

HOUSE BILL No. 2779

By Committee on Federal and State Affairs

3-7

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to human trafficking; human trafficking advisory board; establishing
3 the human trafficking victim assistance fund; creating the crime of
4 commercial sexual exploitation of a child; relating to selling sexual
5 relations; promoting the sale of sexual relations; buying sexual
6 relations; amending K.S.A. 2011 Supp. 21-6419, 21-6420, 21-6421, 21-
7 6614, 21-6626, 21-6627, 21-6815, 22-2515, 22-3717, 22-4902, 22-
8 4906, 38-2243, 38-2260 and 38-2312 and repealing the existing
9 sections; also repealing K.S.A. 2011 Supp. 21-6614a, 21-6614b, 21-
10 6614c, 22-4902a, 22-4906a, 38-2312a and 38-2312b.

11

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

13

14 New Section 1. The attorney general, in consultation with other
15 appropriate state agencies, is authorized to coordinate training regarding
16 human trafficking for law enforcement agencies throughout Kansas.

17

18 New Sec. 2. The human trafficking advisory board established by the
19 attorney general is hereby designated the official human trafficking
20 advisory board for the state of Kansas.

21

22 New Sec. 3. There is hereby established in the state treasury the
23 human trafficking victim assistance fund. All moneys credited to such
24 fund shall be used to pay for the training required by section 1, and
25 amendments thereto, and to support secure care, treatment and other
26 services for victims of human trafficking and commercial sexual
27 exploitation of a child. All expenditures from such fund shall be made in
28 accordance with appropriation acts, upon warrants of the director of
29 accounts and reports issued pursuant to vouchers approved by the attorney
30 general or the attorney general's designee.

31

32 New Sec. 4. (a) Commercial sexual exploitation of a child is
33 knowingly:

34

35 (1) Giving, receiving, offering or agreeing to give, or offering or
36 agreeing to receive anything of value to perform any of the following acts:

37

38 (A) Procuring, recruiting, inducing, soliciting, hiring or otherwise
39 obtaining any person younger than 18 years of age to engage in sexual
40 intercourse, sodomy or manual or other bodily contact stimulation of the
41 genitals of any person with the intent to arouse or gratify the sexual desires
42 of the offender or another; or

43

1 (B) Procuring, recruiting, inducing, soliciting, hiring or otherwise
2 obtaining a patron where there is an exchange of value, for any person
3 younger than 18 years of age to engage in sexual intercourse, sodomy or
4 manual or other bodily contact stimulation of the genitals of any person
5 with the intent to arouse or gratify the sexual desires of the patron, the
6 offender or another;

7 (2) establishing, owning, maintaining or managing any property,
8 whether real or personal, where sexual relations are being sold or offered
9 for sale by a person younger than 18 years of age, or participating in the
10 establishment, ownership, maintenance or management thereof;

11 (3) permitting any property, whether real or personal, partially or
12 wholly owned or controlled by the defendant to be used as a place where
13 sexual relations are being sold or offered for sale by a person who is
14 younger than 18 years of age; and

15 (4) procuring transportation for, paying for the transportation of or
16 transporting any person younger than 18 years of age within this state with
17 the intent of causing, assisting or promoting that person's engaging in
18 selling sexual relations.

19 (b) (1) Commercial sexual exploitation of a child is a:

20 (A) Severity level 5, person felony, except as provided in subsections
21 (b)(1)(B) and (b)(2); and

22 (B) severity level 2, person felony when committed by a person who
23 has, prior to the commission of the crime, been convicted of a violation of
24 this section, except as provided in subsection (b)(2).

25 (2) Commercial sexual exploitation of a child or attempt, conspiracy
26 or criminal solicitation to commit commercial sexual exploitation of a
27 child is an off-grid person felony when the offender is 18 years of age or
28 older and the victim is less than 14 years of age.

29 (3) A person convicted under subsection (b)(1)(A) shall be fined not
30 less than \$2,500. A person convicted under subsection (b)(1)(B) shall be
31 fined not less than \$2,500 nor more than \$5,000. All fines collected
32 pursuant to this section shall be remitted to the human trafficking victim
33 assistance fund created by section 3, and amendments thereto.

34 (4) In addition, for any conviction under this section, the court may
35 order the person convicted to enter into and complete a suitable
36 educational and treatment program regarding commercial sexual
37 exploitation of a child.

38 (c) If the offender is 18 years of age or older and the victim is less
39 than 14 years of age, the provisions of:

40 (1) Subsection (c) of K.S.A. 2011 Supp. 21-5301, and amendments
41 thereto, shall not apply to a violation of attempting to commit the crime of
42 commercial sexual exploitation of a child as described in subsection (b)
43 (2);

1 (2) subsection (c) of K.S.A. 2011 Supp. 21-5302, and amendments
2 thereto, shall not apply to a violation of conspiracy to commit the crime of
3 commercial sexual exploitation of a child as described in subsection (b)
4 (2); and

5 (3) subsection (d) of K.S.A. 2011 Supp. 21-5303, and amendments
6 thereto, shall not apply to a violation of criminal solicitation to commit the
7 crime of commercial sexual exploitation of a child as described in
8 subsection (b)(2).

9 (d) This section shall be part of and supplemental to the Kansas
10 criminal code.

11 Sec. 5. K.S.A. 2011 Supp. 21-6419 is hereby amended to read as
12 follows: 21-6419. (a) ~~Prostitution~~ *Selling sexual relations* is performing
13 for hire, or offering or agreeing to perform for hire where there is an
14 exchange of value, any of the following acts:

15 (1) Sexual intercourse;

16 (2) sodomy; or

17 (3) manual or other bodily contact stimulation of the genitals of any
18 person with the intent to arouse or gratify the sexual desires of the offender
19 or another.

20 (b) ~~Prostitution~~ *Selling sexual relations* is a class B nonperson
21 misdemeanor.

22 (c) *It shall be an affirmative defense to any prosecution under this*
23 *section that the defendant committed the violation of this section because*
24 *such defendant was subjected to human trafficking or aggravated human*
25 *trafficking as defined by K.S.A. 2011 Supp. 21-5426, and amendments*
26 *thereto, or commercial sexual exploitation of a child as defined by section*
27 *4, and amendments thereto.*

28 Sec. 6. K.S.A. 2011 Supp. 21-6420 is hereby amended to read as
29 follows: 21-6420. (a) Promoting ~~prostitution~~ *the sale of sexual relations* is
30 knowingly:

31 (1) Establishing, owning, maintaining or managing ~~a house of~~
32 ~~prostitution~~ *any property, whether real or personal, where sexual relations*
33 *are being sold or offered for sale by a person who is 18 years of age or*
34 *older, or participating in the establishment, ownership, maintenance or*
35 *management thereof;*

36 (2) permitting any ~~place~~ *property, whether real or personal, partially*
37 *or wholly owned or controlled by the defendant to be used as a house of*
38 ~~prostitution~~ *place where sexual relations are being sold or offered for sale*
39 *by a person who is 18 years of age or older;*

40 (3) procuring a ~~prostitute for a house of prostitution~~ *person selling*
41 *sexual relations who is 18 years of age or older for a place where sexual*
42 *relations are being sold or offered for sale;*

43 (4) inducing another ~~to become a prostitute~~ *who is 18 years of age or*

1 *older to become a person selling sexual relations;*

2 (5) ~~soliciting a patron for a prostitute or for a house of prostitution a~~
 3 ~~person 18 years of age or older who is selling sexual relations or for a~~
 4 ~~place where sexual relations are being sold or offered for sale;~~

5 (6) ~~procuring a prostitute person 18 years of age or older who is~~
 6 ~~selling sexual relations for a patron;~~

7 (7) ~~procuring transportation for, paying for the transportation of, or~~
 8 ~~transporting a person 18 years of age or older within this state with the~~
 9 ~~intention of assisting or promoting that person's engaging in prostitution~~
 10 ~~selling sexual relations; or~~

11 (8) ~~being employed to perform any act which is prohibited by this~~
 12 ~~section.~~

13 (b) (1) ~~Promoting prostitution the sale of sexual relations is a:~~

14 (A) ~~Class A person misdemeanor when the prostitute is 16 or more~~
 15 ~~years of age Severity level 9, person felony, except as provided in~~
 16 ~~subsection (b)(1)(B); and~~

17 (B) ~~severity level 7, person felony when the prostitute is 16 or more~~
 18 ~~years of age and committed by a person who has, prior to the commission~~
 19 ~~of the crime, been convicted of promoting prostitution a violation of this~~
 20 ~~section, or any prior version of this section ; and~~

21 (C) ~~severity level 6, person felony when the prostitute is under 16~~
 22 ~~years of age, except as provided in subsection (b)(2).~~

23 (b)(2) ~~Promoting prostitution or attempt, conspiracy or criminal~~
 24 ~~solicitation to commit promoting prostitution is an off-grid person felony~~
 25 ~~when the offender is 18 years of age or older and the prostitute is less than~~
 26 ~~14 years of age.~~

27 (c) ~~If the offender is 18 years of age or older and the victim is less~~
 28 ~~than 14 years of age, the provisions of:~~

29 (1) ~~Subsection (c) of K.S.A. 2011 Supp. 21-5301, and amendments~~
 30 ~~thereto, shall not apply to a violation of attempting to commit the crime of~~
 31 ~~promoting prostitution as described in subsection (b)(2);~~

32 (2) ~~subsection (e) of K.S.A. 2011 Supp. 21-5302, and amendments~~
 33 ~~thereto, shall not apply to a violation of conspiracy to commit the crime of~~
 34 ~~promoting prostitution as described in subsection (b)(2); and~~

35 (3) ~~subsection (d) of K.S.A. 2011 Supp. 21-5303, and amendments~~
 36 ~~thereto, shall not apply to a violation of criminal solicitation to commit the~~
 37 ~~crime of promoting prostitution as described in subsection (b)(2).~~

38 (2) *A person convicted under subsection (b)(1)(A) shall be fined not*
 39 *less than \$2,500. A person convicted under subsection (b)(1)(B) shall be*
 40 *fined not less than \$5,000. All fines collected pursuant to this section shall*
 41 *be remitted to the human trafficking victim assistance fund created by*
 42 *section 3, and amendments thereto.*

43 Sec. 7. K.S.A. 2011 Supp. 21-6421 is hereby amended to read as

1 follows: 21-6421. (a) ~~Patronizing a prostitute~~ *Buying sexual relations is*
 2 knowingly:

3 (1) ~~Entering or remaining in a house of prostitution~~ *place where*
 4 *sexual relations are being sold or offered for sale with intent to engage in*
 5 *manual or other bodily contact stimulation of the genitals of any person*
 6 *with the intent to arouse or gratify the sexual desires of the offender or*
 7 *another; sexual intercourse, sodomy or any unlawful sexual act with a*
 8 ~~prostitute~~ *person selling sexual relations who is 18 years of age or older;*
 9 or

10 (2) hiring a ~~prostitute~~ *person selling sexual relations who is 18 years*
 11 *of age or older to engage in manual or other bodily contact stimulation of*
 12 *the genitals of any person with the intent to arouse or gratify the sexual*
 13 *desires of the offender or another; sexual intercourse, sodomy or any*
 14 *unlawful sexual act.*

15 (b) (1) ~~Patronizing a prostitute is a class C misdemeanor~~ *Buying*
 16 *sexual relations is a:*

17 (A) *Class A person misdemeanor, except as provided in subsection (b)*
 18 *(1)(B);*

19 (B) *severity level 9, person felony when committed by a person who*
 20 *has, prior to the commission of the crime, been convicted of a violation of*
 21 *this section, or any prior version of this section.*

22 (2) *A person convicted under subsection (b)(1)(A) shall be fined not*
 23 *less than \$2,500. A person convicted under subsection (b)(1)(B) shall be*
 24 *fined not less than \$2,500 nor more than \$5,000. All fines collected*
 25 *pursuant to this section shall be remitted to the human trafficking victim*
 26 *assistance fund created by section 3, and amendments thereto.*

27 (3) *In addition, for any conviction under this section, the court shall*
 28 *order the person convicted to enter into and complete a suitable*
 29 *educational and treatment program regarding commercial sexual*
 30 *exploitation.*

31 Sec. 8. K.S.A. 2011 Supp. 21-6614 is hereby amended to read as
 32 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c) ~~and~~ ,
 33 (d), (e) *and* (f), any person convicted in this state of a traffic infraction,
 34 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or
 35 for crimes committed on or after July 1, 1993, nondrug crimes ranked in
 36 severity levels 6 through 10 or any felony ranked in severity level 4 of the
 37 drug grid, may petition the convicting court for the expungement of such
 38 conviction or related arrest records if three or more years have elapsed
 39 since the person: (A) Satisfied the sentence imposed; or (B) was
 40 discharged from probation, a community correctional services program,
 41 parole, postrelease supervision, conditional release or a suspended
 42 sentence.

