

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Pat Colloton at 1:30 p.m. on March 14, 2011 in Room 144-S of the Capitol.

All members were present

Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes
Jason Thompson, Office of the Revisor of Statutes
Lauren Douglass, Legislative Research
Robert Allison-Gallimore, Legislative Research
Jackie Lunn, Committee Assistant

Conferees appearing before the Committee:

Detective M.T. Brown, Lawrence Police Department

Others attending:

See attached.

Chairperson Colloton called the meeting to order and opened the floor for consideration of **HB 2322- Amendments to the Kansas offender registration act.**

Representative Moxley made a motion to pass HB 2322 out favorably for passage. Representative Wolf seconded.

Chairperson Colloton called the Committee's attention to the balloon prepared by Jason Thompson, Office of the Revisor of Statutes, with all the previous changes discussed by the committee in earlier meetings. (Attachment 1) and the amendment containing the new language regarding 3 tiers of offenders. (Attachment 2)

Representative Moxley made a motion to move to a 3 tier system on the bill. Representative Wolf seconded.

A short question and answer session followed.

Chairperson Colloton called for a vote on the motion on the floor to change to a tier 3 in HB 2322. Motion carried.

A discussion followed on the bill with Jason Thompson, Office of the Revisor of Statutes, explaining the latest balloon on the bill.

Representative Smith made a substitute motion to keep failure to report regarding the drug and violent offenders consistent by making them a level 6, level 5, and a level 3. Representative Wolf seconded.

A discussion followed.

Representative Smith made a motion to pass HB 2322 out favorably as amended. Representative Cassidy seconded. Motion carried.

Chairperson Colloton opened the hearing on **HB 2217-Concerning authorized interception of wire, oral or electronic communications; issuance of order**, and called on Detective M.T. Brown of the Lawrence Police Department to give his testimony as a proponent of the bill.

Detective Brown presented written copy of his testimony. (Attachment 3) He stated the bill would allow thorough and accurate investigations of crimes that occur within the state of Kansas without violating any citizen's protection from unreasonable searches.

With no others to testify or speak to the bill, Chairperson Colloton closed the hearing on **HB 2217** and opened the floor for a question and answer session on the bill.

Chairperson Colloton turned the Committee's attention to **SB 176- Concerning criminal procedure; relating and bond; relating to house arrest; relating to employment of county and municipal prisoners, and opened the floor for consideration.**

Representative Wolf made a motion to pass SB 176 out favorably. Representative Roth seconded.

A discussion followed.

Representative Moxley substituted a motion to amend the body of SB 37-Concerning criminal procedure; relating to conditions of release and bond; relating to house arrest; relating to employment of county and municipal prisoners, into SB 176. Representative Kelly seconded.

Chairperson Colloton called on Sean Ostrow, Office of the Revisor of Statutes, to explain **SB 37**. He also explained an amendment he had prepared for Representative Smith. (Attachment 4)

Representative Smith made a motion to adopt his amendment. Representative Goodman seconded.

A discussion followed on the amendment.

Chairperson Colloton called for a vote on the floor on the Smith Amendment. Motion failed.

The discussion continued on the bill as amended regarding **SB 176-Concerning criminal procedure; relating to conditions of release and bond; relating to house arrest; relating to employment of county and municipal prisoners.**

Chairperson Colloton called for a vote on the floor to put SB 37 as amended, into SB 176. Motion carried.

Chairperson Colloton called on Sean Ostrow, Office of the Revisor of Statutes, to explain **HB 2319-Authorizing house arrest for certain misdemeanors and nongrid felonies and updating definitions,** along with the changes from the previous version of the bill.

A discussion followed.

Representative Wolf made a motion to move HB 2319 out favorably as amended for passage. Representative Smith seconded.

A discussion followed regarding prison bed impact. Chairperson Colloton called on Sarah Fertig, Executive Director, Kansas Sentencing Commission, to join the discussion verifying the bed impact.

Representative Kinzer made a motion to pass SB 176 out favorable as amended. Representative Wolf seconded. Motion carried.

Chairperson Colloton reminded the Committee about the play at the Topeka Correctional Facility which will be tonight. She adjourned the meeting at 3:00 p.m. with the next scheduled meeting for tomorrow, March 15, 2011 in room 144 S.

DATE: 3-14-11

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HOUSE BILL No. 2322

By Committee on Corrections and Juvenile Justice

2-11

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RS - JThompson - 03/14/11

AN ACT concerning the Kansas offender registration act; amending
K.S.A. 22-4901, 22-4903, 22-4908, 22-4909 and 22-4911 and K.S.A.
2010 Supp. 22-4902, 22-4904, 22-4905, 22-4906, 22-4907 and 22-
4913 and repealing the existing sections; also repealing K.S.A. 22-
4912.

and 38-2312 and section 254 of chapter
136 of the 2010 Session Laws of Kansas

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

Section 1. K.S.A. 22-4901 is hereby amended to read as follows: 22-
4901. K.S.A. 22-4901 through ~~22-4910~~ 22-4911 and 22-4913, and
amendments thereto, shall be known and may be cited as the Kansas
offender registration act.

Sec. 2. K.S.A. 2010 Supp. 22-4902 is hereby amended to read as
follows: 22-4902. As used in the Kansas offender registration act, unless
the context otherwise requires:

(a) "Offender" means:

(1) A sex offender, as defined in subsection (b);

(2) a violent offender, as defined in subsection (d) (e);

~~(3) a sexually violent predator as defined in subsection (f);~~

~~(4) any person who, on and after May 29, 1997, is convicted of any
of the following crimes when the victim is less than 18 years of age:~~

~~(A) Kidnapping as defined in K.S.A. 21-3420 and amendments
thereto, except by a parent;~~

~~(B) aggravated kidnapping as defined in K.S.A. 21-3421 and
amendments thereto; or~~

~~(C) criminal restraint as defined in K.S.A. 21-3424 and amendments
thereto, except by a parent;~~

~~(5) any person convicted of any of the following criminal sexual
conduct if one of the parties involved is less than 18 years of age:~~

~~(A) Adultery as defined by K.S.A. 21-3507, and amendments
thereto;~~

~~(B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-
3505, and amendments thereto;~~

~~(C) promoting prostitution as defined by K.S.A. 21-3513, and
amendments thereto;~~

~~(D) patronizing a prostitute as defined by K.S.A. 21-3515, and
amendments thereto; or~~

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(E) ~~lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto;~~

~~(3) a drug offender, as defined in subsection (f);~~

~~(6) (4) any person who has been required to register under any federal, military or other state's out of state law or is otherwise required to be registered; and~~

~~(7) any person who, on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;~~

~~(8) any person who has been convicted of an offense in effect at any time prior to May 29, 1997, that is comparable to any crime defined in subsection (4), (5), (7) or (11), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4), (5), (7) or (11);~~

~~(9) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4), (5), (7) or (10);~~

~~(10) any person who has been convicted of aggravated human trafficking as defined in K.S.A. 21-3447, and amendments thereto; or~~

~~(11) any person who has been convicted of: (A) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog as defined by K.S.A. 65-4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, and amendments thereto, unless the court makes a finding on the record that the manufacturing or attempting to manufacture such controlled substance was for such person's personal use;~~

~~(B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined by subsection (a) of K.S.A. 65-7006, prior to its repeal or subsection (a) of K.S.A. 2010 Supp. 21-36a09, and amendments thereto, unless the court makes a finding on the record that the possession of such product was intended to be used to manufacture a controlled substance for such person's personal use; or~~

~~(C) K.S.A. 65-4161, prior to its repeal or subsection (a)(1) of K.S.A. 2010 Supp. 21-36a05, and amendments thereto. The provisions of this paragraph shall not apply to violations of subsections (a)(2) through (a)(6) or (b) of K.S.A. 2010 Supp. 21-36a05, and amendments thereto, which occurred on and after July 1, 2009, through the effective date of this act.~~

Convictions which result from or are connected with the same act, or

1 ~~result from crimes committed at the same time, shall be counted for the~~
2 ~~purpose of this section as one conviction. Any conviction set aside~~
3 ~~pursuant to law is not a conviction for purposes of this section. A~~
4 ~~conviction from another state shall constitute a conviction for purposes of~~
5 ~~this section.~~

6 (5) *any person required by court order to register for an offense not*
7 *otherwise required as provided in the Kansas offender registration act.*

8 (b) "Sex offender" includes any person who:

9 (1) On or after April 14, 1994, is convicted of any sexually violent
10 crime set forth in subsection (c) ~~or is adjudicated as a juvenile offender~~
11 ~~for an act which if committed by an adult would constitute the~~
12 ~~commission of a sexually violent crime set forth in subsection (c);~~

13 (2) *has been determined to be a sexually violent predator, as defined*
14 *in subsection (d);*

15 (3) *on or after May 29, 1997, is convicted of any of the following*
16 *crimes when one of the parties involved is less than 18 years of age:*

17 (A) *Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or*
18 *section 75 of chapter 136 of the 2010 Session Laws of Kansas, and*
19 *amendments thereto;*

20 (B) *criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-*
21 *3505, prior to its repeal, or subsection (a)(1) or (a)(2) of section 68 of*
22 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
23 *thereto;*

24 (C) *promoting prostitution, as defined in K.S.A. 21-3513, prior to its*
25 *repeal, or section 230 of chapter 136 of the 2010 Session Laws of*
26 *Kansas, and amendments thereto;*

27 (D) *patronizing a prostitute, as defined in K.S.A. 21-3515, prior to*
28 *its repeal, or section 231 of chapter 136 of the 2010 Session Laws of*
29 *Kansas, and amendments thereto; or*

30 (E) *lewd and lascivious behavior, as defined in K.S.A. 21-3508,*
31 *prior to its repeal, or section 77 of chapter 136 of the 2010 Session Laws*
32 *of Kansas, and amendments thereto;*

33 (4) *is convicted of sexual battery, as defined in K.S.A. 21-3517,*
34 *prior to its repeal, or subsection (a) of section 69 of chapter 136 of the*
35 *2010 Session Laws of Kansas, and amendments thereto;*

36 (5) *is convicted of an attempt, conspiracy or criminal solicitation, as*
37 *defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or*
38 *section 33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas,*
39 *and amendments thereto, of an offense defined in this subsection; or*

