

CHAPTER 214
SENATE BILL No. 506
(Amends Chapter 63)

AN ACT concerning persons required to register pursuant to the Kansas offender registration act; providing for an annual driver's license or identification card; residency restrictions; juvenile offenders required to register; sexually violent predators; registration requirements; amending K.S.A. 59-29a02, 59-29a07 and 59-29a11 and K.S.A. 2005 Supp. 8-243, 8-247, 8-247, as amended by section 4 of this act, 22-4902, 22-4904, 22-4905, 22-4906, 22-4909 and 74-9501 and repealing the existing sections; also repealing K.S.A. 2005 Supp. 8-247, as amended by section 2 of 2006 Senate Bill No. 554.

WHEREAS, Subsection (a)(7) of K.S.A. 2005 Supp. 22-4902, and amendments thereto, shall be known and may be cited as Miki's Law: Now, therefore,

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

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

(b) Identification cards issued under this section shall be readily distinguishable indicating that such person is a registered offender.

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

New Sec. 2. On and after the effective date of this act, cities and counties shall be prohibited from adopting or enforcing any ordinance, resolution or regulation establishing residential restrictions for offenders as defined by K.S.A. 22-4902, and amendments thereto. The provisions of this section shall expire on June 30, 2008.

Sec. 3. K.S.A. 2005 Supp. 8-243 is hereby amended to read as follows: 8-243. (a) Upon payment of the required fee, the division shall issue to every applicant qualifying under the provisions of this act the driver's license as applied for by the applicant. Such license shall bear the class or classes of motor vehicles which the licensee is entitled to drive, a distinguishing number assigned to the licensee, the name, date of birth, residence address, and a brief description of the licensee, a colored photograph of the licensee, a facsimile of the signature of the licensee or a space upon which the licensee shall write such licensee's usual signature with pen and ink immediately upon receipt of the license and the statement provided for in subsection (b). No driver's license shall be valid until it has been signed by the licensee. All drivers' licenses issued to persons under the age of 21 years shall be readily distinguishable from licenses issued to persons age 21 years or older. In addition, all drivers' licenses issued to persons under the age of 18 years shall also be readily distinguishable from licenses issued to persons age 18 years or older. On and after July 1, 2004, the secretary of revenue shall implement a vertical format to make drivers' licenses issued to persons under the age of 21 more readily distinguishable. Except as otherwise provided, on or after July 1, 2004, no driver's license issued by the division shall be valid until a colored photograph of such licensee has been taken and verified before being placed on the driver's license. The secretary of revenue shall prescribe a fee of not more than \$4 and upon payment of such fee the division shall cause a colored photograph of such applicant to be placed on the driver's license. Upon payment of such fee prescribed by the secretary of revenue, plus payment of the fee required by K.S.A. 8-246, and amendments thereto, for issuance of a new license, the division shall issue to such licensee a new license containing a colored photograph of such licensee. A driver's license which does not contain a colored photograph of the licensee as required may be issued to persons exempted from such requirement. Any such license shall be valid for the purposes of the motor vehicle drivers' license act and the division shall set forth upon such driver's license the words "valid without photo." Any person who is outside the state and for whom the division provides for renewal of the

driver's license by mail is exempt from the requirement to have a colored photograph of such person placed on such person's driver's license. Any person belonging to a religious organization which has a basic objection to having their picture taken may sign a statement to that effect and such person shall then be exempt from the picture requirements of this section.

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

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

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

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

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

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

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

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

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

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

(c) At least 30 days prior to the expiration of a person's license the division shall mail a notice of expiration or renewal application to such person at the address shown on the license. The division shall include

with such notice: (1) A copy of the eyesight examination form; (2) a copy of the written examination prescribed by subsection (e); (3) a copy of the Kansas driver's manual, prepared pursuant to K.S.A. 8-266b, and amendments thereto; and (4) the written information required under subsection (g).

(d) Every driver's license shall be renewable on or before its expiration upon application and payment of the required fee and successful completion of the examinations required by subsection (e). Application for renewal of a valid driver's license shall be made to the division in accordance with rules and regulations adopted by the secretary of revenue. Such application shall contain all the requirements of subsection (b) of K.S.A. 8-240, and amendments thereto. Upon satisfying the foregoing requirements of this subsection, and if the division makes the findings required by K.S.A. 8-235b, and amendments thereto, for the issuance of an original license, the license shall be renewed without examination of the applicant's driving ability. If the division finds that any of the statements relating to revocation, suspension or refusal of licenses required under subsection (b) of K.S.A. 8-240, and amendments thereto, are in the affirmative, or if it finds that the license held by the applicant is not a valid one, or if the applicant has failed to make application for renewal of such person's license on or before the expiration date thereof, the division may require the applicant to take an examination of ability to exercise ordinary and reasonable control in the operation of a motor vehicle as provided in K.S.A. 8-235d, and amendments thereto.