43 (2) Except as provided in subsections (b), (c) ~~and~~ , (d), (e) *and* (f),

1 any person who has fulfilled the terms of a diversion agreement may
2 petition the district court for the expungement of such diversion agreement
3 and related arrest records if three or more years have elapsed since the
4 terms of the diversion agreement were fulfilled.

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

14 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
15 repeal, or K.S.A. 2011 Supp. 21-5406, and amendments thereto, or as
16 prohibited by any law of another state which is in substantial conformity
17 with that statute;

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

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

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

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

32 (6) failing to stop at the scene of an accident and perform the duties
33 required by *K.S.A. 8-1603, prior to its repeal, or K.S.A. 8-1602; ~~8-1603~~* or
34 *8-1604*, and amendments thereto, or required by a law of another state
35 which is in substantial conformity with those statutes;

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

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

39 (c) *Any person convicted of prostitution as defined in K.S.A. 21-3512,*
40 *prior to its repeal, convicted of a violation of K.S.A. 2011 Supp. 21-6419,*
41 *and amendments thereto, or who entered into a diversion agreement in*
42 *lieu of further criminal proceedings for such violation, may petition the*
43 *convicting court for the expungement of such conviction or diversion*

1 agreement and related arrest records if:

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

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

12 (e) (d) No person may petition for expungement until 10 or more
13 years have elapsed since the person satisfied the sentence imposed, the
14 terms of a diversion agreement or was discharged from probation, a
15 community correctional services program, parole, postrelease supervision,
16 conditional release or a suspended sentence, if such person was convicted
17 of a violation of K.S.A. 8-1567, and amendments thereto, including any
18 diversion for such violation.

19 (d) (e) There shall be no expungement of convictions for the
20 following offenses or of convictions for an attempt to commit any of the
21 following offenses:

22 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
23 2011 Supp. 21-5503, and amendments thereto;

24 (2) indecent liberties with a child or aggravated indecent liberties
25 with a child as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
26 or K.S.A. 2011 Supp. 21-5506, and amendments thereto;

27 (3) criminal sodomy as defined in subsection (a)(2) or (a)(3) of
28 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
29 2011 Supp. 21-5504, and amendments thereto;

30 (4) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior
31 to its repeal, or K.S.A. 2011 Supp. 21-5504, and amendments thereto;

32 (5) indecent solicitation of a child or aggravated indecent solicitation
33 of a child as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or
34 K.S.A. 2011 Supp. 21-5508, and amendments thereto;

35 (6) sexual exploitation of a child as defined in K.S.A. 21-3516, prior
36 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

37 (7) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal,
38 or K.S.A. 2011 Supp. 21-5604, and amendments thereto;

39 (8) endangering a child or aggravated endangering a child as defined
40 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2011 Supp.
41 21-5601, and amendments thereto;

42 (9) abuse of a child as defined in K.S.A. 21-3609, prior to its repeal,
43 or K.S.A. 2011 Supp. 21-5602, and amendments thereto;

1 (10) capital murder as defined in K.S.A. 21-3439, prior to its repeal,
2 or K.S.A. 2011 Supp. 21-5401, and amendments thereto;

3 (11) murder in the first degree as defined in K.S.A. 21-3401, prior to
4 its repeal, or K.S.A. 2011 Supp. 21-5402, and amendments thereto;

5 (12) murder in the second degree as defined in K.S.A. 21-3402, prior
6 to its repeal, or K.S.A. 2011 Supp. 21-5403, and amendments thereto;

7 (13) voluntary manslaughter as defined in K.S.A. 21-3403, prior to its
8 repeal, or K.S.A. 2011 Supp. 21-5404, and amendments thereto;

9 (14) involuntary manslaughter as defined in K.S.A. 21-3404, prior to
10 its repeal, or K.S.A. 2011 Supp. 21-5405, and amendments thereto;

11 (15) sexual battery as defined in K.S.A. 21-3517, prior to its repeal,
12 or K.S.A. 2011 Supp. 21-5505, and amendments thereto, when the victim
13 was less than 18 years of age at the time the crime was committed;

14 (16) aggravated sexual battery as defined in K.S.A. 21-3518, prior to
15 its repeal, or K.S.A. 2011 Supp. 21-5505, and amendments thereto;

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

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

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

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

30 (A) Defendant's full name;

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

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

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

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

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

39 (2) Except as otherwise provided by law, a petition for expungement
40 shall be accompanied by a docket fee in the amount of \$100. On and after
41 ~~April 15, 2010 through June 30, 2011~~ *May 19, 2011, through June 30,*
42 *2012,* the supreme court may impose a charge, not to exceed ~~\$15~~ *\$19* per
43 case, to fund the costs of non-judicial personnel. The charge established in

1 this section shall be the only fee collected or moneys in the nature of a fee
2 collected for the case. Such charge shall only be established by an act of
3 the legislature and no other authority is established by law or otherwise to
4 collect a fee.

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

11 ~~(f)~~ (h) At the hearing on the petition, the court shall order the
12 petitioner's arrest record, conviction or diversion expunged if the court
13 finds that:

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

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

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

20 ~~(g)~~ (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 which shall notify the federal bureau of investigation, the
25 secretary of corrections and any other criminal justice agency which may
26 have a record of the arrest, conviction or diversion. After the order of
27 expungement is entered, the petitioner shall be treated as not having been
28 arrested, convicted or diverted of the crime, except that:

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

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

34 (A) In any application for licensure as a private detective, private
35 detective agency, certification as a firearms trainer pursuant to K.S.A.
36 2011 Supp. 75-7b21, and amendments thereto, or employment as a
37 detective with a private detective agency, as defined by K.S.A. 75-7b01,
38 and amendments thereto; as security personnel with a private patrol
39 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
40 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
41 the department of social and rehabilitation services;

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

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

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

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

16 (F) upon application for a commercial driver's license under K.S.A.
17 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

28 (K) for applications received on and after July 1, 2006, to aid in
29 determining the petitioner's qualifications for a license to carry a concealed
30 weapon pursuant to the personal and family protection act, K.S.A. 2011
31 Supp. 75-7c01 *et seq.*, and amendments thereto;

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

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

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

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

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

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

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

18 (1) The person whose record was expunged;

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

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

25 (4) the secretary of social and rehabilitation services, or a designee of
26 the secretary, for the purpose of obtaining information relating to
27 employment in an institution, as defined in K.S.A. 76-12a01, and
28 amendments thereto, of the department of social and rehabilitation services
29 of any person whose record has been expunged;

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

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

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

41 (8) the Kansas lottery, and the request is accompanied by a statement
42 that the request is being made to aid in determining qualifications for
43 employment with the Kansas lottery or for work in sensitive areas within

1 the Kansas lottery as deemed appropriate by the executive director of the
2 Kansas lottery;

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

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

17 (11) the Kansas sentencing commission;

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

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

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

33 (15) a law enforcement agency and the request is accompanied by a
34 statement that the request is being made to aid in determining eligibility
35 for employment as a law enforcement officer as defined by K.S.A. 22-
36 2202, and amendments thereto; ~~or~~

37 (16) the attorney general and the request is accompanied by a
38 statement that the request is being made to aid in determining
39 qualifications for a license to carry a concealed weapon pursuant to the
40 personal and family protection act; *or*

41 (17) *the Kansas bureau of investigation for the purposes of:*

42 (A) *Completing a person's criminal history record information within*
43 *the central repository, in accordance with K.S.A. 22-4701 et seq., and*

1 *amendments thereto; or*

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

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

7 Sec. 9. K.S.A. 2011 Supp. 21-6626 is hereby amended to read as
8 follows: 21-6626. (a) An aggravated habitual sex offender shall be
9 sentenced to imprisonment for life without the possibility of parole. Such
10 offender shall spend the remainder of the offender's natural life
11 incarcerated and in the custody of the secretary of corrections. An offender
12 who is sentenced to imprisonment for life without the possibility of parole
13 shall not be eligible for parole, probation, assignment to a community
14 correctional services program, conditional release, postrelease supervision,
15 or suspension, modification or reduction of sentence.

16 (b) Upon sentencing a defendant to imprisonment for life without the
17 possibility of parole, the court shall commit the defendant to the custody of
18 the secretary of corrections and the court shall state in the sentencing order
19 of the judgment form or journal entry, whichever is delivered with the
20 defendant to the correctional institution, that the defendant has been
21 sentenced to imprisonment for life without the possibility of parole.

22 (c) As used in this section:

23 (1) "Aggravated habitual sex offender" means a person who, on and
24 after July 1, 2006: (A) Has been convicted in this state of a sexually
25 violent crime, as described in subsection (c)(2)(A) through (c)(2)(H) or (c)
26 (2)(J); and (B) prior to the conviction of the felony under subparagraph
27 (A), has been convicted of two or more sexually violent crimes;

28 (2) "Sexually violent crime" means:

29 (A) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
30 2011 Supp. 21-5503, and amendments thereto;

31 (B) indecent liberties with a child or aggravated indecent liberties
32 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
33 or K.S.A. 2011 Supp. 21-5506, and amendments thereto;

34 (C) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
35 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
36 2011 Supp. 21-5504, and amendments thereto;

37 (D) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
38 to its repeal, or K.S.A. 2011 Supp. 21-5504, and amendments thereto;

39 (E) indecent solicitation of a child or aggravated indecent solicitation
40 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
41 or K.S.A. 2011 Supp. 21-5508, and amendments thereto;

42 (F) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
43 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

1 (G) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
2 its repeal, or K.S.A. 2011 Supp. 21-5505, and amendments thereto;

3 (H) aggravated incest, as defined in K.S.A. 21-3603, prior to its
4 repeal, or K.S.A. 2011 Supp. 21-5604, and amendments thereto;

5 (I) *aggravated human trafficking, as defined in K.S.A. 21-3447, prior*
6 *to its repeal, or K.S.A. 2011 Supp. 21-5426, and amendments thereto, if*
7 *committed in whole or in part for the purpose of the sexual gratification of*
8 *the defendant or another;*

9 (J) *commercial sexual exploitation of a child, as defined in section 4,*
10 *and amendments thereto;*

11 (K) any federal or other state conviction for a felony offense that
12 under the laws of this state would be a sexually violent crime as defined in
13 this section;

14 (L) an attempt, conspiracy or criminal solicitation, as defined in
15 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011
16 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
17 sexually violent crime as defined in this section; or

18 (M) any act which at the time of sentencing for the offense has
19 been determined beyond a reasonable doubt to have been sexually
20 motivated. As used in this subparagraph, "sexually motivated" means that
21 one of the purposes for which the defendant committed the crime was for
22 the purpose of the defendant's sexual gratification.

23 Sec. 10. K.S.A. 2011 Supp. 21-6627 is hereby amended to read as
24 follows: 21-6627. (a) (1) Except as provided in subsection (b) or (d), a
25 defendant who is 18 years of age or older and is convicted of the following
26 crimes committed on or after July 1, 2006, shall be sentenced to a term of
27 imprisonment for life with a mandatory minimum term of imprisonment of
28 not less than 25 years unless the court determines that the defendant
29 should be sentenced as determined in subsection (a)(2):

30 (A) Aggravated human trafficking, as defined in K.S.A. 2011 Supp.
31 21-5426, and amendments thereto, if the victim is less than 14 years of
32 age;

33 (B) rape, as defined in subsection (a)(3) of K.S.A. 2011 Supp. 21-
34 5503, and amendments thereto;

35 (C) aggravated indecent liberties with a child, as defined in
36 subsection (b)(3) of K.S.A. 2011 Supp. 21-5506, and amendments thereto;

37 (D) aggravated criminal sodomy, as defined in subsection (b)(1) or
38 (b)(2) of K.S.A. 2011 Supp. 21-5504, and amendments thereto;

39 ~~(E) promoting prostitution, as defined in K.S.A. 2011 Supp. 21-6420,~~
40 ~~and amendments thereto, if the prostitute is less than 14 years of age;~~

41 (E) sexual exploitation of a child, as defined in subsection (a)(1)
42 or (a)(4) of K.S.A. 2011 Supp. 21-5510, and amendments thereto, if the
43 child is less than 14 years of age;

1 (F) *commercial sexual exploitation of a child, as defined in*
2 *subsection (b)(2) of section 4, and amendments thereto; and*

3 (G) an attempt, conspiracy or criminal solicitation, as defined in
4 K.S.A. 2011 Supp. 21-5301, 21-5302 or 21-5303, and amendments
5 thereto, of an offense defined in subsections (a)(1)(A) through (a)(1)(F).

