

House Substitute for SENATE BILL No. 46

By Committee on Corrections and Juvenile Justice

3-27

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to human trafficking; human trafficking advisory board; establishing
3 the human trafficking victim assistance fund; creating the crime of
4 commercial sexual exploitation of a child; relating to selling sexual
5 relations; promoting the sale of sexual relations; buying sexual
6 relations; amending K.S.A. 22-2530 and K.S.A. 2011 Supp. 21-5301,
7 21-5302, 21-5303, 21-5401, 21-6419, 21-6420, 21-6421, 21-6614, 21-
8 6626, 21-6627, 21-6815, 22-2515, 22-3601, 22-3717, 22-3901, 22-
9 4902, 22-4906, 38-2202, 38-2243, 38-2260, 38-2312, 38-2361, 41-311,
10 41-2601, 60-4104 and 68-2255 and repealing the existing sections; also
11 repealing K.S.A. 2011 Supp. 21-6614a, 21-6614b, 21-6614c, 22-4902a,
12 22-4906a, 38-2312a and 38-2312b.

13

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

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

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

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

30 New Sec. 4. (a) Commercial sexual exploitation of a child is
31 knowingly:

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

34 (A) Procuring, recruiting, inducing, soliciting, hiring or otherwise
35 obtaining any person younger than 18 years of age to engage in sexual
36 intercourse, sodomy or manual or other bodily contact stimulation of the

1 genitals of any person with the intent to arouse or gratify the sexual desires
2 of the offender or another; or

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

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

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

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

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

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

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

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

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

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

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

42 (1) Subsection (c) of K.S.A. 2011 Supp. 21-5301, and amendments
43 thereto, shall not apply to a violation of attempting to commit the crime of

1 commercial sexual exploitation of a child as described in subsection (b)
2 (2);

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

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

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

13 Sec. 5. K.S.A. 2011 Supp. 21-5301 is hereby amended to read as
14 follows: 21-5301.(a) An attempt is any overt act toward the perpetration of
15 a crime done by a person who intends to commit such crime but fails in the
16 perpetration thereof or is prevented or intercepted in executing such crime.

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

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

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

29 (A) Aggravated human trafficking, as defined in subsection (b) of
30 K.S.A. 2011 Supp. 21-5426, and amendments thereto, if the offender is 18
31 years of age or older and the victim is less than 14 years of age;

32 (B) terrorism as defined in K.S.A. 2011 Supp. 21-5421, and
33 amendments thereto;

34 (C) illegal use of weapons of mass destruction as defined in K.S.A.
35 2011 Supp. 21-5422, and amendments thereto;

36 (D) rape, as defined in subsection (a)(3) of K.S.A. 2011 Supp. 21-
37 5503, and amendments thereto, if the offender is 18 years of age or older;

38 (E) aggravated indecent liberties with a child, as defined in
39 subsection (b)(3) of K.S.A. 2011 Supp. 21-5506, and amendments thereto,
40 if the offender is 18 years of age or older;

41 (F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)
42 (2) of K.S.A. 2011 Supp. 21-5504, and amendments thereto, if the offender
43 is 18 years of age or older;

1 (G) promoting ~~prostitution~~ *the sale of sexual relations*, as defined in
2 K.S.A. 2011 Supp. 21-6420, and amendments thereto, if the offender is 18
3 years of age or older and the ~~prostitute~~ *person selling sexual relations* is
4 less than 14 years of age; or

5 (H) sexual exploitation of a child, as defined in subsection (a)(1) or
6 (a)(4) of K.S.A. 2011 Supp. 21-5510, and amendments thereto, if the
7 offender is 18 years of age or older and the child is less than 14 years of
8 age.

9 (d) (1) An attempt to commit a felony which prescribes a sentence on
10 the drug grid shall reduce the prison term prescribed in the drug grid block
11 for an underlying or completed crime by six months.

12 (2) The provisions of this subsection shall not apply to a violation of
13 attempting to commit a violation of K.S.A. 2011 Supp. 21-5703, and
14 amendments thereto.

15 (e) An attempt to commit a class A person misdemeanor is a class B
16 person misdemeanor. An attempt to commit a class A nonperson
17 misdemeanor is a class B nonperson misdemeanor.

18 (f) An attempt to commit a class B or C misdemeanor is a class C
19 misdemeanor.

20 Sec. 6. K.S.A. 2011 Supp. 21-5302 is hereby amended to read as
21 follows: 21-5302. (a) A conspiracy is an agreement with another person to
22 commit a crime or to assist in committing a crime. No person may be
23 convicted of a conspiracy unless an overt act in furtherance of such
24 conspiracy is alleged and proved to have been committed by such person
25 or by a co-conspirator.

26 (b) It shall be a defense to a charge of conspiracy that the accused
27 voluntarily and in good faith withdrew from the conspiracy, and
28 communicated the fact of such withdrawal to one or more of the accused
29 person's co-conspirators, before any overt act in furtherance of the
30 conspiracy was committed by the accused or by a co-conspirator.

31 (c) (1) Conspiracy to commit an off-grid felony shall be ranked at
32 nondrug severity level 2. Conspiracy to commit any other nondrug felony
33 shall be ranked on the nondrug scale at two severity levels below the
34 appropriate level for the underlying or completed crime. The lowest
35 severity level for conspiracy to commit a nondrug felony shall be a
36 severity level 10.

37 (2) The provisions of this subsection shall not apply to a violation of
38 conspiracy to commit the crime of:

39 (A) Aggravated human trafficking, as defined in subsection (b) of
40 K.S.A. 2011 Supp. 21-5426, and amendments thereto, if the offender is 18
41 years of age or older and the victim is less than 14 years of age;

42 (B) terrorism as defined in K.S.A. 2011 Supp. 21-5421, and
43 amendments thereto;

- 1 (C) illegal use of weapons of mass destruction as defined in K.S.A.
2 2011 Supp. 21-5422, and amendments thereto;
- 3 (D) rape, as defined in subsection (a)(3) of K.S.A. 2011 Supp. 21-
4 5503, and amendments thereto, if the offender is 18 years of age or older;
- 5 (E) aggravated indecent liberties with a child, as defined in
6 subsection (b)(3) of K.S.A. 2011 Supp. 21-5506, and amendments thereto,
7 if the offender is 18 years of age or older;
- 8 (F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)
9 (2) of K.S.A. 2011 Supp. 21-5504, and amendments thereto, if the offender
10 is 18 years of age or older;
- 11 (G) promoting ~~prostitution~~ *the sale of sexual relations*, as defined in
12 K.S.A. 2011 Supp. 21-6420, and amendments thereto, if the offender is 18
13 years of age or older and the ~~prostitute~~ *person selling sexual relations* is
14 less than 14 years of age; or
- 15 (H) sexual exploitation of a child, as defined in subsection (a)(1) or
16 (a)(4) of K.S.A. 2011 Supp. 21-5510, and amendments thereto, if the
17 offender is 18 years of age or older and the child is less than 14 years of
18 age.
- 19 (d) Conspiracy to commit a felony which prescribes a sentence on the
20 drug grid shall reduce the prison term prescribed in the drug grid block for
21 an underlying or completed crime by six months.
- 22 (e) A conspiracy to commit a misdemeanor is a class C misdemeanor.
- 23 Sec. 7. K.S.A. 2011 Supp. 21-5303 is hereby amended to read as
24 follows: 21-5303. (a) Criminal solicitation is commanding, encouraging or
25 requesting another person to commit a felony, attempt to commit a felony
26 or aid and abet in the commission or attempted commission of a felony for
27 the purpose of promoting or facilitating the felony.
- 28 (b) It is immaterial under subsection (a) that the actor fails to
29 communicate with the person solicited to commit a felony if the person's
30 conduct was designed to effect a communication.
- 31 (c) It is an affirmative defense that the actor, after soliciting another
32 person to commit a felony, persuaded that person not to do so or otherwise
33 prevented the commission of the felony, under circumstances manifesting
34 a complete and voluntary renunciation of the actor's criminal purposes.
- 35 (d) (1) Criminal solicitation to commit an off-grid felony shall be
36 ranked at nondrug severity level 3. Criminal solicitation to commit any
37 other nondrug felony shall be ranked on the nondrug scale at three severity
38 levels below the appropriate level for the underlying or completed crime.
39 The lowest severity level for criminal solicitation to commit a nondrug
40 felony shall be a severity level 10.
- 41 (2) The provisions of this subsection shall not apply to a violation of
42 criminal solicitation to commit the crime of:
43 (A) Aggravated human trafficking, as defined in subsection (b) of

1 K.S.A. 2011 Supp. 21-5426, and amendments thereto, if the offender is 18
2 years of age or older and the victim is less than 14 years of age;

3 (B) terrorism as defined in K.S.A. 2011 Supp. 21-5421, and
4 amendments thereto;

5 (C) illegal use of weapons of mass destruction as defined in K.S.A.
6 2011 Supp. 21-5422, and amendments thereto;

7 (D) rape, as defined in subsection (a)(3) of K.S.A. 2011 Supp. 21-
8 5503, and amendments thereto, if the offender is 18 years of age or older;

9 (E) aggravated indecent liberties with a child, as defined in
10 subsection (b)(3) of K.S.A. 2011 Supp. 21-5506, and amendments thereto,
11 if the offender is 18 years of age or older;

12 (F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)
13 (2) of K.S.A. 2011 Supp. 21-5504, and amendments thereto, if the offender
14 is 18 years of age or older;

15 (G) ~~promoting prostitution~~ *the sale of sexual relations*, as defined in
16 K.S.A. 2011 Supp. 21-6420, and amendments thereto, if the offender is 18
17 years of age or older and the ~~prostitute~~ *person selling sexual relations* is
18 less than 14 years of age; or

19 (H) sexual exploitation of a child, as defined in subsection (a)(1) or
20 (a)(4) of K.S.A. 2011 Supp. 21-5510, and amendments thereto, if the
21 offender is 18 years of age or older and the child is less than 14 years of
22 age.

23 (e) Criminal solicitation to commit a felony which prescribes a
24 sentence on the drug grid shall reduce the prison term prescribed in the
25 drug grid block for an underlying or completed crime by six months.

26 Sec. 8. K.S.A. 2011 Supp. 21-5401 is hereby amended to read as
27 follows: 21-5401. (a) Capital murder is the:

28 (1) Intentional and premeditated killing of any person in the
29 commission of kidnapping, as defined in subsection (a) of K.S.A. 2011
30 Supp. 21-5408, and amendments thereto, or aggravated kidnapping, as
31 defined in subsection (b) of K.S.A. 2011 Supp. 21-5408, and amendments
32 thereto, when the kidnapping or aggravated kidnapping was committed
33 with the intent to hold such person for ransom;

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

37 (3) intentional and premeditated killing of any person by an inmate or
38 prisoner confined in a state correctional institution, community
39 correctional institution or jail or while in the custody of an officer or
40 employee of a state correctional institution, community correctional
41 institution or jail;

42 (4) intentional and premeditated killing of the victim of one of the
43 following crimes in the commission of, or subsequent to, such crime:

1 Rape, as defined in K.S.A. 2011 Supp. 21-5503, and amendments thereto,
2 criminal sodomy, as defined in subsections (a)(3) or (a)(4) of K.S.A. 2011
3 Supp. 21-5504, and amendments thereto, or aggravated criminal sodomy,
4 as defined in subsection (b) of K.S.A. 2011 Supp. 21-5504, and
5 amendments thereto, or any attempt thereof, as defined in K.S.A. 2011
6 Supp. 21-5301, and amendments thereto;

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

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

12 (7) intentional and premeditated killing of a child under the age of 14
13 in the commission of kidnapping, as defined in subsection (a) of K.S.A.
14 2011 Supp. 21-5408, and amendments thereto, or aggravated kidnapping,
15 as defined in subsection (b) of K.S.A. 2011 Supp. 21-5408, and
16 amendments thereto, when the kidnapping or aggravated kidnapping was
17 committed with intent to commit a sex offense upon or with the child or
18 with intent that the child commit or submit to a sex offense.

19 (b) For purposes of this section, "sex offense" means rape, as defined
20 in K.S.A. 2011 Supp. 21-5503, and amendments thereto, aggravated
21 indecent liberties with a child, as defined in subsection (b) of K.S.A. 2011
22 Supp. 21-5506, and amendments thereto, aggravated criminal sodomy, as
23 defined in subsection (b) of K.S.A. 2011 Supp. 21-5504, and amendments
24 thereto, ~~prostitution~~ *selling sexual relations*, as defined in K.S.A. 2011
25 Supp. 21-6419, and amendments thereto, promoting ~~prostitution~~ *the sale*
26 *of sexual relations*, as defined in K.S.A. 2011 Supp. 21-6420, and
27 amendments thereto, or sexual exploitation of a child, as defined in K.S.A.
28 2011 Supp. 21-5510, and amendments thereto.

29 (c) Capital murder is an off-grid person felony.

30 Sec. 9. K.S.A. 2011 Supp. 21-6419 is hereby amended to read as
31 follows: 21-6419. (a) ~~Prostitution~~ *Selling sexual relations* is performing
32 for hire, or offering or agreeing to perform for hire where there is an
33 exchange of value, any of the following acts:

34 (1) Sexual intercourse;

35 (2) sodomy; or

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

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

41 (c) *It shall be an affirmative defense to any prosecution under this*
42 *section that the defendant committed the violation of this section because*
43 *such defendant was subjected to human trafficking or aggravated human*

1 *trafficking as defined by K.S.A. 2011 Supp. 21-5426, and amendments*
 2 *thereto, or commercial sexual exploitation of a child as defined by section*
 3 *4, and amendments thereto.*

4 Sec. 10. K.S.A. 2011 Supp. 21-6420 is hereby amended to read as
 5 follows: 21-6420. (a) Promoting ~~prostitution~~ *the sale of sexual relations* is
 6 knowingly:

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

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

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

19 (4) inducing another ~~to become a prostitute~~ *who is 18 years of age or*
 20 *older to become a person who sells sexual relations;*

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

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

26 (7) procuring transportation for, paying for the transportation of, or
 27 transporting a person *18 years of age or older* within this state with the
 28 intention of assisting or promoting that person's engaging in ~~prostitution~~
 29 *the sale of sexual relations;* or

30 (8) being employed to perform any act which is prohibited by this
 31 section.

