

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2049** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments, as follows:

On page 1, by striking all in lines 9 through 34;

By striking all in pages 2 through 21;

On page 22, by striking all in lines 1 through 16 and inserting the following:

"Section 1. K.S.A. 2012 Supp. 21-2511 is hereby amended to read as follows: 21-2511. (a) On and after May 2, 1991, any person convicted as an offender pursuant to K.S.A. 22-4901, and amendments thereto, any adult arrested or charged or adjudicated as a juvenile offender because of placed in custody for or charged with the commission of any felony; a violation of the following offenses, regardless of the sentence imposed, shall be required to submit biological samples authorized by and given to the Kansas bureau of investigation in accordance with the provisions of this section:

(1) Any felony;

(2) subsection (a)(1) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(3) a violation of K.S.A. 21-3508, prior to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto, when committed in the presence of a person 16 or more

years of age;

(4) a violation of K.S.A. 21-4310, prior to its repeal, or K.S.A. 2012 Supp. 21-6412, and amendments thereto;

(5) a violation of K.S.A. 21-3424, prior to its repeal, or K.S.A. 2012 Supp. 21-5411, and amendments thereto, when the victim is less than 18 years of age;

(6) a violation of K.S.A. 21-3507, prior to its repeal, or K.S.A. 2012 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;

(7) a violation of subsection (b)(1) of K.S.A. 21-3513, prior to its repeal, or subsection (b)(1)(A) of K.S.A. 2012 Supp. 21-6420, and amendments thereto, when one of the parties involved is less than 18 years of age;

(8) a violation of K.S.A. 21-3515, prior to its repeal, or K.S.A. 2012 Supp. 21-6421, and amendments thereto, when one of the parties involved is less than 18 years of age; or

(9) a violation of K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments thereto; or

(10) including an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of any such offenses provided in this subsection, regardless of the sentence imposed, shall be required to submit specimens of blood or an oral or other biological sample authorized by the Kansas bureau of investigation to the Kansas bureau of investigation in accordance with the provisions of this act, if such person is:

~~(1) Convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act;~~

~~(2) ordered institutionalized as a result of being convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act; or~~

~~(3) convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in this subsection before the effective date of this act and is presently confined as a result of such conviction or adjudication in any state correctional facility or county jail or is presently serving a sentence under K.S.A. 21-4603, 21-4603d, 22-3717 or K.S.A. 2012 Supp. 38-2361, and amendments thereto.~~

(b) Notwithstanding any other provision of law, the Kansas bureau of investigation is authorized to obtain fingerprints and other identifiers for all persons, ~~whether juveniles or adults, covered by~~ required to submit a sample under the provisions of this act section.

(c) Any person required by paragraphs (a)(1) and (a)(2) to provide such specimen or sample shall be ordered by the court to have such specimen or sample collected within 10 days after sentencing or adjudication:

~~(1) If placed directly on probation, that person must provide such specimen or sample, at a collection site designated by the Kansas bureau of investigation. Collection of specimens shall be conducted by qualified volunteers, contractual personnel or employees designated by the Kansas bureau of investigation. Failure to cooperate with the collection of the specimens and any deliberate act by that person intended to impede, delay or stop the collection of the specimens shall be punishable as contempt of court and constitute grounds to revoke probation;~~

~~(2) if sentenced to the secretary of corrections, such specimen or sample will be obtained as soon as practical upon arrival at the correctional facility; or~~

~~(3) if a juvenile offender is placed in the custody of the commissioner of juvenile justice, in a youth residential facility or in a juvenile correctional facility, such specimen or sample will be obtained as soon as practical upon arrival.~~

Persons required to submit a sample pursuant to subsection (a) shall be required to submit such sample at the same time such person is fingerprinted pursuant to the booking procedure.