6 (2) The provision of subsection (a)(1) requiring a mandatory
7 minimum term of imprisonment of not less than 25 years shall not apply if
8 the court finds:

9 (A) The defendant is an aggravated habitual sex offender and
10 sentenced pursuant to K.S.A. 2011 Supp. 21-6626, and amendments
11 thereto; or

12 (B) the defendant, because of the defendant's criminal history
13 classification, is subject to presumptive imprisonment pursuant to the
14 sentencing guidelines grid for nondrug crimes and the sentencing range
15 exceeds 300 months. In such case, the defendant is required to serve a
16 mandatory minimum term equal to the sentence established pursuant to the
17 sentencing range.

18 (b) (1) On and after July 1, 2006, if a defendant who is 18 years of
19 age or older is convicted of a crime listed in subsection (a)(1) and such
20 defendant has previously been convicted of a crime listed in subsection (a)
21 (1), a crime in effect at any time prior to July 1, 2011, which is
22 substantially the same as a crime listed in subsection (a)(1) or a crime
23 under a law of another jurisdiction which is substantially the same as a
24 crime listed in subsection (a)(1), the court shall sentence the defendant to a
25 term of imprisonment for life with a mandatory minimum term of
26 imprisonment of not less than 40 years. The provisions of this paragraph
27 shall not apply to a crime committed under K.S.A. 2011 Supp. 21-5507,
28 and amendments thereto, or a crime under a law of another jurisdiction
29 which is substantially the same as K.S.A. 2011 Supp. 21-5507, and
30 amendments thereto.

31 (2) The provision of subsection (b)(1) requiring a mandatory
32 minimum term of imprisonment of not less than 40 years shall not apply if
33 the court finds:

34 (A) The defendant is an aggravated habitual sex offender and
35 sentenced pursuant to K.S.A. 2011 Supp. 21-6626, and amendments
36 thereto; or

37 (B) the defendant, because of the defendant's criminal history
38 classification, is subject to presumptive imprisonment pursuant to the
39 sentencing guidelines grid for nondrug crimes and the sentencing range
40 exceeds 480 months. In such case, the defendant is required to serve a
41 mandatory minimum term equal to the sentence established pursuant to the
42 sentencing range.

43 (c) When a person is sentenced pursuant to subsection (a) or (b), such

1 person shall be sentenced to a mandatory minimum term of imprisonment
2 of not less than 25 years, 40 years or be sentenced as determined in
3 subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall
4 not be eligible for probation or suspension, modification or reduction of
5 sentence. In addition, a person sentenced pursuant to this section shall not
6 be eligible for parole prior to serving such mandatory term of
7 imprisonment, and such imprisonment shall not be reduced by the
8 application of good time credits.

9 (d) (1) On or after July 1, 2006, for a first time conviction of an
10 offense listed in subsection (a)(1), the sentencing judge shall impose the
11 mandatory minimum term of imprisonment provided by subsection (a),
12 unless the judge finds substantial and compelling reasons, following a
13 review of mitigating circumstances, to impose a departure. If the
14 sentencing judge departs from such mandatory minimum term of
15 imprisonment, the judge shall state on the record at the time of sentencing
16 the substantial and compelling reasons for the departure. The departure
17 sentence shall be the sentence pursuant to the revised Kansas sentencing
18 guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated,
19 and amendments thereto, and, subject to the provisions of K.S.A. 2011
20 Supp. 21-6818, and amendments thereto, no sentence of a mandatory
21 minimum term of imprisonment shall be imposed hereunder.

22 (2) As used in this subsection, "mitigating circumstances" shall
23 include, but are not limited to, the following:

24 (A) The defendant has no significant history of prior criminal
25 activity;

26 (B) the crime was committed while the defendant was under the
27 influence of extreme mental or emotional disturbances;

28 (C) the victim was an accomplice in the crime committed by another
29 person, and the defendant's participation was relatively minor;

30 (D) the defendant acted under extreme distress or under the
31 substantial domination of another person;

32 (E) the capacity of the defendant to appreciate the criminality of the
33 defendant's conduct or to conform the defendant's conduct to the
34 requirements of law was substantially impaired; and

35 (F) the age of the defendant at the time of the crime.

36 (e) The provisions of K.S.A. 21-3301, 21-3302 or 21-3303, prior to
37 their repeal, or K.S.A. 2011 Supp. 21-5301, 21-5302 or 21-5303, and
38 amendments thereto, shall not apply to any defendant sentenced pursuant
39 to this section.

40 Sec. 11. K.S.A. 2011 Supp. 21-6815 is hereby amended to read as
41 follows: 21-6815. (a) Except as provided in subsection (b), the
42 sentencing judge shall impose the presumptive sentence provided by the
43 sentencing guidelines unless the judge finds substantial and compelling

1 reasons to impose a departure sentence. If the sentencing judge departs
2 from the presumptive sentence, the judge shall state on the record at the
3 time of sentencing the substantial and compelling reasons for the
4 departure.

5 (b) Subject to the provisions of subsection (b) of K.S.A. 2011 Supp.
6 21-6817, and amendments thereto, any fact that would increase the penalty
7 for a crime beyond the statutory maximum, other than a prior conviction,
8 shall be submitted to a jury and proved beyond a reasonable doubt.

9 (c) (1) Subject to the provisions of subsections (c)(3) and (e), the
10 following nonexclusive list of mitigating factors may be considered in
11 determining whether substantial and compelling reasons for a departure
12 exist:

13 (A) The victim was an aggressor or participant in the criminal
14 conduct associated with the crime of conviction.

15 (B) The offender played a minor or passive role in the crime or
16 participated under circumstances of duress or compulsion. This factor may
17 be considered when it is not sufficient as a complete defense.

18 (C) The offender, because of physical or mental impairment, lacked
19 substantial capacity for judgment when the offense was committed. The
20 voluntary use of intoxicants, drugs or alcohol does not fall within the
21 purview of this factor.

22 (D) The defendant, or the defendant's children, suffered a continuing
23 pattern of physical or sexual abuse by the victim of the offense and the
24 offense is a response to that abuse.

25 (E) The degree of harm or loss attributed to the current crime of
26 conviction was significantly less than typical for such an offense.

27 (2) Subject to the provisions of subsection (c)(3), the following
28 nonexclusive list of aggravating factors may be considered in determining
29 whether substantial and compelling reasons for departure exist:

30 (A) The victim was particularly vulnerable due to age, infirmity, or
31 reduced physical or mental capacity which was known or should have
32 been known to the offender.

33 (B) The defendant's conduct during the commission of the current
34 offense manifested excessive brutality to the victim in a manner not
35 normally present in that offense.

36 (C) The offense was motivated entirely or in part by the race, color,
37 religion, ethnicity, national origin or sexual orientation of the victim or the
38 offense was motivated by the defendant's belief or perception, entirely or
39 in part, of the race, color, religion, ethnicity, national origin or sexual
40 orientation of the victim whether or not the defendant's belief or perception
41 was correct.

42 (D) The offense involved a fiduciary relationship which existed
43 between the defendant and the victim.

1 (E) The defendant, 18 or more years of age, employed, hired, used,
2 persuaded, induced, enticed or coerced any individual under 16 years of
3 age to:

4 (i) Commit any person felony;

5 (ii) assist in avoiding detection or apprehension for commission of
6 any person felony; or

7 (iii) attempt, conspire or solicit, as defined in K.S.A. 2011 Supp. 21-
8 5301, 21-5302 and 21-5303, and amendments thereto, to commit any
9 person felony.

10 That the defendant did not know the age of the individual under 16
11 years of age shall not be a consideration.

12 (F) The defendant's current crime of conviction is a crime of extreme
13 sexual violence and the defendant is a predatory sex offender. As used in
14 this subsection:

15 (i) "Crime of extreme sexual violence" is a felony limited to the
16 following:

17 (a) A crime involving a nonconsensual act of sexual intercourse or
18 sodomy with any person;

19 (b) a crime involving an act of sexual intercourse, sodomy or lewd
20 fondling and touching with any child who is 14 or more years of age but
21 less than 16 years of age and with whom a relationship has been
22 established or promoted for the primary purpose of victimization; ~~or~~

23 (c) a crime involving an act of sexual intercourse, sodomy or lewd
24 fondling and touching with any child who is less than 14 years of age ;

25 (d) *aggravated human trafficking, as defined in K.S.A. 2011 Supp.*
26 *21-5426, and amendments thereto, if the victim is less than 14 years of*
27 *age; or*

28 (e) *commercial sexual exploitation of a child, as defined in*
29 *subsection (b)(2) of section 4, and amendments thereto.*

30 (ii) "Predatory sex offender" is an offender who has been convicted of
31 a crime of extreme sexual violence as the current crime of conviction and
32 who:

33 (a) Has one or more prior convictions of any crimes of extreme
34 sexual violence. Any prior conviction used to establish the defendant as a
35 predatory sex offender pursuant to this subsection shall also be counted in
36 determining the criminal history category; or

37 (b) suffers from a mental condition or personality disorder which
38 makes the offender likely to engage in additional acts constituting crimes
39 of extreme sexual violence.

40 (iii) "Mental condition or personality disorder" means an emotional,
41 mental or physical illness, disease, abnormality, disorder, pathology or
42 condition which motivates the person, affects the predisposition or desires
43 of the person, or interferes with the capacity of the person to control

1 impulses to commit crimes of extreme sexual violence.

2 (G) The defendant was incarcerated during the commission of the
3 offense.

4 (H) The crime involved two or more participants in the criminal
5 conduct, and the defendant played a major role in the crime as the
6 organizer, leader, recruiter, manager or supervisor.

7 In determining whether aggravating factors exist as provided in this
8 section, the court shall review the victim impact statement.

9 (3) If a factual aspect of a crime is a statutory element of the crime or
10 is used to subclassify the crime on the crime severity scale, that aspect of
11 the current crime of conviction may be used as an aggravating or
12 mitigating factor only if the criminal conduct constituting that aspect of the
13 current crime of conviction is significantly different from the usual
14 criminal conduct captured by the aspect of the crime.

15 (d) In determining aggravating or mitigating circumstances, the court
16 shall consider:

17 (1) Any evidence received during the proceeding;

18 (2) the presentence report;

19 (3) written briefs and oral arguments of either the state or counsel for
20 the defendant; and

21 (4) any other evidence relevant to such aggravating or mitigating
22 circumstances that the court finds trustworthy and reliable.

23 (e) Upon motion of the prosecutor stating that the defendant has
24 provided substantial assistance in the investigation or prosecution of
25 another person who is alleged to have committed an offense, the court may
26 consider such mitigation in determining whether substantial and
27 compelling reasons for a departure exist. In considering this mitigating
28 factor, the court may consider the following:

29 (1) The court's evaluation of the significance and usefulness of the
30 defendant's assistance, taking into consideration the prosecutor's
31 evaluation of the assistance rendered;

32 (2) the truthfulness, completeness and reliability of any information
33 or testimony provided by the defendant;

34 (3) the nature and extent of the defendant's assistance;

35 (4) any injury suffered, or any danger or risk of injury to the
36 defendant or the defendant's family resulting from such assistance; and

37 (5) the timeliness of the defendant's assistance.