40 (6) *has been convicted of an offense in effect at any time prior to*
41 *July 1, 2011, that is comparable to any crime defined in this subsection,*
42 *or any out of state conviction for an offense that under the laws of this*
43 *state would be an offense defined in this subsection.*

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;
(2) on or after April 14, 1994,

, unless the court, on the record, finds that
the act involved voluntary sexual conduct,
the victim was at least 14 years of age and
the offender was not more than four years
older than the victim
(Redesignate subsections accordingly)

(c) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or section 67 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of section 70 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of section 70 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and/or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of section 68 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(6) indecent solicitation of a child as defined by in K.S.A. 21-3510, prior to its repeal, or subsection (a) of section 72 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(7) aggravated indecent solicitation of a child as defined by in K.S.A. 21-3511, prior to its repeal, or subsection (b) of section 72 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(8) sexual exploitation of a child as defined by in K.S.A. 21-3516, prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

~~(9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;~~

~~(10) (9) aggravated sexual battery as defined by in K.S.A. 21-3518, prior to its repeal, or subsection (b) of section 69 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;~~

~~(11) (10) aggravated incest as defined by in K.S.A. 21-3603, prior to its repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;~~

~~(12) (11) electronic solicitation as defined by in K.S.A. 21-3523, prior to its repeal, and section 73 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, committed on or after April 17, 2008;~~

~~(13) (12) unlawful sexual relations as defined by in K.S.A. 21-3520, prior to its repeal, or section 76 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, committed on or after July 1, 2010;~~

~~(14) (13) any conviction for an offense in effect at any time prior to~~

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(H) criminal restraint, as defined in K.S.A. 21-3424, prior to its

, unless the court, on the record, finds that the act involved voluntary sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim

1 repeal, or section 46 of chapter 136 of the 2010 Session Laws of Kansas,
2 and amendments thereto, except by a parent, and only when the victim is
3 less than 18 years of age; or

4 (1) aggravated human trafficking, as defined in K.S.A. 21-3447,
5 prior to its repeal, or subsection (b) of section 61 of chapter 136 of the
6 2010 Session Laws of Kansas, and amendments thereto;

7 (2) on or after July 1, 2006, is convicted of any person felony and
8 the court makes a finding on the record that a deadly weapon was used in
9 the commission of such person felony;

10 (6) (3) any conviction for an offense in effect at any time prior to
11 May 29, 1997 has been convicted of an offense in effect at any time prior
12 to July 1, 2011, that is comparable to any crime defined in this subsection,
13 or any federal, military or other out of state conviction for an offense that
14 under the laws of this state would be an offense defined in this
15 subsection; or

16 (7) (4) is convicted of an attempt, conspiracy or criminal solicitation,
17 as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal,
18 or section 33, 34 or 35 of chapter 136 of the 2010 Session Laws of
19 Kansas, and amendments thereto, of an offense defined in this subsection.

20 (f) "Drug offender" means any person who has been convicted of:

21 (1) Unlawful manufacture or attempting such of any controlled
22 substance or controlled substance analog as defined in K.S.A. 65-4159,
23 prior to its repeal, or K.S.A. 2010 Supp. 21-36a03, and amendments
24 thereto;

25 (2) possession of ephedrine, pseudoephedrine, red phosphorus,
26 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
27 ammonia or phenylpropanolamine, or their salts, isomers or salts of
28 isomers with intent to use the product to manufacture a controlled
29 substance as defined in subsection (a) of K.S.A. 65-7006, prior to its
30 repeal, or subsection (a) of K.S.A. 2010 Supp. 21-36a09, and
31 amendments thereto;

32 (3) K.S.A. 65-4161, prior to its repeal, or subsection (a)(1) of K.S.A.
33 2010 Supp. 21-36a05, and amendments thereto. The provisions of this
34 paragraph shall not apply to violations of subsections (a)(2) through (a)
35 (6) or (b) of K.S.A. 2010 Supp. 21-36a05, and amendments thereto, which
36 occurred on or after July 1, 2009, through April 15, 2010;

37 (4) an offense in effect at any time prior to July 1, 2011, that is
38 comparable to any crime defined in this subsection, or any out of state
39 conviction for an offense that under the laws of this state would be an
40 offense defined in this subsection; or

41 (5) an attempt, conspiracy or criminal solicitation as defined in
42 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33
43 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas and

1 amendments thereto, of an offense defined in this subsection.

2 (g) Convictions which result from or are connected with the same
3 act, or result from crimes committed at the same time, shall be counted
4 for the purpose of this section as one conviction. Any conviction set aside
5 pursuant to law is not a conviction for purposes of this section. A
6 conviction from any out of state court shall constitute a conviction for
7 purposes of this section.

8 (e) ~~"Law enforcement agency having jurisdiction" means the sheriff~~
9 ~~of the county in which the offender expects to reside upon the offender's~~
10 ~~discharge, parole or release.~~

11 (f) ~~"Sexually violent predator" means any person who, on or after~~
12 ~~July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.~~
13 ~~59-29a01 et seq. and amendments thereto.~~

14 (g) ~~"Nonresident student or worker" includes any offender who~~
15 ~~crosses into the state or county for more than 14 days, or for an aggregate~~
16 ~~period exceeding 30 days in a calendar year, for the purposes of~~
17 ~~employment, with or without compensation, or to attend school as a~~
18 ~~student.~~

19 (h) ~~"Aggravated offenses" means engaging in sexual acts involving~~
20 ~~penetration with victims of any age through the use of force or the threat~~
21 ~~of serious violence, or engaging in sexual acts involving penetration with~~
22 ~~victims less than 14 years of age, and includes the following offenses:~~

23 (1) ~~Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of~~
24 ~~K.S.A. 21-3502, and amendments thereto;~~

25 (2) ~~aggravated criminal sodomy as defined in subsection (a)(1) and~~
26 ~~subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and~~

27 (3) ~~any attempt, conspiracy or criminal solicitation, as defined in~~
28 ~~K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an~~
29 ~~offense defined in this subsection.~~

30 (i) ~~"Institution of higher education" means any postsecondary school~~
31 ~~under the supervision of the Kansas board of regents.~~

32 (h) "School" means any public or private educational institution,
33 including, but not limited to, postsecondary school, college, university,
34 community college, secondary school, high school, junior high school,
35 middle school, elementary school, trade school, vocational school or
36 professional school providing training or education to an offender:

37 (i) "Employment" means any full-time, part-time, transient or day-
38 labor employment, with or without compensation.

39 (j) "Reside" means to stay, sleep or maintain with regularity one's
40 person and property in a particular place other than a location where the
41 offender is incarcerated. It shall be presumed that an offender resides at
42 any and all locations where the offender stays, sleeps or maintains the
43 offender's person for seven or more consecutive days or parts of days, or

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1 for seven or more non-consecutive days in a period of 30 consecutive
2 days.

3 (k) "Residence" means a particular and definable place where an
4 individual resides. Nothing in the Kansas offender registration act shall
5 be construed to state that an offender may only have one residence for
6 the purpose of such act.

7 (l) "Transient" means having no fixed or identifiable residence.

8 (m) "Law enforcement agency having initial jurisdiction" means the
9 registering law enforcement agency of the county or location of
10 jurisdiction where the offender expects to most often reside upon the
11 offender's discharge, parole or release.

12 (n) "Registering law enforcement agency" means the sheriff's office
13 or tribal police department responsible for registering an offender.

14 (o) "Registering entity" means any person, agency or other
15 governmental unit, or correctional facility, treatment facility or
16 registering law enforcement agency responsible for obtaining the
17 required information from, and explaining the required registration
18 procedures to, any person required to register pursuant to the Kansas
19 offender registration act. "Registering entity" shall include, but not be
20 limited to, sheriff's offices, tribal police departments, correctional
21 facilities and treatment facilities.

22 (p) "Treatment facility" means any public or private facility, hospital
23 or institution providing inpatient treatment or counseling.

24 (q) "Correctional facility" means any public or private correctional
25 facility, juvenile detention facility, prison or jail.

26 (r) "Out of state" means: the District of Columbia; any federal,
27 military, or tribal jurisdiction, including those within this state; any
28 foreign jurisdiction; or any state or territory within the United States,
29 other than this state.

30 (s) "Duration of registration" means the length of time during which
31 an offender is required to register for a specified offense or violation.

32 Sec. 3. K.S.A. 22-4903 is hereby amended to read as follows: 22-
33 4903. (a) Any person who is required to register as provided in the
34 Kansas offender registration act who violates any of the provisions of
35 such act, including all duties set out in K.S.A. 22-4904 through 22-4907,
36 and amendments thereto, is guilty of a severity level 5, person felony.
37 Any violation of any provision of such act, including a violation of the
38 duties set forth in K.S.A. 22-4904 through K.S.A. 22-4907 and
39 amendments thereto, which continues for more than 30 consecutive days
40 shall, upon the 31st consecutive day, constitute a new and separate
41 offense and shall continue to constitute a new and separate offense upon
42 completion of every 30 days thereafter for as long as the offense
43 continues.

(b) ~~Prosecution of violations under subsection (a), shall be held: (1) in the county in which the offender resides; (2) if the offender is temporarily domiciled in a county and is required to be registered, in such county; or (3) in the county in which the offender is required to be registered under this act.~~

(a) Violation of the Kansas offender registration act is the failure by an offender, as defined in K.S.A. 22-4902, and amendments thereto, to comply with any and all provisions of such act, including any and all duties set forth in K.S.A. 22-4905 through 22-4907, and amendments thereto. Any violation of the Kansas offender registration act which continues for more than 30 consecutive days shall, upon the 31st consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate offense every 30 days thereafter for as long as the violation continues.

(b) Aggravated violation of the Kansas offender registration act is violation of the Kansas offender registration act which continues for more than 180 consecutive days. Any aggravated violation of the Kansas offender registration act which continues for more than 180 consecutive days shall, upon the 181st consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate violation of the Kansas offender registration act every 30 days thereafter, or a new and separate aggravated violation of the Kansas offender registration act every 180 days thereafter, for as long as the violation continues.

(c) (1) Violation of the Kansas offender registration act is:

(A) Upon a first conviction, a severity level 6, person felony;

(B) upon a second conviction, a severity level 5, person felony; and

(C) upon a third or subsequent conviction, a severity level 3, person felony.