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

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

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

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

42 (b)(2) ~~Promoting prostitution or attempt, conspiracy or criminal~~
 43 ~~solicitation to commit promoting prostitution is an off-grid person felony~~

1 when the offender is 18 years of age or older and the prostitute is less than
2 14 years of age.

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

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

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

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

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

19 Sec. 11. K.S.A. 2011 Supp. 21-6421 is hereby amended to read as
20 follows: 21-6421. ~~(a) Patronizing a prostitute~~ *Buying sexual relations is*
21 *knowingly:*

22 *(1) Entering or remaining in a ~~house of prostitution~~ place where*
23 *sexual relations are being sold or offered for sale with intent to engage in*
24 *manual or other bodily contact stimulation of the genitals of any person*
25 *with the intent to arouse or gratify the sexual desires of the offender or*
26 *another; sexual intercourse, sodomy or any unlawful sexual act with a*
27 *~~prostitute~~ person selling sexual relations who is 18 years of age or older;*
28 *or*

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

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

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

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

41 *(2) A person convicted under subsection (b)(1)(A) shall be fined not*
42 *less than \$2,500. A person convicted under subsection (b)(1)(B) shall be*
43 *fined not less than \$2,500 nor more than \$5,000. All fines collected*

1 *pursuant to this section shall be remitted to the human trafficking victim*
2 *assistance fund created by section 3, and amendments thereto.*

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

7 Sec. 12. K.S.A. 2011 Supp. 21-6614 is hereby amended to read as
8 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c) ~~and~~,
9 (d), (e) *and* (f), any person convicted in this state of a traffic infraction,
10 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or
11 for crimes committed on or after July 1, 1993, nondrug crimes ranked in
12 severity levels 6 through 10 or any felony ranked in severity level 4 of the
13 drug grid, may petition the convicting court for the expungement of such
14 conviction or related arrest records if three or more years have elapsed
15 since the person: (A) Satisfied the sentence imposed; or (B) was
16 discharged from probation, a community correctional services program,
17 parole, postrelease supervision, conditional release or a suspended
18 sentence.

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

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

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

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

42 (3) perjury resulting from a violation of K.S.A. 8-261a, and
43 amendments thereto, or resulting from the violation of a law of another

1 state which is in substantial conformity with that statute;

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

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

8 (6) failing to stop at the scene of an accident and perform the duties
9 required by *K.S.A. 8-1603, prior to its repeal, or K.S.A. 8-1602, ~~8-1603~~ or*
10 *8-1604*, and amendments thereto, or required by a law of another state
11 which is in substantial conformity with those statutes;

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

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

15 (c) *Any person convicted of prostitution as defined in K.S.A. 21-3512,*
16 *prior to its repeal, convicted of a violation of K.S.A. 2011 Supp. 21-6419,*
17 *and amendments thereto, or who entered into a diversion agreement in*
18 *lieu of further criminal proceedings for such violation, may petition the*
19 *convicting court for the expungement of such conviction or diversion*
20 *agreement and related arrest records if:*

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

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

31 (d) No person may petition for expungement until 10 or more
32 years have elapsed since the person satisfied the sentence imposed, the
33 terms of a diversion agreement or was discharged from probation, a
34 community correctional services program, parole, postrelease supervision,
35 conditional release or a suspended sentence, if such person was convicted
36 of a violation of K.S.A. 8-1567, and amendments thereto, including any
37 diversion for such violation.

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

41 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
42 2011 Supp. 21-5503, and amendments thereto;

43 (2) indecent liberties with a child or aggravated indecent liberties

1 with a child as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
2 or K.S.A. 2011 Supp. 21-5506, and amendments thereto;

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

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

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

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

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

15 (8) endangering a child or aggravated endangering a child as defined
16 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2011 Supp.
17 21-5601, and amendments thereto;

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

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

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

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

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

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

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

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

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

37 (18) any conviction for any offense in effect at any time prior to July
38 1, 2011, that is comparable to any offense as provided in this subsection.

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

1 *offender registration act.*

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

6 (A) Defendant's full name;

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

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

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

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

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

15 (2) Except as otherwise provided by law, a petition for expungement
16 shall be accompanied by a docket fee in the amount of \$100. On and after
17 ~~April 15, 2010 through June 30, 2011~~ *May 19, 2011, through June 30,*
18 *2012*, the supreme court may impose a charge, not to exceed ~~\$15~~ \$19 per
19 case, to fund the costs of non-judicial personnel. The charge established in
20 this section shall be the only fee collected or moneys in the nature of a fee
21 collected for the case. Such charge shall only be established by an act of
22 the legislature and no other authority is established by law or otherwise to
23 collect a fee.

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

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

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

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

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

39 ~~(g)~~ (i) When the court has ordered an arrest record, conviction or
40 diversion expunged, the order of expungement shall state the information
41 required to be contained in the petition. The clerk of the court shall send a
42 certified copy of the order of expungement to the Kansas bureau of
43 investigation which shall notify the federal bureau of investigation, the

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

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

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

10 (A) In any application for licensure as a private detective, private
11 detective agency, certification as a firearms trainer pursuant to K.S.A.
12 2011 Supp. 75-7b21, and amendments thereto, or employment as a
13 detective with a private detective agency, as defined by K.S.A. 75-7b01,
14 and amendments thereto; as security personnel with a private patrol
15 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
16 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
17 the department of social and rehabilitation services;

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

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

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

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

35 (F) upon application for a commercial driver's license under K.S.A.
36 8-2,125 through 8-2,142, and amendments thereto;

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

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

42 (I) in any application for registration as a broker-dealer, agent,
43 investment adviser or investment adviser representative all as defined in

1 K.S.A. 17-12a102, and amendments thereto;

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

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

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

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

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

17 ~~(j)~~ (j) Whenever a person is convicted of a crime, pleads guilty and
18 pays a fine for a crime, is placed on parole, postrelease supervision or
19 probation, is assigned to a community correctional services program, is
20 granted a suspended sentence or is released on conditional release, the
21 person shall be informed of the ability to expunge the arrest records or
22 conviction. Whenever a person enters into a diversion agreement, the
23 person shall be informed of the ability to expunge the diversion.

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

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

37 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

36 (11) the Kansas sentencing commission;

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

42 (13) the Kansas securities commissioner or a designee of the
43 commissioner, and the request is accompanied by a statement that the

1 request is being made in conjunction with an application for registration as
2 a broker-dealer, agent, investment adviser or investment adviser
3 representative by such agency and the application was submitted by the
4 person whose record has been expunged;

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

9 (15) a law enforcement agency and the request is accompanied by a
10 statement that the request is being made to aid in determining eligibility
11 for employment as a law enforcement officer as defined by K.S.A. 22-
12 2202, and amendments thereto; ~~or~~

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

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

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

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

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

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

35 (b) Upon sentencing a defendant to imprisonment for life without the
36 possibility of parole, the court shall commit the defendant to the custody of
37 the secretary of corrections and the court shall state in the sentencing order
38 of the judgment form or journal entry, whichever is delivered with the
39 defendant to the correctional institution, that the defendant has been
40 sentenced to imprisonment for life without the possibility of parole.

41 (c) As used in this section:

42 (1) "Aggravated habitual sex offender" means a person who, on and
43 after July 1, 2006: (A) Has been convicted in this state of a sexually

1 violent crime, as described in subsection (c)(2)(A) through (c)(2)(H) or (c)
2 (2)(J); and (B) prior to the conviction of the felony under subparagraph
3 (A), has been convicted of two or more sexually violent crimes;

4 (2) "Sexually violent crime" means:

5 (A) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
6 2011 Supp. 21-5503, and amendments thereto;

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

10 (C) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
11 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
12 2011 Supp. 21-5504, and amendments thereto;

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

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

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

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

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

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

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

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

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

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

42 Sec. 14. K.S.A. 2011 Supp. 21-6627 is hereby amended to read as
43 follows: 21-6627. (a) (1) Except as provided in subsection (b) or (d), a

1 defendant who is 18 years of age or older and is convicted of the following
2 crimes committed on or after July 1, 2006, shall be sentenced to a term of
3 imprisonment for life with a mandatory minimum term of imprisonment of
4 not less than 25 years unless the court determines that the defendant
5 should be sentenced as determined in subsection (a)(2):

6 (A) Aggravated human trafficking, as defined in K.S.A. 2011 Supp.
7 21-5426, and amendments thereto, if the victim is less than 14 years of
8 age;

9 (B) rape, as defined in subsection (a)(3) of K.S.A. 2011 Supp. 21-
10 5503, and amendments thereto;

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

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

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

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

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

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

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

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

31 (B) the defendant, because of the defendant's criminal history
32 classification, is subject to presumptive imprisonment pursuant to the
33 sentencing guidelines grid for nondrug crimes and the sentencing range
34 exceeds 300 months. In such case, the defendant is required to serve a
35 mandatory minimum term equal to the sentence established pursuant to the
36 sentencing range.

37 (b) (1) On and after July 1, 2006, if a defendant who is 18 years of
38 age or older is convicted of a crime listed in subsection (a)(1) and such
39 defendant has previously been convicted of a crime listed in subsection (a)
40 (1), a crime in effect at any time prior to July 1, 2011, which is
41 substantially the same as a crime listed in subsection (a)(1) or a crime
42 under a law of another jurisdiction which is substantially the same as a
43 crime listed in subsection (a)(1), the court shall sentence the defendant to a

1 term of imprisonment for life with a mandatory minimum term of
2 imprisonment of not less than 40 years. The provisions of this paragraph
3 shall not apply to a crime committed under K.S.A. 2011 Supp. 21-5507,
4 and amendments thereto, or a crime under a law of another jurisdiction
5 which is substantially the same as K.S.A. 2011 Supp. 21-5507, and
6 amendments thereto.

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

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

13 (B) the defendant, because of the defendant's criminal history
14 classification, is subject to presumptive imprisonment pursuant to the
15 sentencing guidelines grid for nondrug crimes and the sentencing range
16 exceeds 480 months. In such case, the defendant is required to serve a
17 mandatory minimum term equal to the sentence established pursuant to the
18 sentencing range.

19 (c) When a person is sentenced pursuant to subsection (a) or (b), such
20 person shall be sentenced to a mandatory minimum term of imprisonment
21 of not less than 25 years, 40 years or be sentenced as determined in
22 subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall
23 not be eligible for probation or suspension, modification or reduction of
24 sentence. In addition, a person sentenced pursuant to this section shall not
25 be eligible for parole prior to serving such mandatory term of
26 imprisonment, and such imprisonment shall not be reduced by the
27 application of good time credits.

28 (d) (1) On or after July 1, 2006, for a first time conviction of an
29 offense listed in subsection (a)(1), the sentencing judge shall impose the
30 mandatory minimum term of imprisonment provided by subsection (a),
31 unless the judge finds substantial and compelling reasons, following a
32 review of mitigating circumstances, to impose a departure. If the
33 sentencing judge departs from such mandatory minimum term of
34 imprisonment, the judge shall state on the record at the time of sentencing
35 the substantial and compelling reasons for the departure. The departure
36 sentence shall be the sentence pursuant to the revised Kansas sentencing
37 guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated,
38 and amendments thereto, and, subject to the provisions of K.S.A. 2011
39 Supp. 21-6818, and amendments thereto, no sentence of a mandatory
40 minimum term of imprisonment shall be imposed hereunder.

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

43 (A) The defendant has no significant history of prior criminal

1 activity;

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

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

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

8 (E) the capacity of the defendant to appreciate the criminality of the
9 defendant's conduct or to conform the defendant's conduct to the
10 requirements of law was substantially impaired; and

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

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

16 Sec. 15. K.S.A. 2011 Supp. 21-6815 is hereby amended to read as
17 follows: 21-6815. (a) Except as provided in subsection (b), the
18 sentencing judge shall impose the presumptive sentence provided by the
19 sentencing guidelines unless the judge finds substantial and compelling
20 reasons to impose a departure sentence. If the sentencing judge departs
21 from the presumptive sentence, the judge shall state on the record at the
22 time of sentencing the substantial and compelling reasons for the
23 departure.

24 (b) Subject to the provisions of subsection (b) of K.S.A. 2011 Supp.
25 21-6817, and amendments thereto, any fact that would increase the penalty
26 for a crime beyond the statutory maximum, other than a prior conviction,
27 shall be submitted to a jury and proved beyond a reasonable doubt.

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

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

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

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

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

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

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

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

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

12 (C) The offense was motivated entirely or in part by the race, color,
13 religion, ethnicity, national origin or sexual orientation of the victim or the
14 offense was motivated by the defendant's belief or perception, entirely or
15 in part, of the race, color, religion, ethnicity, national origin or sexual
16 orientation of the victim whether or not the defendant's belief or perception
17 was correct.

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

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

23 (i) Commit any person felony;

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

26 (iii) attempt, conspire or solicit, as defined in K.S.A. 2011 Supp. 21-
27 5301, 21-5302 and 21-5303, and amendments thereto, to commit any
28 person felony.

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

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

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

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

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

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

1 (d) *aggravated human trafficking, as defined in K.S.A. 2011 Supp.*
2 *21-5426, and amendments thereto, if the victim is less than 14 years of*
3 *age; or*

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

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

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

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

16 (iii) "Mental condition or personality disorder" means an emotional,
17 mental or physical illness, disease, abnormality, disorder, pathology or
18 condition which motivates the person, affects the predisposition or desires
19 of the person, or interferes with the capacity of the person to control
20 impulses to commit crimes of extreme sexual violence.

21 (G) The defendant was incarcerated during the commission of the
22 offense.

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

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

28 (3) If a factual aspect of a crime is a statutory element of the crime or
29 is used to subclassify the crime on the crime severity scale, that aspect of
30 the current crime of conviction may be used as an aggravating or
31 mitigating factor only if the criminal conduct constituting that aspect of the
32 current crime of conviction is significantly different from the usual
33 criminal conduct captured by the aspect of the crime.

