

SENATE BILL No. 245

By Committee on Judiciary

2-7

1 AN ACT concerning crimes, punishment and criminal procedure;
2 providing that no person shall be sentenced to death for crimes
3 committed after July 1, 2025; creating the crime of aggravated murder;
4 requiring a sentence of imprisonment for life without the possibility of
5 parole therefor; clarifying laws related to sentences of imprisonment for
6 life without the possibility of parole; amending K.S.A. 21-5301, 21-
7 5402, 21-5419, 21-6614, 21-6618, 21-6620, 21-6622, 21-6628, 21-
8 6629, 21-6806, 22-2512, 22-4902, 22-4906, 23-3222, 38-2271, 38-
9 2303, 38-2312, 38-2365, 72-2165 and 75-52,148 and K.S.A. 2024
10 Supp. 21-6328, 22-3717, 38-2255, 39-970, 39-2009 and 65-5117 and
11 repealing the existing sections; also repealing K.S.A. 21-5401, 21-6617
12 and 21-6619; also repealing K.S.A. 2024 Supp. 39-2009a.
13

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

15 New Section 1. (a) No person shall be sentenced to death for a crime
16 committed on or after July 1, 2025.

17 (b) Any person who is sentenced to death for a crime committed prior
18 to July 1, 2025, may be put to death pursuant to the provisions of article 40
19 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

20 (c) This section shall be a part of and supplemental to the Kansas
21 criminal code.

22 New Sec. 2. (a) Aggravated murder is the:

23 (1) Intentional and premeditated killing of any person in the
24 commission of kidnapping, as defined in K.S.A. 21-5408, and
25 amendments thereto, or aggravating kidnapping, as defined in K.S.A. 21-
26 5408(b), and amendments thereto, when the kidnapping or aggravated
27 kidnapping was committed with the intent to hold such person for ransom;

28 (2) intentional and premeditated killing of any person pursuant to a
29 contract or agreement to kill such person or being a party to the contract or
30 agreement pursuant to which such person is killed;

31 (3) intentional and premeditated killing of any person by an inmate or
32 prisoner confined in a state correctional institution, community
33 correctional institution or jail or while in the custody of an officer or
34 employee of a state correctional institution, community correctional
35 institution or jail;

36 (4) intentional and premeditated killing of the victim of one of the

1 following crimes in the commission of, or subsequent to, such crime:
2 Rape, as defined in K.S.A. 21-5503, and amendments thereto, criminal
3 sodomy, as defined in K.S.A. 21-5504(a)(3) or (a)(4), and amendments
4 thereto, or aggravated criminal sodomy, as defined in K.S.A. 21-5504(b),
5 and amendments thereto, or any attempt thereof, as defined in K.S.A. 21-
6 5301, and amendments thereto;

7 (5) intentional and premeditated killing of a law enforcement officer;

8 (6) intentional and premeditated killing of more than one person as a
9 part of the same act or transaction or in two or more acts or transactions
10 connected together or constituting parts of a common scheme or course of
11 conduct; or

12 (7) intentional and premeditated killing of a child under the age of 14
13 in the commission of kidnapping, as defined in K.S.A. 21-5408(a), and
14 amendments thereto, or aggravated kidnapping, as defined in K.S.A. 21-
15 5408(b), and amendments thereto, when the kidnapping or aggravated
16 kidnapping was committed with intent to commit a sex offense upon or
17 with the child or with intent that the child commit or submit to a sex
18 offense.

19 (b) For purposes of this section, "sex offense" means rape, as defined
20 in K.S.A. 21-5503, and amendments thereto, aggravated indecent liberties
21 with a child, as defined in K.S.A. 21-5506(b), and amendments thereto,
22 aggravated criminal sodomy, as defined in K.S.A. 21-5504(b), and
23 amendments thereto, selling sexual relations, as defined in K.S.A. 21-
24 6419, and amendments thereto, promoting the sale of sexual relations, as
25 defined in K.S.A. 21-6420, and amendments thereto, or sexual exploitation
26 of a child, as defined in K.S.A. 21-5510, and amendments thereto.

27 (c) Notwithstanding K.S.A. 21-5109(b)(1) or (b)(2), and amendments
28 thereto, when the same conduct of a defendant may establish the
29 commission of aggravated murder and the commission of another crime
30 under the laws of this state, the defendant may be prosecuted and
31 sentenced for each of such crimes.

32 (d) Aggravated murder or an attempt to commit aggravated murder is
33 an off-grid person felony.

34 (e) The provisions of K.S.A. 21-5301(c), and amendments thereto,
35 shall not apply to a violation of attempting to commit the crime of
36 aggravated murder pursuant to this section.

37 (f) This section shall be a part of and supplemental to the Kansas
38 criminal code.

39 New Sec. 3. (a) When it is provided by law that a person shall be
40 sentenced pursuant to this section, such person shall be sentenced to
41 imprisonment for life without the possibility of parole. A defendant who is
42 sentenced to imprisonment for life without the possibility of parole shall
43 spend the remainder of the defendant's natural life incarcerated and in the

1 custody of the secretary of corrections. A defendant who is sentenced to
2 imprisonment for life without the possibility of parole shall not be eligible
3 for commutation of sentence, parole, probation, assignment to a
4 community correctional services program, conditional release, postrelease
5 supervision, functional incapacitation release pursuant to K.S.A. 22-3728,
6 and amendments thereto, or suspension, modification or reduction of
7 sentence. Upon sentencing a defendant to imprisonment for life without
8 the possibility of parole, the court shall commit the defendant to the
9 custody of the secretary of corrections and the court shall state in the
10 sentencing order of the judgment form or journal entry, whichever is
11 delivered with the defendant to the correctional institution, that the
12 defendant has been sentenced to imprisonment for life without the
13 possibility of parole.

14 (b) This section shall be a part of and supplemental to the Kansas
15 criminal code.

16 Sec. 4. K.S.A. 21-5301 is hereby amended to read as follows: 21-
17 5301. (a) An attempt is any overt act toward the perpetration of a crime
18 done by a person who intends to commit such crime but fails in the
19 perpetration thereof or is prevented or intercepted in executing such crime.

20 (b) It shall not be a defense to a charge of attempt that the
21 circumstances under which the act was performed or the means employed
22 or the act itself were such that the commission of the crime was not
23 possible.

24 (c) (1) An attempt to commit an off-grid felony shall be ranked at
25 nondrug severity level 1. An attempt to commit any other nondrug felony
26 shall be ranked on the nondrug scale at two severity levels below the
27 appropriate level for the underlying or completed crime. The lowest
28 severity level for an attempt to commit a nondrug felony shall be a severity
29 level 10.

30 (2) The provisions of this subsection shall not apply to a violation of
31 attempting to commit the crime of:

32 (A) Aggravated human trafficking, as defined in K.S.A. 21-5426(b),
33 and amendments thereto, if the offender is 18 years of age or older and the
34 victim is less than 14 years of age;

35 (B) terrorism, as defined in K.S.A. 21-5421, and amendments thereto;

36 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
37 21-5422, and amendments thereto;

38 (D) rape, as defined in K.S.A. 21-5503(a)(3), and amendments
39 thereto, if the offender is 18 years of age or older;

40 (E) aggravated indecent liberties with a child, as defined in K.S.A.
41 21-5506(b)(3), and amendments thereto, if the offender is 18 years of age
42 or older;

43 (F) aggravated criminal sodomy, as defined in K.S.A. 21-5504(b)(1)

1 or (2), and amendments thereto, if the offender is 18 years of age or older;

2 (G) commercial sexual exploitation of a child, as defined in K.S.A.
3 21-6422, and amendments thereto, if the offender is 18 years of age or
4 older and the victim is less than 14 years of age;

5 (H) sexual exploitation of a child, as defined in K.S.A. 21-5510(a)(1)
6 or (4), and amendments thereto, if the offender is 18 years of age or older
7 and the child is less than 14 years of age;

8 (I) aggravated internet trading in child pornography, as defined in
9 K.S.A. 21-5514(b), and amendments thereto, if the offender is 18 years of
10 age or older and the child is less than 14 years of age; or

11 (J) ~~capital murder, as defined in K.S.A. 21-5401~~ *aggravated murder,*
12 *as defined in section 2,* and amendments thereto.

13 (d) (1) An attempt to commit a felony ~~which~~ *that* prescribes a
14 sentence on the drug grid shall reduce the prison term prescribed in the
15 drug grid block for an underlying or completed crime by six months.

16 (2) The provisions of this subsection shall not apply to a violation of
17 attempting to commit a violation of K.S.A. 21-5703, and amendments
18 thereto.

19 (e) An attempt to commit a class A person misdemeanor is a class B
20 person misdemeanor. An attempt to commit a class A nonperson
21 misdemeanor is a class B nonperson misdemeanor.

22 (f) An attempt to commit a class B or C misdemeanor is a class C
23 misdemeanor.

24 Sec. 5. K.S.A. 21-5402 is hereby amended to read as follows: 21-
25 5402. (a) Murder in the first degree is the killing of a human being
26 committed:

27 (1) Intentionally, and with premeditation; or

28 (2) in the commission of, attempt to commit, or flight from any
29 inherently dangerous felony.

30 (b) Murder in the first degree is an off-grid person felony.

31 (c) As used in this section, an "inherently dangerous felony" means:

32 (1) Any of the following felonies, whether such felony is so distinct
33 from the homicide alleged to be a violation of subsection (a)(2) as not to
34 be an ingredient of the homicide alleged to be a violation of subsection (a)
35 (2):

36 (A) Kidnapping, as defined in K.S.A. 21-5408(a), and amendments
37 thereto;

38 (B) aggravated kidnapping, as defined in K.S.A. 21-5408(b), and
39 amendments thereto;

40 (C) robbery, as defined in K.S.A. 21-5420(a), and amendments
41 thereto;

42 (D) aggravated robbery, as defined in K.S.A. 21-5420(b), and
43 amendments thereto;

- 1 (E) rape, as defined in K.S.A. 21-5503, and amendments thereto;
- 2 (F) aggravated criminal sodomy, as defined in K.S.A. 21-5504(b),
3 and amendments thereto;
- 4 (G) abuse of a child, as defined in K.S.A. 21-5602, and amendments
5 thereto;
- 6 (H) felony theft of property, as defined in K.S.A. 21-5801(a)(1) or (a)
7 (3), and amendments thereto;
- 8 (I) burglary, as defined in K.S.A. 21-5807(a), and amendments
9 thereto;
- 10 (J) aggravated burglary, as defined in K.S.A. 21-5807(b), and
11 amendments thereto;
- 12 (K) arson, as defined in K.S.A. 21-5812(a), and amendments thereto;
- 13 (L) aggravated arson, as defined in K.S.A. 21-5812(b), and
14 amendments thereto;
- 15 (M) treason, as defined in K.S.A. 21-5901, and amendments thereto;
- 16 (N) any felony offense as provided in K.S.A. 21-5703, 21-5705 or
17 21-5706, and amendments thereto;
- 18 (O) any felony offense as provided in K.S.A. 21-6308(a) or (b), and
19 amendments thereto;
- 20 (P) endangering the food supply, as defined in K.S.A. 21-6317(a),
21 and amendments thereto;
- 22 (Q) aggravated endangering the food supply, as defined in K.S.A. 21-
23 6317(b), and amendments thereto;
- 24 (R) fleeing or attempting to elude a police officer, as defined in
25 K.S.A. 8-1568(b), and amendments thereto;
- 26 (S) aggravated endangering a child, as defined in K.S.A. 21-5601(b)
27 (1), and amendments thereto;
- 28 (T) abandonment of a child, as defined in K.S.A. 21-5605(a), and
29 amendments thereto;
- 30 (U) aggravated abandonment of a child, as defined in K.S.A. 21-
31 5605(b), and amendments thereto; or
- 32 (V) mistreatment of a dependent adult or mistreatment of an elder
33 person, as defined in K.S.A. 21-5417, and amendments thereto; and
- 34 (2) any of the following felonies, only when such felony is so distinct
35 from the homicide alleged to be a violation of subsection (a)(2) as to not
36 be an ingredient of the homicide alleged to be a violation of subsection (a)
37 (2):
 - 38 (A) Murder in the first degree, as defined in subsection (a)(1);
 - 39 (B) murder in the second degree, as defined in K.S.A. 21-5403(a)(1),
40 and amendments thereto;
 - 41 (C) voluntary manslaughter, as defined in K.S.A. 21-5404(a)(1), and
42 amendments thereto;
 - 43 (D) aggravated assault, as defined in K.S.A. 21-5412(b), and

1 amendments thereto;

2 (E) aggravated assault of a law enforcement officer, as defined in
3 K.S.A. 21-5412(d), and amendments thereto;

4 (F) aggravated battery, as defined in K.S.A. 21-5413(b)(1), and
5 amendments thereto; or

6 (G) aggravated battery against a law enforcement officer, as defined
7 in K.S.A. 21-5413(d), and amendments thereto.

8 (d) Murder in the first degree as defined in subsection (a)(2) is an
9 alternative method of proving murder in the first degree and is not a
10 separate crime from murder in the first degree as defined in subsection (a)
11 (1). The provisions of K.S.A. 21-5109, and amendments thereto, are not
12 applicable to murder in the first degree as defined in subsection (a)(2).
13 Murder in the first degree as defined in subsection (a)(2) is not a lesser
14 included offense of murder in the first degree as defined in subsection (a)
15 (1), and is not a lesser included offense of ~~capital~~ *aggravated* murder as
16 defined in K.S.A. 21-5401, and amendments thereto. As set forth in
17 ~~subsection (b) of~~ K.S.A. 21-5109(b), and amendments thereto, there are no
18 lesser included offenses of murder in the first degree under subsection (a)
19 (2).

20 (e) The amendments to this section by chapter 96 of the 2013 Session
21 Laws of Kansas establish a procedural rule for the conduct of criminal
22 prosecutions and shall be construed and applied retroactively to all cases
23 currently pending.

24 Sec. 6. K.S.A. 21-5419 is hereby amended to read as follows: 21-
25 5419. (a) As used in this section:

26 (1) "Abortion" means an abortion as defined by K.S.A. 65-6701, and
27 amendments thereto; and

28 (2) "unborn child" means a living individual organism of the species
29 homo sapiens, in utero, at any stage of gestation from fertilization to birth.

30 (b) This section shall not apply to:

31 (1) Any act committed by the mother of the unborn child;

32 (2) any medical procedure, including abortion, performed by a
33 physician or other licensed medical professional at the request of the
34 pregnant woman or her legal guardian; or

35 (3) the lawful dispensation or administration of lawfully prescribed
36 medication.

37 (c) As used in K.S.A. ~~21-5401~~, 21-5402, 21-5403, 21-5404, 21-5405,
38 21-5406 ~~and subsections (a) and (b) of~~, 21-5413(a) and (b) and section 2,
39 and amendments thereto, "person" and "human being" also mean an
40 unborn child.

41 (d) This section shall be known as Alexa's law.

42 Sec. 7. K.S.A. 2024 Supp. 21-6328 is hereby amended to read as
43 follows: 21-6328. As used in the Kansas racketeer influenced and corrupt

1 organization act:

2 (a) (1) "Beneficial interest" means the interest of a person:

3 (A) As a beneficiary under any trust arrangement pursuant to which a
4 trustee holds legal or record title to real property for the benefit of such
5 person; or

6 (B) under any other form of express fiduciary arrangement pursuant
7 to which any other person holds legal or record title to real property for the
8 benefit of such person.

9 (2) The term "beneficial interest" does not include the interest of a
10 stock holder in a corporation or the interest of a partner in either a general
11 partnership or a limited partnership. A beneficial interest shall be deemed
12 to be located where the real property owned by the trustee is located.

13 (b) "Covered person" means any person who:

14 (1) Is a criminal street gang member or criminal street gang associate,
15 as defined in K.S.A. 21-6313, and amendments thereto;

16 (2) has engaged in or is engaging in any conduct prohibited by K.S.A.
17 21-5426, and amendments thereto, human trafficking or aggravated human
18 trafficking, or K.S.A. 21-6422, and amendments thereto, commercial
19 sexual exploitation of a child;

20 (3) has engaged in or is engaging in any conduct prohibited by K.S.A.
21 21-5703, and amendments thereto, unlawful manufacturing of controlled
22 substances, or K.S.A. 21-5705, and amendments thereto, unlawful
23 cultivation or distribution of controlled substances; or

24 (4) has engaged in or is engaging in any conduct prohibited by K.S.A.
25 21-6107, and amendments thereto, identity theft or identity fraud.

26 (c) "Documentary material" means any book, paper, document,
27 writing, drawing, graph, chart, photograph, phonorecord, magnetic tape,
28 computer printout, other data compilation from which information can be
29 obtained or from which information can be translated into usable form, or
30 other tangible item.

31 (d) "Enterprise" means any individual, sole proprietorship,
32 partnership, corporation, business trust, union chartered under the laws of
33 this state, or other legal entity, or any unchartered union, association, or
34 group of individuals associated in fact although not a legal entity; and it
35 includes illicit as well as licit enterprises and governmental, as well as
36 other, entities. A criminal street gang, as defined in K.S.A. 21-6313, and
37 amendments thereto, constitutes an enterprise.

38 (e) "Pattern of racketeering activity" means engaging in at least two
39 incidents of racketeering activity that have the same or similar intents,
40 results, accomplices, victims or methods of commission or that otherwise
41 are interrelated by distinguishing characteristics and are not isolated
42 incidents, provided at least one of such incidents occurred after the
43 effective date of this act and that the last of such incidents occurred within

1 five years, excluding any period of imprisonment, after a prior incident of
2 racketeering activity.

3 (f) "Racketeering activity" means to commit, attempt to commit,
4 conspire to commit or to solicit, coerce or intimidate another person to
5 commit any:

6 (1) Felony or misdemeanor violation of: The felony provisions of
7 K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a
8 police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas
9 money transmitter act; article 12a of chapter 17 of the Kansas Statutes
10 Annotated, and amendments thereto, Kansas uniform securities act; ~~K.S.A.~~
11 ~~21-5401~~ *section 2*, and amendments thereto, ~~capital~~ *aggravated* murder;
12 K.S.A. 21-5402, and amendments thereto, murder in the first degree;
13 K.S.A. 21-5403, and amendments thereto, murder in the second degree;
14 K.S.A. 21-5408, and amendments thereto, kidnapping or aggravated
15 kidnapping; K.S.A. 21-5412, and amendments thereto; K.S.A. 21-5413,
16 and amendments thereto; K.S.A. 21-5414, and amendments thereto,
17 domestic battery; K.S.A. 21-5415, and amendments thereto, criminal
18 threat or aggravated criminal threat; K.S.A. 21-5420, and amendments
19 thereto, robbery or aggravated robbery; K.S.A. 21-5421, and amendments
20 thereto, terrorism; K.S.A. 21-5422, and amendments thereto, illegal use of
21 weapons of mass destruction; K.S.A. 21-5423, and amendments thereto;
22 K.S.A. 21-5426, and amendments thereto, human trafficking or aggravated
23 human trafficking; K.S.A. 21-5428, and amendments thereto, blackmail;
24 K.S.A. 21-5510, and amendments thereto, sexual exploitation of a child;
25 K.S. 21-5601, and amendments thereto, endangering a child or aggravated
26 endangering a child; K.S.A. 21-5602, and amendments thereto, abuse of a
27 child; K.S.A. 21-5603, and amendments thereto, contributing to a child's
28 misconduct or deprivation; K.S.A. 21-5607(b), and amendments thereto,
29 furnishing alcoholic beverages to a minor for illicit purposes; article 57 of
30 chapter 21 of the Kansas Statutes Annotated, and amendments thereto,
31 crimes involving controlled substances; K.S.A. 21-5801, and amendments
32 thereto, theft; K.S.A. 21-5803, and amendments thereto, criminal
33 deprivation of property; K.S.A. 21-5805, and amendments thereto; K.S.A.
34 21-5807, and amendments thereto, burglary or aggravated burglary;
35 K.S.A. 21-5812, and amendments thereto, arson or aggravated arson;
36 K.S.A. 21-5813, and amendments thereto, criminal damage to property;
37 K.S.A. 21-5814, and amendments thereto, criminal use of an explosive;
38 K.S.A. 21-5821, and amendments thereto, giving a worthless check;
39 K.S.A. 21-5823, and amendments thereto, forgery; K.S.A. 21-5824, and
40 amendments thereto, making false information; K.S.A. 21-5825, and
41 amendments thereto, counterfeiting; K.S.A. 21-5826, and amendments
42 thereto, destroying written instrument; K.S.A. 21-5828, and amendments
43 thereto, criminal use of a financial card; K.S.A. 21-5838, and amendments

1 thereto, conducting a pyramid promotional scheme; K.S.A. 21-5839, and
2 amendments thereto; K.S.A. 2024 Supp. 21-5841, and amendments
3 thereto, organized retail crime; K.S.A. 21-5903, and amendments thereto,
4 perjury; K.S.A. 21-5904, and amendments thereto, interference with law
5 enforcement; K.S.A. 21-5905, and amendments thereto, interference with
6 the judicial process; K.S.A. 21-5909, and amendments thereto,
7 intimidation of a witness or victim or aggravated intimidation of a witness
8 or victim; K.S.A. 21-5912, and amendments thereto, aiding escape; K.S.A.
9 21-5913, and amendments thereto, obstructing apprehension or
10 prosecution; K.S.A. 21-5918, and amendments thereto; K.S.A. 21-6001,
11 and amendments thereto, bribery; K.S.A. 21-6002, and amendments
12 thereto, official misconduct; K.S.A. 21-6107, and amendments thereto,
13 identity theft or identity fraud; K.S.A. 21-6301, and amendments thereto,
14 criminal use of weapons; K.S.A. 21-6302, and amendments thereto,
15 criminal carrying of a weapon; K.S.A. 21-6303, and amendments thereto,
16 criminal distribution of firearms to a felon; K.S.A. 21-6304, and
17 amendments thereto, criminal possession of a weapon by a convicted
18 felon; K.S.A. 21-6305, and amendments thereto, aggravated weapons
19 violation by a convicted felon; K.S.A. 21-6306, and amendments thereto,
20 defacing identification marks of a firearm; K.S.A. 21-6308, and
21 amendments thereto, criminal discharge of a firearm; K.S.A. 21-6310, and
22 amendments thereto, unlawful endangerment; K.S.A. 21-6312, and
23 amendments thereto; K.S.A. 21-6314, and amendments thereto, recruiting
24 criminal street gang membership; K.S.A. 21-6315, and amendments
25 thereto, criminal street gang intimidation; K.S.A. 21-6401, and
26 amendments thereto, promoting obscenity or promoting obscenity to
27 minors; K.S.A. 21-6404, and amendments thereto, gambling; K.S.A. 21-
28 6405, and amendments thereto, illegal bingo operation; K.S.A. 21-6406,
29 and amendments thereto, commercial gambling; K.S.A. 21-6407, and
30 amendments thereto, dealing in gambling devices; K.S.A. 21-6408, and
31 amendments thereto; K.S.A. 21-6409, and amendments thereto, installing
32 communication facilities for gamblers; K.S.A. 21-6414(a) or (b), and
33 amendments thereto, unlawful conduct of dog fighting or unlawful
34 possession of dog fighting paraphernalia; K.S.A. 21-6417(a) or (b), and
35 amendments thereto, unlawful conduct of cockfighting or unlawful
36 possession of cockfighting paraphernalia; K.S.A. 21-6419, and
37 amendments thereto, selling sexual relations; K.S.A. 21-6420, and
38 amendments thereto, promoting the sale of sexual relations; K.S.A. 21-
39 6422, and amendments thereto, commercial sexual exploitation of a child;
40 K.S.A. 21-6501, and amendments thereto, extortion; K.S.A. 21-6502, and
41 amendments thereto, debt adjusting; K.S.A. 21-6504, and amendments
42 thereto, equity skimming; K.S.A. 21-6506, and amendments thereto,
43 commercial bribery; K.S.A. 21-6507, and amendments thereto, sports

1 bribery; K.S.A. 21-6508, and amendments thereto, tampering with a sports
2 contest; K.S.A. 39-720, and amendments thereto, social welfare service
3 fraud; K.S.A. 40-2,118, and amendments thereto, fraudulent insurance
4 acts; K.S.A. 41-101 et seq., and amendments thereto, Kansas liquor
5 control act; K.S.A. 44-5,125, and amendments thereto, workers'
6 compensation act; K.S.A. 65-1657, and amendments thereto, nonresident
7 pharmacy registration; K.S.A. 65-3441, and amendments thereto,
8 hazardous waste; K.S.A. 65-4167, and amendments thereto, trafficking in
9 counterfeit drugs; article 88 of chapter 74 of the Kansas Statutes
10 Annotated, and amendments thereto, Kansas parimutuel racing act; or
11 K.S.A. 79-3321, and amendments thereto, Kansas cigarette and tobacco
12 products act; or

13 (2) conduct defined as "racketeering activity" under 18 U.S.C. §
14 1961(1).

15 (g) "Real property" means any real property or any interest in such
16 real property, including, but not limited to, any lease of or mortgage upon
17 such real property.

18 (h) (1) "Trustee" means any:

19 (A) Person acting as trustee pursuant to a trust in which the trustee
20 holds legal or record title to real property;

21 (B) person who holds legal or record title to real property in which
22 any other person has a beneficial interest; or

23 (C) successor trustee or trustees to any or all of the foregoing persons.

24 (2) The term "trustee" does not include any person appointed or
25 acting as a personal representative as defined in K.S.A. 59-102, and
26 amendments thereto, or appointed or acting as a trustee of any
27 testamentary trust or as a trustee of any indenture of trust under which any
28 bonds have been or are to be issued.

29 (i) "Unlawful debt" means any money or other thing of value
30 constituting principal or interest of a debt that is legally unenforceable in
31 this state in whole or in part because the debt was incurred or contracted
32 in:

33 (1) Violation of any of the following provisions of law: Article 88 of
34 chapter 74 of the Kansas Statutes Annotated, and amendments thereto,
35 Kansas parimutuel racing act; K.S.A. 21-6404, and amendments thereto,
36 gambling; K.S.A. 21-6405, and amendments thereto, illegal bingo
37 operation; K.S.A. 21-6406, and amendments thereto, commercial
38 gambling; K.S.A. 21-6407, and amendments thereto, dealing in gambling
39 devices; K.S.A. 21-6408, and amendments thereto, unlawful possession of
40 a gambling device; or K.S.A. 21-6409, and amendments thereto, installing
41 communication facilities for gamblers; or

42 (2) gambling activity in violation of federal law or in the business of
43 lending money at a rate usurious under state or federal law.

1 Sec. 8. K.S.A. 21-6614 is hereby amended to read as follows: 21-
2 6614. (a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), any
3 person convicted in this state of a traffic infraction, cigarette or tobacco
4 infraction, misdemeanor or a class D or E felony, or for crimes committed
5 on or after July 1, 1993, any nongrid felony or felony ranked in severity
6 levels 6 through 10 of the nondrug grid, or for crimes committed on or
7 after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity
8 level 4 of the drug grid, or for crimes committed on or after July 1, 2012,
9 any felony ranked in severity level 5 of the drug grid may petition the
10 convicting court for the expungement of such conviction or related arrest
11 records if three or more years have elapsed since the person: (A) Satisfied
12 the sentence imposed; or (B) was discharged from probation, a community
13 correctional services program, parole, postrelease supervision, conditional
14 release or a suspended sentence.

