintained by the Kansas federally designated organ procurement
8 organization. The written information required under this paragraph shall
9 include, in a type, size and format that is conspicuous in relation to the
10 surrounding material, the address and telephone number of Kansas' fed-
11 erally designated organ procurement organization, along with an advisory
12 to call such designated organ procurement organization with questions
13 about the organ donor registry program;

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

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

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

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

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

28 (6) if an applicant indicates a willingness under this subsection to have
29 such applicant's name placed on the organ donor registry, the division
30 shall within 10 days forward the applicant's name, gender, date of birth
31 and most recent address to the organ donor registry maintained by the
32 Kansas federally designated organ procurement organization. The divi-
33 sion may forward information under this subsection by mail or by elec-
34 tronic means. The division shall not maintain a record of the name or
35 address of an individual who indicates a willingness to have such person's
36 name placed on the organ donor registry after forwarding that informa-
37 tion to the organ donor registry under this subsection. Information about
38 an applicant's indication of a willingness to have such applicant's name
39 placed on the organ donor registry that is obtained by the division and
40 forwarded under this paragraph shall be confidential and not disclosed.

41 (h) *Notwithstanding any other provisions of law, any offender under*
42 *subsection (a)(1)(D) who held a valid driver's license on the effective date*
43 *of this act may continue to operate motor vehicles until the next anniver-*

1 sary of the date of birth of such offender. Upon such date such driver's
2 license shall expire and the offender shall be subject to the provisions of
3 this section.

4 Sec. 5. K.S.A. 2005 Supp. 22-4904 is hereby amended to read as
5 follows: 22-4904. (a) (1) Except as provided in subsection (a)(2), within
6 10 days of the offender coming into any county in which the offender
7 resides or is temporarily domiciled for more than 10 days, the offender
8 shall register with the sheriff of the county.

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

15 (3) Upon registration with a school or educational institution, a non-
16 resident student attending such school or educational institution shall
17 register with the sheriff within 10 days of the commencement of the
18 school term.

19 (4) Upon commencement of employment, a nonresident worker shall
20 register with the sheriff within 10 days of the commencement date of
21 employment.

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

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

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

31 (D) inform the nonresident student offender that the offender must
32 give written notice to the sheriff and the Kansas bureau of investigation
33 of any change or termination of attendance at the school or educational
34 institution the offender is attending, within 10 days of such change or
35 termination;

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

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

1 such change in residence;

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

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

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

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

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

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

26 (7) Notwithstanding any other provision of law, if a diversionary
27 agreement or probation order, either adult or juvenile, or a juvenile of-
28 fender sentencing order, requires registration under the Kansas offender
29 registration act then all provisions of that act shall apply, except that the
30 term of registration shall be controlled by such diversionary agreement,
31 probation order or juvenile offender sentencing order.

32 (b) (1) If any person required to register as provided in this act
33 changes the address of the person's residence, the offender, within 10
34 days, shall inform in writing the Kansas bureau of investigation of the new
35 address.

36 (2) After receipt of the change of address, the Kansas bureau of in-
37 vestigation shall forward this information to the law enforcement agency
38 having jurisdiction of the new place of residence within 10 days of such
39 receipt of the change of address.

40 (c) For any person required to register as provided in this act, every
41 90 days after the person's initial registration date during the period the
42 person is required to register, the following applies:

43 (1) The Kansas bureau of investigation shall mail a nonforwardable

1 verification form to the last reported address of the person.

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

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

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

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

17 Sec. 6. K.S.A. 2005 Supp. 22-4905 is hereby amended to read as
18 follows: 22-4905. (a) (1) Any offender, who is discharged or paroled from
19 a prison, hospital or other institution or facility involving a violation of any
20 crime or confinement as provided in subsection (a), (b), (d) or (f) of K.S.A.
21 22-4902 and amendments thereto, prior to discharge, parole or release,
22 shall be informed by the staff of the facility in which the offender was
23 confined of the duty to register as provided in this act.

