

**SENATE BILL No. 247**

By Committee on Ways and Means

5-3

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1 AN ACT reconciling amendments to certain statutes and making certain  
2 technical changes related thereto; amending K.S.A. 19-4804, 20-369,  
3 as amended by section 4 of chapter 101 of the 2010 Session Laws of  
4 Kansas, 22-2307, as amended by section 8 of chapter 101 of the 2010  
5 Session Laws of Kansas, 22-2908, as amended by section 9 of chapter  
6 101 of the 2010 Session Laws of Kansas, 58-2011, as amended by  
7 section 23 of 2011 Senate Bill No. 112, 60-1620, as amended by  
8 section 44 of 2011 Senate Bill No. 24, 65-445, as amended by section 2  
9 of 2011 House Bill No. 2035, 65-6703, as amended by section 4 of  
10 2011 House Bill No. 2035 and 65-6721, as amended by section 8 of  
11 2011 House Bill No. 2035 and K.S.A. 2009 Supp. 22-2909, as amended  
12 by section 10 of chapter 101 of the 2010 Session Laws of Kansas and  
13 K.S.A. 2010 Supp. 8-116a, as amended by section 1 of 2011 House Bill  
14 No. 2192, 8-259, 8-1020, 8-2118, 9-1703, as amended by section 1 of  
15 2011 House Bill No. 2056, 12-1774, 12-17,149, 12-4117, 22-2410, 22-  
16 2802, as amended by section 118 of 2011 House Bill No. 2339, 22-  
17 3305, 22-3428, 22-3428a, 22-3437, 38-2258, 38-2373, 40-2,118, as  
18 amended by section 6 of 2011 House Bill No. 2030, 60-740, 60-3107,  
19 as amended by section 46 of 2011 Senate Bill No. 24, 65-530, 66-2304  
20 and 75-52,127 and sections 52, 189, 194 and 266 of chapter 136 of the  
21 2010 Session Laws of Kansas and section 244 of chapter 136 of the  
22 2010 Session Laws of Kansas, as amended by section 66 of 2011  
23 House Bill No. 2339, section 285 of chapter 136 of the 2010 Session  
24 Laws of Kansas, as amended by section 1 of 2011 Senate Substitute for  
25 House Bill No. 2008 and section 298 of chapter 136 of the 2010  
26 Session Laws of Kansas, as amended by section 81 of 2011 House Bill  
27 No. 2339 and section 36 of 2011 Senate Bill No. 24 and repealing the  
28 existing sections; also repealing K.S.A. 19-4804, as amended by  
29 section 108 of 2011 House Bill No. 2339, 20-369, as amended by  
30 section 109 of 2011 House Bill No. 2339, 22-2307, as amended by  
31 section 120 of 2011 House Bill No. 2339, 22-2908, as amended by  
32 section 121 of 2011 House Bill No. 2339, 58-2011, as amended by  
33 section 24 of 2011 Senate Bill No. 229, 60-1620, as amended by  
34 section 218 of 2011 House Bill No. 2339, 65-445, as amended by  
35 section 4 of 2011 House Bill No. 2218, 65-6703, as amended by section  
36 247 of 2011 House Bill No. 2339, 65-6721, as amended by section 248

1 of 2011 House Bill No. 2339 and K.S.A. 2009 Supp. 22-2909, as  
2 amended by section 122 of 2011 House Bill No. 2339 and K.S.A. 2010  
3 Supp. 8-116a, as amended by section 85 of 2011 House Bill No. 2339,  
4 8-259a, 8-1020a, 8-2118b, 9-1703, as amended by section 4 of 2011  
5 Senate Bill No. 229, 12-1774c, 12-17,149a, 12-4117a, 21-4603d, as  
6 amended by section 1 of 2011 House Bill No. 2118, 22-2410, as  
7 amended by section 114 of 2011 House bill No. 2339, 22-2802, as  
8 amended by section 2 of 2011 House Bill No. 2118, 22-3305a, 22-  
9 3428c, 22-3428d, 22-3437a, 38-2258a, 38-2373a, 40-2,118, as  
10 amended by section 177 of 2011 House Bill No. 2339, 60-740a, 60-  
11 1610, as amended by section 8 of 2011 Senate Bill No. 38, 60-1610, as  
12 amended by section 217 of 2011 House Bill No. 2339, 60-1629, as  
13 amended by section 219 of 2011 House Bill No. 2339, 60-3107, as  
14 amended by section 221 of 2011 House Bill No. 2339, 65-504a, 65-  
15 530a, 65-1626d, 66-2304, as amended by section 249 of 2011 House  
16 Bill No. 2339 and 75-52,127, as amended by section 281 of 2011  
17 House Bill No. 2339 and section 52 of chapter 136 of the 2010 Session  
18 Laws of Kansas, as amended by section 21 of 2011 House Bill No.  
19 2339, section 189 of chapter 136 of the 2010 Session Laws of Kansas,  
20 as amended by section 51 of 2011 House Bill No. 2339, section 194 of  
21 chapter 136 of the 2010 Session Laws of Kansas, as amended by  
22 section 54 of 2011 House Bill No. 2339, section 244 of chapter 136 of  
23 the 2010 Session Laws of Kansas, as amended by section 3 of 2011  
24 House Bill No. 2118, section 266 of chapter 136 of the 2010 Session  
25 Laws of Kansas, as amended by section 72 of 2011 House Bill No.  
26 2339, section 285 of chapter 136 of the 2010 Session Laws of Kansas,  
27 as amended by section 77 of 2011 House Bill No. 2339 and section 298  
28 of chapter 136 of the 2010 Session Laws of Kansas, as amended by  
29 section 1 of 2011 House Bill No. 2038.

30  
31 *Be it enacted by the Legislature of the State of Kansas:*

32 Section 1. K.S.A. 2010 Supp. 8-116a, as amended by section 1 of  
33 2011 House Bill No. 2192, is hereby amended to read as follows: 8-116a.  
34 (a) Except as provided in K.S.A. 8-170, and amendments thereto, when an  
35 application is made for a vehicle which has been assembled, reconstructed,  
36 reconstituted or restored from one or more vehicles, or the proper  
37 identification number of a vehicle is in doubt, the procedure in this section  
38 shall be followed. The owner of the vehicle shall request the Kansas  
39 highway patrol to check the vehicle and the highway patrol shall within a  
40 reasonable period of time perform such vehicle check. At the time of such  
41 check the owner shall supply the highway patrol with information  
42 concerning the history of the various parts of the vehicle. Such information  
43 shall be supplied by affidavit of the owner, if so requested by the highway

1 patrol. If the highway patrol is satisfied that the vehicle contains no stolen  
2 parts, it shall assign an existing or new identification number to the vehicle  
3 and direct the places and manner in which the identification number is to  
4 be located and affixed or implanted. A charge of \$15 per hour or part  
5 thereof, with a minimum charge of \$15, and on and after July 1, 2012, a  
6 charge of \$20 per hour or part thereof, with a minimum charge of \$20,  
7 shall be made to the owner of a vehicle requesting check under this  
8 subsection, and such charge shall be paid prior to the check under this  
9 section. When a check has been made under subsection (b), not more than  
10 60 days prior to a check of the same vehicle identification number,  
11 requested by the owner of the vehicle to obtain a regular certificate of title  
12 in lieu of a nonhighway certificate of title or obtain a rebuilt salvage title  
13 in lieu of a salvage title, no charge shall be made for such second check.

14 (b) Any person making application for any original Kansas title for a  
15 used vehicle which, at the time of making application, is titled in another  
16 jurisdiction, as a condition precedent to obtaining any Kansas title, shall  
17 have such vehicle checked by the Kansas highway patrol for verification  
18 that the vehicle identification number shown on the foreign title is genuine  
19 and agrees with the identification number on the vehicle. Checks under  
20 this section may include inspection for possible violation of ~~K.S.A. 21-~~  
21 ~~3757~~ *section 121 of chapter 136 of the 2010 Session Laws of Kansas*, and  
22 amendments thereto, or other evidence of possible fraud. The verification  
23 shall be made upon forms prescribed by the division of vehicles which  
24 shall contain such information as the secretary of revenue shall require by  
25 rules and regulations. A charge of \$15 per hour or part thereof, with a  
26 minimum charge of \$15, and on and after July 1, 2012, a charge of \$20 per  
27 hour or part thereof, with a minimum charge of \$20, shall be made for  
28 checks under this subsection. When a vehicle is registered in another state,  
29 but is financed by a Kansas financial institution and is repossessed in  
30 another state and such vehicle will not be returned to Kansas, the check  
31 required by this subsection shall not be required to obtain a valid Kansas  
32 title or registration.

33 (c) As used in this act, "identification number" or "vehicle  
34 identification number" means an identifying number, serial number, engine  
35 number, transmission number or other distinguishing number or mark,  
36 placed on a vehicle, engine, transmission or other essential part by its  
37 manufacturer or by authority of the division of vehicles or the Kansas  
38 highway patrol or in accordance with the laws of another state or country.

39 (d) The checks made under subsection (b) may be made by:

- 40 (1) A designee of the superintendent of the Kansas highway patrol; or
- 41 (2) an employee of a new vehicle dealer, as defined in subsection (b)  
42 of K.S.A. 8-2401, and amendments thereto, for the purposes provided for  
43 in subsection (f). For checks made by a designee or new vehicle dealer,

1 10% of each charge shall be remitted to the Kansas highway patrol and the  
2 balance of such charges shall be retained by such designee or new vehicle  
3 dealer. If the designee is a city or county law enforcement agency, then the  
4 balance shall be paid to the law enforcement agency that conducted the  
5 inspection. When a check is made under either subsection (a) or (b) by  
6 personnel of the Kansas highway patrol, the entire amount of the charge  
7 therefor shall be paid to the highway patrol.

8 (e) There is hereby created the vehicle identification number fee fund.  
9 The Kansas highway patrol shall remit all moneys received by the Kansas  
10 highway patrol from fees collected under subsection (d) to the state  
11 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
12 amendments thereto. Upon receipt of each such remittance, the state  
13 treasurer shall deposit the entire amount in the state treasury to the credit  
14 of the vehicle identification number fee fund. All expenditures from the  
15 vehicle identification number fee fund shall be made in accordance with  
16 appropriations acts upon warrants of the director of accounts and reports  
17 issued pursuant to vouchers approved by the superintendent of the Kansas  
18 highway patrol or by a person or persons designated by the superintendent.

19 (f) An employee of a new vehicle dealer, who has received initial  
20 training and certification from the highway patrol, and has met continuing  
21 certification requirements, in accordance with rules and regulations  
22 adopted by the superintendent of the highway patrol, may provide the  
23 checks under subsection (b), in accordance with rules and regulations  
24 adopted by the superintendent of the highway patrol, on motor vehicles  
25 that a new vehicle dealer purchases through a manufacturer's sponsored  
26 auction or on motor vehicles repurchased or reacquired by a manufacturer,  
27 distributor or financing subsidiary of such manufacturer and which are  
28 purchased by the new vehicle dealer. At any time, after a hearing in  
29 accordance with the provisions of the Kansas administrative procedure act,  
30 the superintendent of the highway patrol may revoke, suspend, decline to  
31 renew or decline to issue certification for failure to comply with the  
32 provisions of this subsection, including any rules and regulations.

33 Sec. 2. K.S.A. 2010 Supp. 8-259 is hereby amended to read as  
34 follows: 8-259. (a) Except in the case of mandatory revocation under  
35 K.S.A. 8-254 or 8-286, and amendments thereto, mandatory suspension  
36 for an alcohol or drug-related conviction under subsection (b) of K.S.A. 8-  
37 1014, and amendments thereto, mandatory suspension under K.S.A. 8-262,  
38 and amendments thereto, or mandatory disqualification of the privilege to  
39 drive a commercial motor vehicle under subsection (a)(1)(A), (a)(1)(B),  
40 (a)(1)(C), (a)(2)(A), (a)(3)(A) or (a)(3)(B) of K.S.A. 8-2,142, and  
41 amendments thereto, the cancellation, suspension, revocation,  
42 disqualification or denial of a person's driving privileges by the division is  
43 subject to review. Such review shall be in accordance with the *Kansas*

1 ~~judicial review act for judicial review and civil enforcement of agency~~  
2 ~~actions.~~ In the case of review of an order of suspension under K.S.A. 8-  
3 1001 et seq., and amendments thereto, or of an order of disqualification  
4 under subsection (a)(1)(D) of K.S.A. 8-2,142, and amendments thereto, the  
5 petition for review shall be filed within 14 days after the effective date of  
6 the order and venue of the action for review is the county where the  
7 administrative proceeding was held or the county where the person was  
8 arrested. In all other cases, the time for filing the petition is as provided by  
9 K.S.A. 77-613, and amendments thereto, and venue is the county where  
10 the licensee resides. The action for review shall be by trial *de novo* to the  
11 court. The court shall take testimony, examine the facts of the case and  
12 determine whether the petitioner is entitled to driving privileges or  
13 whether the petitioner's driving privileges are subject to suspension,  
14 cancellation or revocation under the provisions of this act. Unless the  
15 petitioner's driving privileges have been extended pursuant to subsection  
16 (o) of K.S.A. 8-1020, and amendments thereto, the court on review may  
17 grant a stay or other temporary remedy pursuant to K.S.A. 77-616, and  
18 amendments thereto, after considering the petitioner's traffic violations  
19 record and liability insurance coverage. If a stay is granted, it shall be  
20 considered equivalent to any license surrendered. If a stay is not granted,  
21 trial shall be set upon 21 days' notice to the legal services bureau of the  
22 department of revenue. No stay shall be issued if a person's driving  
23 privileges are canceled pursuant to K.S.A. 8-250, and amendments thereto.

24 (b) The clerk of any court to which an appeal has been taken under  
25 this section, within 14 days after the final disposition of such appeal, shall  
26 forward a notification of the final disposition to the division.

27 Sec. 3. K.S.A. 2010 Supp. 8-1020 is hereby amended to read as  
28 follows: 8-1020. (a) Any licensee served with an officer's certification and  
29 notice of suspension pursuant to K.S.A. 8-1002, and amendments thereto,  
30 may request an administrative hearing. Such request may be made either  
31 by:

32 (1) Mailing a written request which is postmarked 14 days after  
33 service of notice; or

34 (2) transmitting a written request by electronic facsimile which is  
35 received by the division within 14 days after service of notice.

36 (b) If the licensee makes a timely request for an administrative  
37 hearing, any temporary license issued pursuant to K.S.A. 8-1002, and  
38 amendments thereto, shall remain in effect until the 30th day after the  
39 effective date of the decision made by the division.

40 (c) If the licensee fails to make a timely request for an administrative  
41 hearing, the licensee's driving privileges shall be suspended or suspended  
42 and then restricted in accordance with the notice of suspension served  
43 pursuant to K.S.A. 8-1002, and amendments thereto.

1 (d) Upon receipt of a timely request for a hearing, the division shall  
2 forthwith set the matter for hearing before a representative of the director  
3 and provide notice of the extension of temporary driving privileges. The  
4 hearing shall be held by telephone conference call unless the hearing  
5 request includes a request that the hearing be held in person before a  
6 representative of the director. The officer's certification and notice of  
7 suspension shall inform the licensee of the availability of a hearing before  
8 a representative of the director. Except for a hearing conducted by  
9 telephone conference call, the hearing shall be conducted in the county  
10 where the arrest occurred or a county adjacent thereto.

11 (e) Except as provided in subsection (f), prehearing discovery shall be  
12 limited to the following documents, which shall be provided to the  
13 licensee or the licensee's attorney no later than seven days prior to the date  
14 of hearing:

15 (1) The officer's certification and notice of suspension;

16 (2) in the case of a breath or blood test failure, copies of documents  
17 indicating the result of any evidentiary breath or blood test administered at  
18 the request of a law enforcement officer;

19 (3) in the case of a breath test failure, a copy of the affidavit showing  
20 certification of the officer and the instrument; and

21 (4) in the case of a breath test failure, a copy of the Kansas  
22 department of health and environment testing protocol checklist.

23 (f) At or prior to the time the notice of hearing is sent, the division  
24 shall issue an order allowing the licensee or the licensee's attorney to  
25 review any video or audio tape record made of the events upon which the  
26 administrative action is based. Such review shall take place at a reasonable  
27 time designated by the law enforcement agency and shall be made at the  
28 location where the video or audio tape is kept. The licensee may obtain a  
29 copy of any such video or audio tape upon request and upon payment of a  
30 reasonable fee to the law enforcement agency, not to exceed \$25 per tape.

31 (g) Witnesses at the hearing shall be limited to the licensee, to any  
32 law enforcement officer who signed the certification form and to one other  
33 witness who was present at the time of the issuance of the certification and  
34 called by the licensee. The presence of the certifying officer or officers  
35 shall not be required, unless requested by the licensee at the time of  
36 making the request for the hearing. The examination of a law enforcement  
37 officer shall be restricted to the factual circumstances relied upon in the  
38 officer's certification.

39 (h) (1) If the officer certifies that the person refused the test, the scope  
40 of the hearing shall be limited to whether:

41 (A) A law enforcement officer had reasonable grounds to believe the  
42 person was operating or attempting to operate a vehicle while under the  
43 influence of alcohol or drugs, or both, or had been driving a commercial

1 motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto,  
2 while having alcohol or other drugs in such person's system;

3 (B) the person was in custody or arrested for an alcohol or drug  
4 related offense or was involved in a vehicle accident or collision resulting  
5 in property damage, personal injury or death;

6 (C) a law enforcement officer had presented the person with the oral  
7 and written notice required by K.S.A. 8-1001, and amendments thereto;  
8 and

9 (D) the person refused to submit to and complete a test as requested  
10 by a law enforcement officer.

11 (2) If the officer certifies that the person failed a breath test, the scope  
12 of the hearing shall be limited to whether:

13 (A) A law enforcement officer had reasonable grounds to believe the  
14 person was operating a vehicle while under the influence of alcohol or  
15 drugs, or both, or had been driving a commercial motor vehicle, as defined  
16 in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other  
17 drugs in such person's system;

18 (B) the person was in custody or arrested for an alcohol or drug  
19 related offense or was involved in a vehicle accident or collision resulting  
20 in property damage, personal injury or death;

21 (C) a law enforcement officer had presented the person with the oral  
22 and written notice required by K.S.A. 8-1001, and amendments thereto;

23 (D) the testing equipment used was certified by the Kansas  
24 department of health and environment;

25 (E) the person who operated the testing equipment was certified by  
26 the Kansas department of health and environment;

27 (F) the testing procedures used substantially complied with the  
28 procedures set out by the Kansas department of health and environment;

29 (G) the test result determined that the person had an alcohol  
30 concentration of .08 or greater in such person's breath; and

31 (H) the person was operating or attempting to operate a vehicle.

32 (3) If the officer certifies that the person failed a blood test, the scope  
33 of the hearing shall be limited to whether:

34 (A) A law enforcement officer had reasonable grounds to believe the  
35 person was operating a vehicle while under the influence of alcohol or  
36 drugs, or both, or had been driving a commercial motor vehicle, as defined  
37 in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other  
38 drugs in such person's system;

39 (B) the person was in custody or arrested for an alcohol or drug  
40 related offense or was involved in a vehicle accident or collision resulting  
41 in property damage, personal injury or death;

42 (C) a law enforcement officer had presented the person with the oral  
43 and written notice required by K.S.A. 8-1001, and amendments thereto;

- 1 (D) the testing equipment used was reliable;
- 2 (E) the person who operated the testing equipment was qualified;
- 3 (F) the testing procedures used were reliable;
- 4 (G) the test result determined that the person had an alcohol  
5 concentration of .08 or greater in such person's blood; and
- 6 (H) the person was operating or attempting to operate a vehicle.
- 7 (i) At a hearing pursuant to this section, or upon court review of an  
8 order entered at such a hearing, an affidavit of the custodian of records at  
9 the Kansas department of health and environment stating that the breath  
10 testing device was certified and the operator of such device was certified  
11 on the date of the test shall be admissible into evidence in the same  
12 manner and with the same force and effect as if the certifying officer or  
13 employee of the Kansas department of health and environment had  
14 testified in person. A certified operator of a breath testing device shall be  
15 competent to testify regarding the proper procedures to be used in  
16 conducting the test.
- 17 (j) At a hearing pursuant to this section, or upon court review of an  
18 order entered at such a hearing, in which the report of blood test results  
19 have been prepared by the Kansas bureau of investigation or other forensic  
20 laboratory of a state or local law enforcement agency are to be introduced  
21 as evidence, the report, or a copy of the report, of the findings of the  
22 forensic examiner shall be admissible into evidence in the same manner  
23 and with the same force and effect as if the forensic examiner who  
24 performed such examination, analysis, comparison or identification and  
25 prepared the report thereon had testified in person.
- 26 (k) At the hearing, the licensee has the burden of proof by a  
27 preponderance of the evidence to show that the facts set out in the officer's  
28 certification are false or insufficient and that the order suspending or  
29 suspending and restricting the licensee's driving privileges should be  
30 dismissed.
- 31 (l) Evidence at the hearing shall be limited to the following:
- 32 (1) The documents set out in subsection (e);
- 33 (2) the testimony of the licensee;
- 34 (3) the testimony of any certifying officer;
- 35 (4) the testimony of any witness present at the time of the issuance of  
36 the certification and called by the licensee;
- 37 (5) any affidavits submitted from other witnesses;
- 38 (6) any documents submitted by the licensee to show the existence of  
39 a medical condition, as described in K.S.A. 8-1001, and amendments  
40 thereto; and
- 41 (7) any video or audio tape record of the events upon which the  
42 administrative action is based.
- 43 (m) After the hearing, the representative of the director shall enter an



1 order affirming the order of suspension or suspension and restriction of  
2 driving privileges or for good cause appearing therefor, dismiss the  
3 administrative action. If the representative of the director enters an order  
4 affirming the order of suspension or suspension and restriction of driving  
5 privileges, the suspension or suspension and restriction shall begin on the  
6 30th day after the effective date of the order of suspension or suspension  
7 and restriction. If the person whose privileges are suspended is a  
8 nonresident licensee, the license of the person shall be forwarded to the  
9 appropriate licensing authority in the person's state of residence if the  
10 result at the hearing is adverse to such person or if no timely request for a  
11 hearing is received.

12 (n) The representative of the director may issue an order at the close  
13 of the hearing or may take the matter under advisement and issue a hearing  
14 order at a later date. If the order is made at the close of the hearing, the  
15 licensee or the licensee's attorney shall be served with a copy of the order  
16 by the representative of the director. If the matter is taken under  
17 advisement or if the hearing was by telephone conference call, the licensee  
18 and any attorney who appeared at the administrative hearing upon behalf  
19 of the licensee each shall be served with a copy of the hearing order by  
20 mail. Any law enforcement officer who appeared at the hearing also may  
21 be mailed a copy of the hearing order. The effective date of the hearing  
22 order shall be the date upon which the hearing order is served, whether  
23 served in person or by mail.

24 (o) The licensee may file a petition for review of the hearing order  
25 pursuant to K.S.A. 8-259, and amendments thereto. Upon filing a petition  
26 for review, the licensee shall serve the secretary of revenue with a copy of  
27 the petition and summons. Upon receipt of a copy of the petition for  
28 review by the secretary, the temporary license issued pursuant to  
29 subsection (b) shall be extended until the decision on the petition for  
30 review is final.

31 (p) Such review shall be in accordance with this section and the  
32 *Kansas judicial review act* ~~for judicial review and civil enforcement of~~  
33 ~~agency actions~~. To the extent that this section and any other provision of  
34 law conflicts, this section shall prevail. The petition for review shall be  
35 filed within 14 days after the effective date of the order. Venue of the  
36 action for review is the county where the person was arrested or the  
37 accident occurred, or, if the hearing was not conducted by telephone  
38 conference call, the county where the administrative proceeding was held.  
39 The action for review shall be by trial de novo to the court and the  
40 evidentiary restrictions of subsection (l) shall not apply to the trial de  
41 novo. The court shall take testimony, examine the facts of the case and  
42 determine whether the petitioner is entitled to driving privileges or  
43 whether the petitioner's driving privileges are subject to suspension or

1 suspension and restriction under the provisions of this act. If the court  
2 finds that the grounds for action by the agency have been met, the court  
3 shall affirm the agency action.

4 (q) Upon review, the licensee shall have the burden to show that the  
5 decision of the agency should be set aside.

6 (r) Notwithstanding the requirement to issue a temporary license in  
7 K.S.A. 8-1002, and amendments thereto, and the requirements to extend  
8 the temporary license in this section, any such temporary driving  
9 privileges are subject to restriction, suspension, revocation or cancellation  
10 as provided in K.S.A. 8-1014, and amendments thereto, or for other cause.

11 (s) Upon motion by a party, or on the court's own motion, the court  
12 may enter an order restricting the driving privileges allowed by the  
13 temporary license provided for in K.S.A. 8-1002, and amendments thereto,  
14 and in this section. The temporary license also shall be subject to  
15 restriction, suspension, revocation or cancellation, as set out in K.S.A. 8-  
16 1014, and amendments thereto, or for other cause.

17 (t) The facts found by the hearing officer or by the district court upon  
18 a petition for review shall be independent of the determination of the same  
19 or similar facts in the adjudication of any criminal charges arising out of  
20 the same occurrence. The disposition of those criminal charges shall not  
21 affect the suspension or suspension and restriction to be imposed under  
22 this section.

23 (u) All notices affirming or canceling a suspension under this section,  
24 all notices of a hearing held under this section and all issuances of  
25 temporary driving privileges pursuant to this section shall be sent by first-  
26 class mail and a United States post office certificate of mailing shall be  
27 obtained therefor. All notices so mailed shall be deemed received three  
28 days after mailing, except that this provision shall not apply to any  
29 licensee where such application would result in a manifest injustice.

30 (v) The provisions of K.S.A. 60-206, and amendments thereto,  
31 regarding the computation of time shall be applicable in determining the  
32 time for requesting an administrative hearing as set out in subsection (a)  
33 and to the time for filing a petition for review pursuant to subsection (o)  
34 and K.S.A. 8-259, and amendments thereto.

35 Sec. 4. K.S.A. 2010 Supp. 8-2118 is hereby amended to read as  
36 follows: 8-2118. (a) A person charged with a traffic infraction shall, except  
37 as provided in subsection (b), appear at the place and time specified in the  
38 notice to appear. If the person enters an appearance, waives right to trial,  
39 pleads guilty or no contest, the fine shall be no greater than that specified  
40 in the uniform fine schedule in subsection (c) and court costs shall be  
41 taxed as provided by law.

42 (b) Prior to the time specified in the notice to appear, a person  
43 charged with a traffic infraction may enter a written appearance, waive

1 right to trial, plead guilty or no contest and pay the fine for the violation as  
 2 specified in the uniform fine schedule in subsection (c) and court costs  
 3 provided by law. Payment may be made ~~by mail or in person and may be~~  
 4 ~~by personal check~~ *in any manner accepted by the court.* The traffic citation  
 5 shall not have been complied with if ~~a check~~ *the payment* is not honored  
 6 for any reason, or if the fine and court costs are not paid in full. When a  
 7 person charged with a traffic infraction makes payment without executing  
 8 a written waiver of right to trial and plea of guilty or no contest, the  
 9 payment shall be deemed such an appearance, waiver of right to trial and  
 10 plea of no contest.

11 (c) The following uniform fine schedule shall apply uniformly  
 12 throughout the state but shall not limit the fine which may be imposed  
 13 following a court appearance, except an appearance made for the purpose  
 14 of pleading and payment as permitted by subsection (a). The description of  
 15 offense contained in the following uniform fine schedule is for reference  
 16 only and is not a legal definition.