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

20 (3) Notwithstanding the provisions of subsection (a)(1), and except as
21 provided in subsections (b), (c), (d), (e) and (f), any person who has
22 completed the requirements of a specialty court program established
23 pursuant to K.S.A. 20-173, and amendments thereto, may petition the
24 district court for the expungement of the conviction and related arrest
25 records. The court may waive all or part of the docket fee imposed for
26 filing a petition pursuant to this subsection.

27 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
28 3512, prior to its repeal, convicted of a violation of K.S.A. 21-6419, and
29 amendments thereto, or who entered into a diversion agreement in lieu of
30 further criminal proceedings for such violation, may petition the
31 convicting court for the expungement of such conviction or diversion
32 agreement and related arrest records if:

33 (1) One or more years have elapsed since the person satisfied the
34 sentence imposed or the terms of a diversion agreement or was discharged
35 from probation, a community correctional services program, parole,
36 postrelease supervision, conditional release or a suspended sentence; and

37 (2) such person can prove they were acting under coercion caused by
38 the act of another. For purposes of this subsection, "coercion" means:
39 Threats of harm or physical restraint against any person; a scheme, plan or
40 pattern intended to cause a person to believe that failure to perform an act
41 would result in bodily harm or physical restraint against any person; or the
42 abuse or threatened abuse of the legal process.

43 (c) Except as provided in subsections (e) and (f), no person may

1 petition for expungement until five or more years have elapsed since the
2 person satisfied the sentence imposed or the terms of a diversion
3 agreement or was discharged from probation, a community correctional
4 services program, parole, postrelease supervision, conditional release or a
5 suspended sentence, if such person was convicted of a class A, B or C
6 felony, or for crimes committed on or after July 1, 1993, if convicted of an
7 off-grid felony or any felony ranked in severity levels 1 through 5 of the
8 nondrug grid, or for crimes committed on or after July 1, 1993, but prior to
9 July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug
10 grid, or for crimes committed on or after July 1, 2012, any felony ranked
11 in severity levels 1 through 4 of the drug grid, or:

12 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
13 repeal, or K.S.A. 21-5406, and amendments thereto, or as prohibited by
14 any law of another state that is in substantial conformity with that statute;

15 (2) driving while the privilege to operate a motor vehicle on the
16 public highways of this state has been canceled, suspended or revoked, as
17 prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by
18 any law of another state that is in substantial conformity with that statute;

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

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

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

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

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

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

34 (d) (1) No person may petition for expungement until five or more
35 years have elapsed since the person satisfied the sentence imposed or the
36 terms of a diversion agreement or was discharged from probation, a
37 community correctional services program, parole, postrelease supervision,
38 conditional release or a suspended sentence, if such person was convicted
39 of a first violation of K.S.A. 8-1567, and amendments thereto, including
40 any diversion for such violation.

41 (2) No person may petition for expungement until 10 or more years
42 have elapsed since the person satisfied the sentence imposed or was
43 discharged from probation, a community correctional services program,

1 parole, postrelease supervision, conditional release or a suspended
2 sentence, if such person was convicted of a second or subsequent violation
3 of K.S.A. 8-1567, and amendments thereto.

4 (3) Except as provided further, the provisions of this subsection shall
5 apply to all violations committed on or after July 1, 2006. The provisions
6 of subsection (d)(2) shall not apply to violations committed on or after
7 July 1, 2014, but prior to July 1, 2015.

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

11 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
12 21-5503, and amendments thereto;

13 (2) indecent liberties with a child or aggravated indecent liberties
14 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
15 or K.S.A. 21-5506, and amendments thereto;

16 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
17 prior to its repeal, or K.S.A. 21-5504(a)(3) or (a)(4), and amendments
18 thereto;

19 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
20 to its repeal, or K.S.A. 21-5504, and amendments thereto;

21 (5) indecent solicitation of a child or aggravated indecent solicitation
22 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
23 or K.S.A. 21-5508, and amendments thereto;

24 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
25 to its repeal, or K.S.A. 21-5510, and amendments thereto;

26 (7) internet trading in child pornography or aggravated internet
27 trading in child pornography, as defined in K.S.A. 21-5514, and
28 amendments thereto;

29 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its
30 repeal, or K.S.A. 21-5604, and amendments thereto;

31 (9) endangering a child or aggravated endangering a child, as defined
32 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 21-5601,
33 and amendments thereto;

34 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
35 or K.S.A. 21-5602, and amendments thereto;

36 (11) capital murder, as defined in K.S.A. 21-3439 *or 21-5401*, prior to
37 *its* ~~their~~ repeal, ~~or K.S.A. 21-5401~~;

38 (12) *aggravated murder, as defined in section 2*, and amendments
39 thereto;

40 ~~(12)~~(13) murder in the first degree, as defined in K.S.A. 21-3401,
41 prior to its repeal, or K.S.A. 21-5402, and amendments thereto;

42 ~~(13)~~(14) murder in the second degree, as defined in K.S.A. 21-3402,
43 prior to its repeal, or K.S.A. 21-5403, and amendments thereto;

1 ~~(14)~~(15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
2 to its repeal, or K.S.A. 21-5404, and amendments thereto;

3 ~~(15)~~(16) involuntary manslaughter, as defined in K.S.A. 21-3404,
4 prior to its repeal, or K.S.A. 21-5405, and amendments thereto;

5 ~~(16)~~(17) sexual battery, as defined in K.S.A. 21-3517, prior to its
6 repeal, or K.S.A. 21-5505, and amendments thereto, when the victim was
7 less than 18 years of age at the time the crime was committed;

8 ~~(17)~~(18) aggravated sexual battery, as defined in K.S.A. 21-3518,
9 prior to its repeal, or K.S.A. 21-5505, and amendments thereto;

10 ~~(18)~~(19) a violation of K.S.A. 8-2,144, and amendments thereto,
11 including any diversion for such violation; or

12 ~~(19)~~(20) any conviction for any offense in effect at any time prior to
13 July 1, 2011, that is comparable to any offense as provided in this
14 subsection.

15 (f) Except as provided in K.S.A. 22-4908, and amendments thereto,
16 for any offender who is required to register as provided in the Kansas
17 offender registration act, K.S.A. 22-4901 et seq., and amendments thereto,
18 there shall be no expungement of any conviction or any part of the
19 offender's criminal record while the offender is required to register as
20 provided in the Kansas offender registration act.

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

25 (A) Defendant's full name;

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

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

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

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

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

34 (2) Except as otherwise provided by law, a petition for expungement
35 shall be accompanied by a docket fee in the amount of \$176. On and after
36 July 1, 2019, through June 30, 2025, the supreme court may impose a
37 charge, not to exceed \$19 per case, to fund the costs of non-judicial
38 personnel. The charge established in this section shall be the only fee
39 collected or moneys in the nature of a fee collected for the case. Such
40 charge shall only be established by an act of the legislature and no other
41 authority is established by law or otherwise to collect a fee.

42 (3) All petitions for expungement shall be docketed in the original
43 criminal action. Any person who may have relevant information about the

1 petitioner may testify at the hearing. The court may inquire into the
2 background of the petitioner and shall have access to any reports or
3 records relating to the petitioner that are on file with the secretary of
4 corrections or the prisoner review board.

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

7 (1) (A) The petitioner has not been convicted of a felony in the past
8 two years and no proceeding involving any such crime is presently
9 pending or being instituted against the petitioner if the petition is filed
10 under subsection (a)(1) or (a)(2); or

11 (B) no proceeding involving a felony is presently pending or being
12 instituted against the petitioner if the petition is filed under subsection (a)
13 (3);

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

16 (3) the expungement is consistent with the public welfare; and

17 (4) with respect to petitions seeking expungement of a felony
18 conviction, possession of a firearm by the petitioner is not likely to pose a
19 threat to the safety of the public.

20 (i) When the court has ordered an arrest record, conviction or
21 diversion expunged, the order of expungement shall state the information
22 required to be contained in the petition. The clerk of the court shall send a
23 certified copy of the order of expungement to the Kansas bureau of
24 investigation that shall notify the federal bureau of investigation, the
25 secretary of corrections and any other criminal justice agency that may
26 have a record of the arrest, conviction or diversion. If the case was
27 appealed from municipal court, the clerk of the district court shall send a
28 certified copy of the order of expungement to the municipal court. The
29 municipal court shall order the case expunged once the certified copy of
30 the order of expungement is received. After the order of expungement is
31 entered, the petitioner shall be treated as not having been arrested,
32 convicted or diverted of the crime, except that:

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

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

38 (A) In any application for licensure as a private detective, private
39 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-
40 7b21, and amendments thereto, or employment as a detective with a
41 private detective agency, as defined by K.S.A. 75-7b01, and amendments
42 thereto; as security personnel with a private patrol operator, as defined by
43 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined

1 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department
2 for aging and disability services;

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

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

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

15 (E) to aid in determining the petitioner's qualifications for the
16 following under the Kansas expanded lottery act: (i) Lottery gaming
17 facility manager or prospective manager, racetrack gaming facility
18 manager or prospective manager, licensee or certificate holder; or (ii) an
19 officer, director, employee, owner, agent or contractor thereof;

20 (F) upon application for a commercial driver's license under K.S.A.
21 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

32 (K) to aid in determining the petitioner's qualifications for a license to
33 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-
34 7e09, and amendments thereto, and K.S.A. 2024 Supp. 50-6,141, and
35 amendments thereto;

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

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

41 (5) upon commitment to the custody of the secretary of corrections,
42 any previously expunged record in the possession of the secretary of
43 corrections may be reinstated and the expungement disregarded, and the

1 record continued for the purpose of the new commitment.

2 (j) Whenever a person is convicted of a crime, pleads guilty and pays
3 a fine for a crime, is placed on parole, postrelease supervision or
4 probation, is assigned to a community correctional services program, is
5 granted a suspended sentence or is released on conditional release, the
6 person shall be informed of the ability to expunge the arrest records or
7 conviction. Whenever a person enters into a diversion agreement, the
8 person shall be informed of the ability to expunge the diversion.

9 (k) (1) Subject to the disclosures required pursuant to subsection (i),
10 in any application for employment, license or other civil right or privilege,
11 or any appearance as a witness, a person whose arrest records, conviction
12 or diversion of a crime has been expunged under this statute may state that
13 such person has never been arrested, convicted or diverted of such crime.

14 (2) A person whose arrest record, conviction or diversion of a crime
15 that resulted in such person being prohibited by state or federal law from
16 possessing a firearm has been expunged under this statute shall be deemed
17 to have had such person's right to keep and bear arms fully restored. This
18 restoration of rights shall include, but not be limited to, the right to use,
19 transport, receive, purchase, transfer and possess firearms. The provisions
20 of this paragraph shall apply to all orders of expungement, including any
21 orders issued prior to July 1, 2021.

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

27 (1) The person whose record was expunged;

28 (2) a private detective agency or a private patrol operator, and the
29 request is accompanied by a statement that the request is being made in
30 conjunction with an application for employment with such agency or
31 operator by the person whose record has been expunged;

32 (3) a court, upon a showing of a subsequent conviction of the person
33 whose record has been expunged;

34 (4) the secretary for aging and disability services, or a designee of the
35 secretary, for the purpose of obtaining information relating to employment
36 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,
37 of the Kansas department for aging and disability services of any person
38 whose record has been expunged;

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

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

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

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

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

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

26 (11) the Kansas sentencing commission;

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

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

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

42 (15) a law enforcement agency and the request is accompanied by a
43 statement that the request is being made to aid in determining eligibility

1 for employment as a law enforcement officer as defined by K.S.A. 22-
2 2202, and amendments thereto;

3 (16) (A) the attorney general and the request is accompanied by a
4 statement that the request is being made to aid in determining
5 qualifications for a license to act as a bail enforcement agent pursuant to
6 K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.
7 2024 Supp. 50-6,141, and amendments thereto; or

8 (B) the attorney general for any other purpose authorized by law,
9 except that an expungement record shall not be the basis for denial of a
10 license to carry a concealed handgun under the personal and family
11 protection act; or

12 (17) the Kansas bureau of investigation, for the purpose of
13 completing a person's criminal history record information within the
14 central repository, in accordance with K.S.A. 22-4701 et seq., and
15 amendments thereto.

16 (m) (1) The provisions of subsection (l)(17) shall apply to records
17 created prior to, on and after July 1, 2011.

18 (2) Upon the issuance of an order of expungement that resulted in the
19 restoration of a person's right to keep and bear arms, the Kansas bureau of
20 investigation shall report to the federal bureau of investigation that such
21 expunged record be withdrawn from the national instant criminal
22 background check system. The Kansas bureau of investigation shall
23 include such order of expungement in the person's criminal history record
24 for purposes of documenting the restoration of such person's right to keep
25 and bear arms.

26 Sec. 9. K.S.A. 21-6618 is hereby amended to read as follows: 21-
27 6618. Upon conviction of a defendant of ~~capital~~ *aggravated* murder and a
28 finding that the defendant was less than 18 years of age at the time of the
29 commission thereof, the court shall sentence the defendant as otherwise
30 provided by law, and no sentence of ~~death~~ or life without the possibility of
31 parole shall be imposed ~~hereunder~~.

32 Sec. 10. K.S.A. 21-6620 is hereby amended to read as follows: 21-
33 6620. (a) (1) Except as provided in subsection (a)(2) and K.S.A. 21-6618
34 and 21-6622, and amendments thereto, if a defendant is convicted of the
35 crime of ~~capital murder and a sentence of death is not imposed pursuant to~~
36 ~~K.S.A. 21-6617(e), and amendments thereto, or requested pursuant to~~
37 ~~K.S.A. 21-6617(a) or (b), and amendments thereto~~ *aggravated murder*, the
38 defendant shall be sentenced to life without the possibility of parole
39 *pursuant to section 3, and amendments thereto*.

40 (2) (A) Except as provided in subsection (a)(2)(B), a defendant
41 convicted of attempt to commit the crime of ~~capital~~ *aggravated* murder
42 shall be sentenced to imprisonment for life and shall not be eligible for
43 probation or suspension, modification or reduction of sentence. In

1 addition, the defendant shall not be eligible for parole prior to serving 25
2 years' imprisonment, and such 25 years' imprisonment shall not be reduced
3 by the application of good time credits. No other sentence shall be
4 permitted.

5 (B) The provisions of subsection (a)(2)(A) requiring the court to
6 impose a mandatory minimum term of imprisonment of 25 years shall not
7 apply if the court finds the defendant, because of the defendant's criminal
8 history classification, would be subject to presumptive imprisonment
9 pursuant to the sentencing guidelines grid for nondrug crimes and the
10 sentencing range would exceed 300 months if the sentence established for
11 a severity level 1 crime was imposed. In such case, the defendant is
12 required to serve a mandatory minimum term equal to the sentence
13 established for a severity level 1 crime pursuant to the sentencing range.
14 The defendant shall not be eligible for parole prior to serving such
15 mandatory minimum term of imprisonment, and such mandatory minimum
16 term of imprisonment shall not be reduced by the application of good time
17 credits. No other sentence shall be permitted.

18 (b) The provisions of this subsection shall apply only to the crime of
19 murder in the first degree as described in K.S.A. 21-5402(a)(2), and
20 amendments thereto, committed on or after July 1, 2014.

21 (1) Except as provided in subsection (b)(2), a defendant convicted of
22 murder in the first degree as described in K.S.A. 21-5402(a)(2), and
23 amendments thereto, shall be sentenced to imprisonment for life and shall
24 not be eligible for probation or suspension, modification or reduction of
25 sentence. In addition, the defendant shall not be eligible for parole prior to
26 serving 25 years' imprisonment, and such 25 years' imprisonment shall not
27 be reduced by the application of good time credits. No other sentence shall
28 be permitted.

29 (2) The provisions of subsection (b)(1) requiring the court to impose
30 a mandatory minimum term of imprisonment of 25 years shall not apply if
31 the court finds the defendant, because of the defendant's criminal history
32 classification, would be subject to presumptive imprisonment pursuant to
33 the sentencing guidelines grid for nondrug crimes and the sentencing range
34 would exceed 300 months if the sentence established for a severity level 1
35 crime was imposed. In such case, the defendant is required to serve a
36 mandatory minimum term equal to the sentence established for a severity
37 level 1 crime pursuant to the sentencing range. The defendant shall not be
38 eligible for parole prior to serving such mandatory minimum term of
39 imprisonment, and such mandatory minimum term of imprisonment shall
40 not be reduced by the application of good time credits. No other sentence
41 shall be permitted.

42 (c) The provisions of this subsection shall apply only to the crime of
43 murder in the first degree based upon the finding of premeditated murder

1 committed on or after July 1, 2014.

2 (1) (A) Except as provided in subsection (c)(1)(B), a defendant
3 convicted of murder in the first degree based upon the finding of
4 premeditated murder shall be sentenced pursuant to K.S.A. 21-6623, and
5 amendments thereto, unless the sentencing judge finds substantial and
6 compelling reasons, following a review of mitigating circumstances, to
7 impose the sentence specified in subsection (c)(2).

8 (B) The provisions of subsection (c)(1)(A) requiring the court to
9 impose the mandatory minimum term of imprisonment required by K.S.A.
10 21-6623, and amendments thereto, shall not apply if the court finds the
11 defendant, because of the defendant's criminal history classification, would
12 be subject to presumptive imprisonment pursuant to the sentencing
13 guidelines grid for nondrug crimes and the sentencing range would exceed
14 600 months if the sentence established for a severity level 1 crime was
15 imposed. In such case, the defendant is required to serve a mandatory
16 minimum term equal to the sentence established for a severity level 1
17 crime pursuant to the sentencing range. The defendant shall not be eligible
18 for parole prior to serving such mandatory minimum term of
19 imprisonment, and such mandatory minimum term of imprisonment shall
20 not be reduced by the application of good time credits. No other sentence
21 shall be permitted.

22 (2) (A) If the sentencing judge does not impose the mandatory
23 minimum term of imprisonment required by K.S.A. 21-6623, and
24 amendments thereto, the judge shall state on the record at the time of
25 sentencing the substantial and compelling reasons therefor, and, except as
26 provided in subsection (c)(2)(B), the defendant shall be sentenced to
27 imprisonment for life and shall not be eligible for probation or suspension,
28 modification or reduction of sentence. In addition, the defendant shall not
29 be eligible for parole prior to serving 25 years' imprisonment, and such 25
30 years' imprisonment shall not be reduced by the application of good time
31 credits. No other sentence shall be permitted.

32 (B) The provisions of subsection (c)(2)(A) requiring the court to
33 impose a mandatory minimum term of imprisonment of 25 years shall not
34 apply if the court finds the defendant, because of the defendant's criminal
35 history classification, would be subject to presumptive imprisonment
36 pursuant to the sentencing guidelines grid for nondrug crimes and the
37 sentencing range would exceed 300 months if the sentence established for
38 a severity level 1 crime was imposed. In such case, the defendant is
39 required to serve a mandatory minimum term equal to the sentence
40 established for a severity level 1 crime pursuant to the sentencing range.
41 The defendant shall not be eligible for parole prior to serving such
42 mandatory minimum term of imprisonment, and such mandatory minimum
43 term of imprisonment shall not be reduced by the application of good time

1 credits. No other sentence shall be permitted.

2 (d) The provisions of this subsection shall apply only to the crime of
3 murder in the first degree based upon the finding of premeditated murder
4 committed on or after September 6, 2013, but prior to July 1, 2014.

5 (1) If a defendant is convicted of murder in the first degree based
6 upon the finding of premeditated murder, upon reasonable notice by the
7 prosecuting attorney, the court shall determine, in accordance with this
8 subsection, whether the defendant shall be required to serve a mandatory
9 minimum term of imprisonment of 50 years or sentenced as otherwise
10 provided by law.

11 (2) The court shall conduct a separate proceeding following the
12 determination of the defendant's guilt for the jury to determine whether
13 one or more aggravating circumstances exist. Such proceeding shall be
14 conducted by the court before a jury as soon as practicable. If any person
15 who served on the trial jury is unable to serve on the jury for the
16 proceeding, the court shall substitute an alternate juror who has been
17 impaneled for the trial jury. If there are insufficient alternate jurors to
18 replace trial jurors who are unable to serve at the proceeding, the court
19 may conduct such proceeding before a jury ~~which~~ *that* may have 12 or ~~less~~
20 *fewer* jurors, but at no time ~~less~~ *fewer* than six jurors. If the jury has been
21 discharged prior to the proceeding, a new jury shall be impaneled. Any
22 decision of the jury regarding the existence of an aggravating circumstance
23 shall be beyond a reasonable doubt. Jury selection procedures,
24 qualifications of jurors and grounds for exemption or challenge of
25 prospective jurors in criminal trials shall be applicable to the selection of
26 such jury. The jury at the proceeding may be waived in the manner
27 provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial
28 jury. If the jury at the proceeding has been waived, such proceeding shall
29 be conducted by the court.

30 (3) In the proceeding, evidence may be presented concerning any
31 matter relating to any of the aggravating circumstances enumerated in
32 K.S.A. 21-6624, and amendments thereto. Only such evidence of
33 aggravating circumstances as the prosecuting attorney has made known to
34 the defendant prior to the proceeding shall be admissible and no evidence
35 secured in violation of the constitution of the United States or of the state
36 of Kansas shall be admissible. No testimony by the defendant at the time
37 of the proceeding shall be admissible against the defendant at any
38 subsequent criminal proceeding. At the conclusion of the evidentiary
39 presentation, the court shall allow the parties a reasonable period of time in
40 which to present oral argument.

41 (4) At the conclusion of the evidentiary portion of the proceeding, the
42 court shall provide oral and written instructions to the jury to guide its
43 deliberations. If the prosecuting attorney relies on K.S.A. 21-6624(a), and

1 amendments thereto, as an aggravating circumstance, and the court finds
2 that one or more of the defendant's prior convictions satisfy such
3 subsection, the jury shall be instructed that a certified journal entry of a
4 prior conviction is presumed to prove the existence of such prior
5 conviction or convictions beyond a reasonable doubt.

6 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
7 that one or more of the aggravating circumstances enumerated in K.S.A.
8 21-6624, and amendments thereto, exist, the jury shall designate, in
9 writing, signed by the foreman of the jury, the statutory aggravating
10 circumstances—~~which~~ *that* it found. If, after a reasonable time for
11 deliberation, the jury is unable to reach a unanimous sentencing decision,
12 the court shall dismiss the jury and the defendant shall be sentenced as
13 provided by law. In nonjury cases, the court shall designate, in writing, the
14 specific circumstance or circumstances—~~which~~ *that* the court found beyond
15 a reasonable doubt.

16 (6) If one or more of the aggravating circumstances enumerated in
17 K.S.A. 21-6624, and amendments thereto, are found to exist beyond a
18 reasonable doubt pursuant to this subsection, the defendant shall be
19 sentenced pursuant to K.S.A. 21-6623, and amendments thereto, unless the
20 sentencing judge finds substantial and compelling reasons, following a
21 review of mitigating circumstances, to impose the sentence specified in
22 this paragraph. If the sentencing judge does not impose the mandatory
23 minimum term of imprisonment required by K.S.A. 21-6623, and
24 amendments thereto, the judge shall state on the record at the time of
25 sentencing the substantial and compelling reasons therefor, and the
26 defendant shall be sentenced to imprisonment for life and shall not be
27 eligible for probation or suspension, modification or reduction of sentence.
28 In addition, the defendant shall not be eligible for parole prior to serving
29 25 years' imprisonment, and such 25 years' imprisonment shall not be
30 reduced by the application of good time credits. No other sentence shall be
31 permitted.

32 (e) The provisions of this subsection shall apply only to the crime of
33 murder in the first degree based upon the finding of premeditated murder
34 committed prior to September 6, 2013.

35 (1) If a defendant is convicted of murder in the first degree based
36 upon the finding of premeditated murder, upon reasonable notice by the
37 prosecuting attorney, the court shall conduct a separate sentencing
38 proceeding in accordance with this subsection to determine whether the
39 defendant shall be required to serve a mandatory minimum term of
40 imprisonment of 40 years or for crimes committed on and after July 1,
41 1999, a mandatory minimum term of imprisonment of 50 years or
42 sentenced as otherwise provided by law.

43 (2) The sentencing proceeding shall be conducted by the court before

1 a jury as soon as practicable. If the trial jury has been discharged prior to
2 sentencing, a new jury shall be impaneled. Any decision to impose a
3 mandatory minimum term of imprisonment of 40 or 50 years shall be by a
4 unanimous jury. Jury selection procedures, qualifications of jurors and
5 grounds for exemption or challenge of prospective jurors in criminal trials
6 shall be applicable to the selection of such jury. The jury at the sentencing
7 proceeding may be waived in the manner provided by K.S.A. 22-3403, and
8 amendments thereto, for waiver of a trial jury. If the jury at the sentencing
9 proceeding has been waived, such proceeding shall be conducted by the
10 court.

11 (3) In the sentencing proceeding, evidence may be presented
12 concerning any matter that the court deems relevant to the question of
13 sentence and shall include matters relating to any of the aggravating
14 circumstances enumerated in K.S.A. 21-6624, and amendments thereto, or
15 for crimes committed prior to July 1, 2011, K.S.A. 21-4636, prior to its
16 repeal, and any mitigating circumstances. Any such evidence—~~which~~ *that*
17 the court deems to have probative value may be received regardless of its
18 admissibility under the rules of evidence, provided that the defendant is
19 accorded a fair opportunity to rebut any hearsay statements. Only such
20 evidence of aggravating circumstances as the prosecuting attorney has
21 made known to the defendant prior to the sentencing proceeding shall be
22 admissible and no evidence secured in violation of the constitution of the
23 United States or of the state of Kansas shall be admissible. Only such
24 evidence of mitigating circumstances subject to discovery pursuant to
25 K.S.A. 22-3212, and amendments thereto, that the defendant has made
26 known to the prosecuting attorney prior to the sentencing proceeding shall
27 be admissible. No testimony by the defendant at the time of sentencing
28 shall be admissible against the defendant at any subsequent criminal
29 proceeding. At the conclusion of the evidentiary presentation, the court
30 shall allow the parties a reasonable period of time in which to present oral
31 argument.

32 (4) At the conclusion of the evidentiary portion of the sentencing
33 proceeding, the court shall provide oral and written instructions to the jury
34 to guide its deliberations. If the prosecuting attorney relies on K.S.A. 21-
35 6624(a), and amendments thereto, or for crimes committed prior to July 1,
36 2011, K.S.A. 21-4636(a), prior to its repeal, as an aggravating
37 circumstance, and the court finds that one or more of the defendant's prior
38 convictions satisfy such subsection, the jury shall be instructed that a
39 certified journal entry of a prior conviction is presumed to prove the
40 existence of such prior conviction or convictions beyond a reasonable
41 doubt.

42 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
43 that one or more of the aggravating circumstances enumerated in K.S.A.

1 21-6624, and amendments thereto, or for crimes committed prior to July 1,
2 2011, K.S.A. 21-4636, prior to its repeal, exist and, further, that the
3 existence of such aggravating circumstances is not outweighed by any
4 mitigating circumstances ~~which that~~ are found to exist, the defendant shall
5 be sentenced pursuant to K.S.A. 21-6623, and amendments thereto;
6 otherwise, the defendant shall be sentenced as provided by law. The
7 sentencing jury shall designate, in writing, signed by the foreman of the
8 jury, the statutory aggravating circumstances ~~which that~~ it found. ~~The trier
9 of fact may make the findings required by this subsection for the purpose
10 of determining whether to sentence a defendant pursuant to K.S.A. 21-
11 6623, and amendments thereto, notwithstanding contrary findings made by
12 the jury or court pursuant to K.S.A. 21-6617(e), and amendments thereto,
13 for the purpose of determining whether to sentence such defendant to
14 death.~~ If, after a reasonable time for deliberation, the jury is unable to
15 reach a unanimous sentencing decision, the court shall dismiss the jury and
16 the defendant shall be sentenced as provided by law. In nonjury cases, the
17 court shall designate in writing the specific circumstance or circumstances
18 ~~which that~~ the court found beyond a reasonable doubt.