34 (d) In determining aggravating or mitigating circumstances, the court
35 shall consider:

36 (1) Any evidence received during the proceeding;

37 (2) the presentence report;

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

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

42 (e) Upon motion of the prosecutor stating that the defendant has
43 provided substantial assistance in the investigation or prosecution of

1 another person who is alleged to have committed an offense, the court may
2 consider such mitigation in determining whether substantial and
3 compelling reasons for a departure exist. In considering this mitigating
4 factor, the court may consider the following:

5 (1) The court's evaluation of the significance and usefulness of the
6 defendant's assistance, taking into consideration the prosecutor's
7 evaluation of the assistance rendered;

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

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

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

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

14 Sec. 16. K.S.A. 2011 Supp. 22-2515 is hereby amended to read as
15 follows: 22-2515. (a) An *ex parte* order authorizing the interception of a
16 wire, oral or electronic communication may be issued by a judge of
17 competent jurisdiction. The attorney general, district attorney or county
18 attorney may make an application to any judge of competent jurisdiction
19 for an order authorizing the interception of a wire, oral or electronic
20 communication by an investigative or law enforcement officer and agency
21 having responsibility for the investigation of the offense regarding which
22 the application is made, when such interception may provide evidence of
23 the commission of any of the following offenses:

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

26 (2) murder;

27 (3) kidnapping;

28 (4) treason;

29 (5) sedition;

30 (6) racketeering;

31 (7) commercial bribery;

32 (8) robbery;

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

34 (10) bribery;

35 (11) any felony violation of K.S.A. 2011 Supp. 21-5701 through 21-
36 5717, and amendments thereto;

37 (12) commercial gambling;

38 (13) sports bribery;

39 (14) tampering with a sports contest;

40 (15) aggravated escape;

41 (16) aggravated failure to appear;

42 (17) arson;

43 (18) terrorism;

- 1 (19) illegal use of weapons of mass destruction; ~~or~~
2 (20) *human trafficking or aggravated human trafficking*;
3 (21) *sexual exploitation of a child*;
4 (22) *commercial sexual exploitation of a child*;
5 (23) *buying sexual relations or selling sexual relations*; or
6 ~~(20)~~ (24) any conspiracy to commit any of the foregoing offenses.

7 (b) Any investigative or law enforcement officer who, by any means
8 authorized by this act or by chapter 119 of title 18 of the United States
9 code, has obtained knowledge of the contents of any wire, oral or
10 electronic communication, or evidence derived therefrom, may disclose
11 such contents to another investigative or law enforcement officer to the
12 extent that such disclosure is appropriate to the proper performance of the
13 official duties of the officer making or receiving the disclosure.

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

20 (d) Any person who has received, by any means authorized by this
21 act or by chapter 119 of title 18 of the United States code or by a like
22 statute of any other state, any information concerning a wire, oral or
23 electronic communication, or evidence derived therefrom, intercepted in
24 accordance with the provisions of this act, may disclose the contents of
25 such communication or such derivative evidence while giving testimony
26 under oath or affirmation in any criminal proceeding in any court, or
27 before any grand jury, of this state or of the United States or of any other
28 state.

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

33 (f) When an investigative or law enforcement officer, while engaged
34 in intercepting wire, oral or electronic communications in the manner
35 authorized by this act, intercepts wire, oral or electronic communications
36 relating to offenses other than those specified in the order authorizing the
37 interception of the wire, oral or electronic communication, the contents
38 thereof and evidence derived therefrom may be disclosed or used as
39 provided in subsections (b) and (c) of this section. Such contents and
40 evidence derived therefrom may be used under subsection (d) of this
41 section when authorized or approved by a judge of competent jurisdiction,
42 where such judge finds on subsequent application, made as soon as
43 practicable, that the contents were otherwise intercepted in accordance

1 with the provisions of this act, or with chapter 119 of title 18 of the United
2 States code.

3 Sec. 17. K.S.A. 22-2530 is hereby amended to read as follows: 22-
4 2530. If a search warrant is executed which authorizes a search of real
5 property based upon an alleged offense involving gambling, obscenity,
6 ~~prostitution~~ *selling sexual relations*, controlled substances or liquor, a copy
7 of the warrant shall be delivered to the last known address of the owner of
8 the property within two business days, excluding Saturdays, Sundays and
9 legal holidays, after execution of the warrant if such address is different
10 from the address of the property for which the warrant was issued.

11 Sec. 18. K.S.A. 2011 Supp. 22-3601 is hereby amended to read as
12 follows: 22-3601. (a) Any appeal permitted to be taken from a district
13 court's final judgment in a criminal case shall be taken to the court of
14 appeals, except in those cases reviewable by law in the district court or in
15 which a direct appeal to the supreme court is required. Whenever an
16 interlocutory appeal is permitted in a criminal case in the district court,
17 such appeal shall be taken to the court of appeals.

18 (b) Any appeal permitted to be taken from a district court's final
19 judgment in a criminal case shall be taken directly to the supreme court in
20 the following cases:

21 (1) Any case in which a statute of this state or of the United States
22 has been held unconstitutional;

23 (2) any case in which the defendant has been convicted of a class A
24 felony;

25 (3) any case in which a maximum sentence of life imprisonment has
26 been imposed, unless the maximum sentence has been imposed pursuant to
27 K.S.A. 21-4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and
28 amendments thereto; and

29 (4) except as provided further, any case in which the crime was
30 committed on or after July 1, 1993, and the defendant has been convicted
31 of an off-grid crime. The provisions of this paragraph shall not apply to
32 any case in which the off-grid crime was:

33 (A) Aggravated human trafficking, subsection (c)(2)(B) of K.S.A.
34 2011 Supp. 21-5426, and amendments thereto;

35 (B) rape, subsection (b)(2)(B) of K.S.A. 2011 Supp. 21-5503, and
36 amendments thereto;

37 (C) aggravated criminal sodomy, subsection (c)(2)(B)(ii) of K.S.A.
38 2011 Supp. 21-5504, and amendments thereto;

39 (D) aggravated indecent liberties with a child, subsection (c)(2)(C)(ii)
40 of K.S.A. 2011 Supp. 21-5506, and amendments thereto;

41 (E) sexual exploitation of a child, subsection (b)(2)(B) of K.S.A.
42 2011 Supp. 21-5510, and amendments thereto;

43 (F) promoting ~~prostitution~~ *the sale of sexual relations*, subsection (b)

1 (4) of K.S.A. 2011 Supp. 21-6420, and amendments thereto; or

2 (G) an attempt, conspiracy or criminal solicitation, as defined in
3 K.S.A. 2011 Supp. 21-5301, 21-5302 or 21-3503, and amendments
4 thereto, of any such felony.

5 Sec. 19. K.S.A. 2011 Supp. 22-3717 is hereby amended to read as
6 follows: 22-3717.(a) Except as otherwise provided by this section; K.S.A.
7 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through 21-4638,
8 prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642,
9 prior to its repeal; K.S.A. 2011 Supp. 21-6617, 21-6620, 21-6623, 21-
10 6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567,
11 and amendments thereto; an inmate, including an inmate sentenced
12 pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2011 Supp. 21-
13 6707, and amendments thereto, shall be eligible for parole after serving the
14 entire minimum sentence imposed by the court, less good time credits.

15 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, prior
16 to their repeal, and K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-
17 6625, and amendments thereto, an inmate sentenced to imprisonment for
18 the crime of capital murder, or an inmate sentenced for the crime of
19 murder in the first degree based upon a finding of premeditated murder,
20 committed on or after July 1, 1994, shall be eligible for parole after
21 serving 25 years of confinement, without deduction of any good time
22 credits.

23 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
24 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior
25 to their repeal, and K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-
26 6625, and amendments thereto, an inmate sentenced to imprisonment for
27 an off-grid offense committed on or after July 1, 1993, but prior to July 1,
28 1999, shall be eligible for parole after serving 15 years of confinement,
29 without deduction of any good time credits and an inmate sentenced to
30 imprisonment for an off-grid offense committed on or after July 1, 1999,
31 shall be eligible for parole after serving 20 years of confinement without
32 deduction of any good time credits.

33 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
34 repeal, an inmate sentenced for a class A felony committed before July 1,
35 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
36 its repeal, or K.S.A. 2011 Supp. 21-6707, and amendments thereto, shall
37 be eligible for parole after serving 15 years of confinement, without
38 deduction of any good time credits.

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

1 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
2 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
3 thereto, committed on or after July 1, 2006, shall be eligible for parole
4 after serving the mandatory term of imprisonment without deduction of
5 any good time credits.

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

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

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

16 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
17 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
18 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
19 eligible for parole after serving the mandatory term of imprisonment.

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

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

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

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

43 (D) (i) The sentencing judge shall impose the postrelease supervision

1 period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless
2 the judge finds substantial and compelling reasons to impose a departure
3 based upon a finding that the current crime of conviction was sexually
4 motivated. In that event, departure may be imposed to extend the
5 postrelease supervision to a period of up to 60 months.

6 (ii) If the sentencing judge departs from the presumptive postrelease
7 supervision period, the judge shall state on the record at the time of
8 sentencing the substantial and compelling reasons for the departure.
9 Departures in this section are subject to appeal pursuant to K.S.A. 21-
10 4721, prior to its repeal, or K.S.A. 2011 Supp. 21-6820, and amendments
11 thereto.

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

14 (a) Written briefs or oral arguments submitted by either the defendant
15 or the state;

16 (b) any evidence received during the proceeding;

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

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

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

26 (v) In carrying out the provisions of subparagraph (d)(1)(D), the court
27 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2011 Supp. 21-
28 6817, and amendments thereto.

29 (vi) Upon petition, the ~~parole~~ *prisoner review* board may provide for
30 early discharge from the postrelease supervision period upon completion
31 of court ordered programs and completion of the presumptive postrelease
32 supervision period, as determined by the crime of conviction, pursuant to
33 subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
34 postrelease supervision is at the discretion of the ~~parole~~ *prisoner review*
35 board.

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

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

43 (E) The period of postrelease supervision provided in subparagraphs

1 (A) and (B) may be reduced by up to 12 months and the period of
2 postrelease supervision provided in subparagraph (C) may be reduced by
3 up to six months based on the offender's compliance with conditions of
4 supervision and overall performance while on postrelease supervision. The
5 reduction in the supervision period shall be on an earned basis pursuant to
6 rules and regulations adopted by the secretary of corrections.

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

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

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

17 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2011 Supp.
18 21-5503, and amendments thereto;

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

21 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
22 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5506, and
23 amendments thereto;

24 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
25 prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2011 Supp. 21-
26 5504, and amendments thereto;

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

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

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

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

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

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

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

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

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

7 "Sexually motivated" means that one of the purposes for which the
8 defendant committed the crime was for the purpose of the defendant's
9 sexual gratification.

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

17 (f) If a person is sentenced to prison for a crime committed on or after
18 July 1, 1993, while on probation, parole, conditional release or in a
19 community corrections program, for a crime committed prior to July 1,
20 1993, and the person is not eligible for retroactive application of the
21 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
22 4724, prior to its repeal, the new sentence shall not be aggregated with the
23 old sentence, but shall begin when the person is paroled or reaches the
24 conditional release date on the old sentence. If the offender was past the
25 offender's conditional release date at the time the new offense was
26 committed, the new sentence shall not be aggregated with the old sentence
27 but shall begin when the person is ordered released by the ~~Kansas parole~~
28 ~~prisoner review~~ board or reaches the maximum sentence expiration date on
29 the old sentence, whichever is earlier. The new sentence shall then be
30 served as otherwise provided by law. The period of postrelease supervision
31 shall be based on the new sentence, except that those offenders whose old
32 sentence is a term of imprisonment for life, imposed pursuant to K.S.A.
33 1993 Supp. 21-4628, prior to its repeal, or an indeterminate sentence with
34 a maximum term of life imprisonment, for which there is no conditional
35 release or maximum sentence expiration date, shall remain on postrelease
36 supervision for life or until discharged from supervision by the ~~Kansas~~
37 ~~parole~~ board.

38 (g) Subject to the provisions of this section, the ~~Kansas parole~~
39 ~~prisoner review~~ board may release on parole those persons confined in
40 institutions who are eligible for parole when: (1) The board believes that
41 the inmate should be released for hospitalization, for deportation or to
42 answer the warrant or other process of a court and is of the opinion that
43 there is reasonable probability that the inmate can be released without

1 detriment to the community or to the inmate; or (2) the secretary of
2 corrections has reported to the board in writing that the inmate has
3 satisfactorily completed the programs required by any agreement entered
4 under K.S.A. 75-5210a, and amendments thereto, or any revision of such
5 agreement, and the board believes that the inmate is able and willing to
6 fulfill the obligations of a law abiding citizen and is of the opinion that
7 there is reasonable probability that the inmate can be released without
8 detriment to the community or to the inmate. Parole shall not be granted as
9 an award of clemency and shall not be considered a reduction of sentence
10 or a pardon.