~~(d) Any person required by paragraph (a)(3) convicted as an adult and who was incarcerated on May 2, 1991, for a crime committed prior to May 2, 1991, shall be required to provide such specimen or submit a sample shall be required to provide such samples prior to final discharge or conditional release at a collection site designated by the Kansas bureau of investigation. Collection of specimens shall be conducted by qualified volunteers, contractual personnel or employees designated by the Kansas bureau of investigation.~~

~~(e) (1) On and after January 1, 2007 through June 30, 2008, any adult arrested or charged or juvenile placed in custody for or charged with the commission or attempted commission of any person felony or drug severity level 1 or 2 felony shall be required to submit such specimen or sample at the same time such person is fingerprinted pursuant to the booking procedure.~~

~~(2) On and after July 1, 2008, except as provided further, any adult arrested or charged or juvenile placed in custody for or charged with the commission or attempted commission of any felony; a violation of subsection (a)(1) of K.S.A. 21-3505; a violation~~

~~of K.S.A. 21-3508; a violation of K.S.A. 21-4310; a violation of K.S.A. 21-3424, and amendments thereto, when the victim is less than 18 years of age; a violation of K.S.A. 21-3507, and amendments thereto, when one of the parties involved is less than 18 years of age; a violation of subsection (b)(1) of K.S.A. 21-3513, and amendments thereto, when one of the parties involved is less than 18 years of age; a violation of K.S.A. 21-3515, and amendments thereto, when one of the parties involved is less than 18 years of age; or a violation of K.S.A. 21-3517, and amendments thereto; shall be required to submit such specimen or sample at the same time such person is fingerprinted pursuant to the booking procedure.~~

~~(3)(e)~~ Prior to taking such samples, the arresting, charging or custodial law enforcement or juvenile justice agency shall search the Kansas criminal history files through the Kansas criminal justice information system to determine if such person's sample is currently on file with the Kansas bureau of investigation. In the event that it cannot reasonably be established that a DNA sample for such person is on file at the Kansas bureau of investigation, the arresting, charging or custodial law enforcement or juvenile justice agency shall cause a sample to be collected. If such person's sample is on file with the Kansas bureau of investigation, the law enforcement or juvenile justice agency ~~is~~ shall not be required to take the sample.

~~(4)(f)~~ (1) If a court later determines that there was not probable cause for the arrest, charge or placement in custody or the charges are otherwise dismissed, and the case is not appealed, the Kansas bureau of investigation, upon petition by such person, shall expunge both the DNA sample and the profile record of such person.

~~(5)(2)~~ If a conviction against a person; who is required to submit such ~~specimen or~~

sample; is expunged or a verdict of acquittal with regard to such person is returned, the Kansas bureau of investigation shall, upon petition by such person, expunge both the DNA sample and the profile record of such person.

~~(f) All persons required to register as offenders pursuant to K.S.A. 22-4901 et seq., and amendments thereto, shall be required to submit specimens of blood or an oral or other biological sample authorized by the Kansas bureau of investigation to the Kansas bureau of investigation in accordance with the provisions of this act.~~

(g) The Kansas bureau of investigation shall provide all ~~specimen vials, mailing tubes, labels~~ kits, supplies and instructions necessary for the collection of ~~blood, oral or other~~ biological samples. The collection of samples shall be performed in a medically approved manner. No person ~~authorized by this section to withdraw blood, and no person~~ assisting in the collection of ~~these samples pursuant to the provisions of this section~~ shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices. ~~The withdrawal of blood for purposes of this act may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) any qualified medical technician including, but not limited to, an emergency medical technician-intermediate, mobile intensive care technician, advanced emergency medical technician or a paramedic, as those terms are defined in K.S.A. 65-6112, and amendments thereto, or a phlebotomist. The Such samples shall thereafter be forwarded to the Kansas bureau of investigation and the bureau shall analyze the such samples to the extent allowed by funding available for this purpose.~~

~~(h)(1)~~ The DNA (deoxyribonucleic acid) records and DNA samples shall be maintained by the Kansas bureau of investigation. The Kansas bureau of investigation shall establish, implement and maintain a statewide automated DNA databank and DNA database capable of, but not limited to, searching, matching and storing DNA records. The DNA database ~~as~~ established by this ~~act~~ section shall be compatible with the procedures specified by the federal bureau of investigation's combined DNA index system ~~(CODIS)~~. The Kansas bureau of investigation shall participate in the ~~CODIS~~ federal bureau of investigation's combined DNA index system program by sharing data and utilizing compatible test procedures, laboratory equipment, supplies and computer software.

~~(i)(2)~~ The DNA records obtained pursuant to this ~~act~~ section shall be confidential and shall be released only to authorized criminal justice agencies. ~~The~~ Such DNA records shall be used only for law enforcement identification purposes or to assist in the recovery or identification of human remains from disasters or for other humanitarian identification purposes, including, but not limited to, identification of missing persons.