38 Sec. 12. K.S.A. 2011 Supp. 22-2515 is hereby amended to read as
39 follows: 22-2515. (a) An *ex parte* order authorizing the interception of a
40 wire, oral or electronic communication may be issued by a judge of
41 competent jurisdiction. The attorney general, district attorney or county
42 attorney may make an application to any judge of competent jurisdiction
43 for an order authorizing the interception of a wire, oral or electronic

1 communication by an investigative or law enforcement officer and agency
2 having responsibility for the investigation of the offense regarding which
3 the application is made, when such interception may provide evidence of
4 the commission of any of the following offenses:

5 (1) Any crime directly and immediately affecting the safety of a
6 human life which is a felony;

7 (2) murder;

8 (3) kidnapping;

9 (4) treason;

10 (5) sedition;

11 (6) racketeering;

12 (7) commercial bribery;

13 (8) robbery;

14 (9) theft, if the offense would constitute a felony;

15 (10) bribery;

16 (11) any felony violation of K.S.A. 2011 Supp. 21-5701 through 21-
17 5717, and amendments thereto;

18 (12) commercial gambling;

19 (13) sports bribery;

20 (14) tampering with a sports contest;

21 (15) aggravated escape;

22 (16) aggravated failure to appear;

23 (17) arson;

24 (18) terrorism;

25 (19) illegal use of weapons of mass destruction; ~~or~~

26 (20) *human trafficking or aggravated human trafficking*;

27 (21) *sexual exploitation of a child*;

28 (22) *commercial sexual exploitation of a child*;

29 (23) *buying sexual relations or selling sexual relations*; or

30 ~~(20)~~ (24) any conspiracy to commit any of the foregoing offenses.

31 (b) Any investigative or law enforcement officer who, by any means
32 authorized by this act or by chapter 119 of title 18 of the United States
33 code, has obtained knowledge of the contents of any wire, oral or
34 electronic communication, or evidence derived therefrom, may disclose
35 such contents to another investigative or law enforcement officer to the
36 extent that such disclosure is appropriate to the proper performance of the
37 official duties of the officer making or receiving the disclosure.

38 (c) Any investigative or law enforcement officer who, by any means
39 authorized by this act or by chapter 119 of title 18 of the United States
40 code, has obtained knowledge of the contents of any wire, oral or
41 electronic communication, or evidence derived therefrom, may use such
42 contents to the extent such use is appropriate to the proper performance of
43 such officer's official duties.

1 (d) Any person who has received, by any means authorized by this
2 act or by chapter 119 of title 18 of the United States code or by a like
3 statute of any other state, any information concerning a wire, oral or
4 electronic communication, or evidence derived therefrom, intercepted in
5 accordance with the provisions of this act, may disclose the contents of
6 such communication or such derivative evidence while giving testimony
7 under oath or affirmation in any criminal proceeding in any court, or
8 before any grand jury, of this state or of the United States or of any other
9 state.

10 (e) No otherwise privileged wire, oral or electronic communication
11 intercepted in accordance with, or in violation of, the provisions of this act
12 or of chapter 119 of title 18 of the United States code shall lose its
13 privileged character.

14 (f) When an investigative or law enforcement officer, while engaged
15 in intercepting wire, oral or electronic communications in the manner
16 authorized by this act, intercepts wire, oral or electronic communications
17 relating to offenses other than those specified in the order authorizing the
18 interception of the wire, oral or electronic communication, the contents
19 thereof and evidence derived therefrom may be disclosed or used as
20 provided in subsections (b) and (c) of this section. Such contents and
21 evidence derived therefrom may be used under subsection (d) of this
22 section when authorized or approved by a judge of competent jurisdiction,
23 where such judge finds on subsequent application, made as soon as
24 practicable, that the contents were otherwise intercepted in accordance
25 with the provisions of this act, or with chapter 119 of title 18 of the United
26 States code.

27 Sec. 13. K.S.A. 2011 Supp. 22-3717 is hereby amended to read as
28 follows: 22-3717.(a) Except as otherwise provided by this section; K.S.A.
29 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through 21-4638,
30 prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642,
31 prior to its repeal; K.S.A. 2011 Supp. 21-6617, 21-6620, 21-6623, 21-
32 6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567,
33 and amendments thereto; an inmate, including an inmate sentenced
34 pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2011 Supp. 21-
35 6707, and amendments thereto, shall be eligible for parole after serving the
36 entire minimum sentence imposed by the court, less good time credits.

37 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, prior
38 to their repeal, and K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-
39 6625, and amendments thereto, an inmate sentenced to imprisonment for
40 the crime of capital murder, or an inmate sentenced for the crime of
41 murder in the first degree based upon a finding of premeditated murder,
42 committed on or after July 1, 1994, shall be eligible for parole after
43 serving 25 years of confinement, without deduction of any good time

1 credits.

2 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
3 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior
4 to their repeal, and K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-
5 6625, and amendments thereto, an inmate sentenced to imprisonment for
6 an off-grid offense committed on or after July 1, 1993, but prior to July 1,
7 1999, shall be eligible for parole after serving 15 years of confinement,
8 without deduction of any good time credits and an inmate sentenced to
9 imprisonment for an off-grid offense committed on or after July 1, 1999,
10 shall be eligible for parole after serving 20 years of confinement without
11 deduction of any good time credits.

12 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
13 repeal, an inmate sentenced for a class A felony committed before July 1,
14 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
15 its repeal, or K.S.A. 2011 Supp. 21-6707, and amendments thereto, shall
16 be eligible for parole after serving 15 years of confinement, without
17 deduction of any good time credits.

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

23 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
24 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
25 thereto, committed on or after July 1, 2006, shall be eligible for parole
26 after serving the mandatory term of imprisonment without deduction of
27 any good time credits.

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

32 (A) The aggregate minimum sentences, as determined pursuant to
33 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2011 Supp. 21-6606, and
34 amendments thereto, less good time credits for those crimes which are not
35 class A felonies; and

36 (B) an additional 15 years, without deduction of good time credits,
37 for each crime which is a class A felony.

38 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
39 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
40 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
41 eligible for parole after serving the mandatory term of imprisonment.

42 (d) (1) Persons sentenced for crimes, other than off-grid crimes,
43 committed on or after July 1, 1993, or persons subject to subparagraph

1 (G), will not be eligible for parole, but will be released to a mandatory
2 period of postrelease supervision upon completion of the prison portion of
3 their sentence as follows:

4 (A) Except as provided in subparagraphs (D) and (E), persons
5 sentenced for nondrug severity level 1 through 4 crimes and drug severity
6 levels 1 and 2 crimes must serve 36 months, plus the amount of good time
7 and program credit earned and retained pursuant to K.S.A. 21-4722, prior
8 to its repeal, or K.S.A. 2011 Supp. 21-6821, and amendments thereto, on
9 postrelease supervision.

10 (B) Except as provided in subparagraphs (D) and (E), persons
11 sentenced for nondrug severity levels 5 and 6 crimes and drug severity
12 level 3 crimes must serve 24 months, plus the amount of good time and
13 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
14 repeal, or K.S.A. 2011 Supp. 21-6821, and amendments thereto, on
15 postrelease supervision.

16 (C) Except as provided in subparagraphs (D) and (E), persons
17 sentenced for nondrug severity level 7 through 10 crimes and drug severity
18 level 4 crimes must serve 12 months, plus the amount of good time and
19 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
20 repeal, or K.S.A. 2011 Supp. 21-6821, and amendments thereto, on
21 postrelease supervision.

22 (D) (i) The sentencing judge shall impose the postrelease supervision
23 period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless
24 the judge finds substantial and compelling reasons to impose a departure
25 based upon a finding that the current crime of conviction was sexually
26 motivated. In that event, departure may be imposed to extend the
27 postrelease supervision to a period of up to 60 months.

28 (ii) If the sentencing judge departs from the presumptive postrelease
29 supervision period, the judge shall state on the record at the time of
30 sentencing the substantial and compelling reasons for the departure.
31 Departures in this section are subject to appeal pursuant to K.S.A. 21-
32 4721, prior to its repeal, or K.S.A. 2011 Supp. 21-6820, and amendments
33 thereto.

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

36 (a) Written briefs or oral arguments submitted by either the defendant
37 or the state;

38 (b) any evidence received during the proceeding;

39 (c) the presentence report, the victim's impact statement and any
40 psychological evaluation as ordered by the court pursuant to subsection (e)
41 of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 2011
42 Supp. 21-6813, and amendments thereto; and

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

1 (iv) The sentencing judge may order that a psychological evaluation
2 be prepared and the recommended programming be completed by the
3 offender. The department of corrections or the ~~parole~~ *prisoner review*
4 board shall ensure that court ordered sex offender treatment be carried out.

5 (v) In carrying out the provisions of subparagraph (d)(1)(D), the court
6 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2011 Supp. 21-
7 6817, and amendments thereto.

8 (vi) Upon petition, the ~~parole~~ *prisoner review* board may provide for
9 early discharge from the postrelease supervision period upon completion
10 of court ordered programs and completion of the presumptive postrelease
11 supervision period, as determined by the crime of conviction, pursuant to
12 subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
13 postrelease supervision is at the discretion of the ~~parole~~ *prisoner review*
14 board.

15 (vii) Persons convicted of crimes deemed sexually violent or sexually
16 motivated, shall be registered according to the offender registration act,
17 K.S.A. 22-4901 ~~through 22-4910~~ *et seq.*, and amendments thereto.

18 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
19 repeal, or K.S.A. 2011 Supp. 21-5508, and amendments thereto, shall be
20 required to participate in a treatment program for sex offenders during the
21 postrelease supervision period.

22 (E) The period of postrelease supervision provided in subparagraphs
23 (A) and (B) may be reduced by up to 12 months and the period of
24 postrelease supervision provided in subparagraph (C) may be reduced by
25 up to six months based on the offender's compliance with conditions of
26 supervision and overall performance while on postrelease supervision. The
27 reduction in the supervision period shall be on an earned basis pursuant to
28 rules and regulations adopted by the secretary of corrections.

29 (F) In cases where sentences for crimes from more than one severity
30 level have been imposed, the offender shall serve the longest period of
31 postrelease supervision as provided by this section available for any crime
32 upon which sentence was imposed irrespective of the severity level of the
33 crime. Supervision periods will not aggregate.

34 (G) Except as provided in subsection (u), persons convicted of a
35 sexually violent crime committed on or after July 1, 2006, and who are
36 released from prison, shall be released to a mandatory period of
37 postrelease supervision for the duration of the person's natural life.

38 (2) As used in this section, "sexually violent crime" means:

39 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2011 Supp.
40 21-5503, and amendments thereto;

41 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
42 or subsection (a) of K.S.A. 2011 Supp. 21-5506, and amendments thereto;

43 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior

1 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5506, and
2 amendments thereto;

3 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
4 prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2011 Supp. 21-
5 5504, and amendments thereto;

6 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
7 or subsection (b) of K.S.A. 2011 Supp. 21-5504, and amendments thereto;

8 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
9 or subsection (a) of K.S.A. 2011 Supp. 21-5508, and amendments thereto;

10 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
11 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5508, and
12 amendments thereto;

13 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
14 or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

15 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
16 subsection (b) of K.S.A. 2011 Supp. 21-5505, and amendments thereto;

17 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or
18 subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments thereto; ~~or~~

19 (K) *aggravated human trafficking, as defined in K.S.A. 21-3447,*
20 *prior to its repeal, or K.S.A. 2011 Supp. 21-5426, and amendments*
21 *thereto, if committed in whole or in part for the purpose of the sexual*
22 *gratification of the defendant or another;*

23 (L) *commercial sexual exploitation of a child, as defined in section 4,*
24 *and amendments thereto; or*

25 ~~(K)~~ (M) an attempt, conspiracy or criminal solicitation, as defined in
26 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011
27 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
28 sexually violent crime as defined in this section.

29 "Sexually motivated" means that one of the purposes for which the
30 defendant committed the crime was for the purpose of the defendant's
31 sexual gratification.

32 (e) If an inmate is sentenced to imprisonment for a crime committed
33 while on parole or conditional release, the inmate shall be eligible for
34 parole as provided by subsection (c), except that the ~~Kansas parole~~
35 ~~prisoner review~~ board may postpone the inmate's parole eligibility date by
36 assessing a penalty not exceeding the period of time which could have
37 been assessed if the inmate's parole or conditional release had been
38 violated for reasons other than conviction of a crime.