11 (h) The ~~Kansas parole~~ *prisoner review* board shall hold a parole
12 hearing at least the month prior to the month an inmate will be eligible for
13 parole under subsections (a), (b) and (c). At least the month preceding the
14 parole hearing, the county or district attorney of the county where the
15 inmate was convicted shall give written notice of the time and place of the
16 public comment sessions for the inmate to any victim of the inmate's crime
17 who is alive and whose address is known to the county or district attorney
18 or, if the victim is deceased, to the victim's family if the family's address is
19 known to the county or district attorney. Except as otherwise provided,
20 failure to notify pursuant to this section shall not be a reason to postpone a
21 parole hearing. In the case of any inmate convicted of an off-grid felony or
22 a class A felony the secretary of corrections shall give written notice of the
23 time and place of the public comment session for such inmate at least one
24 month preceding the public comment session to any victim of such
25 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
26 amendments thereto. If notification is not given to such victim or such
27 victim's family in the case of any inmate convicted of an off-grid felony or
28 a class A felony, the board shall postpone a decision on parole of the
29 inmate to a time at least 30 days after notification is given as provided in
30 this section. Nothing in this section shall create a cause of action against
31 the state or an employee of the state acting within the scope of the
32 employee's employment as a result of the failure to notify pursuant to this
33 section. If granted parole, the inmate may be released on parole on the date
34 specified by the board, but not earlier than the date the inmate is eligible
35 for parole under subsections (a), (b) and (c). At each parole hearing and, if
36 parole is not granted, at such intervals thereafter as it determines
37 appropriate, the ~~Kansas parole~~ *prisoner review* board shall consider: (1)
38 Whether the inmate has satisfactorily completed the programs required by
39 any agreement entered under K.S.A. 75-5210a, and amendments thereto,
40 or any revision of such agreement; and (2) all pertinent information
41 regarding such inmate, including, but not limited to, the circumstances of
42 the offense of the inmate; the presentence report; the previous social
43 history and criminal record of the inmate; the conduct, employment, and

1 attitude of the inmate in prison; the reports of such physical and mental
2 examinations as have been made, including, but not limited to, risk factors
3 revealed by any risk assessment of the inmate; comments of the victim and
4 the victim's family including in person comments, contemporaneous
5 comments and prerecorded comments made by any technological means;
6 comments of the public; official comments; any recommendation by the
7 staff of the facility where the inmate is incarcerated; proportionality of the
8 time the inmate has served to the sentence a person would receive under
9 the Kansas sentencing guidelines for the conduct that resulted in the
10 inmate's incarceration; and capacity of state correctional institutions.

11 (i) In those cases involving inmates sentenced for a crime committed
12 after July 1, 1993, the ~~parole~~ *prisoner review* board ~~will~~ *shall* review the
13 inmates proposed release plan. The board may schedule a hearing if they
14 desire. The board may impose any condition they deem necessary to insure
15 public safety, aid in the reintegration of the inmate into the community, or
16 items not completed under the agreement entered into under K.S.A. 75-
17 5210a, and amendments thereto. The board may not advance or delay an
18 inmate's release date. Every inmate while on postrelease supervision shall
19 remain in the legal custody of the secretary of corrections and is subject to
20 the orders of the secretary.

21 (j) (1) Before ordering the parole of any inmate, the ~~Kansas parole~~
22 *prisoner review* board shall have the inmate appear either in person or via
23 a video conferencing format and shall interview the inmate unless
24 impractical because of the inmate's physical or mental condition or
25 absence from the institution. Every inmate while on parole shall remain in
26 the legal custody of the secretary of corrections and is subject to the orders
27 of the secretary. Whenever the ~~Kansas parole~~ board formally considers
28 placing an inmate on parole and no agreement has been entered into with
29 the inmate under K.S.A. 75-5210a, and amendments thereto, the board
30 shall notify the inmate in writing of the reasons for not granting parole. If
31 an agreement has been entered under K.S.A. 75-5210a, and amendments
32 thereto, and the inmate has not satisfactorily completed the programs
33 specified in the agreement, or any revision of such agreement, the board
34 shall notify the inmate in writing of the specific programs the inmate must
35 satisfactorily complete before parole will be granted. If parole is not
36 granted only because of a failure to satisfactorily complete such programs,
37 the board shall grant parole upon the secretary's certification that the
38 inmate has successfully completed such programs. If an agreement has
39 been entered under K.S.A. 75-5210a, and amendments thereto, and the
40 secretary of corrections has reported to the board in writing that the inmate
41 has satisfactorily completed the programs required by such agreement, or
42 any revision thereof, the board shall not require further program
43 participation. However, if the board determines that other pertinent

1 information regarding the inmate warrants the inmate's not being released
2 on parole, the board shall state in writing the reasons for not granting the
3 parole. If parole is denied for an inmate sentenced for a crime other than a
4 class A or class B felony or an off-grid felony, the board shall hold another
5 parole hearing for the inmate not later than one year after the denial unless
6 the ~~parole~~ board finds that it is not reasonable to expect that parole would
7 be granted at a hearing if held in the next three years or during the interim
8 period of a deferral. In such case, the ~~parole~~ board may defer subsequent
9 parole hearings for up to three years but any such deferral by the board
10 shall require the board to state the basis for its findings. If parole is denied
11 for an inmate sentenced for a class A or class B felony or an off-grid
12 felony, the board shall hold another parole hearing for the inmate not later
13 than three years after the denial unless the ~~parole~~ board finds that it is not
14 reasonable to expect that parole would be granted at a hearing if held in
15 the next 10 years or during the interim period of a deferral. In such case,
16 the ~~parole~~ board may defer subsequent parole hearings for up to 10 years
17 but any such deferral shall require the board to state the basis for its
18 findings.

19 (2) Inmates sentenced for a class A or class B felony who have not
20 had a parole board hearing in the five years prior to July 1, 2010, shall
21 have such inmates' cases reviewed by the ~~parole prisoner review~~ board on
22 or before July 1, 2012. Such review shall begin with the inmates with the
23 oldest deferral date and progress to the most recent. Such review shall be
24 done utilizing existing resources unless the ~~parole prisoner review~~ board
25 determines that such resources are insufficient. If the ~~parole prisoner~~
26 ~~review~~ board determines that such resources are insufficient, then the
27 provisions of this paragraph are subject to appropriations therefor.

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

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

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

43 (1) Unless it finds compelling circumstances which would render a

1 plan of payment unworkable, shall order as a condition of parole or
2 postrelease supervision that the parolee or the person on postrelease
3 supervision pay any transportation expenses resulting from returning the
4 parolee or the person on postrelease supervision to this state to answer
5 criminal charges or a warrant for a violation of a condition of probation,
6 assignment to a community correctional services program, parole,
7 conditional release or postrelease supervision;

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

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

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

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

34 (n) If the court which sentenced an inmate specified at the time of
35 sentencing the amount and the recipient of any restitution ordered as a
36 condition of parole or postrelease supervision, the ~~Kansas parole prisoner review~~
37 board shall order as a condition of parole or postrelease supervision
38 that the inmate pay restitution in the amount and manner provided in the
39 journal entry unless the board finds compelling circumstances which
40 would render a plan of restitution unworkable.

41 (o) Whenever the ~~Kansas parole prisoner review~~ board grants the
42 parole of an inmate, the board, within 14 days of the date of the decision to
43 grant parole, shall give written notice of the decision to the county or

1 district attorney of the county where the inmate was sentenced.

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

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

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

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

19 (t) For offenders sentenced prior to May 25, 2000 who are eligible for
20 modification of their postrelease supervision obligation, the department of
21 corrections shall modify the period of postrelease supervision as provided
22 for by this section for offenders convicted of severity level 9 and 10 crimes
23 on the sentencing guidelines grid for nondrug crimes and severity level 4
24 crimes on the sentencing guidelines grid for drug crimes on or before
25 September 1, 2000; for offenders convicted of severity level 7 and 8
26 crimes on the sentencing guidelines grid for nondrug crimes on or before
27 November 1, 2000; and for offenders convicted of severity level 5 and 6
28 crimes on the sentencing guidelines grid for nondrug crimes and severity
29 level 3 crimes on the sentencing guidelines grid for drug crimes on or
30 before January 1, 2001.

31 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
32 4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments
33 thereto, for crimes committed on or after July 1, 2006, shall be placed on
34 parole for life and shall not be discharged from supervision by the ~~Kansas~~
35 ~~parole prisoner review~~ board. When the board orders the parole of an
36 inmate pursuant to this subsection, the board shall order as a condition of
37 parole that the inmate be electronically monitored for the duration of the
38 inmate's natural life.

39 (v) Whenever the ~~Kansas parole prisoner review~~ board or the court
40 orders a person to be electronically monitored, the board or court shall
41 order the person to reimburse the state for all or part of the cost of such
42 monitoring. In determining the amount and method of payment of such
43 sum, the board or court shall take account of the financial resources of the

1 person and the nature of the burden that the payment of such sum will
2 impose.

3 Sec. 20. K.S.A. 2011 Supp. 22-3901 is hereby amended to read as
4 follows: 22-3901. The following unlawful activities and the use of real or
5 personal property in maintaining and carrying on such activities are hereby
6 declared to be common nuisances:

- 7 (a) Commercial gambling;
- 8 (b) dealing in gambling devices;
- 9 (c) possession of gambling devices;
- 10 (d) promoting obscenity;
- 11 (e) promoting ~~prostitution~~ *the sale of sexual relations*;
- 12 (f) habitually promoting ~~prostitution~~ *the sale of sexual relations*;
- 13 (g) violations of any law regulating controlled substances;
- 14 (h) habitual violations of any law regulating the sale or exchange of
15 alcoholic liquor or cereal malt beverages, by any person not licensed
16 pursuant to chapter 41 of the Kansas Statutes Annotated;
- 17 (i) habitual violations of any law regulating the sale or exchange of
18 cigarettes or tobacco products, by any person not licensed pursuant to
19 article 33 of chapter 79 of the Kansas Statutes Annotated;
- 20 (j) any felony committed for the benefit of, at the direction of, or in
21 association with any criminal street gang, with the specific intent to
22 promote, further or assist in any criminal conduct by gang members. As
23 used in this subsection, "criminal street gang" means any organization,
24 association or group, whether formal or informal:
 - 25 (1) Consisting of three or more persons;
 - 26 (2) having as one of its primary activities the commission of one or
27 more person felonies, person misdemeanors, felony violations of K.S.A.
28 2010 Supp. 21-36a01 through 21-36a17, and amendments thereto, any
29 felony violation of any provision of the uniform controlled substances act
30 prior to July 1, 2009, or the comparable juvenile offenses, which if
31 committed by an adult would constitute the commission of such felonies or
32 misdemeanors;
 - 33 (3) which has a common name or common identifying sign or
34 symbol; and
 - 35 (4) whose 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, person misdemeanors,
38 felony violations of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, and
39 amendments thereto, any felony violation of any provision of the uniform
40 controlled substances act prior to July 1, 2009, or the comparable juvenile
41 offenses, which if committed by an adult would constitute the commission
42 of such felonies or misdemeanors, or any substantially similar offense
43 from another jurisdiction; or

1 (k) use of pyrotechnics, pyrotechnic devices or pyrotechnic materials
2 in violation of K.S.A. 2011 Supp. 31-170, and amendments thereto.

3 Any real property used as a place where any such activities are carried
4 on or permitted to be carried on and any effects, equipment, paraphernalia,
5 fixtures, appliances, musical instruments or other personal property
6 designed for and used on such premises in connection with such unlawful
7 activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-
8 3904, and amendments thereto.

9 Sec. 21. K.S.A. 2011 Supp. 22-4902 is hereby amended to read as
10 follows: 22-4902. As used in the Kansas offender registration act, unless
11 the context otherwise requires:

12 (a) "Offender" means:

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

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

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

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

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

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

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

23 (2) On or after April 14, 1994, is adjudicated as a juvenile offender
24 for an act which if committed by an adult would constitute the commission
25 of a sexually violent crime set forth in subsection (c), unless the court, on
26 the record, finds that the act involved non-forcible sexual conduct, the
27 victim was at least 14 years of age and the offender was not more than four
28 years older than the victim;

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

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

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

35 (B) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
36 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2011
37 Supp. 21-5504, and amendments thereto;

38 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
39 repeal, or *selling sexual relations, as defined in K.S.A. 2011 Supp. 21-
40 6420*, and amendments thereto;

41 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
42 repeal, or *buying sexual relations, as defined in K.S.A. 2011 Supp. 21-
43 6421*, and amendments thereto; or

- 1 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
2 to its repeal, or K.S.A. 2011 Supp. 21-5513, and amendments thereto;
- 3 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
4 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5505, and
5 amendments thereto;
- 6 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
7 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
8 K.S.A. 2011 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
9 of an offense defined in this subsection; or
- 10 (7) has been convicted of an offense in effect at any time prior to July
11 1, 2011, that is comparable to any crime defined in this subsection, or any
12 out of state conviction for an offense that under the laws of this state
13 would be an offense defined in this subsection.
- 14 (c) "Sexually violent crime" means:
- 15 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
16 2011 Supp. 21-5503, and amendments thereto;
- 17 (2) indecent liberties with a child as defined in K.S.A. 21-3503, prior
18 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5506, and
19 amendments thereto;
- 20 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-
21 3504, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5506,
22 and amendments thereto;
- 23 (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of
24 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
25 2011 Supp. 21-5504, and amendments thereto;
- 26 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior
27 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5504, and
28 amendments thereto;
- 29 (6) indecent solicitation of a child as defined in K.S.A. 21-3510, prior
30 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5508, and
31 amendments thereto;
- 32 (7) aggravated indecent solicitation of a child as defined in K.S.A.
33 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-
34 5508, and amendments thereto;
- 35 (8) sexual exploitation of a child as defined in K.S.A. 21-3516, prior
36 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto;
- 37 (9) aggravated sexual battery as defined in K.S.A. 21-3518, prior to
38 its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5505, and
39 amendments thereto;
- 40 (10) aggravated incest as defined in K.S.A. 21-3603, prior to its
41 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5605, and amendments
42 thereto;
- 43 (11) electronic solicitation as defined in K.S.A. 21-3523, prior to its

1 repeal, and K.S.A. 2011 Supp. 21-5509, and amendments thereto,
2 committed on or after April 17, 2008;

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

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

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

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

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

21 ~~(15)~~ (17) any act which at the time of sentencing for the offense has
22 been determined beyond a reasonable doubt to have been sexually
23 motivated, unless the court, on the record, finds that the act involved non-
24 forcible sexual conduct, the victim was at least 14 years of age and the
25 offender was not more than four years older than the victim. As used in
26 this paragraph, "sexually motivated" means that one of the purposes for
27 which the defendant committed the crime was for the purpose of the
28 defendant's sexual gratification.

29 (d) "Sexually violent predator" means any person who, on or after
30 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
31 59-29a01 *et seq.*, and amendments thereto.