17 Description of Offense	Statute	Fine
18 Refusal to submit to a preliminary 19 breath test	8-1012	\$105
20 Unsafe speed for prevailing conditions	8-1557	\$75
21 Exceeding maximum speed limit; or 22 speeding in zone posted by the state 23 department of transportation; or speeding 24 in locally posted zone	8-1558 to 8-1560a 8-1560b	1-10 mph over the limit \$45 11-20 mph over the limit \$45 plus \$6 per mph over 10 mph over the limit 21-30 mph over the limit, \$105 plus \$9 per mph over 20 mph over the limit; 31 and more mph over the limit, \$195 plus \$15 per mph over 30 mph over the limit;
25		
26		
27		
28		
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32		
33		
34 Disobeying traffic control device	8-1507	\$75
35 Violating traffic control signal	8-1508	\$75
36 Violating pedestrian control signal	8-1509	\$45
37 Violating flashing traffic signals	8-1510	\$75
38 Violating lane-control signal	8-1511	\$75
39 Unauthorized sign, signal, marking 40 or device	8-1512	\$45
41 Driving on left side of roadway	8-1514	\$75
42 Failure to keep right to pass oncoming 43 vehicle	8-1515	\$75

1	Improper passing; increasing speed when		
2	passed	8-1516	\$75
3	Improper passing on right	8-1517	\$75
4	Passing on left with insufficient clearance	8-1518	\$75
5	Driving on left side where curve, grade,		
6	intersection railroad crossing, or obstructed		
7	view	8-1519	\$75
8	Driving on left in no-passing zone	8-1520	\$75
9	Unlawful passing of stopped emergency		
10	vehicle	8-1520a	\$75
11	Driving wrong direction on one-way		
12	road	8-1521	\$75
13	Improper driving on laned roadway	8-1522	\$75
14	Following too close	8-1523	\$75
15	Improper crossover on divided highway	8-1524	\$45
16	Failure to yield right-of-way at		
17	uncontrolled intersection	8-1526	\$75
18	Failure to yield to approaching vehicle		
19	when turning left	8-1527	\$75
20	Failure to yield at stop or yield sign	8-1528	\$75
21	Failure to yield from private road or		
22	driveway	8-1529	\$75
23	Failure to yield to emergency vehicle	8-1530	\$195
24	Failure to yield to pedestrian or vehicle		
25	working on roadway	8-1531	\$105
26	Failure to comply with restrictions in		
27	road construction zone	8-1531a	\$45
28	Disobeying pedestrian traffic control		
29	device	8-1532	\$45
30	Failure to yield to pedestrian in		
31	crosswalk; pedestrian suddenly		
32	entering roadway; passing vehicle		
33	stopped for pedestrian in		
34	at crosswalk	8-1533	\$75
35	Improper pedestrian crossing	8-1534	\$45
36	Failure to exercise due care in regard to		
37	pedestrian	8-1535	\$45
38	Improper pedestrian movement in		
39	crosswalk	8-1536	\$45
40	Improper use of roadway by pedestrian	8-1537	\$45
41	Soliciting ride or business on roadway	8-1538	\$45
42	Driving through safety zone	8-1539	\$45
43	Failure to yield to pedestrian on sidewalk	8-1540	\$45

1	Failure of pedestrian to yield to emergency		
2	vehicle	8-1541	\$45
3	Failure to yield to blind pedestrian	8-1542	\$45
4	Pedestrian disobeying bridge or railroad		
5	signal	8-1544	\$45
6	Improper turn or approach	8-1545	\$75
7	Improper "U" turn	8-1546	\$75
8	Unsafe starting of stopped vehicle	8-1547	\$45
9	Unsafe turning or stopping, failure to		
10	give proper signal, using turn signal		
11	unlawfully	8-1548	\$75
12	Improper method of giving notice of		
13	intention to turn	8-1549	\$45
14	Improper hand signal	8-1550	\$45
15	Failure to stop or obey railroad crossing		
16	signal	8-1551	\$195
17	Failure to stop at railroad crossing stop		
18	sign	8-1552	\$135
19	Certain hazardous vehicles failure to		
20	stop at railroad crossing	8-1553	\$195
21	Improper moving of heavy equipment at		
22	railroad crossing	8-1554	\$75
23	Vehicle emerging from alley, private		
24	roadway, building or driveway	8-1555	\$75
25	Improper passing of school bus;	8-1556	\$315
26	improper use of school bus signals		
27	Improper passing of church or day-care		
28	bus; improper use of signals	8-1556a	\$195
29	Impeding normal traffic by slow speed	8-1561	\$45
30	Speeding on motor-driven cycle	8-1562	\$75
31	Speeding in certain vehicles or on posted		
32	bridge	8-1563	\$45
33	Improper stopping, standing or parking		
34	on roadway	8-1569	\$45
35	Parking, standing or stopping in		
36	prohibited area	8-1571	\$45
37	Improper parking	8-1572	\$45
38	Unattended vehicle	8-1573	\$45
39	Improper backing	8-1574	\$45
40	Driving on sidewalk	8-1575	\$45
41	Driving with view or driving mechanism		
42	obstructed	8-1576	\$45
43	Unsafe opening of vehicle door	8-1577	\$45

1	Riding in house trailer	8-1578	\$45
2	<i>Unlawful riding on vehicle</i>	<i>8-1578a</i>	<i>\$75</i>
3	Improper driving in defiles, canyons,		
4	or on grades	8-1579	\$45
5	Coasting	8-1580	\$45
6	Following fire apparatus too closely	8-1581	\$75
7	Driving over fire hose	8-1582	\$45
8	Putting glass, etc., on highway	8-1583	\$105
9	Driving into intersection, crosswalk,	8-1584	\$45
10	or crossing without sufficient space on other side		
11	Improper operation of snowmobile on		
12	highway	8-1585	\$45
13	Parental responsibility of child riding		
14	bicycle	8-1586	\$45
15	Not riding on bicycle seat; too many		
16	persons on bicycle	8-1588	\$45
17	Clinging to other vehicle	8-1589	\$45
18	Improper riding of bicycle on roadway	8-1590	\$45
19	Carrying articles on bicycle; one hand		
20	on handlebars	8-1591	\$45
21	Improper bicycle lamps, brakes or		
22	reflectors	8-1592	\$45
23	Improper operation of motorcycle;		
24	seats; passengers, bundles	8-1594	\$45
25	Improper operation of motorcycle on		
26	laned roadway	8-1595	\$75
27	Motorcycle clinging to other vehicle	8-1596	\$45
28	Improper motorcycle handlebars or		
29	passenger equipment	8-1597	\$75
30	Motorcycle helmet and eye-protection		
31	requirements	8-1598	\$45
32	<del>Unlawful riding on vehicle</del>	<del>8-1578a</del>	<del>\$75</del>
33	Unlawful operation of all-terrain vehicle	8-15,100	\$75
34	Unlawful operation of low-speed vehicle	8-15,101	\$75
35	Littering	8-15,102	\$115
36	Disobeying school crossing guard	8-15,103	\$75
37	Unlawful operation of micro utility truck	8-15,106	\$75
38	Failure to remove vehicles in accidents	8-15,107	\$75
39	Unlawful operation of golf cart	8-15,108	\$75
40	Unlawful operation of work-site utility		
41	vehicle	8-15,109	\$75
42	<i>Unlawful display of license plate</i>	<i>8-15,110</i>	<i>\$60</i>
43	<i>Unlawful text messaging</i>	<i>8-15,111</i>	<i>\$60</i>

1	Equipment offenses that are not		
2	misdemeanors	8-1701	\$75
3	Driving without lights when needed	8-1703	\$45
4	Defective headlamps	8-1705	\$45
5	Defective tail lamps	8-1706	\$45
6	Defective reflector	8-1707	\$45
7	Improper stop lamp or turn signal	8-1708	\$45
8	Improper lighting equipment on certain		
9	vehicles	8-1710	\$45
10	Improper lamp color on certain vehicles	8-1711	\$45
11	Improper mounting of reflectors and		
12	lamps on certain vehicles	8-1712	\$45
13	Improper visibility of reflectors and		
14	lamps on certain vehicles	8-1713	\$45
15	No lamp or flag on projecting load	8-1715	\$75
16	Improper lamps on parked vehicle	8-1716	\$45
17	Improper lights, lamps, reflectors and		
18	emblems on farm tractors or slow-		
19	moving vehicles	8-1717	\$45
20	Improper lamps and equipment on		
21	implements of husbandry, road		
22	machinery or animal-drawn vehicles	8-1718	\$45
23	Unlawful use of spot, fog, or auxiliary		
24	lamp	8-1719	\$45
25	Improper lamps or lights on emergency		
26	vehicle	8-1720	\$45
27	Improper stop or turn signal	8-1721	\$45
28	Improper vehicular hazard warning lamp	8-1722	\$45
29	Unauthorized additional lighting		
30	equipment	8-1723	\$45
31	Improper multiple-beam lights	8-1724	\$45
32	Failure to dim headlights	8-1725	\$75
33	Improper single-beam headlights	8-1726	\$45
34	Improper speed with alternate lighting	8-1727	\$45
35	Improper number of driving lamps	8-1728	\$45
36	Unauthorized lights and signals	8-1729	\$45
37	Improper school bus lighting equipment		
38	and warning devices	8-1730	\$45
39	Unauthorized lights and devices on		
40	church or day-care bus	8-1730a	\$45
41	Improper lights on highway construction		
42	or maintenance vehicles	8-1731	\$45
43	Defective brakes	8-1734	\$45

1	Defective or improper use of horn or		
2	warning device	8-1738	\$45
3	Defective muffler	8-1739	\$45
4	Defective mirror	8-1740	\$45
5	Defective wipers; obstructed windshield		
6	or windows	8-1741	\$45
7	Improper tires	8-1742	\$45
8	Improper flares or warning devices	8-1744	\$45
9	Improper use of vehicular hazard		
10	warning lamps and devices	8-1745	\$45
11	Improper air-conditioning equipment	8-1747	\$45
12	Improper safety belt or shoulder harness	8-1749	\$45
13	Improper wide-based single tires	8-1742b	\$75
14	Improper compression release engine		
15	braking system	8-1761	\$75
16	Defective motorcycle headlamp	8-1801	\$45
17	Defective motorcycle tail lamp	8-1802	\$45
18	Defective motorcycle reflector	8-1803	\$45
19	Defective motorcycle stop lamps and		
20	turn signals	8-1804	\$45
21	Defective multiple-beam lighting	8-1805	\$45
22	Improper road-lighting equipment on		
23	motor-driven cycles	8-1806	\$45
24	Defective motorcycle or motor-driven		
25	cycle brakes	8-1807	\$45
26	Improper performance ability of brakes	8-1808	\$45
27	Operating motorcycle with disapproved		
28	braking system	8-1809	\$45
29	Defective horn, muffler, mirrors or tires	8-1810	\$45
30	Unlawful statehouse parking	75-4510a	\$30
31	Exceeding gross weight of vehicle or		
32	combination	8-1909	Pounds
33		Overweight up to 1000	\$40
34		1001 to 2000	
35	3¢ per pound	2001	
36		to 5000	
37	5¢ per pound	5001	
38		to 7500	
39	7¢ per pound		
40		7501	
41		and over	
42	10¢ per pound		
43	Exceeding gross weight on	8-1908	Pounds



1			Overweight
2	any axle or tandem, triple \$40	up to 1000	
3	or quad axles		1001
4			to 2000
5	3¢ per pound		2001 to 5000
6	5¢ per pound		5001 to 7500
7	7¢ per pound		7501 and over
8	10¢ per pound		
9	Failure to obtain proper registration,		
10	clearance or to have current		
11	certification	66-1324	\$287
12	Insufficient liability insurance for motor		
13	carriers	66-1,128	\$137
14		or 66-1314	
15	Failure to obtain interstate motor fuel		
16	tax authorization	79-34,122	\$137
17	No authority as private or common		
18	carrier	66-1,111	\$137
19	Violation of motor carrier safety rules	66-1,129	\$115
20	and regulations, except for violations		
21	specified in subsection (b)(2) of K.S.A.		
22	66-1,130, and amendments thereto		

23 (d) Traffic offenses classified as traffic infractions by this section  
 24 shall be classified as ordinance traffic infractions by those cities adopting  
 25 ordinances prohibiting the same offenses. A schedule of fines for all  
 26 ordinance traffic infractions shall be established by the municipal judge in  
 27 the manner prescribed by K.S.A. 12-4305, and amendments thereto. Such  
 28 fines may vary from those contained in the uniform fine schedule  
 29 contained in subsection (c).

30 (e) Fines listed in the uniform fine schedule contained in subsection  
 31 (c) shall be doubled if a person is convicted of a traffic infraction, which is  
 32 defined as a moving violation in accordance with rules and regulations  
 33 adopted pursuant to K.S.A. 8-249, and amendments thereto, committed  
 34 within any road construction zone as defined in K.S.A. 8-1458a, and  
 35 amendments thereto.

36 (f) For a second violation of K.S.A. 8-1908 or 8-1909, and  
 37 amendments thereto, within two years after a prior conviction of K.S.A. 8-  
 38 1908 or 8-1909, and amendments thereto, such person, upon conviction  
 39 shall be fined 1 ½ times the applicable amount from one, but not both, of  
 40 the schedules listed in the uniform fine schedule contained in subsection  
 41 (c). For a third violation of K.S.A. 8-1908 or 8-1909, and amendments  
 42 thereto, within two years, after two prior convictions of K.S.A. 8-1908 or  
 43 8-1909, and amendments thereto, such person, upon conviction shall be

1 fined two times the applicable amount from one, but not both, of the  
2 schedules listed in the uniform fine schedule contained in subsection (c).  
3 For a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909,  
4 and amendments thereto, within two years after three prior convictions of  
5 K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon  
6 conviction shall be fined 2 ½ times the applicable amount from one, but  
7 not both, of the schedules listed in the uniform fine schedule contained in  
8 subsection (c).

9 (g) Fines listed in the uniform fine schedule contained in subsection  
10 (c) relating to exceeding the maximum speed limit, shall be doubled if a  
11 person is convicted of exceeding the maximum speed limit in a school  
12 zone authorized under subsection (a)(4) of K.S.A. 8-1560, and  
13 amendments thereto.

14 Sec. 5. K.S.A. 2010 Supp. 9-1703, as amended by section 1 of 2011  
15 House Bill No. 2056, is hereby amended to read as follows: 9-1703. (a)  
16 The expense of every regular examination, together with the expense of  
17 administering the banking and savings and loan laws, including salaries,  
18 travel expenses, supplies and equipment, shall be paid by the banks and  
19 savings and loan associations of the state, and for this purpose the bank  
20 commissioner shall, prior to the beginning of each fiscal year, make an  
21 estimate of the expenses to be incurred by the department during such  
22 fiscal year. From this total amount the commissioner shall deduct the  
23 estimated amount of the anticipated annual income to the fund from all  
24 sources other than bank and savings and loan association assessments. The  
25 commissioner shall allocate and assess the remainder to the banks and  
26 savings and loan associations in the state on the basis of their total assets,  
27 as reflected in the last March 31 report called for by the federal deposit  
28 insurance corporation under the provisions of section 7 of the federal  
29 deposit insurance act, 12 U.S.C. § 1817, and amendments thereto, or  
30 K.S.A. 17-5610, and amendments thereto, except that the annual  
31 assessment will not be less than \$1,000 for any bank or savings and loan  
32 association.

33 (b) The expense of every regular trust examination, together with the  
34 expense of administering trust laws, including salaries, travel expenses,  
35 supplies and equipment, shall be paid by the trust companies and trust  
36 departments of banks of this state, and for this purpose, the bank  
37 commissioner, prior to the beginning of each fiscal year, shall make an  
38 estimate of the trust expenses to be incurred by the department during such  
39 fiscal year. The commissioner shall allocate and assess the trust  
40 departments in the state on the basis of their total fiduciary assets, as  
41 reflected in the last December 31 report called for by the federal deposit  
42 insurance corporation under the provisions of section 7 of the federal  
43 deposit insurance act, 12 U.S.C. § 1817, and amendments thereto, or

1 K.S.A. 17-5610, and amendments thereto, except that the annual  
2 assessment shall not be less than \$1,000 for any active trust department.  
3 The commissioner shall allocate and assess the trust companies in the state  
4 on the basis of their fiduciary assets as reflected in the last December 31  
5 report filed with the commissioner pursuant to K.S.A. 9-1704, and  
6 amendments thereto, except that the annual assessment will not be less  
7 than \$1,000 for any active trust company. A trust department which has no  
8 fiduciary assets, as reflected in the last December 31 report called for by  
9 the federal deposit insurance corporation under the provisions of section 7  
10 of the federal deposit insurance act, 12 U.S.C. § 1817, and amendments  
11 thereto, or K.S.A. 17-5610, and amendments thereto, may be granted  
12 inactive status by the commissioner and the annual assessment shall not be  
13 more than \$100 for the inactive trust department. A trust company which  
14 has no fiduciary assets, as reflected in the last preceding year-end report  
15 filed with the commissioner, may be granted inactive status by the  
16 commissioner and the annual assessment shall not be more than \$100 for  
17 an inactive trust company. No inactive trust department or trust company  
18 shall accept any fiduciary assets or exercise any part of or all of its trust  
19 authority until such time as it has applied for and received prior written  
20 approval of the commissioner to reactivate its trust authority.

21 (c) A statement of each assessment made under the provisions of  
22 subsection (a) or (b) shall be sent by the commissioner on July 1 or the  
23 next business day thereafter, to each bank, savings and loan association,  
24 trust department and trust company that exists as a corporate entity with  
25 the secretary of state's office as of the close of business on June 30, and is  
26 authorized by the office of the state bank commissioner to conduct  
27 banking, savings and loan or trust business. The assessment may be  
28 collected by the state bank commissioner as needed and in such  
29 installment periods as the commissioner deems appropriate, but no more  
30 frequently than monthly. When the commissioner issues an invoice to  
31 collect the assessment, payment shall be due within 15 days of the date of  
32 the invoice. The commissioner may impose a penalty upon any bank,  
33 savings and loan association, trust department or trust company which fails  
34 to pay its annual assessment when it is 15 days or more past due. The  
35 penalty shall be assessed in the amount of \$50 for each day the assessment  
36 is past due.

37 The commissioner shall remit all moneys received from such  
38 examination fees to the state treasurer in accordance with the provisions of  
39 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
40 remittance, the state treasurer shall deposit the entire amount in the state  
41 treasury. ~~Twenty~~ Ten percent of each deposit shall be credited to the state  
42 general fund and the balance shall be credited to the bank commissioner  
43 fee fund. All expenditures from the bank commissioner fee fund shall be

1 made in accordance with appropriation acts upon warrants of the director  
2 of accounts and reports issued pursuant to vouchers approved by the  
3 commissioner or by a person or persons designated by the commissioner.

4 (d) The amount of expenses incurred and the cost of service  
5 performed on account of any bank, trust department or trust company or  
6 other corporation which are outside the normal expenses of an  
7 examination required under the provisions of K.S.A. 9-1701 or 17-5612,  
8 and amendments thereto, shall be charged to and paid by the bank, trust  
9 department, trust company or corporation for which such expenses were  
10 incurred or cost of services performed.

11 (e) As used in this section, "savings and loan association" means a  
12 Kansas state-chartered savings and loan association.

13 (f) (1) In the event a bank, savings and loan association or trust  
14 company is merged into, consolidated with, or the assets and liabilities of  
15 which are purchased and assumed by another bank, savings and loan  
16 association or trust company, between the preceding March 31 and June  
17 30, for banks and savings and loan associations, or the preceding  
18 December 31 and June 30, for trust companies, the surviving or acquiring  
19 bank, savings and loan association or trust company is obligated to pay the  
20 assessment based on the value of the assets of all institutions involved with  
21 the merger, consolidation or assumption for the following fiscal year  
22 commencing July 1.

23 (2) In the event a bank, savings and loan association, or trust  
24 company is merged into, consolidated with, or the assets and liabilities of  
25 which are purchased and assumed by another bank, savings and loan  
26 association or trust company after July 1, the surviving entity shall be  
27 obligated to pay the unpaid portion of the assessment for the remainder of  
28 the fiscal year commencing July 1 which would have been due of the  
29 institution being merged, consolidated or assumed.

30 Sec. 6. K.S.A. 2010 Supp. 12-1774 is hereby amended to read as  
31 follows: 12-1774. (a) (1) Any city shall have the power to issue special  
32 obligation bonds in one or more series and/or execute and deliver a loan  
33 from the Kansas transportation revolving fund pursuant to K.S.A. 2010  
34 Supp. 75-5063 et seq., and amendments thereto, to finance the undertaking  
35 of any redevelopment project or bioscience development project in  
36 accordance with the provisions of this act. Such special obligation bonds  
37 or loans shall be made payable, both as to principal and interest:

38 (A) From tax increments allocated to, and paid into a special fund of  
39 the city under the provisions of K.S.A. 12-1775, and amendments thereto;

40 (B) from revenues of the city derived from or held in connection with  
41 the undertaking and carrying out of any redevelopment project or projects  
42 or bioscience development project or projects under this act including  
43 environmental increments;

1 (C) from any private sources, contributions or other financial  
2 assistance from the state or federal government;

3 (D) from a pledge of all of the revenue received by the city from any  
4 transient guest and local sales and use taxes which are collected from  
5 taxpayers doing business within that portion of the city's redevelopment  
6 district or bioscience development district established pursuant to K.S.A.  
7 12-1771, and amendments thereto, occupied by a redevelopment project or  
8 bioscience development project. A city proposing to finance a major  
9 motorsports complex pursuant to this paragraph shall prepare a project  
10 plan which shall include:

11 (i) A summary of the feasibility study done, as defined in K.S.A. 12-  
12 1770a, and amendments thereto, which will be an open record;

13 (ii) a reference to the district plan established under K.S.A. 12-1771,  
14 and amendments thereto, that identifies the project area that is set forth in  
15 the project plan that is being considered;

16 (iii) a description and map of the location of the facility that is the  
17 subject of the special bond project or major motorsports complex;

18 (iv) the relocation assistance plan required by K.S.A. 12-1777, and  
19 amendments thereto;

20 (v) a detailed description of the buildings and facilities proposed to be  
21 constructed or improved; and

22 (vi) any other information the governing body deems necessary to  
23 advise the public of the intent of the special bond project or major  
24 motorsports complex plan.

25 The project plan shall be prepared in consultation with the planning  
26 commission of the city. Such project plan shall also be prepared in  
27 consultation with the planning commission of the county, if any, if a major  
28 motorsports complex is located wholly outside the boundaries of the city.

29 (E) from a pledge of a portion or all increased revenue received by  
30 the city from: (i) Franchise fees collected from utilities and other  
31 businesses using public right-of-way within the redevelopment district; (ii)  
32 from a pledge of all or a portion of the revenue received by the city from  
33 sales taxes; or (iii) both of the above;

34 (F) with the approval of the county, from a pledge of all of the  
35 revenues received by the county from any transient guest, local sales and  
36 use taxes which are collected from taxpayers doing business within that  
37 portion of the redevelopment district established pursuant to K.S.A. 12-  
38 1771, and amendments thereto;

39 (G) if a project is financed in whole or in part with the proceeds of a  
40 loan to the municipality from the Kansas transportation revolving fund,  
41 such loan shall also be payable from amounts available pursuant to K.S.A.  
42 2010 Supp. 75-5063 et seq., and amendments thereto;

43 (H) by any combination of these methods.

1 The city may pledge such revenue to the repayment of such special  
2 obligation bonds prior to, simultaneously with, or subsequent to the  
3 issuance of such special obligation bonds.

4 (2) Bonds issued under paragraph (1) of subsection (a) shall not be  
5 general obligations of the city, nor in any event shall they give rise to a  
6 charge against its general credit or taxing powers, or be payable out of any  
7 funds or properties other than any of those set forth in paragraph (1) of this  
8 subsection and such bonds shall so state on their face. This paragraph shall  
9 not apply to loans from the Kansas transportation revolving fund pursuant  
10 to K.S.A. 2010 Supp. 75-5063 et seq., and amendments thereto.

11 (3) Bonds issued under the provisions of paragraph (1) of this  
12 subsection shall be special obligations of the city and are declared to be  
13 negotiable instruments. They shall be executed by the mayor and clerk of  
14 the city and sealed with the corporate seal of the city. All details pertaining  
15 to the issuance of such special obligation bonds and terms and conditions  
16 thereof shall be determined by ordinance of the city. All special obligation  
17 bonds issued pursuant to this act and all income or interest therefrom shall  
18 be exempt from all state taxes ~~except inheritance taxes~~. Such special  
19 obligation bonds shall contain none of the recitals set forth in K.S.A. 10-  
20 112, and amendments thereto. Such special obligation bonds shall,  
21 however, contain the following recitals, viz., the authority under which  
22 such special obligation bonds are issued, they are in conformity with the  
23 provisions, restrictions and limitations thereof, and that such special  
24 obligation bonds and the interest thereon are to be paid from the money  
25 and revenue received as provided in paragraph (1) of this subsection.

26 (b) (1) Subject to the provisions of paragraph (2) of this subsection,  
27 any city shall have the power to issue full faith and credit tax increment  
28 bonds to finance the undertaking of any redevelopment project in  
29 accordance with the provisions of K.S.A. 12-1770 et seq., and  
30 amendments thereto, other than a project that will create a major tourism  
31 area. Such full faith and credit tax increment bonds shall be made payable,  
32 both as to principal and interest: (A) From the revenue sources identified  
33 in paragraph (1) of subsection (a) or by any combination of these sources;  
34 and (B) subject to the provisions of paragraph (2) of this subsection, from  
35 a pledge of the city's full faith and credit to use its ad valorem taxing  
36 authority for repayment thereof in the event all other authorized sources of  
37 revenue are not sufficient.

38 (2) Except as provided in paragraph (3) of this subsection, before the  
39 governing body of any city proposes to issue full faith and credit tax  
40 increment bonds as authorized by this subsection, the feasibility study  
41 required by K.S.A. 12-1772, and amendments thereto, shall demonstrate  
42 that the benefits derived from the project will exceed the cost and that the  
43 income therefrom will be sufficient to pay the costs of the project. No full

1 faith and credit tax increment bonds shall be issued unless the governing  
2 body states in the resolution required by K.S.A. 12-1772, and amendments  
3 thereto, that it may issue such bonds to finance the proposed  
4 redevelopment project.

5 The governing body may issue the bonds unless within 60 days  
6 following the date of the public hearing on the proposed project plan a  
7 protest petition signed by 3% of the qualified voters of the city is filed  
8 with the city clerk in accordance with the provisions of K.S.A. 25-3601 et  
9 seq., and amendments thereto. If a sufficient petition is filed, no full faith  
10 and credit tax increment bonds shall be issued until the issuance of the  
11 bonds is approved by a majority of the voters voting at an election thereon.  
12 Such election shall be called and held in the manner provided by the  
13 general bond law.

14 The failure of the voters to approve the issuance of full faith and credit  
15 tax increment bonds shall not prevent the city from issuing special  
16 obligation bonds in accordance with this section.

17 No such election shall be held in the event the board of county  
18 commissioners or the board of education determines, as provided in  
19 K.S.A. 12-1771, and amendments thereto, that the proposed  
20 redevelopment district will have an adverse effect on the county or school  
21 district.

22 (3) As an alternative to paragraph (2) of this subsection, any city  
23 which adopts a redevelopment project plan but does not state its intent to  
24 issue full faith and credit tax increment bonds in the resolution required by  
25 K.S.A. 12-1772, and amendments thereto, and has not acquired property in  
26 the redevelopment project area may issue full faith and credit tax  
27 increment bonds if the governing body of the city adopts a resolution  
28 stating its intent to issue the bonds and the issuance of the bonds is  
29 approved by a majority of the voters voting at an election thereon. Such  
30 election shall be called and held in the manner provided by the general  
31 bond law.

32 The failure of the voters to approve the issuance of full faith and credit  
33 tax increment bonds shall not prevent the city from issuing special  
34 obligation bonds pursuant to paragraph (1) of subsection (a). Any project  
35 plan adopted by a city prior to the effective date of this act in accordance  
36 with K.S.A. 12-1772, and amendments thereto, shall not be invalidated by  
37 any requirements of this act.

38 (4) During the progress of any redevelopment project in which the  
39 redevelopment project costs will be financed, in whole or in part, with the  
40 proceeds of full faith and credit tax increment bonds, the city may issue  
41 temporary notes in the manner provided in K.S.A. 10-123, and  
42 amendments thereto, to pay the redevelopment project costs for the  
43 project. Such temporary notes shall not be issued and the city shall not

1 acquire property in the redevelopment project area until the requirements  
2 of paragraph (2) or (3) of this subsection, whichever is applicable, have  
3 been met.

4 (5) Full faith and credit tax increment bonds issued under this  
5 subsection shall be general obligations of the city and are declared to be  
6 negotiable instruments. They shall be issued in accordance with the  
7 general bond law. All such bonds and all income or interest therefrom shall  
8 be exempt from all state taxes ~~except inheritance taxes~~. The amount of the  
9 full faith and credit tax increment bonds issued and outstanding which  
10 exceeds 3% of the assessed valuation of the city shall be within the bonded  
11 debt limit applicable to such city.

12 (6) Any city issuing special obligation bonds or full faith and credit  
13 tax increment bonds under the provisions of this act may refund all or part  
14 of such issue pursuant to the provisions of K.S.A. 10-116a, and  
15 amendments thereto.