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

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

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

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

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

40 (vi) inform the offender that if the offender expects to or subse-
41 quently becomes enrolled in any institution of higher education in the
42 state of Kansas on a full-time or part-time basis or have any full-time or
43 part-time employment at an institution of higher education in the state

1 of Kansas, with or without compensation, for more than 14 days or an
2 aggregate period exceeding 30 days in one calendar year, the offender
3 must provide written notice to the Kansas bureau of investigation within
4 10 days upon commencement of enrollment or employment;

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

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

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

16 (B) The staff of the facility shall give one copy of the form to the
17 person, within three days, and shall send two copies of the form provided
18 by subsection (2)(A)(v) to the Kansas bureau of investigation, which shall
19 then forward one copy to the law enforcement agency having jurisdiction
20 where the person expects to reside upon discharge, parole or release. The
21 Kansas bureau of investigation must immediately ensure that such infor-
22 mation is entered in the state law enforcement record system. The Kansas
23 bureau of investigation shall transmit such conviction data and finger-
24 prints to the federal bureau of investigation.

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

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

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

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

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

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

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

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

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

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

23 (B) The court shall give one copy of the form to the person and,
24 within three days, shall send two copies of the form provided by subsec-
25 tion (2)(A)(v) to the Kansas bureau of investigation which shall then for-
26 ward one copy to the law enforcement agency having jurisdiction where
27 the person expects to reside upon release. The Kansas bureau of inves-
28 tigation must immediately ensure that such information is entered in the
29 state law enforcement record system. The Kansas bureau of investigation
30 shall transmit such conviction data and fingerprints to the federal bureau
31 of investigation.

32 Sec. 7. K.S.A. 2005 Supp. 22-4906 is hereby amended to read as
33 follows: 22-4906. (a) Any person required to register as provided in this
34 act shall be required to register: (1) Upon the first conviction of a sexually
35 violent crime as defined in subsection (c) of K.S.A. 22-4902, and amend-
36 ments thereto, any offense as defined in subsection (a) of K.S.A. 22-4902,
37 and amendments thereto, or any offense as defined in subsection (d) of
38 K.S.A. 22-4902, and amendments thereto, if not confined, for a period of
39 10 years after conviction, or, if confined, for a period of 10 years after
40 paroled, discharged or released, whichever date is most recent. The ten-
41 year period shall not apply to any person while the person is incarcerated
42 in any jail or correctional facility. The ten-year registration requirement
43 does not include any time period when any person who is required to

1 register under this act knowingly or willfully fails to comply with the
2 registration requirement; or (2) upon a second or subsequent conviction
3 for such person's lifetime.

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

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

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

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

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

28 (g) (1) Notwithstanding any other provisions of this section *and ex-*
29 *cept as provided in paragraph (2)*, a person who is adjudicated as a ju-
30 venile offender for an act which if committed by an adult would constitute
31 the commission of a sexually violent crime set forth in subsection (c) of
32 K.S.A. 22-4902, and amendments thereto, shall be required to register
33 until such person reaches 18 years of age, at the expiration of five years
34 from the date of adjudication or, if confined, from release from confine-
35 ment, whichever date occurs later. The five-year period shall not apply
36 to any person while that person is incarcerated in any jail, juvenile facility
37 or correctional facility. The five-year registration requirement does not
38 include any time period when any person who is required to register
39 under this act knowingly or willfully fails to comply with the registration
40 requirement.

41 (2) *A judge may relieve such juvenile offender of the duty to register*
42 *pursuant to this subsection if the judge, on the record, finds substantial*
43 *and compelling reasons therefor. If such juvenile offender violates a con-*

1 dition of release during the term of the conditional release, the judge may
2 require the juvenile offender to register pursuant to paragraph (1).