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

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

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

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

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

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

43 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to

1 its repeal, or K.S.A. 2011 Supp. 21-5405, and amendments thereto;

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

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

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

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

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

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

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

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

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

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

36 (3) K.S.A. 65-4161, prior to its repeal, or subsection (a)(1) of K.S.A.
37 2010 Supp. 21-36a05, and amendments thereto. The provisions of this
38 paragraph shall not apply to violations of subsections (a)(2) through (a)(6)
39 or (b) of K.S.A. 2010 Supp. 21-36a05, and amendments thereto, which
40 occurred on or after July 1, 2009, through April 15, 2010;

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

1 offense defined in this subsection; or

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

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

12 (h) "School" means any public or private educational institution,
13 including, but not limited to, postsecondary school, college, university,
14 community college, secondary school, high school, junior high school,
15 middle school, elementary school, trade school, vocational school or
16 professional school providing training or education to an offender.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
24 repeal, or *buying sexual relations, as defined in* K.S.A. 2011 Supp. 21-
25 6421, and amendments thereto, when one of the parties involved is less
26 than 18 years of age;

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

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

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

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

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

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

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

43 (K) any act which at the time of sentencing for the offense has been

1 determined beyond a reasonable doubt to have been sexually motivated,
2 unless the court, on the record, finds that the act involved non-forcible
3 sexual conduct, the victim was at least 14 years of age and the offender
4 was not more than four years older than the victim;

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

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

12 (N) possession of ephedrine, pseudoephedrine, red phosphorus,
13 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
14 ammonia or phenylpropanolamine, or their salts, isomers or salts of
15 isomers with intent to use the product to manufacture a controlled
16 substance as defined by subsection (a) of K.S.A. 65-7006, prior to its
17 repeal, or subsection (a) of K.S.A. 2010 Supp. 21-36a09, and amendments
18 thereto;

19 (O) K.S.A. 65-4161, prior to its repeal, or subsection (a)(1) of K.S.A.
20 2010 Supp. 21-36a05, and amendments thereto; or

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

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

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

37 (A) Criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
38 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2011
39 Supp. 21-5504, and amendments thereto, when one of the parties involved
40 is less than 18 years of age;

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

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

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

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

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

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

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

17 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
18 repeal, or *promoting the sale of sexual relations as defined in* K.S.A. 2011
19 Supp. 21-6420, and amendments thereto, if the ~~prostitute~~ *person selling*
20 *sexual relations* is 14 or more years of age but less than 18 years of age; or

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

25 (2) Except as otherwise provided by the Kansas offender registration
26 act, the duration of registration terminates, if not confined, at the
27 expiration of 25 years from the date of conviction. Any period of time
28 during which any offender is incarcerated in any jail or correctional
29 facility or during which the offender does not comply with any and all
30 requirements of the Kansas offender registration act shall not count toward
31 the duration of registration.

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

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

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

40 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
41 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-
42 5508, and amendments thereto;

43 (3) aggravated indecent liberties with a child, as defined in K.S.A.

1 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-
2 5506, and amendments thereto;

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

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

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

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

15 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
16 repeal, or *promoting the sale of sexual relations, as defined in K.S.A. 2011*
17 *Supp. 21-6420, and amendments thereto, if the prostitute person selling*
18 *sexual relations* is less than 14 years of age;

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

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

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

26 (H) (12) any attempt, conspiracy or criminal solicitation, as defined
27 in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A.
28 2011 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
29 offense defined in this subsection.

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

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

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

1 count toward the duration of registration;

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

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

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

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

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

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

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

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

43 (h) Notwithstanding any other provisions of this section, an offender

1 14 years of age or more who is adjudicated as a juvenile offender for an
2 act which if committed by an adult would constitute a sexually violent
3 crime set forth in subsection (c) of K.S.A. 22-4902, and amendments
4 thereto, and such crime is an off-grid felony or a felony ranked in severity
5 level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its
6 repeal, or K.S.A. 2011 Supp. 21-6804, and amendments thereto, shall be
7 required to register for such offender's lifetime.

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

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

20 (k) For any person moving to Kansas who has been convicted or
21 adjudicated in an out of state court, and who was required to register under
22 an out of state law, the duration of registration shall be the length of time
23 required by the out of state jurisdiction or by the Kansas offender
24 registration act, whichever length of time is longer. The provisions of this
25 subsection shall apply to convictions prior to June 1, 2006, and to persons
26 who moved to Kansas prior to June 1, 2006, and to convictions on or after
27 June 1, 2006, and to persons who moved to Kansas on or after June 1,
28 2006.

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

38 Sec. 23. K.S.A. 2011 Supp. 38-2202 is hereby amended to read as
39 follows: 38-2202. As used in the revised Kansas code for care of children,
40 unless the context otherwise indicates:

41 (a) "Abandon" or "abandonment" means to forsake, desert or, without
42 making appropriate provision for substitute care, cease providing care for
43 the child.

1 (b) "Adult correction facility" means any public or private facility,
2 secure or nonsecure, which is used for the lawful custody of accused or
3 convicted adult criminal offenders.

4 (c) "Aggravated circumstances" means the abandonment, torture,
5 chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

6 (d) "Child in need of care" means a person less than 18 years of age
7 at the time of filing of the petition or issuance of an ex parte protective
8 custody order pursuant to K.S.A. 2011 Supp. 38-2242, and amendments
9 thereto, who:

10 (1) Is without adequate parental care, control or subsistence and the
11 condition is not due solely to the lack of financial means of the child's
12 parents or other custodian;

13 (2) is without the care or control necessary for the child's physical,
14 mental or emotional health;

15 (3) has been physically, mentally or emotionally abused or neglected
16 or sexually abused;

17 (4) has been placed for care or adoption in violation of law;

18 (5) has been abandoned or does not have a known living parent;

19 (6) is not attending school as required by K.S.A. 72-977 or 72-1111,
20 and amendments thereto;

21 (7) except in the case of a violation of K.S.A. 41-727, subsection (j)
22 of K.S.A. 74-8810, subsection (m) or (n) of K.S.A. 79-3321, or subsection
23 (a)(14) of K.S.A. 2011 Supp. 21-6301, and amendments thereto, or, except
24 as provided in paragraph (12), does an act which, when committed by a
25 person under 18 years of age, is prohibited by state law, city ordinance or
26 county resolution but which is not prohibited when done by an adult;

27 (8) while less than 10 years of age, commits any act which if done by
28 an adult would constitute the commission of a felony or misdemeanor as
29 defined by K.S.A. 2011 Supp. 21-5102, and amendments thereto;

30 (9) is willfully and voluntarily absent from the child's home without
31 the consent of the child's parent or other custodian;

32 (10) is willfully and voluntarily absent at least a second time from a
33 court ordered or designated placement, or a placement pursuant to court
34 order, if the absence is without the consent of the person with whom the
35 child is placed or, if the child is placed in a facility, without the consent of
36 the person in charge of such facility or such person's designee;

37 (11) has been residing in the same residence with a sibling or another
38 person under 18 years of age, who has been physically, mentally or
39 emotionally abused or neglected, or sexually abused;

40 (12) while less than 10 years of age commits the offense defined in
41 or* subsection (a)(14) of K.S.A. 2011 Supp. 21-6301, and amendments
42 thereto; or

43 (13) has had a permanent custodian appointed and the permanent

1 custodian is no longer able or willing to serve.

2 (e) "Citizen review board" is a group of community volunteers
3 appointed by the court and whose duties are prescribed by K.S.A. 2011
4 Supp. 38-2207 and 38-2208, and amendments thereto.

5 (f) "Civil custody case" includes any case filed under article 11, of
6 chapter 38 of the Kansas Statutes Annotated, and amendments thereto
7 (determination of parentage), article 21 of chapter 59 of the Kansas
8 Statutes Annotated, and amendments thereto (adoption and relinquishment
9 act), article 30 of chapter 59 of the Kansas Statutes Annotated, and
10 amendments thereto (guardians and conservators), or article 16 of chapter
11 60 of the Kansas Statutes Annotated, and amendments thereto (divorce).

12 (g) "Court-appointed special advocate" means a responsible adult
13 other than an attorney guardian ad litem who is appointed by the court to
14 represent the best interests of a child, as provided in K.S.A. 2011 Supp.
15 38-2206, and amendments thereto, in a proceeding pursuant to this code.

16 (h) "Custody" whether temporary, protective or legal, means the
17 status created by court order or statute which vests in a custodian, whether
18 an individual or an agency, the right to physical possession of the child and
19 the right to determine placement of the child, subject to restrictions placed
20 by the court.

21 (i) "Extended out of home placement" means a child has been in the
22 custody of the secretary and placed with neither parent for 15 of the most
23 recent 22 months beginning 60 days after the date at which a child in the
24 custody of the secretary was removed from the home.

25 (j) "Educational institution" means all schools at the elementary and
26 secondary levels.

27 (k) "Educator" means any administrator, teacher or other professional
28 or paraprofessional employee of an educational institution who has
29 exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and
30 amendments thereto.

31 (l) "Harm" means physical or psychological injury or damage.

32 (m) "Interested party" means the grandparent of the child, a person
33 with whom the child has been living for a significant period of time when
34 the child in need of care petition is filed, and any person made an
35 interested party by the court pursuant to K.S.A. 2011 Supp. 38-2241, and
36 amendments thereto or Indian tribe seeking to intervene that is not a party.

37 (n) "Jail" means:

38 (1) An adult jail or lockup; or

39 (2) a facility in the same building or on the same grounds as an adult
40 jail or lockup, unless the facility meets all applicable standards and
41 licensure requirements under law and there is: (A) Total separation of the
42 juvenile and adult facility spatial areas such that there could be no
43 haphazard or accidental contact between juvenile and adult residents in the

1 respective facilities; (B) total separation in all juvenile and adult program
2 activities within the facilities, including recreation, education, counseling,
3 health care, dining, sleeping and general living activities; and (C) separate
4 juvenile and adult staff, including management, security staff and direct
5 care staff such as recreational, educational and counseling.

6 (o) "Juvenile detention facility" means any secure public or private
7 facility used for the lawful custody of accused or adjudicated juvenile
8 offenders which must not be a jail.

9 (p) "Juvenile intake and assessment worker" means a responsible
10 adult authorized to perform intake and assessment services as part of the
11 intake and assessment system established pursuant to K.S.A. 75-7023, and
12 amendments thereto.

13 (q) "Kinship care" means the placement of a child in the home of the
14 child's relative or in the home of another adult with whom the child or the
15 child's parent already has a close emotional attachment.

16 (r) "Law enforcement officer" means any person who by virtue of
17 office or public employment is vested by law with a duty to maintain
18 public order or to make arrests for crimes, whether that duty extends to all
19 crimes or is limited to specific crimes.

20 (s) "Multidisciplinary team" means a group of persons, appointed by
21 the court under K.S.A. 2011 Supp. 38-2228, and amendments thereto,
22 which has knowledge of the circumstances of a child in need of care.

23 (t) "Neglect" means acts or omissions by a parent, guardian or person
24 responsible for the care of a child resulting in harm to a child, or
25 presenting a likelihood of harm, and the acts or omissions are not due
26 solely to the lack of financial means of the child's parents or other
27 custodian. Neglect may include, but shall not be limited to:

28 (1) Failure to provide the child with food, clothing or shelter
29 necessary to sustain the life or health of the child;

30 (2) failure to provide adequate supervision of a child or to remove a
31 child from a situation which requires judgment or actions beyond the
32 child's level of maturity, physical condition or mental abilities and that
33 results in bodily injury or a likelihood of harm to the child; or

34 (3) failure to use resources available to treat a diagnosed medical
35 condition if such treatment will make a child substantially more
36 comfortable, reduce pain and suffering, or correct or substantially diminish
37 a crippling condition from worsening. A parent legitimately practicing
38 religious beliefs who does not provide specified medical treatment for a
39 child because of religious beliefs shall not for that reason be considered a
40 negligent parent; however, this exception shall not preclude a court from
41 entering an order pursuant to subsection (a)(2) of K.S.A. 2011 Supp. 38-
42 2217, and amendments thereto.

43 (u) "Parent" when used in relation to a child or children, includes a

1 guardian and every person who is by law liable to maintain, care for or
2 support the child.

3 (v) "Party" means the state, the petitioner, the child, any parent of the
4 child and an Indian child's tribe intervening pursuant to the Indian child
5 welfare act.

6 (w) "Permanency goal" means the outcome of the permanency
7 planning process which may be reintegration, adoption, appointment of a
8 permanent custodian or another planned permanent living arrangement.

9 (x) "Permanent custodian" means a judicially approved permanent
10 guardian of a child pursuant to K.S.A. 2011 Supp. 38-2272, and
11 amendments thereto.

12 (y) "Physical, mental or emotional abuse" means the infliction of
13 physical, mental or emotional harm or the causing of a deterioration of a
14 child and may include, but shall not be limited to, maltreatment or
15 exploiting a child to the extent that the child's health or emotional well-
16 being is endangered.

17 (z) "Placement" means the designation by the individual or agency
18 having custody of where and with whom the child will live.

19 (aa) "Relative" means a person related by blood, marriage or adoption
20 but, when referring to a relative of a child's parent, does not include the
21 child's other parent.

22 (bb) "Secretary" means the secretary of social and rehabilitation
23 services or the secretary's designee.

24 (cc) "Secure facility" means a facility which is operated or structured
25 so as to ensure that all entrances and exits from the facility are under the
26 exclusive control of the staff of the facility, whether or not the person
27 being detained has freedom of movement within the perimeters of the
28 facility, or which relies on locked rooms and buildings, fences or physical
29 restraint in order to control behavior of its residents. No secure facility
30 shall be in a city or county jail.

31 (dd) "Sexual abuse" means any contact or interaction with a child in
32 which the child is being used for the sexual stimulation of the perpetrator,
33 the child or another person. Sexual abuse shall include allowing,
34 permitting or encouraging a child to engage in ~~prostitution~~ *the sale of*
35 *sexual relations* or to be photographed, filmed or depicted in pornographic
36 material.

37 (ee) "Shelter facility" means any public or private facility or home
38 other than a juvenile detention facility that may be used in accordance with
39 this code for the purpose of providing either temporary placement for
40 children in need of care prior to the issuance of a dispositional order or
41 longer term care under a dispositional order.