19 (f) The amendments to subsection (e) by chapter 1 of the 2013
20 Session Laws of Kansas (Special Session):

21 (1) Establish a procedural rule for sentencing proceedings, and as
22 such shall be construed and applied retroactively to all crimes committed
23 prior to the effective date of this act, except as provided further in this
24 subsection; (2) shall not apply to cases in which the defendant's conviction
25 and sentence were final prior to June 17, 2013, unless the conviction or
26 sentence has been vacated in a collateral proceeding, including, but not
27 limited to, K.S.A. 22-3504 or 60-1507, and amendments thereto; and (3)
28 shall apply only in sentencing proceedings otherwise authorized by law.

29 (g) Notwithstanding the provisions of subsection (h), for all cases on
30 appeal on or after September 6, 2013, if a sentence imposed under this
31 section, prior to amendment by chapter 1 of the 2013 Session Laws of
32 Kansas (Special Session), or under K.S.A. 21-4635, prior to its repeal, is
33 vacated for any reason other than sufficiency of the evidence as to all
34 aggravating circumstances, resentencing shall be required under this
35 section, as amended by chapter 1 of the 2013 Session Laws of Kansas
36 (Special Session), unless the prosecuting attorney chooses not to pursue
37 such a sentence.

38 (h) In the event any sentence imposed under this section is held to be
39 unconstitutional, the court having jurisdiction over a person previously
40 sentenced shall cause such person to be brought before the court and shall
41 sentence such person to the maximum term of imprisonment otherwise
42 provided by law.

43 (i) If any provision or provisions of this section or the application

1 therefor to any person or circumstance is held invalid, the invalidity shall
2 not affect other provisions or applications of this section ~~which~~ *that* can be
3 given effect without the invalid provision or provisions or application, and
4 to this end the provisions of this section are severable.

5 Sec. 11. K.S.A. 21-6622 is hereby amended to read as follows: 21-
6 6622. (a) ~~If, under K.S.A. 21-6617, and amendments thereto, the county or~~
7 ~~district attorney has filed a notice of intent to request a separate sentencing~~
8 ~~proceeding to determine whether the defendant should be sentenced to~~
9 ~~death and the defendant is convicted of the crime of capital murder, the~~
10 ~~defendant's counsel or the warden of the correctional institution or sheriff~~
11 ~~having custody of the defendant may request a determination by the court~~
12 ~~of whether the defendant is a person with intellectual disability. If the court~~
13 ~~determines that there is not sufficient reason to believe that the defendant~~
14 ~~is a person with intellectual disability, the court shall so find and the~~
15 ~~defendant shall be sentenced in accordance with K.S.A. 21-6617, 21-6619,~~
16 ~~21-6624, 21-6625, 21-6628 and 21-6629, and amendments thereto. If the~~
17 ~~court determines that there is sufficient reason to believe that the defendant~~
18 ~~is a person with intellectual disability, the court shall conduct a hearing to~~
19 ~~determine whether the defendant is a person with intellectual disability.~~

20 (b) ~~If a defendant is convicted of the crime of capital murder and a~~
21 ~~sentence of death is not imposed, or if a defendant is convicted of the~~
22 ~~crime of aggravated murder or murder in the first degree based upon the~~
23 ~~finding of premeditated murder, the defendant's counsel or the warden of~~
24 ~~the correctional institution or sheriff having custody of the defendant may~~
25 ~~request a determination by the court of whether the defendant is a person~~
26 ~~with intellectual disability. If the court determines that there is not~~
27 ~~sufficient reason to believe that the defendant is a person with intellectual~~
28 ~~disability, the court shall so find and the defendant shall be sentenced in~~
29 ~~accordance with K.S.A. 21-6620, 21-6623, 21-6624 and 21-6625, and~~
30 ~~amendments thereto. If the court determines that there is sufficient reason~~
31 ~~to believe that the defendant is a person with intellectual disability, the~~
32 ~~court shall conduct a hearing to determine whether the defendant is a~~
33 ~~person with intellectual disability.~~

34 (c)(b) At the hearing, the court shall determine whether the defendant
35 is a person with intellectual disability. The court shall order a psychiatric
36 or psychological examination of the defendant. For that purpose, the court
37 shall appoint two licensed physicians or licensed psychologists, or one of
38 each, qualified by training and practice to make such examination, to
39 examine the defendant and report their findings in writing to the judge
40 within 14 days after the order of examination is issued. The defendant
41 shall have the right to present evidence and cross-examine any witnesses at
42 the hearing. No statement made by the defendant in the course of any
43 examination provided for by this section, whether or not the defendant

1 consents to the examination, shall be admitted in evidence against the
2 defendant in any criminal proceeding.

3 ~~(d) If, at the conclusion of a hearing pursuant to subsection (a), the~~
4 ~~court determines that the defendant is not a person with intellectual~~
5 ~~disability, the defendant shall be sentenced in accordance with K.S.A. 21-~~
6 ~~6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-6629, and amendments~~
7 ~~thereto.~~

8 ~~(e)(c) If, at the conclusion of a hearing pursuant to subsection (b) this~~
9 ~~section, the court determines that the defendant is not a person with~~
10 ~~intellectual disability, the defendant shall be sentenced in accordance with~~
11 ~~K.S.A. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto.~~

12 ~~(f)(d) If, at the conclusion of a hearing pursuant to this section, the~~
13 ~~court determines that the defendant is a person with intellectual disability,~~
14 ~~the court shall sentence the defendant as otherwise provided by law, and~~
15 ~~no sentence of death, life without the possibility of parole, or mandatory~~
16 ~~term of imprisonment pursuant to K.S.A. 21-6623, 21-6624 and 21-6625,~~
17 ~~and amendments thereto, shall be imposed hereunder.~~

18 ~~(g) Unless otherwise ordered by the court for good cause shown, the~~
19 ~~provisions of subsection (b) shall not apply if it has been determined,~~
20 ~~pursuant to a hearing granted under the provisions of subsection (a), that~~
21 ~~the defendant is not a person with intellectual disability.~~

22 ~~(h)(e) As used in this section, "intellectual disability" means having~~
23 ~~significantly subaverage general intellectual functioning, as defined by~~
24 ~~K.S.A. 76-12b01, and amendments thereto, to an extent which that~~
25 ~~substantially impairs one's capacity to appreciate the criminality of one's~~
26 ~~conduct or to conform one's conduct to the requirements of law.~~

27 Sec. 12. K.S.A. 21-6628 is hereby amended to read as follows: 21-
28 6628. (a) In the event the term of imprisonment for life without the
29 possibility of parole or any provision of K.S.A. 21-6626 or 21-6627, and
30 amendments thereto, authorizing such term is held to be unconstitutional
31 by the supreme court of Kansas or the United States supreme court, the
32 court having jurisdiction over a person previously sentenced shall cause
33 such person to be brought before the court and shall modify the sentence to
34 require no term of imprisonment for life without the possibility of parole
35 and shall sentence the defendant to the maximum term of imprisonment
36 otherwise provided by law.

37 ~~(b) In the event a sentence of death or any provision of chapter 252 of~~
38 ~~the 1994 Session Laws of Kansas authorizing such sentence is held to be~~
39 ~~unconstitutional by the supreme court of Kansas or the United States~~
40 ~~supreme court, the court having jurisdiction over a person previously~~
41 ~~sentenced shall cause such person to be brought before the court and shall~~
42 ~~modify the sentence and resentence the defendant as otherwise provided~~
43 ~~by law.~~

1 (e) In the event the mandatory term of imprisonment or any provision
2 of chapter 341 of the 1994 Session Laws of Kansas authorizing such
3 mandatory term is held to be unconstitutional by the supreme court of
4 Kansas or the United States supreme court, the court having jurisdiction
5 over a person previously sentenced shall cause such person to be brought
6 before the court and shall modify the sentence to require no mandatory
7 term of imprisonment and shall sentence the defendant as otherwise
8 provided by law.

9 Sec. 13. K.S.A. 21-6629 is hereby amended to read as follows: 21-
10 6629. (a) The provisions of K.S.A. 21-4622 through 21-4630, as they
11 existed immediately prior to July 1, 1994, shall be applicable only to
12 persons convicted of crimes committed on or after July 1, 1990, and before
13 July 1, 1994.

14 (b) The provisions of K.S.A. 21-4622 through 21-4627~~and~~, 21-4629
15 and 21-4630, as amended on July 1, 1994 and prior to their repeal, and
16 K.S.A. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-6625 and
17 ~~subsection (b) of 21-6628(b), and amendments thereto as they existed~~
18 *immediately prior to July 1, 2025*, shall be applicable only to persons
19 convicted of crimes committed on or after July 1, 1994, *and before July 1,*
20 *2025.*

21 (c) K.S.A. 21-4633 through 21-4640, prior to their repeal, and K.S.A.
22 21-6620 through 21-6625 and ~~subsection (e) of 21-6628(c), and~~
23 ~~amendments thereto as they existed immediately prior to July 1, 2025,~~
24 shall be applicable only to persons convicted of crimes committed on or
25 after July 1, 1994, *and before July 1, 2025.*

26 (d) *The provisions of K.S.A. 21-6618, 21-6620, 21-6622 and 21-6628,*
27 *as amended on July 1, 2025, and K.S.A. 21-6621, 21-6623, 21-6624 and*
28 *21-6625, and amendments thereto, shall be applicable only to persons*
29 *convicted of crimes committed on or after July 1, 2025.*

30 Sec. 14. K.S.A. 21-6806 is hereby amended to read as follows: 21-
31 6806. (a) Sentences of imprisonment shall represent the time a person shall
32 actually serve, subject to a reduction of the primary sentence for good time
33 as authorized by K.S.A. 21-6821, and amendments thereto.

34 (b) The sentencing court shall pronounce sentence in all felony cases.

35 (c) Violations of K.S.A. ~~21-5401,~~ 21-5402, 21-5421, 21-5422 and 21-
36 5901, and amendments thereto, are off-grid crimes for the purpose of
37 sentencing. Except as otherwise provided by K.S.A. ~~21-6617,~~ 21-6618, ~~21-~~
38 ~~6619,~~ 21-6622, 21-6624, 21-6625, 21-6628 and 21-6629, and amendments
39 thereto, the sentence shall be imprisonment for life and shall not be subject
40 to statutory provisions for suspended sentence, community service or
41 probation.

42 (d) As identified in K.S.A. 21-5426, 21-5503, 21-5504, 21-5506, 21-
43 5510, 21-5514 and 21-6422, and amendments thereto, if the offender is 18

1 years of age or older and the victim is under 14 years of age, such
2 violations are off-grid crimes for the purposes of sentencing. Except as
3 provided in K.S.A. 21-6626, and amendments thereto, the sentence shall
4 be imprisonment for life pursuant to K.S.A. 21-6627, and amendments
5 thereto.

6 *(e) A violation of section 2, and amendments thereto, is an off-grid*
7 *crime for the purposes of sentencing. Except as provided in K.S.A. 21-*
8 *6618 and 21-6622, and amendments thereto, the sentence shall be*
9 *imprisonment for life without the possibility of parole pursuant to section*
10 *3, and amendments thereto.*

11 Sec. 15. K.S.A. 22-2512 is hereby amended to read as follows: 22-
12 2512. (a) Property seized under a search warrant or validly seized without
13 a warrant shall be safely kept by the agency seizing the property unless
14 otherwise directed by the magistrate, and shall be so kept as long as
15 necessary for the purpose of being produced as evidence on any trial. If no
16 criminal charges are filed or prosecution is declined, the property shall be
17 returned to its rightful owner or disposed of in accordance with this
18 section. The property seized may not be taken from the agency having it in
19 custody so long as it is or may be required as evidence in any trial. The
20 officer seizing the property shall give a receipt to the person detained or
21 arrested particularly describing each article of property being held. When
22 property is seized under a search warrant, the officer seizing the property
23 shall file a copy of such receipt with the magistrate who issued the search
24 warrant. Such copy may be filed electronically in a manner and form
25 prescribed by the court. When seized property is no longer required as
26 evidence in the prosecution of any indictment or information, the court
27 that has jurisdiction of such property may transfer the property to the
28 jurisdiction of any other court, including courts of another state or federal
29 courts, if it is shown to the satisfaction of the court that such property is
30 required as evidence in any prosecution in such other court.

31 (b) (1) Notwithstanding the provisions of subsection (a) and with the
32 approval of the affected court, any law enforcement officer who seizes
33 dangerous drugs or hazardous materials as evidence related to a criminal
34 investigation may collect representative samples of such dangerous drugs
35 or hazardous materials and lawfully destroy or dispose of, or direct another
36 person to lawfully destroy or dispose of, the remaining quantity of such
37 dangerous drugs or hazardous materials.

38 (2) In any prosecution, representative samples of dangerous drugs or
39 hazardous materials accompanied by photographs, videotapes, laboratory
40 analysis reports or other means used to verify and document the identity
41 and quantity of the drugs or materials shall be deemed competent evidence
42 of such drugs or materials and shall be admissible in any proceeding,
43 hearing or trial as if such drugs or materials had been introduced as

1 evidence.

2 (3) As used in this section:

3 (A) "Dangerous drugs" means any drug, substance or immediate
4 precursor included in any of the schedules designated in K.S.A. 65-4105,
5 65-4107, 65-4109 and 65-4111, and amendments thereto;

6 (B) "hazardous materials" means any substance that is capable of
7 posing an unreasonable risk to health, safety and property. It shall include
8 any substance that by its nature is explosive, flammable, corrosive,
9 poisonous, radioactive, a biological hazard or a material that may cause
10 spontaneous combustion. It shall include, but not be limited to, substances
11 listed in the table of hazardous materials contained in the code of federal
12 regulations title 49 and national fire protection association's fire protection
13 guide on hazardous materials; and

14 (C) "representative sample" means an amount large enough to contain
15 a testable amount of a substance without destroying the sample
16 completely.

17 (4) The provisions of this subsection shall not apply to ammunition
18 and components thereof.

19 (c) When seized property is no longer required as evidence, it shall be
20 disposed of as follows:

21 (1) Property stolen, embezzled, obtained by false pretenses, or
22 otherwise obtained unlawfully from the rightful owner thereof shall be
23 restored to the owner;

24 (2) money shall be restored to the owner unless it was contained in a
25 slot machine or otherwise used in unlawful gambling or lotteries, in which
26 case it shall be forfeited and shall be paid to the state treasurer pursuant to
27 K.S.A. 20-2801, and amendments thereto;

28 (3) property that is unclaimed or the ownership of which is unknown
29 shall be sold at public auction to be held by the sheriff, or the sheriff's
30 designee, and the proceeds, less the cost of sale and any storage charges
31 incurred in preserving it, shall be paid to the state treasurer pursuant to
32 K.S.A. 20-2801, and amendments thereto;

33 (4) articles of contraband shall be destroyed, except that any such
34 articles the disposition of which is otherwise provided by law shall be
35 dealt with as so provided and any such articles the disposition of which is
36 not otherwise provided by law and which may be capable of innocent use
37 may in the discretion of the court be sold and the proceeds disposed of as
38 provided in subsection (c)(3);

39 (5) explosives, bombs and like devices that have been used in the
40 commission of crime may be returned to the rightful owner or, in the
41 discretion of the court having jurisdiction of the property, destroyed or
42 forfeited to the Kansas bureau of investigation;

43 (6) (A) except as provided in subsections (c)(6)(B) and (d), any

1 weapon or ammunition, in the discretion of the court having jurisdiction of
2 the property, shall be:

3 (i) Forfeited to the law enforcement agency seizing the weapon for
4 use within such agency, for sale to a properly licensed federal firearms
5 dealer, for trading to a properly licensed federal firearms dealer for other
6 new or used firearms or accessories for use within such agency or for
7 trading to another law enforcement agency for that agency's use;

8 (ii) forfeited to the Kansas bureau of investigation for law
9 enforcement, testing or comparison by the Kansas bureau of investigation
10 forensic laboratory;

11 (iii) forfeited to a county regional forensic science center or other
12 county forensic laboratory for testing, comparison or other forensic
13 science purposes; or

14 (iv) forfeited to the Kansas department of wildlife and parks for use
15 pursuant to the conditions set forth in K.S.A. 32-1047, and amendments
16 thereto.

17 (B) Except as provided in subsection (d), any weapon that cannot be
18 forfeited pursuant to subsection (c)(6)(A) due to the condition of the
19 weapon, and any weapon that was used in the commission of a felony as
20 described in K.S.A. 21-5401, *prior to its repeal*, or K.S.A. 21-5402, 21-
21 5403, 21-5404 or 21-5405, and amendments thereto, or *section 2, and*
22 *amendments thereto*, shall be destroyed-;

23 (7) controlled substances forfeited for violations of K.S.A. 21-5701
24 through 21-5717, and amendments thereto, shall be dealt with as provided
25 under K.S.A. 60-4101 through 60-4126, and amendments thereto;

26 (8) unless otherwise provided by law, all other property shall be
27 disposed of in such manner as the court in its sound discretion shall direct.

28 (d) (1) If a weapon is seized from an individual and the individual is
29 not convicted of the violation for which the weapon was seized, then
30 within 30 days after the declination or conclusion of prosecution of the
31 case against the individual, including any period of appeal, the law
32 enforcement agency that seized the weapon shall verify whether the
33 weapon is stolen. If the weapon is stolen or was seized from an individual
34 whom the agency knows is not the owner of the weapon, the law
35 enforcement agency shall notify the owner of the weapon that such
36 weapon may be retrieved. If the weapon was seized from a juvenile, the
37 agency shall notify the parent or legal guardian of the juvenile that such
38 weapon may be retrieved by the parent or legal guardian. If the agency
39 determines there is no other more appropriate person described in this
40 paragraph to retrieve the weapon, the agency shall notify the person from
41 whom the weapon was seized that such weapon may be retrieved. Such
42 notification shall include the location where such weapon may be
43 retrieved.

1 (2) If the law enforcement agency determines that the individual
2 authorized to retrieve a weapon pursuant to paragraph (1) is prohibited by
3 state or federal law from possessing the seized weapon, the agency shall
4 notify the individual that the weapon will not be returned due to the
5 disqualifying law, which shall be described in the notice. The law
6 enforcement agency shall not dispose of such weapon for 60 days after the
7 notice was given to provide a period for the individual to bring an action in
8 an appropriate court challenging the agency's determination. The law
9 enforcement agency may dispose of the weapon as provided by law 60
10 days after the notice described in paragraph (1) is given unless otherwise
11 directed by the court. An owner of a weapon who is prohibited by law
12 from possessing the weapon may either: (A) Request the law enforcement
13 agency to transfer the weapon to a properly licensed federal firearms
14 dealer designated by the owner; or (B) bring an action in an appropriate
15 court to request a court order to transfer the weapon as allowed by law.

16 (e) If weapons are sold as authorized by subsection (c)(6)(A), the
17 proceeds of the sale shall be credited to the asset seizure and forfeiture
18 fund of the seizing agency.

19 (f) For purposes of this section, the term "weapon" means a weapon
20 described in K.S.A. 21-6301, and amendments thereto.

21 Sec. 16. K.S.A. 2024 Supp. 22-3717 is hereby amended to read as
22 follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.
23 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through
24 21-4638 and 21-4642, prior to their repeal; K.S.A. 21-6617, *prior to its*
25 *repeal*; K.S.A. 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and
26 amendments thereto; ~~and~~ K.S.A. 8-1567, and amendments thereto; *and*
27 *section 3, and amendments thereto*; an inmate, including an inmate
28 sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 21-
29 6707, and amendments thereto, shall be eligible for parole after serving the
30 entire minimum sentence imposed by the court, less good time credits.

31 (b) (1) An inmate sentenced to imprisonment for life without the
32 possibility of parole pursuant to K.S.A. 21-6617, and amendments thereto,
33 shall not be eligible for parole.

34 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to
35 their repeal, and K.S.A. 21-6620, 21-6623, 21-6624 and 21-6625, and
36 amendments thereto, an inmate sentenced to imprisonment for the crime
37 of: (A) Capital murder committed on or after July 1, 1994, shall be eligible
38 for parole after serving 25 years of confinement, without deduction of any
39 good time credits; (B) murder in the first degree based upon a finding of
40 premeditated murder committed on or after July 1, 1994, but prior to July
41 1, 2014, shall be eligible for parole after serving 25 years of confinement,
42 without deduction of any good time credits; and (C) murder in the first
43 degree as described in K.S.A. 21-5402(a)(2), and amendments thereto,

1 committed on or after July 1, 2014, shall be eligible for parole after
2 serving 25 years of confinement, without deduction of any good time
3 credits.

4 (3) Except as provided by subsections (b)(1), (b)(2) and (b)(5),
5 K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through
6 21-4638, prior to their repeal, and K.S.A. 21-6620, 21-6623, 21-6624 and
7 21-6625, and amendments thereto, an inmate sentenced to imprisonment
8 for an off-grid offense committed on or after July 1, 1993, but prior to July
9 1, 1999, shall be eligible for parole after serving 15 years of confinement,
10 without deduction of any good time credits and an inmate sentenced to
11 imprisonment for an off-grid offense committed on or after July 1, 1999,
12 shall be eligible for parole after serving 20 years of confinement without
13 deduction of any good time credits.

14 (4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
15 repeal, an inmate sentenced for a class A felony committed before July 1,
16 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
17 its repeal, or K.S.A. 21-6707, and amendments thereto, shall be eligible for
18 parole after serving 15 years of confinement, without deduction of any
19 good time credits.

20 (5) An inmate sentenced to imprisonment for a violation of K.S.A.
21 21-3402(a), prior to its repeal, committed on or after July 1, 1996, but
22 prior to July 1, 1999, shall be eligible for parole after serving 10 years of
23 confinement without deduction of any good time credits.

24 (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
25 4643, prior to its repeal, or K.S.A. 21-6627, and amendments thereto,
26 committed on or after July 1, 2006, shall be eligible for parole after
27 serving the mandatory term of imprisonment without deduction of any
28 good time credits.

29 (7) *An inmate sentenced to imprisonment for life without the*
30 *possibility of parole pursuant to section 3, and amendments thereto, shall*
31 *not be eligible for parole.*

32 (c) (1) Except as provided in subsection (e), if an inmate is sentenced
33 to imprisonment for more than one crime and the sentences run
34 consecutively, the inmate shall be eligible for parole after serving the total
35 of:

36 (A) The aggregate minimum sentences, as determined pursuant to
37 K.S.A. 21-4608, prior to its repeal, or K.S.A. 21-6606, and amendments
38 thereto, less good time credits for those crimes ~~which~~ *that* are not class A
39 felonies; and

40 (B) an additional 15 years, without deduction of good time credits,
41 for each crime ~~which~~ *that* is a class A felony.

42 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
43 4643, prior to its repeal, or K.S.A. 21-6627, and amendments thereto, for

1 crimes committed on or after July 1, 2006, the inmate shall be eligible for
2 parole after serving the mandatory term of imprisonment.

3 (d) (1) Persons sentenced for crimes, other than off-grid crimes,
4 committed on or after July 1, 1993, or persons subject to subparagraph
5 (G), will not be eligible for parole, but will be released to a mandatory
6 period of postrelease supervision upon completion of the prison portion of
7 their sentence as follows:

8 (A) Except as provided in subparagraphs (D) and (E), persons
9 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
10 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
11 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
12 July 1, 2012, must serve 36 months on postrelease supervision.

13 (B) Except as provided in subparagraphs (D) and (E), persons
14 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
15 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
16 drug severity level 4 crimes committed on or after July 1, 2012, must serve
17 24 months on postrelease supervision.

18 (C) Except as provided in subparagraphs (D) and (E), persons
19 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
20 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
21 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
22 must serve 12 months on postrelease supervision.

23 (D) Persons sentenced to a term of imprisonment that includes a
24 sentence for a sexually violent crime as defined in K.S.A. 22-3717, and
25 amendments thereto, committed on or after July 1, 1993, but prior to July
26 1, 2006, a sexually motivated crime ~~in~~ for which the offender has been
27 ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and
28 amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its
29 repeal, or K.S.A. 21-5509, and amendments thereto, or unlawful sexual
30 relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 21-5512, and
31 amendments thereto, shall serve the period of postrelease supervision as
32 provided in subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C), plus the amount
33 of good time and program credit earned and retained pursuant to K.S.A.
34 21-4722, prior to its repeal, or K.S.A. 21-6821, and amendments thereto,
35 on postrelease supervision.

36 (i) If the sentencing judge finds substantial and compelling reasons to
37 impose a departure based upon a finding that the current crime of
38 conviction was sexually motivated, departure may be imposed to extend
39 the postrelease supervision to a period of up to 60 months.

40 (ii) If the sentencing judge departs from the presumptive postrelease
41 supervision period, the judge shall state on the record at the time of
42 sentencing the substantial and compelling reasons for the departure.
43 Departures in this section are subject to appeal pursuant to K.S.A. 21-

1 4721, prior to its repeal, or K.S.A. 21-6820, and amendments thereto.

2 (iii) In determining whether substantial and compelling reasons exist,
3 the court shall consider:

4 (a) Written briefs or oral arguments submitted by either the defendant
5 or the state;

6 (b) any evidence received during the proceeding;

7 (c) the presentence report, the victim's impact statement and any
8 psychological evaluation as ordered by the court pursuant to K.S.A. 21-
9 4714(e), prior to its repeal, or K.S.A. 21-6813(e), and amendments thereto;
10 and

11 (d) any other evidence the court finds trustworthy and reliable.

12 (iv) The sentencing judge may order that a psychological evaluation
13 be prepared and the recommended programming be completed by the
14 offender. The department of corrections or the prisoner review board shall
15 ensure that court ordered sex offender treatment be carried out.

16 (v) In carrying out the provisions of subsection (d)(1)(D), the court
17 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 21-6817, and
18 amendments thereto.

19 (vi) Upon petition and payment of any restitution ordered pursuant to
20 K.S.A. 21-6604, and amendments thereto, the prisoner review board may
21 provide for early discharge from the postrelease supervision period
22 imposed pursuant to subsection (d)(1)(D)(i) upon completion of court
23 ordered programs and completion of the presumptive postrelease
24 supervision period, as determined by the crime of conviction, pursuant to
25 subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
26 postrelease supervision is at the discretion of the board.

27 (vii) Persons convicted of crimes deemed sexually violent or sexually
28 motivated shall be registered according to the offender registration act,
29 K.S.A. 22-4901 through 22-4910, and amendments thereto.

30 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
31 repeal, or K.S.A. 21-5508, and amendments thereto, shall be required to
32 participate in a treatment program for sex offenders during the postrelease
33 supervision period.

34 (E) The period of postrelease supervision provided in subparagraphs
35 (A) and (B) may be reduced by up to 12 months and the period of
36 postrelease supervision provided in subparagraph (C) may be reduced by
37 up to six months based on the offender's compliance with conditions of
38 supervision and overall performance while on postrelease supervision. The
39 reduction in the supervision period shall be on an earned basis pursuant to
40 rules and regulations adopted by the secretary of corrections.

41 (F) In cases where sentences for crimes from more than one severity
42 level have been imposed, the offender shall serve the longest period of
43 postrelease supervision as provided by this section available for any crime

1 upon which sentence was imposed irrespective of the severity level of the
2 crime. Supervision periods will not aggregate.