16 (c) Any increment in ad valorem property taxes resulting from a  
17 redevelopment project in the established redevelopment district undertaken  
18 in accordance with the provisions of this act, shall be apportioned to a  
19 special fund for the payment of the redevelopment project costs, including  
20 the payment of principal and interest on any special obligation bonds or  
21 full faith and credit tax increment bonds issued to finance such project  
22 pursuant to this act and may be pledged to the payment of principal and  
23 interest on such bonds.

24 (d) A city may use the proceeds of special obligation bonds or full  
25 faith and credit tax increment bonds, or proceeds of a loan from the  
26 Kansas transportation revolving fund pursuant to K.S.A. 2010 Supp. 75-  
27 5063 et seq., and amendments thereto, or any uncommitted funds derived  
28 from sources set forth in this section to pay the redevelopment project  
29 costs as defined in K.S.A. 12-1770a, and amendments thereto, to  
30 implement the redevelopment project plan.

31 Sec. 7. K.S.A. 2010 Supp. 12-17,149 is hereby amended to read as  
32 follows: 12-17,149. (a) Any municipality may issue bonds in one or more  
33 series and/or execute and deliver a loan with respect to a project from the  
34 Kansas transportation revolving fund pursuant to K.S.A. 2010 Supp. 75-  
35 5063 et seq., and amendments thereto, to finance the undertaking of any  
36 project in accordance with the provisions of this act. Such bonds shall be  
37 made payable, both as to principal and interest solely from a pledge of the  
38 sources of funds described in K.S.A. 2010 Supp. 12-17,147, and  
39 amendments thereto, except that, if a project is financed, in whole or in  
40 part, with the proceeds of a loan to the municipality from the Kansas  
41 transportation revolving fund, such loan shall also be payable from  
42 amounts available pursuant to K.S.A. 2010 Supp. 75-5063 et seq., and  
43 amendments thereto. The municipality may pledge such revenue to the



1 repayment of such bonds or loans prior to, simultaneously with or  
2 subsequent to the issuance of such bonds, except for any revenues received  
3 under the provisions of subsection (d) of K.S.A. 2010 Supp. 12-17,147,  
4 and amendments thereto, which revenues are subject to annual  
5 appropriation.

6 (b) Bonds issued pursuant to subsection (a) shall not be general  
7 obligations of the municipality, give rise to a charge against its general  
8 credit or taxing powers, or be payable out of any funds or properties other  
9 than any of those set forth in subsection (a) and such bonds shall so state  
10 on their face. This subsection shall not apply to loans from the Kansas  
11 transportation revolving fund pursuant to K.S.A. 2010 Supp. 75-5063 et  
12 seq., and amendments thereto.

13 (c) Bonds issued pursuant to subsection (a) shall be special  
14 obligations of the municipality and are declared to be negotiable  
15 instruments. Such bonds shall be executed by the authorized  
16 representatives of the municipality and sealed with the corporate seal of  
17 the municipality. All details pertaining to the issuance of the bonds and  
18 terms and conditions thereof shall be determined by ordinance or  
19 resolution of the municipality. The provisions of K.S.A. 10-106, and  
20 amendments thereto, requiring a public sale of bonds shall not apply to  
21 bonds issued under this act. All bonds issued pursuant to this act and all  
22 income or interest therefrom shall be exempt from all state taxes ~~except~~  
23 ~~inheritance taxes~~. Such bonds shall contain none of the recitals set forth in  
24 K.S.A. 10-112, and amendments thereto. Such bonds shall contain the  
25 following recitals: The authority under which such bonds are issued; that  
26 such bonds are in conformity with the provisions, restrictions and  
27 limitations thereof; and that such bonds and the interest thereon are to be  
28 paid from the money and revenue received as provided in subsection (a)  
29 such bonds shall mature in no more than 22 years.

30 (d) Any municipality issuing bonds or executing a loan from the  
31 Kansas transportation revolving fund pursuant to K.S.A. 2010 Supp. 75-  
32 5063 et seq., and amendments thereto, under the provisions of this act may  
33 refund all or part of such issue pursuant to the provisions of K.S.A. 10-  
34 116a, and amendments thereto.

35 (e) Bonds issued under the provisions of this act shall be in addition  
36 to and not subject to any statutory limitation of bonded indebtedness  
37 imposed on such municipality.

38 Sec. 8. K.S.A. 2010 Supp. 12-4117 is hereby amended to read as  
39 follows: 12-4117. (a) In each case filed in municipal court ~~charging a~~  
40 ~~crime~~ other than a nonmoving traffic violation, where there is a finding of  
41 guilty or a plea of guilty, a plea of no contest, forfeiture of bond or a  
42 diversion, a sum in an amount of \$20 shall be assessed and such  
43 assessment shall be credited as follows:

1 One dollar to the local law enforcement training reimbursement fund  
2 established pursuant to K.S.A. 74-5620, and amendments thereto, \$11.50  
3 to the law enforcement training center fund established pursuant to K.S.A.  
4 74-5619, and amendments thereto, \$2.50 to the Kansas commission on  
5 peace officers' standards and training fund established by K.S.A. 74-5619,  
6 and amendments thereto, \$2 to the juvenile detention facilities fund  
7 established pursuant to K.S.A. 79-4803, and amendments thereto, to be  
8 expended for operational costs of facilities for the detention of juveniles,  
9 \$.50 to the protection from abuse fund established pursuant to K.S.A. 74-  
10 7325, and amendments thereto, \$.50 to the crime victims assistance fund  
11 established pursuant to K.S.A. 74-7334, and amendments thereto, \$1 to the  
12 trauma fund established pursuant to K.S.A. 2010 Supp. 75-5670, and  
13 amendments thereto, and \$1 to the department of corrections forensic  
14 psychologist fund established pursuant to K.S.A. 2010 Supp. 75-52,151,  
15 and amendments thereto.

16 (b) The judge or clerk of the municipal court shall remit the  
17 appropriate assessments received pursuant to this section to the state  
18 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
19 amendments thereto. Upon receipt of each such remittance, the state  
20 treasurer shall deposit the entire amount in the state treasury to the credit  
21 of the local law enforcement training reimbursement fund, the law  
22 enforcement training center fund, the Kansas commission on peace  
23 officers' standards and training fund, the juvenile detention facilities fund,  
24 the crime victims assistance fund, the trauma fund and the department of  
25 corrections forensic psychologist fund as provided in this section.

26 (c) For the purpose of determining the amount to be assessed  
27 according to this section, if more than one complaint is filed in the  
28 municipal court against one individual arising out of the same incident, all  
29 such complaints shall be considered as one case.

30 Sec. 9. K.S.A. 19-4804 is hereby amended to read as follows: 19-  
31 4804. (a) An application for compensation shall be made in the manner  
32 and form prescribed by the state crime victims compensation board. A  
33 victim may seek compensation under this act whether or not an offender  
34 has been charged with the crime which results in the victim's loss.

35 (b) Compensation may not be awarded unless the crime has been  
36 reported to an appropriate law enforcement agency within 72 hours after  
37 its discovery and the claim has been filed with the local board within 60  
38 days after the filing of such report, unless the local board finds there was  
39 good cause for the failure to report such crime within the time required.

40 (c) Compensation may not be awarded to a victim who was the  
41 offender or an accomplice of the offender and may not be awarded to  
42 another person if the award would unjustly benefit the offender or  
43 accomplice.

1 (d) Compensation may not be awarded unless the local board finds  
2 the victim has fully cooperated with appropriate law enforcement  
3 agencies. The local board may deny, withdraw or reduce an award of  
4 compensation for noncooperativeness.

5 (e) Compensation otherwise payable to a victim shall be diminished:

6 (1) To the extent, if any, that the economic loss upon which the  
7 victim's claim is based is recouped from other persons, including collateral  
8 sources; or

9 (2) to the extent a local board deems reasonable because of the  
10 contributory misconduct of the victim.

11 (f) Compensation may be awarded only if the local board finds a  
12 genuine need is present.

13 (g) No compensation payment may exceed \$500 if the property crime  
14 results in a felony charge. If the crime is committed by a juvenile, whether  
15 this subsection applies shall be determined on the basis of whether a  
16 felony would be charged had the offender been an adult.

17 (h) No compensation payment may exceed \$250 if the property crime  
18 results in a misdemeanor or traffic charge. If the crime is committed by a  
19 juvenile, whether this subsection applies shall be determined on the basis  
20 of whether a misdemeanor would be charged had the offender been an  
21 adult. If the original crime charged was a felony and through plea  
22 negotiations the adult or juvenile offender is charged with and pleads  
23 guilty or *nolo contendere* to a misdemeanor, in the discretion of the local  
24 board, subsection (g) limits may apply to the compensation payment.

25 (i) If extraordinary circumstances are present and subject to the  
26 requirements imposed by subsection (c) of K.S.A. 19-4803, and  
27 amendments thereto, the local board may exceed the amounts in  
28 subsections (g) and (h).

29 (j) Compensation for work loss or personal injury due to criminally  
30 injurious conduct shall be governed by K.S.A. 74-7301 et seq., and  
31 amendments thereto, and rules and regulations promulgated by the state  
32 crime victims compensation board for that purpose. No local board may  
33 duplicate compensation for criminally injurious conduct through payments  
34 under this act.

35 (k) The local board may determine a floor amount of compensation  
36 which would be administratively wasteful. Once such an amount is chosen  
37 it shall be made public and must be uniformly applied to all persons filing  
38 claims with the local board.

39 (l) The local board may provide written policy for the handling of an  
40 expedited claims process where prompt assistance and payment of services  
41 needed to repair property damage is needed to thwart the possibility of the  
42 onset of illness or disease to the victim or victim's family, and where the  
43 victim has no other means of paying for such services.

1 (m) No award made pursuant to this act shall be subject to execution,  
2 attachment, garnishment or other legal process, except that an award for  
3 allowable expenses shall not be exempt from a claim of a creditor to the  
4 extent the creditor has provided products, services or accommodations the  
5 costs of which are included in the payment made pursuant to this act.

6 (n) No assignment or agreement to assign any right to compensation  
7 for loss under this act shall be enforceable in this state.

8 (o) No local fund shall pay any single individual or such individual's  
9 immediate family member compensation on more than two claims within a  
10 given fiscal year.

11 (p) No claim shall be allowed unless the crime charged is pursuant to  
12 article 37 of chapter 21 of Kansas Statutes Annotated, *prior to their*  
13 *repeal, or sections 87 through 125 and subsection (a)(6) of section 223 of*  
14 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,*  
15 *or similar crimes in county or municipal penal codes. If the crime charged*  
16 *is pursuant to K.S.A. 21-3707, 21-3708, 21-3722, 21-3725, 21-3734, 21-*  
17 *3736, 21-3737, 21-3739, 21-3748, 21-3749, 21-3750, 21-3753, 21-3754*  
18 *and 21-3756, prior to their repeal, and section 92, section 101, subsection*  
19 *(a) of section 103, section 106, section 107, section 116, section 117,*  
20 *section 118 and section 123 of chapter 136 of the 2010 Session Laws of*  
21 *Kansas, and amendments thereto, no claim for compensation under this act*  
22 *shall be allowed. In addition to claims that may be made for criminally*  
23 *injurious conduct with the state crime victims compensation board, a claim*  
24 *for compensation for property damage may be allowed under this act for*  
25 *crimes charged under K.S.A. 21-3418, 21-3426 or 21-3427, prior to their*  
26 *repeal, and section 55 or section 63 of chapter 136 of the 2010 Session*  
27 *Laws of Kansas, and amendments thereto.*

28 (q) Payment or payments made from a local fund under this act shall  
29 not limit, impair or preclude the ability of a court or the parole board to  
30 order restitution, and prescribe the manner and conditions of payment of  
31 restitution, as allowed by law.

32 Sec. 10. K.S.A. 20-369, as amended by section 4 of chapter 101 of  
33 the 2010 Session Laws of Kansas, is hereby amended to read as follows:  
34 20-369. (a) If a judicial district creates a local fund, the court may impose  
35 a fee as provided in this section against any defendant for crimes involving  
36 a family or household member as provided in ~~K.S.A. 21-3412a~~ *section 49*  
37 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*  
38 *thereto, and against any defendant found to have committed a domestic*  
39 *violence offense pursuant to section 1 of chapter 101 of the 2010 Session*  
40 *Laws of Kansas, and amendments thereto. The chief judge of each judicial*  
41 *district where such fee is imposed shall set the amount of such fee by rules*  
42 *adopted in such judicial district in an amount not to exceed \$100 per case.*

43 (b) Such fees shall be deposited into the local fund and disbursed

1 pursuant to recommendations of the chief judge under this act. All moneys  
2 collected by this section shall be paid into the domestic violence special  
3 programs fund in the county where the fee is collected, as established by  
4 the judicial district.

5 (c) Expenditures made in each judicial district shall be determined by  
6 the chief judge and shall be paid to domestic violence programs  
7 administered by the court and to local programs within the judicial district  
8 that enhance a coordinated community justice response to the issue of  
9 domestic violence.

10 Sec. 11. K.S.A. 22-2307, as amended by section 8 of chapter 101 of  
11 the 2010 Session Laws of Kansas, is hereby amended to read as follows:  
12 22-2307. (a) All law enforcement agencies in this state shall adopt written  
13 policies regarding domestic violence calls as provided in subsection (b).  
14 These policies shall be made available to all officers of such agency.

15 (b) Such written policies shall include, but not be limited to, the  
16 following:

17 (1) A statement directing that when a law enforcement officer  
18 determines that there is probable cause to believe that a crime or offense  
19 involving domestic violence, as defined in ~~K.S.A. 21-3110~~ *section 11 of*  
20 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto,  
21 has been committed, the officer shall, without undue delay, arrest the  
22 person for which the officer has probable cause to believe committed the  
23 crime or offense if such person's actions were not an act of defense of a  
24 person or property as provided in ~~K.S.A. 21-3211, 21-3212, 21-3213, 21-~~  
25 ~~3218 or 21-3219~~*section 21, section 22, section 23, section 28 or section 29*  
26 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments  
27 thereto;

28 (2) a statement that nothing shall be construed to require a law  
29 enforcement officer to:

30 (A) Arrest either party involved in an alleged act of domestic  
31 violence when the law enforcement officer determines there is no probable  
32 cause to believe that a crime or offense has been committed; or

33 (B) arrest both parties involved in an alleged act of domestic violence  
34 when both claim to have been victims of such domestic violence;

35 (3) a statement directing that if a law enforcement officer receives  
36 complaints of domestic violence from two or more opposing persons, the  
37 officer shall evaluate each complaint separately to determine if there is  
38 probable cause that each accused person committed a crime or offense and  
39 their actions were not an act of defense of a person or property as provided  
40 in ~~K.S.A. 21-3211, 21-3212, 21-3213, 21-3218 or 21-3219~~*section 21,*  
41 *section 22, section 23, section 28 or section 29 of chapter 136 of the 2010*  
42 *Session Laws of Kansas*, and amendments thereto;

43 (4) a statement defining domestic violence in accordance with ~~K.S.A.~~

1 ~~21-3110~~ *section 11 of chapter 136 of the 2010 Session Laws of Kansas*, and  
2 amendments thereto;

3 (5) a statement describing the dispatchers' responsibilities;

4 (6) a statement describing the responding officers' responsibilities and  
5 procedures to follow when responding to a domestic violence call and the  
6 suspect is at the scene;

7 (7) a statement regarding procedures when the suspect has left the  
8 scene of the crime;

9 (8) procedures for both misdemeanor and felony cases;

10 (9) procedures for law enforcement officers to follow when handling  
11 domestic violence calls involving court orders, including protection from  
12 abuse orders, restraining orders and a protective order issued by a court of  
13 any state or Indian tribe;

14 (10) a statement that the law enforcement agency shall provide the  
15 following information to victims, in writing:

16 (A) Availability of emergency and medical telephone numbers, if  
17 needed;

18 (B) the law enforcement agency's report number;

19 (C) the address and telephone number of the prosecutor's office the  
20 victim should contact to obtain information about victims' rights pursuant  
21 to K.S.A. 74-7333 and 74-7335 and amendments thereto;

22 (D) the name and address of the crime victims' compensation board  
23 and information about possible compensation benefits;

24 (E) advise the victim that the details of the crime may be made  
25 public;

26 (F) advise the victim of such victims' rights under K.S.A. 74-7333  
27 and 74-7335 and amendments thereto; and

28 (G) advise the victim of known available resources which may assist  
29 the victim; and

30 (11) whether an arrest is made or not, a standard offense report shall  
31 be completed on all such incidents and sent to the Kansas bureau of  
32 investigation.

33 Sec. 12. K.S.A. 2010 Supp. 22-2410 is hereby amended to read as  
34 follows: 22-2410. (a) Any person who has been arrested in this state may  
35 petition the district court for the expungement of such arrest record.

36 (b) When a petition for expungement is filed, the court shall set a date  
37 for hearing on such petition and shall cause notice of such hearing to be  
38 given to the prosecuting attorney and the arresting law enforcement  
39 agency. When a petition for expungement is filed, the official court file  
40 shall be separated from the other records of the court, and shall be  
41 disclosed only to a judge of the court and members of the staff of the court  
42 designated by a judge of the district court, the prosecuting attorney, the  
43 arresting law enforcement agency, or any other person when authorized by

1 a court order, subject to any conditions imposed by the order. Except as  
2 otherwise provided by law, a petition for expungement shall be  
3 accompanied by a docket fee in the amount of \$100. Except as provided  
4 further, the docket fee established in this section shall be the only fee  
5 collected or moneys in the nature of a fee collected for the docket fee.  
6 Such fee shall only be established by an act of the legislature and no other  
7 authority is established by law or otherwise to collect a fee. On and after  
8 the effective date of this act through June 30, 2011, the supreme court may  
9 impose an additional charge, not to exceed \$15 per docket fee, to fund the  
10 costs of non-judicial personnel. The petition shall state:

- 11 (1) The petitioner's full name;
- 12 (2) the full name of the petitioner at the time of arrest, if different  
13 than the petitioner's current name;
- 14 (3) the petitioner's sex, race and date of birth;
- 15 (4) the crime for which the petitioner was arrested;
- 16 (5) the date of the petitioner's arrest; and
- 17 (6) the identity of the arresting law enforcement agency.

18 No surcharge or fee shall be imposed to any person filing a petition  
19 pursuant to this section, who was arrested as a result of being a victim of  
20 identity theft under K.S.A. 21-4018, *prior to its repeal, or section 177 of*  
21 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto.  
22 Any person who may have relevant information about the petitioner may  
23 testify at the hearing. The court may inquire into the background of the  
24 petitioner.

25 (c) At the hearing on a petition for expungement, the court shall order  
26 the arrest record and subsequent court proceedings, if any, expunged upon  
27 finding: (1) The arrest occurred because of mistaken identity;

- 28 (2) a court has found that there was no probable cause for the arrest;
- 29 (3) the petitioner was found not guilty in court proceedings; or
- 30 (4) the expungement would be in the best interests of justice and (A)  
31 charges have been dismissed; or (B) no charges have been or are likely to  
32 be filed.

33 (d) When the court has ordered expungement of an arrest record and  
34 subsequent court proceedings, if any, the order shall state the information  
35 required to be stated in the petition and shall state the grounds for  
36 expungement under subsection (c). The clerk of the court shall send a  
37 certified copy of the order to the Kansas bureau of investigation which  
38 shall notify the federal bureau of investigation, the secretary of corrections  
39 and any other criminal justice agency which may have a record of the  
40 arrest. If an order of expungement is entered, the petitioner shall be treated  
41 as not having been arrested.

42 (e) If the ground for expungement is as provided in subsection (c)(4),  
43 the court shall determine whether, in the interests of public welfare, the

1 records should be available for any of the following purposes: (1) In any  
2 application for employment as a detective with a private detective agency,  
3 as defined in K.S.A. 75-7b01, and amendments thereto; as security  
4 personnel with a private patrol operator, as defined by K.S.A. 75-7b01,  
5 and amendments thereto; or with an institution, as defined in K.S.A. 76-  
6 12a01, and amendments thereto, of the department of social and  
7 rehabilitation services;

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

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

14 (4) to aid in determining the petitioner's qualifications for executive  
15 director of the Kansas racing commission, for employment with the  
16 commission or for work in sensitive areas in parimutuel racing as deemed  
17 appropriate by the executive director of the commission, or to aid in  
18 determining qualifications for licensure or renewal of licensure by the  
19 commission;

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

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

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

27 (8) in any other circumstances which the court deems appropriate.

28 (f) Subject to any disclosures required under subsection (e), in any  
29 application for employment, license or other civil right or privilege, or any  
30 appearance as a witness, a person whose arrest records have been  
31 expunged as provided in this section may state that such person has never  
32 been arrested.

33 (g) Whenever a petitioner's arrest records have been expunged as  
34 provided in this section, the custodian of the records of arrest,  
35 incarceration due to arrest or court proceedings related to the arrest, shall  
36 not disclose the arrest or any information related to the arrest, except as  
37 directed by the order of expungement or when requested by the person  
38 whose arrest record was expunged.

39 (h) The docket fee collected at the time the petition for expungement  
40 is filed shall be disbursed in accordance with K.S.A. 20-362, and  
41 amendments thereto.

42 Sec. 13. K.S.A. 2010 Supp. 22-2802, as amended by section 118 of  
43 2011 House Bill No. 2339, is hereby amended to read as follows: 22-2802.



1 (1) Any person charged with a crime shall, at the person's first appearance  
2 before a magistrate, be ordered released pending preliminary examination  
3 or trial upon the execution of an appearance bond in an amount specified  
4 by the magistrate and sufficient to assure the appearance of such person  
5 before the magistrate when ordered and to assure the public safety. If the  
6 person is being bound over for a felony, the bond shall also be conditioned  
7 on the person's appearance in the district court or by way of a two-way  
8 electronic audio-video communication as provided in subsection (14) at  
9 the time required by the court to answer the charge against such person  
10 and at any time thereafter that the court requires. Unless the magistrate  
11 makes a specific finding otherwise, if the person is being bonded out for a  
12 person felony or a person misdemeanor, the bond shall be conditioned on  
13 the person being prohibited from having any contact with the alleged  
14 victim of such offense for a period of at least 72 hours. The magistrate  
15 may impose such of the following additional conditions of release as will  
16 reasonably assure the appearance of the person for preliminary  
17 examination or trial:

18 (a) Place the person in the custody of a designated person or  
19 organization agreeing to supervise such person;

20 (b) place restrictions on the travel, association or place of abode of  
21 the person during the period of release;

22 (c) impose any other condition deemed reasonably necessary to  
23 assure appearance as required, including a condition requiring that the  
24 person return to custody during specified hours;

25 (d) place the person under a house arrest program pursuant to section  
26 249 of chapter 136 of the 2010 Session Laws of Kansas, and amendments  
27 thereto; or

28 (e) place the person under the supervision of a court services officer  
29 responsible for monitoring the person's compliance with any conditions of  
30 release ordered by the magistrate. *The magistrate may order the person to*  
31 *pay for any costs associated with the supervision provided by the court*  
32 *services department in an amount not to exceed \$15 per week of such*  
33 *supervision. The magistrate may also order the person to pay for all other*  
34 *costs associated with the supervision and conditions for compliance in*  
35 *addition to the \$15 per week.*

36 (2) In addition to any conditions of release provided in subsection (1),  
37 for any person charged with a felony, the magistrate may order such  
38 person to submit to a drug *and alcohol* abuse examination and evaluation  
39 in a public or private treatment facility or state institution and, if  
40 determined by the head of such facility or institution that such person is a  
41 drug *or alcohol* abuser or *is* incapacitated by drugs *or alcohol*, to submit to  
42 treatment for such drug *or alcohol* abuse, as a condition of release.

43 (3) The appearance bond shall be executed with sufficient solvent

1 sureties who are residents of the state of Kansas, unless the magistrate  
2 determines, in the exercise of such magistrate's discretion, that requiring  
3 sureties is not necessary to assure the appearance of the person at the time  
4 ordered.

5 (4) A deposit of cash in the amount of the bond may be made in lieu  
6 of the execution of the bond pursuant to paragraph (3). Except as provided  
7 in paragraph (5), such deposit shall be in the full amount of the bond and  
8 in no event shall a deposit of cash in less than the full amount of bond be  
9 permitted. Any person charged with a crime who is released on a cash  
10 bond shall be entitled to a refund of all moneys paid for the cash bond,  
11 after deduction of any outstanding restitution, costs, fines and fees, after  
12 the final disposition of the criminal case if the person complies with all  
13 requirements to appear in court. The court may not exclude the option of  
14 posting bond pursuant to paragraph (3).

15 (5) Except as provided further, the amount of the appearance bond  
16 shall be the same whether executed as described in subsection (3) or  
17 posted with a deposit of cash as described in subsection (4). When the  
18 appearance bond has been set at \$2,500 or less and the most serious charge  
19 against the person is a misdemeanor, a severity level 8, 9 or 10 nonperson  
20 felony, a drug severity level 4 felony or a violation of K.S.A. 8-1567, and  
21 amendments thereto, the magistrate may allow the person to deposit cash  
22 with the clerk in the amount of 10% of the bond, provided the person  
23 meets at least the following qualifications:

24 (A) Is a resident of the state of Kansas;  
25 (B) has a criminal history score category of G, H or I;  
26 (C) has no prior history of failure to appear for any court  
27 appearances;

28 (D) has no detainer or hold from any other jurisdiction;

29 (E) has not been extradited from, and is not awaiting extradition to,  
30 another state; and

31 (F) has not been detained for an alleged violation of probation.

32 (6) In the discretion of the court, a person charged with a crime may  
33 be released upon the person's own recognizance by guaranteeing payment  
34 of the amount of the bond for the person's failure to comply with all  
35 requirements to appear in court. The release of a person charged with a  
36 crime upon the person's own recognizance shall not require the deposit of  
37 any cash by the person.

38 (7) The court shall not impose any administrative fee.

39 (8) In determining which conditions of release will reasonably assure  
40 appearance and the public safety, the magistrate shall, on the basis of  
41 available information, take into account the nature and circumstances of  
42 the crime charged; the weight of the evidence against the defendant; the  
43 defendant's family ties, employment, financial resources, character, mental

1 condition, length of residence in the community, record of convictions,  
2 record of appearance or failure to appear at court proceedings or of flight  
3 to avoid prosecution; the likelihood or propensity of the defendant to  
4 commit crimes while on release, including whether the defendant will be  
5 likely to threaten, harass or cause injury to the victim of the crime or any  
6 witnesses thereto; and whether the defendant is on probation or parole  
7 from a previous offense at the time of the alleged commission of the  
8 subsequent offense.

9 (9) The appearance bond shall set forth all of the conditions of  
10 release.

11 (10) A person for whom conditions of release are imposed and who  
12 continues to be detained as a result of the person's inability to meet the  
13 conditions of release shall be entitled, upon application, to have the  
14 conditions reviewed without unnecessary delay by the magistrate who  
15 imposed them. If the magistrate who imposed conditions of release is not  
16 available, any other magistrate in the county may review such conditions.

17 (11) A magistrate ordering the release of a person on any conditions  
18 specified in this section may at any time amend the order to impose  
19 additional or different conditions of release. If the imposition of additional  
20 or different conditions results in the detention of the person, the provisions  
21 of subsection (10) shall apply.

22 (12) Statements or information offered in determining the conditions  
23 of release need not conform to the rules of evidence. No statement or  
24 admission of the defendant made at such a proceeding shall be received as  
25 evidence in any subsequent proceeding against the defendant.

26 (13) The appearance bond and any security required as a condition of  
27 the defendant's release shall be deposited in the office of the magistrate or  
28 the clerk of the court where the release is ordered. If the defendant is  
29 bound to appear before a magistrate or court other than the one ordering  
30 the release, the order of release, together with the bond and security shall  
31 be transmitted to the magistrate or clerk of the court before whom the  
32 defendant is bound to appear.

33 (14) Proceedings before a magistrate as provided in this section to  
34 determine the release conditions of a person charged with a crime  
35 including release upon execution of an appearance bond may be conducted  
36 by two-way electronic audio-video communication between the defendant  
37 and the judge in lieu of personal presence of the defendant or defendant's  
38 counsel in the courtroom in the discretion of the court. The defendant may  
39 be accompanied by the defendant's counsel. The defendant shall be  
40 informed of the defendant's right to be personally present in the courtroom  
41 during such proceeding if the defendant so requests. Exercising the right to  
42 be present shall in no way prejudice the defendant.