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

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

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

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

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

(6) When the division has good cause to believe that an applicant for renewal of a driver's license is incompetent or otherwise not qualified to operate a motor vehicle in accord with the public safety and welfare, the division may require such applicant to submit to such additional examinations as are necessary to determine that the applicant is qualified to receive the license applied for. Subject to paragraph (7) of this subsection, in so evaluating such qualifications, the division may request an advisory opinion of the medical advisory board which is hereby authorized to render such opinions in addition to its duties prescribed by subsection (b) of

K.S.A. 8-255b, and amendments thereto. Any such applicant who is denied the renewal of such a driver's license because of a mental or physical disability shall be afforded a hearing in the manner prescribed by subsection (c) of K.S.A. 8-255, and amendments thereto.

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

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

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

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

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

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

(4) inform the applicant in writing that, if the applicant indicates under this subsection a willingness to have such applicant's name placed on the organ donor registry described in paragraph (2), the division will forward the applicant's name, gender, date of birth and most recent address to the organ donation registry maintained by the Kansas federally designated organ procurement organization, as required by paragraph (6);

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

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

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

(6) if an applicant indicates a willingness under this subsection to have such applicant's name placed on the organ donor registry, the division shall within 10 days forward the applicant's name, gender, date of birth and most recent address to the organ donor registry maintained by the Kansas federally designated organ procurement organization. The division may forward information under this subsection by mail or by electronic means. The division shall not maintain a record of the name or address of an individual who indicates a willingness to have such person's name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have such applicant's name placed on the organ donor registry that is obtained by the division and forwarded under this paragraph shall be confidential and not disclosed.

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

Sec. 5. On and after July 1, 2006, K.S.A. 2005 Supp. 8-247, as amended by section 4 of this act, is hereby amended to read as follows: 8-247. (a) (1) All original licenses shall expire as follows:

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

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

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

(D) licenses issued to an offender, as defined in K.S.A. 22-4902, and amendments thereto, who is required to register pursuant to the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall expire every year on the date of birth of the licensee; *or*

(E) licenses issued to persons who are less than 21 years of age shall expire on the licensee's twenty-first birthday.

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

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

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

(d) Every driver's license shall be renewable on or before its expiration upon application and payment of the required fee and successful completion of the examinations required by subsection (e). Application for renewal of a valid driver's license shall be made to the division in accordance with rules and regulations adopted by the secretary of revenue. Such application shall contain all the requirements of subsection (b) of K.S.A. 8-240, and amendments thereto. Upon satisfying the foregoing requirements of this subsection, and if the division makes the findings required by K.S.A. 8-235b, and amendments thereto, for the issuance of an original license, the license shall be renewed without examination of the applicant's driving ability. If the division finds that any of the statements relating to revocation, suspension or refusal of licenses required under subsection (b) of K.S.A. 8-240, and amendments thereto, are in the affirmative, or if it finds that the license held by the applicant is not a valid one, or if the applicant has failed to make application for renewal of such person's license on or before the expiration date thereof, the division may require the applicant to take an examination of ability to

exercise ordinary and reasonable control in the operation of a motor vehicle as provided in K.S.A. 8-235d, and amendments thereto.

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

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

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

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

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

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

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

and subsequent operation of a motor vehicle by the licensee.

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

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

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

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

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

(4) inform the applicant in writing that, if the applicant indicates under this subsection a willingness to have such applicant's name placed on the organ donor registry described in paragraph (2), the division will forward the applicant's name, gender, date of birth and most recent address to the organ donation registry maintained by the Kansas federally designated organ procurement organization, as required by paragraph (6);

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

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

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

(6) if an applicant indicates a willingness under this subsection to have such applicant's name placed on the organ donor registry, the division shall within 10 days forward the applicant's name, gender, date of birth and most recent address to the organ donor registry maintained by the Kansas federally designated organ procurement organization. The division may forward information under this subsection by mail or by electronic means. The division shall not maintain a record of the name or address of an individual who indicates a willingness to have such person's name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have such applicant's name placed on the organ donor registry that is obtained by the division and forwarded under this paragraph shall be confidential and not disclosed.

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

Sec. 6. On and after July 1, 2006, K.S.A. 2005 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in this 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);

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

(4) any person who, on and after the effective date of this act, 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 con-

duct 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;
- (E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto; or
- (F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;
- (6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;
- (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;*
- ~~(7)~~ (8) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4) ~~or~~, (5) *or* (7), 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) ~~or~~, (5) *or* (7); or
- ~~(8)~~ (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) ~~or~~, (5) *or* 7.

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).