3 (G) (i) Except as provided in subsection(v), persons sentenced to
4 imprisonment for a sexually violent crime committed on or after July 1,
5 2006, when the offender was 18 years of age or older, and who are
6 released from prison, shall be released to a mandatory period of
7 postrelease supervision for the duration of the person's natural life.

8 (ii) Persons sentenced to imprisonment for a sexually violent crime
9 committed on or after the effective date of this act, when the offender was
10 under 18 years of age, and who are released from prison, shall be released
11 to a mandatory period of postrelease supervision for 60 months, plus the
12 amount of good time and program credit earned and retained pursuant to
13 K.S.A. 21-4722, prior to its repeal, or K.S.A. 21-6821, and amendments
14 thereto.

15 (2) Persons serving a period of postrelease supervision pursuant to
16 subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner
17 review board for early discharge. Upon payment of restitution, the prisoner
18 review board may provide for early discharge.

19 (3) Persons serving a period of incarceration for a supervision
20 violation shall not have the period of postrelease supervision modified
21 until such person is released and returned to postrelease supervision.

22 (4) Offenders whose crime of conviction was committed on or after
23 July 1, 2013, and whose probation, assignment to a community
24 correctional services program, suspension of sentence or nonprison
25 sanction is revoked pursuant to K.S.A. 22-3716(c), and amendments
26 thereto, or whose underlying prison term expires while serving a sanction
27 pursuant to K.S.A. 22-3716(c), and amendments thereto, shall serve a
28 period of postrelease supervision upon the completion of the underlying
29 prison term.

30 (5) As used in this subsection, "sexually violent crime" means:

31 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and
32 amendments thereto;

33 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
34 or K.S.A. 21-5506(a), and amendments thereto;

35 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
36 to its repeal, or K.S.A. 21-5506(b), and amendments thereto;

37 (D) criminal sodomy, K.S.A. 21-3505(a)(2) and (a)(3), prior to its
38 repeal, or K.S.A. 21-5504(a)(3) and (a)(4), and amendments thereto;

39 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
40 or K.S.A. 21-5504(b), and amendments thereto;

41 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
42 or K.S.A. 21-5508(a), and amendments thereto;

43 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior

1 to its repeal, or K.S.A. 21-5508(b), and amendments thereto;

2 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
3 or K.S.A. 21-5510, and amendments thereto;

4 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
5 K.S.A. 21-5505(b), and amendments thereto;

6 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or K.S.A.
7 21-5604(b), and amendments thereto;

8 (K) aggravated human trafficking, as defined in K.S.A. 21-3447,
9 prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto, if
10 committed in whole or in part for the purpose of the sexual gratification of
11 the defendant or another;

12 (L) internet trading in child pornography, as defined in K.S.A. 21-
13 5514(a), and amendments thereto;

14 (M) aggravated internet trading in child pornography, as defined in
15 K.S.A. 21-5514(b), and amendments thereto;

16 (N) commercial sexual exploitation of a child, as defined in K.S.A.
17 21-6422, and amendments thereto; or

18 (O) an attempt, conspiracy or criminal solicitation, as defined in
19 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-
20 5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent
21 crime as defined in this section.

22 (6) As used in this subsection, "sexually motivated" means that one of
23 the purposes for which the defendant committed the crime was for the
24 purpose of the defendant's sexual gratification.

25 (e) If an inmate is sentenced to imprisonment for a crime committed
26 while on parole or conditional release, the inmate shall be eligible for
27 parole as provided by subsection (c), except that the prisoner review board
28 may postpone the inmate's parole eligibility date by assessing a penalty not
29 exceeding the period of time ~~which~~ *that* could have been assessed if the
30 inmate's parole or conditional release had been violated for reasons other
31 than conviction of a crime.

32 (f) If a person is sentenced to prison for a crime committed on or after
33 July 1, 1993, while on probation, parole, conditional release or in a
34 community corrections program, for a crime committed prior to July 1,
35 1993, and the person is not eligible for retroactive application of the
36 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
37 4724, prior to its repeal, the new sentence shall not be aggregated with the
38 old sentence, but shall begin when the person is paroled or reaches the
39 conditional release date on the old sentence. If the offender was past the
40 offender's conditional release date at the time the new offense was
41 committed, the new sentence shall not be aggregated with the old sentence
42 but shall begin when the person is ordered released by the prisoner review
43 board or reaches the maximum sentence expiration date on the old

1 sentence, whichever is earlier. The new sentence shall then be served as
2 otherwise provided by law. The period of postrelease supervision shall be
3 based on the new sentence, except that those offenders whose old sentence
4 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
5 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
6 term of life imprisonment, for which there is no conditional release or
7 maximum sentence expiration date, shall remain on postrelease
8 supervision for life or until discharged from supervision by the prisoner
9 review board.

10 (g) Subject to the provisions of this section, the prisoner review board
11 may release on parole those persons confined in institutions who are
12 eligible for parole when: (1) The board believes that the inmate should be
13 released for hospitalization, deportation or to answer the warrant or other
14 process of a court and is of the opinion that there is reasonable probability
15 that the inmate can be released without detriment to the community or to
16 the inmate; or (2) the secretary of corrections has reported to the board in
17 writing that the inmate has satisfactorily completed the programs required
18 by any agreement entered under K.S.A. 75-5210a, and amendments
19 thereto, or any revision of such agreement, and the board believes that the
20 inmate is able and willing to fulfill the obligations of a law abiding citizen
21 and is of the opinion that there is reasonable probability that the inmate
22 can be released without detriment to the community or to the inmate.
23 Parole shall not be granted as an award of clemency and shall not be
24 considered a reduction of sentence or a pardon.

25 (h) The prisoner review board shall hold a parole hearing at least the
26 month prior to the month an inmate will be eligible for parole under
27 subsections (a), (b) and (c). At least one month preceding the parole
28 hearing, the county or district attorney of the county where the inmate was
29 convicted shall give written notice of the time and place of the public
30 comment sessions for the inmate to any victim of the inmate's crime who
31 is alive and whose address is known to the county or district attorney or, if
32 the victim is deceased, to the victim's family if the family's address is
33 known to the county or district attorney. Except as otherwise provided,
34 failure to notify pursuant to this section shall not be a reason to postpone a
35 parole hearing. In the case of any inmate convicted of an off-grid felony or
36 a class A felony, the secretary of corrections shall give written notice of the
37 time and place of the public comment session for such inmate at least one
38 month preceding the public comment session to any victim of such
39 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
40 amendments thereto. If notification is not given to such victim or such
41 victim's family in the case of any inmate convicted of an off-grid felony or
42 a class A felony, the board shall postpone a decision on parole of the
43 inmate to a time at least 30 days after notification is given as provided in

1 this section. Nothing in this section shall create a cause of action against
2 the state or an employee of the state acting within the scope of the
3 employee's employment as a result of the failure to notify pursuant to this
4 section. If granted parole, the inmate may be released on parole on the date
5 specified by the board, but not earlier than the date the inmate is eligible
6 for parole under subsections (a), (b) and (c). At each parole hearing and, if
7 parole is not granted, at such intervals thereafter as it determines
8 appropriate, the board shall consider: (1) Whether the inmate has
9 satisfactorily completed the programs required by any agreement entered
10 under K.S.A. 75-5210a, and amendments thereto, or any revision of such
11 agreement; and (2) all pertinent information regarding such inmate,
12 including, but not limited to, the circumstances of the offense of the
13 inmate; the presentence report; the previous social history and criminal
14 record of the inmate; the conduct, employment, and attitude of the inmate
15 in prison; the reports of such physical and mental examinations as have
16 been made, including, but not limited to, risk factors revealed by any risk
17 assessment of the inmate; comments of the victim and the victim's family
18 including in person comments, contemporaneous comments and
19 prerecorded comments made by any technological means; comments of
20 the public; official comments; any recommendation by the staff of the
21 facility where the inmate is incarcerated; proportionality of the time the
22 inmate has served to the sentence a person would receive under the Kansas
23 sentencing guidelines for the conduct that resulted in the inmate's
24 incarceration; and capacity of state correctional institutions.

25 (i) In those cases involving inmates sentenced for a crime committed
26 after July 1, 1993, the prisoner review board will review the inmate's
27 proposed release plan. The board may schedule a hearing if they desire.
28 The board may impose any condition they deem necessary to insure public
29 safety, aid in the reintegration of the inmate into the community, or items
30 not completed under the agreement entered into under K.S.A. 75-5210a,
31 and amendments thereto. The board may not advance or delay an inmate's
32 release date. Every inmate while on postrelease supervision shall remain in
33 the legal custody of the secretary of corrections and is subject to the orders
34 of the secretary.

35 (j) (1) Before ordering the parole of any inmate, the prisoner review
36 board shall have the inmate appear either in person or via a video
37 conferencing format and shall interview the inmate unless impractical
38 because of the inmate's physical or mental condition or absence from the
39 institution. Every inmate while on parole shall remain in the legal custody
40 of the secretary of corrections and is subject to the orders of the secretary.
41 Whenever the board formally considers placing an inmate on parole and
42 no agreement has been entered into with the inmate under K.S.A. 75-
43 5210a, and amendments thereto, the board shall notify the inmate in

1 writing of the reasons for not granting parole. If an agreement has been
2 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate
3 has not satisfactorily completed the programs specified in the agreement,
4 or any revision of such agreement, the board shall notify the inmate in
5 writing of the specific programs the inmate must satisfactorily complete
6 before parole will be granted. If parole is not granted only because of a
7 failure to satisfactorily complete such programs, the board shall grant
8 parole upon the secretary's certification that the inmate has successfully
9 completed such programs. If an agreement has been entered under K.S.A.
10 75-5210a, and amendments thereto, and the secretary of corrections has
11 reported to the board in writing that the inmate has satisfactorily
12 completed the programs required by such agreement, or any revision
13 thereof, the board shall not require further program participation.
14 However, if the board determines that other pertinent information
15 regarding the inmate warrants the inmate's not being released on parole,
16 the board shall state in writing the reasons for not granting the parole. If
17 parole is denied for an inmate sentenced for a crime other than a class A or
18 class B felony or an off-grid felony, the board shall hold another parole
19 hearing for the inmate not later than one year after the denial unless the
20 board finds that it is not reasonable to expect that parole would be granted
21 at a hearing if held in the next three years or during the interim period of a
22 deferral. In such case, the board may defer subsequent parole hearings for
23 up to three years but any such deferral by the board shall require the board
24 to state the basis for its findings. If parole is denied for an inmate
25 sentenced for a class A or class B felony or an off-grid felony, the board
26 shall hold another parole hearing for the inmate not later than three years
27 after the denial unless the board finds that it is not reasonable to expect
28 that parole would be granted at a hearing if held in the next 10 years or
29 during the interim period of a deferral. In such case, the board may defer
30 subsequent parole hearings for up to 10 years, but any such deferral shall
31 require the board to state the basis for its findings.

32 (2) Inmates sentenced for a class A or class B felony who have not
33 had a board hearing in the five years prior to July 1, 2010, shall have such
34 inmates' cases reviewed by the board on or before July 1, 2012. Such
35 review shall begin with the inmates with the oldest deferral date and
36 progress to the most recent. Such review shall be done utilizing existing
37 resources unless the board determines that such resources are insufficient.
38 If the board determines that such resources are insufficient, then the
39 provisions of this paragraph are subject to appropriations therefor.

40 (k) (1) Parolees and persons on postrelease supervision shall be
41 assigned, upon release, to the appropriate level of supervision pursuant to
42 the criteria established by the secretary of corrections.

43 (2) Parolees and persons on postrelease supervision are, and shall

1 agree in writing to be, subject to searches of the person and the person's
2 effects, vehicle, residence and property by a parole officer or a department
3 of corrections enforcement, apprehension and investigation officer, at any
4 time of the day or night, with or without a search warrant and with or
5 without cause. Nothing in this subsection shall be construed to authorize
6 such officers to conduct arbitrary or capricious searches or searches for the
7 sole purpose of harassment.

8 (3) Parolees and persons on postrelease supervision are, and shall
9 agree in writing to be, subject to searches of the person and the person's
10 effects, vehicle, residence and property by any law enforcement officer
11 based on reasonable suspicion of the person violating conditions of parole
12 or postrelease supervision or reasonable suspicion of criminal activity. Any
13 law enforcement officer who conducts such a search shall submit a written
14 report to the appropriate parole officer no later than the close of the next
15 business day after such search. The written report shall include the facts
16 leading to such search, the scope of such search and any findings resulting
17 from such search.

18 (l) The prisoner review board shall promulgate rules and regulations
19 in accordance with K.S.A. 77-415 et seq., and amendments thereto, not
20 inconsistent with the law and as it may deem proper or necessary, with
21 respect to the conduct of parole hearings, postrelease supervision reviews,
22 revocation hearings, orders of restitution, reimbursement of expenditures
23 by the state board of indigents' defense services and other conditions to be
24 imposed upon parolees or releasees. Whenever an order for parole or
25 postrelease supervision is issued it shall recite the conditions thereof.

26 (m) Whenever the prisoner review board orders the parole of an
27 inmate or establishes conditions for an inmate placed on postrelease
28 supervision, the board shall require that the inmate:

29 (1) Obey all laws and ordinances and report any law enforcement
30 contact to the inmate's supervision officer within 24 hours after such
31 contact;

32 (2) not engage in physical violence or threats of violence of any kind
33 and, if the inmate is being supervised for conviction of a felony, not
34 purchase or possess a dangerous weapon, including a firearm, while on
35 supervision;

36 (3) report to the inmate's supervision officer as directed and be
37 truthful in all matters;

38 (4) remain within the state of Kansas or other specified areas as
39 defined by the defendant's supervision officer;

40 (5) reside at the inmate's approved residence unless the defendant
41 receives permission from the inmate's supervision officer to relocate and
42 notify the inmate's supervision officer within 24 hours after any emergency
43 changes in residence or contact information;

1 (6) not possess, use or distribute any controlled substances except
2 those prescribed by a licensed medical professional;

3 (7) not possess or consume any form of alcohol or intoxicating
4 substance or enter any establishment where alcohol is sold or consumed as
5 the primary business;

6 (8) submit to any form of alcohol or substance use testing directed by
7 the inmate's supervision officer and not alter or tamper with the specimen
8 or test;

9 (9) participate in assessment, treatment, programming and other
10 directives of the court or the inmate's supervision officer;

11 (10) submit to searches of the person and the person's effects, vehicle,
12 residence and property by a parole officer or a department of corrections
13 enforcement, apprehension and investigation officer, at any time of the day
14 or night, with or without a search warrant and with or without cause,
15 except that nothing in this paragraph shall be construed to authorize such
16 officers to conduct arbitrary or capricious searches or searches for the sole
17 purpose of harassment;

18 (11) submit to searches of the person and the person's effects, vehicle,
19 residence and property by any law enforcement officer based on
20 reasonable suspicion of the person violating conditions of parole or
21 postrelease supervision or reasonable suspicion of criminal activity;

22 (12) refrain from contacting victims unless authorized by the board to
23 contact a victim as part of rehabilitative or therapeutic purposes;

24 (13) pay the administrative fee imposed pursuant to K.S.A. 22-4529,
25 and amendments thereto, unless the board finds compelling circumstances
26 that would render payment unworkable; and

27 (14) unless the board finds compelling circumstances that would
28 render a plan of payment unworkable, reimburse the state for all or part of
29 the expenditures by the state board of indigents' defense services to
30 provide counsel and other defense services to the person. In determining
31 the amount and method of payment of such sum, the prisoner review board
32 shall take account of the financial resources of the person and the nature of
33 the burden that the payment of such sum will impose. Such amount shall
34 not exceed the amount claimed by appointed counsel on the payment
35 voucher for indigents' defense services or the amount prescribed by the
36 board of indigents' defense services reimbursement tables as provided in
37 K.S.A. 22-4522, and amendments thereto, whichever is less, minus any
38 previous payments for such services.

39 (n) Any law enforcement officer who conducts a search pursuant to
40 subsection (m)(11) shall submit a written report to the inmate's parole
41 officer not later than the close of business the next day after such search is
42 conducted. The written report shall include the facts leading to such
43 search, the scope of such search and any findings resulting from such

1 search.

2 (o) If the court that sentenced an inmate specified at the time of
3 sentencing the amount and the recipient of any restitution ordered as a
4 condition of parole or postrelease supervision, the prisoner review board
5 shall order as a condition of parole or postrelease supervision that the
6 inmate pay restitution in the amount and manner provided in the journal
7 entry unless the board finds compelling circumstances that would render a
8 plan of restitution unworkable.

9 (p) Whenever the prisoner review board grants the parole of an
10 inmate, the board, within 14 days of the date of the decision to grant
11 parole, shall give written notice of the decision to the county or district
12 attorney of the county where the inmate was sentenced.

13 (q) When an inmate is to be released on postrelease supervision, the
14 secretary, within 30 days prior to release, shall provide the county or
15 district attorney of the county where the inmate was sentenced written
16 notice of the release date.

17 (r) Inmates shall be released on postrelease supervision upon the
18 termination of the prison portion of their sentence. Time served while on
19 postrelease supervision will vest.

20 (s) An inmate who is allocated regular good time credits as provided
21 in K.S.A. 22-3725, and amendments thereto, may receive meritorious
22 good time credits in increments of not more than 90 days per meritorious
23 act. These credits may be awarded by the secretary of corrections when an
24 inmate has acted in a heroic or outstanding manner in coming to the
25 assistance of another person in a life-threatening situation, preventing
26 injury or death to a person, preventing the destruction of property or taking
27 actions that result in a financial savings to the state.

28 (t) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and
29 (d)(1)(E) shall be applied retroactively as provided in subsection(u).

30 (u) For offenders sentenced prior to July 1, 2014, who are eligible for
31 modification of their postrelease supervision obligation, the department of
32 corrections shall modify the period of postrelease supervision as provided
33 for by this section:

34 (1) On or before September 1, 2013, for offenders convicted of:

35 (A) Severity levels 9 and 10 crimes on the sentencing guidelines grid
36 for nondrug crimes;

37 (B) severity level 4 crimes on the sentencing guidelines grid for drug
38 crimes committed prior to July 1, 2012; and

39 (C) severity level 5 crimes on the sentencing guidelines grid for drug
40 crimes committed on and after July 1, 2012;

41 (2) on or before November 1, 2013, for offenders convicted of:

42 (A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines
43 grid for nondrug crimes;

1 (B) *severity* level 3 crimes on the sentencing guidelines grid for drug
2 crimes committed prior to July 1, 2012; and

3 (C) *severity* level 4 crimes on the sentencing guidelines grid for drug
4 crimes committed on or after July 1, 2012; and

5 (3) on or before January 1, 2014, for offenders convicted of:

6 (A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing
7 guidelines grid for nondrug crimes;

8 (B) severity levels 1 and 2 crimes on the sentencing guidelines grid
9 for drug crimes committed at any time; and

10 (C) severity level 3 crimes on the sentencing guidelines grid for drug
11 crimes committed on or after July 1, 2012.

12 (v) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
13 4643, prior to its repeal, or K.S.A. 21-6627, and amendments thereto, for
14 crimes committed on or after July 1, 2006, shall be placed on parole for
15 life and shall not be discharged from supervision by the prisoner review
16 board. When the board orders the parole of an inmate pursuant to this
17 subsection, the board shall order as a condition of parole that the inmate be
18 electronically monitored for the duration of the inmate's natural life.

19 (w) Whenever the prisoner review board orders a person to be
20 electronically monitored pursuant to this section, or the court orders a
21 person to be electronically monitored pursuant to K.S.A. 21-6604(r), and
22 amendments thereto, the board shall order the person to reimburse the state
23 for all or part of the cost of such monitoring. In determining the amount
24 and method of payment of such sum, the board shall take account of the
25 financial resources of the person and the nature of the burden that the
26 payment of such sum will impose.

27 (x) (1) On and after July 1, 2012, for any inmate who is a sex
28 offender, as defined in K.S.A. 22-4902, and amendments thereto,
29 whenever the prisoner review board orders the parole of such inmate or
30 establishes conditions for such inmate placed on postrelease supervision,
31 such inmate shall agree in writing to not possess pornographic materials.

32 (A) As used in this subsection, "pornographic materials" means any
33 obscene material or performance depicting sexual conduct, sexual contact
34 or a sexual performance; and any visual depiction of sexually explicit
35 conduct.

36 (B) As used in this subsection, all other terms have the meanings
37 provided by K.S.A. 21-5510, and amendments thereto.

38 (2) The provisions of this subsection shall be applied retroactively to
39 every sex offender, as defined in K.S.A. 22-4902, and amendments
40 thereto, who is on parole or postrelease supervision on July 1, 2012. The
41 prisoner review board shall obtain the written agreement required by this
42 subsection from such offenders as soon as practicable.

43 Sec. 17. K.S.A. 22-4902 is hereby amended to read as follows: 22-

- 1 4902. As used in the Kansas offender registration act, unless the context
2 otherwise requires:
- 3 (a) "Offender" means:
- 4 (1) A sex offender;
- 5 (2) a violent offender;
- 6 (3) a drug offender;
- 7 (4) any person who has been required to register under out-of-state
8 law or is otherwise required to be registered; and
- 9 (5) any person required by court order to register for an offense not
10 otherwise required as provided in the Kansas offender registration act.
- 11 (b) "Sex offender" includes any person who:
- 12 (1) On or after April 14, 1994, is convicted of any sexually violent
13 crime;
- 14 (2) on or after July 1, 2002, is adjudicated as a juvenile offender for
15 an act which, if committed by an adult, would constitute the commission
16 of a sexually violent crime, unless the court, on the record, finds that the
17 act involved non-forcible sexual conduct, the victim was at least 14 years
18 of age and the offender was not more than four years older than the victim;
- 19 (3) has been determined to be a sexually violent predator;
- 20 (4) on or after July 1, 1997, is convicted of any of the following
21 crimes when one of the parties involved is less than 18 years of age:
- 22 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
23 K.S.A. 21-5511, and amendments thereto;
- 24 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
25 repeal, or K.S.A. 21-5504(a)(1) or (a)(2), and amendments thereto;
- 26 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
27 repeal, or K.S.A. 21-6420, prior to its amendment by section 17 of chapter
28 120 of the 2013 Session Laws of Kansas on July 1, 2013;
- 29 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
30 repeal, or K.S.A. 21-6421, prior to its amendment by section 18 of chapter
31 120 of the 2013 Session Laws of Kansas on July 1, 2013; or
- 32 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
33 to its repeal, or K.S.A. 21-5513, and amendments thereto;
- 34 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
35 to its repeal, or K.S.A. 21-5505(a), and amendments thereto;
- 36 (6) is convicted of sexual extortion, as defined in K.S.A. 21-5515,
37 and amendments thereto;
- 38 (7) is convicted of breach of privacy, as defined in K.S.A. 21-6101(a)
39 (6), (a)(7) or (a)(8), and amendments thereto;
- 40 (8) is convicted of an attempt, conspiracy or criminal solicitation, as
41 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
42 K.S.A. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense
43 defined in this subsection; or

- 1 (9) has been convicted of an offense that is comparable to any crime
2 defined in this subsection, or any out-of-state conviction for an offense that
3 under the laws of this state would be an offense defined in this subsection.
- 4 (c) "Sexually violent crime" means:
- 5 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
6 21-5503, and amendments thereto;
- 7 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
8 to its repeal, or K.S.A. 21-5506(a), and amendments thereto;
- 9 (3) aggravated indecent liberties with a child, as defined in K.S.A.
10 21-3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments
11 thereto;
- 12 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
13 prior to its repeal, or K.S.A. 21-5504(a)(3) or (a)(4), and amendments
14 thereto;
- 15 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
16 to its repeal, or K.S.A. 21-5504(b), and amendments thereto;
- 17 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
18 prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto;
- 19 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
20 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments
21 thereto;
- 22 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
23 to its repeal, or K.S.A. 21-5510, and amendments thereto;
- 24 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
25 its repeal, or K.S.A. 21-5505(b), and amendments thereto;
- 26 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
27 repeal, or K.S.A. 21-5604(b), and amendments thereto;
- 28 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
29 repeal, and K.S.A. 21-5509, and amendments thereto;
- 30 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
31 its repeal, or K.S.A. 21-5512, and amendments thereto;
- 32 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
33 prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto, if
34 committed in whole or in part for the purpose of the sexual gratification of
35 the defendant or another;
- 36 (14) commercial sexual exploitation of a child, as defined in K.S.A.
37 21-6422, and amendments thereto;
- 38 (15) promoting the sale of sexual relations, as defined in K.S.A. 21-
39 6420, and amendments thereto;
- 40 (16) internet trading in child pornography or aggravated internet
41 trading in child pornography, as defined in K.S.A. 21-5514, and
42 amendments thereto;
- 43 (17) any conviction or adjudication for an offense that is comparable

1 to a sexually violent crime as defined in this subsection, or any out-of-state
2 conviction or adjudication for an offense that under the laws of this state
3 would be a sexually violent crime as defined in this subsection;

4 (18) an attempt, conspiracy or criminal solicitation, as defined in
5 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-
6 5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent
7 crime, as defined in this subsection; or

8 (19) any act that has been determined beyond a reasonable doubt to
9 have been sexually motivated, unless the court, on the record, finds that
10 the act involved non-forcible sexual conduct, the victim was at least 14
11 years of age and the offender was not more than four years older than the
12 victim. As used in this paragraph, "sexually motivated" means that one of
13 the purposes for which the defendant committed the crime was for the
14 purpose of the defendant's sexual gratification.

15 (d) "Sexually violent predator" means any person who, on or after
16 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
17 59-29a01 et seq., and amendments thereto.

18 (e) "Violent offender" includes any person who:

19 (1) On or after July 1, 1997, is convicted of any of the following
20 crimes:

21 (A) Capital murder, as defined in K.S.A. 21-3439 *or* 21-5401, prior to
22 its *their* repeal, ~~or K.S.A. 21-5401~~;

23 (B) *aggravated murder, as defined in section 2*, and amendments
24 thereto;

25 ~~(B)~~(C) murder in the first degree, as defined in K.S.A. 21-3401, prior
26 to its repeal, or K.S.A. 21-5402, and amendments thereto;

27 ~~(C)~~(D) murder in the second degree, as defined in K.S.A. 21-3402,
28 prior to its repeal, or K.S.A. 21-5403, and amendments thereto;

29 ~~(D)~~(E) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
30 its repeal, or K.S.A. 21-5404, and amendments thereto;

31 ~~(E)~~(F) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
32 to its repeal, or K.S.A. 21-5405(a)(1), (a)(2) or (a)(4), and amendments
33 thereto. The provisions of this paragraph shall not apply to violations of
34 K.S.A. 21-5405(a)(3), and amendments thereto, that occurred on or after
35 July 1, 2011, through July 1, 2013;

36 ~~(F)~~(G) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal,
37 or K.S.A. 21-5408(a), and amendments thereto;

38 ~~(G)~~(H) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to
39 its repeal, or K.S.A. 21-5408(b), and amendments thereto;

40 ~~(H)~~(I) criminal restraint, as defined in K.S.A. 21-3424, prior to its
41 repeal, or K.S.A. 21-5411, and amendments thereto, except by a parent,
42 and only when the victim is less than 18 years of age; or

43 ~~(I)~~(J) aggravated human trafficking, as defined in K.S.A. 21-3447,

1 prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto, if not
2 committed in whole or in part for the purpose of the sexual gratification of
3 the defendant or another;

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

7 (3) has been convicted of an offense that is comparable to any crime
8 defined in this subsection, any out-of-state conviction for an offense that
9 under the laws of this state would be an offense defined in this subsection;
10 or

11 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
12 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
13 K.S.A. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
14 offense defined in this subsection.