~~(j)(1)(3)~~ The Kansas bureau of investigation shall be the state central repository for all DNA records and DNA samples obtained pursuant to this ~~act~~ section. No DNA records shall be accepted for admission or comparison unless obtained in substantial compliance with the provisions of this section by an accredited forensic laboratory meeting the national DNA index guidelines established by the federal bureau of investigation.

~~(i)(1)~~ The Kansas bureau of investigation shall promulgate rules and regulations for:

(A) The form and manner of the collection and maintenance of DNA samples;

(B) a procedure which allows ~~the defendant~~ defendants to petition to expunge and destroy the DNA samples and profile record in the event of a dismissal of charges, expungement or acquittal at trial; and

(C) any other procedures for the operation of this act-section.

(2) ~~These-Such~~ rules and regulations also shall require compliance with national quality assurance standards to ensure that ~~the~~ such DNA records satisfy standards of acceptance of such records into the national DNA identification index.

(3) The provisions of the Kansas administrative procedure act shall apply to all actions taken ~~under the~~ pursuant to such rules and regulations ~~so promulgated.~~

~~(k)~~(j) The Kansas bureau of investigation is authorized to contract with third parties for the purposes of implementing this section. Any other party contracting to carry out the functions of this section shall be subject to the same restrictions and requirements of this section, insofar as applicable, as the bureau, as well as any additional restrictions or requirements imposed by the bureau.

~~(k)~~(k) In the event that a person's DNA sample is lost, was not properly obtained pursuant to the provisions of this section or is not adequate for any reason, the person shall provide another sample for analysis.

(l) A sample, or any evidence based upon or derived from such sample, collected by a law enforcement agency or a juvenile justice agency in substantial compliance with the provisions of this section, shall not be excluded as evidence in any criminal proceeding on the basis that such sample was not validly obtained.

(m) Any person who is subject to the requirements of this section, and who, after

receiving notification of the requirement to provide a DNA specimen, knowingly refuses to provide such DNA specimen, shall be guilty of a class A nonperson misdemeanor.

(n) As used in this section:

(1) "DNA" means deoxyribonucleic acid; and

(2) "profile record" means the identifying information of the laboratory performing the examination, case numbers, laboratory personnel and the specimen identification number related to a DNA profile.

Sec. 2. K.S.A. 2012 Supp. 21-5107, as amended by section 1 of 2013 House Bill No. 2252, is hereby amended to read as follows: 21-5107.(a) A prosecution for rape, aggravated criminal sodomy, murder, terrorism or illegal use of weapons of mass destruction may be commenced at any time.

(b) Except as provided in subsection (e), a prosecution for any crime shall be commenced within 10 years after its commission if the victim is the Kansas public employees retirement system.

(c) Except as provided in subsection (e), a prosecution for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto:

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

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

(d) Except as provided by subsection (e), a prosecution for any crime, as defined

in K.S.A. 2012 Supp. 21-5102, and amendments thereto, not governed by subsection (a), (b) or (c) shall be commenced within five years after it is committed.

(e) The period within which a prosecution shall be commenced shall not include any period in which:

(1) The accused is absent from the state;

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

(3) the fact of the crime is concealed;

(4) a prosecution is pending against the defendant for the same conduct, even if the indictment or information which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal;

(5) an administrative agency is restrained by court order from investigating or otherwise proceeding on a matter before it as to any criminal conduct defined as a violation of any of the provisions of article 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, which may be discovered as a result thereof regardless of who obtains the order of restraint; or

(6) whether the fact of the crime is concealed by the active act or conduct of the accused, there is substantially competent evidence to believe two or more of the following factors are present:

(A) The victim was a child under 15 years of age at the time of the crime;

(B) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted a crime;

(C) the victim was prevented by a parent or other legal authority from making

known to law enforcement authorities the fact of the crime whether or not the parent or other legal authority is the accused; and

(D) there is substantially competent expert testimony indicating the victim psychologically repressed such witness' memory of the fact of the crime, and in the expert's professional opinion the recall of such memory is accurate and free of undue manipulation, and substantial corroborating evidence can be produced in support of the allegations contained in the complaint or information but in no event may a prosecution be commenced as provided in subsection (e)(6) later than the date the victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence the defendant committed similar acts against other persons or evidence of contemporaneous physical manifestations of the crime.

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

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

(h) As used in this section, "parent or other legal authority" shall include, but not be limited to, natural and stepparents, grandparents, aunts, uncles or siblings.