(c) "Sexually violent crime" means:

- (1) Rape as defined in K.S.A. 21-3502 and amendments thereto;
- (2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;
- (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;
- (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;
- (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;
- (6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;
- (7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;
- (8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;
- (9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;
- (10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;
- (11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or
- (12) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;
- (13) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or
- (14) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated.

As used in this subparagraph, “sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant’s sexual gratification.

(d) “Violent offender” includes any person who, after the effective date of this act, is convicted of any of the following crimes:

(1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;

(2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;

(3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;

(4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;

(5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto; or

(6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) 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 this subsection.

(e) “Law enforcement agency having jurisdiction” means the sheriff of the county in which the offender expects to reside upon the offender’s discharge, parole or release.

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

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

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

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

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

(3) any 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 this subsection.

(i) “Institution of higher education” means any post-secondary school under the supervision of the Kansas board of regents.

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

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

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

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

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

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

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

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

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

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

(G) 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;

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

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

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

~~(K)~~ (K) 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.

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

(7) 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 then all provisions of that act shall apply, except that the term of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

~~(b)~~ (b) If any person required to register as provided in this act changes the address of the person's residence, the offender, within 10 days, shall inform in writing the *law enforcement agency where such offender last registered* of the new address.

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

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

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

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

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

registration information is the same as last reported.

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

(5) Nothing contained in this section shall be construed to alleviate any person required to register as provided in this act from meeting the requirements prescribed in subsections (a)(1), (a)(2) and (b)(4).

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

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

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

Sec. 8. K.S.A. 2005 Supp. 22-4905 is hereby amended to read as follows: 22-4905. (a) (1) Any offender, who is discharged or paroled from a prison, hospital or other institution or facility involving a violation of any crime or confinement as provided in subsection (a), (b), (d) or (f) of K.S.A. 22-4902 and amendments thereto, prior to discharge, parole or release, shall be informed by the staff of the facility in which the offender was confined of the duty to register as provided in this act.

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

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

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

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

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

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

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

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

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

(B) The staff of the facility shall give one copy of the form to the person, within three days, and 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 discharge, parole or 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.

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

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

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

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

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

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

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

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

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

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

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

Sec. 9. K.S.A. 2005 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) ~~Any~~ *Except as provided in subsection (d), any* person required to register as provided in this act shall be required to register: (1) Upon the first conviction of a sexually violent crime as defined in subsection (c) of K.S.A. 22-4902, and amendments thereto, any offense as defined in subsection (a) of K.S.A. 22-4902, and amendments thereto, or any offense as defined in subsection (d) of K.S.A. 22-4902, and amendments thereto, if not confined, for a period of 10 years after conviction, or, if confined, for a period of 10 years after paroled, discharged or released, whichever date is most recent. The ten-year period shall not apply to any person while the person is incarcerated in any jail or correctional facility. The ten-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement; or (2)

upon a second or subsequent conviction for such person's lifetime.

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

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

(d) *Any person who has been convicted of any of the following offenses shall be required to register for such person's lifetime:*

(1) *Aggravated trafficking, as defined in K.S.A. 2005 Supp. 21-3447, and amendments thereto, if the victim is less than 14 years of age;*

(2) *rape, as defined in subsection (a)(2) of K.S.A. 2005 Supp. 21-3502, and amendments thereto;*

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

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

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

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

~~(e)~~ (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.

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

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

~~(h)~~ (h) (1) Notwithstanding any other provisions of this section, a person who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, *and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, and amendments thereto*, shall be required to register until such person 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. The five-year period shall not apply to any person while that person is incarcerated in any jail, juvenile facility or correctional facility. The five-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement.

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

(i) *Be required to register pursuant to the provisions of paragraph (1);*

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

(iii) *be required to register with the sheriff pursuant to K.S.A. 22-4904, and amendments thereto, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires the juvenile to register but such registration is not open to the public, the juvenile shall provide a copy of such court order to the sheriff*

at the time of registration. The sheriff shall forward a copy of such court order to the Kansas bureau of investigation.

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

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

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

Sec. 10. K.S.A. 2005 Supp. 22-4909 is hereby amended to read as follows: 22-4909. (a) Except as prohibited by subsection (h) of K.S.A. 22-4906, and amendments thereto, the statements or any other information required by this act shall be open to inspection by the public at the sheriff's office, at the headquarters of the Kansas bureau of investigation and on any internet website sponsored or created by a sheriff's department or the Kansas bureau of investigation that contains such statements or information, and specifically are subject to the provisions of the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except that the name, address, telephone number, or any other information which specifically and individually identifies the victim of any offender required to register as provided in this act shall not be disclosed other than to law enforcement agencies.