15 (f) "Drug offender" includes any person who, on or after July 1, 2007:

16 (1) Is convicted of any of the following crimes:

17 (A) Unlawful manufacture or attempting such of any controlled
18 substance or controlled substance analog, as defined in K.S.A. 65-4159,
19 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
20 K.S.A. 21-5703, and amendments thereto;

21 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
22 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
23 ammonia or phenylpropanolamine, or their salts, isomers or salts of
24 isomers with intent to use the product to manufacture a controlled
25 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
26 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 21-5709(a), and
27 amendments thereto;

28 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
29 36a05(a)(1), prior to its transfer, or K.S.A. 21-5705(a)(1), and
30 amendments thereto. The provisions of this paragraph shall not apply to
31 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b) that
32 occurred on or after July 1, 2009, through April 15, 2010;

33 (2) has been convicted of an offense that is comparable to any crime
34 defined in this subsection, any out-of-state conviction for an offense that
35 under the laws of this state would be an offense defined in this subsection;
36 or

37 (3) is or has been convicted of an attempt, conspiracy or criminal
38 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
39 their repeal, or K.S.A. 21-5301, 21-5302 and 21-5303, and amendments
40 thereto, of an offense defined in this subsection.

41 (g) Convictions or adjudications that result from or are connected
42 with the same act, or result from crimes committed at the same time, shall
43 be counted for the purpose of this section as one conviction or

1 adjudication. Any conviction or adjudication set aside pursuant to law is
2 not a conviction or adjudication for purposes of this section. A conviction
3 or adjudication from any out-of-state court shall constitute a conviction or
4 adjudication for purposes of this section.

5 (h) "School" means any public or private educational institution,
6 including, but not limited to, postsecondary school, college, university,
7 community college, secondary school, high school, junior high school,
8 middle school, elementary school, trade school, vocational school or
9 professional school providing training or education to an offender for three
10 or more consecutive days or parts of days, or for 10 or more
11 nonconsecutive days in a period of 30 consecutive days.

12 (i) "Employment" means any full-time, part-time, transient, day-labor
13 employment or volunteer work, with or without compensation, for three or
14 more consecutive days or parts of days, or for 10 or more nonconsecutive
15 days in a period of 30 consecutive days.

16 (j) "Reside" means to stay, sleep or maintain with regularity or
17 temporarily one's person and property in a particular place other than a
18 location where the offender is incarcerated. It shall be presumed that an
19 offender resides at any and all locations where the offender stays, sleeps or
20 maintains the offender's person for three or more consecutive days or parts
21 of days, or for ten or more nonconsecutive days in a period of 30
22 consecutive days.

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

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

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

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

34 (o) "Registering entity" means any person, agency or other
35 governmental unit, correctional facility or registering law enforcement
36 agency responsible for obtaining the required information from, and
37 explaining the required registration procedures to, any person required to
38 register pursuant to the Kansas offender registration act. "Registering
39 entity" includes, but is not limited to, sheriff's offices, tribal police
40 departments and correctional facilities.

41 (p) "Treatment facility" means any public or private facility or
42 institution providing inpatient mental health, drug or alcohol treatment or
43 counseling, but does not include a hospital, as defined in K.S.A. 65-425,

1 and amendments thereto.

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

4 (r) "Out-of-state" means: the District of Columbia; any federal,
5 military or tribal jurisdiction, including those within this state; any foreign
6 jurisdiction; or any state or territory within the United States, other than
7 this state.

8 (s) "Duration of registration" means the length of time ~~during which~~
9 *when* an offender is required to register for a specified offense or violation.

10 (t) (1) Notwithstanding any other provision of this section, "offender"
11 ~~shall~~ *does* not include any person who is:

12 (A) Convicted of unlawful transmission of a visual depiction of a
13 child, as defined in K.S.A. 21-5611(a), and amendments thereto,
14 aggravated unlawful transmission of a visual depiction of a child, as
15 defined in K.S.A. 21-5611(b), and amendments thereto, or unlawful
16 possession of a visual depiction of a child, as defined in K.S.A. 21-5610,
17 and amendments thereto;

18 (B) adjudicated as a juvenile offender for an act which, if committed
19 by an adult, would constitute the commission of a crime defined in
20 subsection (t)(1)(A);

21 (C) adjudicated as a juvenile offender for an act which, if committed
22 by an adult, would constitute the commission of sexual extortion as
23 defined in K.S.A. 21-5515, and amendments thereto; or

24 (D) adjudicated as a juvenile offender for an act which, if committed
25 by an adult, would constitute a violation of K.S.A. 21-6101(a)(6), (a)(7) or
26 (a)(8), and amendments thereto.

27 (2) Notwithstanding any other provision of law, a court shall not
28 order any person to register under the Kansas offender registration act for
29 the offenses described in subsection (t)(1).

30 Sec. 18. K.S.A. 22-4906 is hereby amended to read as follows: 22-
31 4906. (a) (1) Except as provided in subsection (c), if convicted of any of
32 the following offenses, an offender's duration of registration shall be, if
33 confined, 15 years after the date of parole, discharge or release, whichever
34 date is most recent, or, if not confined, 15 years from the date of
35 conviction:

36 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
37 or K.S.A. 21-5505(a), and amendments thereto;

38 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
39 K.S.A. 21-5511, and amendments thereto, when one of the parties
40 involved is less than 18 years of age;

41 (C) promoting the sale of sexual relations, as defined in K.S.A. 21-
42 6420, and amendments thereto;

43 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its

1 repeal, or K.S.A. 21-6421, prior to its amendment by section 18 of chapter
 2 120 of the 2013 Session Laws of Kansas on July 1, 2013, when one of the
 3 parties involved is less than 18 years of age;

4 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
 5 to its repeal, or K.S.A. 21-5513, and amendments thereto, when one of the
 6 parties involved is less than 18 years of age;

7 (F) capital murder, as defined in K.S.A. 21-3439 *or 21-5401*, prior to
 8 *its* ~~their~~ repeal, ~~or K.S.A. 21-5401~~;

9 (G) *aggravated murder, as defined in section 2*, and amendments
 10 thereto;

11 ~~(G)~~(H) murder in the first degree, as defined in K.S.A. 21-3401, prior
 12 to its repeal, or K.S.A. 21-5402, and amendments thereto;

13 ~~(H)~~(I) murder in the second degree, as defined in K.S.A. 21-3402,
 14 prior to its repeal, or K.S.A. 21-5403, and amendments thereto;

15 ~~(I)~~(J) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
 16 its repeal, or K.S.A. 21-5404, and amendments thereto;

17 ~~(J)~~(K) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
 18 to its repeal, or K.S.A. 21-5405(a)(1), (a)(2) or (a)(4), and amendments
 19 thereto;

20 ~~(K)~~(L) criminal restraint, as defined in K.S.A. 21-3424, prior to its
 21 repeal, or K.S.A. 21-5411, and amendments thereto, except by a parent,
 22 and only when the victim is less than 18 years of age;

23 ~~(L)~~(M) sexual extortion, as defined in K.S.A. 21-5515, and
 24 amendments thereto, when one of the parties involved is less than 18 years
 25 of age;

26 ~~(M)~~(N) breach of privacy, as defined in K.S.A. 21-6101(a)(6), (a)(7)
 27 or (a)(8), and amendments thereto;

28 ~~(N)~~(O) any act that has been determined beyond a reasonable doubt
 29 to have been sexually motivated, unless the court, on the record, finds that
 30 the act involved non-forcible sexual conduct, the victim was at least 14
 31 years of age and the offender was not more than four years older than the
 32 victim;

33 ~~(O)~~(P) conviction of any person required by court order to register for
 34 an offense not otherwise required as provided in the Kansas offender
 35 registration act;

36 ~~(P)~~(Q) conviction of any person felony and the court makes a finding
 37 on the record that a deadly weapon was used in the commission of such
 38 person felony;

39 ~~(Q)~~(R) unlawful manufacture or attempting such of any controlled
 40 substance or controlled substance analog, as defined in K.S.A. 65-4159,
 41 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
 42 K.S.A. 21-5703, and amendments thereto;

43 ~~(R)~~(S) possession of ephedrine, pseudoephedrine, red phosphorus,

1 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
2 ammonia or phenylpropanolamine, or their salts, isomers or salts of
3 isomers with intent to use the product to manufacture a controlled
4 substance, as defined by K.S.A. 65-7006(a), prior to its repeal, K.S.A.
5 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 21-5709(a), and
6 amendments thereto;

7 ~~(S)~~(T) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
8 36a05(a)(1), prior to its transfer, or K.S.A. 21-5705(a)(1), and
9 amendments thereto; or

10 ~~(F)~~(U) any attempt, conspiracy or criminal solicitation, as defined in
11 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-
12 5301, 21-5302 and 21-5303, and amendments thereto, of an offense
13 defined in this subsection.

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

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

26 (A) Criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
27 repeal, or K.S.A. 21-5504(a)(1) or (a)(2), and amendments thereto, when
28 one of the parties involved is less than 18 years of age;

29 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
30 prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto;

31 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
32 repeal, or K.S.A. 21-5509, and amendments thereto;

33 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
34 repeal, or K.S.A. 21-5604(b), and amendments thereto;

35 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
36 to its repeal, or K.S.A. 21-5506(a), and amendments thereto;

37 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
38 its repeal, or K.S.A. 21-5512, and amendments thereto;

39 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
40 to its repeal, or K.S.A. 21-5510, and amendments thereto, if the victim is
41 14 or more years of age but less than 18 years of age;

42 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
43 its repeal, or K.S.A. 21-5505(b), and amendments thereto;

- 1 (I) internet trading in child pornography, as defined in K.S.A. 21-
2 5514, and amendments thereto;
- 3 (J) aggravated internet trading in child pornography, as defined in
4 K.S.A. 21-5514, and amendments thereto, if the victim is 14 or more years
5 of age but less than 18 years of age;
- 6 (K) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
7 repeal, or K.S.A. 21-6420, prior to its amendment by section 17 of chapter
8 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person
9 selling sexual relations is 14 or more years of age but less than 18 years of
10 age; or
- 11 (L) any attempt, conspiracy or criminal solicitation, as defined in
12 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-
13 5301, 21-5302 and 21-5303, and amendments thereto, of an offense
14 defined in this subsection.
- 15 (2) Except as otherwise provided by the Kansas offender registration
16 act, the duration of registration terminates, if not confined, at the
17 expiration of 25 years from the date of conviction. Any period of time
18 ~~during which~~ when any offender is incarcerated in any jail or correctional
19 facility or ~~during which~~ when the offender does not comply with any and
20 all requirements of the Kansas offender registration act shall not count
21 toward the duration of registration.
- 22 (c) Upon a second or subsequent conviction of an offense requiring
23 registration, an offender's duration of registration shall be for such
24 offender's lifetime.
- 25 (d) The duration of registration for any offender who has been
26 convicted of any of the following offenses shall be for such offender's
27 lifetime:
- 28 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
29 21-5503, and amendments thereto;
- 30 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
31 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments
32 thereto;
- 33 (3) aggravated indecent liberties with a child, as defined in K.S.A.
34 21-3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments
35 thereto;
- 36 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
37 prior to its repeal, or K.S.A. 21-5504(a)(3) or (a)(4), and amendments
38 thereto;
- 39 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
40 to its repeal, or K.S.A. 21-5504(b), and amendments thereto;
- 41 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
42 to its repeal, or K.S.A. 21-5426(b), and amendments thereto;
- 43 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior

1 to its repeal, or K.S.A. 21-5510, and amendments thereto, if the victim is
2 less than 14 years of age;

3 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
4 repeal, or K.S.A. 21-6420, prior to its amendment by section 17 of chapter
5 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person
6 selling sexual relations is less than 14 years of age;

7 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
8 K.S.A. 21-5408(a), and amendments thereto;

9 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
10 repeal, or K.S.A. 21-5408(b), and amendments thereto;

11 (11) aggravated internet trading in child pornography, as defined in
12 K.S.A. 21-5514, and amendments thereto, if the victim is less than 14
13 years of age;

14 (12) commercial sexual exploitation of a child, as defined in K.S.A.
15 21-6422, and amendments thereto; or

16 (13) any attempt, conspiracy or criminal solicitation, as defined in
17 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-
18 5301, 21-5302 and 21-5303, and amendments thereto, of an offense
19 defined in this subsection.

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

23 (f) Notwithstanding any other provisions of this section, for an
24 offender less than 14 years of age who is adjudicated as a juvenile offender
25 for an act which, if committed by an adult, would constitute a sexually
26 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, the
27 court shall:

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

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

37 (3) require registration, but such registration information shall not be
38 open to inspection by the public or posted on any internet website, as
39 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
40 registration but such registration is not open to the public, such offender
41 shall provide a copy of such court order to the registering law enforcement
42 agency at the time of registration. The registering law enforcement agency
43 shall forward a copy of such court order to the Kansas bureau of

1 investigation.

2 If such offender violates a condition of release during the term of the
3 conditional release, the court may require such offender to register
4 pursuant to ~~paragraph (1)~~ *subsection (f)*.

5 (g) Notwithstanding any other provisions of this section, for an
6 offender 14 years of age or more who is adjudicated as a juvenile offender
7 for an act which, if committed by an adult, would constitute a sexually
8 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and
9 such crime is not an off-grid felony or a felony ranked in severity level 1
10 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or
11 K.S.A. 21-6804, and amendments thereto, the court shall:

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

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

21 (3) require registration, but such registration information shall not be
22 open to inspection by the public or posted on any internet website, as
23 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
24 registration but such registration is not open to the public, such offender
25 shall provide a copy of such court order to the registering law enforcement
26 agency at the time of registration. The registering law enforcement agency
27 shall forward a copy of such court order to the Kansas bureau of
28 investigation.

29 If such offender violates a condition of release during the term of the
30 conditional release, the court may require such offender to register
31 pursuant to ~~paragraph (1)~~ *subsection (g)*.

32 (h) Notwithstanding any other provisions of this section, an offender
33 14 *or more* years of age ~~or more~~ who is adjudicated as a juvenile offender
34 for an act which, if committed by an adult, would constitute a sexually
35 violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and
36 such crime is an off-grid felony or a felony ranked in severity level 1 of
37 the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or
38 K.S.A. 21-6804, and amendments thereto, shall be required to register for
39 such offender's lifetime.

40 (i) Notwithstanding any other provision of law, if a diversionary
41 agreement or probation order, either adult or juvenile, or a juvenile
42 offender sentencing order, requires registration under the Kansas offender
43 registration act for an offense that would not otherwise require registration

1 as provided in K.S.A. 22-4902(a)(5), and amendments thereto, then all
2 provisions of the Kansas offender registration act shall apply, except that
3 the duration of registration shall be controlled by such diversionary
4 agreement, probation order or juvenile offender sentencing order.

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

8 (k) For any person moving to Kansas who has been convicted or
9 adjudicated in an out-of-state court, or who was required to register under
10 an out-of-state law, the duration of registration shall be the length of time
11 required by the out-of-state jurisdiction or by the Kansas offender
12 registration act, whichever length of time is longer. The provisions of this
13 subsection shall apply to convictions or adjudications prior to June 1,
14 2006, and to persons who moved to Kansas prior to June 1, 2006, and to
15 convictions or adjudications on or after June 1, 2006, and to persons who
16 moved to Kansas on or after June 1, 2006.

17 (l) For any person residing, maintaining employment or attending
18 school in this state who has been convicted or adjudicated by an out-of-
19 state court of an offense that is comparable to any crime requiring
20 registration pursuant to the Kansas offender registration act, but who was
21 not required to register in the jurisdiction of conviction or adjudication, the
22 duration of registration shall be the duration required for the comparable
23 offense pursuant to the Kansas offender registration act.

24 Sec. 19. K.S.A. 23-3222 is hereby amended to read as follows: 23-
25 3222. (a) Except as provided in subsection (d), a parent entitled to legal
26 custody or residency of or parenting time with a child under this article
27 shall give written notice to the other parent not less than 30 days prior to:
28 (1) Changing the residence of the child; or (2) removing the child from this
29 state for a period of time exceeding 90 days. Such notice shall be sent by
30 restricted mail, return receipt requested, to the last known address of the
31 other parent.

32 (b) Failure to give notice as required by subsection (a) is an indirect
33 civil contempt punishable as provided by law. In addition, the court may
34 assess, against the parent required to give notice, reasonable attorney fees
35 and any other expenses incurred by the other parent by reason of the
36 failure to give notice.

37 (c) A change of the residence or the removal of a child as described in
38 subsection (a) may be considered a material change of circumstances
39 which justifies modification of a prior order of legal custody, residency,
40 child support or parenting time. In determining any motion seeking a
41 modification of a prior order based on change of residence or removal as
42 described in (a), the court shall consider all factors the court deems
43 appropriate including, but not limited to: (1) The effect of the move on the

1 best interests of the child; (2) the effect of the move on any party having
2 rights granted under this article; and (3) the increased cost the move will
3 impose on any party seeking to exercise rights granted under this article.

4 (d) A parent entitled to the legal custody or residency of a child under
5 this article shall not be required to give the notice required by this section
6 to the other parent when the other parent has been convicted of any crime
7 specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes
8 Annotated, *or K.S.A. 21-5401*, prior to their repeal, or ~~K.S.A. 21-5401~~ *21-*
9 *5402* through 21-5609, *section 2*, 21-6104, 21-6325, 21-6326 or 21-6419
10 through 21-6422, and amendments thereto, in which the child is the victim
11 of such crime.

12 Sec. 20. K.S.A. 2024 Supp. 38-2255 is hereby amended to read as
13 follows: 38-2255. (a) *Considerations*. Prior to entering an order of
14 disposition, the court shall give consideration to:

15 (1) The child's physical, mental and emotional condition;
16 (2) the child's need for assistance;
17 (3) the manner in which the parent participated in the abuse, neglect
18 or abandonment of the child;
19 (4) any relevant information from the intake and assessment process;
20 and

21 (5) the evidence received at the dispositional hearing.

22 (b) *Custody with a parent*. The court may place the child in the
23 custody of either of the child's parents subject to terms and conditions
24 which the court prescribes to assure the proper care and protection of the
25 child, including, but not limited to:

26 (1) Supervision of the child and the parent by a court services officer;
27 (2) participation by the child and the parent in available programs
28 operated by an appropriate individual or agency; and
29 (3) any special treatment or care which the child needs for the child's
30 physical, mental or emotional health and safety.

31 (c) *Removal of a child from custody of a parent*. The court shall not
32 enter the initial order removing a child from the custody of a parent
33 pursuant to this section unless the court first finds probable cause that:

34 (1) (A) The child is likely to sustain harm if not immediately removed
35 from the home;

36 (B) allowing the child to remain in home is contrary to the welfare of
37 the child; or

38 (C) immediate placement of the child is in the best interest of the
39 child; and

40 (2) reasonable efforts have been made to maintain the family unit and
41 prevent the unnecessary removal of the child from the child's home or that
42 an emergency exists that threatens the safety to the child.

43 The court shall not enter an order removing a child from the custody of

1 a parent pursuant to this section based solely on the finding that the parent
2 is homeless.

3 (d) *Custody of a child removed from the custody of a parent.* If the
4 court has made the findings required by subsection (c), the court shall
5 enter an order awarding custody to: A relative of the child or to a person
6 with whom the child has close emotional ties who shall not be required to
7 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
8 and amendments thereto; any other suitable person; a shelter facility; a
9 youth residential facility; a staff secure facility, notwithstanding any other
10 provision of law, if the child has been subjected to human trafficking or
11 aggravated human trafficking, as defined by K.S.A. 21-5426, and
12 amendments thereto, or commercial sexual exploitation of a child, as
13 defined by K.S.A. 21-6422, and amendments thereto, or the child
14 committed an act which, if committed by an adult, would constitute a
15 violation of K.S.A. 21-6419, and amendments thereto; or, if the child is 15
16 years of age or younger, or 16 or 17 years of age if the child has no
17 identifiable parental or family resources or shows signs of physical,
18 mental, emotional or sexual abuse, to the secretary. Custody awarded
19 under this subsection shall continue until further order of the court.

20 (1) When custody is awarded to the secretary, the secretary shall
21 consider any placement recommendation by the court and notify the court
22 of the placement or proposed placement of the child within 10 days of the
23 order awarding custody. After providing the parties or interested parties
24 notice and opportunity to be heard, the court may determine whether the
25 secretary's placement or proposed placement is contrary to the welfare or
26 in the best interests of the child. In making that determination the court
27 shall consider the health and safety needs of the child and the resources
28 available to meet the needs of children in the custody of the secretary. If
29 the court determines that the placement or proposed placement is contrary
30 to the welfare or not in the best interests of the child, the court shall notify
31 the secretary, who shall then make an alternative placement.

32 (2) The custodian designated under this subsection shall notify the
33 court in writing at least 10 days prior to any planned placement with a
34 parent. The written notice shall state the basis for the custodian's belief that
35 placement with a parent is no longer contrary to the welfare or best interest
36 of the child. Upon reviewing the notice, the court may allow the custodian
37 to proceed with the planned placement or may set the date for a hearing to
38 determine if the child shall be allowed to return home. If the court sets a
39 hearing on the matter, the custodian shall not return the child home without
40 written consent of the court.

41 (3) The court may grant any person reasonable rights to visit the child
42 upon motion of the person and a finding that the visitation rights would be
43 in the best interests of the child.

1 (4) The court may enter an order restraining any alleged perpetrator
 2 of physical, mental or emotional abuse or sexual abuse of the child from:
 3 Residing in the child's home; visiting, contacting, harassing or intimidating
 4 the child, other family member or witness; or attempting to visit, contact,
 5 harass or intimidate the child, other family member or witness. Such
 6 restraining order shall be served by personal service pursuant to K.S.A.
 7 38-2237(a), and amendments thereto, on any alleged perpetrator to whom
 8 the order is directed.

9 (5) The court shall provide a copy of any orders entered within 10
 10 days of entering the order to the custodian designated under this
 11 subsection.

12 (e) *Further determinations regarding a child removed from the home.*
 13 If custody has been awarded under subsection (d) to a person other than a
 14 parent, a permanency plan shall be provided or prepared pursuant to
 15 K.S.A. 38-2264, and amendments thereto. If a permanency plan is
 16 provided at the dispositional hearing, the court may determine whether
 17 reintegration is a viable alternative or, if reintegration is not a viable
 18 alternative, whether the child should be placed for adoption, a permanent
 19 custodian appointed or a SOUL family legal permanency custodian
 20 appointed. In determining whether reintegration is a viable alternative, the
 21 court shall consider:

22 (1) Whether a parent has been found by a court to have committed
 23 one of the following crimes or to have violated the law of another state
 24 prohibiting such crimes or to have aided and abetted, attempted, conspired
 25 or solicited the commission of one of these crimes:

26 (A) *Capital murder, K.S.A. 21-3439 or 21-5401, prior to their repeal;*

27 (B) *aggravated murder, section 2, and amendments thereto;*

28 (C) *murder in the first degree, K.S.A. 21-3401, prior to its repeal, or*
 29 *K.S.A. 21-5402, and amendments thereto;*

30 ~~(B)(D)~~ *murder in the second degree, K.S.A. 21-3402, prior to its*
 31 *repeal, or K.S.A. 21-5403, and amendments thereto;*

32 ~~(C)~~ *capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-*
 33 *5401, and amendments thereto;*

34 ~~(D)(E)~~ *voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or*
 35 *K.S.A. 21-5404, and amendments thereto;* or

36 ~~(E)(F)~~ *a felony battery that resulted in bodily injury;*

37 (2) whether a parent has subjected the child or another child to
 38 aggravated circumstances;

39 (3) whether a parent has previously been found to be an unfit parent
 40 in proceedings under this code or in comparable proceedings under the
 41 laws of another state or the federal government;

42 (4) whether the child has been in the custody of the secretary and
 43 placed with neither parent for 15 of the most recent 22 months beginning

1 60 days after the date ~~on which~~ when a child in the secretary's custody was
2 removed from the child's home;

3 (5) whether the parents have failed to work diligently toward
4 reintegration;

5 (6) whether the secretary has provided the family with services
6 necessary for the safe return of the child to the home; and

7 (7) whether it is reasonable to expect reintegration to occur within a
8 time frame consistent with the child's developmental needs.

9 (f) *Proceedings if reintegration is not a viable alternative.* If the court
10 determines that reintegration is not a viable alternative, proceedings to
11 terminate parental rights and permit placement of the child for adoption or
12 appointment of a permanent custodian or a SOUL family legal
13 permanency custodian shall be initiated unless the court finds that
14 compelling reasons have been documented in the case plan why adoption
15 or appointment of a permanent custodian or a SOUL family legal
16 permanency custodian would not be in the best interests of the child. If
17 compelling reasons have not been documented, the county or district
18 attorney shall file a motion within 30 days to terminate parental rights or a
19 motion to appoint a permanent custodian or SOUL family legal
20 permanency custodian pursuant to K.S.A. 2024 Supp. 38-2272a, and
21 amendments thereto, within 30 days and the court shall hold a hearing on
22 the motion within 90 days of its filing. No hearing is required when the
23 parents voluntarily relinquish parental rights or consent to the appointment
24 of a permanent custodian or a SOUL family legal permanency custodian.

25 (g) *Additional orders.* In addition to or in lieu of any other order
26 authorized by this section:

27 (1) The court may order the child and the parents of any child who
28 has been adjudicated a child in need of care to attend counseling sessions
29 as the court directs. The expense of the counseling may be assessed as an
30 expense in the case. No mental health provider shall charge a greater fee
31 for court-ordered counseling than the provider would have charged to the
32 person receiving counseling if the person had requested counseling on the
33 person's own initiative.

34 (2) If the court has reason to believe that a child is before the court
35 due, in whole or in part, to the use or misuse of alcohol or a violation of
36 K.S.A. 21-5701 through 21-5717, and amendments thereto, by the child, a
37 parent of the child, or another person responsible for the care of the child,
38 the court may order the child, parent of the child or other person
39 responsible for the care of the child to submit to and complete an alcohol
40 and drug evaluation by a qualified person or agency and comply with any
41 recommendations. If the evaluation is performed by a community-based
42 alcohol and drug safety program certified pursuant to K.S.A. 8-1008, and
43 amendments thereto, the child, parent of the child or other person

1 responsible for the care of the child shall pay a fee not to exceed the fee
2 established by that statute. If the court finds that the child and those legally
3 liable for the child's support are indigent, the fee may be waived. In no
4 event shall the fee be assessed against the secretary.

5 (3) If child support has been requested and the parent or parents have
6 a duty to support the child, the court may order one or both parents to pay
7 child support and, when custody is awarded to the secretary, the court shall
8 order one or both parents to pay child support. The court shall determine,
9 for each parent separately, whether the parent is already subject to an order
10 to pay support for the child. If the parent is not presently ordered to pay
11 support for any child who is subject to the jurisdiction of the court and the
12 court has personal jurisdiction over the parent, the court shall order the
13 parent to pay child support in an amount determined under K.S.A. 38-
14 2277, and amendments thereto. Except for good cause shown, the court
15 shall issue an immediate income withholding order pursuant to K.S.A. 23-
16 3101 et seq., and amendments thereto, for each parent ordered to pay
17 support under this subsection, regardless of whether a payor has been
18 identified for the parent. A parent ordered to pay child support under this
19 subsection shall be notified, at the hearing or otherwise, that the child
20 support order may be registered pursuant to K.S.A. 38-2279, and
21 amendments thereto. The parent shall also be informed that, after
22 registration, the income withholding order may be served on the parent's
23 employer without further notice to the parent and the child support order
24 may be enforced by any method allowed by law. Failure to provide this
25 notice shall not affect the validity of the child support order.