42 (ff) "Transition plan" means, when used in relation to a youth in the
43 custody of the secretary, an individualized strategy for the provision of

1 medical, mental health, education, employment and housing supports as
2 needed for the adult and, if applicable, for any minor child of the adult, to
3 live independently and specifically provides for the supports and any
4 services for which an adult with a disability is eligible including, but not
5 limited to, funding for home and community based services waivers.

6 (gg) "Youth residential facility" means any home, foster home or
7 structure which provides 24-hour-a-day care for children and which is
8 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
9 Annotated, and amendments thereto.

10 Sec. 24. On January 1, 2014, K.S.A. 2011 Supp. 38-2243 is hereby
11 amended to read as follows: 38-2243. (a) Upon notice and hearing, the
12 court may issue an order directing who shall have temporary custody and
13 may modify the order during the pendency of the proceedings as will best
14 serve the child's welfare.

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

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

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

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

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

1 *amendments thereto.*

2 (g) (1) Whenever the court determines the necessity for an order of
3 temporary custody the court may place the child in the temporary custody
4 of:

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

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

10 (C) a youth residential facility;

11 (D) a shelter facility; ~~or~~

12 (E) the secretary, if the child is 15 years of age or younger, or 16 or
13 17 years of age if the child has no identifiable parental or family resources
14 or shows signs of physical, mental, emotional or sexual abuse-; *or*

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

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

43 (h) If the court issues an order of temporary custody, the court may

1 also enter an order restraining any alleged perpetrator of physical, sexual,
2 mental or emotional abuse of the child from residing in the child's home;
3 visiting, contacting, harassing or intimidating the child; or attempting to
4 visit, contact, harass or intimidate the child, other family members or
5 witnesses. Such restraining order shall be served by personal service
6 pursuant to subsection (a) of K.S.A. 2011 Supp. 38-2237, and amendments
7 thereto, on any alleged perpetrator to whom the order is directed.

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

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

14 (iii) immediate placement of the child is in the best interest of the
15 child; and

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

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

22 (j) If the court enters an order of temporary custody that provides for
23 placement of the child with a person other than the parent, the court shall
24 make a child support determination pursuant to K.S.A. 2011 Supp. 38-
25 2277, and amendments thereto.

26 Sec. 25. On January 1, 2014, K.S.A. 2011 Supp. 38-2260 is hereby
27 amended to read as follows: 38-2260. (a) *Valid court order orders. (1)*
28 During proceedings under this code, the court may enter an order directing
29 a child who is the subject of the proceedings to remain in a present or
30 future placement if:

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

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

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

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

41 (2) (A) *When a child is placed in protective custody pursuant to an ex*
42 *parte order entered under K.S.A. 2011 Supp. 38-2242, and amendments*
43 *thereto, the court may authorize placement of the child with a secure*

1 facility or juvenile detention facility if the court finds that there is probable
2 cause to believe the child: (i) Has been subjected to human trafficking or
3 aggravated human trafficking as defined by K.S.A. 2011 Supp. 21-5426,
4 and amendments thereto, or commercial sexual exploitation of a child as
5 defined by section 4, and amendments thereto, or committed an act which,
6 if committed by an adult, would constitute a violation of K.S.A. 2011 Supp.
7 21-6419, and amendments thereto; and (ii) has a history of running as
8 described in subsection (d)(9) of K.S.A. 2011 Supp. 38-2202, and
9 amendments thereto, or is not likely to remain in a foster home or
10 similarly restrictive placement. Such placement is limited until a valid
11 temporary court order pursuant to this section is entered.

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

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

41 (D) The length of such secure placement under this subsection shall
42 not exceed 90 days. Upon a finding of necessity, the court may extend the
43 period of placement authorization for additional increments of 30 days,

1 *not to exceed 180 days, notwithstanding any other provision of chapter 38*
2 *of the Kansas Statutes Annotated, and amendments thereto.*

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

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

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

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

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

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

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

43 (e) *Evidentiary hearing.* The court shall hold an evidentiary hearing

1 on an application within 72 hours of the child's being taken into custody.
2 Notice of the time and place of the hearing shall be given orally or in
3 writing to the child's parents, the child's legal custodian and the child's
4 guardian *ad litem*. At the evidentiary hearing, the court shall determine by
5 a clear and convincing evidence whether the child has:

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

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

10 (3) been informed of:

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

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

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

15 (D) the right to appeal.

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

21 (A) A parent or other legal custodian;

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

25 (C) a youth residential facility; or

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

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

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

43 (g) *Payment*. The secretary shall only pay for placement and services

1 for a child placed in a secure facility or juvenile detention facility pursuant
2 to subsection (f) upon receipt of a valid court order authorizing secure care
3 placement.

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

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

10 Sec. 26. K.S.A. 2011 Supp. 38-2312 is hereby amended to read as
11 follows: 38-2312. (a) Except as provided in subsection (b) *and* (c), any
12 records or files specified in this code concerning a juvenile may be
13 expunged upon application to a judge of the court of the county in which
14 the records or files are maintained. The application for expungement may
15 be made by the juvenile, if 18 years of age or older or, if the juvenile is
16 less than 18 years of age, by the juvenile's parent or next friend.

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

1 thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or
2 subsection (a) of K.S.A. 2011 Supp. 21-5601, and amendments thereto,
3 endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 2011
4 Supp. 21-5602, and amendments thereto, abuse of a child; or which would
5 constitute an attempt to commit a violation of any of the offenses specified
6 in this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (1) The person whose record was expunged;

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

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

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

1 of any person whose record has been expunged;

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

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

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

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

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

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

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

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

26 Sec. 27. K.S.A. 2011 Supp. 38-2361 is hereby amended to read as
27 follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to
28 K.S.A. 2011 Supp. 38-2356, and amendments thereto, modification of
29 sentence pursuant to K.S.A. 2011 Supp. 38-2367, and amendments thereto,
30 or violation of a condition of sentence pursuant to K.S.A. 2011 Supp. 38-
31 2368, and amendments thereto, and subject to subsection (a) of K.S.A.
32 2011 Supp. 38-2365, and amendments thereto, the court may impose one
33 or more of the following sentencing alternatives. In the event that any
34 sentencing alternative chosen constitutes an order authorizing or requiring
35 removal of the juvenile from the juvenile's home and such findings either
36 have not previously been made or the findings are not or may no longer be
37 current, the court shall make determinations as required by K.S.A. 2011
38 Supp. 38-2334 and 38-2335, and amendments thereto.

39 (1) Place the juvenile on probation through court services or
40 community corrections for a fixed period, subject to terms and conditions
41 the court deems appropriate consistent with juvenile justice programs in
42 the community.

43 (2) Order the juvenile to participate in a community based program

1 available in such judicial district subject to the terms and conditions the
2 court deems appropriate. This alternative shall not be ordered with the
3 alternative in paragraph (12) and when ordered with the alternative in
4 paragraph (10) shall constitute a recommendation. Requirements
5 pertaining to child support may apply if custody is vested with other than a
6 parent.

7 (3) Place the juvenile in the custody of a parent or other suitable
8 person, subject to terms and conditions consistent with juvenile justice
9 programs in the community. This alternative shall not be ordered with the
10 alternative in paragraph (10) or (12). Requirements pertaining to child
11 support may apply if custody is vested with other than a parent.

12 (4) Order the juvenile to attend counseling, educational, mediation or
13 other sessions, or to undergo a drug evaluation pursuant to subsection (b).

14 (5) Suspend or restrict the juvenile's driver's license or privilege to
15 operate a motor vehicle on the streets and highways of this state pursuant
16 to subsection (c).

17 (6) Order the juvenile to perform charitable or community service
18 work.

19 (7) Order the juvenile to make appropriate reparation or restitution
20 pursuant to subsection (d).

21 (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to
22 subsection (e).

23 (9) Place the juvenile under a house arrest program administered by
24 the court pursuant to K.S.A. 2011 Supp. 21-6609, and amendments
25 thereto.

26 (10) Place the juvenile in the custody of the commissioner as
27 provided in K.S.A. 2011 Supp. 38-2365, and amendments thereto. This
28 alternative shall not be ordered with the alternative in paragraph (3) or
29 (12). Except for a mandatory drug and alcohol evaluation, when this
30 alternative is ordered with alternatives in paragraphs (2), (4) and (9), such
31 orders shall constitute a recommendation by the court. Requirements
32 pertaining to child support shall apply under this alternative.

33 (11) Commit the juvenile to a sanctions house for a period no longer
34 than 28 days subject to the provisions of subsection (f).

35 (12) Commit the juvenile directly to the custody of the commissioner
36 for a period of confinement in a juvenile correctional facility and a period
37 of aftercare pursuant to K.S.A. 2011 Supp. 38-2369, and amendments
38 thereto. The provisions of K.S.A. 2011 Supp. 38-2365, and amendments
39 thereto, shall not apply to juveniles committed pursuant to this provision,
40 provided however, that 21 days prior to the juvenile's release from a
41 juvenile correctional facility, the commissioner or designee shall notify the
42 court of the juvenile's anticipated release date. The court shall set and hold
43 a permanency hearing pursuant to K.S.A. 2011 Supp. 38-2365, and

1 amendments thereto, within seven days after the juvenile's release. This
2 alternative may be ordered with the alternative in paragraph (7).
3 Requirements pertaining to child support shall apply under this alternative.

4 (b) If the court orders the juvenile to attend counseling, educational,
5 mediation or other sessions, or to undergo a drug and alcohol evaluation
6 pursuant to subsection (a)(4), the following provisions apply:

7 (1) The court may order the juvenile offender to participate in
8 counseling or mediation sessions or a program of education, including
9 placement in an alternative educational program approved by a local
10 school board. The costs of any counseling or mediation may be assessed as
11 expenses in the case. No mental health center shall charge a fee for court-
12 ordered counseling greater than what the center would have charged the
13 person receiving the counseling if the person had requested counseling on
14 the person's own initiative. No mediator shall charge a fee for court-
15 ordered mediation greater than what the mediator would have charged the
16 person participating in the mediation if the person had requested mediation
17 on the person's own initiative. Mediation may include the victim but shall
18 not be mandatory for the victim; and

19 (2) if the juvenile has been adjudicated to be a juvenile by reason of a
20 violation of a statute that makes such a requirement, the court shall order
21 and, if adjudicated for any other offense, the court may order the juvenile
22 to submit to and complete a drug and alcohol evaluation by a community-
23 based drug and alcohol safety action program certified pursuant to K.S.A.
24 8-1008, and amendments thereto, and to pay a fee not to exceed the fee
25 established by that statute for such evaluation. The court may waive the
26 mandatory evaluation if the court finds that the juvenile completed a drug
27 and alcohol evaluation, approved by the community-based alcohol and
28 drug safety action program, within 12 months before sentencing. If the
29 evaluation occurred more than 12 months before sentencing, the court
30 shall order the juvenile to resubmit to and complete the evaluation and
31 program as provided herein. If the court finds that the juvenile and those
32 legally liable for the juvenile's support are indigent, the court may waive
33 the fee. In no event shall the fee be assessed against the commissioner or
34 the juvenile justice authority nor shall the fee be assessed against the
35 secretary of social and rehabilitation services or the department of social
36 and rehabilitation services if the juvenile is in the secretary's care, custody
37 and control.

38 (c) If the court orders suspension or restriction of a juvenile offender's
39 driver's license or privilege to operate a motor vehicle on the streets and
40 highways of this state pursuant to subsection (a)(5), the following
41 provisions apply:

42 (1) The duration of the suspension ordered by the court shall be for a
43 definite time period to be determined by the court. Upon suspension of a

1 license pursuant to this subsection, the court shall require the juvenile
2 offender to surrender the license to the court. The court shall transmit the
3 license to the division of motor vehicles of the department of revenue, to
4 be retained until the period of suspension expires. At that time, the licensee
5 may apply to the division for return of the license. If the license has
6 expired, the juvenile offender may apply for a new license, which shall be
7 issued promptly upon payment of the proper fee and satisfaction of other
8 conditions established by law for obtaining a license unless another
9 suspension or revocation of the juvenile offender's privilege to operate a
10 motor vehicle is in effect. As used in this subsection, "highway" and
11 "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and
12 amendments thereto. Any juvenile offender who does not have a driver's
13 license may have driving privileges revoked. No Kansas driver's license
14 shall be issued to a juvenile offender whose driving privileges have been
15 revoked pursuant to this section for a definite time period to be determined
16 by the court; and

17 (2) in lieu of suspending a juvenile offender's driver's license or
18 privilege to operate a motor vehicle on the highways of this state, the court
19 may enter an order which places conditions on the juvenile offender's
20 privilege of operating a motor vehicle on the streets and highways of this
21 state, a certified copy of which the juvenile offender shall be required to
22 carry any time the juvenile offender is operating a motor vehicle on the
23 streets and highways of this state. The order shall prescribe a definite time
24 period for the conditions imposed. Upon entering an order restricting a
25 juvenile offender's license, the court shall require the juvenile offender to
26 surrender such juvenile offender's license to the court. The court shall
27 transmit the license to the division of vehicles, together with a copy of the
28 order. Upon receipt thereof, the division of vehicles shall issue without
29 charge a driver's license which shall indicate on its face that conditions
30 have been imposed on the juvenile offender's privilege of operating a
31 motor vehicle and that a certified copy of the order imposing the
32 conditions is required to be carried by the juvenile offender when
33 operating a motor vehicle on the streets and highways of this state. If the
34 juvenile offender is a nonresident, the court shall cause a copy of the order
35 to be transmitted to the division and the division shall forward a copy of it
36 to the motor vehicle administrator of the juvenile offender's state of
37 issuance. The court shall furnish to any juvenile offender whose driver's
38 license has had conditions imposed on it under this section a copy of the
39 order, which shall be recognized as a valid Kansas driver's license until the
40 division issues the restricted license provided for in this subsection. Upon
41 expiration of the period of time for which conditions are imposed pursuant
42 to this subsection, the juvenile offender may apply to the division for the
43 return of the license previously surrendered by the juvenile offender. In the

1 event the license has expired, the juvenile offender may apply to the
2 division for a new license, which shall be issued immediately by the
3 division upon payment of the proper fee and satisfaction of the other
4 conditions established by law unless such juvenile offender's privilege to
5 operate a motor vehicle on the streets and highways of this state has been
6 suspended or revoked prior thereto. If any juvenile offender violates any of
7 the conditions imposed under this subsection, the juvenile offender's
8 driver's license or privilege to operate a motor vehicle on the streets and
9 highways of this state shall be revoked for a period as determined by the
10 court in which the juvenile offender is convicted of violating such
11 conditions.