Sec. 3. K.S.A. 22-2809a is hereby amended to read as follows: 22-2809a. (a) As used in this section: (1) "Surety" means a person or commercial surety, other than a

defendant in a criminal proceeding, that guarantees the appearance of a defendant in a criminal proceeding, by executing an appearance bond;

(2) "agent of a surety" means a person not performing the duties of a law enforcement officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a surety or bail bond agreement.

(b) Any surety or agent of a surety, commonly referred to as a bounty hunter, who intends to apprehend any person in this state pursuant to K.S.A. 22-2809, and amendments thereto, or under similar authority from any other state, shall inform law enforcement authorities in the city or county in which such surety or agent of a surety intends such apprehension, before attempting such apprehension. The surety or agent of a surety shall present to the local law enforcement authorities a certified copy of the bond, a valid government-issued photo identification, written appointment of agency, if not the actual surety, and all other appropriate paperwork identifying the principal and the person to be apprehended. Local law enforcement may accompany the surety or agent.

(c) No person who, ~~within the past 10 years,~~ has been convicted, in this or any other jurisdiction, of a ~~person~~ felony, may act as a surety or as an agent of a surety unless 10 or more years have elapsed since such person satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(d) An out-of-state surety or agent of a surety who intends to apprehend any person in this state pursuant to K.S.A. 22-2809, and amendments thereto, or under similar authority from any other state, shall contract with an individual that has been authorized by any court in this state to act as a surety or agent of a surety, before attempting such

apprehension, and be accompanied by such individual during such apprehension.

~~(d)~~ (e) Violation of this section is a class A nonperson misdemeanor for the first conviction of a violation and a severity level 9, nonperson felony upon a second or subsequent conviction of a violation.

New Sec. 4. (a) Voting more than once is intentionally:

(1) Voting or attempting to vote more than once in the same jurisdiction or voting in more than one jurisdiction in the United States in an election held on a particular date;
or

(2) inducing or aiding any person to vote more than once in the same jurisdiction or voting in more than one jurisdiction in the United States in an election held on a particular date.

(b) Voting more than once is a severity level 8, nonperson felony.

(c) This section shall be part of and supplemental to article 24 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 5. (a) Independent authority to prosecute any person who has violated or attempted to violate any act that constitutes a Kansas elections crime defined in K.S.A. 25-1128 or article 24 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto, shall be vested in:

(1) The district attorney or county attorney of the county where such violations occurred;

(2) the Kansas attorney general; or

(3) the Kansas secretary of state.

(b) If one of the officers listed in subsection (a) has commenced the prosecution of

a person who has violated or attempted to violate any act that constitutes a Kansas election crime, the other officers listed in subsection (a) may provide assistance to the prosecuting officer but may not commence a separate prosecution.

Sec. 6. K.S.A. 2012 Supp. 25-1128 is hereby amended to read as follows: 25-1128.

(a) No voter shall knowingly mark or transmit to the county election officer more than one advance voting ballot, or set of one of each kind of ballot, if the voter is entitled to vote more than one such ballot at a particular election.

(b) Except as provided in K.S.A. 25-1124, and amendments thereto, no person shall knowingly interfere with or delay the transmission of any advance voting ballot application from a voter to the county election officer, nor shall any person mail, fax or otherwise cause the application to be sent to a place other than the county election office. Any person or group engaged in the distribution of advance voting ballot applications shall mail, fax or otherwise deliver any application signed by a voter to the county election office within two days after such application is signed by the applicant.

(c) Except as otherwise provided by law, no person other than the voter, shall knowingly mark, sign or transmit to the county election officer any advance voting ballot or advance voting ballot envelope.

(d) Except as otherwise provided by law, no person shall knowingly sign an application for an advance voting ballot for another person. This provision shall not apply if a voter has a disability preventing the voter from signing an application or if an immediate family member signs an application on behalf of another immediate family member with proper authorization being given.

(e) No person, unless authorized by K.S.A. 25-1122 or K.S.A. 25-1124, and

amendments thereto, shall knowingly intercept, interfere with, or delay the transmission of advance voting ballots from the county election officer to the voter.

(f) No person shall knowingly and falsely affirm, declare or subscribe to any material fact in an affirmation form for an advance voting ballot or set of advance voting ballots.