43 (15) The magistrate may order the person to pay for any costs

1 associated with the supervision of the conditions of release of the  
2 appearance bond in an amount not to exceed \$15 per week of such  
3 supervision. *As a condition of sentencing under section 244 of chapter 136*  
4 *of the 2010 Session Laws of Kansas, and amendments thereto, the court*  
5 *may impose the full amount of any such costs in addition to the \$15 per*  
6 *week, including, but not limited to, costs for treatment and evaluation*  
7 *under subsection (2).*

8 Sec. 14. K.S.A. 22-2908, as amended by section 9 of chapter 101 of  
9 the 2010 Session Laws of Kansas, is hereby amended to read as follows:  
10 22-2908. (a) In determining whether diversion of a defendant is in the  
11 interests of justice and of benefit to the defendant and the community, the  
12 county or district attorney shall consider at least the following factors  
13 among all factors considered:

14 (1) The nature of the crime charged and the circumstances  
15 surrounding it;

16 (2) any special characteristics or circumstances of the defendant;

17 (3) whether the defendant is a first-time offender and if the defendant  
18 has previously participated in diversion, according to the certification of  
19 the Kansas bureau of investigation or the division of vehicles of the  
20 department of revenue;

21 (4) whether there is a probability that the defendant will cooperate  
22 with and benefit from diversion;

23 (5) whether the available diversion program is appropriate to the  
24 needs of the defendant;

25 (6) the impact of the diversion of the defendant upon the community;

26 (7) recommendations, if any, of the involved law enforcement  
27 agency;

28 (8) recommendations, if any, of the victim;

29 (9) provisions for restitution; and

30 (10) any mitigating circumstances.

31 (b) A county or district attorney shall not enter into a diversion  
32 agreement in lieu of further criminal proceedings on a complaint if:

33 (1) The complaint alleges a violation of K.S.A. 8-1567, and  
34 amendments thereto, and the defendant: (A) Has previously participated in  
35 diversion upon a complaint alleging a violation of that statute or an  
36 ordinance of a city in this state which prohibits the acts prohibited by that  
37 statute; (B) has previously been convicted of or pleaded *nolo contendere* to  
38 a violation of that statute or a violation of a law of another state or of a  
39 political subdivision of this or any other state, which law prohibits the acts  
40 prohibited by that statute; or (C) during the time of the alleged violation  
41 was involved in a motor vehicle accident or collision resulting in personal  
42 injury or death;

43 (2) the complaint alleges that the defendant committed a class A or B

1 felony or for crimes committed on or after July 1, 1993, an off-grid crime,  
2 a severity level 1, 2 or 3 felony for nondrug crimes or drug severity level 1  
3 or 2 felony for drug crimes; or

4 (3) the complaint alleges a domestic violence offense, as defined in  
5 ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of the 2010 Session Laws of*  
6 *Kansas*, and amendments thereto, and the defendant has participated in  
7 two or more diversions in the previous five year period upon complaints  
8 alleging a domestic violence offense.

9 (c) A county or district attorney may enter into a diversion agreement  
10 in lieu of further criminal proceedings on a complaint for violations of  
11 article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments  
12 thereto, if such diversion carries the same penalties as the conviction for  
13 the corresponding violations. If the defendant has previously participated  
14 in one or more diversions for violations of article 10 of chapter 32 of the  
15 Kansas Statutes Annotated, and amendments thereto, then each subsequent  
16 diversion shall carry the same penalties as the conviction for the  
17 corresponding violations.

18 Sec. 15. K.S.A. 2009 Supp. 22-2909, as amended by section 10 of  
19 chapter 101 of the 2010 Session Laws of Kansas, is hereby amended to  
20 read as follows: 22-2909. (a) A diversion agreement shall provide that if  
21 the defendant fulfills the obligations of the program described therein, as  
22 determined by the attorney general or county or district attorney, such  
23 attorney shall act to have the criminal charges against the defendant  
24 dismissed with prejudice. The diversion agreement shall include  
25 specifically the waiver of all rights under the law or the constitution of  
26 Kansas or of the United States to a speedy arraignment, preliminary  
27 examinations and hearings, and a speedy trial, and in the case of diversion  
28 under subsection (c) waiver of the rights to counsel and trial by jury. The  
29 diversion agreement may include, but is not limited to, provisions  
30 concerning payment of restitution, including court costs and diversion  
31 costs, residence in a specified facility, maintenance of gainful employment,  
32 and participation in programs offering medical, educational, vocational,  
33 social and psychological services, corrective and preventive guidance and  
34 other rehabilitative services. If a county creates a local fund under the  
35 property crime restitution and compensation act, a county or district  
36 attorney may require in all diversion agreements as a condition of  
37 diversion the payment of a diversion fee in an amount not to exceed \$100.  
38 Such fees shall be deposited into the local fund and disbursed pursuant to  
39 recommendations of the local board under the property crime restitution  
40 and victims compensation act.

41 (b) The diversion agreement shall state: (1) The defendant's full  
42 name; (2) the defendant's full name at the time the complaint was filed, if  
43 different from the defendant's current name; (3) the defendant's sex, race

1 and date of birth; (4) the crime with which the defendant is charged; (5)  
2 the date the complaint was filed; and (6) the district court with which the  
3 agreement is filed.

4 (c) If a diversion agreement is entered into in lieu of further criminal  
5 proceedings on a complaint alleging a violation of K.S.A. 8-1567, and  
6 amendments thereto, the diversion agreement shall include a stipulation,  
7 agreed to by the defendant, the defendant's attorney if the defendant is  
8 represented by an attorney and the attorney general or county or district  
9 attorney, of the facts upon which the charge is based and a provision that if  
10 the defendant fails to fulfill the terms of the specific diversion agreement  
11 and the criminal proceedings on the complaint are resumed, the  
12 proceedings, including any proceedings on appeal, shall be conducted on  
13 the record of the stipulation of facts relating to the complaint. In addition,  
14 the agreement shall include a requirement that the defendant:

15 (1) Pay a fine specified by the agreement in an amount equal to an  
16 amount authorized by K.S.A. 8-1567, and amendments thereto, for a first  
17 offense or, in lieu of payment of the fine, perform community service  
18 specified by the agreement, in accordance with K.S.A. 8-1567, and  
19 amendments thereto; and

20 (2) enroll in and successfully complete an alcohol and drug safety  
21 action program or a treatment program, or both, as provided in K.S.A. 8-  
22 1008, and amendments thereto, and specified by the agreement, and pay  
23 the assessment required by K.S.A. 8-1008, and amendments thereto.

24 (d) If a diversion agreement is entered into in lieu of further criminal  
25 proceedings on a complaint alleging a domestic violence offense, as  
26 defined in ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of the 2010 Session*  
27 *Laws of Kansas*, and amendments thereto, the diversion agreement shall  
28 include a requirement that the defendant undergo a domestic violence  
29 offender assessment and follow all recommendations unless otherwise  
30 agreed to with the prosecutor in the diversion agreement. The defendant  
31 shall be required to pay for such assessment and, unless otherwise agreed  
32 to with the prosecutor in the diversion agreement, for completion of all  
33 recommendations.

34 (e) If a diversion agreement is entered into in lieu of further criminal  
35 proceedings on a complaint alleging a violation other than K.S.A. 8-1567,  
36 and amendments thereto, the diversion agreement may include a  
37 stipulation, agreed to by the defendant, the defendant's attorney if the  
38 defendant is represented by an attorney and the attorney general or county  
39 or district attorney, of the facts upon which the charge is based and a  
40 provision that if the defendant fails to fulfill the terms of the specific  
41 diversion agreement and the criminal proceedings on the complaint are  
42 resumed, the proceedings, including any proceedings on appeal, shall be  
43 conducted on the record of the stipulation of facts relating to the

1 complaint.

2 (f) If the person entering into a diversion agreement is a nonresident,  
3 the attorney general or county or district attorney shall transmit a copy of  
4 the diversion agreement to the division. The division shall forward a copy  
5 of the diversion agreement to the motor vehicle administrator of the  
6 person's state of residence.

7 (g) If the attorney general or county or district attorney elects to offer  
8 diversion in lieu of further criminal proceedings on the complaint and the  
9 defendant agrees to all of the terms of the proposed agreement, the  
10 diversion agreement shall be filed with the district court and the district  
11 court shall stay further proceedings on the complaint. If the defendant  
12 declines to accept diversion, the district court shall resume the criminal  
13 proceedings on the complaint.

14 (h) Except as provided in subsection (h), if a diversion agreement is  
15 entered into in lieu of further criminal proceedings alleging commission of  
16 a misdemeanor by the defendant, while under 21 years of age, under  
17 K.S.A. ~~2009~~2010 Supp. 21-36a01 through 21-36a17, and amendments  
18 thereto, or K.S.A. 41-719, 41-727, 41-804, 41-2719 or 41-2720, and  
19 amendments thereto, the agreement shall require the defendant to submit  
20 to and complete an alcohol and drug evaluation by a community-based  
21 alcohol and drug safety action program certified pursuant to K.S.A. 8-  
22 1008, and amendments thereto, and to pay a fee not to exceed the fee  
23 established by that statute for such evaluation. If the attorney general or  
24 county or district attorney finds that the defendant is indigent, the fee may  
25 be waived.

26 (i) If the defendant is 18 or more years of age but less than 21 years  
27 of age and allegedly committed a violation of K.S.A. 41-727, and  
28 amendments thereto, involving cereal malt beverage, the provisions of  
29 subsection (g) are permissive and not mandatory.

30 (j) Except diversion agreements reported under subsection (j), the  
31 attorney general or county or district attorney shall forward to the Kansas  
32 bureau of investigation a copy of the diversion agreement at the time such  
33 agreement is filed with the district court. The copy of the agreement shall  
34 be made available upon request to the attorney general or any county,  
35 district or city attorney or court.

36 (k) At the time of filing the diversion agreement with the district  
37 court, the attorney general or county or district attorney shall forward to  
38 the division of vehicles of the state department of revenue a copy of any  
39 diversion agreement entered into in lieu of further criminal proceedings on  
40 a complaint alleging a violation of K.S.A. 8-1567, and amendments  
41 thereto. The copy of the agreement shall be made available upon request to  
42 the attorney general or any county, district or city attorney or court.

43 Sec. 16. K.S.A. 2010 Supp. 22-3305 is hereby amended to read as

1 follows: 22-3305. (1) Whenever involuntary commitment proceedings  
2 have been commenced by the secretary of social and rehabilitation  
3 services as required by K.S.A. 22-3303, and amendments thereto, and the  
4 defendant is not committed to a treatment facility as a patient, the  
5 defendant shall remain in the institution where committed pursuant to  
6 K.S.A. 22-3303, and amendments thereto. The secretary of social and  
7 rehabilitation services shall promptly notify the court, the county or district  
8 attorney of the county in which the criminal proceedings are pending and  
9 the secretary of corrections for the purpose of providing victim  
10 notification, of the result of the involuntary commitment proceeding.

11 (2) Whenever involuntary commitment proceedings have been  
12 commenced by the secretary of social and rehabilitation services as  
13 required by K.S.A. 22-3303, and amendments thereto, and the defendant is  
14 committed to a treatment facility as a patient but thereafter is to be  
15 discharged pursuant to the care and treatment act for mentally ill persons,  
16 the defendant shall remain in the institution where committed pursuant to  
17 K.S.A. 22-3303, and amendments thereto, and the head of the treatment  
18 facility shall promptly notify the court, the county or district attorney of  
19 the county in which the criminal proceedings are pending and the secretary  
20 of corrections for the purpose of providing victim notification, that the  
21 defendant is to be discharged.

22 When giving notification to the court, the county or district attorney  
23 and the secretary of corrections pursuant to subsection (1) or (2), the  
24 treatment facility shall include in such notification an opinion from the  
25 head of the treatment facility as to whether or not the defendant is now  
26 competent to stand trial. Upon request of the county or district attorney, the  
27 court may set a hearing on the issue of whether or not the defendant has  
28 been restored to competency. If such hearing request is granted, the court  
29 shall notify the secretary of corrections of the hearing date for the purpose  
30 of victim notification. If no such request is made within ~~10~~ 14 days after  
31 receipt of notice pursuant to subsection (1) or (2), the court shall order the  
32 defendant to be discharged from commitment and shall dismiss without  
33 prejudice the charges against the defendant, and the period of limitation for  
34 the prosecution for the crime charged shall not continue to run until the  
35 defendant has been determined to have attained competency in accordance  
36 with K.S.A. 22-3302, and amendments thereto. The court shall notify the  
37 secretary of corrections of the discharge order for the purpose of providing  
38 victim notification.

39 Sec. 17. K.S.A. 2010 Supp. 22-3428 is hereby amended to read as  
40 follows: 22-3428. (1) (a) When a defendant is acquitted and the jury  
41 answers in the affirmative to the special question asked pursuant to K.S.A.  
42 22-3221, and amendments thereto, the defendant shall be committed to the  
43 state security hospital for safekeeping and treatment and the court shall



1 notify the secretary of corrections for the purpose of providing victim  
2 notification. A finding of not guilty and the jury answering in the  
3 affirmative to the special question asked pursuant to K.S.A. 22-3221, and  
4 amendments thereto, shall be prima facie evidence that the acquitted  
5 defendant is presently likely to cause harm to self or others.

6 (b) Within 90 days of the defendant's admission, the chief medical  
7 officer of the state security hospital shall send to the court a written  
8 evaluation report. Upon receipt of the report, the court shall set a hearing  
9 to determine whether or not the defendant is currently a mentally ill  
10 person. The hearing shall be held within 30 days after the receipt by the  
11 court of the chief medical officer's report.

12 (c) The court shall give notice of the hearing to the chief medical  
13 officer of the state security hospital, the district or county attorney, the  
14 defendant, the defendant's attorney and the secretary of corrections for the  
15 purpose of providing victim notification. The court shall inform the  
16 defendant that such defendant is entitled to counsel and that counsel will  
17 be appointed to represent the defendant if the defendant is not financially  
18 able to employ an attorney as provided in K.S.A. 22-4503 et seq., and  
19 amendments thereto. The defendant shall remain at the state security  
20 hospital pending the hearing.

21 (d) At the hearing, the defendant shall have the right to present  
22 evidence and cross-examine witnesses. At the conclusion of the hearing, if  
23 the court finds by clear and convincing evidence that the defendant is not  
24 currently a mentally ill person, the court shall dismiss the criminal  
25 proceeding and discharge the defendant, otherwise the court may commit  
26 the defendant to the state security hospital for treatment or may place the  
27 defendant on conditional release pursuant to subsection (4). The court shall  
28 notify the secretary of corrections of the outcome of the hearing for the  
29 purpose of providing victim notification.

30 (2) Subject to the provisions of subsection (3):

31 (a) Whenever it appears to the chief medical officer of the state  
32 security hospital that a person committed under subsection (1)(d) is not  
33 likely to cause harm to other persons in a less restrictive hospital  
34 environment, the officer may transfer the person to any state hospital,  
35 subject to the provisions of subsection (3). At any time subsequent thereto  
36 during which such person is still committed to a state hospital, if the chief  
37 medical officer of that hospital finds that the person may be likely to cause  
38 harm or has caused harm, to others, such officer may transfer the person  
39 back to the state security hospital.

40 (b) Any person committed under subsection (1)(d) may be granted  
41 conditional release or discharge as an involuntary patient.

42 (3) Before transfer of a person from the state security hospital  
43 pursuant to subsection (2)(a) or conditional release or discharge of a

1 person pursuant to subsection (2)(b), the chief medical officer of the state  
2 security hospital or the state hospital where the patient is under  
3 commitment shall give notice to the district court of the county from  
4 which the person was committed that transfer of the patient is proposed or  
5 that the patient is ready for proposed conditional release or discharge. Such  
6 notice shall include, but not be limited to: (a) Identification of the patient;  
7 (b) the course of treatment; (c) a current assessment of the defendant's  
8 mental illness; (d) recommendations for future treatment, if any; and (e)  
9 recommendations regarding conditional release or discharge, if any. Upon  
10 receiving notice, the district court shall order that a hearing be held on the  
11 proposed transfer, conditional release or discharge. The court shall give  
12 notice of the hearing to the state hospital or state security hospital where  
13 the patient is under commitment, to the district or county attorney of the  
14 county from which the person was originally ordered committed and the  
15 secretary of corrections for the purpose of providing victim notification.  
16 The court shall order the involuntary patient to undergo a mental  
17 evaluation by a person designated by the court. A copy of all orders of the  
18 court shall be sent to the involuntary patient and the patient's attorney. The  
19 report of the court ordered mental evaluation shall be given to the district  
20 or county attorney, the involuntary patient and the patient's attorney at  
21 least ~~five~~ seven days prior to the hearing. The hearing shall be held within  
22 30 days after the receipt by the court of the chief medical officer's notice.  
23 The involuntary patient shall remain in the state hospital or state security  
24 hospital where the patient is under commitment until the hearing on the  
25 proposed transfer, conditional release or discharge is to be held. At the  
26 hearing, the court shall receive all relevant evidence, including the written  
27 findings and recommendations of the chief medical officer of the state  
28 security hospital or the state hospital where the patient is under  
29 commitment, and shall determine whether the patient shall be transferred  
30 to a less restrictive hospital environment or whether the patient shall be  
31 conditionally released or discharged. The patient shall have the right to  
32 present evidence at such hearing and to cross-examine any witnesses  
33 called by the district or county attorney. At the conclusion of the hearing, if  
34 the court finds by clear and convincing evidence that the patient will not  
35 be likely to cause harm to self or others if transferred to a less restrictive  
36 hospital environment, the court shall order the patient transferred. If the  
37 court finds by clear and convincing evidence that the patient is not  
38 currently a mentally ill person, the court shall order the patient discharged  
39 or conditionally released; otherwise, the court shall order the patient to  
40 remain in the state security hospital or state hospital where the patient is  
41 under commitment. If the court orders the conditional release of the patient  
42 in accordance with subsection (4), the court may order as an additional  
43 condition to the release that the patient continue to take prescribed

1 medication and report as directed to a person licensed to practice medicine  
2 and surgery to determine whether or not the patient is taking the  
3 medication or that the patient continue to receive periodic psychiatric or  
4 psychological treatment. The court shall notify the secretary of corrections  
5 of the outcome of the hearing for the purpose of providing victim  
6 notification.

7 (4) In order to ensure the safety and welfare of a patient who is to be  
8 conditionally released and the citizenry of the state, the court may allow  
9 the patient to remain in custody at a facility under the supervision of the  
10 secretary of social and rehabilitation services for a period of time not to  
11 exceed 45 days in order to permit sufficient time for the secretary to  
12 prepare recommendations to the court for a suitable reentry program for  
13 the patient and allow adequate time for the secretary of corrections to  
14 provide victim notification. The reentry program shall be specifically  
15 designed to facilitate the return of the patient to the community as a  
16 functioning, self-supporting citizen, and may include appropriate  
17 supportive provisions for assistance in establishing residency, securing  
18 gainful employment, undergoing needed vocational rehabilitation,  
19 receiving marital and family counseling, and such other outpatient services  
20 that appear beneficial. If a patient who is to be conditionally released will  
21 be residing in a county other than the county where the district court that  
22 ordered the conditional release is located, the court shall transfer venue of  
23 the case to the district court of the other county and send a copy of all of  
24 the court's records of the proceedings to the other court. In all cases of  
25 conditional release the court shall: (a) Order that the patient be placed  
26 under the temporary supervision of district court probation and parole  
27 services, community treatment facility or any appropriate private agency;  
28 and (b) require as a condition precedent to the release that the patient agree  
29 in writing to waive extradition in the event a warrant is issued pursuant to  
30 K.S.A. 22-3428b, and amendments thereto.

31 (5) At any time during the conditional release period, a conditionally  
32 released patient, through the patient's attorney, or the county or district  
33 attorney of the county in which the district court having venue is located  
34 may file a motion for modification of the conditions of release, and the  
35 court shall hold an evidentiary hearing on the motion within ~~15~~ 14 days of  
36 its filing. The court shall give notice of the time for the hearing to the  
37 patient and the county or district attorney. If the court finds from the  
38 evidence at the hearing that the conditional provisions of release should be  
39 modified or vacated, it shall so order. If at any time during the transitional  
40 period the designated medical officer or supervisory personnel or the  
41 treatment facility informs the court that the patient is not satisfactorily  
42 complying with the provisions of the conditional release, the court, after a  
43 hearing for which notice has been given to the county or district attorney

1 and the patient, may make orders: (a) For additional conditions of release  
2 designed to effect the ends of the reentry program, (b) requiring the county  
3 or district attorney to file a petition to determine whether the patient is a  
4 mentally ill person as provided in K.S.A. 59-2957, and amendments  
5 thereto, or (c) requiring that the patient be committed to the state security  
6 hospital or any state hospital. In cases where a petition is ordered to be  
7 filed, the court shall proceed to hear and determine the petition pursuant to  
8 the care and treatment act for mentally ill persons and that act shall apply  
9 to all subsequent proceedings. If a patient is committed to any state  
10 hospital pursuant to this act the secretary of social and rehabilitation  
11 services shall notify the secretary of corrections for the purpose of  
12 providing victim notification. The costs of all proceedings, the mental  
13 evaluation and the reentry program authorized by this section shall be paid  
14 by the county from which the person was committed.

15 (6) In any case in which the defense that the defendant lacked the  
16 required mental state pursuant to K.S.A. 22-3220, and amendments  
17 thereto, is relied on, the court shall instruct the jury on the substance of  
18 this section.

19 (7) As used in this section and K.S.A. 22-3428a, and amendments  
20 thereto:

21 (a) "Likely to cause harm to self or others" means that the person is  
22 likely, in the reasonably foreseeable future, to cause substantial physical  
23 injury or physical abuse to self or others or substantial damage to another's  
24 property, or evidenced by behavior causing, attempting or threatening such  
25 injury, abuse or neglect.

26 (b) "Mentally ill person" means any person who:

27 (A) Is suffering from a severe mental disorder to the extent that such  
28 person is in need of treatment; and

29 (B) is likely to cause harm to self or others.

30 (c) "Treatment facility" means any mental health center or clinic,  
31 psychiatric unit of a medical care facility, psychologist, physician or other  
32 institution or individual authorized or licensed by law to provide either  
33 inpatient or outpatient treatment to any patient.

34 Sec. 18. K.S.A. 2010 Supp. 22-3428a is hereby amended to read as  
35 follows: 22-3428a. (1) Any person found not guilty, pursuant to K.S.A. 22-  
36 3220 and 22-3221, and amendments thereto, who remains in the state  
37 security hospital or a state hospital for over one year pursuant to a  
38 commitment under K.S.A. 22-3428, and amendments thereto, shall be  
39 entitled annually to request a hearing to determine whether or not the  
40 person continues to be a mentally ill person. The request shall be made in  
41 writing to the district court of the county where the person is hospitalized  
42 and shall be signed by the committed person or the person's counsel. When  
43 the request is filed, the court shall give notice of the request to: (a) The

1 county or district attorney of the county in which the person was originally  
2 ordered committed, and (b) the chief medical officer of the state security  
3 hospital or state hospital where the person is committed. The chief medical  
4 officer receiving the notice, or the officer's designee, shall conduct a  
5 mental examination of the person and shall send to the district court of the  
6 county where the person is hospitalized and to the county or district  
7 attorney of the county in which the person was originally ordered  
8 committed a report of the examination within ~~20~~ 21 days from the date  
9 when notice from the court was received. Within ~~10~~ 14 days after  
10 receiving the report of the examination, the county or district attorney  
11 receiving it may file a motion with the district court that gave the notice,  
12 requesting the court to change the venue of the hearing to the district court  
13 of the county in which the person was originally committed, or the court  
14 that gave the notice on its own motion may change the venue of the  
15 hearing to the district court of the county in which the person was  
16 originally committed. Upon receipt of that motion and the report of the  
17 mental examination or upon the court's own motion, the court shall  
18 transfer the hearing to the district court specified in the motion and send a  
19 copy of the court's records of the proceedings to that court.

20 (2) After the time in which a change of venue may be requested has  
21 elapsed, the court having venue shall set a date for the hearing, giving  
22 notice thereof to the county or district attorney of the county, the  
23 committed person, the person's counsel and the secretary of corrections for  
24 the purpose of providing victim notification. If there is no counsel of  
25 record, the court shall appoint a counsel for the committed person. The  
26 committed person shall have the right to procure, at the person's own  
27 expense, a mental examination by a physician or licensed psychologist of  
28 the person's own choosing. If a committed person is financially unable to  
29 procure such an examination, the aid to indigent defendants provisions of  
30 article 45 of chapter 22 of the Kansas Statutes Annotated shall be  
31 applicable to that person. A committed person requesting a mental  
32 examination pursuant to K.S.A. 22-4508, and amendments thereto, may  
33 request a physician or licensed psychologist of the person's own choosing  
34 and the court shall request the physician or licensed psychologist to  
35 provide an estimate of the cost of the examination. If the physician or  
36 licensed psychologist agrees to accept compensation in an amount in  
37 accordance with the compensation standards set by the board of  
38 supervisors of panels to aid indigent defendants, the judge shall appoint  
39 the requested physician or licensed psychologist; otherwise, the court shall  
40 designate a physician or licensed psychologist to conduct the examination.  
41 Copies of each mental examination of the committed person shall be filed  
42 with the court at least ~~five~~ seven days prior to the hearing and shall be  
43 supplied to the county or district attorney receiving notice pursuant to this

1 section and the committed person's counsel.

2 (3) At the hearing the committed person shall have the right to  
3 present evidence and cross-examine the witnesses. The court shall receive  
4 all relevant evidence, including the written findings and recommendations  
5 of the chief medical officer of the state security hospital or state hospital  
6 where the person is under commitment, and shall determine whether the  
7 committed person continues to be a mentally ill person. At the hearing the  
8 court may make any order that a court is empowered to make pursuant to  
9 subsections (3), (4) and (5) of K.S.A. 22-3428, and amendments thereto. If  
10 the court finds by clear and convincing evidence the committed person is  
11 not a mentally ill person, the court shall order the person discharged;  
12 otherwise, the person shall remain committed or be conditionally released.  
13 The court shall notify the secretary of corrections of the outcome of the  
14 hearing for the purpose of providing victim notification.

15 (4) Costs of a hearing held pursuant to this section shall be assessed  
16 against and paid by the county in which the person was originally ordered  
17 committed.

18 Sec. 19. K.S.A. 2010 Supp. 22-3437 is hereby amended to read as  
19 follows: 22-3437. (a) (1) In any hearing or trial, a report concerning  
20 forensic examinations and certificate of forensic examination executed  
21 pursuant to this section shall be admissible in evidence if the report and  
22 certificate are prepared and attested by a criminalist or other employee of  
23 the Kansas bureau of investigation, Kansas highway patrol or any  
24 laboratory of the federal bureau of investigation, federal postal inspection  
25 service, federal bureau of alcohol, tobacco and firearms or federal drug  
26 enforcement administration. If the examination involves a breath test for  
27 alcohol content, the report must also be admissible pursuant to K.S.A. 8-  
28 1001, and amendments thereto, and be conducted by a law enforcement  
29 officer or other person who is certified by the department of health and  
30 environment as a breath test operator as provided by K.S.A. 65-1,107 et  
31 seq., and amendments thereto.

32 (2) Upon the request of any law enforcement agency, such person as  
33 provided in paragraph (1) performing the analysis shall prepare a  
34 certificate. Such person shall sign the certificate under oath and shall  
35 include in the certificate an attestation as to the result of the analysis. The  
36 presentation of this certificate to a court by any party to a proceeding shall  
37 be evidence that all of the requirements and provisions of this section have  
38 been complied with. This certificate shall be supported by a written  
39 declaration pursuant to K.S.A. 53-601, and amendments thereto, or shall  
40 be sworn to before a notary public or other person empowered by law to  
41 take oaths and shall contain a statement establishing the following: The  
42 type of analysis performed; the result achieved; any conclusions reached  
43 based upon that result; that the subscriber is the person who performed the

1 analysis and made the conclusions; the subscriber's training or experience  
2 to perform the analysis; the nature and condition of the equipment used;  
3 and the certification and foundation requirements for admissibility of  
4 breath test results, when appropriate. When properly executed, the  
5 certificate shall, subject to the provisions of paragraph (3) and  
6 notwithstanding any other provision of law, be admissible evidence of the  
7 results of the forensic examination of the samples or evidence submitted  
8 for analysis and the court shall take judicial notice of the signature of the  
9 person performing the analysis and of the fact that such person is that  
10 person who performed the analysis.