(2) Aggravated violation of the Kansas offender registration act is a severity level 3, person felony.

~~(d) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with violation or aggravated violation of the Kansas offender registration act to avoid the severity level of the offense and the mandated penalties established by law.~~

(e) Prosecution of violations of this section may be held:

(1) In any county in which the offender resides;

(2) in any county in which the offender is required to be registered under the Kansas offender registration act;

(3) in any county in which the offender is located during which time the offender is not in compliance with the Kansas offender registration act; or

(4) in the county in which any conviction occurred for which the

by a sex offender, as defined in K.S.A. 22-4902, and amendments thereto,

by a sex offender, as defined in K.S.A. 22-4902, and amendments thereto,

(3) Violation of the Kansas offender registration act by a violent offender or drug offender, as defined in K.S.A. 22-4902, and amendments thereto, is a severity level 10, nonperson felony.

(4) Aggravated violation of the Kansas offender registration act by a violent offender or drug offender, as defined in K.S.A. 22-4902, and amendments thereto, is a severity level 5, nonperson felony.

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1 offender is required to be registered under the Kansas offender
2 registration act.

3 Sec. 4. K.S.A. 2010 Supp. 22-4904 is hereby amended to read as
4 follows: 22-4904. (a) (1) Except as provided in subsection (a)(2), within
5 14 days of the offender coming into any county in which the offender
6 resides or is temporarily domiciled for more than 14 days, the offender
7 shall register with the sheriff of the county.

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

14 (3) Upon registration with a school or educational institution, a
15 nonresident student attending such school or educational institution shall
16 register with the sheriff within 14 days of the commencement of the
17 school term.

18 (4) Upon commencement of employment, a nonresident worker
19 shall register with the sheriff within 14 days of the commencement date
20 of employment.

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

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

26 (C) inform the offender that the offender must give written notice of
27 any change of address within 14 days of a change in residence to the law
28 enforcement agency where last registered and the Kansas bureau of
29 investigation;

30 (D) inform the nonresident student offender that the offender must
31 give written notice to the sheriff and the Kansas bureau of investigation
32 of any change or termination of attendance at the school or educational
33 institution the offender is attending, within 14 days of such change or
34 termination;

35 (E) inform the nonresident worker offender that the offender must
36 give written notice to the sheriff and the Kansas bureau of investigation
37 of any termination of employment at the offender's place of employment,
38 within 14 days of such termination;

39 (F) 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 14 days of
43 such change in residence;

1 ~~(G) 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 is~~
3 ~~a student;~~

4 ~~(H) inform the offender that if the offender expects to or~~
5 ~~subsequently becomes enrolled in any institution of higher education in~~
6 ~~the state of Kansas on a full-time or part-time basis or have any full-time~~
7 ~~or 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 ~~14 days upon commencement of enrollment or employment;~~

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

16 ~~(J) 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 K.S.A. 8-1325a, and~~
19 ~~amendments thereto; and~~

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

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

26 ~~(7) Notwithstanding any other provision of law, if a diversionary~~
27 ~~agreement or probation order, either adult or juvenile, or a juvenile~~
28 ~~offender 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) If any person required to register as provided in this act changes~~
33 ~~the address of the person's residence, the offender, within 14 days, shall~~
34 ~~inform in writing the law enforcement agency where such offender last~~
35 ~~registered and the Kansas bureau of investigation of the new address.~~

36 ~~(c) Any person who is required to register under this act shall report~~
37 ~~in person three times each year to the sheriff's office in the county in~~
38 ~~which the person resides or is otherwise located. The person shall be~~
39 ~~required to report once during the month of the person's birthday and~~
40 ~~every four months thereafter. The sheriff's office may determine the~~
41 ~~appropriate times and days for reporting by the person, consistent with~~
42 ~~this subsection. The person shall verify:~~

43 ~~(1) Whether the person still resides at the address last reported;~~

(2) whether the person still attends the school or educational institution last reported;

(3) whether the person is still employed at the place of employment last reported; and

(4) whether the person's vehicle registration information is the same as last reported.

Nothing contained in this subsection 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).

The sheriff's office shall forward any updated information and current photograph required under subsection (d), to the Kansas bureau of investigation.

(d) 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.

(e) 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. All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office which shall be used solely for law enforcement and criminal prosecution purposes and which shall not be used as a source of revenue to reduce the amount of funding otherwise made available to the sheriff's office.

sentencing or disposition

(a) At the time of conviction or adjudication for an offense requiring registration as provided in K.S.A. 22-4902, and amendments thereto, the court shall:

(1) Inform any offender, on the record, of the procedure to register and the requirements of K.S.A. 22-4905, and amendments thereto;

(2) if the offender is released on probation, receiving a suspended sentence, sentenced to community corrections or released on postrelease supervision:

(A) Complete the initial registration form with all information and updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto;

(B) 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; and

(C) order the offender to report within three business days to the registering law enforcement agency in the county or tribal land of conviction or adjudication and to the registering law enforcement agency in any place where the offender resides, maintains employment or attends

1 school, to complete the registration form with all information and any
2 updated information required for registration as provided in K.S.A. 22-
3 4907, and amendments thereto;

4 (3) if the offender is to remain in custody until sentencing, direct the
5 correctional facility to complete the initial registration form within three
6 business days for submission to the Kansas bureau of investigation, as set
7 forth in subsection (b);

8 (4) ensure the age of the victim is documented in the journal entry of
9 conviction or adjudication; and

10 ~~(5) not allow the expungement of any part of an offender's criminal~~
11 ~~record while the offender is required to register as provided in the Kansas~~
12 ~~offender registration act.~~

13 (b) The staff of any correctional facility shall:

14 (1) Notify the Kansas bureau of investigation of the incarceration of
15 any offender and of the location or any change in location of the offender
16 while in custody;

17 (2) prior to any offender being discharged, paroled, furloughed or
18 released on work or school release from a correctional facility, or
19 otherwise released from incarceration:

20 (A) Inform the offender of the procedure for registration and of the
21 offender's registration requirements as provided in K.S.A. 22-4905, and
22 amendments thereto;

23 (B) complete the registration form with all information and updated
24 information required for registration as provided in K.S.A. 22-4907, and
25 amendments thereto; and

26 (C) require the offender to read and sign the registration form,
27 which shall include a statement that the requirements provided in this
28 subsection have been explained to the offender;

29 (3) photograph the offender's face and any identifying marks;

30 (4) provide one copy of the form to the offender and, within three
31 days, send a copy of the form and of the photograph or photographs to
32 the law enforcement agency having initial jurisdiction and to the Kansas
33 bureau of investigation;

34 (5) notify the law enforcement agency having initial jurisdiction and
35 the Kansas bureau of investigation seven business days prior to any
36 offender being discharged, paroled, furloughed or released on work or
37 school release; and

38 (6) enter all offender information required by the national crime
39 information center into the national sex offender registry system.

40 (c) The staff of any treatment facility shall:

41 (1) Within three days of an offender's arrival for inpatient treatment,
42 inform the registering law enforcement agency of the county or location
43 of jurisdiction in which the treatment facility is located of the offender's

and

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1 presence at the treatment facility and the expected duration of the
2 treatment, and immediately notify the registering law enforcement agency
3 of an unauthorized or unexpected absence of the offender during the
4 offender's treatment;

5 (2) provide information upon request to any registering law
6 enforcement agency having jurisdiction relevant to determining the
7 presence of an offender within the treatment facility; and

8 (3) prior to any offender receiving court ordered treatment being
9 discharged or otherwise released:

10 (A) Inform the offender of the procedure for registration and the
11 offender's registration requirements; as provided in K.S.A. 22-4905, and
12 amendments thereto;

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

15 (C) require the offender to read and sign the registration form which
16 shall include a statement that the requirements provided in this
17 subsection have been explained to the offender.

18 (d) The registering law enforcement agency, upon the reporting of
19 any offender; shall:

20 (1) Inform the offender of the duty to register as provided by the
21 Kansas offender registration act;

22 (2) (A) Explain the procedure for registration and the offender's
23 registration requirements as provided in K.S.A. 22-4905, and
24 amendments thereto;

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

27 (C) require the offender to read and sign the registration form,
28 which shall include a statement that the requirements provided in this
29 subsection have been explained to the offender;

30 (3) complete the registration form with all information and updated
31 information required for registration, as provided in K.S.A. 22-4907, and
32 amendments thereto, each time the offender reports to the registering law
33 enforcement agency. All additions or changes in the information reported
34 by an offender shall be forwarded to the Kansas bureau of investigation
35 within three business days;

36 (4) maintain the original signed registration form, provide one copy
37 of the completed registration form to the offender and, within three
38 business days, send one copy of the completed form to the Kansas bureau
39 of investigation;

40 (5) obtain registration information from every offender required to
41 register regardless of whether or not the offender remits payment. Failure
42 of the offender to remit payment is a violation of the Kansas offender
43 registration act and is subject to prosecution pursuant to K.S.A. 22-4903,

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1 and amendments thereto;

2 (6) upon every required reporting, update the photograph or
3 photographs of the offender's face and any new identifying marks and
4 immediately forward copies or electronic files of the photographs to the
5 Kansas bureau of investigation;

6 (7) enter all offender information required by the national crime
7 information center into the national sex offender registry system within
8 three days of completing the registration;

9 (8) maintain a special fund for the deposit and maintenance of fees
10 paid by offenders. All funds retained by the registering law enforcement
11 agency pursuant to the provisions of this section shall be credited to a
12 special fund of the registering law enforcement agency which shall be
13 used solely for law enforcement and criminal prosecution purposes and
14 which shall not be used as a source of revenue to reduce the amount of
15 funding otherwise made available to the registering law enforcement
16 agency; and

17 (9) forward any initial registration and updated registration
18 information within three days to any out of state jurisdiction where the
19 offender is expected to reside, maintain employment or attend school.

20 (e) (1) The Kansas bureau of investigation shall:

21 (A) Forward all additions or changes in information to any
22 registering law enforcement agency, other than the agency that submitted
23 the form, where the offender expects to reside, maintain employment or
24 attend school;

25 (B) ensure that offender information is immediately entered in the
26 state registered offender database and the Kansas registered offender
27 website, as provided in K.S.A. 22-4909, and amendments thereto; and

28 (C) transmit offender conviction or adjudication data and
29 fingerprints to the federal bureau of investigation.