12 (d) The following provisions apply to the court's determination of
13 whether to order reparation or restitution pursuant to subsection (a)(7):

14 (1) The court shall order the juvenile to make reparation or restitution
15 to the aggrieved party for the damage or loss caused by the juvenile
16 offender's offense unless it finds compelling circumstances that would
17 render a plan of reparation or restitution unworkable. If the court finds
18 compelling circumstances that would render a plan of reparation or
19 restitution unworkable, the court shall enter such findings with
20 particularity on the record. In lieu of reparation or restitution, the court
21 may order the juvenile to perform charitable or social service for
22 organizations performing services for the community; and

23 (2) restitution may include, but shall not be limited to, the amount of
24 damage or loss caused by the juvenile's offense. Restitution may be made
25 by payment of an amount fixed by the court or by working for the parties
26 sustaining loss in the manner ordered by the court. An order of monetary
27 restitution shall be a judgment against the juvenile that may be collected
28 by the court by garnishment or other execution as on judgments in civil
29 cases. Such judgment shall not be affected by the termination of the court's
30 jurisdiction over the juvenile offender.

31 (e) If the court imposes a fine pursuant to subsection (a)(8), the
32 following provisions apply:

33 (1) The amount of the fine may not exceed \$1,000 for each offense.
34 The amount of the fine should be related to the seriousness of the offense
35 and the juvenile's ability to pay. Payment of a fine may be required in a
36 lump sum or installments;

37 (2) in determining whether to impose a fine and the amount to be
38 imposed, the court shall consider that imposition of a fine is most
39 appropriate in cases where the juvenile has derived pecuniary gain from
40 the offense and that imposition of a restitution order is preferable to
41 imposition of a fine; and

42 (3) any fine imposed by court shall be a judgment against the juvenile
43 that may be collected by the court by garnishment or other execution as on

1 judgments in civil cases. Such judgment shall not be affected by the
2 termination of the court's jurisdiction over the juvenile.

3 (f) If the court commits the juvenile to a sanctions house pursuant to
4 subsection (a)(11), the following provisions shall apply:

5 (1) The court may order commitment for up to 28 days for the same
6 offense or violation of sentencing condition. The court shall review the
7 commitment every seven days and, may shorten the initial commitment or,
8 if the initial term is less than 28 days, may extend the commitment;

9 (2) if, in the sentencing order, the court orders a sanctions house
10 placement for a verifiable probation violation and such probation violation
11 occurs, the juvenile may immediately be taken to a sanctions house and
12 detained for no more than 48 hours, excluding Saturdays, Sundays,
13 holidays, and days on which the office of the clerk of the court is not
14 accessible, prior to court review of the placement. The court and all parties
15 shall be notified of the sanctions house placement; and

16 (3) a juvenile over 18 years of age and less than 23 years of age at
17 sentencing shall be committed to a county jail, in lieu of a sanctions house,
18 under the same time restrictions imposed by paragraph (1), but shall not be
19 committed to or confined in a juvenile detention facility.

20 (g) Any order issued by the judge pursuant to this section shall be in
21 effect immediately upon entry into the court's minutes.

22 (h) In addition to the requirements of K.S.A. 2011 Supp. 38-2373,
23 and amendments thereto, if a person is under 18 years of age and
24 convicted of a felony or adjudicated as a juvenile offender for an offense if
25 committed by an adult would constitute the commission of a felony, the
26 court shall forward a signed copy of the journal entry to the commissioner
27 within 30 days of final disposition.

28 (i) Except as further provided, if a juvenile has been adjudged to be a
29 juvenile offender for an offense that if committed by an adult would
30 constitute the commission of: (1) Aggravated human trafficking, as defined
31 in K.S.A. 2011 Supp. 21-5426, and amendments thereto, if the victim is
32 less than 14 years of age; (2) rape, as defined in subsection (a)(3) of
33 K.S.A. 2011 Supp. 21-5503, and amendments thereto; (3) aggravated
34 indecent liberties with a child, as defined in subsection (b)(3) of K.S.A.
35 2011 Supp. 21-5506, and amendments thereto; (4) aggravated criminal
36 sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2011 Supp. 21-
37 5504, and amendments thereto; (5) promoting ~~prostitution~~ *the sale of*
38 *sexual relations*, as defined in K.S.A. 2011 Supp. 21-6420, and
39 amendments thereto, if the ~~prostitute~~ *person selling sexual relations* is less
40 than 14 years of age; (6) sexual exploitation of a child, as defined in
41 subsection (a)(1) or (a)(4) of K.S.A. 2011 Supp. 21-5510, and amendments
42 thereto, if the victim is less than 14 years of age; or (7) an attempt,
43 conspiracy or criminal solicitation, as defined in K.S.A. 2011 Supp. 21-

1 5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined
2 in parts (1) through (6); the court shall issue an order prohibiting the
3 juvenile from attending the attendance center that the victim of the offense
4 attends. If only one attendance center exists, for which the victim and
5 juvenile are eligible to attend, in the school district where the victim and
6 the juvenile reside, the court shall hear testimony and take evidence from
7 the victim, the juvenile, their families and a representative of the school
8 district as to why the juvenile should or should not be allowed to remain at
9 the attendance center attended by the victim. After such hearing, the court
10 may issue an order prohibiting the juvenile from attending the attendance
11 center that the victim of the offense attends.

12 (j) The sentencing hearing shall be open to the public as provided in
13 K.S.A. 2011 Supp. 38-2353, and amendments thereto.

14 Sec. 28. K.S.A. 2011 Supp. 41-311 is hereby amended to read as
15 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
16 liquor control act to a person:

17 (1) Who has not been a citizen of the United States for at least 10
18 years, except that the spouse of a deceased retail licensee may receive and
19 renew a retail license notwithstanding the provisions of this subsection (a)
20 (1) if such spouse is otherwise qualified to hold a retail license and is a
21 United States citizen or becomes a United States citizen within one year
22 after the deceased licensee's death;

23 (2) who has been convicted of a felony under the laws of this state,
24 any other state or the United States;

25 (3) who has had a license revoked for cause under the provisions of
26 the liquor control act, the beer and cereal malt beverage keg registration
27 act or who has had any license issued under the cereal malt beverage laws
28 of any state revoked for cause except that a license may be issued to a
29 person whose license was revoked for the conviction of a misdemeanor at
30 any time after the lapse of 10 years following the date of the revocation;

31 (4) who has been convicted of being the keeper or is keeping ~~a house~~
32 ~~of prostitution~~ *any property, whether real or personal, where sexual*
33 *relations is being sold or offered for sale by a person who is 18 years of*
34 *age or older* or has forfeited bond to appear in court to answer charges of
35 being a keeper of ~~a house of prostitution~~ *any property, whether real or*
36 *personal, where sexual relations is being sold or offered for sale by a*
37 *person who is 18 years of age or older;*

38 (5) who has been convicted of being a proprietor of a gambling
39 house, pandering or any other crime opposed to decency and morality or
40 has forfeited bond to appear in court to answer charges for any of those
41 crimes;

42 (6) who is not at least 21 years of age;

43 (7) who, other than as a member of the governing body of a city or

1 county, appoints or supervises any law enforcement officer, who is a law
2 enforcement official or who is an employee of the director;

3 (8) who intends to carry on the business authorized by the license as
4 agent of another;

5 (9) who at the time of application for renewal of any license issued
6 under this act would not be eligible for the license upon a first application,
7 except as provided by subsection (a)(12);

8 (10) who is the holder of a valid and existing license issued under
9 article 27 of chapter 41 of the Kansas Statutes Annotated unless the person
10 agrees to and does surrender the license to the officer issuing the same
11 upon the issuance to the person of a license under this act, except that a
12 retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto,
13 shall be eligible to receive a retailer's license under the Kansas liquor
14 control act;

15 (11) who does not own the premises for which a license is sought, or
16 does not, at the time of application, have a written lease thereon;

17 (12) whose spouse would be ineligible to receive a license under this
18 act for any reason other than citizenship, residence requirements or age,
19 except that this subsection (a)(12) shall not apply in determining eligibility
20 for a renewal license;

21 (13) whose spouse has been convicted of a felony or other crime
22 which would disqualify a person from licensure under this section and
23 such felony or other crime was committed during the time that the spouse
24 held a license under this act; or

25 (14) who does not provide any data or information required by
26 K.S.A. 2011 Supp. 41-311b, and amendments thereto.

27 (b) No retailer's license shall be issued to:

28 (1) A person who is not a resident of this state;

29 (2) a person who has not been a resident of this state for at least four
30 years immediately preceding the date of application;

31 (3) a person who has a beneficial interest in a manufacturer,
32 distributor, farm winery or microbrewery licensed under this act, except
33 that the spouse of an applicant for a retailer's license may own and hold a
34 farm winery license, microbrewery license, or both, if the spouse does not
35 hold a retailer's license issued under this act;

36 (4) a person who has a beneficial interest in any other retail
37 establishment licensed under this act, except that the spouse of a licensee
38 may own and hold a retailer's license for another retail establishment;

39 (5) a copartnership, unless all of the copartners are qualified to obtain
40 a license;

41 (6) a corporation; or

42 (7) a trust, if any grantor, beneficiary or trustee would be ineligible to
43 receive a license under this act for any reason, except that the provisions of

1 subsection (a)(6) shall not apply in determining whether a beneficiary
2 would be eligible for a license.

3 (c) No manufacturer's license shall be issued to:

4 (1) A corporation, if any officer or director thereof, or any
5 stockholder owning in the aggregate more than 25% of the stock of the
6 corporation would be ineligible to receive a manufacturer's license for any
7 reason other than citizenship and residence requirements;

8 (2) a copartnership, unless all of the copartners shall have been
9 residents of this state for at least five years immediately preceding the date
10 of application and unless all the members of the copartnership would be
11 eligible to receive a manufacturer's license under this act;

12 (3) a trust, if any grantor, beneficiary or trustee would be ineligible to
13 receive a license under this act for any reason, except that the provisions of
14 subsection (a)(6) shall not apply in determining whether a beneficiary
15 would be eligible for a license;

16 (4) an individual who is not a resident of this state;

17 (5) an individual who has not been a resident of this state for at least
18 five years immediately preceding the date of application; or

19 (6) a person who has a beneficial interest in a distributor, retailer,
20 farm winery or microbrewery licensed under this act, except as provided in
21 K.S.A. 41-305, and amendments thereto.

22 (d) No distributor's license shall be issued to:

23 (1) A corporation, if any officer, director or stockholder of the
24 corporation would be ineligible to receive a distributor's license for any
25 reason. It shall be unlawful for any stockholder of a corporation licensed
26 as a distributor to transfer any stock in the corporation to any person who
27 would be ineligible to receive a distributor's license for any reason, and
28 any such transfer shall be null and void, except that: (A) If any stockholder
29 owning stock in the corporation dies and an heir or devisee to whom stock
30 of the corporation descends by descent and distribution or by will is
31 ineligible to receive a distributor's license, the legal representatives of the
32 deceased stockholder's estate and the ineligible heir or devisee shall have
33 14 months from the date of the death of the stockholder within which to
34 sell the stock to a person eligible to receive a distributor's license, any such
35 sale by a legal representative to be made in accordance with the provisions
36 of the probate code; or (B) if the stock in any such corporation is the
37 subject of any trust and any trustee or beneficiary of the trust who is 21
38 years of age or older is ineligible to receive a distributor's license, the
39 trustee, within 14 months after the effective date of the trust, shall sell the
40 stock to a person eligible to receive a distributor's license and hold and
41 disburse the proceeds in accordance with the terms of the trust. If any legal
42 representatives, heirs, devisees or trustees fail, refuse or neglect to sell any
43 stock as required by this subsection, the stock shall revert to and become

1 the property of the corporation, and the corporation shall pay to the legal
2 representatives, heirs, devisees or trustees the book value of the stock.
3 During the period of 14 months prescribed by this subsection, the
4 corporation shall not be denied a distributor's license or have its
5 distributor's license revoked if the corporation meets all of the other
6 requirements necessary to have a distributor's license;

7 (2) a copartnership, unless all of the copartners are eligible to receive
8 a distributor's license;

9 (3) a trust, if any grantor, beneficiary or trustee would be ineligible to
10 receive a license under this act for any reason, except that the provisions of
11 subsection (a)(6) shall not apply in determining whether a beneficiary
12 would be eligible for a license; or

13 (4) a person who has a beneficial interest in a manufacturer, retailer,
14 farm winery or microbrewery licensed under this act.

15 (e) No nonbeverage user's license shall be issued to a corporation, if
16 any officer, manager or director of the corporation or any stockholder
17 owning in the aggregate more than 25% of the stock of the corporation
18 would be ineligible to receive a nonbeverage user's license for any reason
19 other than citizenship and residence requirements.

20 (f) No microbrewery license or farm winery license shall be issued to
21 a:

22 (1) Person who is not a resident of this state;

23 (2) person who has not been a resident of this state for at least one
24 year immediately preceding the date of application;

25 (3) person who has a beneficial interest in a manufacturer or
26 distributor licensed under this act, except as provided in K.S.A. 41-305,
27 and amendments thereto;

28 (4) person, copartnership or association which has a beneficial
29 interest in any retailer licensed under this act or under K.S.A. 41-2702, and
30 amendments thereto, except that the spouse of an applicant for a
31 microbrewery or farm winery license may own and hold a retailer's license
32 if the spouse does not hold a microbrewery or farm winery license issued
33 under this act;

34 (5) copartnership, unless all of the copartners are qualified to obtain a
35 license;

36 (6) corporation, unless stockholders owning in the aggregate 50% or
37 more of the stock of the corporation would be eligible to receive such
38 license and all other stockholders would be eligible to receive such license
39 except for reason of citizenship or residency; or

40 (7) a trust, if any grantor, beneficiary or trustee would be ineligible to
41 receive a license under this act for any reason, except that the provisions of
42 subsection (a)(6) shall not apply in determining whether a beneficiary
43 would be eligible for a license.