11 (3) Whenever a party intends to proffer in a criminal or civil  
12 proceeding, a certificate executed pursuant to this section, notice of an  
13 intent to proffer that certificate and the reports relating to the analysis in  
14 question, including a copy of the certificate, shall be conveyed to the  
15 opposing party or parties at least ~~20~~ 21 days before the beginning of a  
16 hearing where the proffer will be used. An opposing party who intends to  
17 object to the admission into evidence of a certificate shall give notice of  
18 objection and the grounds for the objection within ~~10~~ 14 days upon  
19 receiving the adversary's notice of intent to proffer the certificate.  
20 Whenever a notice of objection is filed, admissibility of the certificate  
21 shall be determined not later than two days before the beginning of the  
22 trial. A proffered certificate shall be admitted in evidence unless it appears  
23 from the notice of objection and grounds for that objection that the  
24 conclusions of the certificate, including the composition, quality or  
25 quantity of the substance submitted to the laboratory for analysis or the  
26 alcohol content of a blood or breath sample will be contested at trial. A  
27 failure to comply with the time limitations regarding the notice of  
28 objection required by this section shall constitute a waiver of any  
29 objections to the admission of the certificate. The time limitations set forth  
30 in this section may be extended upon a showing of good cause.

31 (b) (1) In any hearing or trial where there is a report concerning  
32 forensic examinations from a person as provided in paragraph (1) of  
33 subsection (a), district and municipal courts may, upon request of either  
34 party, use two-way interactive video technology, including internet-based  
35 videoconferencing, to take testimony from that person if the testimony is  
36 in relation to the report.

37 (2) The use of any two-way interactive video technology must be in  
38 accordance with any requirements and guidelines established by the office  
39 of judicial administration, and all proceedings at which such technology is  
40 used in a district court must be recorded verbatim by the court.

41 Sec. 20. K.S.A. 2010 Supp. 38-2258 is hereby amended to read as  
42 follows: 38-2258. (a) Except as provided in K.S.A. 2010 Supp. 38-2255(d)  
43 (2) and 38-2259, and amendments thereto, if a child has been in the same

1 foster home or shelter facility for six months or longer, or has been placed  
2 by the secretary in the home of a parent or relative, the secretary shall give  
3 written notice of any plan to move the child to a different placement unless  
4 the move is to the selected preadoptive family for the purpose of  
5 facilitating adoption. The notice shall be given to: (1) The court having  
6 jurisdiction over the child; (2) the petitioner; (3) the attorney for the  
7 parents, if any; (4) each parent whose address is available; (5) the foster  
8 parent or custodian from whose home or shelter facility it is proposed to  
9 remove the child; (6) the child, if 12 or more years of age; (7) the child's  
10 guardian ad litem; (8) any other party or interested party; and (9) the  
11 child's court appointed special advocate.

12 (b) The notice shall state the placement to which the secretary plans  
13 to transfer the child and the reason for the proposed action. The notice  
14 shall be mailed by first class mail 30 days in advance of the planned  
15 transfer, except that the secretary shall not be required to wait 30 days to  
16 transfer the child if all persons enumerated in subsection (a)(2) through (8)  
17 consent in writing to the transfer.

18 (c) Within ~~10~~ 14 days after receipt of the notice, any person  
19 enumerated in subsection (a)(2) through (8) receiving notice as provided  
20 above may request, either orally or in writing, that the court conduct a  
21 hearing to determine whether or not the change in placement is in the best  
22 interests of the child concerned. When the request has been received, the  
23 court shall schedule a hearing and immediately notify the secretary of the  
24 request and the time and date the matter will be heard. The court shall give  
25 notice of the hearing to persons enumerated in subsection (a)(2) through  
26 (9). If the court does not receive a request for hearing within the specified  
27 time, the change in placement may occur prior to the expiration of the 30  
28 days. The secretary shall not change the placement of the child, except for  
29 the purpose of adoption, unless the change is approved by the court.

30 (d) When, after the notice set out above, a child in the custody of the  
31 secretary is removed from the home of a parent after having been placed in  
32 the home of a parent for a period of six months or longer, the secretary  
33 shall request a finding that: (1)(A) The child is likely to sustain harm if not  
34 immediately removed from the home;

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

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

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

42 (e) The secretary shall present to the court in writing the efforts to  
43 maintain the family unit and prevent the unnecessary removal of the child



1 from the child's home. In making the findings, the court may rely on  
2 documentation submitted by the secretary or may set the date for a hearing  
3 on the matter. If the secretary requests such finding, the court, not more  
4 than 45 days from the date of the request, shall provide the secretary with a  
5 written copy of the findings by the court for the purpose of documenting  
6 these orders.

7 Sec. 21. K.S.A. 2010 Supp. 38-2373 is hereby amended to read as  
8 follows: 38-2373. (a) *Actions by the court.* (1) When a juvenile offender  
9 has been committed to a juvenile correctional facility, the clerk of the court  
10 shall forthwith notify the commissioner of the commitment and provide  
11 the commissioner with a certified copy of the complaint, the journal entry  
12 of the adjudication and sentencing. The court shall provide those items  
13 from the social file which could relate to a rehabilitative program. If the  
14 court wishes to recommend placement of the juvenile offender in a  
15 specific juvenile correctional facility, the recommendation shall be  
16 included in the sentence. After the court has received notice of the juvenile  
17 correctional facility designated as provided in subsection (b), it shall be the  
18 duty of the court or the sheriff of the county to deliver the juvenile  
19 offender to the facility at the time designated by the commissioner.

20 (2) When a juvenile offender is residing in a juvenile correctional  
21 facility and is required to go back to court for any reason, the county  
22 demanding the juvenile's presence shall be responsible for transportation,  
23 detention, custody and control of such offender. In these cases, the county  
24 sheriff shall be responsible for all transportation, detention, custody and  
25 control of such offender.

26 (b) *Actions by the commissioner.* (1) Within three days, *excluding*  
27 *Saturdays, Sundays and legal holidays*, after receiving notice of  
28 commitment as provided in subsection (a), the commissioner shall notify  
29 the committing court of the facility to which the juvenile offender should  
30 be conveyed, and when to effect the immediate transfer of custody and  
31 control to the juvenile justice authority. The date of admission shall be no  
32 more than five days, *excluding Saturdays, Sundays and legal holidays*,  
33 after the notice to the committing court. Until received at the designated  
34 facility, the continuing detention, custody, and control of and transport for  
35 a juvenile offender sentenced to a direct commitment to a juvenile  
36 correctional facility shall be the responsibility of the committing county.

37 (2) Except as provided by K.S.A. 2010 Supp. 38-2332, and  
38 amendments thereto, the commissioner may make any temporary out-of-  
39 home placement the commissioner deems appropriate pending placement  
40 of the juvenile offender in a juvenile correctional facility, and the  
41 commissioner shall notify the court, local law enforcement agency and  
42 school district in which the juvenile will be residing if the juvenile is still  
43 required to attend a secondary school of that placement.

1 (c) *Transfers*. During the time a juvenile offender remains committed  
2 to a juvenile correctional facility, the commissioner may transfer the  
3 juvenile offender from one juvenile correctional facility to another.

4 Sec. 22. K.S.A. 2010 Supp. 40-2,118, as amended by section 6 of  
5 2011 House Bill No. 2030, is hereby amended to read as follows: 40-  
6 2,118. (a) For purposes of this act a "fraudulent insurance act" means an  
7 act committed by any person who, knowingly and with intent to defraud,  
8 presents, causes to be presented or prepares with knowledge or belief that  
9 it will be presented to or by an insurer, purported insurer, broker or any  
10 agent thereof, any written statement as part of, or in support of, an  
11 application for the issuance of, or the rating of an insurance policy for  
12 personal or commercial insurance, or a claim for payment or other benefit  
13 pursuant to an insurance policy for commercial or personal insurance  
14 which such person knows to contain materially false information  
15 concerning any fact material thereto; or conceals, for the purpose of  
16 misleading, information concerning any fact material thereto.

17 (b) An insurer that has knowledge or a good faith belief that a  
18 fraudulent insurance act is being or has been committed shall provide to  
19 the commissioner, on a form prescribed by the commissioner, any and all  
20 information and such additional information relating to such fraudulent  
21 insurance act as the commissioner may require.

22 (c) Any other person that has knowledge or a good faith belief that a  
23 fraudulent insurance act is being or has been committed may provide to  
24 the commissioner, on a form prescribed by the commissioner, any and all  
25 information and such additional information relating to such fraudulent  
26 insurance act as the commissioner may request.

27 (d) (1) Each insurer shall have antifraud initiatives reasonably  
28 calculated to detect fraudulent insurance acts. Antifraud initiatives may  
29 include: fraud investigators, who may be insurer employees or  
30 independent contractors; or an antifraud plan submitted to the  
31 commissioner no later than July 1, 2007. Each insurer that submits an  
32 antifraud plan shall notify the commissioner of any material change in the  
33 information contained in the antifraud plan within 30 days after such  
34 change occurs. Such insurer shall submit to the commissioner in writing  
35 the amended antifraud plan.

36 The requirement for submitting any antifraud plan, or any amendment  
37 thereof, to the commissioner shall expire on the date specified in  
38 paragraph (2) of this subsection unless the legislature reviews and reenacts  
39 the provisions of paragraph (2) pursuant to K.S.A. 45-229, and  
40 amendments thereto.

41 (2) Any antifraud plan, or any amendment thereof, submitted to the  
42 commissioner for informational purposes only shall be confidential and  
43 not be a public record and shall not be subject to discovery or subpoena in

1 a civil action unless following an in camera review, the court determines  
2 that the antifraud plan is relevant and otherwise admissible under the rules  
3 of evidence set forth in article 4 of chapter 60 of the Kansas Statutes  
4 Annotated, and amendments thereto. The provisions of this paragraph shall  
5 expire on July 1, 2016, unless the legislature reviews and reenacts this  
6 provision pursuant to K.S.A. 45-229, and amendments thereto, prior to  
7 July 1, 2016.

8 (e) Except as otherwise specifically provided in ~~K.S.A. 21-3718~~  
9 *subsection (a) of section 98 of chapter 136 of the 2010 Session Laws of*  
10 *Kansas, and amendments thereto*, and K.S.A. 44-5,125, and amendments  
11 thereto, a fraudulent insurance act shall constitute a severity level 6,  
12 nonperson felony if the amount involved is \$25,000 or more; a severity  
13 level 7, nonperson felony if the amount is at least \$5,000 but less than  
14 \$25,000; a severity level 8, nonperson felony if the amount is at least  
15 \$1,000 but less than \$5,000; and a class C nonperson misdemeanor if the  
16 amount is less than \$1,000. Any combination of fraudulent acts as defined  
17 in subsection (a) which occur in a period of six consecutive months which  
18 involves \$25,000 or more shall have a presumptive sentence of  
19 imprisonment regardless of its location on the sentencing grid block.

20 (f) In addition to any other penalty, a person who violates this statute  
21 shall be ordered to make restitution to the insurer or any other person or  
22 entity for any financial loss sustained as a result of such violation. An  
23 insurer shall not be required to provide coverage or pay any claim  
24 involving a fraudulent insurance act.

25 (g) This act shall apply to all insurance applications, ratings, claims  
26 and other benefits made pursuant to any insurance policy.

27 Sec. 23. K.S.A. 58-2011, as amended by section 23 of 2011 Senate  
28 Bill No. 112, is hereby amended to read as follows: 58-2011. (a) Whenever  
29 a survey originates from a United States public land survey corner or any  
30 related accessory, the land surveyor shall file a reference report for each  
31 corner or accessory with the secretary of the state historical society and  
32 with the county surveyor for the county or counties in which the survey  
33 corner exists. If there is no county surveyor of such county, such reference  
34 report shall be filed with the county engineer. If there is no county  
35 engineer, such report shall be filed in the office of the county road  
36 department. Reports filed with the secretary of the state historical society  
37 may be filed and retrieved using electronic technologies if authorized by  
38 the secretary. Such report shall be filed within 30 days of the date the  
39 references are made. At the time of filing such report with the secretary of  
40 the state historical society, the land surveyor shall pay a filing fee in an  
41 amount fixed by rules and regulations of the secretary of the state  
42 historical society. Fees charged for filing and retrieval of such reports may  
43 be billed and paid periodically.

1 (b) Any person engaged in an activity in which a United States public  
2 land survey corner or any related accessory is likely to be altered,  
3 removed, damaged or destroyed, shall have a person qualified to practice  
4 land surveying establish such reference points as necessary for the  
5 restoration, reestablishment or replacement of the corner or accessory. The  
6 land surveyor shall file a reference report with the secretary of the state  
7 historical society and with the county surveyor for the county or counties  
8 in which the survey corner exists. Such report shall be filed within 30 days  
9 of the date the references are made. At the time of filing such report with  
10 the secretary of the state historical society, the land surveyor shall pay a  
11 filing fee in an amount fixed by rules and regulations of the secretary of  
12 the state historical society.

13 (c) Upon completion of the activity likely to alter, remove, damage or  
14 destroy the public land survey corner or related accessory, the land  
15 surveyor shall review the survey corner and its accessories. If the survey  
16 corner or any accessory has been altered, removed, damaged or destroyed,  
17 the land surveyor shall replace the corner or accessory with a survey  
18 monument and file a restoration report with the secretary of the state  
19 historical society and the county surveyor in the county or counties in  
20 which it existed. If the survey corner and accessories are not damaged  
21 during the activity, a restoration report so stating shall be filed with the  
22 secretary of the state historical society and county surveyor's office. Such  
23 report shall be filed within 30 days after the activity is completed. At the  
24 time of filing such report with the office of the secretary of the state  
25 historical society the land surveyor shall pay a filing fee in an amount  
26 fixed by rules and regulations of the secretary of the state historical  
27 society.

28 (d) Failure to comply with the filing requirements of this section shall  
29 be grounds for the suspension or revocation of the land surveyor's license.

30 (e) The secretary of the state historical society may produce,  
31 reproduce and sell maps, plats, reports, studies and records relating to land  
32 surveys. The secretary of the state historical society shall charge a fee in an  
33 amount to be fixed by rules and regulations of the secretary for the  
34 furnishing of information retrieved from records filed pursuant to this  
35 section and for reproductions or copies of maps, plats, reports, studies and  
36 records filed in such office.

37 (f) All moneys collected by the secretary of the state historical society  
38 under the provisions of this section shall be remitted to the state treasurer  
39 in accordance with the provisions of K.S.A. 75-4215, and amendments  
40 thereto. Upon receipt of each such remittance, the state treasurer shall  
41 deposit the entire amount in the state treasury. ~~Twenty~~ *Ten* percent of each  
42 such deposit shall be credited to the state general fund and the balance  
43 shall be credited to the land survey fee fund, which is hereby created. All

1 expenditures from such fund shall be made in accordance with  
2 appropriation acts upon warrants approved by the secretary of the state  
3 historical society or a person designated by the secretary of the state  
4 historical society and shall be used only for the purpose of paying the costs  
5 incurred in administering the provisions of this act. After the effective date  
6 of this act, any reference to the secretary of state in regard to  
7 appropriations to the land survey fee fund shall be deemed to refer to the  
8 secretary of the state historical society.

9 (g) The failure of any person to have a land surveyor establish  
10 reference points as required by subsection (b) shall be a class C  
11 misdemeanor.

12 Sec. 24. K.S.A. 2010 Supp. 60-740 is hereby amended to read as  
13 follows: 60-740. This section must apply if the garnishment is to attach  
14 earnings of the judgment debtor. If no reply is made to the answer of  
15 garnishee within ~~40~~ 14 days following the date the garnishee has  
16 completed the answer, the garnishee must promptly thereafter pay the  
17 earnings withheld as indicated on the answer to all judgment creditors  
18 designated on the answer in the amount due each as indicated on the  
19 answer, and thereafter continue to pay the earnings withheld as they are  
20 withheld, unless the garnishee receives prior to such payment an order of  
21 the court to the contrary. If any judgment creditor receives more than they  
22 are entitled to, that judgment creditor must promptly return the excess  
23 amount to the garnishee for distribution pro-rata to the other judgment  
24 creditors designated on the answer, or if no such other judgment creditors  
25 are designated, the garnishee must promptly pay the excess amount to the  
26 judgment debtor.

27 Sec. 25. K.S.A. 60-1620, as amended by section 44 of 2011 Senate  
28 Bill No. 24, is hereby amended to read as follows: 60-1620. (a) Except as  
29 provided in subsection (d), a parent entitled to legal custody or residency  
30 of or parenting time with a child pursuant to sections 7, 9, 10, 13 through  
31 24, 26 and 30 through 35 of 2011 Senate Bill No. 24, and amendments  
32 thereto, shall give written notice to the other parent not less than 30 days  
33 prior to: (1) Changing the residence of the child; or (2) removing the child  
34 from this state for a period of time exceeding 90 days. Such notice shall be  
35 sent by restricted mail, return receipt requested, to the last known address  
36 of the other parent.

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

42 (c) A change of the residence or the removal of a child as described in  
43 subsection (a) may be considered a material change of circumstances

1 which justifies modification of a prior order of legal custody, residency,  
2 child support or parenting time. In determining any motion seeking a  
3 modification of a prior order based on change of residence or removal as  
4 described in (a), the court shall consider all factors the court deems  
5 appropriate including, but not limited to: (1) The effect of the move on the  
6 best interests of the child; (2) the effect of the move on any party having  
7 rights granted pursuant to sections 7, 9, 10, 13 through 24, 26 and 30  
8 through 35 of 2011 Senate Bill No. 24, and amendments thereto; and (3)  
9 the increased cost the move will impose on any party seeking to exercise  
10 rights granted under sections 7, 9, 10, 13 through 24, 26 and 30 through 35  
11 of 2011 Senate Bill No. 24, and amendments thereto.

12 (d) A parent entitled to the legal custody or residency of a child  
13 pursuant to sections 7, 9, 10, 13 through 24, 26 and 30 through 35 of 2011  
14 Senate Bill No. 24, and amendments thereto, shall not be required to give  
15 the notice required by this section to the other parent when the other parent  
16 has been convicted of any crime specified in article 34, 35 or 36 of chapter  
17 21 of the Kansas Statutes Annotated, *prior to their repeal, or sections 36*  
18 *through 86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010*  
19 *Session Laws of Kansas, and amendments thereto*, in which the child is the  
20 victim of such crime.

21 Sec. 26. K.S.A. 2010 Supp. 60-3107, as amended by section 46 of  
22 2011 Senate Bill No. 24, is hereby amended to read as follows: 60-3107.

23 (a) The court may approve any consent agreement to bring about a  
24 cessation of abuse of the plaintiff or minor children or grant any of the  
25 following orders:

26 (1) Restraining the defendant from abusing, molesting or interfering  
27 with the privacy or rights of the plaintiff or of any minor children of the  
28 parties. Such order shall contain a statement that if such order is violated,  
29 such violation may constitute assault as ~~provided~~*defined* in subsection (a)  
30 of section 47 of chapter 136 of the 2010 Session Laws of Kansas, and  
31 amendments thereto, battery as ~~provided~~*defined* in subsection (a) of  
32 section 48 of chapter 136 of the 2010 Session Laws of Kansas, and  
33 amendments thereto, domestic battery as ~~provided~~*defined* in section 49 of  
34 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,  
35 and violation of a protective order as ~~provided~~*defined* in section 149 of  
36 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.

37 (2) Granting possession of the residence or household to the plaintiff  
38 to the exclusion of the defendant, and further restraining the defendant  
39 from entering or remaining upon or in such residence or household,  
40 subject to the limitation of subsection (d). Such order shall contain a  
41 statement that if such order is violated, such violation shall constitute  
42 criminal trespass as ~~provided~~*defined* in *subsection (a)(1)(C) of section 94*  
43 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments

1 thereto, and violation of a protective order as ~~provided~~*defined* in section  
2 149 of chapter 136 of the 2010 Session Laws of Kansas, and amendments  
3 thereto. The court may grant an order, which shall expire 60 days  
4 following the date of issuance, restraining the defendant from cancelling  
5 utility service to the residence or household.

6 (3) Requiring defendant to provide suitable, alternate housing for the  
7 plaintiff and any minor children of the parties.

8 (4) Awarding temporary custody and residency and establishing  
9 temporary parenting time with regard to minor children.

10 (5) Ordering a law enforcement officer to evict the defendant from  
11 the residence or household.

12 (6) Ordering support payments by a party for the support of a party's  
13 minor child, if the party is the father or mother of the child, or the plaintiff,  
14 if the plaintiff is married to the defendant. Such support orders shall  
15 remain in effect until modified or dismissed by the court or until expiration  
16 and shall be for a fixed period of time not to exceed one year. On the  
17 motion of the plaintiff, the court may extend the effect of such order for 12  
18 months.

19 (7) Awarding costs and attorney fees to either party.

20 (8) Making provision for the possession of personal property of the  
21 parties and ordering a law enforcement officer to assist in securing  
22 possession of that property, if necessary.

23 (9) Requiring any person against whom an order is issued to seek  
24 counseling to aid in the cessation of abuse.

25 (10) Ordering or restraining any other acts deemed necessary to  
26 promote the safety of the plaintiff or of any minor children of the parties.

27 (b) No protection from abuse order shall be entered against the  
28 plaintiff unless:

29 (1) The defendant properly files a written cross or counter petition  
30 seeking such a protection order;

31 (2) the plaintiff had reasonable notice of the written cross or counter  
32 petition by personal service as provided in subsection (d) of K.S.A. 60-  
33 3104, and amendments thereto; and

34 (3) the issuing court made specific findings of abuse against both the  
35 plaintiff and the defendant and determined that both parties acted primarily  
36 as aggressors and neither party acted primarily in self-defense.

37 (c) Any order entered under the protection from abuse act shall not be  
38 subject to modification on ex parte application or on motion for temporary  
39 orders in any action filed pursuant to K.S.A. 60-1601 et seq., or K.S.A. 38-  
40 1101 et seq., and amendments thereto. Orders previously issued in an  
41 action filed pursuant to K.S.A. 60-1601 et seq., or K.S.A. 38-1101 et seq.,  
42 and amendments thereto, shall be subject to modification under the  
43 protection from abuse act only as to those matters subject to modification

1 by the terms of sections 7, 9, 10, 13 through 24, 26 and 30 through 35 of  
2 *2011 Senate Bill No. 24*, and amendments thereto, and on sworn testimony  
3 to support a showing of good cause. Immediate and present danger of  
4 abuse to the plaintiff or minor children shall constitute good cause. If an  
5 action is filed pursuant to sections 7, 9, 10, 13 through 24, 26 and 30  
6 through 35 of *2011 Senate Bill No. 24*, or K.S.A. 38-1101 et seq., and  
7 amendments thereto, during the pendency of a proceeding filed under the  
8 protection from abuse act or while an order issued under the protection  
9 from abuse act is in effect, the court, on final hearing or on agreement of  
10 the parties, may issue final orders authorized by sections 7, 9, 10, 13  
11 through 24, 26 and 30 through 35 of *2011 Senate Bill No. 24*, and  
12 amendments thereto, that are inconsistent with orders entered under the  
13 protection from abuse act. Any inconsistent order entered pursuant to this  
14 subsection shall be specific in its terms, reference the protection from  
15 abuse order and parts thereof being modified and a copy thereof shall be  
16 filed in both actions. The court shall consider whether the actions should  
17 be consolidated in accordance with K.S.A. 60-242, and amendments  
18 thereto. Any custody or parenting time order, or order relating to the best  
19 interests of a child, issued pursuant to the revised Kansas code for care of  
20 children or the revised Kansas juvenile justice code, shall be binding and  
21 shall take precedence over any such custody or parenting order involving  
22 the same child issued under the protection from abuse act, until  
23 jurisdiction under the revised Kansas code for care of children or the  
24 revised Kansas juvenile justice code is terminated. Any inconsistent  
25 custody or parenting order issued in the revised Kansas code for care of  
26 children case or the revised Kansas juvenile justice code case shall be  
27 specific in its terms, reference any preexisting protection from abuse order  
28 and the custody being modified, and a copy of such order shall be filed in  
29 the preexisting protection from abuse case.

30 (d) If the parties to an action under the protection from abuse act are  
31 not married to each other and one party owns the residence or household,  
32 the court shall not have the authority to grant possession of the residence  
33 or household under subsection (a)(2) to the exclusion of the party who  
34 owns it.

35 (e) Subject to the provisions of subsections (b), (c) and (d), a  
36 protective order or approved consent agreement shall remain in effect until  
37 modified or dismissed by the court and shall be for a fixed period of time  
38 not to exceed one year, except that, on motion of the plaintiff, such period  
39 may be extended for one additional year.

40 (f) The court may amend its order or agreement at any time upon  
41 motion filed by either party.

42 (g) No order or agreement under the protection from abuse act shall  
43 in any manner affect title to any real property.



1 (h) If a person enters or remains on premises or property violating an  
2 order issued pursuant to subsection (a)(2), such violation shall constitute  
3 criminal trespass as ~~provided~~*defined* in *subsection (a)(1)(C) of section 94*  
4 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*  
5 *thereto, and violation of a protective order as provided*~~defined~~  
6 *149 of chapter 136 of the 2010 Session Laws of Kansas, and amendments*  
7 *thereto. If a person abuses, molests or interferes with the privacy or rights*  
8 *of another violating an order issued pursuant to subsection (a)(1), such*  
9 *violation may constitute assault as provided*~~defined~~  
10 *section 47 of chapter 136 of the 2010 Session Laws of Kansas, and*  
11 *amendments thereto, battery as provided*~~defined~~  
12 *section 48 of chapter 136 of the 2010 Session Laws of Kansas, and*  
13 *amendments thereto, domestic battery as provided*~~defined~~  
14 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,*  
15 *and violation of a protective order as provided*~~defined~~  
16 *chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.*

17 Sec. 27. K.S.A. 65-445, as amended by section 2 of 2011 House Bill  
18 No. 2035, is hereby amended to read as follows: 65-445. (a) Every medical  
19 care facility shall keep written records of all pregnancies which are  
20 lawfully terminated within such medical care facility and shall annually  
21 submit a written report thereon to the secretary of health and environment  
22 in the manner and form prescribed by the secretary. Every person licensed  
23 to practice medicine and surgery shall keep a record of all pregnancies  
24 which are lawfully terminated by such person in a location other than a  
25 medical care facility and shall annually submit a written report thereon to  
26 the secretary of health and environment in the manner and form prescribed  
27 by the secretary.

28 (b) Each report required by this section shall include the number of  
29 pregnancies terminated during the period of time covered by the report, the  
30 type of medical facility in which the pregnancy was terminated,  
31 information required to be reported under subsections (b) and (c) of K.S.A.  
32 65-6703, subsection (j) of K.S.A. 65-6705~~and~~, subsection (c) of K.S.A.  
33 65-6721 *and section 3 of 2011 House Bill No. 2218*, and amendments  
34 thereto, if applicable to the pregnancy terminated, and such other  
35 information as may be required by the secretary of health and  
36 environment, but the report shall not include the names of the persons  
37 whose pregnancies were so terminated. Each report required by  
38 subsections (b) and (c) of K.S.A. 65-6703, subsection (j) of K.S.A. 65-  
39 6705 and subsection (c) of K.S.A. 65-6721, and amendments thereto, shall  
40 specify the medical diagnosis and condition constituting a substantial and  
41 irreversible impairment of a major bodily function or the medical  
42 diagnosis and condition which necessitated performance of an abortion to  
43 preserve the life of the pregnant woman. Each report required by K.S.A.

1 65-6703, and amendments thereto, shall include a sworn statement by the  
2 physician performing the abortion and the referring physician that such  
3 physicians are not legally or financially affiliated.

4 (c) Information obtained by the secretary of health and environment  
5 under this section shall be confidential and shall not be disclosed in a  
6 manner that would reveal the identity of any person licensed to practice  
7 medicine and surgery who submits a report to the secretary under this  
8 section or the identity of any medical care facility which submits a report  
9 to the secretary under this section, except that such information, including  
10 information identifying such persons and facilities may be disclosed to the  
11 state board of healing arts upon request of the board for disciplinary action  
12 conducted by the board and may be disclosed to the attorney general or  
13 any district or county attorney in this state upon a showing that a  
14 reasonable cause exists to believe that a violation of this act has occurred.  
15 Any information disclosed to the state board of healing arts, the attorney  
16 general or any district or county attorney pursuant to this subsection shall  
17 be used solely for the purposes of a disciplinary action or criminal  
18 proceeding. Except as otherwise provided in this subsection, information  
19 obtained by the secretary under this section may be used only for statistical  
20 purposes and such information shall not be released in a manner which  
21 would identify any county or other area of this state in which the  
22 termination of the pregnancy occurred. A violation of this subsection (c) is  
23 a class A nonperson misdemeanor.