30 (2) The director of the Kansas bureau of investigation may adopt
31 rules and regulations necessary to implement the provisions of the
32 Kansas offender registration act.

33 (f) The attorney general shall, within 10 business days of an
34 offender being declared a sexually violent predator, forward to the
35 Kansas bureau of investigation all relevant court documentation
36 declaring an offender a sexually violent predator.

37 (g) The state department of education shall annually notify any
38 school of the Kansas bureau of investigation internet website, and any
39 internet website containing information on the Kansas offender
40 registration act sponsored or created by the registering law enforcement
41 agency of the county or location of jurisdiction in which the school is
42 located, for the purpose of locating offenders who reside near such
43 school. Such notification shall include information that the registering

1 law enforcement agency of the county or location of jurisdiction where
2 such school is located is available to the school to assist in using the
3 registry and providing additional information on registered offenders.

4 (h) The secretary of health and environment shall annually notify
5 any licensed child care facility of the Kansas bureau of investigation
6 internet website, and any internet website containing information on the
7 Kansas offender registration sponsored or created by the registering law
8 enforcement agency of the county in which the facility is located, for the
9 purpose of locating offenders who reside near such facility. Such
10 notification shall include information that the registering law
11 enforcement agency of the county or location of jurisdiction where such
12 child care facility is located is available to the child care facilities to
13 assist in using the registry and providing additional information on
14 registered offenders.

15 (i) Upon request, the clerk of any court of record shall provide the
16 Kansas bureau of investigation copies of complaints, indictments,
17 information, journal entries, commitment orders or any other documents
18 necessary to the performance of the duties of the Kansas bureau of
19 investigation under the Kansas offender registration act. No fees or
20 charges for providing such documents may be assessed.

21 Sec. 5. K.S.A. 2010 Supp. 22-4905 is hereby amended to read as
22 follows: 22-4905. (a) (1) Any offender, who is discharged or paroled from
23 a prison, hospital or other institution or facility involving a violation of
24 any crime or confinement as provided in subsection (a), (b), (d) or (f) of
25 K.S.A. 22-4902, and amendments thereto, prior to discharge, parole or
26 release, shall be informed by the staff of the facility in which the offender
27 was confined of the duty to register as provided in this act.

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

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

32 (iii) inform the offender that the offender must give written notice of
33 any change of address within 14 days of a change in residence to the law
34 enforcement agency where last registered and the Kansas bureau of
35 investigation;

36 (iv) inform the offender that if the offender changes residence to
37 another state, the offender must inform the law enforcement agency
38 where last registered and the Kansas bureau of investigation of such
39 change in residence and must register in the new state within 14 days of
40 such change in residence;

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

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

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

13 ~~(viii) inform the offender of the requirement of an annual driver's~~
14 ~~license renewal pursuant to K.S.A. 8-247, and amendments thereto, and~~
15 ~~an annual identification card renewal pursuant to K.S.A. 2010 Supp. 8-~~
16 ~~1325a, and amendments thereto; and~~

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

20 ~~(B) The staff of the facility shall give one copy of the form to the~~
21 ~~person, within seven days, and shall send two copies of the form provided~~
22 ~~by subsection (2)(A)(v) to the Kansas bureau of investigation, which shall~~
23 ~~then forward one copy to the law enforcement agency having jurisdiction~~
24 ~~where the person expects to reside upon discharge, parole or release. The~~
25 ~~Kansas bureau of investigation must immediately ensure that such~~
26 ~~information is entered in the state law enforcement record system. The~~
27 ~~Kansas bureau of investigation shall transmit such conviction data and~~
28 ~~fingerprints to the federal bureau of investigation.~~

29 ~~(b) (1) Any offender who is released on probation, receives a~~
30 ~~suspended sentence, sentenced to community corrections or released on~~
31 ~~postrelease supervision because of the commission of any crime as~~
32 ~~provided in subsection (a), (b) or (d) of K.S.A. 22-4902, and amendments~~
33 ~~thereto, prior to release, shall be informed of the offenders duty to register~~
34 ~~as provided in this act by the court in which the offender is convicted.~~

35 ~~(2) (A) The court shall: (i) Explain the duty to register and the~~
36 ~~procedure for registration;~~

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

39 ~~(iii) inform the offender that the offender must give written notice of~~
40 ~~any change of address within 14 days of a change in residence to the law~~
41 ~~enforcement agency where last registered and the Kansas bureau of~~
42 ~~investigation;~~

43 ~~(iv) inform the offender that if the offender changes residence to~~

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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 14 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 14 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 14 days of the change or termination;

(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 K.S.A. 2010 Supp. 8-1325a, and amendments thereto; and

(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 seven 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.

Any offender required to register as provided in the Kansas offender registration act shall:

(a) Except as otherwise provided in this subsection, register in person with the registering law enforcement agency within three business days of coming into any county or location of jurisdiction in which the offender resides or intends to reside, maintains employment or intends to maintain employment, or attends school or intends to attend school. Any such offender who cannot physically register in person with the

1 registering law enforcement agency for such reasons including, but not
2 limited to, incapacitation or hospitalization, as determined by a person
3 licensed to practice medicine or surgery, shall be subject to verification
4 requirements other than in-person registration, as determined by the
5 registering law enforcement agency having jurisdiction;

6 (b) report in person four times each year to the registering law
7 enforcement agency in the county or location of jurisdiction in which the
8 offender resides, maintains employment or is attending a school. The
9 offender shall be required to report once during the month of the
10 offender's birthday and every third, sixth and ninth month occurring
11 before and after the month of the offender's birthday. The registering law
12 enforcement agency may determine the appropriate times and days for
13 reporting by the offender, consistent with this subsection. Nothing
14 contained in this subsection shall be construed to alleviate any offender
15 from meeting the requirements prescribed in the Kansas offender
16 registration act;

17 (c) provide the information required for registration as provided in
18 K.S.A. 22-4907, and amendments thereto, and verify all information
19 previously provided is accurate;

20 (d) if in the custody of a correctional facility or in the care or
21 custody of any treatment facility, register with the correctional facility or
22 treatment facility within three business days of initial care or custody and
23 shall not be required to update such registration until released from care
24 or custody, granted work release or otherwise allowed to leave the
25 grounds of the correctional facility or treatment facility;

26 (e) notwithstanding subsections (a) and (b), if the offender is
27 transient, report in person to the registering law enforcement agency of
28 such county or location of jurisdiction in which the offender is physically
29 present within three business days of arrival in the county or location of
30 jurisdiction. Such offender shall be required to register in person with the
31 registering law enforcement agency every 30 days, or more often at the
32 discretion of the registering law enforcement agency. Such offender shall
33 comply with the provisions of the Kansas offender registration act and, in
34 addition, shall:

35 (1) Provide a list of places where the offender has slept and
36 otherwise frequented during the period of time since the last date of
37 registration; and

38 (2) provide a list of places where the offender may be contacted and
39 where the offender intends to sleep and otherwise frequent during the
40 period of time prior to the next required date of registration;

41 (f) if required by out of state law, register in any out of state
42 jurisdiction, where the offender resides, maintains employment or attends
43 school;

except as provided further, for any: (1) Sex
offender,

; and (2) violent offender or drug offender, at the
discretion of the registering law enforcement agency,
report in person three times each year and by certified
letter one time each year to the registering law
enforcement agency in the county or location of
jurisdiction in which the offender resides, maintains
employment or is attending a school. Any offender may,
at the discretion of the registering law enforcement
agency, report by certified letter four times each year if
the registering law enforcement agency determines that
such offender is incapacitated. When utilized, the
certified letter for reporting shall be sent to the reported
residence of the offender and shall require the offender
to respond to the registering law enforcement agency
with any changes in information as required for
reporting in person within 10 days.

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(g) register in person upon any commencement, change or termination of residence location, employment status, school attendance or other information as provided in K.S.A. 22-4907, and amendments thereto, within three days of such commencement, change or termination, to the registering law enforcement agency or agencies where last registered and provide written notice to the Kansas bureau of investigation;

(h) report in person to the registering law enforcement agency or agencies within three days of any change in name;

(i) if receiving inpatient treatment at any treatment facility, inform the treatment facility of the offender's status as an offender and inform the registering law enforcement agency of the county or location of jurisdiction in which the treatment facility is located of the offender's presence at the treatment facility and the expected duration of the treatment;

(j) submit to the taking of an updated photograph by the registering law enforcement agency on each occasion when the offender registers with or reports to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or attends school. In addition, such offender shall submit to the taking of a photograph to document any changes in identifying characteristics, including, but not limited to, scars, marks and tattoos;

(k) remit payment to the sheriff's office in the amount of \$20 during the month of the offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday in each county in which the offender resides, maintains employment or is attending school. Notwithstanding other provisions herein, payment of this fee is not required:

(1) When an offender provides updates or changes in information or during an initial registration unless such updates, changes or initial registration is during the month of such offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday;

(2) when an offender is transient and is required to register every 30 days, or more frequently as ordered by the registering law enforcement agency, except during the month of the offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday; or

(3) if an offender has, prior to the required reporting and within the last three years, been determined to be indigent by a court of law, and the basis for that finding is recorded by the court;

(l) annually renew any driver's license pursuant to K.S.A. 8-247, and amendments thereto, and annually renew any identification card

1 pursuant to K.S.A. 2010 Supp. 8-1325a, and amendments thereto;

2 (m) ~~if maintaining primary residence in this state and not presently~~
 3 ~~serving and maintaining active duty in any branch of the United States~~
 4 ~~military, surrender all driver's licenses and identification cards from~~
 5 ~~other states, territories and the District of Columbia;~~

6 (n) read and sign the registration form noting whether the
 7 requirements provided in this section have been explained to the
 8 offender; and

9 (o) notify the registering law enforcement agency in the jurisdiction
 10 of the offender's residence and the Kansas bureau of investigation 21
 11 days prior to any travel outside of the United States, or if under
 12 emergency circumstances, within three days of making travel
 13 arrangements.