39 (f) If a person is sentenced to prison for a crime committed on or after
40 July 1, 1993, while on probation, parole, conditional release or in a
41 community corrections program, for a crime committed prior to July 1,
42 1993, and the person is not eligible for retroactive application of the
43 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-

1 4724, prior to its repeal, the new sentence shall not be aggregated with the
2 old sentence, but shall begin when the person is paroled or reaches the
3 conditional release date on the old sentence. If the offender was past the
4 offender's conditional release date at the time the new offense was
5 committed, the new sentence shall not be aggregated with the old sentence
6 but shall begin when the person is ordered released by the ~~Kansas parole~~
7 *prisoner review* board or reaches the maximum sentence expiration date on
8 the old sentence, whichever is earlier. The new sentence shall then be
9 served as otherwise provided by law. The period of postrelease supervision
10 shall be based on the new sentence, except that those offenders whose old
11 sentence is a term of imprisonment for life, imposed pursuant to K.S.A.
12 1993 Supp. 21-4628, prior to its repeal, or an indeterminate sentence with
13 a maximum term of life imprisonment, for which there is no conditional
14 release or maximum sentence expiration date, shall remain on postrelease
15 supervision for life or until discharged from supervision by the ~~Kansas~~
16 *parole* board.

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

33 (h) The ~~Kansas parole~~ *prisoner review* board shall hold a parole
34 hearing at least the month prior to the month an inmate will be eligible for
35 parole under subsections (a), (b) and (c). At least the month preceding the
36 parole hearing, the county or district attorney of the county where the
37 inmate was convicted shall give written notice of the time and place of the
38 public comment sessions for the inmate to any victim of the inmate's crime
39 who is alive and whose address is known to the county or district attorney
40 or, if the victim is deceased, to the victim's family if the family's address is
41 known to the county or district attorney. Except as otherwise provided,
42 failure to notify pursuant to this section shall not be a reason to postpone a
43 parole hearing. In the case of any inmate convicted of an off-grid felony or

1 a class A felony the secretary of corrections shall give written notice of the
2 time and place of the public comment session for such inmate at least one
3 month preceding the public comment session to any victim of such
4 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
5 amendments thereto. If notification is not given to such victim or such
6 victim's family in the case of any inmate convicted of an off-grid felony or
7 a class A felony, the board shall postpone a decision on parole of the
8 inmate to a time at least 30 days after notification is given as provided in
9 this section. Nothing in this section shall create a cause of action against
10 the state or an employee of the state acting within the scope of the
11 employee's employment as a result of the failure to notify pursuant to this
12 section. If granted parole, the inmate may be released on parole on the date
13 specified by the board, but not earlier than the date the inmate is eligible
14 for parole under subsections (a), (b) and (c). At each parole hearing and, if
15 parole is not granted, at such intervals thereafter as it determines
16 appropriate, the ~~Kansas parole~~ *prisoner review* board shall consider: (1)
17 Whether the inmate has satisfactorily completed the programs required by
18 any agreement entered under K.S.A. 75-5210a, and amendments thereto,
19 or any revision of such agreement; and (2) all pertinent information
20 regarding such inmate, including, but not limited to, the circumstances of
21 the offense of the inmate; the presentence report; the previous social
22 history and criminal record of the inmate; the conduct, employment, and
23 attitude of the inmate in prison; the reports of such physical and mental
24 examinations as have been made, including, but not limited to, risk factors
25 revealed by any risk assessment of the inmate; comments of the victim and
26 the victim's family including in person comments, contemporaneous
27 comments and prerecorded comments made by any technological means;
28 comments of the public; official comments; any recommendation by the
29 staff of the facility where the inmate is incarcerated; proportionality of the
30 time the inmate has served to the sentence a person would receive under
31 the Kansas sentencing guidelines for the conduct that resulted in the
32 inmate's incarceration; and capacity of state correctional institutions.

33 (i) In those cases involving inmates sentenced for a crime committed
34 after July 1, 1993, the ~~parole~~ *prisoner review* board ~~will~~ *shall* review the
35 inmates proposed release plan. The board may schedule a hearing if they
36 desire. The board may impose any condition they deem necessary to insure
37 public safety, aid in the reintegration of the inmate into the community, or
38 items not completed under the agreement entered into under K.S.A. 75-
39 5210a, and amendments thereto. The board may not advance or delay an
40 inmate's release date. Every inmate while on postrelease supervision shall
41 remain in the legal custody of the secretary of corrections and is subject to
42 the orders of the secretary.

43 (j) (1) Before ordering the parole of any inmate, the ~~Kansas parole~~

1 *prisoner review* board shall have the inmate appear either in person or via
2 a video conferencing format and shall interview the inmate unless
3 impractical because of the inmate's physical or mental condition or
4 absence from the institution. Every inmate while on parole shall remain in
5 the legal custody of the secretary of corrections and is subject to the orders
6 of the secretary. Whenever the ~~Kansas parole~~ board formally considers
7 placing an inmate on parole and no agreement has been entered into with
8 the inmate under K.S.A. 75-5210a, and amendments thereto, the board
9 shall notify the inmate in writing of the reasons for not granting parole. If
10 an agreement has been entered under K.S.A. 75-5210a, and amendments
11 thereto, and the inmate has not satisfactorily completed the programs
12 specified in the agreement, or any revision of such agreement, the board
13 shall notify the inmate in writing of the specific programs the inmate must
14 satisfactorily complete before parole will be granted. If parole is not
15 granted only because of a failure to satisfactorily complete such programs,
16 the board shall grant parole upon the secretary's certification that the
17 inmate has successfully completed such programs. If an agreement has
18 been entered under K.S.A. 75-5210a, and amendments thereto, and the
19 secretary of corrections has reported to the board in writing that the inmate
20 has satisfactorily completed the programs required by such agreement, or
21 any revision thereof, the board shall not require further program
22 participation. However, if the board determines that other pertinent
23 information regarding the inmate warrants the inmate's not being released
24 on parole, the board shall state in writing the reasons for not granting the
25 parole. If parole is denied for an inmate sentenced for a crime other than a
26 class A or class B felony or an off-grid felony, the board shall hold another
27 parole hearing for the inmate not later than one year after the denial unless
28 the ~~parole~~ board finds that it is not reasonable to expect that parole would
29 be granted at a hearing if held in the next three years or during the interim
30 period of a deferral. In such case, the ~~parole~~ board may defer subsequent
31 parole hearings for up to three years but any such deferral by the board
32 shall require the board to state the basis for its findings. If parole is denied
33 for an inmate sentenced for a class A or class B felony or an off-grid
34 felony, the board shall hold another parole hearing for the inmate not later
35 than three years after the denial unless the ~~parole~~ board finds that it is not
36 reasonable to expect that parole would be granted at a hearing if held in
37 the next 10 years or during the interim period of a deferral. In such case,
38 the ~~parole~~ board may defer subsequent parole hearings for up to 10 years
39 but any such deferral shall require the board to state the basis for its
40 findings.

41 (2) Inmates sentenced for a class A or class B felony who have not
42 had a parole board hearing in the five years prior to July 1, 2010, shall
43 have such inmates' cases reviewed by the ~~parole~~ *prisoner review* board on

1 or before July 1, 2012. Such review shall begin with the inmates with the
2 oldest deferral date and progress to the most recent. Such review shall be
3 done utilizing existing resources unless the ~~parole prisoner review~~ board
4 determines that such resources are insufficient. If the ~~parole prisoner~~
5 *review* board determines that such resources are insufficient, then the
6 provisions of this paragraph are subject to appropriations therefor.

7 (k) Parolees and persons on postrelease supervision shall be assigned,
8 upon release, to the appropriate level of supervision pursuant to the criteria
9 established by the secretary of corrections.

10 (l) The ~~Kansas parole prisoner review~~ board shall adopt rules and
11 regulations in accordance with K.S.A. 77-415 *et seq.*, and amendments
12 thereto, not inconsistent with the law and as it may deem proper or
13 necessary, with respect to the conduct of parole hearings, postrelease
14 supervision reviews, revocation hearings, orders of restitution,
15 reimbursement of expenditures by the state board of indigents' defense
16 services and other conditions to be imposed upon parolees or releasees.
17 Whenever an order for parole or postrelease supervision is issued it shall
18 recite the conditions thereof.

19 (m) Whenever the ~~Kansas parole prisoner review~~ board orders the
20 parole of an inmate or establishes conditions for an inmate placed on
21 postrelease supervision, the board:

22 (1) Unless it finds compelling circumstances which would render a
23 plan of payment unworkable, shall order as a condition of parole or
24 postrelease supervision that the parolee or the person on postrelease
25 supervision pay any transportation expenses resulting from returning the
26 parolee or the person on postrelease supervision to this state to answer
27 criminal charges or a warrant for a violation of a condition of probation,
28 assignment to a community correctional services program, parole,
29 conditional release or postrelease supervision;

30 (2) to the extent practicable, shall order as a condition of parole or
31 postrelease supervision that the parolee or the person on postrelease
32 supervision make progress towards or successfully complete the
33 equivalent of a secondary education if the inmate has not previously
34 completed such educational equivalent and is capable of doing so;

35 (3) may order that the parolee or person on postrelease supervision
36 perform community or public service work for local governmental
37 agencies, private corporations organized not-for-profit or charitable or
38 social service organizations performing services for the community;

39 (4) may order the parolee or person on postrelease supervision to pay
40 the administrative fee imposed pursuant to K.S.A. 22-4529, and
41 amendments thereto, unless the board finds compelling circumstances
42 which would render payment unworkable; and

43 (5) unless it finds compelling circumstances which would render a

1 plan of payment unworkable, shall order that the parolee or person on
2 postrelease supervision reimburse the state for all or part of the
3 expenditures by the state board of indigents' defense services to provide
4 counsel and other defense services to the person. In determining the
5 amount and method of payment of such sum, the ~~parole~~ *prisoner review*
6 board shall take account of the financial resources of the person and the
7 nature of the burden that the payment of such sum will impose. Such
8 amount shall not exceed the amount claimed by appointed counsel on the
9 payment voucher for indigents' defense services or the amount prescribed
10 by the board of indigents' defense services reimbursement tables as
11 provided in K.S.A. 22-4522, and amendments thereto, whichever is less,
12 minus any previous payments for such services.

13 (n) If the court which sentenced an inmate specified at the time of
14 sentencing the amount and the recipient of any restitution ordered as a
15 condition of parole or postrelease supervision, the ~~Kansas parole~~ *prisoner review*
16 board shall order as a condition of parole or postrelease supervision
17 that the inmate pay restitution in the amount and manner provided in the
18 journal entry unless the board finds compelling circumstances which
19 would render a plan of restitution unworkable.

20 (o) Whenever the ~~Kansas parole~~ *prisoner review* board grants the
21 parole of an inmate, the board, within 14 days of the date of the decision to
22 grant parole, shall give written notice of the decision to the county or
23 district attorney of the county where the inmate was sentenced.

24 (p) When an inmate is to be released on postrelease supervision, the
25 secretary, within 30 days prior to release, shall provide the county or
26 district attorney of the county where the inmate was sentenced written
27 notice of the release date.

28 (q) Inmates shall be released on postrelease supervision upon the
29 termination of the prison portion of their sentence. Time served while on
30 postrelease supervision will vest.

31 (r) An inmate who is allocated regular good time credits as provided
32 in K.S.A. 22-3725, and amendments thereto, may receive meritorious
33 good time credits in increments of not more than 90 days per meritorious
34 act. These credits may be awarded by the secretary of corrections when an
35 inmate has acted in a heroic or outstanding manner in coming to the
36 assistance of another person in a life threatening situation, preventing
37 injury or death to a person, preventing the destruction of property or taking
38 actions which result in a financial savings to the state.

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

41 (t) For offenders sentenced prior to May 25, 2000 who are eligible for
42 modification of their postrelease supervision obligation, the department of
43 corrections shall modify the period of postrelease supervision as provided

1 for by this section for offenders convicted of severity level 9 and 10 crimes
2 on the sentencing guidelines grid for nondrug crimes and severity level 4
3 crimes on the sentencing guidelines grid for drug crimes on or before
4 September 1, 2000; for offenders convicted of severity level 7 and 8
5 crimes on the sentencing guidelines grid for nondrug crimes on or before
6 November 1, 2000; and for offenders convicted of severity level 5 and 6
7 crimes on the sentencing guidelines grid for nondrug crimes and severity
8 level 3 crimes on the sentencing guidelines grid for drug crimes on or
9 before January 1, 2001.