26 (h) For the purposes of this section, "harassing or intimidating" and
27 "harass or intimidate" includes, but is not limited to, utilizing any
28 electronic tracking system or acquiring tracking information to determine
29 the targeted person's location, movement or travel patterns.

30 Sec. 21. K.S.A. 38-2271 is hereby amended to read as follows: 38-
31 2271. (a) It is presumed in the manner provided in K.S.A. 60-414, and
32 amendments thereto, that a parent is unfit by reason of conduct or
33 condition ~~which~~ *that* renders the parent unable to fully care for a child, if
34 the state establishes, by clear and convincing evidence, that:

35 (1) A parent has previously been found to be an unfit parent in
36 proceedings under K.S.A. 38-2266 et seq., and amendments thereto, or
37 comparable proceedings under the laws of another jurisdiction;

38 (2) a parent has twice before been convicted of a crime specified in
39 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior
40 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
41 Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-
42 6421, and amendments thereto, or comparable offenses under the laws of
43 another jurisdiction, or an attempt or attempts to commit such crimes and

1 the victim was under the age of 18 years;

2 (3) on two or more prior occasions a child in the physical custody of
3 the parent has been adjudicated a child in need of care as defined by
4 K.S.A. 38-2202(d)(1), (d)(3), (d)(5) or (d)(11), and amendments thereto, or
5 comparable proceedings under the laws of another jurisdiction;

6 (4) the parent has been convicted of causing the death of another
7 child or stepchild of the parent;

8 (5) the child has been in an out-of-home placement, under court order
9 for a cumulative total period of one year or longer and the parent has
10 substantially neglected or willfully refused to carry out a reasonable plan,
11 approved by the court, directed toward reintegration of the child into the
12 parental home;

13 (6) (A) the child has been in an out-of-home placement, under court
14 order for a cumulative total period of two years or longer; (B) the parent
15 has failed to carry out a reasonable plan, approved by the court, directed
16 toward reintegration of the child into the parental home; and (C) there is a
17 substantial probability that the parent will not carry out such plan in the
18 near future;

19 (7) a parent has been convicted of capital murder, K.S.A. 21-3439 *or*
20 *21-5401*, prior to ~~its~~ *their* repeal, ~~or K.S.A. 21-5401, aggravated murder,
21 *section 2, and amendments thereto*, and amendments thereto, murder in the
22 first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and
23 amendments thereto, murder in the second degree, K.S.A. 21-3402, prior
24 to its repeal, or K.S.A. 21-5403, and amendments thereto, voluntary
25 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and
26 amendments thereto, human trafficking or aggravated human trafficking,
27 K.S.A. 21-3446 or 21-3447, prior to their repeal, or K.S.A. 21-5426, and
28 amendments thereto, or commercial sexual exploitation of a child, K.S.A.
29 21-6422, and amendments thereto, or comparable proceedings under the
30 laws of another jurisdiction or, has been adjudicated a juvenile offender
31 because of an act which if committed by an adult would be an offense as
32 provided in this subsection, and the victim of such murder was the other
33 parent of the child;~~

34 (8) a parent abandoned or neglected the child after having knowledge
35 of the child's birth or either parent has been granted immunity from
36 prosecution for abandonment of the child under K.S.A. 21-3604(b), prior
37 to its repeal, or K.S.A. 21-5605(d), and amendments thereto; ~~or~~

38 (9) a parent has made no reasonable efforts to support or
39 communicate with the child after having knowledge of the child's birth;

40 (10) a father, after having knowledge of the pregnancy, failed without
41 reasonable cause to provide support for the mother during the six months
42 prior to the child's birth;

43 (11) a father abandoned the mother after having knowledge of the

1 pregnancy;

2 (12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its
3 repeal, or K.S.A. 21-5503, and amendments thereto, or comparable
4 proceedings under the laws of another jurisdiction resulting in the
5 conception of the child; or

6 (13) a parent has failed or refused to assume the duties of a parent for
7 two consecutive years next preceding the filing of the petition. In making
8 this determination the court may disregard incidental visitations, contacts,
9 communications or contributions.

10 (b) The burden of proof is on the parent to rebut the presumption of
11 unfitness by a preponderance of the evidence. In the absence of proof that
12 the parent is presently fit and able to care for the child or that the parent
13 will be fit and able to care for the child in the foreseeable future, the court
14 shall terminate parental rights in proceedings pursuant to K.S.A. 38-2266
15 et seq., and amendments thereto.

16 Sec. 22. K.S.A. 38-2303 is hereby amended to read as follows: 38-
17 2303. (a) Proceedings under this code involving acts committed by a
18 juvenile which, if committed by an adult, would constitute a violation of
19 any of the following statutes may be commenced at any time: (1) Rape as
20 defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and
21 amendments thereto; (2) aggravated criminal sodomy as defined in K.S.A.
22 21-3506, prior to its repeal, or ~~subsection (b) of K.S.A. 21-5504(b)~~, and
23 amendments thereto; (3) murder as described in K.S.A. 21-3401, 21-3402
24 ~~or~~, 21-3439 *or* 21-5401, prior to their repeal, or K.S.A. ~~21-5401~~, 21-5402
25 ~~or~~, 21-5403 *or* section 2, and amendments thereto; (4) terrorism as defined
26 in K.S.A. 21-3449, prior to its repeal, or K.S.A. 21-5421, and amendments
27 thereto; or (5) illegal use of weapons of mass destruction as defined in
28 K.S.A. 21-3450, prior to its repeal, or K.S.A. 21-5422, and amendments
29 thereto.

30 (b) Except as provided by subsections (c) and (e), a proceeding under
31 this code for any act committed by a juvenile which, if committed by an
32 adult, would constitute a violation of any of the following statutes shall be
33 commenced within five years after its commission if the victim is less than
34 16 years of age: (1) Lewd and lascivious behavior as defined in K.S.A. 21-
35 3508, prior to its repeal, or K.S.A. 21-5513, and amendments thereto; (2)
36 unlawful voluntary sexual relations as defined in K.S.A. 21-3522, prior to
37 its repeal, or K.S.A. 21-5507, and amendments thereto; or (3) aggravated
38 incest as defined in K.S.A. 21-3603, prior to its repeal, or ~~subsection (b) of~~
39 K.S.A. 21-5604(b), and amendments thereto.

40 (c) Except as provided in subsection (e), a proceeding under this code
41 for any act committed by a juvenile which, if committed by an adult,
42 would constitute a sexually violent crime as defined in K.S.A. 22-3717,
43 and amendments thereto:

1 (1) When the victim is 18 years of age or older shall be commenced
2 within 10 years or one year from the date on which the identity of the
3 suspect is conclusively established by DNA testing, whichever is later; or

4 (2) when the victim is under 18 years of age shall be commenced
5 within 10 years of the date the victim turns 18 years of age or one year
6 from the date on which the identity of the suspect is conclusively
7 established by DNA testing, whichever is later.

8 (3) For the purposes of this subsection, "DNA" means
9 deoxyribonucleic acid.

10 (d) Except as provided by subsection (e), proceedings under this code
11 not governed by ~~subsections~~ *subsection* (a), (b) or (c) shall be commenced
12 within two years after the act giving rise to the proceedings is committed.

13 (e) The period within which the proceedings must be commenced
14 shall not include any period in which:

15 (1) The accused is absent from the state;

16 (2) the accused is so concealed within the state that process cannot be
17 served upon the accused;

18 (3) the fact of the offense is concealed; or

19 (4) whether or not the fact of the offense is concealed by the active
20 act or conduct of the accused, there is substantial competent evidence to
21 believe two or more of the following factors are present: (A) The victim
22 was a child under 15 years of age at the time of the offense; (B) the victim
23 was of such age or intelligence that the victim was unable to determine
24 that the acts constituted an offense; (C) the victim was prevented by a
25 parent or other legal authority from making known to law enforcement
26 authorities the fact of the offense whether or not the parent or other legal
27 authority is the accused; and (D) there is substantial competent expert
28 testimony indicating the victim psychologically repressed such victim's
29 memory of the fact of the offense, and in the expert's professional opinion
30 the recall of such memory is accurate, free of undue manipulation, and
31 substantial corroborating evidence can be produced in support of the
32 allegations contained in the complaint or information; but in no event may
33 a proceeding be commenced as provided in subsection (e)(4) later than the
34 date the victim turns 28 years of age. Corroborating evidence may include,
35 but is not limited to, evidence the alleged juvenile offender committed
36 similar acts against other persons or evidence of contemporaneous
37 physical manifestations of the offense. Parent or other legal authority shall
38 include, but not be limited to, natural and stepparents, grandparents, aunts,
39 uncles or siblings.

40 (f) An offense is committed either when every element occurs, or, if a
41 legislative purpose to prohibit a continuing offense plainly appears, at the
42 time when the course of conduct or the alleged juvenile offender's
43 complicity therein is terminated. Time starts to run on the day after the

1 offense is committed.

2 (g) A proceeding under this code is commenced when a complaint or
3 information is filed, or an indictment returned, and a warrant thereon is
4 delivered to the sheriff or other officer for execution. No such proceeding
5 shall be deemed to have been commenced if the warrant so issued is not
6 executed without unreasonable delay.

7 Sec. 23. K.S.A. 38-2312 is hereby amended to read as follows: 38-
8 2312. (a) Except as provided in subsections (b) and (c), any records or files
9 specified in this code concerning a juvenile may be expunged upon
10 application to a judge of the court of the county ~~in which~~ *where* the records
11 or files are maintained. The application for expungement may be made by
12 the juvenile, if 18 years of age or older or, if the juvenile is less than 18
13 years of age, by the juvenile's parent or next friend.

14 (b) There shall be no expungement of records or files concerning acts
15 committed by a juvenile which, if committed by an adult, would constitute
16 a violation of *K.S.A. 21-3439 or 21-5401, prior to their repeal, capital*
17 *murder; section 2, and amendments thereto, aggravated murder; K.S.A.*
18 *21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments thereto,*
19 *murder in the first degree; K.S.A. 21-3402, prior to its repeal, or K.S.A.*
20 *21-5403, and amendments thereto, murder in the second degree; K.S.A.*
21 *21-3403, prior to its repeal, or K.S.A. 21-5404, and amendments thereto,*
22 *voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 21-*
23 *5405, and amendments thereto, involuntary manslaughter; ~~K.S.A. 21-~~
24 ~~*3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto,*~~
25 ~~*capital murder; K.S.A. 21-3442, prior to its repeal, or K.S.A. 21-5405(a)*~~
26 ~~*(3) or (a)(5), and amendments thereto, involuntary manslaughter while*~~
27 ~~*driving under the influence of alcohol or drugs; K.S.A. 21-3502, prior to*~~
28 ~~*its repeal, or K.S.A. 21-5503, and amendments thereto, rape; K.S.A. 21-*~~
29 ~~*3503, prior to its repeal, or K.S.A. 21-5506(a), and amendments thereto,*~~
30 ~~*indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or*~~
31 ~~*K.S.A. 21-5506(b), and amendments thereto, aggravated indecent liberties*~~
32 ~~*with a child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 21-5504(b), and*~~
33 ~~*amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior*~~
34 ~~*to its repeal, or K.S.A. 21-5508(a), and amendments thereto, indecent*~~
35 ~~*solicitation of a child; K.S.A. 21-3511, prior to its repeal, or K.S.A. 21-*~~
36 ~~*5508(b), and amendments thereto, aggravated indecent solicitation of a*~~
37 ~~*child; K.S.A. 21-3516, prior to its repeal, or K.S.A. 21-5510, and*~~
38 ~~*amendments thereto, sexual exploitation of a child; K.S.A. 21-5514(a),*~~
39 ~~*and amendments thereto, internet trading in child pornography; K.S.A. 21-*~~
40 ~~*5514(b), and amendments thereto, aggravated internet trading in child*~~
41 ~~*pornography; K.S.A. 21-3603, prior to its repeal, or K.S.A. 21-5604(b),*~~
42 ~~*and amendments thereto, aggravated incest; K.S.A. 21-3608, prior to its*~~
43 ~~*repeal, or K.S.A. 21-5601(a), and amendments thereto, endangering a*~~*

1 child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 21-5602, and
2 amendments thereto, abuse of a child; or which would constitute an
3 attempt to commit a violation of any of the offenses specified in this
4 subsection.

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

11 (d) When a petition for expungement is filed, the court shall set a date
12 for a hearing on the petition and shall give notice thereof to the county or
13 district attorney. The petition shall state: (1) The juvenile's full name; (2)
14 the full name of the juvenile as reflected in the court record, if different
15 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
16 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
17 of the trial court. Except as otherwise provided by law, a petition for
18 expungement shall be accompanied by a docket fee in the amount of \$176.
19 On and after July 1, 2019, through June 30, 2025, the supreme court may
20 impose a charge, not to exceed \$19 per case, to fund the costs of non-
21 judicial personnel. All petitions for expungement shall be docketed in the
22 original action. Any person who may have relevant information about the
23 petitioner may testify at the hearing. The court may inquire into the
24 background of the petitioner.

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

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

29 (ii) one year has elapsed since the final discharge for an adjudication
30 concerning acts committed by a juvenile which, if committed by an adult,
31 would constitute a violation of K.S.A. 21-6419, and amendments thereto;
32 or

33 (iii) the juvenile is a victim of human trafficking, aggravated human
34 trafficking or commercial sexual exploitation of a child, the adjudication
35 concerned acts committed by the juvenile as a result of such victimization,
36 including, but not limited to, acts which, if committed by an adult, would
37 constitute a violation of K.S.A. 21-6203 or 21-6419, and amendments
38 thereto, and the hearing on expungement occurred on or after the date of
39 final discharge. The provisions of this clause shall not allow an
40 expungement of records or files concerning acts described in subsection
41 (b);

42 (B) since the final discharge of the juvenile, the juvenile has not been
43 convicted of a felony or of a misdemeanor other than a traffic offense or

1 adjudicated as a juvenile offender under the revised Kansas juvenile justice
2 code and no proceedings are pending seeking such a conviction or
3 adjudication; and

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

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

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

19 (g) A certified copy of any order made pursuant to subsection (a) or
20 (d) shall be sent to the Kansas bureau of investigation, ~~which and the~~
21 *Kansas bureau of investigation* shall notify every juvenile or criminal
22 justice agency ~~which~~ *that* may possess records or files ordered to be
23 expunged. If the agency fails to comply with the order within a reasonable
24 time after its receipt, such agency may be adjudged in contempt of court
25 and punished accordingly.

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

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

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

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

39 (1) The person whose record was expunged;

40 (2) a private detective agency or a private patrol operator, and the
41 request is accompanied by a statement that the request is being made in
42 conjunction with an application for employment with such agency or
43 operator by the person whose record has been expunged;

1 (3) a court, upon a showing of a subsequent conviction of the person
2 whose record has been expunged;

3 (4) the secretary for aging and disability services, or a designee of the
4 secretary, for the purpose of obtaining information relating to employment
5 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,
6 of the Kansas department for aging and disability services of any person
7 whose record has been expunged;

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

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

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

22 (8) the Kansas sentencing commission; or

23 (9) the Kansas bureau of investigation, for the purposes of:

24 (A) Completing a person's criminal history record information within
25 the central repository in accordance with K.S.A. 22-4701 et seq., and
26 amendments thereto; or

27 (B) providing information or documentation to the federal bureau of
28 investigation, in connection with the national instant criminal background
29 check system, to determine a person's qualification to possess a firearm.

30 (l) The provisions of subsection (k)(9) shall apply to all records
31 created prior to, on and after July 1, 2011.

32 Sec. 24. K.S.A. 38-2365 is hereby amended to read as follows: 38-
33 2365. (a) When a juvenile offender has been placed in the custody of the
34 secretary, the secretary shall have a reasonable time to make a placement.
35 If the juvenile offender has not been placed, any party who believes that
36 the amount of time elapsed without placement has exceeded a reasonable
37 time may file a motion for review with the court. In determining what is a
38 reasonable amount of time, matters considered by the court shall include,
39 but not be limited to, the nature of the underlying offense, efforts made for
40 placement of the juvenile offender and the availability of a suitable
41 placement. The secretary shall notify the court, the juvenile's attorney of
42 record and the juvenile's parent, in writing, of the initial placement and any
43 subsequent change of placement as soon as the placement has been

1 accomplished. The notice to the juvenile offender's parent shall be sent to
2 such parent's last known address or addresses. The court shall have no
3 power to direct a specific placement by the secretary, but may make
4 recommendations to the secretary. The secretary may place the juvenile
5 offender in an institution operated by the secretary, a youth residential
6 facility or any other appropriate placement. If the court has recommended
7 an out-of-home placement, the secretary may not return the juvenile
8 offender to the home from which removed without first notifying the court
9 of the plan.

10 (b) If a juvenile is in the custody of the secretary, the secretary shall
11 prepare and present a permanency plan at sentencing or within 30 days
12 thereafter. If the juvenile is 14 years of age or older and the juvenile is
13 able, the secretary shall prepare the permanency plan in consultation with
14 the juvenile. If a permanency plan is already in place under a child in need
15 of care proceeding, the court may adopt the plan under the present
16 proceeding. The written permanency plan shall provide for reintegration of
17 the juvenile into such juvenile's family or, if reintegration is not a viable
18 alternative, for other permanent placement of the juvenile. Reintegration
19 may not be a viable alternative when:

20 (1) The parent has been found by a court to have committed *capital*
21 *murder*, K.S.A. 21-3439 or 21-5401, prior to their repeal, *aggravated*
22 *murder*, section 2, and amendments thereto, murder in the first degree,
23 K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments
24 thereto, murder in the second degree, K.S.A. 21-3402, prior to its repeal,
25 or K.S.A. 21-5403, and amendments thereto, ~~capital murder, K.S.A. 21-~~
26 ~~3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto,~~
27 voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-
28 5404, and amendments thereto, of a child or violated a law of another state
29 ~~which~~ that prohibits such murder or manslaughter of a child;

30 (2) the parent aided or abetted, attempted, conspired or solicited to
31 commit such murder or voluntary manslaughter of a child;

32 (3) the parent committed a felony battery that resulted in bodily
33 injury to the juvenile who is the subject of this proceeding or another
34 child;

35 (4) the parent has subjected the juvenile who is the subject of this
36 proceeding or another child to aggravated circumstances as defined in
37 K.S.A. 38-1502, and amendments thereto;

38 (5) the parental rights of the parent to another child have been
39 terminated involuntarily; or

40 (6) the juvenile has been in extended out-of-home placement as
41 defined in K.S.A. 38-2202, and amendments thereto.

42 (c) If the juvenile is placed in the custody of the secretary, the plan
43 shall be prepared and submitted by the secretary. If the juvenile is placed

1 in the custody of a facility or person other than the secretary, the plan shall
2 be prepared and submitted by a court services officer. If the permanency
3 goal is reintegration into the family, the permanency plan shall include
4 measurable objectives and time schedules for reintegration.

5 (d) During the time a juvenile remains in the custody of the secretary,
6 the secretary shall submit to the court, at least every six months, a written
7 report of the progress being made toward the goals of the permanency plan
8 submitted pursuant to subsections (b) and (c) and the specific actions taken
9 to achieve the goals of the permanency plan. If the juvenile is placed in
10 foster care, the court may request the foster parent to submit to the court,
11 at least every six months, a report in regard to the juvenile's adjustment,
12 progress and condition. Such report shall be made a part of the juvenile's
13 court social file. The court shall review the plan submitted by the secretary
14 and the report, if any, submitted by the foster parent and determine
15 whether reasonable efforts and progress have been made to achieve the
16 goals of the permanency plan. If the court determines that progress is
17 inadequate or that the permanency plan is no longer viable, the court shall
18 hold a hearing pursuant to subsection (e).

19 (e) When the secretary has custody of the juvenile, a permanency
20 hearing shall be held no more than 12 months after the juvenile is first
21 placed outside such juvenile's home and at least every 12 months
22 thereafter. Juvenile offenders who have been in extended out-of-home
23 placement shall be provided a permanency hearing within 30 days of a
24 request from the secretary. The court may appoint a guardian ad litem to
25 represent the juvenile offender at the permanency hearing. At the
26 permanency hearing, the court shall determine whether and, if applicable,
27 when the juvenile will be:

28 (1) Reintegrated with the juvenile's parents;
29 (2) placed for adoption;
30 (3) placed with a permanent custodian; or
31 (4) if the juvenile is 16 years of age or older and the secretary has
32 documented compelling reasons why it would not be in the juvenile's best
33 interests for a placement in one of the placements pursuant to ~~paragraphs~~
34 *paragraph* (1), (2) or (3), placed in another planned permanent
35 arrangement.

36 (f) At each permanency hearing, the court shall:

37 (1) Make a written finding as to whether reasonable efforts have been
38 made to accomplish the permanency goal and whether continued out-of-
39 home placement is necessary for the juvenile's safety;

40 (2) make a written finding as to whether the reasonable and prudent
41 parenting standard has been met and whether the juvenile has regular,
42 ongoing opportunities to engage in age or developmentally appropriate
43 activities. The secretary shall report to the court the steps the secretary is

1 taking to ensure that the reasonable and prudent parenting standard is
2 being met and that the juvenile has regular, ongoing opportunities to
3 engage in age or developmentally appropriate activities, including
4 consultation with the juvenile in an age-appropriate manner about the
5 opportunities of the juvenile to participate in the activities; and

6 (3) if the juvenile is 14 years of age or older, document the efforts
7 made by the secretary to help the juvenile prepare for the transition from
8 custody to a successful adulthood. The secretary shall report to the court
9 the programs and services that are being provided to the juvenile ~~which~~
10 *that* will help the juvenile prepare for the transition from custody to a
11 successful adulthood.

12 (g) The requirements of this subsection shall apply only if the
13 permanency goal in place at the time of the hearing is another planned
14 permanent arrangement as described in subsection (e)(4). At each
15 permanency hearing held with respect to the juvenile, in addition to the
16 requirements of subsection (f), the court shall:

17 (1) Ask the juvenile, if the juvenile is able, by attendance at the
18 hearing or by report to the court, about the desired permanency outcome
19 for the juvenile;

20 (2) document the intensive, ongoing and, as of the date of the hearing,
21 unsuccessful permanency efforts made by the secretary to return the
22 juvenile home or secure a placement for the juvenile with a fit and willing
23 relative, a legal guardian or an adoptive parent. The secretary shall report
24 to the court the intensive, ongoing and, as of the date of the hearing,
25 unsuccessful efforts made by the secretary to return the juvenile home or
26 secure a placement for the juvenile with a fit and willing relative, a legal
27 guardian or an adoptive parent, including efforts that utilize search
28 technology, including social media, to find biological family members of
29 the children; and

30 (3) make a judicial determination explaining why, as of the date of
31 the hearing, another planned permanent living arrangement is the best
32 permanency plan for the juvenile and provide compelling reasons why it
33 continues to not be in the best interests of the juvenile to return home, be
34 placed for adoption, be placed with a legal guardian or be placed with a fit
35 and willing relative.

36 (h) Whenever a hearing is required under subsection (e), the court
37 shall notify all interested parties of the hearing date, the secretary, foster
38 parent and preadoptive parent or relatives providing care for the juvenile
39 and hold a hearing. If the juvenile is 14 years of age or older, the court
40 shall require notice of the time and place of the permanency hearing be
41 given to the juvenile. Such notice shall request the juvenile's participation
42 in the hearing by attendance or by report to the court. Individuals receiving
43 notice pursuant to this subsection shall not be made a party to the action

1 solely on the basis of this notice and opportunity to be heard. After
2 providing the persons receiving notice an opportunity to be heard, the
3 court shall determine whether the juvenile's needs are being adequately
4 met; whether services set out in the permanency plan necessary for the
5 safe return of the juvenile have been made available to the parent with
6 whom reintegration is planned; and whether reasonable efforts and
7 progress have been made to achieve the goals of the permanency plan.

8 (i) If the court finds reintegration continues to be a viable alternative,
9 the court shall determine whether and, if applicable, when the juvenile will
10 be returned to the parent. The court may rescind any of its prior
11 dispositional orders and enter any dispositional order authorized by this
12 code or may order that a new plan for the reintegration be prepared and
13 submitted to the court. If reintegration cannot be accomplished as
14 approved by the court, the court shall be informed and shall schedule a
15 hearing pursuant to subsection (j). No such hearing is required when the
16 parent voluntarily relinquishes parental rights or agrees to appointment of
17 a permanent guardian.

18 (j) When the court finds any of the following conditions exist, the
19 county or district attorney or the county or district attorney's designee shall
20 file a petition alleging the juvenile to be a child in need of care and
21 requesting termination of parental rights pursuant to the Kansas code for
22 care of children:

23 (1) The court determines that reintegration is not a viable alternative
24 and either adoption or permanent guardianship might be in the best
25 interests of the juvenile;

26 (2) the goal of the permanency plan is reintegration into the family
27 and the court determines after 12 months from the time such plan is first
28 submitted that progress is inadequate; or

29 (3) the juvenile has been in out-of-home placement for a cumulative
30 total of 15 of the last 22 months, excluding trial home visits and juvenile in
31 runaway status.

32 Nothing in this subsection shall be interpreted to prohibit termination of
33 parental rights prior to the expiration of 12 months.

34 (k) A petition to terminate parental rights is not required to be filed if
35 one of the following exceptions is documented to exist:

36 (1) The juvenile is in a stable placement with relatives;

37 (2) services set out in the case plan necessary for the safe return of
38 the juvenile have not been made available to the parent with whom
39 reintegration is planned; or

40 (3) there are one or more documented reasons why such filing would
41 not be in the best interests of the juvenile. Documented reasons may
42 include, but are not limited to: The juvenile has close emotional bonds
43 with a parent ~~which~~ that should not be broken; the juvenile is 14 years of

1 age or older and, after advice and counsel, refuses to be adopted;
2 insufficient grounds exist for termination of parental rights; the juvenile is
3 an unaccompanied refugee minor; or there are international legal or
4 compelling foreign policy reasons precluding termination of parental
5 rights.

6 Sec. 25. K.S.A. 2024 Supp. 39-970 is hereby amended to read as
7 follows: 39-970. (a) As used in this section:

8 (1) "Adult care home" means any nursing facility, nursing facility for
9 mental health, intermediate care facility for people with intellectual
10 disability, assisted living facility, residential health care facility, home plus,
11 boarding care home or adult day care facility that is required to be licensed
12 to operate by the secretary for aging and disability services.

13 (2) "Applicant" means an individual who applies for employment
14 with an adult care home or applies to work for an employment agency or
15 as an independent contractor who provides staff to an adult care home.

16 (3) "Completion of the sentence" means the last day of the entire term
17 of incarceration imposed by a sentence, including any term that is
18 deferred, suspended or subject to parole, probation, diversion, community
19 corrections, fines, fees, restitution or any other imposed sentencing
20 requirements.

21 (4) "Department" means the Kansas department for aging and
22 disability services.

23 (5) "Direct access" means work that involves an actual or reasonable
24 expectation of one-on-one interaction with a consumer or a consumer's
25 property, personally identifiable information, medical records, treatment
26 information or financial information.

27 (6) "Direct supervision" means that a supervisor is physically present
28 within an immediate distance to a supervisee and is available to provide
29 constant direction, feedback and assistance to a client and the supervisee.