14 Sec. 6. K.S.A. 2010 Supp. 22-4906 is hereby amended to read as
 15 follows: 22-4906. ~~(a) Except as provided in subsection (d), any person~~
 16 ~~required to register as provided in this act shall be required to register: (1)~~
 17 ~~Upon the first conviction of a sexually violent crime as defined in~~
 18 ~~subsection (c) of K.S.A. 22-4902, and amendments thereto, any offense~~
 19 ~~as defined in subsection (a) of K.S.A. 22-4902, and amendments thereto,~~
 20 ~~or any offense as defined in subsection (d) of K.S.A. 22-4902, and~~
 21 ~~amendments thereto, if not confined, for a period of 10 years after~~
 22 ~~conviction, or, if confined, for a period of 10 years after paroled,~~
 23 ~~discharged or released, whichever date is most recent. The ten-year~~
 24 ~~period shall not apply to any person while the person is incarcerated in~~
 25 ~~any jail or correctional facility. The ten-year registration requirement does~~
 26 ~~not include any time period when any person who is required to register~~
 27 ~~under this act knowingly or willfully fails to comply with the registration~~
 28 ~~requirement; or (2) upon a second or subsequent conviction for such~~
 29 ~~person's lifetime.~~

30 (b) ~~Upon the first conviction, liability for registration terminates, if~~
 31 ~~not confined, at the expiration of 10 years from the date of conviction, or,~~
 32 ~~if confined, at the expiration of 10 years from the date of parole,~~
 33 ~~discharge or release, whichever date is most recent. The ten-year period~~
 34 ~~shall not apply to any person while the person is incarcerated in any jail~~
 35 ~~or correctional facility. The ten-year registration requirement does not~~
 36 ~~include any time period when any person who is required to register~~
 37 ~~under this act knowingly or willfully fails to comply with the registration~~
 38 ~~requirement. Liability for registration does not terminate if the convicted~~
 39 ~~offender again becomes liable to register as provided by this act during~~
 40 ~~that period.~~

41 (c) ~~Any person who has been convicted of an aggravated offense~~
 42 ~~shall be required to register for such person's lifetime.~~

43 (d) ~~Any person who has been convicted of any of the following~~

, except if the offender is presently serving and
 maintaining active duty in any branch of the
 United States military or the offender is an
 immediate family member of a person
 presently serving and maintaining active duty
 in any branch of the United States military

1 offenses shall be required to register for such person's lifetime:

2 (1) ~~Aggravated human trafficking, as defined in K.S.A. 21-3447,~~
3 ~~and amendments thereto, if the victim is less than 14 years of age;~~

4 (2) ~~rape, as defined in subsection (a)(2) of K.S.A. 21-3502, and~~
5 ~~amendments thereto;~~

6 (3) ~~aggravated indecent liberties with a child, as defined in~~
7 ~~subsection (a)(3) of K.S.A. 21-3504; and amendments thereto;~~

8 (4) ~~aggravated criminal sodomy, as defined in subsection (a)(1) or~~
9 ~~(a)(2) of K.S.A. 21-3506; and amendments thereto;~~

10 (5) ~~promoting prostitution, as defined in K.S.A. 21-3513; and~~
11 ~~amendments thereto, if the prostitute is less than 14 years of age;~~

12 (6) ~~sexual exploitation of a child, as defined in subsection (a)(5) or~~
13 ~~(a)(6) of K.S.A. 21-3516; and amendments thereto; or~~

14 (7) ~~any attempt, conspiracy or criminal solicitation, as defined in~~
15 ~~K.S.A. 21-3301, 21-3302 or 21-3303; and amendments thereto; of an~~
16 ~~offense defined in this subsection;~~

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

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

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

27 (h) (1) ~~Notwithstanding any other provisions of this section, a~~
28 ~~person who is adjudicated as a juvenile offender for an act which if~~
29 ~~committed by an adult would constitute the commission of a sexually~~
30 ~~violent crime set forth in subsection (c) of K.S.A. 22-4902; and~~
31 ~~amendments thereto; and such crime is an off-grid felony or a felony~~
32 ~~ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-~~
33 ~~4704, and amendments thereto, shall be required to register until such~~
34 ~~person reaches 18 years of age, at the expiration of five years from the~~
35 ~~date of adjudication or, if confined, from release from confinement,~~
36 ~~whichever date occurs later. The five-year period shall not apply to any~~
37 ~~person while that person is incarcerated in any jail, juvenile facility or~~
38 ~~correctional facility. The five-year registration requirement does not~~
39 ~~include any time period when any person who is required to register~~
40 ~~under this act knowingly or willfully fails to comply with the registration~~
41 ~~requirement.~~

42 (2) (A) ~~A person who is adjudicated as a juvenile offender for an act~~
43 ~~which if committed by an adult would constitute the commission of a~~

1 sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and
2 amendments thereto, and such crime is not an off-grid felony or a felony
3 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
4 4704, and amendments thereto, may, by the court:

5 (i) ~~Be required to register pursuant to the provisions of paragraph~~
6 ~~(1);~~

7 (ii) ~~not be required to register if the judge, on the record, finds~~
8 ~~substantial and compelling reasons therefor; or~~

9 (iii) ~~be required to register with the sheriff pursuant to K.S.A. 22-~~
10 ~~4904, and amendments thereto, but such registration information shall not~~
11 ~~be open to inspection by the public or posted on any internet website, as~~
12 ~~provided in K.S.A. 22-4909, and amendments thereto. If the court~~
13 ~~requires the juvenile to register but such registration is not open to the~~
14 ~~public, the juvenile shall provide a copy of such court order to the sheriff~~
15 ~~at the time of registration. The sheriff shall forward a copy of such court~~
16 ~~order to the Kansas bureau of investigation.~~

17 (B) ~~If such juvenile offender violates a condition of release during~~
18 ~~the term of the conditional release, the judge may require the juvenile~~
19 ~~offender to register pursuant to paragraph (1).~~

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

23 (4) ~~The provisions of paragraph (2)(A)(ii) shall apply to~~
24 ~~adjudications on and after July 1, 2007, and retroactively to adjudications~~
25 ~~prior to July 1, 2007.~~

26 (i) ~~Any person moving to the state of Kansas who has been~~
27 ~~convicted in another state, and who was required to register under that~~
28 ~~state's laws, shall register for the same length of time required by that~~
29 ~~state or Kansas, whichever length of time is longer. The provisions of this~~
30 ~~subsection shall apply to convictions prior to June 1, 2006, and to persons~~
31 ~~who moved to Kansas prior to June 1, 2006.~~

32 (a) ~~Except as otherwise provided in this section, an offender's~~
33 ~~duration of registration is:~~

34 (1) ~~If confined, 15 years after the date of parole, discharge or~~
35 ~~release, whichever date is most recent. The 15-year duration of~~
36 ~~registration shall not apply to any offender while the offender is~~
37 ~~incarcerated in any jail or correctional facility. The 15-year duration of~~
38 ~~registration does not include any time period when any offender fails to~~
39 ~~comply with the registration requirement; and~~

40 (2) ~~upon a second or subsequent conviction of an offense requiring~~
41 ~~registration, for such offender's lifetime.~~

42 (b) ~~Except as otherwise provided by the Kansas offender~~
43 ~~registration act, the duration of registration terminates, if not confined, at~~

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the expiration of 15 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(c) The duration of registration for any offender who has been convicted of any of the following offenses shall be for such offender's lifetime:

(1) Any sexually violent crime, as defined in subsection (c) of K.S.A. 22-4902, and amendments thereto;

(2) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of section 61 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(3) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or section 230 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(4) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or subsection (a) of section 43 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(5) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or subsection (b) of section 43 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto; or

(6) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto; of an offense defined in this subsection.

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

(e) Notwithstanding any other provisions of this section, for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, the duration of registration shall be until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or if confined, at the expiration of five years from the date of release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(f) Notwithstanding any other provisions of this section, for an offender 14 years of age or more who is adjudicated as a juvenile

if the victim is less than 18 years of age

if the prostitute is less than 18 years of age

the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, 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. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

~~offender for an act which if committed by an adult would constitute 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, prior to its repeal, or section 285 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, the duration of registration shall be 15 years from the date of adjudication or, if confined, at the expiration of five years from the date of release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.~~

(g) Notwithstanding any other provisions of this section, an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, 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, prior to its repeal, or section 285 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, shall be required to register for such offender's lifetime.

(h) Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender registration act for an offense that would not otherwise require registration as provided in subsection (a)(5) of K.S.A. 22-4902, and amendments thereto, then all provisions of the Kansas offender registration act shall apply, except that the duration of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

(i) The duration of registration does not terminate if the convicted or adjudicated offender again becomes liable to register as provided by the Kansas offender registration act during the required period of registration.

(j) The provisions of subsection (e), (f) and (g) shall apply to adjudications on and after July 1, 2007, and retroactively to adjudications prior to July 1, 2007.

(k) For any person moving to Kansas who has been convicted or adjudicated in an out of state court, and who was required to register under an out of state law, the duration of registration shall be the length of time required by the out of state jurisdiction or by the Kansas offender registration act, whichever length of time is longer. The provisions of this

the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, 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. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

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subsection shall apply to convictions prior to June 1, 2006, and to persons who moved to Kansas prior to June 1, 2006, and to convictions on or after June 1, 2006, and to persons who moved to Kansas on or after June 1, 2006.

(l) For any person residing, maintaining employment or attending school in this state who has been convicted or adjudicated by an out of state court of an offense that is comparable to any crime requiring registration pursuant to the Kansas offender registration act, but who was not required to register in the jurisdiction of conviction, the duration of registration shall be the duration required for the comparable offense pursuant to the Kansas offender registration act. The duration of registration shall begin upon establishing residency, beginning employment or beginning school.