10 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
11 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
12 thereto, for crimes committed on or after July 1, 2006, shall be placed on
13 parole for life and shall not be discharged from supervision by the ~~Kansas~~
14 ~~parole prisoner review~~ board. When the board orders the parole of an
15 inmate pursuant to this subsection, the board shall order as a condition of
16 parole that the inmate be electronically monitored for the duration of the
17 inmate's natural life.

18 (v) Whenever the ~~Kansas parole prisoner review~~ board or the court
19 orders a person to be electronically monitored, the board or court shall
20 order the person to reimburse the state for all or part of the cost of such
21 monitoring. In determining the amount and method of payment of such
22 sum, the board or court shall take account of the financial resources of the
23 person and the nature of the burden that the payment of such sum will
24 impose.

25 Sec. 14. K.S.A. 2011 Supp. 22-4902 is hereby amended to read as
26 follows: 22-4902. As used in the Kansas offender registration act, unless
27 the context otherwise requires:

28 (a) "Offender" means:

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

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

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

32 (4) any person who has been required to register under out of state
33 law or is otherwise required to be registered; and

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

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

37 (1) On or after April 14, 1994, is convicted of any sexually violent
38 crime set forth in subsection (c);

39 (2) On or after April 14, 1994, is adjudicated as a juvenile offender
40 for an act which if committed by an adult would constitute the commission
41 of a sexually violent crime set forth in subsection (c), unless the court, on
42 the record, finds that the act involved non-forceful sexual conduct, the
43 victim was at least 14 years of age and the offender was not more than four

1 years older than the victim;

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

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

6 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
7 K.S.A. 2011 Supp. 21-5511, and amendments thereto;

8 (B) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
9 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2011
10 Supp. 21-5504, and amendments thereto;

11 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
12 repeal, or K.S.A. 2011 Supp. 21-6420, and amendments thereto;

13 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
14 repeal, or K.S.A. 2011 Supp. 21-6421, and amendments thereto; or

15 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
16 to its repeal, or K.S.A. 2011 Supp. 21-5513, and amendments thereto;

17 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
18 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5505, and
19 amendments thereto;

20 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
21 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
22 K.S.A. 2011 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
23 of an offense defined in this subsection; or

24 (7) has been convicted of an offense in effect at any time prior to July
25 1, 2011, that is comparable to any crime defined in this subsection, or any
26 out of state conviction for an offense that under the laws of this state
27 would be an offense defined in this subsection.

28 (c) "Sexually violent crime" means:

29 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
30 2011 Supp. 21-5503, and amendments thereto;

31 (2) indecent liberties with a child as defined in K.S.A. 21-3503, prior
32 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5506, and
33 amendments thereto;

34 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-
35 3504, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5506,
36 and amendments thereto;

37 (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of
38 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
39 2011 Supp. 21-5504, and amendments thereto;

40 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior
41 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5504, and
42 amendments thereto;

43 (6) indecent solicitation of a child as defined in K.S.A. 21-3510, prior

1 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5508, and
2 amendments thereto;

3 (7) aggravated indecent solicitation of a child as defined in K.S.A.
4 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-
5 5508, and amendments thereto;

6 (8) sexual exploitation of a child as defined in K.S.A. 21-3516, prior
7 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

8 (9) aggravated sexual battery as defined in K.S.A. 21-3518, prior to
9 its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5505, and
10 amendments thereto;

11 (10) aggravated incest as defined in K.S.A. 21-3603, prior to its
12 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5605, and amendments
13 thereto;

14 (11) electronic solicitation as defined in K.S.A. 21-3523, prior to its
15 repeal, and K.S.A. 2011 Supp. 21-5509, and amendments thereto,
16 committed on or after April 17, 2008;

17 (12) unlawful sexual relations as defined in K.S.A. 21-3520, prior to
18 its repeal, or K.S.A. 2011 Supp. 21-5512, and amendments thereto,
19 committed on or after July 1, 2010;

20 (13) *aggravated human trafficking, as defined in K.S.A. 21-3447,*
21 *prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5426, and*
22 *amendments thereto, if committed in whole or in part for the purpose of*
23 *the sexual gratification of the defendant or another;*

24 (14) *commercial sexual exploitation of a child, as defined in section*
25 *4, and amendments thereto;*

26 ~~(13)~~ (15) any conviction for an offense in effect at any time prior to
27 July 1, 2011, that is comparable to a sexually violent crime as defined in
28 this subsection, or any out of state conviction for an offense that under the
29 laws of this state would be a sexually violent crime as defined in this
30 subsection;

31 ~~(14)~~ (16) an attempt, conspiracy or criminal solicitation, as defined in
32 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011
33 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
34 violent crime, as defined in this subsection; or

35 ~~(15)~~ (17) any act which at the time of sentencing for the offense has
36 been determined beyond a reasonable doubt to have been sexually
37 motivated, unless the court, on the record, finds that the act involved non-
38 forcible sexual conduct, the victim was at least 14 years of age and the
39 offender was not more than four years older than the victim. As used in
40 this paragraph, "sexually motivated" means that one of the purposes for
41 which the defendant committed the crime was for the purpose of the
42 defendant's sexual gratification.

43 (d) "Sexually violent predator" means any person who, on or after

1 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
2 59-29a01 *et seq.*, and amendments thereto.

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

4 (1) On or after May 29, 1997, is convicted of any of the following
5 crimes:

6 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
7 or K.S.A. 2011 Supp. 21-5401, and amendments thereto;

8 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to
9 its repeal, or K.S.A. 2011 Supp. 21-5402, and amendments thereto;

10 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior
11 to its repeal, or K.S.A. 2011 Supp. 21-5403, and amendments thereto;

12 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
13 repeal, or K.S.A. 2011 Supp. 21-5404, and amendments thereto;

14 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
15 its repeal, or K.S.A. 2011 Supp. 21-5405, and amendments thereto;

16 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
17 subsection (a) of K.S.A. 2011 Supp. 21-5408, and amendments thereto;

18 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
19 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5408, and amendments
20 thereto; *or*

21 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its
22 repeal, or K.S.A. 2011 Supp. 21-5411, and amendments thereto, except by
23 a parent, and only when the victim is less than 18 years of age; ~~or~~

24 ~~(I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior~~
25 ~~to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5426, and~~
26 ~~amendments thereto;~~

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

30 (3) has been convicted of an offense in effect at any time prior to
31 July 1, 2011, that is comparable to any crime defined in this subsection, or
32 any out of state conviction for an offense that under the laws of this state
33 would be an offense defined in this subsection; or

34 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
35 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
36 K.S.A. 2011 Supp. 21-5301, 21-5302 and 21-5303, and amendments
37 thereto, of an offense defined in this subsection.

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

39 (1) 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, or K.S.A. 2010 Supp. 21-36a03, and amendments
42 thereto;

43 (2) 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 in subsection (a) of K.S.A. 65-7006, prior to its
5 repeal, or subsection (a) of K.S.A. 2010 Supp. 21-36a09, and amendments
6 thereto;

7 (3) K.S.A. 65-4161, prior to its repeal, or subsection (a)(1) of K.S.A.
8 2010 Supp. 21-36a05, and amendments thereto. The provisions of this
9 paragraph shall not apply to violations of subsections (a)(2) through (a)(6)
10 or (b) of K.S.A. 2010 Supp. 21-36a05, and amendments thereto, which
11 occurred on or after July 1, 2009, through April 15, 2010;

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

16 (5) an 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. 2011
18 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
19 offense defined in this subsection.

20 (g) Convictions which result from or are connected with the same act,
21 or result from crimes committed at the same time, shall be counted for the
22 purpose of this section as one conviction. Any conviction set aside
23 pursuant to law is not a conviction for purposes of this section. A
24 conviction from any out of state court shall constitute a conviction for
25 purposes of this section.

26 (h) "School" means any public or private educational institution,
27 including, but not limited to, postsecondary school, college, university,
28 community college, secondary school, high school, junior high school,
29 middle school, elementary school, trade school, vocational school or
30 professional school providing training or education to an offender.

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

33 (j) "Reside" means to stay, sleep or maintain with regularity one's
34 person and property in a particular place other than a location where the
35 offender is incarcerated. It shall be presumed that an offender resides at
36 any and all locations where the offender stays, sleeps or maintains the
37 offender's person for seven or more consecutive days or parts of days, or
38 for seven or more non-consecutive days in a period of 30 consecutive
39 days.

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

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

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

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

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

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

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

19 (r) "Out of state" means: The District of Columbia; any federal,
20 military, or tribal jurisdiction, including those within this state; any foreign
21 jurisdiction; or any state or territory within the United States, other than
22 this state.

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

25 Sec. 15. K.S.A. 2011 Supp. 22-4906 is hereby amended to read as
26 follows: 22-4906.(a) (1) Except as provided in subsection (c), if convicted
27 of any of the following offenses, an offender's duration of registration shall
28 be, if confined, 15 years after the date of parole, discharge or release,
29 whichever date is most recent, or, if not confined, 15 years from the date of
30 conviction:

31 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
32 or subsection (a) of K.S.A. 2011 Supp. 21-5505, and amendments thereto,
33 when one of the parties involved is less than 18 years of age;

34 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
35 K.S.A. 2011 Supp. 21-5511, and amendments thereto, when one of the
36 parties involved is less than 18 years of age;

37 (C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
38 repeal, or K.S.A. 2011 Supp. 21-6421, and amendments thereto, when one
39 of the parties involved is less than 18 years of age;

40 (D) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
41 to its repeal, or K.S.A. 2011 Supp. 21-5513, and amendments thereto,
42 when one of the parties involved is less than 18 years of age;

43 (E) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,

1 or K.S.A. 2011 Supp. 21-5401, and amendments thereto;

2 (F) murder in the first degree, as defined in K.S.A. 21-3401, prior to
3 its repeal, or K.S.A. 2011 Supp. 21-5402, and amendments thereto;

4 (G) murder in the second degree, as defined in K.S.A. 21-3402, prior
5 to its repeal, or K.S.A. 2011 Supp. 21-5403, and amendments thereto;

6 (H) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
7 repeal, or K.S.A. 2011 Supp. 21-5404, and amendments thereto;

8 (I) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
9 its repeal, or K.S.A. 2011 Supp. 21-5405, and amendments thereto;

10 (J) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal,
11 or K.S.A. 2011 Supp. 21-5411, and amendments thereto, except by a
12 parent, and only when the victim is less than 18 years of age;

13 (K) any act which at the time of sentencing for the offense has been
14 determined beyond a reasonable doubt to have been sexually motivated,
15 unless the court, on the record, finds that the act involved non-forcible
16 sexual conduct, the victim was at least 14 years of age and the offender
17 was not more than four years older than the victim;

18 (L) conviction of any person felony and the court makes a finding on
19 the record that a deadly weapon was used in the commission of such
20 person felony;

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

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

32 (O) K.S.A. 65-4161, prior to its repeal, or subsection (a)(1) of K.S.A.
33 2010 Supp. 21-36a05, and amendments thereto; or

34 (P) any attempt, conspiracy or criminal solicitation, as defined in
35 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011
36 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
37 offense defined in this subsection.

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

1 the duration of registration.

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

7 (A) Criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
8 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2011
9 Supp. 21-5504, and amendments thereto, when one of the parties involved
10 is less than 18 years of age;

11 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
12 prior to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5508, and
13 amendments thereto;

14 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
15 repeal, or K.S.A. 2011 Supp. 21-5509, and amendments thereto;

16 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
17 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments
18 thereto;

19 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
20 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5506, and
21 amendments thereto;

22 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
23 its repeal, or K.S.A. 2011 Supp. 21-5512, and amendments thereto;

24 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
25 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto, if
26 the victim is 14 or more years of age but less than 18 years of age;

27 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
28 its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5505, and
29 amendments thereto;

30 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
31 repeal, or K.S.A. 2011 Supp. 21-6420, and amendments thereto, if the
32 prostitute is 14 or more years of age but less than 18 years of age; or

33 (J) any attempt, conspiracy or criminal solicitation, as defined in
34 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2011
35 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
36 offense defined in this subsection.