30 (7) "Employment agency" means an organization or entity that has a
31 contracted relationship with an adult care home to provide staff with direct
32 access to consumers.

33 (8) "Independent contractor" means an organization, entity, agency or
34 individual that provides contracted workers or services to an adult care
35 home.

36 (9) "Secretary" means the secretary for aging and disability services.

37 (b) (1) No person shall knowingly operate an adult care home if, in
38 the adult care home, there works any person who has adverse findings on
39 any state or national registry, as defined in rules and regulations adopted
40 by the secretary for aging and disability services, or has been convicted of
41 or has been adjudicated a juvenile offender because of having committed
42 an act that if done by an adult would constitute the commission of capital
43 murder, pursuant to K.S.A. 21-3439 or 21-5401, prior to ~~its~~ *their* repeal, or

1 ~~K.S.A. 21-5401~~, *aggravated murder*, pursuant to section 2, and
2 amendments thereto, first degree murder, pursuant to K.S.A. 21-3401,
3 prior to its repeal, or K.S.A. 21-5402, and amendments thereto, second
4 degree murder, pursuant to K.S.A. 21-3402(a), prior to its repeal, or
5 K.S.A. 21-5403(a), and amendments thereto, voluntary manslaughter,
6 pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and
7 amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior
8 to its repeal, or K.S.A. 21-5407, and amendments thereto, mistreatment of
9 a dependent adult or mistreatment of an elder person, pursuant to K.S.A.
10 21-3437, prior to its repeal, or K.S.A. 21-5417, and amendments thereto,
11 human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or
12 K.S.A. 21-5426(a), and amendments thereto, aggravated human
13 trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 21-
14 5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior
15 to its repeal, or K.S.A. 21-5503, and amendments thereto, indecent
16 liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or
17 K.S.A. 21-5506(a), and amendments thereto, aggravated indecent liberties
18 with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or K.S.A. 21-
19 5506(b), and amendments thereto, aggravated criminal sodomy, pursuant
20 to K.S.A. 21-3506, prior to its repeal, or K.S.A. 21-5504(b), and
21 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
22 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and amendments
23 thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-
24 3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments thereto,
25 sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its
26 repeal, or K.S.A. 21-5510, and amendments thereto, sexual battery,
27 pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 21-5505(a), and
28 amendments thereto, aggravated sexual battery, pursuant to K.S.A. 21-
29 3518, prior to its repeal, or K.S.A. 21-5505(b), and amendments thereto,
30 commercial sexual exploitation of a child, pursuant to K.S.A. 21-6422, and
31 amendments thereto, an attempt to commit any of the crimes listed in this
32 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-
33 5301, and amendments thereto, a conspiracy to commit any of the crimes
34 listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or
35 K.S.A. 21-5302, and amendments thereto, or criminal solicitation of any of
36 the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its
37 repeal, or K.S.A. 21-5303, and amendments thereto, or similar statutes of
38 other states or the federal government. The provisions of subsection (b)(2)
39 (C) shall not apply to any person who is employed by an adult care home
40 on or before July 1, 2010, and while continuously employed by the same
41 adult care home or to any person during or upon successful completion of
42 a diversion agreement.

43 (2) (A) A person operating an adult care home may employ an

1 applicant who has been convicted of any of the following if six or more
 2 years have elapsed since completion of the sentence imposed or the
 3 applicant was discharged from probation, a community correctional
 4 services program, parole, postrelease supervision, conditional release or a
 5 suspended sentence; if six or more years have elapsed since the applicant
 6 has been finally discharged from the custody of the commissioner of
 7 juvenile justice or from probation or has been adjudicated a juvenile
 8 offender, whichever time is longer; or if the applicant has been granted a
 9 waiver of such six-year disqualification: A felony conviction for a crime
 10 that is described in:

11 ~~(A)~~(i) Article 34 of chapter 21 of the Kansas Statutes Annotated,
 12 prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes
 13 Annotated, and amendments thereto, except those crimes listed in
 14 subsection (b)(1);

15 ~~(B)~~(ii) articles 35 or 36 of chapter 21 of the Kansas Statutes
 16 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
 17 Kansas Statutes Annotated, or K.S.A. 21-6420, and amendments thereto,
 18 except those crimes listed in subsection (b)(1) and K.S.A. 21-3605, prior
 19 to its repeal, or K.S.A. 21-5606, and amendments thereto;

20 ~~(C)~~(iii) K.S.A. 21-3701, prior to its repeal, or K.S.A. 21-5801, and
 21 amendments thereto;

22 ~~(D)~~(iv) an attempt to commit any of the crimes listed in this
 23 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-
 24 5301, and amendments thereto;

25 ~~(E)~~(v) a conspiracy to commit any of the crimes listed in this
 26 paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-
 27 5302, and amendments thereto;

28 ~~(F)~~(vi) criminal solicitation of any of the crimes listed in this
 29 paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-
 30 5303, and amendments thereto; or

31 ~~(G)~~(vii) similar statutes of other states or the federal government.

32 (B) An individual who has been disqualified for employment due to
 33 conviction or adjudication of an offense listed in this paragraph~~(2)~~ may
 34 apply to the secretary for aging and disability services for a waiver of such
 35 disqualification if five years have elapsed since completion of the sentence
 36 for such conviction. The secretary shall adopt rules and regulations
 37 establishing the waiver process and criteria to be considered by the
 38 secretary in evaluating any such waiver request.

39 (3) (A) A person operating an adult care home may employ an
 40 applicant who has been convicted of any of the following if six or more
 41 years have elapsed since completion of the sentence imposed or the
 42 applicant was discharged from probation, a community correctional
 43 services program, parole, postrelease supervision, conditional release or a

1 suspended sentence; if six or more years have elapsed since the applicant
2 has been finally discharged from the custody of the commissioner of
3 juvenile justice or from probation or has been adjudicated a juvenile
4 offender, whichever time is longer; or if the applicant has been granted a
5 waiver of such six-year disqualification:

6 (i) Interference with custody of a committed person pursuant to
7 K.S.A. 21-3423, prior to its repeal, or K.S.A. 21-5410, and amendments
8 thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425,
9 prior to its repeal, or K.S.A. 21-5416, and amendments thereto; unlawful
10 administration of a substance pursuant to K.S.A. 21-3445, prior to its
11 repeal, or K.S.A. 21-5425, and amendments thereto; violation of a
12 protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A.
13 21-5924, and amendments thereto; promoting obscenity or promoting
14 obscenity to minors pursuant to K.S.A. 21-4301 or 21-4301a, prior to their
15 repeal, or K.S.A. 21-6401, and amendments thereto; or cruelty to animals
16 pursuant to K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or
17 K.S.A. 21-6412, and amendments thereto; or

18 (ii) any felony conviction of: Unlawful manufacture of a controlled
19 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
20 K.S.A. 21-5703, and amendments thereto; unlawful cultivation or
21 distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
22 36a05, prior to its repeal, or K.S.A. 21-5705, and amendments thereto;
23 unlawful manufacture, distribution, cultivation or possession of a
24 controlled substance using a communication facility pursuant to K.S.A.
25 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 21-5707, and
26 amendments thereto; unlawful obtainment or sale of a prescription-only
27 drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A.
28 21-5708, and amendments thereto; unlawful distribution of drug
29 precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10,
30 prior to its repeal, or K.S.A. 21-5710, and amendments thereto; unlawful
31 distribution or possession of a simulated controlled substance pursuant to
32 K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 21-5713, and
33 amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its
34 repeal, or K.S.A. 21-5823, and amendments thereto; criminal use of a
35 financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 21-
36 5828, and amendments thereto; any violation of the Kansas medicaid fraud
37 control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or
38 K.S.A. 21-5925 et seq., and amendments thereto; making a false claim,
39 statement or representation to the medicaid program pursuant to K.S.A.
40 21-3846, prior to its repeal, or K.S.A. 21-5927, and amendments thereto;
41 unlawful acts relating to the medicaid program pursuant to K.S.A. 21-
42 3847, prior to its repeal, or K.S.A. 21-5928, and amendments thereto;
43 obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856,

1 prior to its repeal, or K.S.A. 21-5929, and amendments thereto; identity
2 theft or identity fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its
3 repeal, or K.S.A. 21-6107, and amendments thereto; or social welfare
4 fraud pursuant to K.S.A. 39-720, and amendments thereto.

5 (B) The provisions of this paragraph~~(3)~~ shall not apply to any person
6 who is employed by an adult care home on or before July 1, 2018, and is
7 continuously employed by the same adult care home or to any person
8 during or upon successful completion of a diversion agreement.

9 (C) An individual who has been disqualified for employment due to
10 conviction or adjudication of an offense listed in this paragraph~~(3)~~ may
11 apply to the secretary for aging and disability services for a waiver of such
12 disqualification if five years have elapsed since completion of the sentence
13 for such conviction. The secretary shall adopt rules and regulations
14 establishing the waiver process and criteria to be considered by the
15 secretary in evaluating any such waiver request.

16 (c) No person shall operate an adult care home if such person has
17 been found to be in need of a guardian or conservator, or both as provided
18 in the act for obtaining a guardian or a conservator, or both. The provisions
19 of this subsection shall not apply to an individual who, as a minor, was
20 found to be in need of a guardian or conservator for reasons other than
21 impairment.

22 (d) (1) The Kansas bureau of investigation shall release all records of
23 adult and juvenile convictions and adjudications and adult and juvenile
24 convictions and adjudications of any other state or country concerning
25 persons working in an adult care home to the secretary for aging and
26 disability services in accordance with K.S.A. 2024 Supp. 22-4714, and
27 amendments thereto.

28 (2) The department may require an applicant to be fingerprinted and
29 to submit to a state and national criminal history record check in
30 accordance with K.S.A. 2024 Supp. 22-4714, and amendments thereto.

31 (3) An applicant for employment in an adult care home shall have 20
32 calendar days after receipt of authorization to submit the applicant's
33 fingerprints through an authorized collection site in order to be eligible for
34 provisional employment or the applicant's application shall be deemed
35 withdrawn.

36 (4) (A) The current or prospective employer of an applicant shall pay
37 a reasonable fee for criminal history record information to the department
38 for each applicant submitted.

39 (B) The prospective employer, employee or independent contractor
40 shall pay the fingerprint collection fee at the time of fingerprinting to the
41 authorized collection site.

42 (5) If an applicant disputes the contents of a criminal history record
43 check, then the applicant may file an appeal with the Kansas bureau of

1 investigation.

2 (6) Individuals who have been disqualified for employment by reason
3 of their criminal history records and who have met the requirements of this
4 subsection may apply for a waiver with the department within 30 days of
5 the receipt of the notice of employment prohibition.

6 (7) The department shall adopt rules and regulations specifying the
7 criteria and procedure for issuing a waiver of the employment prohibition.
8 The secretary shall consider the following criteria when rendering a
9 decision on such a waiver request: Passage of time; extenuating
10 circumstances; demonstration of rehabilitation; and relevancy of the
11 criminal history record information to the position for which the applicant
12 is applying. Any employment prohibition issued shall remain in effect
13 unless or until a waiver is granted.

14 (e) For the purpose of complying with this section, the operator of an
15 adult care home shall request from the Kansas department for aging and
16 disability services an eligibility determination regarding adult and juvenile
17 convictions and adjudications. For the purpose of complying with this
18 section, the operator of an adult care home shall receive from any
19 employment agency or independent contractor that provides employees to
20 work in the adult care home written certification that such employees are
21 not prohibited from working in the adult care home under this section. For
22 the purpose of complying with this section, a person who operates an adult
23 care home may hire an applicant for provisional employment on a one-
24 time basis of 60 calendar days pending the results from the Kansas
25 department for aging and disability services of a request for information
26 under this subsection. A provisional employee may only be supervised by
27 an employee that has completed all training required by federal
28 regulations, rules and regulations of the department and the adult care
29 home's policies and procedures. No adult care home, the operator or
30 employees of an adult care home or an employment agency or an
31 independent contractor shall be liable for civil damages resulting from any
32 decision to employ, to refuse to employ or to discharge from employment
33 any person based on such adult care home's compliance with the
34 provisions of this section if such adult care home or employment agency
35 acts in good faith to comply with this section.

36 (f) The secretary for aging and disability services shall provide each
37 operator requesting information under this section with a pass or fail
38 determination after review of any criminal history record information in
39 writing and within three working days of receipt of such information from
40 the Kansas bureau of investigation or the federal bureau of investigation.

41 (g) A person who volunteers in an adult care home shall not be
42 subject to the provisions of this section unless the volunteer performs
43 equivalent functions to those performed by direct access employees.

1 (h) No person who has been continuously employed by the same
2 adult care home since July 1, 1992, shall be subject to the provisions of
3 this section while employed by such adult care home.

4 (i) The operator of an adult care home shall not be required under this
5 section to conduct a criminal history record check on an applicant for
6 employment with the adult care home if the applicant has been the subject
7 of a criminal history record check under this act within one year prior to
8 the application for employment with the adult care home.

9 (j) No person who is in the custody of the secretary of corrections and
10 who provides services, under direct supervision in nonpatient areas, on the
11 grounds or other areas designated by the superintendent of the Kansas
12 soldiers' home or the Kansas veterans' home shall be subject to the
13 provisions of this section while providing such services.

14 (k) (1) All fees charged by the secretary for criminal history record
15 checks conducted pursuant to this section shall be established by rules and
16 regulations of the secretary.

17 (2) All moneys collected and remitted to the Kansas department for
18 aging and disability services for fees charged for criminal history record
19 checks conducted pursuant to this section shall be remitted to the state
20 treasurer in accordance with K.S.A. 75-4215, and amendments thereto.
21 Upon receipt of each such remittance, the state treasurer shall deposit the
22 entire amount into the state treasury to the credit of the state licensure fee
23 fund created by K.S.A. 39-930, and amendments thereto.

24 (l) The Kansas department for aging and disability services may
25 implement the amendments made to this section by this act in phases for
26 different categories of employers. The department shall adopt rules and
27 regulations establishing dates and procedures for the implementation of the
28 criminal history record checks required by this section, and such dates may
29 be staggered to facilitate implementation of the criminal history record
30 checks required by this section.

31 (m) Upon authorization by the secretary for aging and disability
32 services, other state agencies may access an internet-based application
33 portal that is operated and maintained by the Kansas department for aging
34 and disability services for purposes of processing criminal history record
35 information requests in accordance with this section. Agencies may not
36 share criminal history record information or the resulting pass or fail
37 determinations with any other agency. The secretary for aging and
38 disability services may charge an authorized agency the amount of \$1 per
39 request made pursuant to this subsection.

40 (n) This section shall be a part of and supplemental to the adult care
41 home licensure act.

42 Sec. 26. K.S.A. 2024 Supp. 39-2009 is hereby amended to read as
43 follows: 39-2009. (a) As used in this section:

1 (1) "Applicant" means an individual who applies for employment
2 with a center, facility, hospital or a provider of services or applies to work
3 for an employment agency or as an independent contractor that provides
4 staff to a center, facility, hospital or a provider of services.

5 (2) "Completion of the sentence" means the last day of the entire term
6 of incarceration imposed by a sentence, including any term that is
7 deferred, suspended or subject to parole, probation, diversion, community
8 corrections, fines, fees, restitution or any other imposed sentencing
9 requirements.

10 (3) "Department" means the Kansas department for aging and
11 disability services.

12 (4) "Direct access" means work that involves an actual or reasonable
13 expectation of one-on-one interaction with a consumer or a consumer's
14 property, personally identifiable information, medical records, treatment
15 information or financial information.

16 (5) "Direct supervision" means that a supervisor is physically present
17 within an immediate distance to a supervisee and is available to provide
18 constant direction, feedback and assistance to a client and the supervisee.

19 (6) "Employment agency" means an organization or entity that has a
20 contracted relationship with a center, hospital, facility or provider of
21 services to provide staff with direct access to consumers.

22 (7) "Independent contractor" means an organization, entity, agency or
23 individual that provides contracted workers or services to a center, facility,
24 hospital or provider of services.

25 (8) "Day service provider" means a provider of day support services
26 for development in self-help, social skills, recreational skills and work
27 skills for adults with intellectual or developmental disabilities that is
28 licensed by the department or a separate and distinct dedicated division of
29 a provider of day support services for development in self-help, social
30 skills, recreational skills and work skills for adults with intellectual or
31 developmental disabilities licensed by the department.

32 (b) (1) No licensee shall knowingly operate a center, facility, hospital
33 or be a provider of services if any person who works in the center, facility,
34 hospital or for a provider of services has adverse findings on any state or
35 national registry, as defined in rules and regulations adopted by the
36 secretary for aging and disability services, or has been convicted of or has
37 been adjudicated a juvenile offender because of having committed an act
38 which, if committed by an adult, would constitute the commission of
39 capital murder, pursuant to K.S.A. 21-3439 or 21-5401, prior to ~~its~~ *their*
40 ~~repeal, or K.S.A. 21-5401, aggravated murder, pursuant to section 2,~~ and
41 amendments thereto, first degree murder, pursuant to K.S.A. 21-3401,
42 prior to its repeal, or K.S.A. 21-5402, and amendments thereto, second
43 degree murder, pursuant to K.S.A. 21-3402(a), prior to its repeal, or

1 K.S.A. 21-5403(a), and amendments thereto, voluntary manslaughter,
2 pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and
3 amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior
4 to its repeal, or K.S.A. 21-5407, and amendments thereto, mistreatment of
5 a dependent adult or mistreatment of an elder person, pursuant to K.S.A.
6 21-3437, prior to its repeal, or K.S.A. 21-5417, and amendments thereto,
7 human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or
8 K.S.A. 21-5426(a), and amendments thereto, aggravated human
9 trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 21-
10 5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior
11 to its repeal, or K.S.A. 21-5503, and amendments thereto, indecent
12 liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or
13 K.S.A. 21-5506(a), and amendments thereto, aggravated indecent liberties
14 with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or K.S.A. 21-
15 5506(b), and amendments thereto, aggravated criminal sodomy, pursuant
16 to K.S.A. 21-3506, prior to its repeal, or K.S.A. 21-5504(b), and
17 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
18 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and amendments
19 thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-
20 3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments thereto,
21 sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its
22 repeal, or K.S.A. 21-5510, and amendments thereto, sexual battery,
23 pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 21-5505(a), and
24 amendments thereto, aggravated sexual battery, pursuant to K.S.A. 21-
25 3518, prior to its repeal, or K.S.A. 21-5505(b), and amendments thereto,
26 commercial sexual exploitation of a child, pursuant to K.S.A. 21-6422, and
27 amendments thereto, an attempt to commit any of the crimes listed in this
28 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-
29 5301, and amendments thereto, a conspiracy to commit any of the crimes
30 listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or
31 K.S.A. 21-5302, and amendments thereto, or criminal solicitation of any of
32 the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its
33 repeal, or K.S.A. 21-5303, and amendments thereto, or similar statutes of
34 other states or the federal government.

35 (2) (A) A licensee operating a center, facility or hospital or as a
36 provider of services may employ an applicant who has been convicted of
37 any of the following if six or more years have elapsed since completion of
38 the sentence imposed or the applicant was discharged from probation, a
39 community correctional services program, parole, postrelease supervision,
40 conditional release or a suspended sentence; if six or more years have
41 elapsed since a community correctional services program, parole,
42 postrelease supervision, conditional release or a suspended sentence; or if
43 the applicant has been granted a waiver of such six-year disqualification: A

1 felony conviction for a crime that is described in:

2 (i) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to
3 their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated,
4 and amendments thereto, except those crimes listed in paragraph (1);

5 (ii) article 35 or 36 of chapter 21 of the Kansas Statutes Annotated,
6 and amendments thereto, prior to their repeal, or article 55 or 56 of chapter
7 21 of the Kansas Statutes Annotated or K.S.A. 21-6420, and amendments
8 thereto, except those crimes listed in paragraph (1);

9 (iii) K.S.A. 21-3701, prior to its repeal, or K.S.A. 21-5801, and
10 amendments thereto;

11 (iv) an attempt to commit any of the crimes listed in this paragraph
12 pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and
13 amendments thereto;

14 (v) a conspiracy to commit any of the crimes listed in this paragraph
15 pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and
16 amendments thereto;

17 (vi) criminal solicitation of any of the crimes listed in this paragraph
18 pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and
19 amendments thereto; or

20 (vii) similar statutes of other states or the federal government.

21 (B) An individual who has been disqualified for employment due to
22 conviction or adjudication of an offense listed in this paragraph may apply
23 to the secretary for aging and disability services for a waiver of such
24 disqualification if five years have elapsed since completion of the sentence
25 for such conviction. The secretary shall adopt rules and regulations
26 establishing the waiver process and the criteria to be utilized by the
27 secretary in evaluating any such waiver request.

28 (3) (A) A licensee operating a center, facility, hospital or as a provider
29 of services may employ an applicant who has been convicted of any of the
30 following if six or more years have elapsed since completion of the
31 sentence imposed or the applicant was discharged from probation, a
32 community correctional services program, parole, postrelease supervision,
33 conditional release or a suspended sentence; if six or more years have
34 elapsed since the applicant has been finally discharged from the custody of
35 the secretary of corrections or from probation or has been adjudicated a
36 juvenile offender, whichever time is longer; or if the applicant has been
37 granted a waiver of such six-year disqualification:

38 (i) Interference with custody of a committed person pursuant to
39 K.S.A. 21-3423, prior to its repeal, or K.S.A. 21-5410, and amendments
40 thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425,
41 prior to its repeal, or K.S.A. 21-5416, and amendments thereto; unlawful
42 administration of a substance pursuant to K.S.A. 21-3445, prior to its
43 repeal, or K.S.A. 21-5425, and amendments thereto; violation of a

1 protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A.
2 21-5924; promoting obscenity or promoting obscenity to minors pursuant
3 to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401,
4 and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-
5 3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 21-6412, and
6 amendments thereto; or

7 (ii) any felony conviction of: Unlawful manufacture of a controlled
8 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
9 K.S.A. 21-5703, and amendments thereto; unlawful cultivation or
10 distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
11 36a05, prior to its repeal, or K.S.A. 21-5705, and amendments thereto;
12 unlawful manufacture, distribution, cultivation or possession of a
13 controlled substance using a communication facility pursuant to K.S.A.
14 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 21-5707, and
15 amendments thereto; unlawful obtainment or sale of a prescription-only
16 drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A.
17 21-5708, and amendments thereto; unlawful distribution of drug
18 precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10,
19 prior to its repeal, or K.S.A. 21-5710, and amendments thereto; unlawful
20 distribution or possession of a simulated controlled substance pursuant to
21 K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 21-5713, and
22 amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its
23 repeal, or K.S.A. 21-5823, and amendments thereto; criminal use of a
24 financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 21-
25 5828, and amendments thereto; any violation of the Kansas medicaid fraud
26 control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or
27 K.S.A. 21-5925 et seq., and amendments thereto; making a false claim,
28 statement or representation to the medicaid program pursuant to K.S.A.
29 21-3846, prior to its repeal, or K.S.A. 21-5927, and amendments thereto;
30 unlawful acts relating to the medicaid program pursuant to K.S.A. 21-
31 3847, prior to its repeal, or K.S.A. 21-5928, and amendments thereto;
32 obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856,
33 prior to its repeal, or K.S.A. 21-5929, and amendments thereto; identity
34 theft or identity fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its
35 repeal, or K.S.A. 21-6107, and amendments thereto; or social welfare
36 fraud pursuant to K.S.A. 39-720, and amendments thereto. The provisions
37 of this paragraph shall not apply to any person who is employed by a
38 center, facility, hospital or provider of services on or before July 1, 2018,
39 and is continuously employed by the same center, facility, hospital or
40 provider of services or to any person during or upon successful completion
41 of a diversion agreement.

42 (B) An individual who has been disqualified for employment due to
43 conviction or adjudication of an offense listed in this paragraph may apply

1 to the secretary for aging and disability services for a waiver of such
2 disqualification if five years have elapsed since completion of the sentence
3 for such conviction or adjudication. The secretary shall adopt rules and
4 regulations establishing the waiver process and criteria to be considered by
5 the secretary in evaluating any such waiver request.

6 (c) No licensee shall operate a center, facility, hospital or be a
7 provider of services if such licensee has been found to be an adult with an
8 impairment in need of a guardian or a conservator, or both, as provided in
9 the act for obtaining a guardian or conservator, or both. The provisions of
10 this subsection shall not apply to an individual who, as a minor, was found
11 to be in need of a guardian or conservator for reasons other than
12 impairment.

13 (d) (1) The Kansas bureau of investigation shall release all records of
14 adult and juvenile convictions and adjudications and adult and juvenile
15 convictions and adjudications of any other state or country concerning
16 persons working in a center, facility, hospital or for a provider of services
17 to the secretary for aging and disability services. ~~The Kansas bureau of~~
18 ~~investigation may charge to the Kansas department for aging and disability~~
19 ~~services a reasonable fee for providing criminal history record information~~
20 ~~under this subsection in accordance with K.S.A. 2024 Supp. 22-4714, and~~
21 ~~amendments thereto.~~

22 (2) The department ~~shall~~ *may* require an applicant to be fingerprinted
23 and to submit to a state and national criminal history record check *in*
24 *accordance with K.S.A. 2024 Supp. 22-4714, and amendments thereto.* ~~The~~
25 ~~fingerprints shall be used to identify the individual and to determine~~
26 ~~whether the individual has a record of criminal history in this state or other~~
27 ~~jurisdiction. The department is authorized to submit the fingerprints to the~~
28 ~~Kansas bureau of investigation and the federal bureau of investigation for~~
29 ~~a state and national criminal history record check. The department may use~~
30 ~~the information obtained from fingerprinting and the criminal history~~
31 ~~record check for purposes of verifying the identification of the person and~~
32 ~~for making an official determination of the qualifications and fitness of the~~
33 ~~person to work in the center, facility, hospital or for a provider of services.~~

34 (3) An applicant for employment in a center, facility, hospital or for a
35 provider of services shall have 20 calendar days after receipt of
36 authorization to submit the applicant's fingerprints through an authorized
37 collection site in order to be eligible for provisional employment or the
38 applicant's application shall be deemed withdrawn.

39 (4) (A) The current or prospective employer of an applicant shall pay
40 a *reasonable fee not to exceed \$19 of the total cost* for criminal history
41 record information to the department for each applicant submitted.

42 (B) The prospective employer, employee or independent contractor
43 shall pay the fingerprint collection fee at the time of fingerprinting to the

1 authorized collection site.

2 (5) If an applicant disputes the contents of a criminal history record
3 check, then the applicant may file an appeal with the Kansas bureau of
4 investigation.

5 (6) Individuals who have been disqualified for employment by reason
6 of their criminal history records and who have met the requirements of this
7 subsection may apply for a waiver with the department within 30 days of
8 the receipt of the notice of employment prohibition.

9 (7) The department shall adopt rules and regulations specifying the
10 criteria and procedure for issuing a waiver of the employment prohibition.
11 The secretary shall consider the following criteria when rendering a
12 decision on such a waiver request: Passage of time; extenuating
13 circumstances; demonstration of rehabilitation; and relevancy of the
14 criminal history record information to the position for which the applicant
15 is applying. Any employment prohibition issued shall remain in effect
16 unless or until a waiver is granted.

17 (e) The secretary shall provide each licensee requesting information
18 under this section with a pass or fail determination after review of any
19 criminal history record information in writing and within three working
20 days of receipt of such information from the Kansas bureau of
21 investigation or the federal bureau of investigation.