Sec. 7. K.S.A. 2010 Supp. 22-4907 is hereby amended to read as follows: 22-4907. (a) Registration as required by this the Kansas offender registration act shall consist of a form prepared approved by the Kansas bureau of investigation, which shall include a statement that the requirements provided in this section have been reviewed and explained to the person offender; and shall be signed by the person offender and witnessed by the person registering the offender. Such registration form shall include the following offender information:

(1) Name and all alias names;

(2) date and place of birth city, state and country of birth, and any alias dates or places of birth;

(3) title and statute number of each offense or offenses committed, date of each conviction or convictions obtained adjudication and court case numbers for each conviction or adjudication;

(4) city, county, state or county country of conviction or convictions obtained adjudication;

(5) sex and age date of birth or purported age of each victim of all offenses requiring registration;

(6) current residential address, any anticipated future residence and any temporary lodging information including, but not limited to, address, telephone number and dates of travel for any place in which the offender is staying for seven or more days; and, if transient, the locations where the offender has stayed and frequented since last reporting for registration;

(7) all telephone numbers at which the offender may be contacted including, but not limited to, all mobile telephone numbers;

(7) (8) social security number, and all alias social security numbers;

(8) (9) identifying characteristics such as race, ethnicity, skin tone, sex, age, height, weight, hair and eye color, scars, tattoos and blood type;

(9) (10) occupation and name, address or addresses and telephone

, except when such reporting is conducted by certified letter as provided in subsection (b) of K.S.A. 22-4905, and amendments thereto,

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- 1 number of employer or employers, and name of any anticipated employer
2 and place of employment;
- 3 ~~(10)~~ (11) ~~drivers license and all current driver's licenses or~~
4 ~~identification cards, including a photocopy of all such driver's licenses or~~
5 ~~identification cards and their numbers, states of issuance and expiration~~
6 ~~dates;~~
- 7 (12) all vehicle information, including the license plate number,
8 registration number of each license plate assigned to any motor vehicle
9 normally operated by the offender and any other identifier and
10 description of any vehicle owned or operated by the offender, or any
11 vehicle the offender regularly drives, either for personal use or in the
12 course of employment, and information concerning the location or
13 locations such vehicle or vehicles are habitually parked or otherwise
14 kept;
- 15 (13) license plate number, registration number or other identifier
16 and description of any aircraft or watercraft owned or operated by the
17 offender, and information concerning the location or locations such
18 aircraft or watercraft are habitually parked, docked or otherwise kept;
- 19 (14) all professional licenses, designations and certifications;
- 20 ~~(11)~~ (15) documentation of any treatment received for a mental
21 abnormality or personality disorder of the offender, for purposes of
22 documenting the treatment received, ~~sheriffs, prison officials and courts~~
23 ~~registering law enforcement agencies, correctional facility officials,~~
24 ~~treatment facility officials and courts~~ may rely on information that is
25 readily available to them from existing records and the offender;
- 26 ~~(12) anticipated future residence;~~
- 27 ~~(13)~~ (16) a photograph or photographs;
- 28 ~~(14)~~ (17) fingerprints and palm prints;
- 29 ~~(15)~~ (18) ~~school; and any and all schools and satellite schools~~
30 ~~attended or expected to be attended and the locations of attendance and~~
31 ~~telephone number;~~
- 32 ~~(16)~~ (19) any and all e-mail addresses and , any and all online
33 identities used by the offender on the internet; and any information
34 relating to membership in any online social networks;
- 35 (20) all travel and immigration documents; and
- 36 (21) name and telephone number of the offender's probation, parole
37 or community corrections officer.
- 38 (b) (1) The offender shall also provide to the registering law
39 enforcement agency DNA exemplars, unless already on file at the Kansas
40 bureau of investigation.
- 41 (2) If the exemplars to be taken require the withdrawal of blood,
42 such withdrawal may be performed only by:
- 43 (A) A person licensed to practice medicine and or surgery, or a

1 person acting under the supervision of any such licensed person;

2 (B) a registered nurse or a licensed practical nurse;

3 (C) any qualified medical technician; or

4 (D) a licensed phlebotomist.

5 ~~(e) Unless the person has provided the information and completed~~
 6 ~~and signed the registration form as provided in K.S.A. 22-4905, and~~
 7 ~~amendments thereto, within seven days, the registering law enforcement~~
 8 ~~agency shall forward the registration form to the Kansas bureau of~~
 9 ~~investigation.~~

10 ~~(d) The Kansas bureau of investigation may participate in the federal~~
 11 ~~bureau of investigation's NCIC 2000.~~

12 Sec. 8. K.S.A. 22-4908 is hereby amended to read as follows: 22-
 13 4908. No person required to register as an offender pursuant to the
 14 Kansas offender registration act shall be granted an order relieving the
 15 offender of further registration under this act. *This section shall include*
 16 *any person with any out of state conviction or adjudication for an offense*
 17 *that would require registration under the laws of this state.*

18 Sec. 9. K.S.A. 22-4909 is hereby amended to read as follows: 22-
 19 4909. (a) Except as prohibited by ~~subsection (h)~~ *subsections (c) and (d)*
 20 *of this section and subsections (e) and (f)* of K.S.A. 22-4906, and
 21 amendments thereto, the statements or any other information required by
 22 ~~this the Kanas offender registration act~~ shall be open to inspection by the
 23 public at the ~~sheriff's office registering law enforcement agency~~, at the
 24 headquarters of the Kansas bureau of investigation and on any internet
 25 website sponsored or created by a ~~sheriff's department registering law~~
 26 ~~enforcement agency~~ or the Kansas bureau of investigation that contains
 27 such statements or information, and specifically are subject to the
 28 provisions of the Kansas open records act, K.S.A. 45-215 et seq., and
 29 amendments thereto, ~~except that the name, address, telephone number, or~~
 30 ~~any other information which specifically and individually identifies the~~
 31 ~~victim of any offender required to register as provided in this act shall not~~
 32 ~~be disclosed other than to law enforcement agencies.~~

33 (b) Any information posted on an internet website sponsored or
 34 created by a ~~sheriff's office registering law enforcement agency~~ or the
 35 Kansas bureau of investigation shall identify, in a prominent manner,
 36 whether an offender is ~~or is not~~ a sex offender, a violent offender or a
 37 drug offender. *Such internet websites shall include the following*
 38 *information for each offender:*

39 (1) Name of the offender, including any aliases;

40 (2) address of each residence at which the offender resides or will
 41 reside and, if the offender does not have any present or expected
 42 residence address, other information about where the offender has their
 43 home or habitually lives. If current information of this type is not

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1 available because the offender is in violation of the requirement to
2 register or cannot be located, the website must so note;

3 (3) temporary lodging information;

4 (4) address of any place where the offender is an employee or will
5 be an employee and, if the offender is employed but does not have a
6 definite employment address, other information about where the offender
7 works;

8 (5) address of any place where the offender is a student or will be a
9 student;

10 (6) license plate number and a description of any vehicle owned or
11 operated by the offender, including any aircraft or watercraft;

12 (7) physical description of the offender;

13 (8) the offense or offenses for which the offender is registered and
14 any other offense for which the offender has been convicted or
15 adjudicated;

16 (9) a current photograph of the offender; and

17 (10) all professional licenses, designations and certifications.

18 (c) Notwithstanding subsection (a), pursuant to a court finding
19 petitioned by the prosecutor, any offender who is required to register
20 pursuant to the Kansas offender registration act, but has been provided a
21 new identity and relocated under the federal witness security program or
22 who has worked as a confidential informant, or is otherwise a protected
23 witness, shall be required to register pursuant to the Kansas offender
24 registration act, but shall not be subject to public registration.

25 (d) Notwithstanding subsection (a), the following information shall
26 not be disclosed other than to law enforcement agencies:

27 (1) The name, address, telephone number or any other information
28 which specifically and individually identifies the identity of any victim of
29 a registerable offense;

30 (2) the social security number of the offender;

31 (3) the offender's criminal history arrests that did not result in
32 convictions;

33 (4) travel and immigration document numbers of the offender; ←

and

34 (5) internet identifiers of the offender; and

35 ~~(6) any information pertaining to a juvenile offender as provided in~~ ←
36 ~~subsection (e) or (f) of K.S.A. 22-4906, and amendments thereto.~~

Strike

37 ~~(e) The state department of education shall annually notify 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 or~~
40 ~~extracurricular activities of pupils enrolled in kindergarten or any grades~~
41 ~~one through 12 of the Kansas bureau of investigation internet website and~~
42 ~~any internet website containing information on the Kansas offender~~
43 ~~registration sponsored or created by the sheriff of the county in which the~~

1-30

1 school is located for the purposes of locating offenders who reside near
2 such school.

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

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

14 Sec. 10. K.S.A. 22-4911 is hereby amended to read as follows: 22-
15 4911. Nothing in the Kansas offender registration act shall create a cause
16 of action against the state or an employee of the state acting within the
17 scope of the employee's employment as a result of requiring an offender
18 to register or an offender's failure to register. *This includes, but is not*
19 *limited to, the person or persons assigned to a registering law*
20 *enforcement agency to register offenders, and the person or persons*
21 *assigned to enter all offender information required by the national crime*
22 *information center into the national sex offender registry system.*

23 Sec. 11. K.S.A. 2010 Supp. 22-4913 is hereby amended to read as
24 follows: 22-4913. (a) Except as provided in subsection (b), on and after
25 ~~the effective date of this act, June 1, 2006~~, cities and counties shall be
26 prohibited from adopting or enforcing any ordinance, resolution or
27 regulation establishing residential restrictions for offenders as defined by
28 K.S.A. 22-4902, and amendments thereto.

29 (b) The prohibition in subsection (a), shall not apply to any city or
30 county residential licensing or zoning program for correctional placement
31 residences that includes regulations for the housing of such offenders.

32 (c) As used in this section, "correctional placement residence"
33 means a facility that provides residential services for individuals or
34 offenders who reside, or have been placed in such facility due to any one
35 of the following situations:

- 36 (1) Prior to, or instead of, being sentenced to prison;
- 37 (2) ~~received as~~ a conditional release prior to a hearing;
- 38 (3) as a part of a sentence of confinement of not more than one year;
- 39 (4) ~~in~~ a privately operated facility housing parolees;
- 40 (5) ~~received as~~ a deferred sentence ~~and when~~ placed in a facility
41 operated by community corrections;
- 42 (6) ~~required as a requirement of~~ court-ordered treatment services for
43 alcohol or drug abuse; or

1 (7) *as part of* voluntary treatment services for alcohol or drug abuse.
2 Correctional placement residence shall not include a single or multi-
3 family dwelling or commercial residential building that provides a
4 residence to staff and persons other than those described in paragraphs (1)
5 through (7). ←

6 Sec. 12. K.S.A. 22-4901, 22-4903, 22-4908, 22-4909, 22-4911 and
7 22-4912 and K.S.A. 2010 Supp. 22-4902, 22-4904, 22-4905, 22-4906,
8 22-4907 and 22-4913 are hereby repealed. □

9 Sec. 13. This act shall take effect and be in force from and after its
10 publication in the statute book.
11
12

Insert

Sec. 12. Amend K.S.A. 2010 Supp. 38-2312 (attached).