37 (2) Except as otherwise provided by the Kansas offender registration
38 act, the duration of registration terminates, if not confined, at the
39 expiration of 25 years from the date of conviction. Any period of time
40 during which any offender is incarcerated in any jail or correctional
41 facility or during which the offender does not comply with any and all
42 requirements of the Kansas offender registration act shall not count toward
43 the duration of registration.

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

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

7 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
8 2011 Supp. 21-5503, and amendments thereto;

9 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
10 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-
11 5508, and amendments thereto;

12 (3) aggravated indecent liberties with a child, as defined in K.S.A.
13 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-
14 5506, and amendments thereto;

15 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
16 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
17 2011 Supp. 21-5504, and amendments thereto;

18 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
19 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5504, and
20 amendments thereto;

21 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
22 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5426, and
23 amendments thereto, if the victim is less than 18 years of age;

24 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
25 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto, if
26 the victim is less than 14 years of age;

27 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
28 repeal, or K.S.A. 2011 Supp. 21-6420, and amendments thereto, if the
29 prostitute is less than 14 years of age;

30 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
31 subsection (a) of K.S.A. 2011 Supp. 21-5408, and amendments thereto;

32 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
33 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5408, and amendments
34 thereto; or

35 (11) *commercial sexual exploitation of a child, as defined in section*
36 *4, and amendments thereto; or*

37 (H) (12) any attempt, conspiracy or criminal solicitation, as defined
38 in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A.
39 2011 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
40 offense defined in this subsection.

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

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

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

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

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

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

26 (g) Notwithstanding any other provisions of this section, for an
27 offender 14 years of age or more who is adjudicated as a juvenile offender
28 for an act which if committed by an adult would constitute a sexually
29 violent crime set forth in subsection (c) of K.S.A. 22-4902, and
30 amendments thereto, and such crime is not an off-grid felony or a felony
31 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
32 4704, prior to its repeal, or K.S.A. 2011 Supp. 21-6804, and amendments
33 thereto, the court shall:

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

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

43 (3) require registration, but such registration information shall not be

1 open to inspection by the public or posted on any internet website, as
2 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
3 registration but such registration is not open to the public, such offender
4 shall provide a copy of such court order to the registering law enforcement
5 agency at the time of registration. The registering law enforcement agency
6 shall forward a copy of such court order to the Kansas bureau of
7 investigation.

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

11 (h) Notwithstanding any other provisions of this section, an offender
12 14 years of age or more who is adjudicated as a juvenile offender for an
13 act which if committed by an adult would constitute a sexually violent
14 crime set forth in subsection (c) of K.S.A. 22-4902, and amendments
15 thereto, and such crime is an off-grid felony or a felony ranked in severity
16 level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its
17 repeal, or K.S.A. 2011 Supp. 21-6804, and amendments thereto, shall be
18 required to register for such offender's lifetime.

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

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

31 (k) For any person moving to Kansas who has been convicted or
32 adjudicated in an out of state court, and who was required to register under
33 an out of state law, the duration of registration shall be the length of time
34 required by the out of state jurisdiction or by the Kansas offender
35 registration act, whichever length of time is longer. The provisions of this
36 subsection shall apply to convictions prior to June 1, 2006, and to persons
37 who moved to Kansas prior to June 1, 2006, and to convictions on or after
38 June 1, 2006, and to persons who moved to Kansas on or after June 1,
39 2006.

40 (l) For any person residing, maintaining employment or attending
41 school in this state who has been convicted or adjudicated by an out of
42 state court of an offense that is comparable to any crime requiring
43 registration pursuant to the Kansas offender registration act, but who was

1 not required to register in the jurisdiction of conviction, the duration of
2 registration shall be the duration required for the comparable offense
3 pursuant to the Kansas offender registration act. The duration of
4 registration shall begin upon establishing residency, beginning
5 employment or beginning school.

6 Sec. 16. K.S.A. 2011 Supp. 38-2243 is hereby amended to read as
7 follows: 38-2243. (a) Upon notice and hearing, the court may issue an
8 order directing who shall have temporary custody and may modify the
9 order during the pendency of the proceedings as will best serve the child's
10 welfare.

11 (b) A hearing pursuant to this section shall be held within 72 hours,
12 excluding Saturdays, Sundays, legal holidays, and days on which the
13 office of the clerk of the court is not accessible, following a child having
14 been taken into protective custody.

15 (c) Whenever it is determined that a temporary custody hearing is
16 required, the court shall immediately set the time and place for the hearing.
17 Notice of a temporary custody hearing shall be given to all parties and
18 interested parties.

19 (d) Notice of the temporary custody hearing shall be given at least 24
20 hours prior to the hearing. The court may continue the hearing to afford the
21 24 hours prior notice or, with the consent of the party or interested party,
22 proceed with the hearing at the designated time. If an order of temporary
23 custody is entered and the parent or other person having custody of the
24 child has not been notified of the hearing, did not appear or waive
25 appearance and requests a rehearing, the court shall rehear the matter
26 without unnecessary delay.

27 (e) Oral notice may be used for giving notice of a temporary custody
28 hearing where there is insufficient time to give written notice. Oral notice
29 is completed upon filing a certificate of oral notice.

30 (f) The court may enter an order of temporary custody after
31 determining there is probable cause to believe that the: (1) Child is
32 dangerous to self or to others; (2) child is not likely to be available within
33 the jurisdiction of the court for future proceedings; ~~or~~ (3) health or welfare
34 of the child may be endangered without further care ; (4) *child has been*
35 *subjected to human trafficking or aggravated human trafficking as defined*
36 *by K.S.A. 2011 Supp. 21-5426, and amendments thereto, or commercial*
37 *sexual exploitation of a child as defined by section 4, and amendments*
38 *thereto; or (5) child committed an act which, if committed by an adult,*
39 *would constitute a violation of K.S.A. 2011 Supp. 21-6419, and*
40 *amendments thereto, selling sexual relations.*

41 (g) (1) Whenever the court determines the necessity for an order of
42 temporary custody the court may place the child in the temporary custody
43 of:

1 (A) A parent or other person having custody of the child and may
2 enter a restraining order pursuant to subsection (h);

3 (B) a person, other than the parent or other person having custody,
4 who shall not be required to be licensed under article 5 of chapter 65 of the
5 Kansas Statutes Annotated, and amendments thereto;

6 (C) a youth residential facility;

7 (D) a shelter facility; or

8 (E) the secretary, if the child is 15 years of age or younger, or 16 or
9 17 years of age if the child has no identifiable parental or family resources
10 or shows signs of physical, mental, emotional or sexual abuse; or

11 (F) *directly to a secure facility or juvenile detention facility,*
12 *notwithstanding any other provision of law, if the child has been subjected*
13 *to human trafficking or aggravated human trafficking as defined by K.S.A.*
14 *2011 Supp. 21-5426, and amendments thereto, or commercial sexual*
15 *exploitation of a child as defined by section 4, and amendments thereto, or*
16 *the child committed an act which, if committed by an adult, would*
17 *constitute a violation of K.S.A. 2011 Supp. 21-6419, and amendments*
18 *thereto, selling sexual relations.*

19 (2) If the secretary presents the court with a plan to provide services
20 to a child or family which the court finds will assure the safety of the
21 child, the court may only place the child in the temporary custody of the
22 secretary until the court finds the services are in place. The court shall
23 have the authority to require any person or entity agreeing to participate in
24 the plan to perform as set out in the plan. When the child is placed in the
25 temporary custody of the secretary, the secretary shall have the
26 discretionary authority to place the child with a parent or to make other
27 suitable placement for the child. When the child is presently alleged, but
28 not yet adjudicated to be a child in need of care solely pursuant to
29 subsection (d)(9) or (d)(10) of K.S.A. 2011 Supp. 38-2202, and
30 amendments thereto, the child may be placed in a juvenile detention
31 facility or other secure facility, but the total amount of time that the child
32 may be held in such facility under this section and K.S.A. 2011 Supp. 38-
33 2242, and amendments thereto, shall not exceed 24 hours, excluding
34 Saturdays, Sundays, legal holidays, and days on which the office of the
35 clerk of the court is not accessible. The order of temporary custody shall
36 remain in effect until modified or rescinded by the court or an adjudication
37 order is entered but not exceeding 60 days, unless good cause is shown
38 and stated on the record.

39 (h) If the court issues an order of temporary custody, the court may
40 also enter an order restraining any alleged perpetrator of physical, sexual,
41 mental or emotional abuse of the child from residing in the child's home;
42 visiting, contacting, harassing or intimidating the child; or attempting to
43 visit, contact, harass or intimidate the child, other family members or

1 witnesses. Such restraining order shall be served by personal service
2 pursuant to subsection (a) of K.S.A. 2011 Supp. 38-2237, and amendments
3 thereto, on any alleged perpetrator to whom the order is directed.

4 (i) (1) The court shall not enter the initial order removing a child from
5 the custody of a parent pursuant to this section unless the court first finds
6 probable cause that: (A)(i) the child is likely to sustain harm if not
7 immediately removed from the home;

8 (ii) allowing the child to remain in home is contrary to the welfare of
9 the child; or

10 (iii) immediate placement of the child is in the best interest of the
11 child; and

12 (B) reasonable efforts have been made to maintain the family unit and
13 prevent the unnecessary removal of the child from the child's home or that
14 an emergency exists which threatens the safety to the child.

15 (2) Such findings shall be included in any order entered by the court.
16 If the child is placed in the custody of the secretary, upon making the order
17 the court shall provide the secretary with a written copy.

18 (j) If the court enters an order of temporary custody that provides for
19 placement of the child with a person other than the parent, the court shall
20 make a child support determination pursuant to K.S.A. 2011 Supp. 38-
21 2277, and amendments thereto.

22 Sec. 17. K.S.A. 2011 Supp. 38-2260 is hereby amended to read as
23 follows: 38-2260. (a) *Valid court order orders.* (1) During proceedings
24 under this code, the court may enter an order directing a child who is the
25 subject of the proceedings to remain in a present or future placement if:

26 (⊕) (A) The child and the child's guardian *ad litem* are present in court
27 when the order is entered;

28 (⊖) (B) the court finds that the child has been adjudicated a child in
29 need of care pursuant to subsections (d)(6), (d)(7), (d)(8), (d)(9), (d)(10) or
30 (d)(12) of K.S.A. 2011 Supp. 38-2202, and amendments thereto, and that
31 the child is not likely to be available within the jurisdiction of the court for
32 future proceedings;

33 (⊗) (C) the child and the guardian *ad litem* receive oral and written
34 notice of the consequences of violation of the order; and

35 (⊕) (D) a copy of the written notice is filed in the official case file.

36 (2) (A) *When a child is placed in protective custody pursuant to an ex*
37 *parte order entered under K.S.A. 2011 Supp. 38-2242, and amendments*
38 *thereto, the court may directly place the child with a secure facility, youth*
39 *residential facility or juvenile detention facility if the court finds that there*
40 *is probable cause to believe the child: (i) Has been subjected to human*
41 *trafficking or aggravated human trafficking as defined by K.S.A. 2011*
42 *Supp. 21-5426, and amendments thereto, or commercial sexual*
43 *exploitation of a child as defined by section 4, and amendments thereto, or*

1 committed an act which, if committed by an adult, would constitute a
2 violation of K.S.A. 2011 Supp. 21-6419, and amendments thereto, selling
3 sexual relations; and (ii) has a history of running as described in
4 subsection (d)(9) of K.S.A. 2011 Supp. 38-2202, and amendments thereto,
5 or is not likely to remain in a foster home or similarly restrictive
6 placement. Such placement is limited until a valid temporary court order
7 pursuant to this section is entered.

8 (B) When a temporary custody hearing has been held pursuant to
9 subsection (f)(4) or (f)(5) of K.S.A. 2011 Supp. 38-2243, and amendments
10 thereto, the court may directly place the child with a secure facility, youth
11 residential facility or juvenile detention facility if the court finds that there
12 is probable cause to believe the child: (i) Has been subjected to human
13 trafficking or aggravated human trafficking as defined by K.S.A. 2011
14 Supp. 21-5426, and amendments thereto, or commercial sexual
15 exploitation of a child as defined by section 4, and amendments thereto, or
16 committed an act which, if committed by an adult, would constitute a
17 violation of K.S.A. 2011 Supp. 21-6419, and amendments thereto, selling
18 sexual relations; and (ii) has a history of running as described in
19 subsection (d)(9) of K.S.A. 2011 Supp. 38-2202, and amendments thereto,
20 or is not likely to remain in a foster home or similarly restrictive
21 placement. Such placement is limited until a valid dispositional court
22 order pursuant to this section is entered.