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

6 Sec. 8. K.S.A. 59-29a02 is hereby amended to read as follows: 59-
7 29a02. As used in this act:

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

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

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

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

22 (e) "Sexually violent offense" means:

23 (1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

24 (2) indecent liberties with a child as defined in K.S.A. 21-3503 and
25 amendments thereto;

26 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-
27 3504 and amendments thereto;

28 (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of
29 K.S.A. 21-3505 and amendments thereto;

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

32 (6) indecent solicitation of a child as defined in K.S.A. 21-3510 and
33 amendments thereto;

34 (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-
35 3511 and amendments thereto;

36 (8) sexual exploitation of a child as defined in K.S.A. 21-3516 and
37 amendments thereto;

38 (9) aggravated sexual battery as defined in K.S.A. 21-3518 and
39 amendments thereto;

40 (10) aggravated incest as defined in K.S.A. 21-3603 and amendments
41 thereto;

42 (11) any conviction for a felony offense in effect at any time prior to
43 the effective date of this act, that is comparable to a sexually violent

1 offense as defined in subparagraphs (1) through (11) or any federal or
2 other state conviction for a felony offense that under the laws of this state
3 would be a sexually violent offense as defined in this section;

4 (12) an attempt, conspiracy or criminal solicitation, as defined in
5 K.S.A. 21-3301, 21-3302 and 21-3303, and amendments thereto, of a
6 sexually violent offense as defined in this subsection; or

7 (13) any act which either at the time of sentencing for the offense or
8 subsequently during civil commitment proceedings pursuant to this act,
9 has been determined beyond a reasonable doubt to have been sexually
10 motivated.

11 (f) "Agency with jurisdiction" means that agency which releases upon
12 lawful order or authority a person serving a sentence or term of confine-
13 ment and includes the department of corrections, the department of so-
14 cial and rehabilitation services and the Kansas parole board.

15 (g) "Person" means an individual who is a potential or actual subject
16 of proceedings under this act.

17 (h) "Treatment staff" means the persons, agencies or firms employed
18 by or contracted with the secretary to provide treatment, supervision or
19 other services at the sexually violent predator facility.

20 (i) "Transitional release" means any halfway house, work release, *sex-*
21 *ually violent predator treatment facility* or other placement designed to
22 assist the person's adjustment and reintegration into the community once
23 released from commitment.

24 (j) "Secretary" means the secretary of the department of social and
25 rehabilitation services.

26 Sec. 9. K.S.A. 59-29a07 is hereby amended to read as follows: 59-
27 29a07. (a) The court or jury shall determine whether, beyond a reasonable
28 doubt, the person is a sexually violent predator. If such determination
29 that the person is a sexually violent predator is made by a jury, such
30 determination shall be by unanimous verdict of such jury. Such deter-
31 mination may be appealed. If the court or jury determines that the person
32 is a sexually violent predator, the person shall be committed to the custody
33 of the secretary of social and rehabilitation services for control, care and
34 treatment until such time as the person's mental abnormality or person-
35 ality disorder has so changed that the person is safe to be at large. Such
36 control, care and treatment shall be provided at a facility operated by the
37 department of social and rehabilitation services.

38 (b) At all times, persons committed for control, care and treatment
39 by the department of social and rehabilitation services pursuant to K.S.A.
40 59-29a01 *et seq.*, and amendments thereto, shall be kept in a secure fa-
41 cility and such persons shall be segregated at all times from any other
42 patient under the supervision of the secretary of social and rehabilitation
43 services and commencing June 1, 1995, such persons committed pursuant

1 to K.S.A. 59-29a01 *et seq.*, and amendments thereto, shall be kept in a
2 facility or building separate from any other patient under the supervision
3 of the secretary. *The provisions of this subsection shall apply to any fa-*
4 *cility or building utilized in any transitional release program or condi-*
5 *tional release program.*

6 (c) The department of social and rehabilitation services is authorized
7 to enter into an interagency agreement with the department of correc-
8 tions for the confinement of such persons. Such persons who are in the
9 confinement of the secretary of corrections pursuant to an interagency
10 agreement shall be housed and managed separately from offenders in the
11 custody of the secretary of corrections, and except for occasional instances
12 of supervised incidental contact, shall be segregated from such offenders.