(g) A voter may return such voter's advance voting ballot to the county election officer by personal delivery or by mail. Upon written designation by the voter, a person other than the voter may return the advance voting ballot by personal delivery or mail. Any such person designated by the voter shall sign a statement that such person has not exercised undue influence on the voting decisions of the voter and agrees to deliver the ballot as directed by the voter.

(h) Violation of any provision of this section is a class C misdemeanor.

Sec. 7. K.S.A. 25-2409 is hereby amended to read as follows: 25-2409. (a) Election bribery is conferring, offering or agreeing to confer, or soliciting, accepting or agreeing to accept any benefit as consideration to or from any person either to vote or withhold any person's vote, or to vote for or against any candidate or question submitted at any public election.

(b) This section shall not apply to a business or organization that provides a product of a value less than \$3.00 to any person who asserts that such person has voted, without regard to the voter's vote for or against any candidate or issue.

(c) Election bribery is a severity level 7, nonperson felony.

Sec. 8. K.S.A. 25-2416 is hereby amended to read as follows: 25-2416. (a) Voting without being qualified is knowingly ~~and willfully~~: (a).

~~(1) Voting or attempting to vote at in any election district when not a lawfully registered voter; in such election district; or~~

~~(b)(2) Voting or offering to vote more than once at the same election voting or attempting to vote at any election by a person who is not a citizen of the United States or who does not otherwise meet the qualification of an elector.~~

~~(e)(b) Inducing or aiding any person to vote more than once at the same election. Voting without being qualified is a class A misdemeanor severity level 8, nonperson felony.~~

Sec. 9. K.S.A. 25-2423 is hereby amended to read as follows: 25-2423. (a) Election tampering is, while being charged with no election duty, making or changing any election record.

(b) Election tampering is a severity level ~~8~~7, nonperson felony.

Sec. 10. K.S.A. 25-2431 is hereby amended to read as follows: 25-2431. (a) False impersonation of a voter is representing oneself as another person whether real or fictitious and ~~thereas thereby~~ voting or attempting to vote.

(b) False impersonation of a voter is a severity level ~~9~~8, nonperson felony.

Sec. 11. K.S.A. 2012 Supp. 25-2507 is hereby amended to read as follows: 25-2507. (a) "Poll book" means a book in which each voter may sign the voter's signature and a number is assigned by one of the clerks of the election board when the voter is given a ballot or set of ballots. If the county election officer determines that voters shall sign the poll book, such book shall also contain on each page the declaration prescribed by subsection (d).

(b) "Registration book" means: (1) A book or list containing the names and other

information relating to registered voters. Registration books shall have the names entered therein before the same or copies thereof are delivered to the supervising judges. Registration books may also contain blank lines on which each voter shall sign the voter's signature. If the county election officer determines that voters shall sign the registration book, such book shall also contain on each page the declaration prescribed by subsection (d); or

(2) a book meeting the requirements of K.S.A. 25-2507 (b)(1), and amendments thereto, containing blank lines on which each voter shall sign the voter's signature, containing on each page the declaration prescribed by subsection (d), and containing the numbers assigned by one of the clerks of the election board when voters are given ballots or sets of ballots.

(c) "Party affiliation lists" means a list containing the names of all registered voters of a county who have lawfully designated a party affiliation.

(d) "Declaration" means the following: "I, the undersigned, declare under penalty of perjury that I am a registered voter in the state of Kansas, county of _____, that I have not signed a name other than my own in order to represent myself as any other registered voter, and that I am qualified to vote and have not previously voted and will not vote again ~~at this election~~ in the election held on this date, in this or any other jurisdiction in the United States, for any offices or ballot issues."

Sec. 12. K.S.A. 22-2809a, 25-2409, 25-2416, 25-2423 and 25-2431 and K.S.A. 2012 Supp. 21-2511, 21-5107, as amended by section 1 of 2013 House Bill No. 2252, 25-1128 and 25-2507 are hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in lines 2 through 6 and inserting "crimes, punishment and criminal procedure; relating to DNA evidence; statute of limitations; election crimes; amending K.S.A. 22-2809a, 25-2409, 25-2416, 25-2423 and 25-2431 and K.S.A. 2012 Supp. 21-2511, 21-5107, as amended by section 1 of 2013 House Bill No. 2252, 25-1128 and 25-2507 and repealing the existing sections.";

And your committee on conference recommends the adoption of this report.

Conferees on part of Senate

Conferees on part of House