1 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),
2 (f)(1), (f)(2) and K.S.A. 2011 Supp. 41-311b, and amendments thereto,
3 shall not apply in determining eligibility for the 10th, or a subsequent,
4 consecutive renewal of a license if the applicant has appointed a citizen of
5 the United States who is a resident of Kansas as the applicant's agent and
6 filed with the director a duly authenticated copy of a duly executed power
7 of attorney, authorizing the agent to accept service of process from the
8 director and the courts of this state and to exercise full authority, control
9 and responsibility for the conduct of all business and transactions within
10 the state relative to alcoholic liquor and the business licensed. The agent
11 must be satisfactory to and approved by the director, except that the
12 director shall not approve as an agent any person who:

13 (1) Has been convicted of a felony under the laws of this state, any
14 other state or the United States;

15 (2) has had a license issued under the alcoholic liquor or cereal malt
16 beverage laws of this or any other state revoked for cause, except that a
17 person may be appointed as an agent if the person's license was revoked
18 for the conviction of a misdemeanor and 10 years have lapsed since the
19 date of the revocation;

20 (3) has been convicted of being the keeper or is keeping ~~a house of~~
21 ~~prostitution~~ any property, whether real or personal, where sexual relations
22 is being sold or offered for sale by a person who is 18 years of age or
23 older or has forfeited bond to appear in court to answer charges of being a
24 keeper of ~~a house of prostitution~~ any property, whether real or personal,
25 where sexual relations is being sold or offered for sale by a person who is
26 18 years of age or older;

27 (4) has been convicted of being a proprietor of a gambling house,
28 pandering or any other crime opposed to decency and morality or has
29 forfeited bond to appear in court to answer charges for any of those
30 crimes; or

31 (5) is less than 21 years of age.

32 Sec. 29. K.S.A. 2011 Supp. 41-2601 is hereby amended to read as
33 follows: 41-2601. As used in the club and drinking establishment act:

34 (a) The following terms shall have the meanings provided by K.S.A.
35 41-102 and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3)
36 "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

37 (b) "Beneficial interest" shall not include any interest a person may
38 have as owner, operator, lessee or franchise holder of a licensed hotel or
39 motel on the premises of which a club or drinking establishment is located.

40 (c) "Caterer" means an individual, partnership or corporation which
41 sells alcoholic liquor by the individual drink, and provides services related
42 to the serving thereof, on unlicensed premises which may be open to the
43 public, but does not include a holder of a temporary permit, selling

1 alcoholic liquor in accordance with the terms of such permit.

2 (d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
3 2701 and amendments thereto.

4 (e) "Class A club" means a premises which is owned or leased by a
5 corporation, partnership, business trust or association and which is
6 operated thereby as a bona fide nonprofit social, fraternal or war veterans'
7 club, as determined by the director, for the exclusive use of the corporate
8 stockholders, partners, trust beneficiaries or associates (hereinafter referred
9 to as members) and their families and guests accompanying them.

10 (f) "Class B club" means a premises operated for profit by a
11 corporation, partnership or individual, to which members of such club may
12 resort for the consumption of food or alcoholic beverages and for
13 entertainment.

14 (g) "Club" means a class A or class B club.

15 (h) "Minibar" means a closed cabinet, whether nonrefrigerated or
16 wholly or partially refrigerated, access to the interior of which is restricted
17 by means of a locking device which requires the use of a key, magnetic
18 card or similar device.

19 (i) "Drinking establishment" means premises which may be open to
20 the general public, where alcoholic liquor by the individual drink is sold.

21 (j) "Food" means any raw, cooked or processed edible substance or
22 ingredient, other than alcoholic liquor or cereal malt beverage, used or
23 intended for use or for sale, in whole or in part, for human consumption.

24 (k) "Food service establishment" has the meaning provided by K.S.A.
25 36-501 and amendments thereto.

26 (l) "Hotel" has the meaning provided by K.S.A. 36-501 and
27 amendments thereto.

28 (m) "Minor" means a person under 21 years of age.

29 (n) "Morals charge" means a charge involving ~~prostitution~~ *the sale of*
30 *sexual relations*; procuring any person; soliciting of a child under 18 years
31 of age for any immoral act involving sex; possession or sale of narcotics,
32 marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal
33 cohabitation; adultery; bigamy; or a crime against nature.

34 (o) "Municipal corporation" means the governing body of any county
35 or city.

36 (p) "Restaurant" means:

37 (1) In the case of a club, a licensed food service establishment which,
38 as determined by the director, derives from sales of food for consumption
39 on the licensed club premises not less than 50% of its gross receipts from
40 all sales of food and beverages on such premises in a 12-month period;

41 (2) in the case of a drinking establishment subject to a food sales
42 requirement under K.S.A. 41-2642 and amendments thereto, a licensed
43 food service establishment which, as determined by the director, derives

1 from sales of food for consumption on the licensed drinking establishment
2 premises not less than 30% of its gross receipts from all sales of food and
3 beverages on such premises in a 12-month period; and

4 (3) in the case of a drinking establishment subject to no food sales
5 requirement under K.S.A. 41-2642 and amendments thereto, a licensed
6 food service establishment.

7 (q) "RV resort" means premises where a place to park recreational
8 vehicles, as defined in K.S.A. 75-1212 and amendments thereto, is offered
9 for pay, primarily to transient guests, for overnight or longer use while
10 such recreational vehicles are used as sleeping or living accommodations.

11 (r) "Secretary" means the secretary of revenue.

12 (s) "Temporary permit" means a temporary permit issued pursuant to
13 K.S.A. 41-2645 and amendments thereto.

14 Sec. 30. K.S.A. 2011 Supp. 60-4104 is hereby amended to read as
15 follows: 60-4104. Conduct and offenses giving rise to forfeiture under this
16 act, whether or not there is a prosecution or conviction related to the
17 offense, are:

18 (a) All offenses which statutorily and specifically authorize forfeiture;

19 (b) violations of K.S.A. 2011 Supp. 21-5701 through 21-5717, and
20 amendments thereto;

21 (c) theft, K.S.A. 2011 Supp. 21-5801, and amendments thereto;

22 (d) criminal discharge of a firearm, as defined in subsections (a)(1)
23 and (a)(2) of K.S.A. 2011 Supp. 21-6308, and amendments thereto;

24 (e) gambling, K.S.A. 2011 Supp. 21-6404, and amendments thereto,
25 and commercial gambling, as defined in subsection (a)(1) of K.S.A. 2011
26 Supp. 21-6406, and amendments thereto;

27 (f) counterfeiting, K.S.A. 2011 Supp. 21-5825, and amendments
28 thereto;

29 (g) violations of K.S.A. 2011 Supp. 21-6108, and amendments
30 thereto;

31 (h) medicaid fraud, K.S.A. 2011 Supp. 21-5925 through 21-5934, and
32 amendments thereto;

33 (i) an act or omission occurring outside this state, which would be a
34 violation in the place of occurrence and would be described in this section
35 if the act occurred in this state, whether or not it is prosecuted in any state;

36 (j) an act or omission committed in furtherance of any act or omission
37 described in this section including any inchoate or preparatory offense,
38 whether or not there is a prosecution or conviction related to the act or
39 omission;

40 (k) any solicitation or conspiracy to commit any act or omission
41 described in this section, whether or not there is a prosecution or
42 conviction related to the act or omission;

43 (l) violations of K.S.A. 2011 Supp. 21-5423, and amendments

1 thereto;

2 (m) unlawful conduct of dog fighting and unlawful possession of dog
3 fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
4 2011 Supp. 21-6414, and amendments thereto;

5 (n) unlawful conduct of cockfighting and unlawful possession of
6 cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
7 2011 Supp. 21-6417, and amendments thereto;

8 (o) ~~prostitution~~ *selling sexual relations, as defined in K.S.A. 2011*
9 *Supp. 21-6419, and amendments thereto, promoting prostitution the sale*
10 *of sexual relations, as defined in K.S.A. 2011 Supp. 21-6420, and*
11 *amendments thereto, and* ~~patronizing a prostitute~~ *buying sexual relations,*
12 *as defined in K.S.A. 2011 Supp. 21-6421, and amendments thereto;*

13 (p) human trafficking and aggravated human trafficking, K.S.A. 2011
14 Supp. 21-5426, and amendments thereto;

15 (q) violations of K.S.A. 9-2012, and amendments thereto;

16 (r) mistreatment of a dependent adult, K.S.A. 2011 Supp. 21-5417,
17 and amendments thereto;

18 (s) giving a worthless check, K.S.A. 2011 Supp. 21-5821, and
19 amendments thereto;

20 (t) forgery, K.S.A. 2011 Supp. 21-5823, and amendments thereto;

21 (u) making false information, K.S.A. 2011 Supp. 21-5824, and
22 amendments thereto;

23 (v) criminal use of a financial card, K.S.A. 2011 Supp. 21-5828, and
24 amendments thereto;

25 (w) violations of K.S.A. 2011 Supp. 21-5839, and amendments
26 thereto;

27 (x) identity theft and identity fraud, as defined in subsections (a) and
28 (b) of K.S.A. 2011 Supp. 21-6107, and amendments thereto; and

29 (y) electronic solicitation, K.S.A. 2011 Supp. 21-5509, and
30 amendments thereto.

31 Sec. 31. K.S.A. 2011 Supp. 68-2255 is hereby amended to read as
32 follows: 68-2255. (a) As used in this section:

33 (1) "Adult cabaret" means a nightclub, bar, restaurant or similar
34 commercial establishment which regularly features:

35 (A) Persons who appear in a state of nudity or semi-nudity;

36 (B) live performances which are characterized by the exposure of
37 specified anatomical areas or by specified sexual activities; or

38 (C) films, motion pictures, video cassettes, slides or other
39 photographic reproductions which are characterized by the depiction or
40 description of specified sexual activities or specified anatomical areas;

41 (2) "nudity" or a "state of nudity" means the showing of the human
42 male or female genitals, pubic area, vulva, anus, anal cleft or cleavage
43 with less than a fully opaque covering, the showing of the female breast

1 with less than a fully opaque covering of any part of the nipple or the
2 showing of the covered male genitals in a discernibly turgid state;

3 (3) "semi-nudity" means a state of dress in which opaque clothing
4 fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva,
5 nipple and areola of the female breast below a horizontal line across the
6 top of the areola at its highest point. Semi-nudity shall include the entire
7 lower portion of the female breast, but shall not include any portion of the
8 cleavage of the human female breast exhibited by wearing apparel
9 provided the areola is not exposed in whole or part;

10 (4) "sexually-oriented business" means any business which offers its
11 patrons goods of which a substantial portion are sexually-oriented
12 materials. Any business where more than 10% of display space is used for
13 sexually-oriented materials shall be presumed to be a sexually-oriented
14 business;

15 (5) "sexually-oriented materials" means any textual, pictorial or three
16 dimensional material that depicts nudity, sexual conduct, sexual
17 excitement or sadomasochistic abuse in a way which is patently offensive
18 to the average person applying contemporary adult community standards
19 with respect to what is suitable for minors;

20 (6) "sign" or "outdoor advertising" means any outdoor sign, display,
21 device, notice, bulletin, figure, painting, drawing, message, placard, poster,
22 billboard or other thing which is designed, intended or used to advertise or
23 inform, any part of the advertising or informative contents of which is
24 located within an adjacent area, and is visible from the state highway.

25 (b) No sign or other outdoor advertising, for an adult cabaret or
26 sexually-oriented business shall be located within one mile of any state
27 highway except if such business is located within one mile of a state
28 highway then the business may display a maximum of two exterior signs
29 on the premises of the business, consisting of one identification sign and
30 one sign solely giving notice that the premises are off limits to minors. The
31 identification sign shall be no more than 40 square feet in size and shall
32 include no more than the following information: Name, street address,
33 telephone number and operating hours of the business.

34 (c) Signs existing at the time of the effective date of this act, which
35 did not conform to the requirements of this section, and amendments
36 thereto, may be allowed to continue as a nonconforming use, but should be
37 made to conform within three years from July 1, 2006.

38 (d) Any owner of such a business who violates the provisions of this
39 section shall be guilty of a class C misdemeanor. Each week a violation of
40 this section continues to exist shall constitute a separate offense.

41 (e) This section is designed to protect the following public policy
42 interests of this state, including, but not limited to:

43 (1) To mitigate the adverse secondary effects of sexually-oriented

1 businesses; (2) to improve traffic safety; (3) to limit harm to minors; and
2 (4) to reduce ~~prostitution~~ *the sale of sexual relations*, crime, juvenile
3 delinquency, deterioration in property values and lethargy in neighborhood
4 improvement efforts.

5 (f) The attorney general shall represent the state in all actions and
6 proceedings arising from this section, and amendments thereto. All costs
7 incurred by the attorney general to defend or prosecute this section,
8 including payment of all court costs, civil judgments and, if necessary, any
9 attorneys fees, shall be paid from the state general fund.

10 Sec. 32. On January 1, 2014, K.S.A. 2011 Supp. 38-2243 and 38-
11 2260 are hereby repealed.

12 Sec. 33. K.S.A. 22-2530 and K.S.A. 2011 Supp. 21-5301, 21-5302,
13 21-5303, 21-5401, 21-6419, 21-6420, 21-6421, 21-6614, 21-6614a, 21-
14 6614b, 21-6614c, 21-6626, 21-6627, 21-6815, 22-2515, 22-3601, 22-3717,
15 22-3901, 22-4902, 22-4902a, 22-4906, 22-4906a, 38-2202, 38-2312, 38-
16 2312a, 38-2312b, 38-2361, 41-311, 41-2601, 60-4104 and 68-2255 are
17 hereby repealed.

18 Sec. 34. This act shall take effect and be in force from and after its
19 publication in the statute book.