13 (d) If any person while committed to the custody of the secretary
14 pursuant to K.S.A. 59-29a01 *et seq.*, and amendments thereto, shall be
15 taken into custody by any law enforcement officer as defined in K.S.A.
16 21-3110 and amendments thereto pursuant to any parole revocation pro-
17 ceeding or any arrest or conviction for a criminal offense of any nature,
18 upon the person's release from the custody of any law enforcement of-
19 ficer, the person shall be returned to the custody of the secretary for
20 further treatment pursuant to K.S.A. 59-29a01 *et seq.*, and amendments
21 thereto. During any such period of time a person is not in the actual
22 custody or supervision of the secretary, the secretary shall be excused
23 from the provisions of K.S.A. 59-29a08 and amendments thereto, with
24 regard to providing that person an annual examination, annual notice and
25 annual report to the court, except that the secretary shall give notice to
26 the court as soon as reasonably possible after the taking of the person
27 into custody that the person is no longer in treatment pursuant to K.S.A.
28 59-29a01 *et seq.*, and amendments thereto, and notice to the court when
29 the person is returned to the custody of the secretary for further
30 treatment.

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

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

40 (g) If the person charged with a sexually violent offense has been
41 found incompetent to stand trial, and is about to be released pursuant to
42 K.S.A. 22-3305 and amendments thereto, and such person's commitment
43 is sought pursuant to subsection (a), the court shall first hear evidence

1 and determine whether the person did commit the act or acts charged.
2 The hearing on this issue must comply with all the procedures specified
3 in this section. In addition, the rules of evidence applicable in criminal
4 cases shall apply, and all constitutional rights available to defendants at
5 criminal trials, other than the right not to be tried while incompetent,
6 shall apply. After hearing evidence on this issue, the court shall make
7 specific findings on whether the person did commit the act or acts
8 charged, the extent to which the person's incompetence or developmental
9 disability affected the outcome of the hearing, including its effect on the
10 person's ability to consult with and assist counsel and to testify on such
11 person's own behalf, the extent to which the evidence could be recon-
12 structed without the assistance of the person and the strength of the
13 prosecution's case. If after the conclusion of the hearing on this issue, the
14 court finds, beyond a reasonable doubt, that the person did commit the
15 act or acts charged, the court shall enter a final order, appealable by the
16 person, on that issue, and may proceed to consider whether the person
17 should be committed pursuant to this section.

18 Sec. 10. K.S.A. 59-29a11 is hereby amended to read as follows: 59-
19 29a11. (a) Nothing in this act shall prohibit a person from filing a petition
20 for transitional release, conditional release or final discharge pursuant to
21 this act. However, if a person has previously filed a petition for transitional
22 release, conditional release or final discharge without the secretary of the
23 department of social and rehabilitation services approval and the court
24 determined either upon review of the petition or following a hearing, that
25 the petitioner's petition was frivolous or that the petitioner's condition
26 had not so changed that the person was safe to be at large, then the court
27 shall deny the subsequent petition unless the petition contains facts upon
28 which a court could find the condition of the petitioner had so changed
29 that a hearing was warranted. Upon receipt of a first or subsequent pe-
30 tition from committed persons without the secretary's approval, the court
31 shall endeavor whenever possible to review the petition and determine if
32 the petition is based upon frivolous grounds and if so shall deny the pe-
33 tition without a hearing.

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

43 (c) *Transitional release or conditional release facilities or buildings*

New Section 11. Cities and Counties shall be prohibited from adopting ordinances, resolutions, or regulations establishing residential restrictions for offenders as defined by K.S.A. 22-4902, and amendments thereto.

1 shall be subject to all regulations applicable to other property and build-
2 ings located in the zone or area that are imposed by any municipality
3 through zoning ordinance, resolution or regulation, such municipality's
4 building regulatory codes, subdivision regulations or other nondiscrimi-
5 natory regulations.

Sec. 12.

6 ~~Sec. 11.~~ K.S.A. 59-29a02, 59-29a07 and 59-29a11 and K.S.A. 2005
7 Supp. 8-243, 8-247, 22-4904, 22-4905 and 22-4906 are hereby repealed.

and 74-9501

8 ~~Sec. 12.~~ This act shall take effect and be in force from and after its
9 publication in the statute book.

Sec. 13