24 (d) In addition to such criminal penalty under subsection (c), any  
25 person licensed to practice medicine and surgery or medical care facility  
26 whose identity is revealed in violation of this section may bring a civil  
27 action against the responsible person or persons for any damages to the  
28 person licensed to practice medicine and surgery or medical care facility  
29 caused by such violation.

30 (e) For the purpose of maintaining confidentiality as provided by  
31 subsections (c) and (d), reports of terminations of pregnancies required by  
32 this section shall identify the person or facility submitting such reports  
33 only by confidential code number assigned by the secretary of health and  
34 environment to such person or facility and the department of health and  
35 environment shall maintain such reports only by such number.

36 (f) The annual public report on abortions performed in Kansas issued  
37 by the secretary of health and environment shall contain the information  
38 required to be reported by this section to the extent such information is not  
39 deemed confidential pursuant to this section. The secretary of health and  
40 environment shall adopt rules and regulations to implement this section.  
41 Such rules and regulations shall prescribe, in detail, the information  
42 required to be kept by the physicians and hospitals and the information  
43 required in the reports which must be submitted to the secretary.

1 (g) The department of social and rehabilitation services shall prepare  
2 and publish an annual report on the number of reports of child sexual  
3 abuse received by the department from abortion providers. Such report  
4 shall be categorized by the age of the victim and the month the report was  
5 submitted to the department. The name of the victim and any other  
6 identifying information shall be kept confidential by the department and  
7 shall not be released as part of the public report.

8 Sec. 28. K.S.A. 2010 Supp. 65-530 is hereby amended to read as  
9 follows: 65-530. (a) As used in this section:

10 (1) "Day care home" means a day care home as defined under Kansas  
11 administrative regulation 28-4-113; *and* a group day care home as defined  
12 under Kansas administrative regulation 28-4-113 ~~and a family day care~~  
13 ~~home as defined under K.S.A. 65-517 and amendments thereto.~~

14 (2) "Smoking" means possession of a lighted cigarette, cigar, pipe or  
15 burning tobacco in any other form or device designed for the use of  
16 tobacco.

17 (b) Smoking within any room, enclosed area or other enclosed space  
18 of a facility or facilities of a day care home during a time when children  
19 who are not related by blood, marriage or legal adoption to the person who  
20 maintains the home are being cared for, as part of the operation of the day  
21 care home, within the facility or facilities is hereby prohibited. Nothing in  
22 this subsection shall be construed to prohibit smoking on the premises of  
23 the day care home outside the facility or facilities of a day care home,  
24 including but not limited to porches, yards or garages.

25 (c) ~~Each day care home registration certificate or child care~~ license  
26 shall contain a statement in bold print that smoking is prohibited within a  
27 room, enclosed area or other enclosed space of the facility or facilities of  
28 the day care home under the conditions specified in subsection (b). The  
29 statement shall be phrased in substantially the same language as subsection  
30 (b). ~~The registration certificate or~~ license shall be posted in a conspicuous  
31 place in the facility or facilities.

32 (d) *Each day care home shall be equipped with a fire extinguisher*  
33 *which shall be maintained in an operable condition in a readily accessible*  
34 *location.*

35 ~~(d)~~(e) The secretary of health and environment may levy a civil fine  
36 under K.S.A. 65-526, and amendments thereto, against any day care home  
37 for a first or second violation of this section. A third or subsequent  
38 violation shall be subject to the provisions of K.S.A. 65-523, and  
39 amendments thereto.

40 ~~(e)~~(f) In addition to any civil fine which may be levied pursuant to  
41 subsection (d), any day care home that violates any provision of this  
42 section may also be subject to criminal punishment pursuant to K.S.A. 21-  
43 4012, and amendments thereto.

1       Sec. 29. K.S.A. 65-6703, as amended by section 4 of House Bill No.  
2 2035, is hereby amended to read as follows: 65-6703. (a) No person shall  
3 perform or induce an abortion when the unborn child is viable unless such  
4 person is a physician and has a documented referral from another  
5 physician not legally or financially affiliated with the physician  
6 performing or inducing the abortion and both physicians provide a written  
7 determination, based upon a medical judgment arrived at using and  
8 exercising that degree of care, skill and proficiency commonly exercised  
9 by the ordinary skillful, careful and prudent physician in the same or  
10 similar circumstances and that would be made by a reasonably prudent  
11 physician, knowledgeable in the field, and knowledgeable about the case  
12 and the treatment possibilities with respect to the conditions involved, that:

13 (1) The abortion is necessary to preserve the life of the pregnant woman;  
14 or (2) a continuation of the pregnancy will cause a substantial and  
15 irreversible impairment of a major bodily function of the pregnant woman.

16       (b) Except in the case of a medical emergency, a copy of the written  
17 documented referral and of the abortion-performing physician's written  
18 determination shall be provided to the pregnant woman no less than 30  
19 minutes prior to the initiation of the abortion. The written determination  
20 shall be time-stamped at the time it is delivered to the pregnant woman.  
21 The medical basis for the determination shall also be reported by the  
22 physician as part of the written report made by the physician to the  
23 secretary of health and environment under K.S.A. 65-445, and  
24 amendments thereto. Such determination shall specify:

25       (1) If the unborn child was determined to be nonviable and the  
26 medical basis of such determination;

27       (2) if the abortion is necessary to preserve the life of the pregnant  
28 woman and the medical basis of such determination, including the specific  
29 medical condition the physician believes would cause the death of the  
30 pregnant woman; or

31       (3) if a continuation of the pregnancy will cause a substantial and  
32 irreversible impairment of a major bodily function of the pregnant woman  
33 and the medical basis of such determination, including the specific medical  
34 condition the physician believes would constitute a substantial and  
35 irreversible impairment of a major bodily function of the pregnant woman.

36       (c) (1) Except in the case of a medical emergency, prior to performing  
37 an abortion upon a woman, the physician shall determine the gestational  
38 age of the unborn child according to accepted obstetrical and neonatal  
39 practice and standards applied by physicians in the same or similar  
40 circumstances. If the physician determines the gestational age is less than  
41 22 weeks, the physician shall document as part of the medical records of  
42 the woman the basis for the determination. The medical basis for the  
43 determination of the gestational age of the unborn child shall also be

1 reported by the physician as part of the written report made by the  
2 physician to the secretary of health and environment under K.S.A. 65-445,  
3 and amendments thereto.

4 (2) If the physician determines the gestational age of the unborn child  
5 is 22 or more weeks, prior to performing an abortion upon the woman the  
6 physician shall determine if the unborn child is viable by using and  
7 exercising that degree of care, skill and proficiency commonly exercised  
8 by the ordinary skillful, careful and prudent physician in the same or  
9 similar circumstances. In making this determination of viability, the  
10 physician shall perform or cause to be performed such medical  
11 examinations and tests as are necessary to make a finding of the  
12 gestational age of the unborn child and shall enter such findings and  
13 determinations of viability in the medical record of the woman.

14 (3) If the physician determines the gestational age of an unborn child  
15 is 22 or more weeks, and determines that the unborn child is not viable and  
16 performs an abortion on the woman, the physician shall report such  
17 determinations, the medical basis and the reasons for such determinations  
18 in writing to the medical care facility in which the abortion is performed  
19 for inclusion in the report of the medical care facility to the secretary of  
20 health and environment under K.S.A. 65-445, and amendments thereto, or  
21 if the abortion is not performed in a medical care facility, the physician  
22 shall report such determinations, the medical basis and the reasons for  
23 such determinations in writing to the secretary of health and environment  
24 as part of the written report made by the physician to the secretary of  
25 health and environment under K.S.A. 65-445, and amendments thereto.

26 (4) If the physician who is to perform the abortion determines the  
27 gestational age of an unborn child is 22 or more weeks, and determines  
28 that the unborn child is viable, both physicians under subsection (a)  
29 determine in accordance with the provisions of subsection (a) that an  
30 abortion is necessary to preserve the life of the pregnant woman or that a  
31 continuation of the pregnancy will cause a substantial and irreversible  
32 impairment of a major bodily function of the pregnant woman and the  
33 physician performs an abortion on the woman, the physician who performs  
34 the abortion shall report such determinations, the medical basis and the  
35 reasons for such determinations, including the specific medical diagnosis  
36 for the determination that an abortion is necessary to preserve the life of  
37 the pregnant woman or that a continuation of the pregnancy will cause a  
38 substantial and irreversible impairment of a major bodily function of the  
39 pregnant woman and the name of the referring physician required by  
40 subsection (a) in writing to the medical care facility in which the abortion  
41 is performed for inclusion in the report of the medical care facility to the  
42 secretary of health and environment under K.S.A. 65-445, and  
43 amendments thereto, or if the abortion is not performed in a medical care

1 facility, the physician who performs the abortion shall report such  
2 determinations, the medical basis and the reasons for such determinations,  
3 including the specific medical diagnosis for the determination that an  
4 abortion is necessary to preserve the life of the pregnant woman or that a  
5 continuation of the pregnancy will cause a substantial and irreversible  
6 impairment of a major bodily function of the pregnant woman and the  
7 name of the referring physician required by subsection (a) in writing to the  
8 secretary of health and environment as part of the written report made by  
9 the physician to the secretary of health and environment under K.S.A. 65-  
10 445, and amendments thereto.

11 (5) The physician shall retain the medical records required to be kept  
12 under paragraphs (1) and (2) of this subsection (c) for not less than 10  
13 years and shall retain a copy of the written reports required under  
14 paragraphs (3) and (4) of this subsection (c) for not less than 10 years.

15 (d) The secretary of health and environment shall adopt rules and  
16 regulations to administer this section. Such rules and regulations shall  
17 include:

18 (1) A detailed list of the information that must be kept by a physician  
19 under paragraphs (1) and (2) of subsection (c);

20 (2) the contents of the written reports required under paragraphs (3)  
21 and (4) of subsection (c); and

22 (3) detailed specifications regarding information that must be  
23 provided by a physician in order to comply with the obligation to disclose  
24 the medical basis and specific medical diagnosis relied upon in  
25 determining that an abortion is necessary to preserve the life of the  
26 pregnant woman or that a continuation of the pregnancy will cause a  
27 substantial and irreversible impairment of a major bodily function of the  
28 pregnant woman.

29 (e) A woman upon whom an abortion is performed shall not be  
30 prosecuted under this section for a conspiracy to violate this section  
31 pursuant to ~~K.S.A. 21-3302~~ *section 34 of chapter 136 of the 2010 Session*  
32 *Laws of Kansas*, and amendments thereto.

33 (f) Nothing in this section shall be construed to create a right to an  
34 abortion. Notwithstanding any provision of this section, a person shall not  
35 perform an abortion that is prohibited by law.

36 (g) (1) A woman upon whom an abortion is performed in violation  
37 of this section, the father, if married to the woman at the time of the  
38 abortion, and the parents or custodial guardian of the woman, if the  
39 woman has not attained the age of 18 years at the time of the abortion,  
40 may in a civil action obtain appropriate relief, unless, in a case where the  
41 plaintiff is not the woman upon whom the abortion was performed, the  
42 pregnancy resulted from the plaintiff's criminal conduct.

43 (2) Such relief shall include:

1 (A) Money damages for all injuries, psychological and physical,  
2 occasioned by the violation of this section;

3 (B) statutory damages equal to three times the cost of the abortion;  
4 and

5 (C) reasonable attorney fees.

6 (h) The prosecution of violations of this section may be brought by  
7 the attorney general or by the district attorney or county attorney for the  
8 county where any violation of this section is alleged to have occurred.

9 (i) Nothing in this section shall be construed to restrict the authority  
10 of the board of healing arts to engage in a disciplinary action.

11 (j) If any provision of this section is held to be invalid or  
12 unconstitutional, it shall be conclusively presumed that the legislature  
13 would have enacted the remainder of this section without such invalid or  
14 unconstitutional provision.

15 (k) Upon a first conviction of a violation of this section, a person  
16 shall be guilty of a class A nonperson misdemeanor. Upon a second or  
17 subsequent conviction of a violation of this section, a person shall be  
18 guilty of a severity level 10, nonperson felony.

19 Sec. 30. K.S.A. 65-6721, as amended by section 8 of 2011 House Bill  
20 No. 2035, is hereby amended to read as follows: 65-6721. (a) No person  
21 shall perform or induce a partial birth abortion on an unborn child unless  
22 such person is a physician and has a documented referral from another  
23 physician who is licensed to practice in this state, and who is not legally or  
24 financially affiliated with the physician performing or inducing the  
25 abortion and both physicians provide a written determination, based upon  
26 a medical judgment that would be made by a reasonably prudent  
27 physician, knowledgeable in the field and knowledgeable about the case  
28 and the treatment possibilities with respect to the conditions involved, that  
29 the partial birth abortion is necessary to save the life of a mother whose  
30 life is endangered by a physical disorder, physical illness or physical  
31 injury, including a life-endangering physical condition caused by or arising  
32 from the pregnancy itself.

33 (b) As used in this section, "partial birth abortion" means an abortion  
34 procedure in which the person performing the abortion deliberately and  
35 intentionally vaginally delivers a living unborn child until, in the case of a  
36 head-first presentation, the entire head of the unborn child is outside the  
37 body of the mother, or, in the case of a breech presentation, any part of the  
38 trunk of the unborn child past the navel is outside the body of the mother,  
39 for the purpose of performing an overt act that the person knows will kill  
40 the partially delivered living unborn child, and performs the overt act,  
41 other than completion of delivery, that kills the partially delivered living  
42 unborn child.

43 (c) (1) If a physician determines in accordance with the provisions

1 of subsection (a) that a partial birth abortion is necessary and performs a  
2 partial birth abortion on the woman, the physician shall report such  
3 determination, the medical basis, including the specific medical diagnosis  
4 and the reasons for such determination in writing to the medical care  
5 facility in which the abortion is performed for inclusion in the report of the  
6 medical care facility to the secretary of health and environment under  
7 K.S.A. 65-445, and amendments thereto, or if the abortion is not  
8 performed in a medical care facility, the physician shall report such  
9 determination, the medical basis, including the specific medical diagnosis,  
10 and the reasons for such determination in writing to the secretary of health  
11 and environment as part of the written report made by the physician to the  
12 secretary of health and environment under K.S.A. 65-445, and  
13 amendments thereto. The physician shall retain a copy of the written  
14 reports required under this subsection for not less than 10 years.

15 (2) The secretary of health and environment shall adopt rules and  
16 regulations to administer this section. Such rules and regulations shall  
17 include:

18 (A) A detailed list of the contents of the written reports required  
19 under paragraph (1) of this subsection; and

20 (B) detailed information that must be provided by a physician to  
21 insure that the specific medical basis and clinical diagnosis regarding the  
22 woman is reported.

23 (d) (1) The father, if married to the woman at the time of the  
24 abortion, and, if the woman has not attained the age of 18 years at the time  
25 of the abortion, the parents or custodial guardian of the woman, may in a  
26 civil action obtain appropriate relief, unless, in a case where the plaintiff is  
27 not the woman upon whom the abortion was performed, the pregnancy  
28 resulted from the plaintiff's criminal conduct or the plaintiff consented to  
29 the abortion.

30 (2) Such relief shall include:

31 (A) Money damages for all injuries, psychological and physical,  
32 occasioned by the violation of this section;

33 (B) statutory damages equal to three times the cost of the abortion;  
34 and

35 (C) reasonable attorney fees.

36 (e) A woman upon whom an abortion is performed shall not be  
37 prosecuted under this section for a conspiracy to violate this section  
38 pursuant to ~~K.S.A. 21-3302~~ *section 34 of chapter 136 of the 2010 Session*  
39 *Laws of Kansas*, and amendments thereto.

40 (f) Nothing in this section shall be construed to create a right to an  
41 abortion. Notwithstanding any provision of this section, a person shall not  
42 perform an abortion that is prohibited by law.

43 (g) Upon conviction of a violation of this section, a person shall be



1 guilty of a severity level 8 person felony.

2 Sec. 31. K.S.A. 2010 Supp. 66-2304 is hereby amended to read as  
3 follows: 66-2304. (a) An armed nuclear security guard is justified in using  
4 physical force against another person at a nuclear generating facility or  
5 structure or fenced yard of a nuclear generating facility if the armed  
6 nuclear security guard reasonably believes that such force is necessary to  
7 prevent or terminate the commission or attempted commission of criminal  
8 damage to property ~~under K.S.A. 21-3720 (a)(1) as defined in subsection~~  
9 ~~(a)(1) of section 99 of chapter 136 of the 2010 Session Laws of Kansas,~~  
10 ~~and amendments thereto, criminal use of weapons under K.S.A. 21-~~  
11 ~~420 as defined in subsections (a)(1) through (a)(6) of section 186 or~~  
12 ~~subsection (a)(1) through (a)(5) of section 187 of chapter 136 of the 2010~~  
13 ~~Session Laws of Kansas, and amendments thereto, or criminal trespass on~~  
14 ~~a nuclear generating facility under K.S.A. 2010 Supp. 66-2303, and~~  
15 ~~amendments thereto.~~

16 (b) Notwithstanding the provisions of ~~K.S.A. 21-3211, 21-3212, 21-~~  
17 ~~3213, 21-3215 and 21-3216~~ ~~sections 21, 22, 23, 25 and 26 of chapter 136~~  
18 ~~of the 2010 Session Laws of Kansas, and amendments thereto, an armed~~  
19 ~~nuclear security guard is justified in using physical force up to and~~  
20 ~~including deadly physical force against another person at a nuclear~~  
21 ~~generating facility or structure or fenced yard of a nuclear generating~~  
22 ~~facility if the armed nuclear security guard reasonably believes that such~~  
23 ~~force is necessary to:~~

24 (1) Prevent the commission of manslaughter ~~under K.S.A. 21-3403 or~~  
25 ~~21-3404 as defined in section 39 or 40 of chapter 136 of the 2010 Session~~  
26 ~~Laws of Kansas, and amendments thereto, murder in the first degree under~~  
27 ~~K.S.A. 21-3401 as defined in section 37 of chapter 136 of the 2010 Session~~  
28 ~~Laws of Kansas, and amendments thereto, murder in the second degree~~  
29 ~~under K.S.A. 21-3402 as defined in section 38 of chapter 136 of the 2010~~  
30 ~~Session Laws of Kansas, and amendments thereto, aggravated assault~~  
31 ~~under K.S.A. 21-3410 as defined in subsection (b) of section 47 of chapter~~  
32 ~~136 of the 2010 Session Laws of Kansas, and amendments thereto,~~  
33 ~~kidnapping under K.S.A. 21-3420 as defined in subsection (a) of section 43~~  
34 ~~of chapter 136 of the 2010 Session Laws of Kansas, and amendments~~  
35 ~~thereto, aggravated kidnapping under K.S.A. 21-3421 as defined in~~  
36 ~~subsection (b) of section 43 of chapter 136 of the 2010 Session Laws of~~  
37 ~~Kansas, and amendments thereto, aggravated burglary under K.S.A. 21-~~  
38 ~~3716 as defined in subsection (b) of section 93 of chapter 136 of the 2010~~  
39 ~~Session Laws of Kansas, and amendments thereto, arson under K.S.A. 21-~~  
40 ~~3718 as defined in subsection (a) of section 98 of chapter 136 of the 2010~~  
41 ~~Session Laws of Kansas, and amendments thereto, aggravated arson under~~  
42 ~~K.S.A. 21-3719 as defined in subsection (b) of section 98 of chapter 136 of~~  
43 ~~the 2010 Session Laws of Kansas, and amendments thereto, aggravated~~

1 robbery under ~~K.S.A. 21-3427~~ as defined in subsection (b) of section 55 of  
 2 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;  
 3 or

4 (2) defend oneself or a third person from the use or imminent use of  
 5 deadly physical force.

6 (c) Notwithstanding any other provision of this act, an armed nuclear  
 7 security guard is justified in threatening to use physical or deadly physical  
 8 force if and to the extent a reasonable armed nuclear security guard  
 9 believes it necessary to protect oneself or others against another person's  
 10 potential use of physical force or deadly physical force.

11 (d) No armed nuclear security guard, employer of an armed nuclear  
 12 security guard or owner of a nuclear generating facility shall be subject to  
 13 civil liability for conduct of an armed nuclear security guard which is  
 14 justified pursuant to this act.

15 Sec. 32. K.S.A. 2010 Supp. 75-52,127 is hereby amended to read as  
 16 follows: 75-52,127. On or after the effective date of this act, the secretary  
 17 of corrections may establish conservation camps to provide inmates with a  
 18 highly structured residential work program. Such conservation camps shall  
 19 be a state correctional institution or facility for confinement under the  
 20 supervision of the secretary. A conservation camp may accept defendants  
 21 assigned to such camp as provided in K.S.A. 21-4603 or K.S.A. 21-4603d,  
 22 *prior to its repeal, or section 244 or 271 of chapter 136 of the 2010*  
 23 *Session Laws of Kansas*, and amendments thereto. Defendants assigned  
 24 pursuant to K.S.A. 21-4603 or K.S.A. 21-4603d, *prior to its repeal, or*  
 25 *section 244 or 271 of chapter 136 of the 2010 Session Laws of Kansas*, and  
 26 amendments thereto, to a conservation camp may be transferred by the  
 27 secretary to any other correctional institution or facility. Any inmate  
 28 sentenced to the custody of the secretary may be confined in a  
 29 conservation camp, however, only those inmates assigned to the  
 30 conservation camp pursuant to subsection (a)(5) or (e) of K.S.A. 21-  
 31 4603d, *prior to its repeal, or subsection (a)(5) of section 244 of chapter*  
 32 *136 of the 2010 Session Laws of Kansas*, or subsection (b)(6) of K.S.A.  
 33 21-4603, *prior to its repeal, or subsection (b)(6) of section 271 of chapter*  
 34 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, shall be  
 35 eligible for release upon successful completion of the conservation camp  
 36 program.

37 Sec. 33. Section 52 of chapter 136 of the 2010 Session Laws of  
 38 Kansas is hereby amended to read as follows: Sec. 52. (a) Mistreatment of  
 39 a dependent adult is knowingly committing one or more of the following  
 40 acts:

41 (1) Infliction of physical injury, unreasonable confinement or ~~eruel~~  
 42 *unreasonable* punishment upon a dependent adult;

43 (2) taking unfair advantage of a dependent adult's physical or

1 financial resources for another individual's personal or financial advantage  
 2 by the use of undue influence, coercion, harassment, duress, deception,  
 3 false representation or false pretense ~~by a caretaker or another person~~; or

4 (3) ~~omitting or depriving~~ *omission or deprivation of treatment, goods*  
 5 ~~or services by a caretaker or another person which~~ *that* are necessary to  
 6 maintain physical or mental health of a dependent adult.

7 (b) Mistreatment of a dependent adult as defined in:

8 (1) Subsection (a)(1) is a severity level ~~6~~ 5, person felony;

9 (2) ~~subsection (a)(2) is a severity level 6, person felony~~ if the  
 10 aggregate amount of the value of the resources is ~~\$100,000 or more~~;

11 (3) ~~subsection (a)(2) is a severity level 7, person felony~~ if the  
 12 aggregate amount of the value of the resources is at least \$25,000 but less  
 13 than \$100,000;

14 (4) ~~subsection (a)(2) is a severity level 9, person felony~~ if the  
 15 aggregate amount of the value of the resources is at least \$1,000 but less  
 16 than \$25,000;

17 (5) ~~subsection (a)(2) is a:~~

18 (A) ~~Class A person misdemeanor~~ if the aggregate amount of the value  
 19 of the resources is less than \$1,000, except as provided in subsection (b)(5)  
 20 (B); and

21 (B) ~~severity level 9, person felony, if:~~

22 (A) *\$1,000,000 or more is a severity level 2, person felony;*

23 (B) *at least \$250,000 but less than \$1,000,000 is a severity level 3,*  
 24 *person felony;*

25 (C) *at least \$100,000 but less than \$250,000 is a severity level 4,*  
 26 *person felony;*

27 (D) *at least \$25,000 but less than \$100,000 is a severity level 5,*  
 28 *person felony;*

29 (E) *at least \$1,000 but less than \$25,000 is a severity level 7, person*  
 30 *felony;*

31 (F) *less than \$1,000 is a class A person misdemeanor, except as*  
 32 *provided in subsection (b)(2)(G); and*

33 (G) *less than \$1,000 and committed by a person who has, within five*  
 34 *years immediately preceding commission of the crime, the offender has*  
 35 *been convicted of mistreatment of a dependent adult two or more times is*  
 36 *a severity level 7, person felony; and*

37 (6)(3) ~~subsection (a)(3) is a class A person misdemeanor~~ *severity*  
 38 *level 8, person felony.*

39 (c) No dependent adult is considered to be mistreated for the sole  
 40 reason that such dependent adult relies upon or is being furnished  
 41 treatment by spiritual means through prayer in lieu of medical treatment in  
 42 accordance with the tenets and practices of a recognized church or  
 43 religious denomination of which such dependent adult is a member or

1 adherent.

2 (d) As used in this section, "dependent adult" means an individual 18  
3 years of age or older who is unable to protect the individual's own interest.  
4 Such term shall include, but is not limited to, any:

5 (1) Resident of an adult care home including, but not limited to, those  
6 facilities defined by K.S.A. 39-923, and amendments thereto;

7 (2) adult cared for in a private residence;

8 (3) individual kept, cared for, treated, boarded, confined or otherwise  
9 accommodated in a medical care facility;

10 (4) individual with mental retardation or a developmental disability  
11 receiving services through a community mental retardation facility or  
12 residential facility licensed under K.S.A. 75-3307b, and amendments  
13 thereto;

14 (5) individual with a developmental disability receiving services  
15 provided by a community service provider as provided in the  
16 developmental disability reform act; or

17 (6) individual kept, cared for, treated, boarded, confined or otherwise  
18 accommodated in a state psychiatric hospital or state institution for the  
19 mentally retarded.

20 (e) An offender who violates the provisions of this section may also  
21 be prosecuted for, convicted of, and punished for any other offense in  
22 sections 36 through 125 of *chapter 136 of the 2010 Session Laws of*  
23 *Kansas*, and amendments thereto.

24 Sec. 34. Section 189 of chapter 136 of the 2010 Session Laws of  
25 Kansas is hereby amended to read as follows: Sec. 189. (a) Criminal  
26 possession of a firearm by a convicted felon is possession of any firearm  
27 by a person who:

28 (1) Has been convicted of a person felony or a violation of K.S.A.  
29 ~~2009 2010~~ Supp. 21-36a01 through 21-36a17, and amendments thereto, *or*  
30 *any violation of any provision of the uniform controlled substances act*  
31 *prior to July 1, 2009*, or a crime under a law of another jurisdiction which  
32 is substantially the same as such felony or violation, or was adjudicated a  
33 juvenile offender because of the commission of an act which if done by an  
34 adult would constitute the commission of a person felony or a violation of  
35 K.S.A. ~~2009 2010~~ Supp. 21-36a01 through 21-36a17, and amendments  
36 thereto, *or any violation of any provision of the uniform controlled*  
37 *substances act prior to July 1, 2009*, and was found to have been in  
38 possession of a firearm at the time of the commission of the crime;

39 (2) ~~possession of any firearm by a person who~~, within the preceding  
40 five years has been convicted of a felony, other than those specified in  
41 subsection (a)(3)(A), under the laws of Kansas or a crime under a law of  
42 another jurisdiction which is substantially the same as such felony, has  
43 been released from imprisonment for a felony or was adjudicated as a

1 juvenile offender because of the commission of an act which if done by an  
 2 adult would constitute the commission of a felony, and was not found to  
 3 have been in possession of a firearm at the time of the commission of the  
 4 crime; or

5 (3) ~~possession of any firearm by a person who, within the preceding~~  
 6 10 years, has been convicted of a:

7 (A) Felony under section 37, section 38, section 39, section 40,  
 8 section 43, subsection (b) or (d) of section 47, subsection (b) or (d)  
 9 of section 48, subsection (a) of section 50, subsection (b) of section 55,  
 10 section 67, subsection (b) of section 68, subsection (b) of section 69,  
 11 subsection (b) of section 93 *of chapter 136 of the 2010 Session Laws of*  
 12 *Kansas, and amendments thereto;*; K.S.A. ~~2009 Supp. 21-36a05 or 21-~~  
 13 ~~36a06, and amendments thereto, or K.S.A. 65-4127a, 65-4127b or 65-4160~~  
 14 ~~through 65-4164, prior to their repeal~~2010 Supp. 21-36a03, 21-36a05, 21-  
 15 36a06, 21-36a07 or 21-36a09, and amendments thereto; K.S.A. 21-3401,  
 16 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-  
 17 3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518,  
 18 21-3716, 65-4127a, 65-4127b, 65-4159 through 65-4165 or 65-7006,  
 19 *prior to their repeal;*; *an attempt, conspiracy or criminal solicitation as*  
 20 *defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or*  
 21 *section 33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas,*  
 22 *and amendments thereto, of any such felony;* or a crime under a law of  
 23 another jurisdiction which is substantially the same as such felony, has  
 24 been released from imprisonment for such felony, or was adjudicated as a  
 25 juvenile offender because of the commission of an act which if done by an  
 26 adult would constitute the commission of such felony, was not found to  
 27 have been in possession of a firearm at the time of the commission of the  
 28 crime, and has not had the conviction of such crime expunged or been  
 29 pardoned for such crime; or

30 (B) nonperson felony under the laws of Kansas or a crime under the  
 31 laws of another jurisdiction which is substantially the same as such  
 32 nonperson felony, has been released from imprisonment for such  
 33 nonperson felony or was adjudicated as a juvenile offender because of the  
 34 commission of an act which if done by an adult would constitute the  
 35 commission of a nonperson felony, and was found to have been in  
 36 possession of a firearm at the time of the commission of the crime.