22 (f) Any licensee or member of the staff who receives information
23 concerning the fitness or unfitness of any person shall keep such
24 information confidential, except that the staff person may disclose such
25 information to the person who is the subject of the request for information.
26 A violation of this subsection shall be an unclassified misdemeanor
27 punishable by a fine of \$100.

28 (g) For the purpose of complying with this section, the licensee
29 operating a center, facility, hospital or a provider of services shall request
30 from the Kansas department for aging and disability services an eligibility
31 determination regarding adult and juvenile convictions and adjudications.
32 For the purpose of complying with this section, the licensee operating a
33 center, facility, hospital or a provider of services shall receive from any
34 employment agency or independent contractor that provides employees to
35 work in the center, facility, hospital or for the provider of services written
36 certification that such employees are not prohibited from working in the
37 center, facility, hospital or for the provider of services under this section.
38 For the purpose of complying with this section, a licensee may hire an
39 applicant for provisional employment on a one-time basis of 60 calendar
40 days pending the results from the Kansas department for aging and
41 disability services of an eligibility determination under this subsection. A
42 provisional employee may only be supervised by an employee who has
43 completed all training required by federal regulations, department rules

1 and regulations and the center's, facility's, hospital's or provider of
2 services' policies and procedures. No licensee, its contractors or
3 employees, shall be liable for civil damages to any person refused
4 employment or discharged from employment by reason of such licensee's
5 compliance with the provisions of this section if such licensee acts in good
6 faith to comply with this section.

7 (h) The licensee operating a center, facility, hospital or a provider of
8 services shall not require an applicant under this section to be
9 fingerprinted, if the applicant has been the subject of a criminal history
10 record check under this act within one year prior to the application for
11 employment with the licensee operating a center, facility, hospital or a
12 provider of services and has maintained a record of continuous
13 employment, with no lapse of employment of over 90 days in any center,
14 facility, hospital or a provider of services covered by this act.

15 Sec. 27. K.S.A. 2024 Supp. 65-5117 is hereby amended to read as
16 follows: 65-5117. (a) As used in this section:

17 (1) "Applicant" means an individual who applies for employment
18 with a home health agency or applies to work for an employment agency
19 or as an independent contractor that provides staff to a home health
20 agency.

21 (2) "Completion of the sentence" means the last day of the entire term
22 of incarceration imposed by a sentence, including any term that is
23 deferred, suspended or subject to parole, probation, diversion, community
24 corrections, fines, fees, restitution or any other imposed sentencing
25 requirements.

26 (3) "Department" means the Kansas department for aging and
27 disability services.

28 (4) "Direct access" means work that involves an actual or reasonable
29 expectation of one-on-one interaction with a consumer or a consumer's
30 property, personally identifiable information, medical records, treatment
31 information or financial information.

32 (5) "Direct supervision" means that a supervisor is physically present
33 within an immediate distance to a supervisee and is available to provide
34 constant direction, feedback and assistance to a client and the supervisee.

35 (6) "Employment agency" means an organization or entity that has a
36 contracted relationship with a home health agency to provide staff with
37 direct access to consumers.

38 (7) "Independent contractor" means an organization, entity, agency or
39 individual that provides contracted workers or services to a home health
40 agency.

41 (b) (1) No person shall knowingly operate a home health agency if,
42 for the home health agency, there works any person who has adverse
43 findings on any state or national registry, as defined in rules and

1 regulations adopted by the secretary for aging and disability services, or
2 has been convicted of or has been adjudicated a juvenile offender because
3 of having committed an act that if done by an adult would constitute the
4 commission of capital murder, pursuant to K.S.A. 21-3439 *or 21-5401*,
5 prior to ~~its~~ *their* repeal, or ~~K.S.A. 21-5401~~, *aggravated murder, pursuant*
6 *to section 2*, and amendments thereto, first degree murder, pursuant to
7 K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments
8 thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its
9 repeal, or K.S.A. 21-5403(a), and amendments thereto, voluntary
10 manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A.
11 21-5404, and amendments thereto, assisting suicide, pursuant to K.S.A.
12 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto,
13 mistreatment of a dependent adult or mistreatment of an elder person,
14 pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 21-5417, and
15 amendments thereto, human trafficking, pursuant to K.S.A. 21-3446, prior
16 to its repeal, or K.S.A. 21-5426(a), and amendments thereto, aggravated
17 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or
18 K.S.A. 21-5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-
19 3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto,
20 indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its
21 repeal, or K.S.A. 21-5506(a), and amendments thereto, aggravated
22 indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its
23 repeal, or K.S.A. 21-5506(b), and amendments thereto, aggravated
24 criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or K.S.A.
25 21-5504(b), and amendments thereto, indecent solicitation of a child,
26 pursuant to K.S.A. 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and
27 amendments thereto, aggravated indecent solicitation of a child, pursuant
28 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and
29 amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-
30 3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto,
31 sexual battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A.
32 21-5505(a), and amendments thereto, aggravated sexual battery, pursuant
33 to K.S.A. 21-3518, prior to its repeal, or K.S.A. 21-5505(b), and
34 amendments thereto, commercial sexual exploitation of a child, pursuant
35 to K.S.A. 21-6422, and amendments thereto, an attempt to commit any of
36 the crimes listed in this paragraph, pursuant to K.S.A. 21-3301, prior to its
37 repeal, or K.S.A. 21-5301, and amendments thereto, a conspiracy to
38 commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-
39 3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto, or
40 criminal solicitation of any of the crimes listed in this paragraph, pursuant
41 to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments
42 thereto, or similar statutes of other states or the federal government. The
43 provisions of subsection (b)(2)(C) shall not apply to any person who is

1 employed by a home health agency on or before July 1, 2010, and while
 2 continuously employed by the same home health agency or to any person
 3 during or upon successful completion of a diversion agreement.

4 (2) (A) A person operating a home health agency may employ an
 5 applicant who has been convicted of any of the following if six or more
 6 years have elapsed since completion of the sentence imposed or the
 7 applicant was discharged from probation, a community correctional
 8 services program, parole, postrelease supervision, conditional release or a
 9 suspended sentence; if six or more years have elapsed since the applicant
 10 has been finally discharged from the custody of the commissioner of
 11 juvenile justice or from probation or has been adjudicated a juvenile
 12 offender, whichever time is longer; or if the applicant has been granted a
 13 waiver of such six-year disqualification: A felony conviction for a crime
 14 that is described in:

15 ~~(A)~~(i) Article 34 of chapter 21 of the Kansas Statutes Annotated,
 16 prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes
 17 Annotated, and amendments thereto, except those crimes listed in
 18 subsection (b)(1);

19 ~~(B)~~(ii) article 35 or 36 of chapter 21 of the Kansas Statutes
 20 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
 21 Kansas Statutes Annotated, or K.S.A. 21-6420, and amendments thereto,
 22 except those crimes listed in subsection (b)(1) and K.S.A. 21-3605, prior
 23 to its repeal, or K.S.A. 21-5606, and amendments thereto;

24 ~~(C)~~(iii) K.S.A. 21-3701, prior to its repeal, or K.S.A. 21-5801, and
 25 amendments thereto;

26 ~~(D)~~(iv) an attempt to commit any of the crimes listed in this
 27 paragraph pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-
 28 5301, and amendments thereto;

29 ~~(E)~~(v) a conspiracy to commit any of the crimes listed in this
 30 paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-
 31 5302, and amendments thereto;

32 ~~(F)~~(vi) criminal solicitation of any of the crimes listed in this
 33 paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-
 34 5303, and amendments thereto; or

35 ~~(G)~~(vii) similar statutes of other states or the federal government.

36 (B) An individual who has been disqualified for employment due to
 37 conviction or adjudication of an offense listed in this paragraph ~~(2)~~ may
 38 apply to the secretary for aging and disability services for a waiver of such
 39 disqualification if five years have elapsed since completion of the sentence
 40 for such conviction. The secretary shall adopt rules and regulations
 41 establishing the waiver process and the criteria to be utilized by the
 42 secretary in evaluating any such waiver request.

43 (3) (A) A person operating a home health agency may employ an

1 applicant who has been convicted of any of the following if six or more
2 years have elapsed since completion of the sentence imposed or the
3 applicant was discharged from probation, a community correctional
4 services program, parole, postrelease supervision, conditional release or a
5 suspended sentence; if six or more years have elapsed since the applicant
6 has been finally discharged from the custody of the commissioner of
7 juvenile justice or from probation or has been adjudicated a juvenile
8 offender, whichever time is longer; or if the applicant has been granted a
9 waiver of such six-year disqualification:

10 (i) Interference with custody of a committed person pursuant to
11 K.S.A. 21-3423, prior to its repeal, or K.S.A. 21-5410, and amendments
12 thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425,
13 prior to its repeal, or K.S.A. 21-5416, and amendments thereto; unlawful
14 administration of a substance pursuant to K.S.A. 21-3445, prior to its
15 repeal, or K.S.A. 21-5425, and amendments thereto; violation of a
16 protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A.
17 21-5924; promoting obscenity or promoting obscenity to minors pursuant
18 to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401,
19 and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-
20 3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 21-6412, and
21 amendments thereto; or

22 (ii) any felony conviction of: Unlawful manufacture of a controlled
23 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
24 K.S.A. 21-5703, and amendments thereto; unlawful cultivation or
25 distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
26 36a05, prior to its repeal, or K.S.A. 21-5705, and amendments thereto;
27 unlawful manufacture, distribution, cultivation or possession of a
28 controlled substance using a communication facility pursuant to K.S.A.
29 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 21-5707, and
30 amendments thereto; unlawful obtainment or sale of a prescription-only
31 drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A.
32 21-5708, and amendments thereto; unlawful distribution of drug
33 precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10,
34 prior to its repeal, or K.S.A. 21-5710, and amendments thereto; unlawful
35 distribution or possession of a simulated controlled substance pursuant to
36 K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 21-5713, and
37 amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its
38 repeal, or K.S.A. 21-5823, and amendments thereto; criminal use of a
39 financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 21-
40 5828, and amendments thereto; any violation of the Kansas medicaid fraud
41 control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or
42 K.S.A. 21-5925 et seq., and amendments thereto; making a false claim,
43 statement or representation to the medicaid program pursuant to K.S.A.

1 21-3846, prior to its repeal, or K.S.A. 21-5927, and amendments thereto;
2 unlawful acts relating to the medicaid program pursuant to K.S.A. 21-
3 3847, prior to its repeal, or K.S.A. 21-5928, and amendments thereto;
4 obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856,
5 prior to its repeal, or K.S.A. 21-5929, and amendments thereto; identity
6 theft or identity fraud pursuant to K.S.A. 21-4018, prior to its repeal, or
7 K.S.A. 21-6107, and amendments thereto; or social welfare fraud pursuant
8 to K.S.A. 39-720, and amendments thereto. The provisions of this
9 paragraph shall not apply to any person who is employed by a home health
10 agency on or before July 1, 2018, and is continuously employed by the
11 same home health agency or to any person during or upon successful
12 completion of a diversion agreement.

13 (B) An individual who has been disqualified for employment due to
14 conviction or adjudication of an offense listed in this paragraph~~(3)~~ may
15 apply to the secretary for aging and disability services for a waiver of such
16 disqualification if five years have elapsed since completion of the sentence
17 for such conviction. The secretary shall adopt rules and regulations
18 establishing the waiver process and criteria to be considered by the
19 secretary in evaluating any such waiver request.

20 (c) No person shall operate a home health agency if such person has
21 been found to be a person in need of a guardian or a conservator, or both,
22 as provided in the act for obtaining a guardian or a conservator, or both.
23 The provisions of this subsection shall not apply to an individual who, as a
24 minor, was found to be in need of a guardian or conservator for reasons
25 other than impairment.

26 (d) (1) The Kansas bureau of investigation shall release all records of
27 adult and juvenile convictions and adjudications and adult and juvenile
28 convictions and adjudications of any other state or country concerning
29 persons working in a home health agency to the secretary for aging and
30 disability services in accordance with K.S.A. 2024 Supp. 22-4714, and
31 amendments thereto.

32 (2) The department may require an applicant to be fingerprinted and
33 to submit to a state and national criminal history record check in
34 accordance with K.S.A. 2024 Supp. 22-4714, and amendments thereto.

35 (3) An applicant for employment in a home health agency shall have
36 20 calendar days after receipt of authorization to submit the applicant's
37 fingerprints through an authorized collection site in order to be eligible for
38 provisional employment or the applicant's application shall be deemed
39 withdrawn.

40 (4) (A) The current or prospective employer of an applicant shall pay
41 a reasonable fee for criminal history record information to the department
42 for each applicant submitted.

43 (B) The prospective employer, employee or independent contractor

1 shall pay the fingerprint collection fee at the time of fingerprinting to the
2 authorized collection site.

3 (5) If an applicant disputes the contents of a criminal history record
4 check, then the applicant may file an appeal with the Kansas bureau of
5 investigation.

6 (6) Individuals who have been disqualified for employment by reason
7 of their criminal history records and who have met the requirements of this
8 subsection may apply for a waiver with the department within 30 days of
9 the receipt of the notice of employment prohibition.

10 (7) The department shall adopt rules and regulations specifying the
11 criteria and procedure for issuing a waiver of the employment prohibition.
12 The secretary shall consider the following criteria when rendering a
13 decision on such a waiver request: Passage of time; extenuating
14 circumstances; demonstration of rehabilitation; and relevancy of the
15 criminal history record information to the position for which the applicant
16 is applying. Any employment prohibition issued shall remain in effect
17 unless or until a waiver is granted.

18 (e) For the purpose of complying with this section, the operator of a
19 home health agency shall request from the Kansas department for aging
20 and disability services an eligibility determination regarding adult and
21 juvenile convictions and adjudications. For the purpose of complying with
22 this section, a person who operates a home health agency may hire an
23 applicant for provisional employment on a one-time basis of 60 calendar
24 days pending the results from the Kansas department for aging and
25 disability services of a request for information under this subsection. A
26 provisional employee may only be supervised by an employee who has
27 completed all training required by federal regulations, rules and
28 regulations of the department and the home health agency's policies and
29 procedures. No home health agency, the operator or employees of a home
30 health agency or an employment agency or an independent contractor shall
31 be liable for civil damages resulting from any decision to employ, to refuse
32 to employ or to discharge from employment any person based on such
33 home health agency's compliance with the provisions of this section if
34 such home health agency or employment agency acts in good faith to
35 comply with this section.

36 (f) The secretary for aging and disability services shall provide each
37 operator requesting information under this section with a pass or fail
38 determination after review of any criminal history information in writing
39 and within three working days of receipt of such information from the
40 Kansas bureau of investigation or the federal bureau of investigation.

41 (g) A person who volunteers to assist a home health agency shall not
42 be subject to the provisions of this section unless the volunteer performs
43 functions equivalent to functions performed by direct access employees.

1 (h) No person who has been continuously employed by the same
2 home health agency since July 1, 1992, shall be subject to the
3 requirements of this section while employed by such home health agency.

4 (i) The operator of a home health agency shall not be required under
5 this section to conduct a criminal history record check on an applicant for
6 employment with the home health agency if the applicant has been the
7 subject of a criminal history record check under this act within one year
8 prior to the application for employment with the home health agency.

9 (j) No person who is in the custody of the secretary of corrections and
10 who provides services, under direct supervision in non-patient areas, on
11 the grounds or other areas designated by the superintendent of the Kansas
12 soldiers' home or the Kansas veterans' home shall be subject to the
13 provisions of this section while providing such services.

14 (k) (1) All fees charged by the secretary for criminal history record
15 checks conducted pursuant to this section shall be established by rules and
16 regulations of the secretary.

17 (2) All moneys collected and remitted to the department for fees
18 charged for criminal history record checks conducted pursuant to this
19 section shall be remitted to the state treasurer in accordance with K.S.A.
20 65-5113, and amendments thereto. Upon receipt of each such remittance,
21 the state treasurer shall deposit the entire amount into the state treasury to
22 the credit of the state licensure fee fund created by K.S.A. 39-930, and
23 amendments thereto.

24 (l) The department may implement the amendments made to this
25 section by this act in phases for different categories of employers. The
26 department shall adopt rules and regulations establishing dates and
27 procedures for the implementation of the criminal history record checks
28 required by this section, and such dates may be staggered to facilitate
29 implementation of the criminal history record checks required by this
30 section.

31 (m) This section shall be a part of and supplemental to the provisions
32 of article 51 of chapter 65 of the Kansas Statutes Annotated, and
33 amendments thereto.

34 Sec. 28. K.S.A. 72-2165 is hereby amended to read as follows: 72-
35 2165. (a) The state board of education shall not knowingly issue a license
36 to or renew the license of any person who has been convicted of:

37 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
38 21-5503, and amendments thereto;

39 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
40 to its repeal, or K.S.A. 21-5506(a), and amendments thereto;

41 (3) aggravated indecent liberties with a child, as defined in K.S.A.
42 21-3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments
43 thereto;

- 1 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
 2 prior to its repeal, or K.S.A. 21-5504(a)(3) or (a)(4), and amendments
 3 thereto;
- 4 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
 5 to its repeal, or K.S.A. 21-5504(b), and amendments thereto;
- 6 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
 7 prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto;
- 8 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
 9 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments
 10 thereto;
- 11 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
 12 to its repeal, or K.S.A. 21-5510, and amendments thereto;
- 13 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its
 14 repeal, or K.S.A. 21-5604(b), and amendments thereto;
- 15 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
 16 prior to its repeal, or K.S.A. 21-5601(b), and amendments thereto;
- 17 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
 18 or K.S.A. 21-5602, and amendments thereto;
- 19 (12) capital murder, as defined in K.S.A. 21-3439 *or* 21-5401, prior
 20 to its repeal, ~~or K.S.A. 21-5401~~;
- 21 (13) *aggravated murder, as defined in section 2*, and amendments
 22 thereto;
- 23 ~~(13)~~(14) murder in the first degree, as defined in K.S.A. 21-3401,
 24 prior to its repeal, or K.S.A. 21-5402, and amendments thereto;
- 25 ~~(14)~~(15) murder in the second degree, as defined in K.S.A. 21-3402,
 26 prior to its repeal, or K.S.A. 21-5403, and amendments thereto;
- 27 ~~(15)~~(16) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
 28 to its repeal, or K.S.A. 21-5404, and amendments thereto;
- 29 ~~(16)~~(17) involuntary manslaughter, as defined in K.S.A. 21-3404,
 30 prior to its repeal, or K.S.A. 21-5405, and amendments thereto;
- 31 ~~(17)~~(18) involuntary manslaughter while driving under the influence
 32 of alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;
- 33 ~~(18)~~(19) sexual battery, as defined in K.S.A. 21-3517, prior to its
 34 repeal, or K.S.A. 21-5505(a), and amendments thereto, when, at the time
 35 the crime was committed, the victim was less than 18 years of age or a
 36 student of the person committing such crime;
- 37 ~~(19)~~(20) aggravated sexual battery, as defined in K.S.A. 21-3518,
 38 prior to its repeal, or K.S.A. 21-5505(b), and amendments thereto;
- 39 ~~(20)~~(21) commercial sexual exploitation of a child, as defined in
 40 K.S.A. 21-6422, and amendments thereto;
- 41 ~~(21)~~(22) human trafficking, as defined in K.S.A. 21-3446, prior to its
 42 repeal, or K.S.A. 21-5426(a), and amendments thereto;
- 43 ~~(22)~~(23) aggravated human trafficking, as defined in K.S.A. 21-3447,

1 prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto;

2 ~~(23)~~(24) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A.
3 21-5301, and amendments thereto, to commit any act specified in this
4 subsection;

5 ~~(24)~~(25) conspiracy under K.S.A. 21-3302, prior to its repeal, or
6 K.S.A. 21-5302, and amendments thereto, to commit any act specified in
7 this subsection;

8 ~~(25)~~(26) an act in another state or by the federal government that is
9 comparable to any act described in this subsection; or

10 ~~(26)~~(27) an offense in effect at any time prior to the effective date of
11 this act that is comparable to an offense as provided in this subsection.

12 (b) Except as provided in subsection (c), the state board of education
13 shall not knowingly issue a license to or renew the license of any person
14 who has been convicted of, or has entered into a criminal diversion
15 agreement after having been charged with:

16 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
17 prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes
18 Annotated, and amendments thereto, or any felony violation of any
19 provision of the uniform controlled substances act prior to July 1, 2009;

20 (2) a felony described in any section of article 34 of chapter 21 of the
21 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
22 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or
23 21-6418, and amendments thereto, other than an act specified in
24 subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
25 repeal, or K.S.A. 21-5413(a), and amendments thereto, or domestic
26 battery, as described in K.S.A. 21-3412a, prior to its repeal, or K.S.A. 21-
27 5414, and amendments thereto, if the victim is a minor or student;

28 (3) a felony described in any section of article 35 of chapter 21 of the
29 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
30 of the Kansas Statutes Annotated, or K.S.A. 21-6419 through 21-6421, and
31 amendments thereto, other than an act specified in subsection (a);

32 (4) any act described in any section of article 36 of chapter 21 of the
33 Kansas Statutes Annotated, prior to their repeal, or article 56 of chapter 21
34 of the Kansas Statutes Annotated, and amendments thereto, other than an
35 act specified in subsection (a);

36 (5) a felony described in article 37 of chapter 21 of the Kansas
37 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
38 Kansas Statutes Annotated, or K.S.A. 21-6412(a)(6), and amendments
39 thereto;

40 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
41 repeal, or K.S.A. 21-6401(a), and amendments thereto, promoting
42 obscenity to minors, as described in K.S.A. 21-4301a, prior to its repeal, or
43 K.S.A. 21-6401(b), and amendments thereto, or promoting to minors

1 obscenity harmful to minors, as described in K.S.A. 21-4301c, prior to its
2 repeal, or K.S.A. 21-6402, and amendments thereto;

3 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
4 repeal, or K.S.A. 21-5601(a), and amendments thereto;

5 (8) driving under the influence of alcohol or drugs in violation of
6 K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is
7 punishable as a felony;

8 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-
9 5301, and amendments thereto, to commit any act specified in this
10 subsection;

11 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
12 21-5302, and amendments thereto, to commit any act specified in this
13 subsection; or

14 (11) an act committed in violation of a federal law or in violation of
15 another state's law that is comparable to any act described in this
16 subsection.

17 (c) The state board of education may issue a license to or renew the
18 license of a person who has been convicted of committing an offense or
19 act described in subsection (b) or who has entered into a criminal diversion
20 agreement after having been charged with an offense or act described in
21 subsection (b) if the state board determines, following a hearing, that the
22 person has been rehabilitated for a period of at least five years from the
23 date of conviction of the offense or commission of the act or, in the case of
24 a person who has entered into a criminal diversion agreement, that the
25 person has satisfied the terms and conditions of the agreement. The state
26 board of education may consider factors including, but not limited to, the
27 following in determining whether to grant a license:

28 (1) The nature and seriousness of the offense or act;

29 (2) the conduct of the person subsequent to commission of the
30 offense or act;

31 (3) the time elapsed since the commission of the offense or act;

32 (4) the age of the person at the time of the offense or act;

33 (5) whether the offense or act was an isolated or recurring incident;

34 and

35 (6) discharge from probation, pardon or expungement.

36 (d) Before any license is denied by the state board of education for
37 any of the offenses or acts specified in subsections (a) and (b), the person
38 shall be given notice and an opportunity for a hearing in accordance with
39 the provisions of the Kansas administrative procedure act.

40 (e) The county or district attorney shall file a report with the state
41 board of education indicating the name, address and social security
42 number of any person who has been determined to have committed any
43 offense or act specified in subsection (a) or (b) or to have entered into a

1 criminal diversion agreement after having been charged with any offense
 2 or act specified in subsection (b). Such report shall be filed within 30 days
 3 of the date of the determination that the person has committed any such act
 4 or entered into any such diversion agreement.

5 (f) The state board of education shall not be liable for civil damages
 6 to any person refused issuance or renewal of a license by reason of the
 7 state board's compliance, in good faith, with the provisions of this section.

8 Sec. 29. K.S.A. 75-52,148 is hereby amended to read as follows: 75-
 9 52,148. (a) The department of corrections shall be required to review and
 10 report on the following serious offenses committed by sex offenders, as
 11 defined by K.S.A. 22-4902, and amendments thereto, while such offenders
 12 are in the custody of the secretary of corrections:

13 (1) Murder in the first degree, as defined in K.S.A. 21-5402, and
 14 amendments thereto;

15 (2) murder in the second degree, as defined in K.S.A. 21-5403, and
 16 amendments thereto;

17 (3) ~~capital murder, as defined in K.S.A. 21-5401~~ *aggravated murder,*
 18 *as defined in section 2,* and amendments thereto;

19 (4) rape, as defined in K.S.A. 21-5503, and amendments thereto;

20 (5) aggravated criminal sodomy, as defined in K.S.A. 21-5504(b), and
 21 amendments thereto;

22 (6) sexual exploitation of a child, as defined in K.S.A. 21-5510, and
 23 amendments thereto;

24 (7) kidnapping, as defined in K.S.A. 21-5408(a), and amendments
 25 thereto;

26 (8) aggravated kidnapping, as defined in K.S.A. 21-5408(b), and
 27 amendments thereto;

28 (9) criminal restraint, as defined in K.S.A. 21-5411, and amendments
 29 thereto;

30 (10) indecent solicitation of a child, as defined in K.S.A. 21-5508(a),
 31 and amendments thereto;

32 (11) aggravated indecent solicitation of a child, as defined in K.S.A.
 33 21-5508(b), and amendments thereto;

34 (12) indecent liberties with a child, as defined in K.S.A. 21-5506(a),
 35 and amendments thereto;

36 (13) aggravated indecent liberties with a child, as defined in K.S.A.
 37 21-5506(b), and amendments thereto;

38 (14) criminal sodomy, as defined in K.S.A. 21-5504(a), and
 39 amendments thereto;

40 (15) child abuse, as defined in K.S.A. 21-5602, and amendments
 41 thereto;

42 (16) aggravated robbery, as defined in K.S.A. 21-5420(b), and
 43 amendments thereto;

1 (17) burglary, as defined in K.S.A. 21-5807(a), and amendments
2 thereto;

3 (18) aggravated burglary, as defined in K.S.A. 21-5807(b), and
4 amendments thereto;

5 (19) theft, as defined in K.S.A. 21-5801, and amendments thereto;

6 (20) vehicular homicide, as defined in K.S.A. 21-5406, and
7 amendments thereto;

8 (21) involuntary manslaughter while driving under the influence, as
9 defined in K.S.A. 21-5405(a)(3) or (a)(5), and amendments thereto; or

10 (22) stalking, as defined in K.S.A. 21-5427, and amendments thereto.

11 (b) The secretary of corrections shall submit such report to the
12 speaker of the house of representatives and the president of the senate
13 annually, ~~beginning January 1, 2007.~~

14 Sec. 30. K.S.A. 21-5301, 21-5401, 21-5402, 21-5419, 21-6614, 21-
15 6617, 21-6618, 21-6619, 21-6620, 21-6622, 21-6628, 21-6629, 21-6806,
16 22-2512, 22-4902, 22-4906, 23-3222, 38-2271, 38-2303, 38-2312, 38-
17 2365, 72-2165 and 75-52,148 and K.S.A. 2024 Supp. 21-6328, 22-3717,
18 38-2255, 39-970, 39-2009, 39-2009a and 65-5117 are hereby repealed.

19 Sec. 31. This act shall take effect and be in force from and after its
20 publication in the statute book.