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

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

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

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

Sec. 11. K.S.A. 59-29a02 is hereby amended to read as follows: 59-29a02. As used in this act:

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

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

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

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

(e) "Sexually violent offense" means:

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

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

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

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

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

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

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

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

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

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

(11) any conviction for a felony offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent offense as defined in subparagraphs (1) through (11) or any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this section;

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

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

(f) "Agency with jurisdiction" means that agency which releases upon lawful order or authority a person serving a sentence or term of confinement and includes the department of corrections, the department of social and rehabilitation services and the Kansas parole board.

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

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

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

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

Sec. 12. K.S.A. 59-29a07 is hereby amended to read as follows: 59-29a07. (a) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If such determination that the person is a sexually violent predator is made by a jury, such determination shall be by unanimous verdict of such jury. Such determination may be appealed. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the secretary of social and rehabilitation services for control, care and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person is safe to be at large. Such control, care and treatment shall be provided at a facility operated by the department of social and rehabilitation services.

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

(c) The department of social and rehabilitation services is authorized to enter into an interagency agreement with the department of corrections for the confinement of such persons. Such persons who are in the

confinement of the secretary of corrections pursuant to an interagency agreement shall be housed and managed separately from offenders in the custody of the secretary of corrections, and except for occasional instances of supervised incidental contact, shall be segregated from such offenders.

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

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

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

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

Sec. 13. K.S.A. 59-29a11 is hereby amended to read as follows: 59-29a11. (a) Nothing in this act shall prohibit a person from filing a petition for transitional release, conditional release or final discharge pursuant to this act. However, if a person has previously filed a petition for transitional release, conditional release or final discharge without the secretary of the department of social and rehabilitation services approval and the court determined either upon review of the petition or following a hearing, that the petitioner's petition was frivolous or that the petitioner's condition had not so changed that the person was safe to be at large, then the court shall deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from committed persons without the secretary's approval, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds and if so shall deny the petition without a hearing.

(b) *No transitional release or conditional release facility or building*

shall be located within 2,000 feet of a licensed child care facility, registered family day care home, an established place of worship, any residence in which a child under 18 years of age resides, or the real property of any school upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any grades one through 12. This subsection shall not apply to any state correctional institution or facility.

(c) *Transitional release or conditional release facilities or buildings shall be subject to all regulations applicable to other property and buildings located in the zone or area that are imposed by any municipality through zoning ordinance, resolution or regulation, such municipality's building regulatory codes, subdivision regulations or other nondiscriminatory regulations.*

Sec. 14. K.S.A. 2005 Supp. 74-9501 is hereby amended to read as follows: 74-9501. (a) There is hereby established the Kansas criminal justice coordinating council.

(b) The council shall consist of the governor or designee, the chief justice of the supreme court or designee, the attorney general or designee, the secretary of corrections, the superintendent of the highway patrol, the commissioner of juvenile justice and the director of the Kansas bureau of investigation.

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

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

(e) The council shall:

(1) Appoint a standing local government advisory group to consult and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, a member of a city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses;

(2) define and analyze issues and processes in the criminal justice system, identify alternative solutions and make recommendations for improvements;

(3) perform such criminal justice studies or tasks as requested by the governor, the attorney general, the legislature or the chief justice, as deemed appropriate or feasible by the council;

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

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

(6) form such task groups as necessary and appoint individuals who appropriately represent law enforcement, the judiciary, legal profession, state, local, or federal government, the public, or other professions or groups as determined by the council, to represent the various aspects of the issue being analyzed or studied, when analyzing criminal justice issues and performing criminal justice studies. Members of the legislature may be appointed ex officio members to such task groups. A member of the council shall serve as the chairperson of each task group appointed by the council. The council may appoint other members of the council to any task group formed by the council; ~~and~~

(7) review reports submitted by each task group named by the council and shall submit the report with the council's recommendations pertain-

ing thereto to the governor, the attorney general, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate; and

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

(B) *The sex offender policy board shall consist of the secretary of corrections, the commissioner of juvenile justice, the secretary of social and rehabilitation services, the director of the Kansas bureau of investigation and the chief justice of the supreme court or the chief justice's designee and two persons appointed by the criminal justice coordinating council. Of the persons appointed by the criminal justice coordinating council, one shall be a mental health service provider and the other shall be engaged in the provision of services involving child welfare or crime victims.*

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

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

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

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

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

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

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

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

Sec. 15. K.S.A. 59-29a02, 59-29a07 and 59-29a11 and K.S.A. 2005 Supp. 8-243, 8-247, 22-4904, 22-4905, 22-4906, 22-4909 and 74-9501 are hereby repealed.

Sec. 16. On and after July 1, 2006, K.S.A. 2005 Supp. 8-247, as amended by section 4 of this act, 8-247, as amended by section 2 of 2006 Senate Bill No. 554, and 22-4902 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 24, 2006.

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