37 (b) Criminal possession of a firearm by a convicted felon is a severity  
 38 level 8, nonperson felony.

39 Sec. 35. Section 194 of chapter 136 of the 2010 Session Laws of  
 40 Kansas is hereby amended to read as follows: Sec. 194. (a) It shall be  
 41 unlawful to possess, with no requirement of a culpable mental state, a  
 42 firearm on the grounds ~~of or~~ *in any of the following places:*

43 (1) *Within any building located within the capitol complex;*

- 1       (2) *within* the governor's residence;
- 2       (3) *on the grounds of or in* any building on the grounds of the  
3 governor's residence;
- 4       (4) *within* any other state-owned or leased building if the secretary of  
5 administration has so designated by rules and regulations and  
6 conspicuously placed signs clearly stating that firearms are prohibited  
7 within such building; or
- 8       (5) *within* any county courthouse, unless, by county resolution, the  
9 board of county commissioners authorize the possession of a firearm  
10 within such courthouse.
- 11       (b) Violation of this section is a class A misdemeanor.
- 12       (c) This section shall not apply to:
- 13       (1) A commissioned law enforcement officer;
- 14       (2) a full-time salaried law enforcement officer of another state or the  
15 federal government who is carrying out official duties while in this state;
- 16       (3) any person summoned by any such officer to assist in making  
17 arrests or preserving the peace while actually engaged in assisting such  
18 officer; ~~or~~
- 19       (4) a member of the military of this state or the United States engaged  
20 in the performance of duties; *or*
- 21       (5) *a person with a license issued pursuant to or recognized under*  
22 *K.S.A. 2010 Supp. 75-7c01 et seq., and amendments thereto, except in*  
23 *buildings posted in accordance with K.S.A. 2010 Supp. 75-7c10, and*  
24 *amendments thereto, and in the areas specified in subsections (a)(2) and*  
25 *(a)(3).*
- 26       (d) It is not a violation of this section for the:
- 27       (1) Governor, the governor's immediate family, or specifically  
28 authorized guest of the governor to possess a firearm within the governor's  
29 residence or on the grounds of or in any building on the grounds of the  
30 governor's residence; or
- 31       (2) United States attorney for the district of Kansas, the attorney  
32 general, any district attorney or county attorney, any assistant United  
33 States attorney if authorized by the United States attorney for the district  
34 of Kansas, any assistant attorney general if authorized by the attorney  
35 general, or any assistant district attorney or assistant county attorney if  
36 authorized by the district attorney or county attorney by whom such  
37 assistant is employed, to possess a firearm within any county courthouse  
38 and court-related facility, subject to any restrictions or prohibitions  
39 imposed in any courtroom by the chief judge of the judicial district. The  
40 provisions of this paragraph shall not apply to any person not in  
41 compliance with K.S.A. ~~2009~~ 2010 Supp. 75-7c19, and amendments  
42 thereto.
- 43       (e) Notwithstanding the provisions of this section, any county may

1 elect by passage of a resolution that the provisions of subsection (d)(2)  
2 shall not apply to such county's courthouse or court-related facilities if  
3 such:

4 (1) Facilities have adequate security measures to ensure that no  
5 weapons are permitted to be carried into such facilities;

6 (2) facilities have adequate measures for storing and securing  
7 lawfully carried weapons, including, but not limited to, the use of gun  
8 lockers or other similar storage options;

9 (3) county also has a policy or regulation requiring all law  
10 enforcement officers to secure and store such officer's firearm upon  
11 entering the courthouse or court-related facility. Such policy or regulation  
12 may provide that it does not apply to court security or sheriff's office  
13 personnel for such county; and

14 (4) facilities have a sign conspicuously posted at each entryway into  
15 such facility stating that the provisions of subsection (d)(2) do not apply to  
16 such facility.

17 (f) As used in this section:

18 (1) "Adequate security measures" means the use of electronic  
19 equipment and personnel to detect and restrict the carrying of any weapons  
20 into the facility, including, but not limited to, metal detectors, metal  
21 detector wands or any other equipment used for similar purposes;

22 (2) "possession" means having joint or exclusive control over a  
23 firearm or having a firearm in a place where the person has some measure  
24 of access and right of control; and

25 (3) "capitol complex" means the same as in K.S.A. 75-4514, and  
26 amendments thereto.

27 (g) *For the purposes of subsection (a)(1), (a)(4) and (a)(5),*  
28 *"building" and "courthouse" shall not include any structure, or any area*  
29 *of any structure, designated for the parking of motor vehicles.*

30 Sec. 36. Section 244 of chapter 136 of the 2010 Session Laws of  
31 Kansas, as amended by section 66 of 2011 House Bill No. 2339, is hereby  
32 amended to read as follows: Sec. 244. (a) Whenever any person has been  
33 found guilty of a crime, the court may adjudge any of the following:

34 (1) Commit the defendant to the custody of the secretary of  
35 corrections if the current crime of conviction is a felony and the sentence  
36 presumes imprisonment, or the sentence imposed is a dispositional  
37 departure to imprisonment; or, if confinement is for a misdemeanor, to jail  
38 for the term provided by law;

39 (2) impose the fine applicable to the offense;

40 (3) release the defendant on probation if the current crime of  
41 conviction and criminal history fall within a presumptive nonprison  
42 category or through a departure for substantial and compelling reasons  
43 subject to such conditions as the court may deem appropriate. In felony

1 cases except for violations of K.S.A. 8-1567, and amendments thereto, the  
2 court may include confinement in a county jail not to exceed 60 days,  
3 which need not be served consecutively, as a condition of an original  
4 probation sentence and up to 60 days in a county jail upon each revocation  
5 of the probation sentence, or community corrections placement;

6 (4) assign the defendant to a community correctional services  
7 program as provided in K.S.A. 75-5291, and amendments thereto, or  
8 through a departure for substantial and compelling reasons subject to such  
9 conditions as the court may deem appropriate, including orders requiring  
10 full or partial restitution;

11 (5) assign the defendant to a conservation camp for a period not to  
12 exceed six months as a condition of probation followed by a six-month  
13 period of follow-up through adult intensive supervision by a community  
14 correctional services program, if the offender successfully completes the  
15 conservation camp program;

16 (6) assign the defendant to a house arrest program pursuant to section  
17 249 of chapter 136 of the 2010 Session Laws of Kansas, and amendments  
18 thereto;

19 (7) order the defendant to attend and satisfactorily complete an  
20 alcohol or drug education or training program as provided by subsection  
21 (c) of section 242 of chapter 136 of the 2010 Session Laws of Kansas, and  
22 amendments thereto;

23 (8) order the defendant to repay the amount of any reward paid by  
24 any crime stoppers chapter, individual, corporation or public entity which  
25 materially aided in the apprehension or conviction of the defendant; repay  
26 the amount of any costs and expenses incurred by any law enforcement  
27 agency in the apprehension of the defendant, if one of the current crimes  
28 of conviction of the defendant includes escape from custody or aggravated  
29 escape from custody, as defined in section 136 of chapter 136 of the 2010  
30 Session Laws of Kansas, and amendments thereto; repay expenses  
31 incurred by a fire district, fire department or fire company responding to a  
32 fire which has been determined to be arson or aggravated arson as defined  
33 in section 98 of chapter 136 of the 2010 Session Laws of Kansas, and  
34 amendments thereto, if the defendant is convicted of such crime; repay the  
35 amount of any public funds utilized by a law enforcement agency to  
36 purchase controlled substances from the defendant during the investigation  
37 which leads to the defendant's conviction; or repay the amount of any  
38 medical costs and expenses incurred by any law enforcement agency or  
39 county. Such repayment of the amount of any such costs and expenses  
40 incurred by a county, law enforcement agency, fire district, fire department  
41 or fire company or any public funds utilized by a law enforcement agency  
42 shall be deposited and credited to the same fund from which the public  
43 funds were credited to prior to use by the county, law enforcement agency,



1 fire district, fire department or fire company;

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

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

6 (11) if the defendant is convicted of a misdemeanor or convicted of a  
7 felony specified in subsection (i) of section 285 of chapter 136 of the 2010  
8 Session Laws of Kansas, and amendments thereto, assign the defendant to  
9 work release program, other than a program at a correctional institution  
10 under the control of the secretary of corrections as defined in K.S.A. 75-  
11 5202, and amendments thereto, provided such work release program  
12 requires such defendant to return to confinement at the end of each day in  
13 the work release program;

14 (12) *order the defendant to pay the full amount of unpaid costs*  
15 *associated with the conditions of release of the appearance bond under*  
16 *K.S.A. 22-2802, and amendments thereto;*

17 (13) impose any appropriate combination of (1), (2), (3), (4), (5), (6),  
18 (7), (8), (9), (10), ~~and~~ (11) *and* (12); or

19 ~~(13)~~ (14) suspend imposition of sentence in misdemeanor cases.

20 (b) (1) In addition to or in lieu of any of the above, the court shall  
21 order the defendant to pay restitution, which shall include, but not be  
22 limited to, damage or loss caused by the defendant's crime, unless the  
23 court finds compelling circumstances which would render a plan of  
24 restitution unworkable. In regard to a violation of section 177 of chapter  
25 136 of the 2010 Session Laws of Kansas, and amendments thereto, such  
26 damage or loss shall include, but not be limited to, attorney fees and costs  
27 incurred to repair the credit history or rating of the person whose personal  
28 identification documents were obtained and used in violation of such  
29 section, and to satisfy a debt, lien or other obligation incurred by the  
30 person whose personal identification documents were obtained and used in  
31 violation of such section. If the court finds a plan of restitution  
32 unworkable, the court shall state on the record in detail the reasons  
33 therefor.

34 (2) If the court orders restitution, the restitution shall be a judgment  
35 against the defendant which may be collected by the court by garnishment  
36 or other execution as on judgments in civil cases. If, after 60 days from the  
37 date restitution is ordered by the court, a defendant is found to be in  
38 noncompliance with the plan established by the court for payment of  
39 restitution, and the victim to whom restitution is ordered paid has not  
40 initiated proceedings in accordance with K.S.A. 60-4301 et seq., and  
41 amendments thereto, the court shall assign an agent procured by the  
42 attorney general pursuant to K.S.A. 75-719, and amendments thereto, to  
43 collect the restitution on behalf of the victim. The chief judge of each

1 judicial district may assign such cases to an appropriate division of the  
2 court for the conduct of civil collection proceedings.

3 (c) In addition to or in lieu of any of the above, the court shall order  
4 the defendant to submit to and complete an alcohol and drug evaluation,  
5 and pay a fee therefor, when required by subsection (d) of section 242 of  
6 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.

7 (d) In addition to any of the above, the court shall order the defendant  
8 to reimburse the county general fund for all or a part of the expenditures  
9 by the county to provide counsel and other defense services to the  
10 defendant. Any such reimbursement to the county shall be paid only after  
11 any order for restitution has been paid in full. In determining the amount  
12 and method of payment of such sum, the court shall take account of the  
13 financial resources of the defendant and the nature of the burden that  
14 payment of such sum will impose. A defendant who has been required to  
15 pay such sum and who is not willfully in default in the payment thereof  
16 may at any time petition the court which sentenced the defendant to waive  
17 payment of such sum or any unpaid portion thereof. If it appears to the  
18 satisfaction of the court that payment of the amount due will impose  
19 manifest hardship on the defendant or the defendant's immediate family,  
20 the court may waive payment of all or part of the amount due or modify  
21 the method of payment.

22 (e) In imposing a fine the court may authorize the payment thereof in  
23 installments. In releasing a defendant on probation, the court shall direct  
24 that the defendant be under the supervision of a court services officer. If  
25 the court commits the defendant to the custody of the secretary of  
26 corrections or to jail, the court may specify in its order the amount of  
27 restitution to be paid and the person to whom it shall be paid if restitution  
28 is later ordered as a condition of parole, conditional release or postrelease  
29 supervision.

30 (f) (1) When a new felony is committed while the offender is  
31 incarcerated and serving a sentence for a felony, or while the offender is on  
32 probation, assignment to a community correctional services program,  
33 parole, conditional release or postrelease supervision for a felony, a new  
34 sentence shall be imposed pursuant to the consecutive sentencing  
35 requirements of section 246 of chapter 136 of the 2010 Session Laws of  
36 Kansas, and amendments thereto, and the court may sentence the offender  
37 to imprisonment for the new conviction, even when the new crime of  
38 conviction otherwise presumes a nonprison sentence. In this event,  
39 imposition of a prison sentence for the new crime does not constitute a  
40 departure.

41 (2) When a new felony is committed while the offender is  
42 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671,  
43 prior to its repeal, or K.S.A. 2010 Supp. 38-2373, and amendments

1 thereto, for an offense, which if committed by an adult would constitute  
2 the commission of a felony, upon conviction, the court shall sentence the  
3 offender to imprisonment for the new conviction, even when the new  
4 crime of conviction otherwise presumes a nonprison sentence. In this  
5 event, imposition of a prison sentence for the new crime does not  
6 constitute a departure. The conviction shall operate as a full and complete  
7 discharge from any obligations, except for an order of restitution, imposed  
8 on the offender arising from the offense for which the offender was  
9 committed to a juvenile correctional facility.

10 (3) When a new felony is committed while the offender is on release  
11 for a felony pursuant to the provisions of article 28 of chapter 22 of the  
12 Kansas Statutes Annotated, and amendments thereto, or similar provisions  
13 of the laws of another jurisdiction, a new sentence may be imposed  
14 pursuant to the consecutive sentencing requirements of section 246 of  
15 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,  
16 and the court may sentence the offender to imprisonment for the new  
17 conviction, even when the new crime of conviction otherwise presumes a  
18 nonprison sentence. In this event, imposition of a prison sentence for the  
19 new crime does not constitute a departure.

20 (g) Prior to imposing a dispositional departure for a defendant whose  
21 offense is classified in the presumptive nonprison grid block of either  
22 sentencing guideline grid, prior to sentencing a defendant to incarceration  
23 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing  
24 guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or  
25 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a  
26 defendant to incarceration whose offense is classified in grid blocks 4-E or  
27 4-F of the sentencing guideline grid for drug crimes and whose offense  
28 does not meet the requirements of section 305 of chapter 136 of the 2010  
29 Session Laws of Kansas, and amendments thereto, prior to revocation of a  
30 nonprison sanction of a defendant whose offense is classified in grid  
31 blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and  
32 whose offense does not meet the requirements of section 305 of chapter  
33 136 of the 2010 Session Laws of Kansas, and amendments thereto, or prior  
34 to revocation of a nonprison sanction of a defendant whose offense is  
35 classified in the presumptive nonprison grid block of either sentencing  
36 guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines  
37 grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the  
38 sentencing guidelines grid for drug crimes, the court shall consider  
39 placement of the defendant in the Labette correctional conservation camp,  
40 conservation camps established by the secretary of corrections pursuant to  
41 K.S.A. 75-52,127, and amendment thereto, or a community intermediate  
42 sanction center. Pursuant to this paragraph the defendant shall not be  
43 sentenced to imprisonment if space is available in a conservation camp or

1 a community intermediate sanction center and the defendant meets all of  
2 the conservation camp's or a community intermediate sanction center's  
3 placement criteria unless the court states on the record the reasons for not  
4 placing the defendant in a conservation camp or a community intermediate  
5 sanction center.

6 (h) The court in committing a defendant to the custody of the  
7 secretary of corrections shall fix a term of confinement within the limits  
8 provided by law. In those cases where the law does not fix a term of  
9 confinement for the crime for which the defendant was convicted, the  
10 court shall fix the term of such confinement.

11 (i) In addition to any of the above, the court shall order the defendant  
12 to reimburse the state general fund for all or a part of the expenditures by  
13 the state board of indigents' defense services to provide counsel and other  
14 defense services to the defendant. In determining the amount and method  
15 of payment of such sum, the court shall take account of the financial  
16 resources of the defendant and the nature of the burden that payment of  
17 such sum will impose. A defendant who has been required to pay such sum  
18 and who is not willfully in default in the payment thereof may at any time  
19 petition the court which sentenced the defendant to waive payment of such  
20 sum or any unpaid portion thereof. If it appears to the satisfaction of the  
21 court that payment of the amount due will impose manifest hardship on the  
22 defendant or the defendant's immediate family, the court may waive  
23 payment of all or part of the amount due or modify the method of  
24 payment. The amount of attorney fees to be included in the court order for  
25 reimbursement shall be the amount claimed by appointed counsel on the  
26 payment voucher for indigents' defense services or the amount prescribed  
27 by the board of indigents' defense services reimbursement tables as  
28 provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

29 (j) This section shall not deprive the court of any authority conferred  
30 by any other Kansas statute to decree a forfeiture of property, suspend or  
31 cancel a license, remove a person from office or impose any other civil  
32 penalty as a result of conviction of crime.

33 (k) An application for or acceptance of probation or assignment to a  
34 community correctional services program shall not constitute an  
35 acquiescence in the judgment for purpose of appeal, and any convicted  
36 person may appeal from such conviction, as provided by law, without  
37 regard to whether such person has applied for probation, suspended  
38 sentence or assignment to a community correctional services program.

39 (l) The secretary of corrections is authorized to make direct  
40 placement to the Labette correctional conservation camp or a conservation  
41 camp established by the secretary pursuant to K.S.A. 75-52,127, and  
42 amendments thereto, of an inmate sentenced to the secretary's custody if  
43 the inmate:

1 (1) Has been sentenced to the secretary for a probation revocation, as  
2 a departure from the presumptive nonimprisonment grid block of either  
3 sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I,  
4 or 6-G of the sentencing guidelines grid for nondrug crimes or in grid  
5 blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug  
6 crimes, or for an offense which is classified in grid blocks 4-E or 4-F of  
7 the sentencing guidelines grid for drug crimes and such offense does not  
8 meet the requirements of section 305 of chapter 136 of the 2010 Session  
9 Laws of Kansas, and amendments thereto; and

10 (2) otherwise meets admission criteria of the camp.

11 If the inmate successfully completes a conservation camp program, the  
12 secretary of corrections shall report such completion to the sentencing  
13 court and the county or district attorney. The inmate shall then be assigned  
14 by the court to six months of follow-up supervision conducted by the  
15 appropriate community corrections services program. The court may also  
16 order that supervision continue thereafter for the length of time authorized  
17 by section 248 of chapter 136 of the 2010 Session Laws of Kansas, and  
18 amendments thereto.

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

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

41 (o) (1) Except as provided in paragraph (3), in addition to any other  
42 penalty or disposition imposed by law, upon a conviction for unlawful  
43 possession of a controlled substance or controlled substance analog in

1 violation of K.S.A. 2010 Supp. 21-36a06, and amendments thereto, in  
2 which the trier of fact makes a finding that the unlawful possession  
3 occurred while transporting the controlled substance or controlled  
4 substance analog in any vehicle upon a highway or street, the offender's  
5 driver's license or privilege to operate a motor vehicle on the streets and  
6 highways of this state shall be suspended for one year.

7 (2) Upon suspension of a license pursuant to this subsection, the court  
8 shall require the person to surrender the license to the court, which shall  
9 transmit the license to the division of motor vehicles of the department of  
10 revenue, to be retained until the period of suspension expires. At that time,  
11 the licensee may apply to the division for return of the license. If the  
12 license has expired, the person may apply for a new license, which shall be  
13 issued promptly upon payment of the proper fee and satisfaction of other  
14 conditions established by law for obtaining a license unless another  
15 suspension or revocation of the person's privilege to operate a motor  
16 vehicle is in effect.

17 (3) (A) In lieu of suspending the driver's license or privilege to  
18 operate a motor vehicle on the highways of this state of any person as  
19 provided in paragraph (1), the judge of the court in which such person was  
20 convicted may enter an order which places conditions on such person's  
21 privilege of operating a motor vehicle on the highways of this state, a  
22 certified copy of which such person shall be required to carry any time  
23 such person is operating a motor vehicle on the highways of this state. Any  
24 such order shall prescribe the duration of the conditions imposed, which in  
25 no event shall be for a period of more than one year.

26 (B) Upon entering an order restricting a person's license hereunder,  
27 the judge shall require such person to surrender such person's driver's  
28 license to the judge who shall cause it to be transmitted to the division of  
29 vehicles, together with a copy of the order. Upon receipt thereof, the  
30 division of vehicles shall issue without charge a driver's license which  
31 shall indicate on its face that conditions have been imposed on such  
32 person's privilege of operating a motor vehicle and that a certified copy of  
33 the order imposing such conditions is required to be carried by the person  
34 for whom the license was issued any time such person is operating a motor  
35 vehicle on the highways of this state. If the person convicted is a  
36 nonresident, the judge shall cause a copy of the order to be transmitted to  
37 the division and the division shall forward a copy of it to the motor vehicle  
38 administrator, of such person's state of residence. Such judge shall furnish  
39 to any person whose driver's license has had conditions imposed on it  
40 under this paragraph a copy of the order, which shall be recognized as a  
41 valid Kansas driver's license until such time as the division shall issue the  
42 restricted license provided for in this paragraph.

43 (C) Upon expiration of the period of time for which conditions are

1 imposed pursuant to this subsection, the licensee may apply to the division  
2 for the return of the license previously surrendered by such licensee. In the  
3 event such license has expired, such person may apply to the division for a  
4 new license, which shall be issued immediately by the division upon  
5 payment of the proper fee and satisfaction of the other conditions  
6 established by law, unless such person's privilege to operate a motor  
7 vehicle on the highways of this state has been suspended or revoked prior  
8 thereto. If any person shall violate any of the conditions imposed under  
9 this paragraph, such person's driver's license or privilege to operate a  
10 motor vehicle on the highways of this state shall be revoked for a period of  
11 not less than 60 days nor more than one year by the judge of the court in  
12 which such person is convicted of violating such conditions.

13 (4) As used in this subsection, "highway" and "street" means the  
14 same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

15 (p) In addition to any of the above, for any criminal offense that  
16 includes the domestic violence designation pursuant to section 1 of chapter  
17 101 of the 2010 Session Laws of Kansas, and amendments thereto, the  
18 court shall require the defendant to undergo a domestic violence offender  
19 assessment and follow all recommendations unless otherwise ordered by  
20 the court or the department of corrections. The court may order a domestic  
21 violence offender assessment and any other evaluation prior to sentencing  
22 if the assessment or evaluation would assist the court in determining an  
23 appropriate sentence. The entity completing the assessment or evaluation  
24 shall provide the assessment or evaluation and recommendations to the  
25 court and the court shall provide the domestic violence assessment and any  
26 other evaluation to any entity responsible for supervising such defendant.  
27 A defendant ordered to undergo a domestic violence offender assessment  
28 shall be required to pay for the assessment and, unless otherwise ordered  
29 by the court or the department of corrections, for completion of all  
30 recommendations.

31 Sec. 37. Section 266 of chapter 136 of the 2010 Session Laws of  
32 Kansas is hereby amended to read as follows: Sec. 266. (a) An aggravated  
33 habitual sex offender shall be sentenced to imprisonment for life without  
34 the possibility of parole. Such offender shall spend the remainder of the  
35 offender's natural life incarcerated and in the custody of the secretary of  
36 corrections. An offender who is sentenced to imprisonment for life without  
37 the possibility of parole shall not be eligible for parole, probation,  
38 assignment to a community correctional services program, conditional  
39 release, postrelease supervision, or suspension, modification or reduction  
40 of sentence.

41 (b) Upon sentencing a defendant to imprisonment for life without the  
42 possibility of parole, the court shall commit the defendant to the custody of  
43 the secretary of corrections and the court shall state in the sentencing order

1 of the judgment form or journal entry, whichever is delivered with the  
 2 defendant to the correctional institution, that the defendant has been  
 3 sentenced to imprisonment for life without the possibility of parole.

4 (c) As used in this section:

5 (1) "Aggravated habitual sex offender" means a person who, on and  
 6 after July 1, 2006: (A) Has been convicted in this state of a sexually  
 7 violent crime, as described in subsection (c)(3)(2)(A) through (c)(3)(2)(~~F~~)  
 8 (~~H~~) or (c)(3)(2)(~~L~~)(~~J~~); and (B) prior to the conviction of the felony under  
 9 subparagraph (A), has been convicted ~~on at least two prior conviction~~  
 10 ~~events of any sexually violent crime of two or more sexually violent~~  
 11 ~~crimes;~~

12 (2) "~~prior conviction event~~" means ~~one or more felony convictions of~~  
 13 ~~a sexually violent crime occurring on the same day and within a single~~  
 14 ~~court. These convictions may result from multiple counts within an~~  
 15 ~~information or from more than one information. If a person crosses a~~  
 16 ~~county line and commits a felony as part of the same criminal act or acts,~~  
 17 ~~such felony, if such person is convicted, shall be considered part of the~~  
 18 ~~prior conviction event.~~

19 (~~3~~) "Sexually violent crime" means:

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

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

27 (C) 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) and or (a)(4) of*  
 29 *section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and  
 30 amendments thereto;

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

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

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

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



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

4 (I) any federal or other state conviction for a felony offense that under  
5 the laws of this state would be a sexually violent crime as defined in this  
6 section;

7 (J) an attempt, conspiracy or criminal solicitation, as defined in  
8 *K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33,*  
9 *34 or 35 of chapter 136 of the 2010 Session Laws of Kansas,* and  
10 amendments thereto, of a sexually violent crime as defined in this section;  
11 or

12 (K) any act which at the time of sentencing for the offense has been  
13 determined beyond a reasonable doubt to have been sexually motivated.  
14 As used in this subparagraph, "sexually motivated" means that one of the  
15 purposes for which the defendant committed the crime was for the purpose  
16 of the defendant's sexual gratification.

17 Sec. 38. Section 285 of chapter 136 of the 2010 Session Laws of  
18 Kansas, as amended by section 1 of 2011 Senate Substitute for House Bill  
19 No. 2008, is hereby amended to read as follows: Sec. 285. (a) The  
20 provisions of this section shall be applicable to the sentencing guidelines  
21 grid for nondrug crimes. The following sentencing guidelines grid shall be  
22 applicable to nondrug felony crimes:

**SENTENCING RANGE - NONDRUG OFFENSES**

Category	A	B	C	D	E	F	G	H	I
Severity Level	3+ Person Felony	2 Person Felony	1 Person & 1 Nonperson Felony	1 Person Felony	3+ Nonperson Felony	2 Nonperson Felony	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467	460 438	216 205	200 190	184 174	168 160	154 146	138 131	123 117
III	247 233	228 216	107 102	100 94	88 83	83 79	77 74	71 66	61 59
IV	172 162	154 144	75 71	69 66	64 63	59 56	52 50	48 45	43 41
V	136 130	128 120	60 57	55 52	51 49	47 44	43 41	38 36	34 32
VI	46 43	41 39	38 36	36 34	32 30	29 27	25 23	22 20	19 18
VII	34 32	31 29	29 27	26 24	23 21	19 18	16 15	14 13	13 12
VIII	23 21	20 19	19 18	17 16	15 14	13 12	11 10	11 10	9 8
IX	17 16	15 14	13 12	13 12	11 10	9 9	8 8	8 7	7 6
X	13 12	12 11	11 10	10 9	9 8	8 7	7 6	7 6	6 5

Legend
Prison/Probation
Prob. Prob.
Prison/Probation
Prison/Probation

1 (b) Sentences expressed in the sentencing guidelines grid for nondrug  
2 crimes represent months of imprisonment.