Sec. 13. Amend section 254 of chapter 136 of the 2010
Session Laws of Kansas (attached).

Renumber sections accordingly.

and 38-2312 and section 254 of chapter
136 of the 2010 Session Laws of Kansas

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Sec. 12. K.S.A. 2010 Supp. 38-2312 is hereby amended to read as follows: 38-2312. (a) Except as provided in subsection (b) and (c), any records or files specified in this code concerning a juvenile may be expunged upon application to a judge of the court of the county in which the records or files are maintained. The application for expungement may be made by the juvenile, if 18 years of age or older or, if the juvenile is less than 18 years of age, by the juvenile's parent or next friend.

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401, prior to its repeal, or section 37 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, murder in the first degree, K.S.A. 21-3402, prior to its repeal, or section 38 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, murder in the second degree, K.S.A. 21-3403, prior to its repeal, or section 39 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, voluntary manslaughter, K.S.A. 21-3404, prior to its repeal, or section 40 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, involuntary manslaughter, K.S.A. 21-3439, prior to its repeal, or section 36 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, capital murder, K.S.A. 21-3442, prior to its repeal, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3502, prior to its repeal, or section 67 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, rape, K.S.A. 21-3503, prior to its repeal, or subsection (a) of section 70 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, indecent liberties with a child, K.S.A. 21-3504, prior to its repeal, or subsection (b) of section 70 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, aggravated indecent liberties with a child, K.S.A. 21-3506, prior to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, aggravated criminal sodomy, K.S.A. 21-3510, prior to its repeal, or subsection (a) of section 72 of chapter 136 of

the 2010 Session Laws of Kansas, and amendments thereto, indecent solicitation of a child, K.S.A. 21-3511, prior to its repeal, or subsection (b) of section 72 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, aggravated indecent solicitation of a child, K.S.A. 21-3516, prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, sexual exploitation, K.S.A. 21-3603, prior to its repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, aggravated incest, K.S.A. 21-3608, prior to its repeal, or subsection (a) of section 78 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, endangering a child, K.S.A. 21-3608a, prior to its repeal, or subsection (b) of section 78 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, aggravated endangering a child, K.S.A. 21-3609, prior to its repeal, or section 79 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, abuse of a child, or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.

(c) Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(Redesignate subsections)

(c) When a petition for expungement is filed, the court shall set a date for a hearing on the petition and shall give notice thereof to the county or district attorney. The petition shall state: (1) The juvenile's full name; (2) the full name of the juvenile as reflected in the court record, if different than (1); (3) the juvenile's sex and date of birth; (4) the offense for which the juvenile was adjudicated; (5) the date of the trial; and (6) the identity of the trial court. Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100. On and after the

effective date of this act through June 30, 2011, the supreme court may impose a charge, not to exceed \$15 per case, to fund the costs of non-judicial personnel. All petitions for expungement shall be docketed in the original action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(d) (1) After hearing, the court shall order the expungement of the records and files if the court finds that:

(A) The juvenile has reached 23 years of age or that two years have elapsed since the final discharge;

(B) since the final discharge of the juvenile, the juvenile has not been convicted of a felony or of a misdemeanor other than a traffic offense or adjudicated as a juvenile offender under the revised Kansas juvenile justice code and no proceedings are pending seeking such a conviction or adjudication; and

(C) the circumstances and behavior of the petitioner warrant expungement.

(2) The court may require that all court costs, fees and restitution shall be paid.

(e) Upon entry of an order expunging records or files, the offense which the records or files concern shall be treated as if it never occurred, except that upon conviction of a crime or adjudication in a subsequent action under this code the offense may be considered in determining the sentence to be imposed. The petitioner, the court and all law enforcement officers and other public offices and agencies shall properly reply on inquiry that no record or file exists with respect to the juvenile. Inspection of the expunged files or records thereafter may be permitted by order of the court upon petition by the person who is the subject thereof. The inspection shall be limited to inspection by the person who is the subject of the files or records and the person's designees.

(f) Copies of any order made pursuant to subsection (a) or (c) shall be sent to each public

officer and agency in the county having possession of any records or files ordered to be expunged. If the officer or agency fails to comply with the order within a reasonable time after its receipt, the officer or agency may be adjudged in contempt of court and punished accordingly.

(g) The court shall inform any juvenile who has been adjudicated a juvenile offender of the provisions of this section.

(h) Nothing in this section shall be construed to prohibit the maintenance of information relating to an offense after records or files concerning the offense have been expunged if the information is kept in a manner that does not enable identification of the juvenile.

(i) Nothing in this section shall be construed to permit or require expungement of files or records related to a child support order registered pursuant to the revised Kansas juvenile justice code.

(j) Whenever the records or files of any adjudication have been expunged under the provisions of this section, the custodian of the records or files of adjudication relating to that offense shall not disclose the existence of such records or files, except when requested by:

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

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

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

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

(8) the Kansas sentencing commission.

Sec. 13. Section 254 of chapter 136 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 254. (a) (1) Except as provided in subsections (b) ~~and~~, (c) and (d), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

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

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

(1) Vehicular homicide, as defined by in K.S.A. 21-3405, prior to its repeal, or section 41 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) driving while the privilege to operate a motor vehicle on the public highways of this state

has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;

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

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

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

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

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

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses:

(1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or section 67 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(2) indecent liberties with a child or aggravated indecent liberties with a child as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal, or section 70 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(3) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of section 68 of chapter 136 of the 2010 Session Laws of Kansas,

and amendments thereto;

(4) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or section 68 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(5) indecent solicitation of a child or aggravated indecent solicitation of a child as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or section 72 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(6) sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.

(7) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or section 81 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(8) endangering a child or aggravated endangering a child as defined in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or section 78 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(9) abuse of a child as defined in K.S.A. 21-3609, prior to its repeal, or section 79 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(10) capital murder as defined in K.S.A. 21-3439, prior to its repeal, or section 36 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(11) murder in the first degree as defined in K.S.A. 21-3401, prior to its repeal, or section 37 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(12) murder in the second degree as defined in K.S.A. 21-3402, prior to its repeal, or section 38 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(13) voluntary manslaughter as defined in K.S.A. 21-3403, prior to its repeal, or section 39 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(14) involuntary manslaughter as defined in K.S.A. 21-3404, prior to its repeal, or section 40

of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(15) sexual battery as defined in K.S.A. 21-3517, prior to its repeal, or section 69 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(16) aggravated sexual battery as defined in K.S.A. 21-3518, prior to its repeal, or section 69 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(17) a violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation;

(18) a violation of K.S.A. 8-2,144, and amendments thereto, including any diversion for such violation; or

(19) any conviction for any offense in effect at any time prior to the effective date of this act July 1, 2011, that is comparable to any offense as provided in this subsection.

(d) Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(Redesignate subsections)

(d) (1) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecutor and the arresting law enforcement agency. The petition shall state the:

(A) Defendant's full name;

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

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

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

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

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

(2) Except as otherwise provided further, ~~there shall be no docket fee for filing a petition pursuant to this section~~by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100. On and after July 1, 2009 through June 30, 2010~~April 15, 2010 through June 30, 2011~~, the supreme court may impose a charge, not to exceed ~~\$10~~\$15 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

(3) All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

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

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

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

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

(f) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other

criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

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

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

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. ~~2009~~2010 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

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

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

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

(E) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming

facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

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

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

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

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

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

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. ~~2009~~2010 Supp. 75-7c01 et seq., and amendments thereto;

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

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

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

(g) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services

program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

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

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

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

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

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

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

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

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

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the Kansas sentencing commission;

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

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

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

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

(16) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act.

passed 3-14-11

If K.S.A. 22-2906, as amended in HB 2322, had 3 tiers of offenders

(a) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:

(A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(C) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-3505, prior to its repeal, or subsection _ of section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(G) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(H) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

House Corrections and Juvenile Justice
Committee

2011 Session

Date 3-14-11

Attachment # 2-1

(I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(K) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto; or

(M) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 15 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(b) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the date of conviction:

(A) Criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection _ of section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(B) indecent solicitation of a minor, as defined in K.S.A. 21-3510, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(D) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto; or

(J) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 25 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility

or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(c) Upon a second or subsequent conviction of an offense requiring registration, an offender's duration of registration shall be for such offender's lifetime.

(d) The duration of registration for any offender who has been convicted of any of the following offenses shall be for such offender's lifetime:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(2) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-34504 prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(5) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of section 61 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or section _ of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, if the victim is under 14 years of age;

(7) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or section 230 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, if the

prostitute is under 14 years of age;

(8) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or subsection (a) of section 43 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(9) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or subsection (b) of section 43 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto; or

(10) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, of an offense defined in this subsection.

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

Testimony: Concerning authorized interception of wire, oral or electronic communications; issuance of order (Authority to issue out of state search warrants)

Mr. Chairman, Members of the Committee: HB2217 is an opportunity for legislators to correct inadequacy in our current laws regarding issuance of search warrants and subpoenas. The language in our laws regarding issuance of search warrants and subpoenas mostly predate the existence of nationwide cellular networks and Internet Service Providers, or other communication providers which are not located in the state of Kansas, but provide services to citizens in the state of Kansas.

As with other technology, criminal use of it has followed leaving law enforcement with the duty to investigate the crimes in which the technology has been used. A significant barrier to these investigations is the inability of our District Judges to issue search warrants or subpoenas to obtain subscriber information and/or content from out of state service providers. While Judges often recognize probable cause exists and realize the importance of the information being requested, they point out K.S.A 22-2502, and other related statutes do not give them authority to compel entities outside of the State of Kansas to comply with search warrants or subpoenas despite their operation within the state of Kansas and their willingness to recognize Kansas legal paperwork.

Kansas law does not require all businesses operating within the state to have a registered agent within the state. Service providers such as Yahoo or Hotmail generally do not have registered agents within the state although they are used by thousands of Kansans, some for nefarious purposes. Without any agent to accept legal service, paperwork must be sent directly to the company headquarters. The problem comes when a search warrant or subpoena is requested, that lists an address outside of the state, Judges have declined to sign the paperwork citing lack of authority to do so. This often creates a dead end in investigations where this type of information is crucial since service providers are restricted by the Electronic Communications Privacy Act (ECPA) from releasing any information related to their users without proper legal process.