23 (C) When a child has been adjudicated a child in need of care
24 pursuant to K.S.A. 2011 Supp. 38-2251, and amendments thereto, and the
25 court is entering dispositional orders pursuant to K.S.A. 2011 Supp. 38-
26 2255, and amendments thereto, the court may directly place the child with
27 a secure facility, youth residential facility or juvenile detention facility if
28 the court finds that there is clear and convincing evidence to believe the
29 child: (i) Has been subjected to human trafficking or aggravated human
30 trafficking as defined by K.S.A. 2011 Supp. 21-5426, and amendments
31 thereto, or commercial sexual exploitation of a child as defined by section
32 4, and amendments thereto, or committed an act which, if committed by an
33 adult, would constitute a violation of K.S.A. 2011 Supp. 21-6419, and
34 amendments thereto, selling sexual relations; and (ii) has a history of
35 running as described in subsection (d)(9) of K.S.A. 2011 Supp. 38-2202,
36 and amendments thereto, or is not likely to remain in a foster home or
37 similarly restrictive placement.

38 (D) Except as provided further, the length of such secure placement
39 under this subsection shall not exceed 90 days. Upon a finding of
40 necessity, the court may extend the period of detention for additional
41 increments of 30 days, not to exceed 180 days, notwithstanding any other
42 provision of chapter 38 of the Kansas Statutes Annotated, and
43 amendments thereto. Notwithstanding any other provision of law, an

1 *adjudication of the child as a child in need of care is not required.*

2 (b) *Application.* Any person may file a verified application for
3 determination that a child has violated an order entered pursuant to
4 subsection (a) and for an order authorizing holding the child in a secure
5 facility or juvenile detention facility. The application shall state the
6 applicant's belief that the child has violated the order entered pursuant to
7 subsection (a) without good cause and the specific facts supporting the
8 allegation.

9 (c) *Ex parte order.* After reviewing the application filed pursuant to
10 subsection (b), the court may enter an *ex parte* order directing that the
11 child be taken into custody and held in a secure facility or juvenile
12 detention facility designated by the court, if the court finds probable cause
13 that the child violated the court's order to remain in placement without
14 good cause. Pursuant to K.S.A. 2011 Supp. 38-2237, and amendments
15 thereto, the order shall be served on the child's parents, the child's legal
16 custodian and the child's guardian *ad litem*.

17 (d) *Preliminary hearing.* Within 24 hours following a child's being
18 taken into custody pursuant to an order issued under subsection (c), the
19 court shall hold a preliminary hearing to determine whether the child
20 admits or denies the allegations of the application and, if the child denies
21 the allegations, to determine whether probable cause exists to support the
22 allegations.

23 (1) Notice of the time and place of the preliminary hearing shall be
24 given orally or in writing to the child's parents, the child's legal custodian
25 and the child's guardian *ad litem*.

26 (2) At the hearing, the child shall have the right to a guardian *ad*
27 *litem* and shall be served with a copy of the application.

28 (3) If the child admits the allegations or enters a no contest statement
29 and if the court finds that the admission or no contest statement is
30 knowledgeable and voluntary, the court shall proceed without delay to the
31 placement hearing pursuant to subsection (f).

32 (4) If the child denies the allegations, the court shall determine
33 whether probable cause exists to hold the child in a secure facility or
34 juvenile detention facility pending an evidentiary hearing pursuant to
35 subsection (e). After hearing the evidence, if the court finds that: (A) There
36 is probable cause to believe that the child has violated an order entered
37 pursuant to subsection (a) without good cause; and (B) placement in a
38 secure facility or juvenile detention facility is necessary for the protection
39 of the child or to assure the presence of the child at the evidentiary hearing
40 pursuant to subsection (e), the court may order the child held in a secure
41 facility or juvenile detention facility pending the evidentiary hearing.

42 (e) *Evidentiary hearing.* The court shall hold an evidentiary hearing
43 on an application within 72 hours of the child's being taken into custody.

1 Notice of the time and place of the hearing shall be given orally or in
2 writing to the child's parents, the child's legal custodian and the child's
3 guardian *ad litem*. At the evidentiary hearing, the court shall determine by
4 a clear and convincing evidence whether the child has:

5 (1) Violated a court order entered pursuant to subsection (a) without
6 good cause;

7 (2) been provided at the hearing with the rights enumerated in
8 subsection (d)(2); and

9 (3) been informed of:

10 (A) The nature and consequences of the proceeding;

11 (B) the right to confront and cross-examine witnesses and present
12 evidence;

13 (C) the right to have a transcript or recording of the proceedings; and

14 (D) the right to appeal.

15 (f) *Placement*. (1) If the child admits violating the order entered
16 pursuant to subsection (a) or if, after an evidentiary hearing, the court finds
17 that the child has violated such an order, the court shall immediately
18 proceed to a placement hearing. The court may enter an order awarding
19 custody of the child to:

20 (A) A parent or other legal custodian;

21 (B) a person other than a parent or other person having custody, who
22 shall not be required to be licensed under article 5 of chapter 65 of the
23 Kansas Statutes Annotated, and amendments thereto;

24 (C) a youth residential facility; or

25 (D) the secretary, if the secretary does not already have legal custody
26 of the child.

27 (2) The court may authorize the custodian to place the child in a
28 secure facility or juvenile detention facility, if the court determines that all
29 other placement options have been exhausted or are inappropriate, based
30 upon a written report submitted by the secretary, if the child is in the
31 secretary's custody, or submitted by a public agency independent of the
32 court and law enforcement, if the child is in the custody of someone other
33 than the secretary. The report shall detail the behavior of the child and the
34 circumstances under which the child was brought before the court and
35 made subject to the order entered pursuant to subsection (a).

36 (3) The authorization to place the child in a secure facility or juvenile
37 detention facility pursuant to this subsection shall expire 60 days, inclusive
38 of weekend and legal holidays, after its issue. The court may grant
39 extensions of such authorization for two additional periods, each not to
40 exceed 60 days, upon rehearing pursuant to K.S.A. 2011 Supp. 38-2256,
41 and amendments thereto.

42 (g) *Payment*. The secretary shall only pay for placement and services
43 for a child placed in a secure facility or juvenile detention facility pursuant

1 to subsection (f) upon receipt of a valid court order authorizing secure care
2 placement.

3 (h) *Limitations on facilities used.* Nothing in this section shall
4 authorize placement of a child in an adult jail or lockup.

5 (i) *Time limits, computation.* Except as otherwise specifically
6 provided by subsection (f), Saturdays, Sundays, legal holidays, and days
7 on which the office of the clerk of the court is not accessible shall not be
8 counted in computing any time limit imposed by this section.

9 Sec. 18. K.S.A. 2011 Supp. 38-2312 is hereby amended to read as
10 follows: 38-2312. (a) Except as provided in subsection (b) *and* (c), any
11 records or files specified in this code concerning a juvenile may be
12 expunged upon application to a judge of the court of the county in which
13 the records or files are maintained. The application for expungement may
14 be made by the juvenile, if 18 years of age or older or, if the juvenile is
15 less than 18 years of age, by the juvenile's parent or next friend.

16 (b) There shall be no expungement of records or files concerning acts
17 committed by a juvenile which, if committed by an adult, would constitute
18 a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2011 Supp. 21-
19 5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402,
20 prior to its repeal, or K.S.A. 2011 Supp. 21-5403, and amendments thereto,
21 murder in the second degree; K.S.A. 21-3403, prior to its repeal, or K.S.A.
22 2011 Supp. 21-5404, and amendments thereto, voluntary manslaughter;
23 K.S.A. 21-3404, prior to its repeal, or K.S.A. 2011 Supp. 21-5405, and
24 amendments thereto, involuntary manslaughter; K.S.A. 21-3439, prior to
25 its repeal, or K.S.A. 2011 Supp. 21-5401, and amendments thereto, capital
26 murder; K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A.
27 2011 Supp. 21-5405, and amendments thereto, involuntary manslaughter
28 while driving under the influence of alcohol or drugs; K.S.A. 21-3502,
29 prior to its repeal, or K.S.A. 2011 Supp. 21-5503, and amendments thereto,
30 rape; K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2011
31 Supp. 21-5506, and amendments thereto, indecent liberties with a child;
32 K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp.
33 21-5506, and amendments thereto, aggravated indecent liberties with a
34 child; K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2011
35 Supp. 21-5504, and amendments thereto, aggravated criminal sodomy;
36 K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2011 Supp.
37 21-5508, and amendments thereto, indecent solicitation of a child; K.S.A.
38 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-
39 5508, and amendments thereto, aggravated indecent solicitation of a child;
40 K.S.A. 21-3516, prior to its repeal, or K.S.A. 2011 Supp. 21-5510, and
41 amendments thereto, sexual exploitation; K.S.A. 21-3603, prior to its
42 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments
43 thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or

1 subsection (a) of K.S.A. 2011 Supp. 21-5601, and amendments thereto,
2 endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 2011
3 Supp. 21-5602, and amendments thereto, abuse of a child; or which would
4 constitute an attempt to commit a violation of any of the offenses specified
5 in this subsection.

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

12 ~~(e)~~ (d) When a petition for expungement is filed, the court shall set a
13 date for a hearing on the petition and shall give notice thereof to the
14 county or district attorney. The petition shall state: (1) The juvenile's full
15 name; (2) the full name of the juvenile as reflected in the court record, if
16 different than (1); (3) the juvenile's sex and date of birth; (4) the offense
17 for which the juvenile was adjudicated; (5) the date of the trial; and (6) the
18 identity of the trial court. Except as otherwise provided by law, a petition
19 for expungement shall be accompanied by a docket fee in the amount of
20 \$100. On and after the effective date of this act through June 30, 2012, the
21 supreme court may impose a charge, not to exceed \$19 per case, to fund
22 the costs of non-judicial personnel. All petitions for expungement shall be
23 docketed in the original action. Any person who may have relevant
24 information about the petitioner may testify at the hearing. The court may
25 inquire into the background of the petitioner.

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

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

30 (ii) *one year has elapsed since the final discharge for an adjudication*
31 *concerning acts committed by a juvenile which, if committed by an adult,*
32 *would constitute a violation of K.S.A. 2011 Supp. 21-6419, and*
33 *amendments thereto, selling sexual relations;*

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

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

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

43 ~~(e)~~ (f) Upon entry of an order expunging records or files, the offense

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

11 ~~(f)~~ (g) ~~Copies~~ *A certified copy* of any order made pursuant to
12 subsection (a) or ~~(e)~~ (d) shall be sent to ~~each public officer and agency in~~
13 ~~the county having possession of any~~ *the Kansas bureau of investigation,*
14 *which shall notify every juvenile or criminal justice agency which may*
15 *possess records or files ordered to be expunged. If the officer or agency*
16 *fails to comply with the order within a reasonable time after its receipt, the*
17 ~~officer or~~ *such agency may be adjudged in contempt of court and punished*
18 *accordingly.*

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

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

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

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

32 (1) The person whose record was expunged;

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

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

39 (4) the secretary of social and rehabilitation services, or a designee of
40 the secretary, for the purpose of obtaining information relating to
41 employment in an institution, as defined in K.S.A. 76-12a01, and
42 amendments thereto, of the department of social and rehabilitation services
43 of any person whose record has been expunged;

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

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

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

15 (8) the Kansas sentencing commission; *or*

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

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

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

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

25 Sec. 19. K.S.A. 2011 Supp. 21-6419, 21-6420, 21-6421, 21-6614, 21-
26 6614a, 21-6614b, 21-6614c, 21-6626, 21-6627, 21-6815, 22-2515, 22-
27 3717, 22-4902, 22-4902a, 22-4906, 22-4906a, 38-2243, 38-2260, 38-2312,
28 38-2312a and 38-2312b are hereby repealed.

29 Sec. 20. This act shall take effect and be in force from and after its
30 publication in the statute book.

31