3 (c) The sentencing guidelines grid is a two-dimensional crime  
4 severity and criminal history classification tool. The grid's vertical axis is  
5 the crime severity scale which classifies current crimes of conviction. The  
6 grid's horizontal axis is the criminal history scale which classifies criminal  
7 histories.

8 (d) The sentencing guidelines grid for nondrug crimes as provided in  
9 this section defines presumptive punishments for felony convictions,  
10 subject to the sentencing court's discretion to enter a departure sentence.  
11 The appropriate punishment for a felony conviction should depend on the  
12 severity of the crime of conviction when compared to all other crimes and  
13 the offender's criminal history.

14 (e) (1) The sentencing court has discretion to sentence at any place  
15 within the sentencing range. In the usual case it is recommended that the  
16 sentencing judge select the center of the range and reserve the upper and  
17 lower limits for aggravating and mitigating factors insufficient to warrant a  
18 departure.

19 (2) In presumptive imprisonment cases, the sentencing court shall  
20 pronounce the complete sentence which shall include the:

21 (A) Prison sentence;

22 (B) maximum potential reduction to such sentence as a result of good  
23 time; and

24 (C) period of postrelease supervision at the sentencing hearing.  
25 Failure to pronounce the period of postrelease supervision shall not negate  
26 the existence of such period of postrelease supervision.

27 (3) In presumptive nonprison cases, the sentencing court shall  
28 pronounce the:

29 (A) Prison sentence; and

30 (B) duration of the nonprison sanction at the sentencing hearing.

31 (f) Each grid block states the presumptive sentencing range for an  
32 offender whose crime of conviction and criminal history place such  
33 offender in that grid block. If an offense is classified in a grid block below  
34 the dispositional line, the presumptive disposition shall be  
35 nonimprisonment. If an offense is classified in a grid block above the  
36 dispositional line, the presumptive disposition shall be imprisonment. If an  
37 offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose  
38 an optional nonprison sentence as provided in subsection (q).

39 (g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal,  
40 aggravated battery against a law enforcement officer committed prior to  
41 July 1, 2006, or a violation of subsection (d) of section 47 of chapter 136  
42 of the 2010 Session Laws of Kansas, and amendments thereto, aggravated  
43 assault against a law enforcement officer, which places the defendant's

1 sentence in grid block 6-H or 6-I shall be presumed imprisonment. The  
2 court may impose an optional nonprison sentence as provided in  
3 subsection (q).

4 (h) When a firearm is used to commit any person felony, the  
5 offender's sentence shall be presumed imprisonment. The court may  
6 impose an optional nonprison sentence as provided in subsection (q).

7 (i) (l) The sentence for the violation of the felony provision of  
8 K.S.A. 8-1567, subsection (b)(3) of section 49 of chapter 136 of the 2010  
9 Session Laws of Kansas, subsections (b)(3) and (b)(4) of section 109 of  
10 chapter 136 of the 2010 Session Laws of Kansas, section 223 of chapter  
11 136 of the 2010 Session Laws of Kansas and section 227 of chapter 136 of  
12 the 2010 Session Laws of Kansas, and amendments thereto, shall be as  
13 provided by the specific mandatory sentencing requirements of that section  
14 and shall not be subject to the provisions of this section or section 288 of  
15 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.

16 (2) If because of the offender's criminal history classification the  
17 offender is subject to presumptive imprisonment or if the judge departs  
18 from a presumptive probation sentence and the offender is subject to  
19 imprisonment, the provisions of this section and section 288 of chapter  
20 136 of the 2010 Session Laws of Kansas, and amendments thereto, shall  
21 apply and the offender shall not be subject to the mandatory sentence as  
22 provided in section 109 of chapter 136 of the 2010 Session Laws of  
23 Kansas, and amendments thereto.

24 (3) Notwithstanding the provisions of any other section, the term of  
25 imprisonment imposed for the violation of the felony provision of K.S.A.  
26 8-1567, subsection (b)(3) of section 49 of chapter 136 of the 2010 Session  
27 Laws of Kansas, subsections (b)(3) and (b)(4) of section 109 of chapter  
28 136 of the 2010 Session Laws of Kansas, section 223 and section 227 of  
29 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,  
30 shall not be served in a state facility in the custody of the secretary of  
31 corrections, except that the term of imprisonment for felony violations of  
32 K.S.A. 8-1567, and amendments thereto, may be served in a state  
33 correctional facility designated by the secretary of corrections if the  
34 secretary determines that substance abuse treatment resources and facility  
35 capacity is available. The secretary's determination regarding the  
36 availability of treatment resources and facility capacity shall not be subject  
37 to review.

38 (j) (1) The sentence for any persistent sex offender whose current  
39 convicted crime carries a presumptive term of imprisonment shall be  
40 double the maximum duration of the presumptive imprisonment term. The  
41 sentence for any persistent sex offender whose current conviction carries a  
42 presumptive nonprison term shall be presumed imprisonment and shall be  
43 double the maximum duration of the presumptive imprisonment term.

1 (2) Except as otherwise provided in this subsection, as used in this  
2 subsection, "persistent sex offender" means a person who:

3 (A) (i) Has been convicted in this state of a sexually violent crime,  
4 as defined in K.S.A. 22-3717, and amendments thereto; and

5 (ii) at the time of the conviction under subsection (j)(2)(A)(i) has at  
6 least one conviction for a sexually violent crime, as defined in K.S.A. 22-  
7 3717, and amendments thereto, in this state or comparable felony under  
8 the laws of another state, the federal government or a foreign government;  
9 or

10 (B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,  
11 prior to its repeal, or section 67 of chapter 136 of the 2010 Session Laws  
12 of Kansas, and amendments thereto; and

13 (ii) at the time of the conviction under subsection (j)(2)(B)(i) has at  
14 least one conviction for rape in this state or comparable felony under the  
15 laws of another state, the federal government or a foreign government.

16 (3) Except as provided in subsection (j)(2)(B), the provisions of this  
17 subsection shall not apply to any person whose current convicted crime is  
18 a severity level 1 or 2 felony.

19 (k) (1) If it is shown at sentencing that the offender committed any  
20 felony violation for the benefit of, at the direction of, or in association with  
21 any criminal street gang, with the specific intent to promote, further or  
22 assist in any criminal conduct by gang members, the offender's sentence  
23 shall be presumed imprisonment. The court may impose an optional  
24 nonprison sentence as provided in subsection (q).

25 (2) As used in this subsection, "criminal street gang" means any  
26 organization, association or group of three or more persons, whether  
27 formal or informal, having as one of its primary activities:

28 (A) The commission of one or more person felonies; or

29 (B) the commission of felony violations of K.S.A. 2010 Supp. 21-  
30 36a01 through 21-36a17, and amendments thereto, *or any felony violation*  
31 *of any provision of the uniform controlled substances act prior to July 1,*  
32 *2009; and*

33 (C) its members have a common name or common identifying sign or  
34 symbol; and

35 (D) its members, individually or collectively, engage in or have  
36 engaged in the commission, attempted commission, conspiracy to commit  
37 or solicitation of two or more person felonies or felony violations of  
38 K.S.A. 2010 Supp. 21-36a01 through 21-36a17, and amendments thereto,  
39 *any felony violation of any provision of the uniform controlled substances*  
40 *act prior to July 1, 2009, or any substantially similar offense from another*  
41 *jurisdiction.*

42 (l) Except as provided in subsection (o), the sentence for a violation  
43 of subsection (a)(1) of section 93 of chapter 136 of the 2010 Session Laws

1 of Kansas, and amendments thereto, or any attempt or conspiracy, as  
2 defined in sections 33 and 34 of chapter 136 of the 2010 Session Laws of  
3 Kansas, and amendments thereto, to commit such offense, when such  
4 person being sentenced has a prior conviction for a violation of subsection  
5 (a) or (b) of K.S.A. 21-3715, prior to its repeal, 21-3716, prior to its repeal,  
6 subsection (a)(1) or (a)(2) of section 93 of chapter 136 of the 2010 Session  
7 Laws of Kansas, or subsection (b) of section 93 of chapter 136 of the 2010  
8 Session Laws of Kansas, and amendments thereto, or any attempt or  
9 conspiracy to commit such offense, shall be presumptive imprisonment.

10 (m) The sentence for a violation of K.S.A 22-4903 or subsection (a)  
11 (2) of section 138 of chapter 136 of the 2010 Session Laws of Kansas, and  
12 amendments thereto, shall be presumptive imprisonment. If an offense  
13 under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I,  
14 the court may impose an optional nonprison sentence as provided in  
15 subsection (q).

16 (n) The sentence for a violation of criminal deprivation of property, as  
17 defined in section 89 of chapter 136 of the 2010 Session Laws of Kansas,  
18 and amendments thereto, when such property is a motor vehicle, and when  
19 such person being sentenced has any combination of two or more prior  
20 convictions of subsection (b) of K.S.A. 21-3705, prior to its repeal, or of  
21 criminal deprivation of property, as defined in section 89 of chapter 136 of  
22 the 2010 Session Laws of Kansas, and amendments thereto, when such  
23 property is a motor vehicle, shall be presumptive imprisonment. Such  
24 sentence shall not be considered a departure and shall not be subject to  
25 appeal.

26 (o) The sentence for a felony violation of theft of property as defined  
27 in section 87 of chapter 136 of the 2010 Session Laws of Kansas, and  
28 amendments thereto, or burglary as defined in subsection (a) of section 93  
29 of chapter 136 of the 2010 Session Laws of Kansas, and amendments  
30 thereto, when such person being sentenced has no prior convictions for a  
31 violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of  
32 property as defined in section 87 of chapter 136 of the 2010 Session Laws  
33 of Kansas, and amendments thereto, or burglary as defined in subsection  
34 (a) of section 93 of chapter 136 of the 2010 Session Laws of Kansas, and  
35 amendments thereto; or the sentence for a felony violation of theft of  
36 property as defined in section 87 of chapter 136 of the 2010 Session Laws  
37 of Kansas, and amendments thereto, when such person being sentenced  
38 has one or two prior felony convictions for a violation of K.S.A. 21-3701,  
39 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in  
40 section 87 of chapter 136 of the 2010 Session Laws of Kansas, and  
41 amendments thereto, or burglary or aggravated burglary as defined in  
42 section 93 of chapter 136 of the 2010 Session Laws of Kansas, and  
43 amendments thereto; or the sentence for a felony violation of burglary as

1 defined in subsection (a) of section 93 of chapter 136 of the 2010 Session  
2 Laws of Kansas, and amendments thereto, when such person being  
3 sentenced has one prior felony conviction for a violation of K.S.A. 21-  
4 3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as  
5 defined in section 87 of chapter 136 of the 2010 Session Laws of Kansas,  
6 and amendments thereto, or burglary or aggravated burglary as defined in  
7 section 93 of chapter 136 of the 2010 Session Laws of Kansas, and  
8 amendments thereto, shall be the sentence as provided by this section,  
9 except that the court may order an optional nonprison sentence for a  
10 defendant to participate in a drug treatment program, including, but not  
11 limited to, an approved after-care plan, if the court makes the following  
12 findings on the record:

13 (1) Substance abuse was an underlying factor in the commission of  
14 the crime;

15 (2) substance abuse treatment in the community is likely to be more  
16 effective than a prison term in reducing the risk of offender recidivism;  
17 and

18 (3) participation in an intensive substance abuse treatment program  
19 will serve community safety interests.

20 A defendant sentenced to an optional nonprison sentence under this  
21 subsection shall be supervised by community correctional services. The  
22 provisions of subsection (f)(1) of section 305 of chapter 136 of the 2010  
23 Session Laws of Kansas, and amendments thereto, shall apply to a  
24 defendant sentenced under this subsection. The sentence under this  
25 subsection shall not be considered a departure and shall not be subject to  
26 appeal.

27 (p) The sentence for a felony violation of theft of property as defined  
28 in section 87 of chapter 136 of the 2010 Session Laws of Kansas, and  
29 amendments thereto, when such person being sentenced has any  
30 combination of three or more prior felony convictions for violations of  
31 K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of  
32 property as defined in section 87 of chapter 136 of the 2010 Session Laws  
33 of Kansas, and amendments thereto, or burglary or aggravated burglary as  
34 defined in section 93 of chapter 136 of the 2010 Session Laws of Kansas,  
35 and amendments thereto; or the sentence for a violation of burglary as  
36 defined in subsection (a) of section 93 of chapter 136 of the 2010 Session  
37 Laws of Kansas, and amendments thereto, when such person being  
38 sentenced has any combination of two or more prior convictions for  
39 violations of K.S.A. 21-3701, 21-3715 and 21-3716, prior to their repeal,  
40 or theft of property as defined in section 87 of chapter 136 of the 2010  
41 Session Laws of Kansas, and amendments thereto, or burglary or  
42 aggravated burglary as defined in section 93 of chapter 136 of the 2010  
43 Session Laws of Kansas, and amendments thereto, shall be presumed

1 imprisonment and the defendant shall be sentenced to prison as provided  
2 by this section, except that the court may recommend that an offender be  
3 placed in the custody of the secretary of corrections, in a facility  
4 designated by the secretary to participate in an intensive substance abuse  
5 treatment program, upon making the following findings on the record:

6 (1) Substance abuse was an underlying factor in the commission of  
7 the crime;

8 (2) substance abuse treatment with a possibility of an early release  
9 from imprisonment is likely to be more effective than a prison term in  
10 reducing the risk of offender recidivism; and

11 (3) participation in an intensive substance abuse treatment program  
12 with the possibility of an early release from imprisonment will serve  
13 community safety interests by promoting offender reformation.

14 The intensive substance abuse treatment program shall be determined  
15 by the secretary of corrections, but shall be for a period of at least four  
16 months. Upon the successful completion of such intensive treatment  
17 program, the offender shall be returned to the court and the court may  
18 modify the sentence by directing that a less severe penalty be imposed in  
19 lieu of that originally adjudged within statutory limits. If the offender's  
20 term of imprisonment expires, the offender shall be placed under the  
21 applicable period of postrelease supervision. The sentence under this  
22 subsection shall not be considered a departure and shall not be subject to  
23 appeal.

24 (q) As used in this section, an "optional nonprison sentence" is a  
25 sentence which the court may impose, in lieu of the presumptive sentence,  
26 upon making the following findings on the record:

27 (1) An appropriate treatment program exists which is likely to be  
28 more effective than the presumptive prison term in reducing the risk of  
29 offender recidivism; and

30 (2) the recommended treatment program is available and the offender  
31 can be admitted to such program within a reasonable period of time; or

32 (3) the nonprison sanction will serve community safety interests by  
33 promoting offender reformation.

34 Any decision made by the court regarding the imposition of an optional  
35 nonprison sentence shall not be considered a departure and shall not be  
36 subject to appeal.

37 (r) The sentence for a violation of subsection (c)(2) of section 48 of  
38 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto,  
39 shall be presumptive imprisonment and shall be served consecutively to  
40 any other term or terms of imprisonment imposed. Such sentence shall not  
41 be considered a departure and shall not be subject to appeal.

42 (s) The sentence for a violation of section 76 of chapter 136 of the  
43 2010 Session Laws of Kansas, and amendments thereto, shall be



1 presumptive imprisonment. Such sentence shall not be considered a  
2 departure and shall not be subject to appeal.

3 (t) (1) If the trier of fact makes a finding that an offender wore or  
4 used ballistic resistant material in the commission of, or attempt to  
5 commit, or flight from any felony, in addition to the sentence imposed  
6 pursuant to the Kansas sentencing guidelines act, the offender shall be  
7 sentenced to an additional 30 months' imprisonment.

8 (2) The sentence imposed pursuant to subsection (t)(1) shall be  
9 presumptive imprisonment and shall be served consecutively to any other  
10 term or terms of imprisonment imposed. Such sentence shall not be  
11 considered a departure and shall not be subject to appeal.

12 (3) As used in this subsection, "ballistic resistant material" means:  
13 (A) Any commercially produced material designed with the purpose of  
14 providing ballistic and trauma protection, including, but not limited to,  
15 bulletproof vests and kevlar vests; and (B) any homemade or fabricated  
16 substance or item designed with the purpose of providing ballistic and  
17 trauma protection.

18 (u) The sentence for a violation of section 177 of chapter 136 of the  
19 2010 Session Laws of Kansas, and amendments thereto, or any attempt or  
20 conspiracy, as defined in sections 33 and 34 of chapter 136 of the 2010  
21 Session Laws of Kansas, and amendments thereto, to commit such offense,  
22 when such person being sentenced has a prior conviction for a violation of  
23 K.S.A. 21-4018, prior to its repeal, or section 177 of chapter 136 of the  
24 2010 Session Laws of Kansas, and amendments thereto, or any attempt or  
25 conspiracy to commit such offense, shall be presumptive imprisonment.  
26 Such sentence shall not be considered a departure and shall not be subject  
27 to appeal.

28 Sec. 39. Section 298 of chapter 136 of the 2010 Session Laws of  
29 Kansas, as amended by section 81 of 2011 House Bill No. 2339, is hereby  
30 amended to read as follows: Sec. 298. (a) (1) Whenever a person is  
31 convicted of a felony, the court upon motion of either the defendant or the  
32 state, shall hold a hearing to consider imposition of a departure sentence  
33 other than an upward durational departure sentence. The motion shall state  
34 the type of departure sought and the reasons and factors relied upon. The  
35 hearing shall be scheduled so that the parties have adequate time to  
36 prepare and present arguments regarding the issues of departure  
37 sentencing. The county or district attorney shall notify the victim of a  
38 crime or the victim's family of the right to be present at the hearing. The  
39 parties may submit written arguments to the court prior to the date of the  
40 hearing and may make oral arguments before the court at the hearing. The  
41 court shall review the victim impact statement. Prior to the hearing, the  
42 court shall transmit to the defendant or the defendant's attorney and the  
43 prosecutor copies of the presentence investigation report.

1 (2) At the conclusion of the hearing or within 21 days thereafter, the  
2 court shall issue findings of fact and conclusions of law regarding the  
3 issues submitted by the parties, and shall enter an appropriate order.

4 (3) If the court decides to depart on its own volition, without a motion  
5 from the state or the defendant, the court shall notify all parties of its intent  
6 and allow reasonable time for either party to respond if requested. The  
7 notice shall state the type of departure intended by the court and the  
8 reasons and factors relied upon.

9 (4) In each case in which the court imposes a sentence that deviates  
10 from the presumptive sentence, the court shall make findings of fact as to  
11 the reasons for departure as provided in this subsection regardless of  
12 whether a hearing is requested.

13 (b) (1) Upon motion of the county or district attorney to seek an  
14 upward durational departure sentence, the court shall consider imposition  
15 of such upward durational departure sentence in the manner provided in  
16 subsection (b)(2). The county or district attorney shall file such motion to  
17 seek an upward durational departure sentence not less than 30 days prior to  
18 the date of trial or if the trial date is to take place in less than 30 days then  
19 within seven days from the date of the arraignment.

20 (2) The court shall determine if the presentation of any evidence  
21 regarding the alleged fact or factors that may increase the penalty for a  
22 crime beyond the statutory maximum, other than a prior conviction, shall  
23 be presented to a jury and proved beyond a reasonable doubt during the  
24 trial of the matter or whether such evidence should be submitted to the jury  
25 in a separate departure sentencing hearing following the determination of  
26 the defendant's innocence or guilt.

27 (3) If the presentation of the evidence regarding the alleged fact or  
28 factors is submitted to the jury during the trial of the matter as determined  
29 by the court, then the provisions of subsections (b)(5), (b)(6) and (b)(7)  
30 shall be applicable.

31 (4) If the court determines it is in the interest of justice, the court shall  
32 conduct a separate departure sentence proceeding to determine whether the  
33 defendant may be subject to an upward durational departure sentence.  
34 Such proceeding shall be conducted by the court before ~~the trial~~ a jury as  
35 soon as practicable. If any person who served on the trial jury is unable to  
36 serve on the jury for the upward durational departure sentence proceeding,  
37 the court shall substitute an alternate juror who has been impaneled for the  
38 trial jury. If there are insufficient alternate jurors to replace trial jurors who  
39 are unable to serve at the upward durational departure sentence  
40 proceeding, the court may conduct such upward durational departure  
41 sentence proceeding before a jury which may have 12 or less jurors, but at  
42 no time less than six jurors. Any decision of an upward durational  
43 departure sentence proceeding shall be decided by a unanimous decision

1 of the jury. Jury selection procedures, qualifications of jurors and grounds  
2 for exemption or challenge of prospective jurors in criminal trials shall be  
3 applicable to the selection of such jury. The jury at the upward durational  
4 departure sentence proceeding may be waived in the manner provided by  
5 K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the  
6 jury at the upward durational departure sentence proceeding has been  
7 waived ~~or the trial jury has been waived~~, the upward durational departure  
8 sentence proceeding shall be conducted by the court.

9 (5) In the upward durational departure sentence proceeding, evidence  
10 may be presented concerning any matter that the court deems relevant to  
11 the question of determining if any specific factors exist that may serve to  
12 enhance the maximum sentence as provided by section 296 or 297 of  
13 chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.  
14 Only such evidence as the state has made known to the defendant prior to  
15 the upward durational departure sentence proceeding shall be admissible,  
16 and no evidence secured in violation of the constitution of the United  
17 States or of the state of Kansas shall be admissible. No testimony by the  
18 defendant at the upward durational departure sentence proceeding shall be  
19 admissible against the defendant at any subsequent criminal proceeding.  
20 At the conclusion of the evidentiary presentation, the court shall allow the  
21 parties a reasonable period of time in which to present oral arguments.

22 (6) The court shall provide oral and written instructions to the jury to  
23 guide its deliberations.

24 (7) If, by unanimous vote, the jury finds beyond a reasonable doubt  
25 that one or more specific factors exist that may serve to enhance the  
26 maximum sentence, the defendant may be sentenced pursuant to sections  
27 296 through 299 of chapter 136 of the 2010 Session Laws of Kansas, and  
28 amendments thereto; otherwise, the defendant shall be sentenced as  
29 provided by law. The jury, if its verdict is a unanimous recommendation  
30 that one or more of the specific factors that may serve to enhance the  
31 maximum sentence exists, shall designate in writing, signed by the  
32 foreman of the jury, the specific factor or factors which the jury found  
33 beyond a reasonable doubt. If, after a reasonable time for deliberation, the  
34 jury is unable to reach a verdict of finding any of the specific factors, the  
35 court shall dismiss the jury and shall only impose a sentence as provided  
36 by law. In nonjury cases, the court shall follow the requirements of this  
37 subsection in determining if one or more of the specific factors exist that  
38 may serve to enhance the maximum sentence.

39 Sec. 40. Section 36 of 2011 Senate Bill No. 24 is hereby amended to  
40 read as follows: Sec. 36. *(a) Any order issued pursuant to the revised*  
41 *Kansas code for care of children or the revised Kansas juvenile justice*  
42 *code, shall be binding and shall take precedence over any order under this*  
43 *act or article 16 of chapter 60 of the Kansas Statutes Annotated, and*

1 *amendments thereto (divorce), or K.S.A. 60-1610, prior to its repeal, until*  
2 *jurisdiction under the revised Kansas code for care of children or the*  
3 *revised Kansas juvenile justice code is terminated.*

4 (b) An order granting visitation rights or parenting time pursuant to  
5 this section may be enforced in accordance with the uniform child custody  
6 jurisdiction and enforcement act, or K.S.A. 23-701, and amendments  
7 thereto.

8 Sec. 41. K.S.A. 19-4804, 19-4804, as amended by section 108 of  
9 2011 House Bill No. 2339, 20-369, as amended by section 4 of chapter  
10 101 of the 2010 Session Laws of Kansas, 20-369, as amended by section  
11 109 of 2011 House Bill No. 2339, 22-2307, as amended by section 8 of  
12 chapter 101 of the 2010 Session Laws of Kansas, 22-2307, as amended by  
13 section 120 of 2011 House Bill No. 2339, 22-2908, as amended by section  
14 9 of chapter 101 of the 2010 Session Laws of Kansas, 22-2908, as  
15 amended by section 121 of 2011 House Bill No. 2339, 58-2011, as  
16 amended by section 23 of 2011 Senate Bill No. 112, 58-2011, as amended  
17 by section 24 of 2011 Senate Bill No. 229, 60-1620, as amended by  
18 section 44 of 2011 Senate Bill No. 24, 60-1620, as amended by section  
19 218 of 2011 House Bill No. 2339, 65-445, as amended by section 2 of  
20 2011 House Bill No. 2035, 65-445, as amended by section 4 of 2011  
21 House Bill No. 2218, 65-6703, as amended by section 4 of 2011 House  
22 Bill No. 2035, 65-6703, as amended by section 247 of 2011 House Bill  
23 No. 2339, 65-6721, as amended by section 8 of 2011 House Bill No. 2035  
24 and 65-6721, as amended by section 248 of 2011 House Bill No. 2339 and  
25 K.S.A. 2009 Supp. 22-2909, as amended by section 10 of chapter 101 of  
26 the 2010 Session Laws of Kansas and 22-2909, as amended by section 122  
27 of 2011 House Bill No. 2339 and K.S.A. 2010 Supp. 8-116a, as amended  
28 by section 1 of 2011 House Bill No. 2192, 8-116a, as amended by section  
29 85 of 2011 House Bill No. 2339, 8-259, 8-259a, 8-1020, 8-1020a, 8-2118,  
30 8-2118b, 9-1703, as amended by section 1 of 2011 House Bill No. 2056, 9-  
31 1703, as amended by section 4 of 2011 Senate Bill No. 229, 12-1774, 12-  
32 1774c, 12-17,149, 12-17,149a, 12-4117, 12-4117a, 21-4603d, as amended  
33 by section 1 of 2011 House Bill No. 2118, 22-2410, 22-2410, as amended  
34 by section 114 of 2011 House Bill No. 2339, 22-2802, as amended by  
35 section 2 of 2011 House Bill No. 2118, 22-2802, as amended by section  
36 118 of 2011 House Bill No. 2339, 22-3305, 22-3305a, 22-3428, 22-3428a,  
37 22-3428c, 22-3428d, 22-3437, 22-3437a, 38-2258, 38-2258a, 38-2373, 38-  
38 2373a, 40-2,118, as amended by section 6 of 2011 House Bill No. 2030,  
39 40-2,118, as amended by section 177 of 2011 House Bill No. 2339, 60-  
40 740, 60-740a, 60-1610, as amended by section 8 of 2011 Senate Bill No.  
41 38, 60-1610, as amended by section 217 of 2011 House Bill No. 2339, 60-  
42 1629, as amended by section 219 of 2011 House Bill No. 2339, 60-3107,  
43 as amended by section 46 of 2011 Senate Bill No. 24, 60-3107, as

1 amended by section 221 of 2011 House Bill No. 2339, 65-504a, 65-530,  
2 65-530a, 65-1626d, 66-2304, 66-2304, as amended by section 249 of 2011  
3 House Bill No. 2339, 75-52,127 and 75-52,127, as amended by section  
4 281 of 2011 House Bill No. 2339 and sections 52, 189, 194 and 266 of  
5 chapter 136 of the 2010 Session Laws of Kansas and section 52 of chapter  
6 136 of the 2010 Session Laws of Kansas, as amended by section 21 of  
7 2011 House Bill No. 2339, section 189 of chapter 136 of the 2010 Session  
8 Laws of Kansas, as amended by section 51 of 2011 House Bill No. 2339,  
9 section 194 of chapter 136 of the 2010 Session Laws of Kansas, as  
10 amended by section 54 of 2011 House Bill No. 2339, section 244 of  
11 chapter 136 of the 2010 Session Laws of Kansas, as amended by section  
12 66 of 2011 House Bill No. 2339, section 244 of chapter 136 of the 2010  
13 Session Laws of Kansas, as amended by section 3 of 2011 House Bill No.  
14 2118, section 266 of chapter 136 of the 2010 Session Laws of Kansas, as  
15 amended by section 72 of 2011 House Bill No. 2339, section 285 of  
16 chapter 136 of the 2010 Session Laws of Kansas, as amended by section 1  
17 of 2011 Senate Substitute for House Bill No. 2008, section 285 of chapter  
18 136 of the 2010 Session Laws of Kansas, as amended by section 77 of  
19 2011 House Bill No. 2339, section 298 of chapter 136 of the 2010 Session  
20 Laws of Kansas, as amended by section 81 of 2011 House Bill No. 2339  
21 and section 298 of chapter 136 of the 2010 Session Laws of Kansas, as  
22 amended by section 1 of 2011 House Bill No. 2038 and section 36 of 2011  
23 Senate Bill No. 24 are hereby repealed.

24 Sec. 42. This act shall take effect and be in force from and after its  
25 publication in the statute book.  
26