The requested changes to K.S.A. 22-2502 would recognize the distributed nature of service providers and the fact that the services they provide do not subscribe to the traditional idea of jurisdictions. It would allow Judges to sign search warrants and subpoenas for jurisdictions that recognize legal paperwork from outside jurisdictions. Most jurisdictions in which service providers reside in have adopted "Long Arm" statutes which indicate they will recognize out of jurisdiction legal authority as if it was issued within the jurisdiction.

Please recognize these changes do not request a change in the burden of proof required to obtain legal authority. We are not asking for blanket authority to obtain information from service providers, we are simply asking for ability to obtain this information as if it resided in our jurisdiction with all the requirements necessary for any search.

Note: The following testimony represents my (and many of my colleagues) experiences, they do not necessarily represent the governing body of the City of Lawrence.

Conclusion:

Inclusion of the recommended changes would allow thorough and accurate investigations of crimes which occur within the state of Kansas without violating any citizen's protection from unreasonable searches.

Thank you for your attention and I look forward to your questions.

M.T. Brown
Detective
Lawrence Kansas Police Department

*As Amended by Senate Committee**Session of 2011***SENATE BILL No. 37**

By Committee on Judiciary

1-19

House Corrections and Juvenile Justice
Committee
2011 Session
Date 3-14-11
Attachment # 4-1

1 AN ACT concerning crimes, punishment and criminal procedure;
2 relating to sentencing; payment of fines; employment of county and
3 city prisoners; amending K.S.A. 22-4603 and section 244 of chapter
4 136 of the 2010 Session Laws of Kansas and repealing the existing
5 sections; also repealing K.S.A. 2009 Supp. 21-4603d, as amended
6 by section 7 of chapter 101 of the 2010 Session Laws of Kansas,
7 and K.S.A. 2010 Supp. 21-4603d.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 22-4603 is hereby amended to read as follows:
11 22-4603. (1) Whenever any able-bodied prisoner is confined in the
12 county jail or the jail of any town or city, having been convicted of a
13 misdemeanor or ~~of a violation of an ordinance of such town or city, the~~
14 sheriff of such county, or the marshal or the chief of police of such
15 town or city, under the direction of the county commissioners or the
16 governing body of the town or city, may ~~cause~~ allow such persons to
17 work at suitable public or charitable employment for not to exceed
18 more than eight hours on each working day.

, traffic violation, property crime

19 (2) A person so employed shall ~~be given credit at the rate of five~~
20 ~~dollars a day on any fine and costs imposed upon him. receive a credit~~
21 ~~on any fine and costs imposed in an amount equal to \$5 for each full~~
22 ~~hour spent by the person in the specified work.~~

be given credit at the rate of five dollars a day on any fine and costs imposed upon him, except that a person convicted of a traffic violation or property crime shall

23 (3) Persons held in jail and awaiting trial or held on civil process,
24 may, with their consent, be likewise so employed and shall receive a
25 credit on any fines and costs ~~in an amount equal to \$5 for each full~~
26 ~~hour spent by the person in the specified work, or if there are no such~~
27 ~~fines and costs, compensation at the rate of five dollars a day for such~~
28 ~~employment in an amount agreed to by the person and the city or~~
29 ~~county, but not less than \$5 a day, to be paid by the city or the county.~~

as described in subsection (2)

30 (4) Any prisoner employed as above provided, shall continue to be
31 deemed prisoners during the hours of their employment and subject to
32 all laws, rules and regulations relating to prisoners.

33 Sec. 2. Section 244 of chapter 136 of the 2010 Session Laws of

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1 which materially aided in the apprehension or conviction of the
 2 defendant; repay the amount of any costs and expenses incurred by any
 3 law enforcement agency in the apprehension of the defendant, if one of
 4 the current crimes of conviction of the defendant includes escape *from*
 5 *custody* or aggravated escape *from custody*, as defined in section 136
 6 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
 7 thereto; repay expenses incurred by a fire district, fire department or
 8 fire company responding to a fire which has been determined to be
 9 arson ~~under or aggravated arson as defined in~~ section 98 of chapter
 10 136 of the 2010 Session Laws of Kansas, and amendments thereto, if
 11 the defendant is convicted of such crime; repay the amount of any
 12 public funds utilized by a law enforcement agency to purchase
 13 controlled substances from the defendant during the investigation
 14 which leads to the defendant's conviction; or repay the amount of any
 15 medical costs and expenses incurred by any law enforcement agency or
 16 county. Such repayment of the amount of any such costs and expenses
 17 incurred by a county, law enforcement agency, fire district, fire
 18 department or fire company or any public funds utilized by a law
 19 enforcement agency shall be deposited and credited to the same fund
 20 from which the public funds were credited to prior to use by the county,
 21 law enforcement agency, fire district, fire department or fire company;

22 (9) order the defendant to pay the administrative fee authorized by
 23 K.S.A. 22-4529, and amendments thereto, unless waived by the court;

24 (10) order the defendant to pay a domestic violence special
 25 program fee authorized by K.S.A. 20-369, and amendments thereto;

26 (11) ~~if the defendant is convicted of a misdemeanor or convicted~~
 27 ~~of a felony provision of~~ *specified in* subsection (i) of section 285 of
 28 chapter 136 of the 2010 Session Laws of Kansas, and amendments
 29 thereto, assign the defendant to a work release program, other than a
 30 program at a correctional institution under the control of the secretary
 31 of corrections as defined in K.S.A. 75-5202, and amendments thereto,
 32 provided such work release program requires such defendant to return
 33 to confinement at the end of each day in the work release program;

34 (11) (12) impose any appropriate combination of (1), (2), (3), (4),
 35 (5), (6), (7), (8), (9) and, (10) and (11); or

36 (12) (13) suspend imposition of sentence in misdemeanor cases.

37 (b) (1) In addition to or in lieu of any of the above, the court shall
 38 order the defendant to pay restitution, which shall include, but not be
 39 limited to, damage or loss caused by the defendant's crime, unless the

, traffic violation, property crime

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1 secretary's custody if the inmate: (1) Has been sentenced to the
2 secretary for a probation revocation, as a departure from the
3 presumptive nonimprisonment grid block of either sentencing grid, for
4 an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the
5 sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-
6 F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, or
7 for an offense which is classified in grid blocks 4-E or 4-F of the
8 sentencing guidelines grid for drug crimes and such offense does not
9 meet the requirements of section 305 of chapter 136 of the 2010
10 Session Laws of Kansas, and amendments thereto, and (2) otherwise
11 meets admission criteria of the camp. If the inmate successfully
12 completes a conservation camp program, the secretary of corrections
13 shall report such completion to the sentencing court and the county or
14 district attorney. The inmate shall then be assigned by the court to six
15 months of follow-up supervision conducted by the appropriate
16 community corrections services program. The court may also order that
17 supervision continue thereafter for the length of time authorized by
18 section 305 248 of chapter 136 of the 2010 Session Laws of Kansas,
19 and amendments thereto.

20 (m) When it is provided by law that a person shall be sentenced
21 pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the
22 provisions of this section shall not apply.

23 (n) Except as provided by subsection (f) of section 286 of chapter
24 136 of the 2010 Session Laws of Kansas, and amendments thereto, in
25 addition to any of the above, for felony violations of K.S.A. 2009 2010
26 Supp. 21-36a06, and amendments thereto, the court shall require the
27 defendant who meets the requirements established in section 305 of
28 chapter 136 of the 2010 Session Laws of Kansas, and amendments
29 thereto, to participate in a certified drug abuse treatment program, as
30 provided in K.S.A. 2009 2010 Supp. 75-52,144, and amendments
31 thereto, including, but not limited to, an approved after-care plan. If the
32 defendant fails to participate in or has a pattern of intentional conduct
33 that demonstrates the offender's refusal to comply with or participate in
34 the treatment program, as established by judicial finding, the defendant
35 shall be subject to revocation of probation and the defendant shall serve
36 the underlying prison sentence as established in section 305 286 of
37 chapter 136 of the 2010 Session Laws of Kansas, and amendments
38 thereto. For those offenders who are convicted on or ~~after the effective~~
39 ~~date of this act~~ July 1, 2003, upon completion of the underlying prison

after

1 provide the domestic violence assessment and any other evaluation to
2 any entity responsible for supervising such defendant. A defendant
3 ordered to undergo a domestic violence offender assessment shall be
4 required to pay for the assessment and, unless otherwise ordered by the
5 court or the department of corrections, for completion of all
6 recommendations.

7 (q) In imposing a fine, the court may authorize the payment
8 thereof in installments. In lieu of payment of any fine imposed, the
9 court may order that the person perform community service specified
10 by the court. The person shall receive a credit on the fine imposed in an
11 amount equal to \$5 for each full hour spent by the person in the
12 specified community service. The community service ordered by the
13 court shall be required to be performed by the later of one year after
14 the fine is imposed or one year after release from imprisonment or jail,
15 or by an earlier date specified by the court. If by the required date the
16 person performs an insufficient amount of community service to reduce
17 to zero the portion of the fine required to be paid by the person, the
18 remaining balance of the fine shall become due on that date. If
19 conditional reduction of any fine is rescinded by the court for any
20 reason, then pursuant to the court's order the person may be ordered to
21 perform community service by one year after the date of such
22 rescission or by an earlier date specified by the court. If by the
23 required date the person performs an insufficient amount of community
24 service to reduce to zero the portion of the fine required to be paid by
25 the person, the remaining balance of the fine shall become due on that
26 date. All credits for community service shall be subject to review and
27 approval by the court.

for a conviction of a traffic violation or property crime

The person shall receive a credit on the fine imposed for a conviction of any
other crime or ordinance violation in an amount equal to \$5 a day.

28 Sec. 3. K.S.A. 22-4603 and K.S.A. 2009 Supp. 21-4603d, as
29 amended by section 7 of chapter 101 of the 2010 Session Laws of
30 Kansas, and K.S.A. 2010 Supp. 21-4603d and section 244 of chapter
31 136 of the 2010 Session Laws of Kansas are hereby repealed.

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